



## Legislation Text

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**File #: 060793, Version: 1**

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060793

SUBSTITUTE

060934

THE CHAIR

Substitute resolution amending a special privilege to Downer Delaware, LLC for addition of a fountain, benches and a stairway for the premises at 2608-50 North Downer Avenue, in the 3<sup>rd</sup> Aldermanic District.

Substitute resolution amending to Downer Delaware, LLC for addition of a fountain, benches, and a second stairway to the basement for the premises at 2608-50 North Downer Avenue.

Whereas, Downer Delaware, LLC requested permission to keep and maintain a building façade, fence, masonry planter, moveable planters, two stairways, display racks/tables, and two excess door swings for the premises at 2608-50 North Downer Avenue; and

Whereas, Permission for said items was granted in 2007 under Common Council Resolution File Number 060934; and

Whereas, Downer Delaware, LLC is now requesting permission to construct and maintain a fountain, which has recently been completed; and

Whereas, A site visit revealed the presence of three benches and a stairway to the basement; 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Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution File Number 060934 is hereby rescinded; and, be it

Further Resolved, That Downer Delaware, LLC, 788 North Jefferson Street, Suite 800, Milwaukee, Wisconsin 53202, is hereby granted the following special privileges:

1. To construct and maintain a fountain with appurtenant plumbing and electrical facilities in the public right-of-way between and adjacent to North Hackett Avenue and North Downer Avenue north of East Bellevue Place. Said fountain is approximately 7 feet in diameter with the fountain basin being surrounded by a 6-inch thick wall.
2. To place and maintain three wood benches with iron ends in the public right-of-way. Two benches are located in the east sidewalk area of North Downer Avenue and one bench is located in the west sidewalk area of North Hackett Avenue. The benches are 4 feet long and 1 foot 6 inches wide.
3. To keep and maintain 15 moveable planters in the east, 15-foot sidewalk area of North Downer Avenue. Twelve of said planters are wood and measure 5 feet long, 1 foot wide and 1 foot 6 inches tall. Three of said planters are round, measuring 2 feet in diameter and 2 feet in height. All of said planters are located against the west face of the building.
4. To keep and maintain 3 rectangular moveable planters in the westerly, 22-foot 6-inch wide sidewalk area of North Hackett Avenue. Said planters are 5 feet long, 1 foot wide and 1 foot 6 inches tall. The planters are located against the east face of the building.
5. To keep and maintain an exterior fascia band consisting of stone veneer on cement board and metal studs projecting 6

inches into the east, 15-foot wide sidewalk area of North Downer Avenue. Said façade commences approximately 45 feet south of the southline of East Park Place and extends south 40 feet. The fascia band begins at a point approximately 9 feet 6 inches above the adjacent grade and is approximately 5 feet in height.

6. To keep and maintain two racks and/or tables within the east, 15-foot wide sidewalk area of North Downer Avenue adjacent to 2630 North Downer Avenue. The racks and/or tables may project up to 3 feet 6 inches into the 15-foot wide, east sidewalk area of North Downer Avenue (the brick area) and occupy two spaces, each 5 feet in length. Racks and/or tables shall be placed in such a manner so their placement/usage will not infringe upon pedestrian movement at any time. Only two racks or two tables or one rack and one table may be used. Said racks/tables must be removed from the public right-of-way during non-business hours. No business transactions may take place within the public right-of-way.

7. To keep and maintain a stairway projecting 7 feet into the 22-foot 6-inch wide westerly sidewalk area of North Hackett Avenue which connects the sidewalk grade to the second floor. Said stairway consists of a double-back section with two platforms that commences at a point approximately 27 feet northeasterly of the eastline of North Downer Avenue and extends to the northeast 15 feet 4 inches.

8. To keep and maintain a stairway to the basement that projects 6 feet 6 inches into the westerly 22-foot 6-inch wide sidewalk area of North Hackett Avenue. Said basement stairway commences at a point approximately 21 feet northeasterly of the eastline of North Downer Avenue and extends 21 feet to the northeast.

9. To keep and maintain a stairway to the basement that projects 6 feet into the westerly 22-foot 6-inch wide sidewalk area of North Hackett Avenue. Said 4-foot 6-inch wide stairway is located approximately 60 feet northeasterly of the eastline of North Downer Avenue.

10. To keep and maintain two excess door swings, which project 36 inches when fully open, into the westerly 21-foot 6-inch wide sidewalk area of North Hackett Avenue. Said doors are centered approximately 41 and 45 feet northeasterly of the eastline of North Downer Avenue and are located at the second and first floors, respectively. The second floor door swings open over a platform connected to the aforementioned stairway between the sidewalk grade and the second floor. Both doors project into the right-of-way in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances.

11. To keep and maintain a 2-foot wide air conditioning unit projecting 2 feet into the west, 21-foot 6-inch wide sidewalk area of North Hackett Avenue. Said air conditioner is located approximately 58 feet northwesterly of the east line of North Downer Avenue.

12. To keep and maintain a 7-foot high wood fence that is surrounded by a 1-foot high masonry planter. Both the planter and fence extend, perpendicularly from the building, 9 feet into the 21-foot 6-inch wide westerly sidewalk area of North Hackett Avenue. The 1-foot high masonry planter is 2 feet 4 inches wide.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

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, Downer Delaware 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 \$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 \$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 \$2314.88. 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 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 Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works

Infrastructure Services Division

MDL: ns

August 20, 2008

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