



Department of Planning & Community & Economic Development  
**Building Inspection Division**

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Website: [www.cityofmadison.com](http://www.cityofmadison.com)

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**DATE:** November 22, 2010  
**TO:** Plan Commission  
**FROM:** Matt Tucker, Zoning Administrator  
**SUBJECT:** Modifications to Conditions of approval, 2223 Atwood Ave.

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I have reviewed the recommended modifications for the Conditional use off-premise parking area at 2223 Atwood Ave. of approval from Attorney Bill White, as provided in his November 18<sup>th</sup> 2010 letter to the Plan Commission.

Staff has no objection to expanding the duration that a vehicle may be parked from five days to ten days. From enforcement perspective, the Plan Commission may want to consider allowing parking up to ten days maximum, and eliminate the “business days” and “consecutive” phrases, as they would allow for potentially significant time extensions for parking activity likely not intended here.

Other recommended changes outlined in Attorney White’s memo significantly modify the intent and understanding of how the lot may be used, and staff is not supportive of the suggested language changes. The proposed changes would allow for the parking lot to function as an auto storage yard, which is not a listed permitted use in the C2 zoning district, and is a listed Conditional Use in the M1 zoning district. The proposed modifications to the conditions for this conditional use have the effect of changing the use from an “off-street parking facility”, a permissible use allowed C2 zoning district use to a different use, not permitted in the C2 Zoning District. If Attorney White or his clients disagree with this interpretation, they may appeal to the Zoning Board of Appeals.

C: Tim Lynch  
Bill White



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**TO:** Plan Commission  
**FROM:** Matt Tucker, Zoning Administrator  
**SUBJECT:** 2223 Atwood Avenue, Background Information for Conditional Use

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As indicated in the staff report prepared by the Planning division staff, the following background information is being provided relative to this property/issue.

City records indicate this property was most recently used as a two-family dwelling, purchased by the current ownership in 2001 (Lynch Auto Body, 2305 Atwood Avenue). It has a parking area to the side and rear that is mostly/entirely covered with a gravel surface. There are not clear records as to when this parking area was created. At its current configuration, the parking area could have been legally established, could have been legally or illegally expanded, or it could be historic. Research of City records to date has not resulted in the finding of specific information to clarify the legality of the parking area.

At some point, Lynch Auto Body started using the parking area for overflow and storage from the body shop, without first obtaining zoning approvals. It is not clear where the body shop was parking the vehicles before they began using this property. This land use violation came to the attention of staff as the result of a citizen complaint.

Apparently, some change to on-street parking regulations resulted in a hardship for parking for the body shop, which appears to be the primary reason behind this request. Staff is not aware of any past practice to allow the parking or storage of damaged vehicles or vehicles awaiting repair on the streets, or if vehicles were previously allowed to be parked or stored on nearby properties. The owner indicated he wanted off-street parking, both for employees and potentially customer cars. He owns the property, and naturally, this would be a good solution given the proximity to the shop.

The principal structure on the property is currently vacant. If the principal structure was to be used per the most recent approved use, as a 2-unit, it would need useable open space and off-street parking facilities. The current owner has indicated his intent not to use the building for residential purposes, likely using the building for an office or storage. This would be considered a *Change of Use*. In the C2 district, an office use is classified as a *Permitted Use*, however, the building may not be used for storage or warehousing without first obtaining *Conditional Use* approval.

Future on-site parking requirements must be met when permits are requested for use of the building. Any change of use for this property would result in the requirement that the site be brought up to compliance with zoning code requirements, including but not limited to: paving and landscaping of the parking area, the provision of bicycle parking, screening, and accessible parking. A *Change of Use* zoning/site plan approval would also resolve the question of the legal status of the parking area.

Per the Zoning ordinance, if the owner wants to establish a legal parking lot, a parking lot land use is listed as *Permitted Use* or *Conditional Use* in the C2 Zoning District: an on-site accessory parking lot is a *Permitted Use*; an off-premise non-accessory parking lot is a *Conditional Use*. Further, the land use of the property for parking or storage of inoperable vehicles is not permissible, as the land use of Auto Storage (defined in "junkyard") is not a listed *permitted* or *conditional* land use in the C2 zoning District.

With this project, the applicant intends to take advantage of an interpretation of the ordinance which would allow the parking area to be used for the parking of cars being serviced, dropped off, or picked up, or for employees. This interpretation would be consistent with the current practice that allows vehicles to be parked at other auto repair facilities with on-site parking while awaiting service or post-servicing, but also maintains the existing practice of prohibiting the parking/storage of inoperable/damaged vehicles, which only may be stored at automobile storage lots or junkyards, or within enclosed buildings. The staff-recommended conditions are intended to support and clarify this interpretation, and also put the applicant on notice as to the acceptable condition of vehicles to be parked on the lot, and the duration of time for which they may be parked.

C: Tim Lynch  
Bill White

## Firchow, Kevin

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**From:** Rummel, Marsha  
**Sent:** Sunday, November 21, 2010 11:11 PM  
**To:** Murphy, Brad; Firchow, Kevin  
**Cc:** Kerr, Julia; Olson, judy ; Dan Melton; Lou Host-Jablonski; White, William F (22246)  
**Subject:** 2305/2223 Atwood Ave Comments  
**Attachments:** 20588 Staff Comments.pdf

Dear Plan Commission members-

RE: Lynch Auto Body  
2305 Atwood Ave

I support a conditional use to establish an off-premise parking lot for Lynch Auto Body with the following conditions.

In addition to general agreement with the staff report, I specifically request that some/all of the site utilize either permeable asphalt or concrete pavement. According to Rob Phillips and Greg Fries in a recent email with myself and the applicant's attorney, MGO sec. 10.08(6)(a)10 does not prohibit the use of permeable pavement technologies. I believe the applicant understood otherwise from TE but that was clarified by Engineering staff. When Mr. Lynch and Mr. White came to the SASYNA meeting earlier this year, SASYNA's support was conditioned on some utilization of permeable pavement and the inclusion of a bioswale or rain garden. I support their request. If the applicant objects to this condition, I believe it safe to say that SASY would not support the conditional use. And neither would I.

I agree with the staff recommendation about enhancing the landscaping with a variety of species, including the ornamental trees proposed, to screen and buffer the lot. I would also like to see as condition of approval, Metro's request for the installation of a passenger boarding pad between the curb and the sidewalk for the bus stop adjacent to the property. Finally I support 5 days of auto storage.

Thanks all-

Ald Marsha Rummel

## Firchow, Kevin

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**From:** White, William F (22246) [WFWhite@michaelbest.com]  
**Sent:** Monday, November 22, 2010 6:38 AM  
**To:** Rummel, Marsha; Murphy, Brad; Firchow, Kevin  
**Cc:** Kerr, Julia; Olson, judy ; Dan Melton; Lou Host-Jablonski; Schumacher, Michael; Cnare, Lauren; Nan Fey; (erics@cow.s.org); Michael G. Heifetz (michael.heifetz@deancare.com); jabowser@facstaff.wisc.edu; Mike Basford (mabasford@charter.net); Anna V. Andrzejewski (avandrzejews@wisc.edu); Timothy Gruber (timothy\_gruber@yahoo.com); Tucker, Matthew; Tim Lynch (lynchautobodyinc@sbcglobal.net)  
**Subject:** RE: 2305/2223 Atwood Ave Comments

Friends- I just received this.

1. I did check with City Traffic Engineering on parking lot surfaces and was given the information in the letter to you. Marsha does not disagree that I got the information as stated.
2. I would like to know whether these are standard conditions of approval and what other projects of this size they have be imposed upon? If they are necessary, then they should be necessary for all projects, not just small projects for small neighborhood businesses.
3. The Madison Metro pad is not a condition of approval, but a request to be fulfilled if the sidewalk is disturbed.
4. It is my understanding that Matt Tucker is okay with 10 days instead of 5.
5. The immediate neighbors support this project and the benefits to the neighborhood it will bring.

We will see you tonight. Bill

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**From:** Rummel, Marsha [mailto:district6@cityofmadison.com]  
**Sent:** Sunday, November 21, 2010 11:11 PM  
**To:** Murphy, Brad; Firchow, Kevin  
**Cc:** Kerr, Julia; Olson, judy ; Dan Melton; Lou Host-Jablonski; White, William F (22246)  
**Subject:** 2305/2223 Atwood Ave Comments

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## Firchow, Kevin

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**From:** caren ramsey [cramsey000@ameritech.net]  
**Sent:** Monday, November 22, 2010 3:33 PM  
**To:** Firchow, Kevin  
**Cc:** mwpossum@yahoo.com  
**Subject:** conditional use proposal by Lynch Auto Body

I am writing in support of Lynch Auto Body's effort to receive approval for conditional use for an offsite parking lot near Atwood Avenue.

As a patron of this small business, I have both a personal and civic interest in seeing the project approved.

As a patron, I have concerns about how busy Atwood Avenue has become. When my family has had cars repaired at Lynch Auto Body, it is difficult to park or to pull a car in for service. I have grave concerns about the risk to that same repaired vehicle if it would have to be parked on the street for any extended period of time. A small parking lot nearby would be safer and seems far more practical. For that reason alone, I support the project.

Beyond the safety considerations, as a Madison resident, I am also concerned about my City's attitude toward small business in general. As far as I can tell, Lynch Auto Body has been a good neighbor and an active, community-minded corporate citizen. The business on Atwood has continued to improve its aesthetic appeal over the years. The proposal to landscape and fence a small seven spot parking lot shows a good faith effort to continue to improve the neighborhood.

I believe in mixed use. I like what Atwood Avenue has to offer: restaurants, art galleries, small industrial businesses, churches and residential housing. I oppose forcing small businesses out to the edges of town rather than keeping the good business actors in the city where they help to grow our urban economy. Keeping businesses like Lynch Auto Body in the neighborhood reduces urban sprawl and keeps our city neighborhoods diverse and strong.

Caren Whalen  
2206 Sheridan Drive  
Madison, WI  
53704

## Firchow, Kevin

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**From:** michael whalen [mwpossum@yahoo.com]  
**Sent:** Monday, November 22, 2010 3:53 PM  
**To:** Firchow, Kevin  
**Cc:** me me  
**Subject:** Lynch Auto body

I cannot make the hearing this evening but I want to express my support for the plan Tim Lynch has submitted. I feel it is very important to keep a variety of business' mixed with residential housing. A body shop is important to a neighborhood; especially a top quality shop like Lynch Autobody. I do not want to have to take my car to someplace like Fitchburg to get it repaired. I don't want to move to Fitchburg.

As I am sure you know, it is vital that money earned in the city stay in the city. If the money earned in the city ends up getting spent in the suburbs, the city dies.

I currently live in the Warner Park area. My wife and I hope to move to the Shenk's Corner's area in the near future. We hope we can find a smaller house or condominium in the neighborhood.

My friend Rhoda just bought a condominium in Fitchburg and is encouraging my wife and I to move there. She says all the shopping and parking are much easier there. I don't want to leave the city. I want to live in the Shenk's Corner's neighborhood and do business in the neighborhood. Please don't push Lynch Autobody and other needed economic contributors out.

Sincerely,

Michael Whalen  
2206 Sheridan Dr.  
Madison WI 53704  
(608) 692-5203