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City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
R-2007-0241	Resolution	In Committee
Resolution Granting a Privilege for Encroachment (Major) to New Owner Ziegler-Wisconsin 16, LLC for property located at 7220 West National Avenue.		
Introduced: 10/16/2007		Controlling Body: Public Works Committee
Sponsor(s): Public Works Committee		

COMMITTEE RECOMMENDATION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>10-16-07</u>			Barczak				
			Czaplewski				
			Dobrowski	✓			
			Kopplin	✓			
			Lajsic				
			Narlock	✓			
			Reinke				
		✓	Sengstock	✓			
	✓		Vitale	✓			
			Weigel				
TOTAL				<u>5</u>			<u>0</u>

SIGNATURE OF COMMITTEE MEMBER

[Signature] _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>OCT 16 2007</u>			Barczak	✓			
			Czaplewski	✓			
			Dobrowski	✓			
			Kopplin	✓			
			Lajsic	✓			
	✓		Narlock	✓			
			Reinke <u>exc</u>				✓
		✓	Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
TOTAL:				<u>9</u>			<u>1</u>



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2007-0241

Final Action:

Sponsor(s): Public Works Committee

OCT 16 2007

Resolution Granting a Privilege for Encroachment (Major) to New Owner Ziegler-Wisconsin 16, LLC for property located at 7220 West National Avenue.

WHEREAS, by Resolution No. 27046, adopted March 19th, 2002, the City of West Allis granted to Firehouse Square, LLC, a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of canopies on that part of the right-of-ways of South 72nd Street, South 73rd Street and West National Avenue located at 7220 West National Avenue, in the City of West Allis, WI (the "Privilege"); and,

WHEREAS, the property has now changed ownership to Ziegler-Wisconsin 16, LLC, who desires to retain the Privilege.

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Ziegler-Wisconsin 16, LLC, the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of canopies on that part of the right-of-ways of South 72nd Street, South 73rd Street and West National Avenue located at 7220 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 Privilege on behalf of the City of West Allis.

ATTR-Encroachment-Ziegler-WI 16 LLC

ADOPTED

OCT 16 2007

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

APPROVED

October 18, 2007

Jeannette Bell, Mayor

PRIVILEGE FOR ENCROACHMENT

Major

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

Ziegler-Wisconsin 16, LLC, owner(s) of property located at 7220 West National Avenue, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and within the public street right-of-way, per Plan Commission approval of December 18th, 2001, consisting of canopies on that part of the right-of-way of South 72nd Street, South 73rd Street and West National Avenue adjacent to Lots 1 through 8 in Block 11, in Central Improvement Company Subdivision No. 1, 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 the Northeast corner of said Lot 1; thence East, 2.00 feet to a point; thence S 01°28'26" W and parallel with the West line of S. 72 St., 101.71 feet to a point; thence S 76°42'06" W and parallel with the North line of W. National Ave., 267.62 feet to a point; thence N 01°28'55" E and parallel with the East line of S. 73 St., 163.34 feet to a point; thence East, 3.00 feet to the Northwest corner of said Lot 8; thence S 01°28'55" W along the East line of S. 73 St., 160.59 feet to the Southwest corner of said Lot 8; thence N 76°42'06" E along the North line of W. National Ave., 262.45 feet to Southeast corner of said Lot 1; thence N 01°28'26" E along the West line of S. 72 St., 100.15 feet to the Point of Beginning. Tax Key No. 453-0215-001.

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. The canopies shall be constructed and maintained in a manner to safeguard the public and shall specifically comply with the West Allis Municipal Code.

6. Plans and specifications of any repair/alterations being performed in the public right-of-way for which this privilege is granted, other than the canopies, as provided herein, shall require submission to, and final approval of, the City Engineer of the City of West Allis.

7. 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.

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

9. 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.

10. 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, WI, this 18th day of October, 2007.

CITY OF WEST ALLIS

BY: Jeannette Bell
Jeannette Bell, Mayor

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

ACCEPTED BY:

ZIEGLER-WISCONSIN 16, LLC

**BY: Ziegler Healthcare Real Estate Fund III, LLC,
Its Sole Member**

BY: B.C. Ziegler and Company, its Manager

John Sweet
By: John Sweet, Managing Director

Date: 10/2/07

Approved as to form this 9 day
of Oct., 2007.

Leotzfeld
City Attorney

C/Encrprimajor-Ziegler Wisconsin 16 LLC