



City of West Allis

Legislation Text

File #: R-2017-0020, **Version:** 1

Resolution relative to determination of Special Use Permit for The Mechanics, a proposed auto repair facility, to be located at 9435 W. Lincoln Ave.

WHEREAS, Jim Schmidkunz, d/b/a Schmidkunz & Schmidkunz, Inc. duly filed with the City Clerk an application for a Special Use Permit for the property located at 9435 W. Lincoln Ave., pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code to establish an auto repair/service facility within the existing, approximate 2,100 sq. ft. building; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 7, 2017, 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 Jim Schmidkunz, d/b/a Schmidkunz & Schmidkunz, Inc., has offices at 3902 E. Barnard Ave., Cudahy, WI 53110 and is proposing to locate his business operations at 9435 W. Lincoln Ave.
2. The applicant Jim Schmidkunz, d/b/a Schmidkunz & Schmidkunz, Inc., will lease said premises located at 9435 W. Lincoln Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northeast $\frac{1}{4}$ of Section 8, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lots 2 and 3 in Block 1 of the Fruitland subdivision, including Northerly 9.00 feet of the adjacent, vacated alley.

TAX KEY NO: 486-0053-000

Said property being located at 9435 W. Lincoln Ave.

3. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance, which permits auto repair as a Special Use, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code.
4. The applicant is proposing to lease the property with an existing, approximate 2,100 sq. ft. building to utilize it for automotive repair for personal vehicles. The proposal includes major improvements to the site, including perimeter landscaping and fencing, in addition to major repairs and improvements to the building itself.
5. The subject property at 9435 W. Lincoln Ave. is located on the southeast corner of S. 95 St. and W. Lincoln Ave. Properties to the north and west are zoned and utilized for commercial. Properties to the south

and east are zoned and developed for residential uses.

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.

Additionally, there will be no vehicles, parts or tires stored outside. No repair work may be conducted in public right-of-way. No cars which are awaiting repair or which have been repaired will be allowed to park in the street.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Jim Schmidkunz, d/b/a Schmidkunz & Schmidkunz, Inc. for a of Special Use Permit for The Mechanics, a proposed auto repair business, to be located at 9435 W. Lincoln Ave., 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. 12.41(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, Landscaping and Architectural Plan submitted to and approved by the West Allis Plan Commission on January 25, 2017. 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 Neighborhood Services and by the Fire Department.
 3. Parking. A total of 13 parking stalls are required. Off-street spaces for 13 vehicles will be provided for the proposed use, including 1 ADA stall. Employee stalls will be provided on the south end of the lot nearest the building, and customer drop-off stalls will be provided in front of the building. Customer vehicles shall generally not be parked on the site longer than 3 days.
- No repair work may be conducted in the public right-of-way. Parking/storage of repair vehicles or vehicles awaiting repair is not permitted within City right-of-way. With the exception of vehicles that may be stored within the building, the site will be limited to off-street parking/storage, in accordance with the approved site plan. Changes will require Plan Commission approval.
4. Business Hours. Hours of operation will be from 7:00 a.m. to 5:00 p.m. Monday through Saturday, and closed on Sundays. During operation, all doors and windows will be closed, to help control noise pollution.
 5. Commercial Business Operations. No vehicle sales shall take place on site.

6. 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 hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and

recyclable containers.

7. Outside Storage. No outside storage of equipment, parts, junk vehicles, vehicle parts or vehicles for sale or lease will be permitted. No vehicular advertising (advertising on vehicles) shall be permitted on site. Vehicles being repaired and stored on site shall not be stored outdoors for over two weeks (14 days).

8. Noxious Odors, Etc. The business 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.

9. 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. During operation, all doors and windows will be closed, to help control noise pollution.

10. Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spays from the property boundaries. Exterior lighting should be presented in a lighting plan which identifies all exterior lighting features, either mounted on the building or freestanding, along with dispersion pattern, intensity of light and cut-off shielding that reflects away from the street. Light distribution should not spill over onto adjacent properties. "Rope" lighting shall not be used in any manner that results in visible or exposed bulbs. Flashing, blinking, rotating or colored light shall also not be permitted.

11. Pagers, Intercoms. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site as surrounding land use consists of residential uses.

12. Monitoring. The area shall be adequately monitored by staff.

13. 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.

14. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area and shall be installed on the interior side of the window.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. Acknowledgement. That the applicants sign and 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.

Jim Schmidkunz, d/b/a Schmidkunz & Schmidkunz, Inc.

Ebrahim A Jaber, Property Owner

Mailed to applicant on the

_____ day of _____, 2017

City Clerk

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

ZON-R-1079-2-7-17