



Legislation Details (With Text)

**File #:** 18453      **Version:** 1      **Name:** 9368 Consent to Occupy Easement  
**Type:** Resolution      **Status:** Passed  
**File created:** 5/11/2010      **In control:** BOARD OF PUBLIC WORKS  
**On agenda:** 6/15/2010      **Final action:** 6/15/2010  
**Enactment date:** 6/16/2010      **Enactment #:** RES-10-00557

**Title:** Authorizing the Mayor and the City Clerk to execute a Consent to Occupy Easement for the benefit of Hallick Real Estate Holdings, LLC to permit private improvements within the existing public sanitary sewer easement located at 8310 Excelsior Drive.

**Sponsors:** Paul E. Skidmore

**Indexes:**

**Code sections:**

**Attachments:** 1. 9368 Exhibit A - Locator Map.pdf, 2. 9368 Exhibit B.pdf, 3. 9368 Exhibit C.pdf

Date	Ver.	Action By	Action	Result
6/15/2010	1	COMMON COUNCIL	Adopt	Pass
6/2/2010	1	BOARD OF PUBLIC WORKS	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
5/24/2010	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
5/20/2010	1	BOARD OF PUBLIC WORKS	Refer	
5/18/2010	1	COMMON COUNCIL	Referred	
5/11/2010	1	Community and Economic Development Unit	Referred for Introduction	

**Fiscal Note**

\$500 administrative fee to be deposited into Account No. GN01-78231.

**Title**

Authorizing the Mayor and the City Clerk to execute a Consent to Occupy Easement for the benefit of Hallick Real Estate Holdings, LLC to permit private improvements within the existing public sanitary sewer easement located at 8310 Excelsior Drive.

**Body**

WHEREAS, a Public Sanitary Sewer Easement (the "Easement") currently exists across Lot 2, Certified Survey Map No. 5972, located at 8310 Excelsior Drive; and

WHEREAS, the City Engineering Division has conditionally approved the site plan submitted by the property owner, Hallick Real Estate Holdings, LLC ("Owner"), which includes improvements within the Easement consisting of retaining walls, patio hardscaping, landscaping and private underground water, electric and gas facilities; and

WHEREAS, the Owner acknowledges that the City retains the right of access to the Easement for the necessary maintenance, repair and/or reconstruction of the public sanitary sewer facilities ("Facilities") located therein and that the Owner will not be compensated for any loss or damage to the Owner's improvements resulting from the City's activities within the Easement; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Clerk are hereby authorized to execute a

Consent to Occupy Easement for the benefit of Hallick Real Estate Holdings, LLC ("Owner"), subject to the following terms and conditions:

1. The Owner shall have the right to occupy a portion of the City's Sanitary Sewer Easement (the "Occupancy Area"), as described below and depicted on attached Exhibits A and B, for the limited purposes of constructing, installing and maintaining retaining walls, patio hardscaping, private underground water, electric and gas facilities, and landscaping (collectively, the "Permitted Improvements"), all in accordance with the site plan which has been conditionally approved by the City Engineering Division and attached as Exhibit C. No buildings or footings shall be permitted within the Occupancy Area.
2. The Owner shall be responsible for all costs of design, construction/installation and maintenance of the Permitted Improvements in compliance with applicable codes and ordinances.
3. With the exception of routine maintenance and repairs and normal utilization of the Permitted Improvements, no changes to or alterations of the Permitted Improvements shall be allowed without the prior written approval of applicable plans and specifications by the City Engineer.
4. The Permitted Improvements may be removed by the City without replacement or compensation to the Owner.
5. The Owner shall grant the City permission for vehicular access across the Owner's property to the East of the Occupancy Area, as needed from time to time, for purposes of routine maintenance of the Facilities.
6. The Consent shall automatically terminate upon the earliest of the following to occur: (a) the vacation of the Sanitary Sewer Easement by the City; (b) the abandonment of the Permitted Improvements by the Owner; or (c) the agreement to terminate by the City and the Owner, or their successors or assigns.

Description of the Occupancy Area:

Commencing at the Southeasterly most corner of Lot 2, Certified Survey Map Number 5972, said point being marked by a 0.75" solid iron rod, and lying on the northerly platted right-of-way line of Excelsior Drive, thence N 87°55'26" W, along the southerly platted boundary line of said Lot 2 and northerly right-of-way line of Excelsior Drive, 48.56 feet to a 0.75" solid iron rod marking a point of curvature; thence continue along said southerly platted boundary line of said Lot 2 and northerly right-of-way line of Excelsior Drive, 3.21 feet along and the arc of a 370.00 foot radius curve to the left, with a chord bearing N88°10'20"W, 3.21 feet, and a delta angle of 0°29'47", to a point on the easterly limits of an existing 20 foot wide Sanitary Sewer Easement, as recorded in Document No. 2001816 and displayed on said Certified Survey Map No. 5972; thence N13°50'26"W, along the easterly limits of said 20 foot wide Sanitary Sewer Easement, 364.58 feet to an angle point; thence N17°30'21"W, along the easterly limits of said 20 foot wide Sanitary Sewer Easement, 67.22 feet to the point of beginning of this description; thence S72°29'39"W, 20.00 to a point on the westerly limits of said 20 foot wide Sanitary Sewer Easement; thence N17°30'21"W, along the westerly limits of said 20 foot wide Sanitary Sewer Easement, 90.00 feet; thence N72°29'39"E, 20.00 feet to a point on the easterly limits of said 20 foot wide Sanitary Sewer Easement; thence S17°30'21"E, along the easterly limits of said 20 foot wide Sanitary Sewer Easement, 90.00 to the point of beginning.