

34.



# City of West Allis Matter Summary

7525 W Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
R-2009-0027	Resolution	In Committee
	Resolution Granting a Revised Privilege for Encroachment(Major) to Cugino's Entertainment LLC (d/b/a Heartbreakers) for property located at 9440-42 West National Avenue.	
	Introduced: 2/3/2009	Controlling Body: Public Works Committee
		Sponsor(s): Public Works Committee

COMMITTEE RECOMMENDATION Adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>2-3-09</u>			Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
		✓	Roadt	✓			
	✓		Sengstock	✓			
			Vitale				
			Weigel	✓			
			TOTAL	<u>5</u>	<u>-</u>		<u>-</u>

SIGNATURE OF COMMITTEE MEMBER

[Signature] \_\_\_\_\_  
 Chair Vice-Chair Member

**ADOPT**

COMMON COUNCIL ACTION

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>FEB 03 2009</u>	✓		Barczak	✓			
			Czaplewski	✓			
			Kopplin	✓			
			Lajsic	✓			
		✓	Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale				✓
			Weigel	✓			
			TOTAL	<u>9</u>	<u>-</u>		<u>1</u>



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2009-0027**

**Final Action:**

FEB 03 2009

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

Resolution Granting a Revised Privilege for Encroachment (Major) to Cugino's Entertainment LLC (d/b/a Heartbreakers) for property located at 9440-42 West National Avenue.

WHEREAS, by Resolution No. R-2007-0265, adopted November 6th, 2007, the City of West Allis granted to Cugino's Entertainment LLC (d/b/a Heartbreakers) a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of planters, sign, double entry doors and a mansard roof on that portion of the right-of-way of West National Avenue and South 95th Street, in the City of West Allis, WI (the "Privilege"); and,

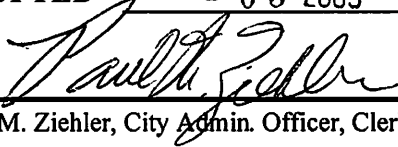
WHEREAS, the property has now been renovated by Cugino's Entertainment LLC (d/b/a Heartbreakers), which renovations consist of the removal of the mansard roof and the addition of a canopy from the face of the building by the double entry doors to two (2) feet to the face of the curb pursuant to Section 13.21(17)(c)1 of the Revised Municipal Code of the City of West Allis.

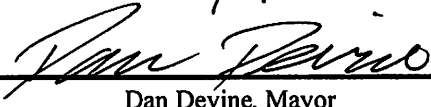
NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Cugino's Entertainment LLC (d/b/a Heartbreakers), the Revised Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of planters, sign, double entry doors and a canopy on that portion of the right-of-way of West National Avenue and South 95th Street located at 9440-42 West National 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 Revised Privilege on behalf of the City of West Allis.

ATTR-Encroachment-Revised Cuginos Priv-9440WNatlAve

ADOPTED FEB 03 2009  
  
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 2/6/09  
  
Dan Devine, Mayor

**PRIVILEGE FOR ENCROACHMENT (REVISED)**  
**Major**

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

Cugino's Entertainment LLC (d/b/a Heartbreakers), owner(s) of property located at 9440-42 West National Avenue, West Allis, hereinafter "Grantee(s)", desires to maintain an encroachment extending beyond the lot line and within the public street right-of-way consisting of planters, sign, double entry doors and canopy on that portion of the right-of-ways of West National Avenue and South 95<sup>th</sup> Street adjoining Parcels 1 and 2 of Certified Survey Map No. 5181, being a subdivision of the Southwest ¼ of Section 5, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Beginning at the Southeast corner of said Parcel 2; thence Southerly, 2.53 feet; thence Southwesterly, 97.26 feet, parallel with the North right-of-way line of West National Avenue; thence Northerly, 84.10 feet, parallel with the East right-of-way line of South 95<sup>th</sup> Street; thence Easterly, 2.00 feet to said East right-of-way line; thence Southerly, 80.00 feet along said East line; thence Northeasterly, 94.72 feet along said North line to the Point of Beginning of this description. Tax Key Nos. 479-0676-001 and 479-0676-002.

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 Common Council of the City of West Allis 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. Grantee(s) 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.

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

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

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

8. The support poles must be made of aluminum, galvanized steel or other rust resistant metal of sufficient strength to support snow loads. The canopy must also be of sufficient strength to support snow loads. The canopy and support poles shall be installed per the manufacturer's specifications. The Grantee(s) shall provide a plan showing the location and attachment to the public sidewalk of the support poles. The City Engineer shall approve this plan.

9. The front of the canopy can not be closer than two (2) feet to the face of the curb per Section 13.21(17)(c)1 of the Revised Municipal Code of the City of West Allis.

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

11. The double entry doors shall extend approximately one and a half feet (1½') onto the public right-of-way when fully opened, at which point they shall not project beyond planters running parallel to the City sidewalk. This in turn will provide pedestrian safety.

12. Plans and specifications for installation and any repair/alterations being performed in the public right-of-way for which this privilege is granted, other than the canopy, sign, double entry doors and planters as provided herein, shall require submission to, and final approval of, the 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.

13. 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.

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

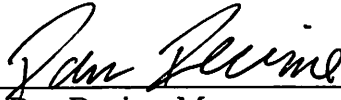
15. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required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

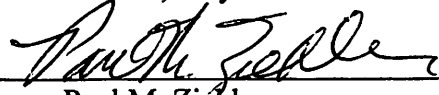
16. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

(Signatures on next page)

Dated at West Allis, WI, this 6<sup>th</sup> day of February, 2009.

CITY OF WEST ALLIS

BY:   
Dan Devine, Mayor

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

ACCEPTED BY:  
CUGINO'S ENTERTAINMENT LLC

BY:   
Dominic T. Lalicata, Member

Date: 12-29-08

Approved as to form this 15 day  
of January, 2009.

  
City Attorney

C/Encrprimajor-Cuginos Entertainment LLC