



# City of West Allis

## Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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R-2010-0238 Resolution Introduced

Resolution Granting a Privilege for Encroachment (Major) to New Owner Jolinos Properties, LLC (d/b/a Mis Suenos Mexican Restaurant) for property located at 7335 West Greenfield Avenue.

Introduced: 11/3/2010

Controlling Body: Public Works Committee

Sponsor(s): Public Works Committee

### COMMITTEE RECOMMENDATION

*Adopt*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>11/3/2010</i>		<i>X</i>	Barczak				<input checked="" type="checkbox"/>
			Czaplewski	<i>X</i>			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke	<i>X</i>			
	<i>X</i>		Roadt	<i>X</i>			
			Sengstock	<i>X</i>			
			Vitale				
			Weigel	<i>X</i>			
			TOTAL	<i>4</i>			<i>1</i>

### SIGNATURE OF COMMITTEE MEMBER

Chair

*[Signature]*  
Vice-Chair

Member

### COMMON COUNCIL ACTION

**ADOPT**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>NOV 03 2010</i>			Barczak				<input checked="" type="checkbox"/>
			Czaplewski	<i>✓</i>			
			Kopplin	<i>✓</i>			
			Lajsic	<i>✓</i>			
		<i>✓</i>	Narlock	<i>✓</i>			
			Reinke	<i>✓</i>			
			Roadt	<i>✓</i>			
			Sengstock	<i>✓</i>			
			Vitale	<i>✓</i>			
	<i>✓</i>		Weigel	<i>✓</i>			
			TOTAL	<i>9</i>	<i>—</i>		<i>1</i>



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2010-0238**

**Final Action:**

**Sponsor(s):** Public Works Committee

**NOV 03 2010**

Resolution Granting a Privilege for Encroachment (Major) to New Owner Jolinos Properties, LLC (d/b/a Mis Suenos Mexican Restaurant) for property located at 7335 West Greenfield Avenue.

WHEREAS, by Resolution No. R-2004-0312, adopted November 16th, 2004, the City of West Allis granted to Thomas C. Doyle a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a canopy, sign and all light fixtures along West Greenfield Avenue located at 7335 West Greenfield Avenue, in the City of West Allis, WI (the "Privilege"); and,

WHEREAS, the property has now changed ownership to Jolinos Properties, LLC (d/b/a Mis Suenos Mexican Restaurant), who desires to retain the Privilege.

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Jolinos Properties, LLC (d/b/a Mis Suenos Mexican Restaurant) the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a canopy, sign and all light fixtures along West Greenfield Avenue located at 7335 West Greenfield Avenue, in the City of West Allis, WI.

BE IT FURTHER RESOLVED that additional improvements on said area must require prior approval of the Board of Public Works.

BE IT FURTHER RESOLVED that the Mayor and City Administrative Officer, Clerk/Treasurer of the City of West Allis are hereby authorized and directed to execute and deliver the aforesaid Privilege on behalf of the City of West Allis.

ATTR-Encroachment-Jolinos Properties LLC

ADOPTED

NOV 03 2010

Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED

11/9/10

Dan Devine, Mayor

**PRIVILEGE FOR ENCROACHMENT  
(MAJOR)**

**Beyond Lot Line and Within a Public Street Right-of-Way**

Jolinos Properties, LLC (d/b/a Mis Suenos Mexican Restaurant), owner(s) of property located at 7335 West Greenfield Avenue, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and on the City's right-of-way consisting of a canopy, sign and all light fixtures on that portion of the right-of-way along a part of West Greenfield Avenue located in the Northwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin, more particularly described as follows:

Beginning at a point on the North line of Lot 6, Block 7, Central Improvement Company Subdivision No. 1, said point being 18.00 feet East of the Northwest corner of said Lot 6; thence continuing East 15.00 feet; thence North 10.00 feet; thence West 15.00 feet; thence South 10.0 feet to the Point of Beginning. Tax Key No. 453-0118-000.

The Board of Public Works is satisfied that the granting of this privilege is not adverse to the public interest.

NOW, THEREFORE, Pursuant to the authority contained in Section 66.0425 of the Wisconsin Statutes, the Board of Public Works does hereby grant the above-described privilege, subject to the following terms and conditions:

1. Upon acceptance hereof, the Grantee(s) shall become primarily liable for damages to persons or property by reason of the granting of this privilege; and the Grantee(s) agree to hold the City harmless for any damage to their property resulting from snow plowing or snow removal operations.

2. The Grantee(s) shall be obligated to remove the encroachment upon ten (10) days notice by the State of Wisconsin or City of West Allis, and shall be entitled to no damages for removal of the encroachment. I hereby grant permission to the City of West Allis to remove the encroachment if it is not removed pursuant to Sec. 66.0425(2), Wisconsin Statutes, the cost of which shall be at Grantee's expense. The cost of removal by the City shall be charged to Grantee and, if unpaid after thirty (30) days, assessed as a special charge under Sec. 66.0701, Wisconsin Statutes.

3. The Grantee(s), by acceptance hereof, waives any right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes.

4. Any third parties whose rights are interfered with by the granting of this privilege shall have a right of action against the Grantee(s) only.

5. Plans and specifications of any repair/alterations being performed in the public right-of-ways for which this privilege is granted, other than the canopy, sign and all light fixtures as provided herein, shall require submission to, and final approval of, the Director of Public Works/City Engineer of the City of West Allis. Specifically, the canopy shall be placed and maintained at least two (2) feet from the edge of the street curb.

6. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Bond with the City Clerk/Treasurer in the amount of One Thousand Dollars (\$1,000) and a Certificate of Insurance in the amount of at least Ten Thousand Dollars (\$10,000.00), in a form approved by the City Attorney, for damages to person or property by reason of the granting of this privilege. The City of West Allis shall be named as an additional insured, as its interest may appear, on the certificate of insurance. The insurance certificate shall further provide that ten (10) day written notice to the City of West Allis shall be provided in the event of any material change, or cancellation of insurance coverage.

7. Grantee(s) shall keep the sidewalk and sidewalk area underneath and adjacent to the canopy free and clear of snow and ice.

8. Grantee(s) shall repair to the City's satisfaction any damage to the sidewalk or sidewalk area.

9. Grantee(s) shall maintain the canopy, support structures and surrounding area in a reasonable state of repair and cleanliness.

10. The support poles must be made of aluminum, galvanized steel or other similar rust resistant metal of sufficient strength to support snow loads as determined by the Director of Public Works/City Engineer.

11. No carpeting or other material shall be placed in the sidewalk or sidewalk area.

12. Grantee(s) shall pay to the City of West Allis as compensation for this privilege the sum of Fifty Dollars (\$50.00).

13. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Performance Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required to extend grant of privilege.

14. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

Dated at West Allis, Wisconsin, this 10<sup>th</sup> day of November, 2010.

CITY OF WEST ALLIS

BY: *Dan Devine*  
Dan Devine, Mayor

BY: *Paul M. Ziehler*  
Paul M. Ziehler  
CAO, City Clerk/Treasurer

ACCEPTED BY:  
JOLINOS PROPERTIES, LLC  
(d/b/a Mis Suenos Mexican Restaurant)

By: *Deborah A. Ramirez*  
Deborah A. Ramirez, Registered Agent

Date: 9/17/10

Approved as to form this 27 day  
of Oct., 2010.

*[Signature]*  
City Attorney

C/Encroachment/Encrmajor-Jolinos Properties LLC