

October 13, 2006

To the Public Works Committee

Subject: Common Council Resolution File Number 000140

Dear Honorable Members:

Returned herewith is Common Council Resolution File 000140, which grants a special privilege to Phillip J. King, Troy Jahnke, and Timothy J. Brophy, Jr. for a fence and concrete steps for the premises at 2052 North 1<sup>st</sup> Street.

In 2000, Timothy Brophy, Sr., Timothy Brophy, Jr. and Charles Miller III requested permission to construct and keep a fence in the public right-of-way. The resolution was held to the call of the chair at the Public Improvements Committee meeting on June 21, 2000 due to issues with the owners of the property, Timothy Brophy, Sr., Timothy Brophy, Jr. and Charles Miller III. Subsequently and without Common Council permission, Timothy Brophy, Sr., Timothy Brophy, Jr. and Charles Miller III built the 4-foot tall wood picket fence around their property; however, the applicants had obtained a fence permit from the Development Center and a Certificate of Appropriateness from the Historic Preservation Commission prior to construction of the fence. A special privilege is required for the fence because the property does not meet the requirements of Section 245-4.5 Placement of Fences in Street Right-of-Way Abutting Residential Property and Public Sidewalk in that the property has more than two dwelling units.

Site visits confirmed the presence and location of the subject fence in the public right-of-way. Along the North 1<sup>st</sup> Street side of the property, the fence is located an average of 5 feet 8 inches in the public right-of-way. Along the East Lloyd Street side of the property, the fence is located an average of 5 feet 1 inch in the public right-of-way. Said site visits also revealed the presence of a previously existing set of concrete steps in the 22-foot wide, east sidewalk area of North 1<sup>st</sup> Street centered approximately 12 feet south of the southline of East Lloyd Street. Said steps project 4 feet into the public way for a length of 7 feet 10 inches.

It should be noted that the subject premises is a condominium development consisting of three separate units in one building. Normally, a special privilege for a condominium development would be granted to the condominium association, the legal entity responsible for matters concerning the entire development. No condominium association has been legally recorded for this development. For this reason, the attached special privilege resolution grants permission for the fence and concrete steps to Phillip J. King, Troy Jahnke, and Timothy J. Brophy, Jr., the current owners. A name change amendment will be required whenever a condominium association is legally recorded or whenever any of the individual condominium units changes ownership. Currently, Mr. Brophy's condominium is for sale.

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We are not aware that the presence of said fence and concrete steps has had or will have an adverse effect on the public right-o-way and have attached a special privilege resolution, which, if adopted, would allow said items to continue to occupy the public way. However, we do have concerns regarding this particular special privilege petition. Our concerns stem from the lack of a legally recorded condominium association for this condominium development; the voiced lack of support from the local alderman; and the past problems the Department of Neighborhood Services has encountered with the original applicants. Should there be further questions on this matter, please contact Ms. Dawn Schmidt at 414-286-2454.

Very truly yours,

Jeffrey S. Polenske, P.E.  
City Engineer

Jeffrey J. Mantes  
Commissioner of Public Works

Martin G. Collins  
Commissioner  
Department of Neighborhood Services

MDL:lja  
Attachment

c: Alderman Michael McGee, Jr.  
Mr. Phillip J. King  
Mr. Troy Jahnke  
Mr. Timothy J. Brophy, Jr.