



City of West Allis

Legislation Text

File #: R-2010-0241, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed commercial truck sales and repair to take place at 11139 W. Becher St.

WHEREAS, Michelle Herriges, lessee, d/b/a August Schmidt Co., Inc., duly filed with City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code to establish a commercial truck sales and repair including sales of associated parts and auto equipment located at 11139 W. Becher St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 3, 2010, at 7:00 p.m. in the Common Council Chambers to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicant Michelle Herriges, lessee, d/b/a August Schmidt Co., Inc., will have offices at 11139 W. Becher St., West Allis, WI 53227.

2. Michelle Herriges, lessee, d/b/a August Schmidt Co., Inc., will lease said premises located at 11139 W. Becher St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southeast $\frac{1}{4}$ of Section 6, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Parcel 2 of Certified Survey Map No. 7930.

TAX KEY NO. 481-9992-015

Said Property being located at 11139 W. Becher St.

3. The aforesaid area is zoned M-1 Manufacturing District under the Zoning Ordinance which permits commercial truck sales and repair as a special use within the existing mixed-use building, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code.

4. The applicant is proposing to occupy 18,600 sq. ft. of space within the building. This business will provide commercial truck repair service and sales as well as sales of commercial truck parts and equipment. Up to seven (7) commercial trucks are proposed to be displayed for sale, up to five (5) are proposed to be parked outside either awaiting repair or awaiting pick up. Fourteen parking stalls are proposed for employees and 15 parking stalls are proposed for the public.

5. The subject property is located on the south side of W. Becher St. Properties to the west, north and south are developed as manufacturing and storage. Properties to the east are developed as residential.

6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use. A solid screen of both a fence and landscaping is required along abutting residential land uses as a condition of special use approval.

Additionally, any vehicles for sale or waiting to be repaired or which already have been repaired will be subject to the parking plan on the approved site and landscaping plan.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Michelle Herriges, lessee, d/b/a August Schmidt Co., Inc., be and is hereby granted on the following grounds:

That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions hereinafter set forth, reasonably satisfies the standards set forth in Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

BE IT FURTHER RESOLVED that said Special Use Permit is granted subject to the following conditions:

1. Site, Landscaping and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscape and architectural plan submitted to and approved by the West Allis Plan Commission on October 27, 2010. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission.
2. Building Plans and Fire Codes. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Zoning and by the Fire Department.
3. Parking. Up to seven (7) commercial trucks are proposed to be displayed for sale, up to five (5) are proposed to be parked outside either awaiting repair or awaiting pick up. Fourteen parking stalls are proposed for employees and 15 parking stalls are proposed for the public. One Hundred Twenty (120) parking stalls are required. The Common Council shall have the authority to change the minimum parking requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code. Parking/storage of repair vehicles or vehicles awaiting repair is not permitted within City right of way.
4. Business Hours. Hours of operation will be Monday through Saturday from 8:00 a.m. to 6:00 p.m. During operation all doors and windows will be closed to help control noise pollution.
5. Deliveries and Refuse Pickup. Because there is a residential use adjacent to the site, delivery operations and refuse pickup shall not be permitted between 9:00 p.m. to 7:00 a.m. Refuse collection to be provided by commercial.
6. Outside Storage. No outside storage of junk vehicles or vehicle parts will be permitted.
7. Noxious Odors, Etc. The business shall not emit foul, offensive, noisome, noxious, odorous or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
8. Noise. The use shall not make, produce, allow or cause to be produced any noise which exceeds the noise limitations, as set forth in Ch. 7.035 of the Revised Municipal Code.
9. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries. Full-cut off fixtures and or house side shields utilized to minimize light splay.
10. Pagers, Intercoms. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site as surrounding land use consists of residential uses.
11. Monitoring. The area shall be adequately monitored by staff.
12. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, (if any) abutting sidewalk.
13. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area.

14. Marketing Displays. The use of pennants, special lighting, flags, streamers or other signage typically temporary in nature, hanging, floating or attached to a structure or vehicle shall not be permitted.

15. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, grease, and other waste materials will be fully enclosed within an approved structure.

16. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council by resolution reauthorizing the special use in accordance with the following criteria:

A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.

B. A written explanation for the extension of time shall accompany the planning application along with a timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;

C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;

D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from and after the extension has been granted, the special use shall become null and void.

17. Miscellaneous.

A. Applicants are advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.

B. The use, as granted herein, is subject to applicants' compliance with all other state and local laws and regulations, which may be applicable to the proposed use of the real estate in question.

C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

18. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

19. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the Special Use then the special use may be terminated.

20. Acknowledgement. That the applicant signs an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Michelle Herriges, lessee, d/b/a August Schmidt Co., Inc.

Mailed to applicant on the

_____ day of _____, 2010

Assistant City Clerk

cc: Dept. of Development
Dept. of Building Inspections and Zoning
Div. of Planning and Zoning

ZON-R-794-11-3-10