

27.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

| File Number | Title | Status |
|-------------|-------|--------|
|-------------|-------|--------|

R-2008-0184 Resolution In Committee

Resolution Granting a Privilege for Encroachment (Major) to New Owner Bunty's Liquor LLC (d/b/a Cleveland Avenue Discount Liquor) for property located at 8423-31 West Cleveland Avenue.

Introduced: 9/2/2008 **Controlling Body:** Public Works Committee

Sponsor(s): Public Works Committee

COMMITTEE RECOMMENDATION ADOPT

| ACTION DATE: | MOVER | SECONDER | | AYE | NO | PRESENT | EXCUSED |
|---------------|-------|----------|--------------|----------|----------|---------|---------|
| <u>9-2-08</u> | | | Barczak | X | | | |
| | | | Czaplewski | X | | | |
| | | | Kopplin | | | | |
| | | | Lajsic | | | | |
| | | | Narlock | | | | |
| | | | Reinke | | | | |
| | | | Roadt | | X | | |
| | | | Sengstock | | X | | |
| | | | Vitale | | | | |
| | | Weigel | | X | | | |
| | | | TOTAL | <u>5</u> | <u>-</u> | | |

SIGNATURE OF COMMITTEE MEMBER

[Signature] _____ _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION adopt

| ACTION DATE: | MOVER | SECONDER | | AYE | NO | PRESENT | EXCUSED |
|---------------|-------|----------|--------------|-----------|----------|---------|---------|
| <u>9-2-08</u> | | | Barczak | ✓ | | | |
| | | | Czaplewski | ✓ | | | |
| | | | Kopplin | ✓ | | | |
| | | | Lajsic | ✓ | | | |
| | | | Narlock | ✓ | | | |
| | | | Reinke | ✓ | | | |
| | | | Roadt | ✓ | | | |
| | | | Sengstock | ✓ | | | |
| | | | Vitale | ✓ | | | |
| | | Weigel | ✓ | | | | |
| | | | TOTAL | <u>10</u> | <u>-</u> | | |



City of West Allis

7525 W. Greenfield Ave
West Allis, WI 53214

Resolution

File Number: R-2008-0184

Final Action:

SEP 02 2008

Resolution Granting a Privilege for Encroachment (Major) to New Owner Bunty's Liquor LLC (d/b/a Cleveland Avenue Discount Liquor) for property located at 8423-31 West Cleveland Avenue.

WHEREAS, by Resolution No. R-2005-0151, adopted May 3rd, 2005, the City of West Allis granted to Dennis Ermi (d/b/a Cleveland Avenue Discount), a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a mansard roof along the front of the building a distance of forty-two feet (42') and a double face internal illuminated sign, said property located at 8423-31 West Cleveland Avenue, in the City of West Allis, WI (the "Privilege"); and,

WHEREAS, the property has now changed ownership to Bunty's Liquor LLC (d/b/a Cleveland Avenue Discount Liquor), who desires to retain the Privilege.

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Bunty's Liquor LLC (d/b/a Cleveland Avenue Discount Liquor), the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a mansard roof along the front of the building a distance of forty-two feet (42') and a double face internal illuminated sign located at 8423-31 West Cleveland 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-Bunty's Liquor LLC

ADOPTED

SEP 02 2008

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

APPROVED

9/8/08

Dan Devine, Mayor

PRIVILEGE FOR ENCROACHMENT
Major

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

Buntys Liquor LLC, owner(s) of property located at 8423-27-31 West Cleveland 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 a mansard roof, extending and encroaching over the public sidewalk a distance of four feet from the face of the building and extending along the front of the building a distance of forty-two feet and a double-face internal illuminated 48" wide x 60" high sign on that portion of the right-of-way on West Cleveland Avenue adjoining Lots 3 and 4, Block 26, Bronson Manor Addition No. 7, being a subdivision of the Southwest ¼ of Section 9, 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 Northwest corner of said Lot 4; thence N 88° 26' 22" East along the South right-of-way line of said West Cleveland Avenue 96.00 feet to the Northeast corner of said Lot 3; thence N 1° 33' 38" West and perpendicular to said South right-of-way line 4.00 feet; thence S 88° 26' 22" West and parallel with said South right-of-way line 96.00 feet; thence S 1° 33' 38" East and perpendicular to said South right-of-way line 4.00 feet to the Point of Beginning of this description.

Tax Key No. 517-0343-001.

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. No part of the mansard roof shall extend over the sidewalk below a height of eight feet four inches (8'4") or shall extend farther from the face of the building than four (4) feet onto the public right-of-way of West Cleveland Avenue

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

7. All exterior wood construction shall be fire treated to meet non-combustible rating.

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

9. 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.

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

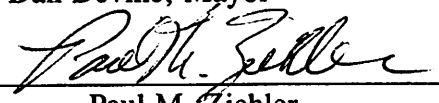
11. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required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

12. 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 24 day of September, 2008

CITY OF WEST ALLIS

BY: 
Dan Devine, Mayor

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

SIGNATURES CONTINUED ON NEXT PAGE

ACCEPTED BY:
BUNTYS LIQUOR LLC

BY: Beant Singh
Beant Singh

Date: Aug 05, 2008.

Approved as to form this 12 day
of August, 2008.

Scott Spent

City Attorney

C/Encrprimajor-Buntys Liquor LLC