



Legislation Details (With Text)

**File #:** 051279      **Version:** 1  
**Type:** Resolution      **Status:** Passed  
**File created:** 1/18/2006      **In control:** PUBLIC WORKS COMMITTEE  
**On agenda:**      **Final action:** 3/23/2006  
**Effective date:**

**Title:** Substitute resolution amending a special privilege for change of ownership to Nitragin, Inc. for one excess door swing projection and two bollards and to grant permission for a concrete platform, two concrete window wells, and two bollards to encroach into the public right-of-way adjacent to the building at 3101 West Custer Avenue, in the 1st Aldermanic District in the City of Milwaukee.

**Sponsors:** THE CHAIR

**Indexes:** SPECIAL PRIVILEGE PERMITS

**Attachments:** 1. Special Privilege Petition.PDF, 2. Cover letter, 3. Fiscal Note

Date	Ver.	Action By	Action	Result	Tally
1/18/2006	0	COMMON COUNCIL	ASSIGNED TO		
1/19/2006	0	PUBLIC WORKS COMMITTEE	REFERRED TO		
2/28/2006	1	CITY CLERK	DRAFT SUBMITTED		
3/2/2006	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
3/2/2006	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
3/2/2006	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
3/6/2006	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
3/8/2006	1	PUBLIC WORKS COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	4:0
3/23/2006	1	COMMON COUNCIL	ADOPTED	Pass	14:0
3/30/2006	1	MAYOR	SIGNED		

051279  
SUBSTITUTE 1  
990283  
THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Nitragin, Inc. for one excess door swing projection and two bollards and to grant permission for a concrete platform, two concrete window wells, and two bollards to encroach into the public right-of-way adjacent to the building at 3101 West Custer Avenue, in the 1st Aldermanic District in the City of Milwaukee.

This resolution grants an amended special privilege to Nitragin, Inc. for encroachment into the public right-of-way of one excess door swing projection, a concrete entrance platform, two concrete window wells and four bollards.

Whereas, Liphatech, Inc. requested permission to install and maintain one excess door swing projection and two bollards on either side of a 12-foot wide overhead door; and

Whereas, Permission was granted in 1999 under Common Council Resolution File Number 990283; and

Whereas, A site visit revealed the presence of a concrete entrance platform located at the excess door swing, two concrete window wells and two capped steel pipe projections which will be referred to as bollards located in the public right-of-way adjacent to the premises; and

Whereas, The concrete platform, two window wells and two additional bollards may only legally project into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; and

Whereas, For the liability to be formally transferred to the current owners for the excess door swing projection and two bollards, the Common Council needs to adopt an amending resolution; now, therefore, be it

Resolved, That Common Council File Number 990283 is hereby rescinded; and, be it

Further Resolved, By the Common Council of the City of Milwaukee, that Nitragin, Inc., 3101 West Custer Avenue, Milwaukee, Wisconsin 53209 is hereby granted the following special privileges:

1. To keep and maintain one excess door swing projection. The door, located on the south side of West Custer Avenue, is centered approximately 64 feet west of the west line of North 31<sup>st</sup> Street extended, and the maximum encroachment is approximately 3 feet into the 18-foot wide sidewalk area.
2. To keep and maintain a concrete entrance platform. The platform, located on the south side of West Custer Avenue, is centered on the above mentioned door swing starting at a point approximately 60 feet west of the west line of North 31<sup>st</sup> Street extended and is 8 feet 2 ½ inches long. Said stoop projects 5 feet into the 18-foot wide sidewalk area.
3. To keep and maintain two concrete window wells. The window wells, located on the south side of West Custer Avenue, are centered approximately 14 feet 6 inches and 54 feet 6 inches west of the west line of North 31<sup>st</sup> Street extended and are 5 feet long. Said window wells project 2 feet into the 18-foot wide sidewalk area and are 1 foot 2 inches above existing grade.
4. To keep and maintain two 7-inch diameter, approximately 4-foot high concrete filled steel pipe bollards and two capped 8-inch diameter projections approximately 5 inches in height within the 18-foot wide sidewalk area. The 4-foot high bollards are centered approximately 73 feet 7 inches and 85 feet 7 inches west of the west line of North 31<sup>st</sup> Street extended and 8-inches north of the south line of West Custer Avenue. The 5-inch high projections are centered approximately 88 feet 10 inches and 90 feet 5 inches west of the west line of North 31<sup>st</sup> Street extended and 2 feet 6 inches and 2 feet 5 inches north of the south line of West Custer Avenue.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services. All necessary permits shall have been obtained prior to the granting of this special privilege.

Said items shall be maintained or removed from the public right-of-way, at such future time as they are no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Nitragin, Inc., 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 a surety company duly incorporated in the State of Wisconsin, or duly licensed to do business in this State, in the sum of \$5,000.00 such bond to be approved by the City Attorney. The 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 \$50,000.00 covering bodily injury to any one person and \$100,000.00 covering bodily injury to more than one person in any one accident and \$20,000.00 covering property damage to any one owner on the area 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 canceled 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 \$46.82. 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 any 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 due 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<sup>st</sup> 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:cjt  
February 22, 2006  
051279