



# City of West Allis

## Legislation Text

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**File #:** R-2017-0071, **Version:** 1

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Resolution relative to determination of Special Use Permit for Scott's Automotive, an existing auto repair facility seeking to establish an indoor used vehicle dealership at 2042 S. 114 St.

WHEREAS, Scott Emanuele, d/b/a Scott's Automotive, LLC, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code of the City of West Allis to establish indoor used vehicle sales (no outdoor sales or display); and,

WHEREAS, after due notice, a public hearing was held by the Common Council on March 21, 2017 at 7:00 p.m. in the Common Council Chambers to consider the application to adopt the Special Use Resolution; and,

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

1. The applicant, Scott Emanuele, d/b/a Scott's Automotive, LLC, currently operates the auto repair business located at 2042 S. 114 St. and is seeking to expand his business operations, within the same tenant footprint, to include indoor used vehicle sales.
2. The applicant currently leases tenant space (2042 S. 114 St.) within the subject property located at 2022 -2042 S. 114 St. & 11331 W. Rogers 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:

Lot 1 of Certified Survey Map No. 651.

Tax Key Number 481-9994-003

3. The aforesaid property is zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits indoor auto sales (no outside sales or display) as a Special Use, pursuant to Sec. 12.45(2) of the Revised Municipal Code.
4. The property is situated at the southeast corner of W. Rogers St. and S. 114 St. Properties to the north, south, east and west are zoned and developed for industrial uses.
5. The proposed development, as conditioned, should not adversely contribute to traffic volumes or traffic flow in the area, as the property offers off-street parking and is served by public transit.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Scott Emanuele, d/b/a Scott's Automotive, LLC, to establish an indoor used vehicle dealership (no outside sales or display) at 2042 S. 114 St., 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 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, Screening and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscaping, screening and architectural plan approved by the City of West Allis Plan Commission on January 25, 2017, 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. Business Operations. The grant of this special use is subject to and conditioned upon the following business operations:
  - a) Hours. Common Council grants the hours of operation to be between 7am and 6pm Monday through Saturday. Closed Sunday.
  - b) All vehicles for sale shall be kept indoors. Repair vehicles may be parked on site, per the approved site plan or within the building.
  - c) No repair work will be conducted within City right-of-way.
  - d) Exterior doors and windows of the use shall be closed during operations to prevent excess noise from penetrating into the adjacent neighborhood.
3. Building 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.
4. Parking. Based upon a 4,800 sq. ft. lease space, 32 parking spaces are required for the use. A total of 88 parking spaces are required for the overall building. Common Council may modify the parking requirements and accept the deficiency of on-site parking, based upon the following rational:
  - a) Section 12.19(9)(b) The hours of operation of the proposed night-time uses are not in conflict with the principal operating hours of other daytime uses on site.
  - b) Credit may be given for obtaining a shared parking agreement or lease of off-street parking with other commercial or industrial uses within 800-ft. of the subject property.
  - c) Street parking along both W. Rogers St. and S. 114 St. is available along S. 114 St. and W. Rogers St. and should not generate conflicts, as this area is within an industrial district.
5. Outside Storage. No outside storage of equipment, parts, junk vehicles, vehicle parts or vehicles for sale or lease will be permitted without the Plan Commission's approval of a site, landscaping and screening plan and compliance with zoning/use criteria. No vehicular advertising (advertising on vehicles) shall be permitted on site. No vehicles for repair shall be allowed to be stored on the exterior areas of the premise or in

the parking lot, for more than two weeks.

6. Special Events. There shall not be special events without prior Common Council approval.
7. Window Signage. Window signage shall not exceed 20% of the glazed portion of each window frame. Windows signage shall be situated on the internal side of the window.
8. 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.
9. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
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. During operation, all doors and windows will be closed, to help control noise pollution.
11. 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.
12. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Department of Development to match the building. All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code.
13. Litter and Monitoring. Employees shall inspect the area 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 four-sided structure. The building and property area shall be adequately monitored by staff.
14. Pollution. The use shall not cause any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, or stone refuse or other materials to be deposited upon any public right of way or flow into any sanitary sewer, storm sewer, or water supply system, or onto adjacent properties.
15. Sidewalk Repair. The grant of this special use is subject to compliance with Section 2814 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.
16. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays 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.
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. The applicant(s) and property owner shall sign an acknowledgment that they have received these terms and conditions and will abide by them.

The undersigned applicant(s) and property owner agree that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

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Scott Emanuele, d/b/a Scott's Automotive (tenant)

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Bart Drogon, Byline Bank (property owner)

Mailed to applicant on the  
\_\_\_\_\_ day of \_\_\_\_\_ 2017

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City Clerk

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

ZON-R-1081-3-21-17