



City of West Allis

Legislation Text

File #: R-2020-0221, **Version:** 1

Resolution relative to determination of an Application for a Special Use Permit for Cleveland Auto, a proposed auto repair facility to be located at 8440 W. Cleveland Ave.

WHEREAS, Kevin Nugent, property owner and applicant, duly filed with the City Clerk an application for a Special Use Permit for the property located at 8440 W. Cleveland Ave., pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code to establish an auto repair/service facility within a portion of the existing mixed use building; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on April 22, 2020, at 7:00 p.m. by remote means due to the COVID-19 pandemic, to consider the application; and,

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

1. Kevin Nugent, property owner and applicant, resides at 3441 S. Strothmann Ave., Greenfield, WI 53219 and owns the property at 8440 W. Cleveland Ave. The property owner will lease said premise to an operator d/b/a Cleveland Auto. The subject property at 8440 W. Cleveland Ave. is located in West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 9, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lot 10 and West 48.00 feet of Lot 9, including adjacent vacated off street parking, being part of Block 1 in the Kroupa Manor No. 1 subdivision.

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Said property being located at 8440 W. Cleveland Ave.

2. The aforesaid premise is zoned C-3, Community Commercial District under the Zoning Ordinance, which permits auto repair as a Special Use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.

3. The property owner and applicant is proposing to establish an auto repair/service facility within the first floor (an approximate 2,800 sq. ft. portion) of the existing mixed use building. The upper floor consists of an existing 2,000-sf apartment that will be leased as a residential dwelling.

The last known auto repair use ended sometime in 2018. The previous proprietor/owner sold the property to Kevin Nugent who intends to use the property in a similar manner for vehicle repair. Since there has been a lapse in use (over 12 months), the new business will be required to obtain a special use and site, landscaping and architectural review as part of obtaining a business occupancy permit.

4. The subject property at 8440 W. Cleveland Ave. is located on the southwest corner of S. 85 St. and W. Cleveland Ave. Properties to the north, west and south are utilized/developed and zoned as low density residential. Properties to the east are utilized/developed as mixed use and zoned commercial.

5. 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 Nugent, property owner and applicant, for a Special Use Permit for the property located at 8440 W. Cleveland Ave., to

establish an auto repair/service facility within a portion of the existing mixed use building, 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. 12.42(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 March 25, 2020. 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 20 parking stalls are required and will be provided on site, including 1 ADA stall and residential tenant parking.
 - a) Off-street parking of vehicles shall be arranged in accordance with the parking areas approved by Plan Commission on the site and landscaping plans. Changes will require Plan Commission approval.
 - b) Customer drop-off and pick-up stalls will be provided on site.
 - c) No service or repair work may be conducted within the public right-of-way, or outside of the approved repair bay/lift areas.
 - d) Parking/staging of unlicensed vehicles is not permitted within City right-of-way.
4. 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 Monday through Saturday 9:00am to 6:00pm. Closed Sunday.
 - b) Services offered. The applicants summary of typical services include general auto repair for passenger vehicles such as oil changes, tire rotation, tire installation, tire balancing, brakes, battery installations, muffler repair. No painting or body work will be conducted.
5. Outdoor Storage. Outdoor storage of equipment, parts, junk vehicles, vehicle parts or vehicles for sale or lease shall not be permitted. Long term vehicle storage, staging or parking (in excess of 14 days) shall not be permitted.
6. Lighting. Exterior lighting on premise shall require prior approval of a lighting plan by the Department of Development.
 - a) All outdoor lighting fixtures shall be shielded in such a manner that no light spays from the property boundaries.
 - b) 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.
 - c) "Rope" lighting or similar LED lighting shall not be used in any manner that results in visible or exposed bulbs.

7. 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. To prevent excess noise from penetrating into the adjacent neighborhood, the operator is expected to close exterior overhead doors or openings for services that may result in prolonged noise levels.

8. 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. and 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.

9. 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.

10. 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, unless permitted in accordance with the municipal code.

11. Signage. Signage shall be in accordance with the City signage ordinance. Any window signage shall not exceed 20% of the glazed portion of each window area. Windows signage shall be situated on the internal side of the window.

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. 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.

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 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.

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. 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.

17. 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.

Tenant/Operator, Cleveland Auto

Kevin Nugent, Property Owner

Mailed to applicant on the

_____ day of _____, 2020

City Clerk

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

ZON-R-1216-4-22-20

Plan Commission recommends approval.