



Legislation Details (With Text)

File #: 051018 **Version:** 1

Type: Resolution **Status:** Passed

File created: 11/15/2005 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:** 12/12/2006

Effective date:

Title: Substitute resolution to grant a special privilege to The 1818 LLC for a non-code compliant fixed awning and moveable planters in the public right-of-way for the premises at 114 East Pittsburgh Avenue, in the 12th Aldermanic District.

Sponsors: THE CHAIR

Indexes: SPECIAL PRIVILEGE PERMITS

Attachments: 1. Special Privilege Petition and Drawings.PDF, 2. Drawing.PDF, 3. DPW-Infra. reply letter, 4. Fiscal note

| Date | Ver. | Action By | Action | Result | Tally |
|------------|------|------------------------|--------------------------|--------|-------|
| 11/15/2005 | 0 | COMMON COUNCIL | ASSIGNED TO | | |
| 11/16/2005 | 0 | PUBLIC WORKS COMMITTEE | REFERRED TO | | |
| 11/15/2006 | 0 | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT | | |
| 11/21/2006 | 1 | PUBLIC WORKS COMMITTEE | RECOMMENDED FOR ADOPTION | Pass | 5:0 |
| 11/21/2006 | 1 | CITY CLERK | DRAFT SUBMITTED | | |
| 12/12/2006 | 1 | COMMON COUNCIL | ADOPTED | Pass | 15:0 |
| 12/21/2006 | 1 | MAYOR | SIGNED | | |

051018
SUBSTITUTE 1
THE CHAIR

Substitute resolution to grant a special privilege to The 1818 LLC for a non-code compliant fixed awning and moveable planters in the public right-of-way for the premises at 114 East Pittsburgh Avenue, in the 12th Aldermanic District. This resolution grants a special privilege to The 1818 LLC to construct a non-code compliant fixed awning and to place three moveable planters in the public right-of-way for the premises at 114 East Pittsburgh Avenue.

Whereas, The 1818 LLC renovated an existing building at 114 East Pittsburgh Avenue; and

Whereas, Alterra Coffee Foundry, LLC, which originally petitioned for permission for said fixed awning, is a tenant at 114 East Pittsburgh Avenue; and

Whereas, The 1818 LLC is the owner of the premises at 114 East Pittsburgh Avenue; and

Whereas, Said fixed awning does not meet the requirements of Section 245-7-6(d) of the Milwaukee Code of Ordinances because it does not slope away from the building at an angle between 30° and 45°; and

Whereas, Said fixed awning meets all other requirements for a fixed awning as stated in Section 245-7 of the Milwaukee Code of Ordinances; and

Whereas, A site visit revealed the presence of three moveable planters in the public right-of-way; and

Whereas, Said items may only legally encroach into 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 The 1818 LLC, 1818 North Hubbard Street, Milwaukee, Wisconsin 53212 is hereby granted the following special privileges:

1. To construct and maintain a non-code compliant fixed awning to project 4 feet 4 inches into the 10-foot wide north sidewalk area of East Pittsburgh Avenue. Said fixed awning shall commence at a point approximately 45 feet east of the eastline of South 1st Street and shall continue east for 58 feet 11 inches. There shall be an 11-foot vertical clearance between the sidewalk grade and the bottom of the fixed awning and the fixed awning shall have a 3.3° angle from horizontal tilted away from the building.

2. To keep and maintain three moveable planters in the 10-foot wide north sidewalk area of East Pittsburgh Avenue. Said wood planters are centered approximately 47, 66, 97 feet east of the eastline of South 1st Street and measure 3 feet 8 inches long and 2 feet wide; 3 feet 9 inches long and 2 feet wide and 6 feet 1 inch long; and 1 foot 4 inches wide, respectively. All of the planters are 1 foot 9 inches tall and are placed against the building.

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 accepting this special privilege the grantee, The 1818 LLC, 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 \$1,000 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 \$20,000 covering property damage to any own 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 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 \$45.00. 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 no 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 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 1st 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:lja

October 31, 2006

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