



# City of West Allis

## Legislation Text

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**File #:** R-2009-0228, **Version:** 1

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Resolution relative to determination of Special Use Permit for proposed expansion of Don's Auto Body, an auto repair facility located at 2201 S. 116 St.

WHEREAS, Don & Mary Eichelberger, d/b/a Don's Auto Body, duly filed with the 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 construct an addition to the 2201 S. 116 St. auto repair facility; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 6, 2009, 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, Don & Mary Eichelberger, d/b/a Don's Auto Body has offices at 2201 S. 116 St., West Allis, WI 53227.
2. The applicant owns the property at 2201 S. 116 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

Beginning at the Northwest corner of Lot 1, Certified Survey Map No. 697; thence Northerly, 100.00 feet; thence Easterly, 300.00 feet; thence Southerly, 100.00 feet; thence Westerly, 300.00 feet to the Point of Beginning.

TAX KEY NO. 482-9999-008

Said Property being located at 2201 S. 116 St.

3. The applicant is proposing to construct a 4,900 sq. ft. addition to the existing auto repair facility. Don's Auto Body specializes in auto body repair and painting.
4. The aforesaid area is zoned M-1 Manufacturing District under the Zoning Ordinance which permits auto repair facilities as a special use, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code.
5. The subject property is located on the west side of S. 116 St. Greenfield Park is located immediately to its west. Properties to the east, north and south are developed as commercial, storage, and manufacturing.
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. No

repair vehicles will be parked within the City right of way.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Don & Mary Eichelberger, d/b/a Don's Auto Body, 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 Screening Plans. The grant of this Special Use Permit is subject to and conditioned upon a site, landscape and screening plan approved on September 23, 2009 by the West Allis Plan Commission as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. 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. Off-Street Parking. Off-street parking spaces for 30 vehicles will be provided on site, including two (2) ADA stalls. An additional 15 vehicles can be parked within the new addition. Zoning requires parking for 60 vehicles. 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 and/or display of repair vehicles and/or vehicles awaiting repair and/or vehicles for sale is not permitted within City right of way.
4. Hours of Operation. The auto repair facility will be open from 7:30 a.m. - 6:00 p.m., Monday thru Saturday and 11:00 a.m. - 3:00 p.m. on Sunday. The business is not located next to residential uses.
5. Commercial Business Operations. The exchange of engines or transmissions shall not be permitted on site. No commercial trucks, busses, trailers or similar large non-passenger vehicles are permitted to be stored or serviced on the property.
6. Outdoor Paging Speakers. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site as the land use to the east consists of residential uses.
7. 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.
8. Outside Storage. No outside storage of junk vehicles, vehicle parts, or vehicles not for sale will be permitted. No vehicular advertising (advertising on vehicles) shall be permitted on site.
9. Noxious Odors, Etc. The auto repair facility shall not emit foul, offensive, noisome, noxious, or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
10. 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.

11. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

12. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area.

13. 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.

E. The Common Council may declare the Special Use Permit to be void using the procedure set forth in Section 11.

14. Miscellaneous.

A. Applicant is 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 applicant's 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.

15. 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.

16. Acknowledgement. That the applicant sign 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.**

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Don & Mary Eichelberger, d/b/a Don's Auto Body

Mailed to applicant on the

\_\_\_\_\_ day of \_\_\_\_\_, 2009

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Assistant City Clerk

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

ZON-R-734-10-6-09