



City of West Allis

Legislation Text

File #: R-2017-0237, **Version:** 1

Resolution relative to determination of Special Use Permit amendment for Elite Environmental Corporation, an existing business proposing to amend the terms of its special use as an industrial wastewater treatment facility within an existing building located at 356-360 S. Curtis Rd.

WHEREAS, Elite Environmental Corporation, by Kevin Crosby duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code, to amend the terms of their special use as an industrial wastewater treatment facility within existing building located at 356-360 S. Curtis Rd.; and,

WHEREAS, on April 5, 2004 the Common Council adopted resolution R-2004-0119 to establish a wastewater treatment facility for Central Wastewater Treatment of Wisconsin (CWT), by John Sherff, within a portion of a building located at 356-60 S. Curtis Rd.

WHEREAS, the previous business owner of CWT, John Sherff, has passed away recently and another existing tenant within the building, Elite Environmental Corporation, by Kevin Crosby, has proposed to take over the CWT space and wishes to amend the terms of the existing special use to expand and continue operations as a wastewater treatment facility on site for the overall premise.

WHEREAS, after due notice, a public hearing was held by the Common Council on September 5, 2017 at 7:00 p.m., in the Common Council Chamber 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, Elite Environmental Corporation, by Kevin Crosby, has offices on premises.
2. The property is owned by Accetta Family Limited Partnership, 11910 W Ripley Ave., Wauwatosa, WI 53226. The applicant has proposed to take over the CWT space and wishes to amend the terms of the existing special use to expand and continue operations as a wastewater treatment facility on site for the overall premises located at 356-360 S. Curtis Rd., West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 31, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Parcel 2 of the Certified Survey Map No. 6480.

Tax Key Number: 413-9999-038

Said land being located at 356-60 S. Curtis Rd.

3. Elite Environmental Corporation treats wastewater to the limits determined by the EPA and then

discharges the clean water to the sanitary sewer. The discharged water is monitored continually (24 hours, 7 days per week) by MMSD to ensure that it meets the EPA treatment limits. Any remaining solids left after the treatment process are non-hazardous and can be sent to a landfill. The entire treatment process is highly automated with controls to monitor tank levels, flow rates, chemical additions and a system-failure automated stop. Floor areas within the building for wastewater unloading, holding, treatment and discharge are contained for accidental spills per Wisconsin DNR regulations.

4. The applicant is proposing to update the terms of the special use and thereby continue operations as a wastewater treatment facility on site to treat wastewater from local industrial clients throughout the Milwaukee metro area. Prior to Mr. Crosby's taking over CWT's interest in the premises, a complaint was filed with the Common Council regarding violations of the special use permit. At issue was the foul smell emitting from the premises and numerous building code violations. After hearings, a stipulation was approved by the Safety and Development Committee that included requirements. Mr. Crosby has taken over the property and made significant clean-up efforts, updated conditions via an amended special use permit are in order, so that Mr. Crosby can run a business, but also be a good neighbor and avoid causing any public nuisances.

5. Updates to the terms of the special use include:

- a. This special use will include the entire 3.047 acre property (356-60 S. Curtis Rd., tax key 413-9999-038), not just a portion of it.
- b. The applicant and any other persons or businesses operating under this special use permit shall adhere to a monthly maintenance schedule that includes a full inspection of each tank and a wash down and pump out to the bottom of the tanks (including the holding tanks). Proof of the maintenance shall be communicated to the Health Department in writing.
- c. The requirement for a yearly inspection by a third party approved by the Health Commissioner shall be required if the Health Department receives a complaint of foul smells emitting from the premises. Once a complaint is received by the Health Department, the Health Department shall notify Mr. Crosby of the nature of the complaint in writing. The yearly inspection shall be completed within 45 days of receiving the Health Department's letter and an inspection report shall be provided to the Health Department forthwith. The next inspection shall occur within one year of the previous inspection and reports should be sent to the Health Department upon their completion for each subsequent yearly inspection.
- d. Compliance with the City noise ordinance. No work activity that would violate the noise ordinance (e.g. unloading of trucks) shall occur.
- e. Deliveries to the site shall stage or park off-street and on site and not encroach into City right-of-way. Commercial truck parking shall be in accordance with the approved site and landscaping plan.
- f. Flow rate per Engineering Department is limited to a maximum rate of 70 gallons/minute. The operations on site shall also be in conformance with the applicant's Milwaukee Metropolitan Sewerage District (MMSD) discharge permit and MMSD requirements.
- g. Hours of operation shall be from 6am-8pm M-F, and 6am-2pm on Saturday. No work activity that would violate the noise ordinance (e.g. unloading of trucks) shall occur prior to 7am.

6. The aforesaid premises is zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits wastewater treatment facilities pursuant to Sec. 12.45(2) of the Revised Municipal Code.

7. The subject property is located on the east side of S. Curtis Rd. between W. Theodore Trecker Way and W. Dixon St. Properties to the north, south, east and west are developed as manufacturing uses.

8. 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.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Kevin Crosby, d/b/a Elite Environmental Corporation 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 Secs. 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 approval of site, landscape, and architectural plans approved July 26, 2017, by the City of West Allis Plan Commission. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission. Commercial Truck parking and all outdoor storage shall be in accordance with the approved site, landscaping and screening plan as approved 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. The grant of this special use is subject to and conditioned upon compliance with all applicable building and fire codes.
3. Licenses and Permits. The applicant shall obtain all required local, State of Wisconsin and Federal licenses and/or permits and remain in compliance with regulations.
4. Paving and Drainage. The grant of this special use is subject to a paving and drainage plan being submitted to and approved by the Department of Building Inspections and Neighborhood Services.
5. Parking. A total of 28 parking stalls for the property, including 2 ADA stalls, are required per the Zoning Code. Thirty-nine (39) parking stalls will be provided on site including two (2) ADA stalls. Commercial trucks shall not be parked or staged within the public right of way. Parking areas shall be in accordance with the approved site and landscaping plan.
6. Deliveries, loading/unloading. All such vehicles to the site shall stage or park off-street and on site and shall not encroach into City right-of-way.
7. Hours of Operation. Hours of operation shall be from 6:00 am to 8:00 pm Monday through Friday and 6:00 am to 2:00 pm on Saturday. No work activity that would violate the noise ordinance (e.g. unloading of trucks) shall occur prior to 7am. The use shall be closed on Sundays.
8. Discharge limits. Deliveries of wastewater shall be by appointment only and within the limit established by the City Engineering Department and by permit via Milwaukee Metropolitan Sewerage District (MMSD). Flow rate per Engineering Department shall not exceed a maximum rate of 70 gallons/minute. The operations on site shall also be in conformance with the applicant's Milwaukee Metropolitan Sewerage District (MMSD) discharge permit requirements.

9. Pollution, Noxious Odors, Noise Etc. With the grant of this special use:

- a. The use 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.
 - i. Discharge of wastewater shall be conducted within the building;
 - ii. Tank washing/cleaning shall be conducted within the building;
 - iii. Exterior doors and windows of any building on the premises shall be closed during operations to prevent excess odors and/or noise from penetrating into the surrounding area.
- b. The applicant and any other persons or businesses operating under this special use permit shall adhere to a monthly maintenance schedule that includes a full inspection of each tank and a wash down and pump out to the bottom of the tanks (including the holding tanks). Proof of the maintenance shall be communicated to the Health Department in writing.
- c. The requirement for a yearly inspection by a third party approved by the Health Commissioner shall be required if the Health Department receives a complaint of foul smells emitting from the premises. Once a complaint is received by the Health Department, the Health Department shall notify Mr. Crosby of the nature of the complaint in writing. The yearly inspection shall be completed within 45 days of receiving the Health Department's letter and an inspection report shall be provided to the Health Department forthwith. The next inspection shall occur within one year of the previous inspection and reports should be sent to the Health Department upon their completion for each subsequent yearly inspection.
- d. Operations shall not be in violation of section 7.035 of the West Allis Municipal Code.
- e. The use of outdoor pagers, intercoms or loudspeakers shall not be permitted on site.

10. Refuse Pickup. All refuse pick up 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 Plan Commission. 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.

11. Litter and Monitoring. The applicant and any other persons or businesses operating under this special use permit shall inspect the site and immediate vicinity and pick up litter on a daily basis.

12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries. Exterior lighting shall 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 shall not spill over onto adjacent properties.

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 or applicant 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.

14. 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 Applicant's compliance with all ordinances of the City of West Allis, the rules and regulations of MMSD, and laws and regulations of the State of Wisconsin and United States.
- 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.
- D. This special use shall supersede any prior special uses and stipulations regarding prior special uses.

15. Acknowledgement. The applicant acknowledges that it has reviewed these terms and conditions and will abide by them. The undersigned applicant agrees to the terms and conditions and have agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Kevin Crosby, d/b/a Elite Environmental Corporation (tenant)

Accetta Family Limited Partnership (property owner)

Mailed to applicant on the

_____ day of _____, 2017

City Clerk

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

ZON-R-1116-9-5-17