

Date: August 16, 2023

To: Town of West Bend Plan Commission

From: Tim Schwecke, Zoning Administrator

Subject: **A.** Conditional use for auto sales for property located at 5064 County Hwy P, Stellar Motors, operator (Xcess LLC, property owner)

B. Site plan amendment for auto sales for property located at 5064 County Hwy P, Stellar Motors, operator (Xcess LLC, property owner)

Meeting: August 24, 2023 Plan Commission meeting

General description Xcess LLC owns the property at 5064 County Hwy P and has submitted an application along with Stellar Motors (operator) for the establishment of auto sales in the front part of the multi-tenant building. As you may recall, the Plan Commission previously approved a site plan for the auto repair part of the business which also contemplated a vehicle display area in the front of the building.



Zoning requirements The subject property is zoned M-1. Auto sales are allowed in the M-1 district as a conditional use.

Jurisdiction The subject property is not located in Washington County's shoreland jurisdiction.

Guidance regarding 2017 Act 67 With the adoption of 2017 Act 67, the State of Wisconsin has preempted municipal authority regarding conditional use permits in a number of respects, effective November 29, 2017. Decisions concerning conditional use permits now must be based upon "substantial evidence," which is defined as follows:

"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion."

Note two additional requirements of the new law:

1. Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.

2. If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance, the conditional use permit must be granted.

The applicant must present substantial evidence demonstrating that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied. Any condition imposed by the Town through ordinance or by the Town Board must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal. The Town's decision to approve or deny the application must be supported by substantial evidence.

Review procedures The Plan Commission acts in an advisory role to the Town Board which makes the final decision. Following the close of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial. If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare.

Public notice A public hearing notice was published in the Washington County Daily News on August 11 and 17. In addition, the public hearing notice was mailed to all property owners within 300 feet of the subject property.

Comments received No written comments have been submitted to the Town as of this date.

A. Conditional use. Plan Commission motion for approval: Recommend to the Town Board the approval of the conditional use subject to the following terms and conditions:

1. Prior to the establishment of this use, the operator must obtain a motor vehicle dealer license from the Wisconsin Department of Transportation and maintain the license for the life of the use or until the state no longer requires the license.
2. The operator must provide an indoor vehicle display area that is at least 12 feet by 20 feet. If only motorcycles are sold, the indoor vehicle display area needs to be large enough to display at least 3 motorcycles.

B. Site plan. Plan Commission motion for approval: Approve the site plan for the auto sales subject to the following terms and conditions:

1. The operator must comply with the site plan previously approved that shows the outdoor vehicle display area.
2. The property owner submits a sign permit application to the Town if any signage is needed for the auto sales.

Attachments:

1. Application materials for conditional use
2. Application materials for site plan amendment

Town of West Bend - Washington County, Wisconsin
APPLICATION for CONDITIONAL USE PERMIT

Name of Property Owner: ~~XXXX~~ Xcess LLC

Address: 5064 County Road P West Bend WI 53095

Phone: 262-689-0222 Email: Tom.Lerner@Bossrealtyllc.com

Name of Applicant (if different from Property Owner): Stellar Motors LLC (Lucas Serwe)

Address: 5064 County Road P West Bend WI 53095

Phone: 262-388-4833 Email: Lucas@stellarmotorsllc.com

Property Description:

Tax Key #(s) T13-0930210 Current Zoning: M1

Property is currently used for the following purposes: Auto Repair

Specify the requested Conditional Use: Car Sales in M1

as provided for in Section: _____ of Chapter 17: Zoning Regulations.

The Conditional Use Permit is requested so that the property may be used in the following specific manner or for the following specific purposes: Car Sales in M1 zoning

Additional Comments (if any)

Town of West Bend - Washington County, Wisconsin
APPLICATION for CONDITIONAL USE PERMIT

Application Checklist:

(This Application shall be completed in full. The Town of West Bend shall not accept any Application for Conditional Use Permit until all of the information below, as required under Chapter 17.5.03 of the Zoning Ordinance, is submitted as attachment to this Application. Please confirm inclusion of the required information by checking each item below).

Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.

Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the Zoning District within which the subject site is located.

For floodland Conditional Uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

A Plat of Survey prepared by a registered land surveyor showing all of the information required under Chapter 236 Wis. Stats.; the mean and historic high water lines and floodlands on or within 40 feet of the subject premises; and, existing structures, paving, and landscaping.

Additional Information as may be required by the Plan Commission, Zoning Secretary, or Zoning Administrator.

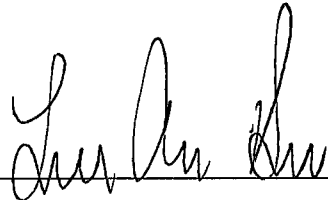
Town of West Bend - Washington County, Wisconsin
APPLICATION for CONDITIONAL USE PERMIT

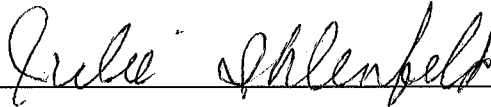
pd- 8/9/2023
FL

Application Fee:
(\$500.00)

Check Number: 1070

Amount: 500⁰⁰

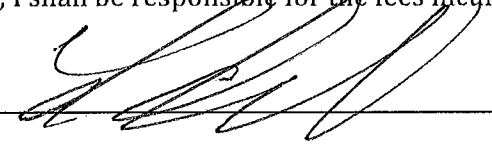
Applicant Signature:  Date: 8-9-23

Town Clerk Signature:  Date: 8/9/23

Professional Services Fee:

The Town of West Bend has determined that whenever the services of the Zoning Administrator, Building Inspector, Town Engineer, Town Attorney, or any other Town staff, as well as outside legal, planning, engineering, and other professional and technical advice results in a charge to the Town for professional time and services, the Town Clerk shall charge such services fees incurred by the Town to the property owner even if the request is not approved.

I have been advised that if the Zoning Administrator, Building Inspector, Town Engineer, Town Attorney, or any other Town staff provides services to the town because of my activities, or outside legal, planning, engineering, and other professional and technical advice is required, whether at my request or the request of the Town, I shall be responsible for the fees incurred by the Town, even if my request is not approved.

Owner Signature:  Date: 8/9-23

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Name of Property Owner: XCESS LLC

Address: 5064 Cty Hwy P West Bend WI 53095

Phone: 262-689-0022 Email: tom.gernia@bussrealtyllc.com

Name of Applicant (if different from Property Owner): Stellar Motors LLC

Address: 5064 Cty Hwy P West Bend WI 53095

Phone: 262-388-4833 Email: Luke-alan-serwe@hotmail.com

Property Description:

Is this a new site plan or an amendment to existing site plan? New: Amendment:

A. Tax Key # T13-0930210 Current Zoning: M1/B2

B. Tax Key # _____ Current Zoning: _____

C. Tax Key # _____ Current Zoning: _____

D. Tax Key # _____ Current Zoning: _____

(if additional parcels, please attach as separate sheet)

Zoning of adjoining properties:

A. Tax Key # T13-0936230 Current Zoning: M1/B2

B. Tax Key # T13-0930225 Current Zoning: M1

C. Tax Key # _____ Current Zoning: _____

D. Tax Key # _____ Current Zoning: _____

E. Tax Key # _____ Current Zoning: _____

(if additional properties, please attach as separate sheet)

Plan of Operation:

Name of business: Stellar Motors LLC

Address: 5064 Cty Hwy P West Bend WI 53095 Years in operation: _____

Business type:

Retail Commercial Office Manufacturing Other

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Description of business operation: Car Sales/Service

Specific use of each building (building shall be identified on site plan as described below; principal structures shall be listed before accessory structures):

Building A: _____
Building B: _____
Building C: _____
Building D: _____
(if additional buildings, please attach as separate sheet)

Current number of employees: Full-time: 2 Part-time: _____ Seasonal _____

Days of operation (check all that apply): Mon-Fri: X Sat: X Sun: _____

Hours of operation: Open: 8:00am Close: 6:00pm 24 hr. _____

Production materials waste management (describe): Boxes, general trash

Description and location of hazardous/flammable materials stored on site: no hazardous materials

Method of building/grounds maintenance: _____

Method of property security: Cameras

Exterior:

Outside storage: Yes X No _____

What will be stored and where: Cars on lot

Dumpsters (location and screening shown on site plan)

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Screening plan (shown on site plan or attached as addendum)

Lighting plan (attached as addendum)

Signage plan (attached as addendum)

Landscaping plan (shown on site plan or attached as addendum)

Erosion control / stormwater management plan (shown on site plan or attached as addendum)

Parking / Loading:

Total area all parking: 14 acres _____ square feet

Parking lot construction: Paved: _____ Gravel: X Grass: _____ Other: _____

Expected number trucks per day: 2 Expected number autos per day: 5

Overnight parking: Number trucks: 5 Number autos: 15 Equipment: _____

Number off-street parking spaces: Employee: 2 Visitor: 10

Off-street parking spaces (attach plan): _____

Off-street loading spaces (attach plan): _____

Is access permit required? Yes _____ No X

If yes, has permit been secured? Yes _____ No _____

Parking and loading plan (shown on site plan or attached as addendum)

Other:

Will any type of music be part of this proposal? Yes _____ No X

If yes (check all that apply): Pre-recorded: _____ Live: _____

Indoor: _____ Outdoor: _____

Monday through Thursday	Proposed start time: _____	Proposed end time: _____
Friday and Saturday	Proposed start time: _____	Proposed end time: _____
Sunday	Proposed start time: _____	Proposed end time: _____

Will a liquor license or any other special license be required? Yes _____ No X

If yes, explain the nature and use of the license: _____

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Living Quarters (if applicable):

Number of current owner-occupied units:

____ Single-family dwelling

____ Mixed-use (description of uses): _____

____ Other (describe): _____

Total number occupants: _____

Number of proposed owner-occupied units:

____ Single-family dwelling

____ Mixed-use (description of uses): _____

____ Other (describe): _____

Total number occupants: _____

Number of current renter-occupied units (non-senior):

____ Single-family dwelling

____ Mixed-use (description of uses): _____

____ Other (describe): _____

Total number occupants: _____

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Number of proposed renter-occupied units (non-senior):

- Single-family dwelling
- Mixed-use (description of uses): _____

- Other (describe): _____

Total number occupants: _____

Number of current senior living units:

- Single-family dwelling Apartment Assisted Living
- Continuing Care Retirement Skilled Nursing
- Other (describe): _____

Total number occupants: _____

Number of proposed senior living units:

- Single-family dwelling Apartment Assisted Living
- Continuing Care Retirement Skilled Nursing
- Other (describe): _____

Total number occupants: _____

Additional information to be considered during site plan review: _____

(please attach as separate sheet if additional space is required)

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Application Checklist (for all districts):

(This Application shall be completed in full. The Town of West Bend shall not accept any Application for Site Plan Review until all of the information below, as required under Chapter 17.10.03.D of the Zoning Ordinance, is submitted as an attachment to this Application. Please confirm inclusion of the required information by checking each item below).

Confirmation that the submitted site plan conforms with the requirements of Chapter 17.10.02 of the Zoning Ordinance.

Site plan drawn to a recognized engineering scale, scale of drawing, north arrow, and site size information (area in square feet or acres).

Name of project.

Existing and proposed topography shown at contour intervals of two feet or less. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.

The characteristics of soils related to contemplated specific uses.

All building and yard setback lines.

Where applicable, both the 100 year recurrence interval floodplain and the floodway; environmental corridors and isolated natural resource areas; and wetland areas.

The type, size, height, location, and use of all existing and proposed structures with all building dimensions shown.

Existing and proposed street names, rights-of-way, and easements.

Proposed stormwater management facilities, including detention/retention areas.

Proposed location and type of all signs to be placed on the site.

The location and type of all outdoor lighting.

Existing isolated, individual trees and the boundary of woodlands.

Landscape plan with the location, extent, and type of proposed plantings.

Location of pedestrian sidewalks and walkways, and bicycle lanes or paths.

A graphic outline of any development staging.

Scaled architectural plans, color building elevations, and color perspective drawings and color sketches illustrating the design and character of proposed structures and relevant surrounding structures and properties within 300 feet.

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

PA Detailed description of all exterior building materials and colors.

NA The location and description of all existing and proposed personal energy systems.

R Additional Information as may be required by the Plan Commission, Zoning Secretary, or Zoning Administrator.

Application Checklist (for supplemental land use overly districts):
(Please confirm compliance with the Performance Standards requirements of Chapter 17.4.12 of the Zoning Ordinance by checking each item below)

____ Screening plan

____ Vibration plan

____ Heat plan

____ Lighting plan

____ Glare plan

____ Parking plan

____ Noise plan

Substantive Changes

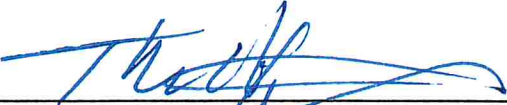
Any substantive change to the use of this parcel or the structures on it shall require an amendment to the site plan.

Town of West Bend - Washington County, Wisconsin
APPLICATION for SITE PLAN REVIEW
(R-1S/MU, SRO, B-1, B-2, SMCO, M-1, SMO Districts)

Application Fee:
(\$500.00)

Check Number: #3030

Amount: 500⁰⁰


Applicant Signature:  Date: 5-11-23

Town Clerk Signature:  Date: 5/11/23

Professional Services Fee:

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Owner Signature:  Date: 5-11-23



Current signs will be repurposed



N. Side view w/ parking



existing sign



Shop space/repair facility