



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2007-0043

Final Action:

Sponsor(s): Public Works Committee

FEB 06 2007

Resolution Granting a Privilege for Encroachment (Major) to New Owners Scott Sitowski and Cynthia Sobczak for property located at 7244-46 West Greenfield Avenue.

WHEREAS, by Resolution No. 26100, adopted May 4th, 1999, the City of West Allis granted to Steak House 100 LLC (d/b/a Steak House West Allis), a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a main entrance vestibule, brick veneer pilasters, a handicap ramp with a metal railing, a cement door stoop and a refuse enclosure located at 7244-46 West Greenfield Avenue, West Allis, WI (the "Privilege"); and,

WHEREAS, the property has now changed ownership to Scott Sitowski and Cynthia Sobczak, who desire to retain the Privilege.

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Scott Sitowski and Cynthia Sobczak the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a main entrance vestibule, brick veneer pilasters, a handicap ramp with a metal railing, a cement door stoop and a refuse enclosure located at 7244-46 West Greenfield Avenue, 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-7244 W Greenfield Ave

ADOPTED FEB 06 2007
Paul M. Ziehler
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED February 8 2007
Jeannette Bell
Jeannette Bell, Mayor

PRIVILEGE FOR ENCROACHMENT
Major

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

Scott Sitowski and Cynthia Sobczak, owner(s) of property located at 7244-46 West Greenfield Avenue West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and within the public street right-of-way consisting of a main entrance vestibule (approximately 3 ft. 3 inches x 24 ft. 6 inches), brick veneer pilasters (1 ft. 8 inches x 4 ft.), a handicap ramp with a metal railing (approximately 6 inches x 17 ft.), a cement door stoop (approximately 3 ft. 4 inches x 1 ft.) and a refuse enclosure. See attached Exhibit "A" for legal descriptions. Tax Key No. 440-0344-000.

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 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) 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.

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 main entrance vestibule, brick veneer pilasters, handicap ramp with metal railing, cement door stoop and refuse enclosure 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 main entrance vestibule, brick veneer pilasters, handicap ramp with metal railing, cement door stoop and refuse enclosure 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 8 day of February, 2007.

CITY OF WEST ALLIS

BY: Jeannette Bell
Jeannette Bell, Mayor

BY: Paul M. Ziehler
Paul M. Ziehler
City Administrative Officer,
Clerk/Treasurer

ACCEPTED BY:

BY: Scott Sitowski
Scott Sitowski

Date: _____

BY: Cynthia Sobczak
Cynthia Sobczak

Date: _____

Approved as to form this 30 day
of January, 2007

Scott Sitowski
City Attorney

C/Encrprimajor-Sitowski&Sobczak