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Title: Substitute resolution granting a special privilege to Holmes Simpson to keep and maintain two dumpster enclosures (fences), three large moveable planters and six small moveable planters and a concrete step in the public right-of-way of East Brady Street abutting the premises at 1437 East Brady Street, in the 3rd Aldermanic District in the City of Milwaukee.

Sponsors: THE CHAIR

Indexes: SPECIAL PRIVILEGE PERMITS

Attachments: 1. Special Privilege Application with Drawings.PDF, 2. Cover Letter.pdf, 3. Fiscal Note.pdf

Date	Ver.	Action By	Action	Result	Tally
6/24/2003	0	COMMON COUNCIL	ASSIGNED TO		
6/25/2003		PUBLIC WORKS COMMITTEE	REFERRED TO		
12/1/2004	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
12/1/2004	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
12/1/2004	1	CITY CLERK	DRAFT SUBMITTED		
12/8/2004	1	PUBLIC WORKS COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	4:1
12/21/2004	1	COMMON COUNCIL	ADOPTED	Pass	15:0
12/23/2004	1	MAYOR	SIGNED		

030313
SUBSTITUTE
THE CHAIR

Substitute resolution granting a special privilege to Holmes Simpson to keep and maintain two dumpster enclosures (fences), three large moveable planters and six small moveable planters and a concrete step in the public right-of-way of East Brady Street abutting the premises at 1437 East Brady Street, in the 3rd Aldermanic District in the City of Milwaukee.

This resolution grants a special privilege to Holmes Simpson to keep and maintain two dumpster enclosures (fences) that will surround and protect dumpsters, three large square moveable planters, one small square moveable planter and five small moveable planter and one concrete step all located in the public right-of-way of East Brady Street abutting the premises at 1437 East Brady Street.

Whereas, The applicant desires to create dumpster enclosures within the public right-of-way in order to keep from public view the dumpsters, which are used by the tenant of the property known as 1437 East Brady Street; and

Whereas, A site visit to the premises also showed the presence of three large, square moveable planters, one smaller, square moveable planter and five small "whiskey barrel" planters within the public right-of-way abutting the premise at 1437 East Brady Street; and

Whereas, Said site visit also showed that one existing concrete step to the first doorway west of North Farwell Avenue, to another tenancy of the building, encroaches into the public right-of-way of East Brady Street; and

Whereas, Said fences, moveable planters and step may only legally occupy the public right-of-way by the granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Holmes Simpson, 1437 East Brady Street, Milwaukee, WI 53202, is hereby granted the following special privilege:

1. To keep, use and maintain a 5-foot tall wood fence-like enclosure for concealing the dumpsters, encroaching into the public right-of-way of East Brady Street, abutting the premises known as 1437 East Brady Street. The structure extends approximately 5 feet 8 inches northerly and 10 feet westerly and then 5 feet 8 inches southerly to a point on the southline of East Brady Street, all within the 13-foot wide south sidewalk area. This fence is centered approximately 43 feet west of the westline of North Farwell Avenue. Said structure shall be maintained so that there is a minimum 5-foot clear path for pedestrian travel at all times. There are gates along the north side and they may be opened for the purpose of filling or emptying the dumpsters.
2. To keep, use and maintain a 5-foot tall wood fence-like enclosure for concealing the dumpsters, encroaching into the public right-of-way of East Brady Street, abutting the premises known as 1437 East Brady Street. The structure extends approximately 4 feet 11 inches northerly and 6 feet 4 inches westerly and then 4 feet 11 inches southerly to a point on the southline of East Brady Street, all within the 13-foot wide south sidewalk area. This fence is centered approximately 54 feet west of the westline of North Farwell Avenue. Said fence shall be maintained so that there is a minimum 5-foot clear path for pedestrian travel at all times. There is a gate along the west side for filling or emptying the dumpsters.
3. To keep, use and maintain three 3-foot tall, square moveable wood planters that are 3 feet 4 inches wide by 3 feet 8 inches deep. The planters are centered approximately 35 feet, 50 feet and 70 feet west of the westline of North Farwell Avenue. Said planters shall be placed and maintained such that a minimum 5-foot clear path for pedestrian travel is maintained at all times.
4. To keep, use and maintain one 3-foot tall, square moveable wood planter that is 2 feet 8 inches wide by 2 feet 7 inches deep and centered approximately 93 feet west of the west line of North Farwell Avenue. Said planter shall be placed and maintained such that a minimum 5-foot clear path for pedestrian travel is maintained at all times.
5. To keep, use and maintain five "whiskey barrel" type moveable planters being 1.5 feet tall and 2 feet in diameter. These planters are centered approximately 33 feet, 67 feet, 81 feet, 96 feet and 100 feet west of the westline of North Farwell Avenue. Said planters shall be placed and maintained such that a minimum 5-foot clear path for pedestrian travel is maintained at all times.
6. To keep, use and maintain a concrete step 6 feet 7 inches wide projecting 1-foot, centered approximately 64 feet west of the westline of North Farwell Avenue.

The above-mentioned items shall be installed, used and maintained to the approval of the Commissioners of Public Works and Neighborhood Services. All necessary permits shall have been obtained from the Department of Public Works and the Department of Neighborhood Services for placement of aforementioned items; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Simpson Homes, shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the City Clerk a bond of surety company duly incorporated in the state of Wisconsin, or duly licensed to do business in this state, in the sum of \$2,000 such bond to be approved by the City Attorney. This applicant shall also file with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$50,000 covering bodily injury to any one person and \$100,000 covering bodily injury to more than one person in any one accident and \$25,000 covering property damage to any one owner on the areas or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least thirty days notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$441.46. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages to the alteration and/or removal for such purposes.
5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1 of each year.
6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of the Department of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works
Infrastructure Services Division

MDL:amh

December 1, 2004

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