

Heights Subdivision" being part of the Northwest 1/4 of Section 6, T. 1 S., R. 11 E., Greenfield Township, Wayne County, Michigan. Rec'd L. 50, P. 36 Plats, W.C.R.

Adopted as follows:

Yeas — Council Members Bates, K. Cockrel, Jr., S. Cockrel, Everett, McPhail, Tinsley-Talabi, and President Mahaffey — 7.

Nays — None.

On April 18, 2003, Council President Maryann Mahaffey filed notice that she would move to reconsider the vote by which the resolution approving surplus sale of property at 15325 W. Eight Mile Rd. to be considered at the next formal session of April 30, 2003.

**Department of Public Works
City Engineering Division**

April 9, 2003

Honorable City Council:

Re: Petition No. 1273 — Mario's Restaurant, requesting approval for the construction of an enclosed portico and open entrance to its restaurant located at 4222 Second Avenue.

Petition No. 1273 of "Mario's Restaurant" at 4222 Second Avenue, Detroit, Michigan 48201, request to install and maintain the encroachment of an enclosed portico (building addition) within the easterly right-of-way of Second Avenue, 100 feet wide, between W. Willis Avenue, 100 feet wide and W. Canfield Avenue, 100 feet wide, adjacent to the restaurant. The proposed encroachment will consist of a building addition consisting of, new banquet seating, entrance & waiting area, storage room, as well as, the remodeled coat check and valet area which will measure approximately 6.8 ft. x 8.0 ft. x 135.0 ft. into the Second Avenue right-of-way.

The petition was referred to the City Engineering Division — DPW for investigation and report. This is our report:

Traffic Engineering Division — DPW reports no objections with the requested encroachments provided that a minimum of 10 feet clear margin is accommodated between the curb and the proposed encroachment, and provided that any alteration to sidewalk is constructed in accordance with City of Detroit standards and approved by the City Engineering Division — DPW.

The Public Lighting Department requires a minimum horizontal clearance of 3-feet 6-inches and a vertical clearance of 1'-0" must be maintained from their facilities.

The Detroit Water and Sewerage Department (DWSD) has no objection to the proposed encroachment provided that the petitioner abides by all of the terms and conditions of the attached resolution.

All other involved city departments and

privately owned utility companies have reported no objections or that satisfactory arrangements have been made.

Respectfully submitted,

SUNDAY JAIYESIMI

City Engineer

City Engineering Division — DPW
By Council Member Bates:

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "Mario's Restaurant" at 4222 Second Avenue, Detroit, Michigan 48201, to install and maintain the encroachment of an enclosed portico (building addition) within the easterly right-of-way of Second Avenue, 100 feet wide, between W. Willis Avenue, 100 feet wide and W. Canfield Avenue, 100 feet wide, adjacent to the restaurant. The proposed encroachment will consist of a building addition consisting of, new banquet seating, entrance & waiting area, storage room, as well as, the remodeled coat check and valet area which will measure approximately 6.8 ft. x 8.0 ft. x 135.0 ft. into the Second Avenue right-of-way, adjacent to the following described property:

Located on the easterly side of Second Avenue, 100 feet wide, between W. Willis Avenue, 100 feet wide, and W. Canfield Avenue, 100 feet wide, City of Detroit, Wayne County, Michigan. The North 30.00 feet of Lot 2 and all of Lots 3, 4 and 5 of the "Plat of the Re-Subdivision of Lots 17 and 18, Block 97, Cass Farm," City of Detroit, Wayne County, Michigan, as recorded in Liber 6, Page 46, Plats, Wayne County Records;

Provided, That the encroachment does not exceed the 6.8 ft. x 8.0 ft. x 135.0 ft. into the Second Avenue right-of-way 100 feet wide, and no other permanent structures shall be constructed in the right-of-way; and further

Provided, A minimum of 10 feet clear margin is accommodated between the curb and the proposed encroachment; and further

Provided, "Mario's Restaurant" or its assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detailed permit application drawings submitted to the City Engineering Division — DPW prior to any public right-of-way construction; and further

Provided, That the necessary permits shall be obtained from the City Engineering Division — DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with

plans submitted to and approved by these departments; including the Public Lighting Department (if necessary), the Water and Sewerage Department (if necessary), and the Traffic Engineering Division — DPW (if necessary); and further

Provided, That all costs for the construction, maintenance, permits and use of the encroachments shall be borne by "Mario's Restaurant" or its assigns; and further

Provided, That all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments, shall be borne by "Mario's Restaurant" or its assigns. Should damages to utilities occur "Mario's Restaurant" or its assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located within the public rights-of-way, by acceptance of this permission, "Mario's Restaurant" (owners) for themselves, or their assigns, (by acceptance of permits for construction near underground utility lines, conduits, or mains) waives all claims for damages to the encroaching installations and agree to pay all costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, That "Mario's Restaurant" shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall

save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and the faithful or unfaithful performance by "Mario's Restaurant" of the terms thereof. Further, "Mario's Restaurant" shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

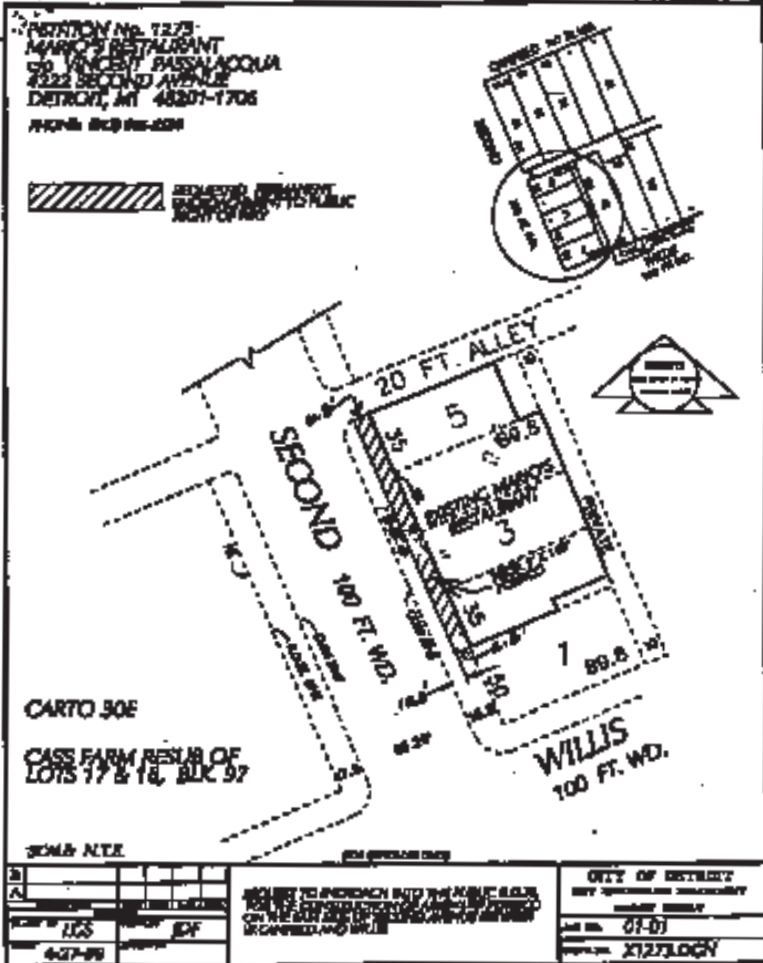
Provided, The property owned by "Mario's Restaurant" and the encroachment shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

Provided, That no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and "Mario's Restaurant" acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That the encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deed.



Adopted as follows:
 Yeas — Council Members Bates, K. Cockrel, Jr., S. Cockrel, Everett, McPhail, Tinsley-Talabi, and President Mahaffey — 7.
 Nays — None.

REPORTS OF THE COMMITTEE OF THE WHOLE THURSDAY, APRIL 17TH

Chairperson Bates submitted the following Committee Reports for above date and recommended their adoption:

Parade

Honorable City Council:

To your Committee of the Whole was referred request of Barney McCosky Baseball League (#1263) for a parade. After consultation with the concerned departments and careful consideration of the request, your Committee recom-

mends that same be granted in accordance with the following resolution.

Respectfully submitted,
ALONZO BATES
 Chairperson

By Council Member Bates:

Resolved, That subject to the approval of the Mayor's Office, Public Works, and Police Departments, permission be and is hereby granted to Barney McCosky Baseball League (#1263) for a parade on May 10, 2003 in the area of Joy Road, Plainview, Asthon, Cathedral, and Faust.

Provided, That said activity is conducted under the rules and regulations of concerned departments and the supervision of the Police Department, and further

Provided, That such permission is granted with the distinct understanding that petitioner assumes full responsibility for any and all claims, damages, or expenses that may arise by reason of the