



Adopted as follows:

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

Nays — None.

**Department of Public Works
City Engineering Division**

January 21, 2005

Honorable City Council:

Re: Petition No. 2665 — SVA/Stucky — Vitale Architects/Sky Development L.L.C., requested encroachments for proposed parking structure in the area of 1001 Woodward Avenue and State Street.

Petition No. 2665 of "SVA/Stucky — Vitale Architects", at 27172 Woodward Avenue, Royal Oak, Michigan 48067 on behalf of "1001 Woodward Parking, L.L.C.," a Michigan limited liability company, whose address is 30078 Schoenherr, Suite 300, Warren Michigan 48088, request to install and maintain encroachments within the westerly right-of-way of Woodward Avenue, 120 feet wide, between Michigan Avenue and State Street: the southerly right-of-way line of State Street, 60 feet wide, west of said Woodward Avenue; and the north-south public alley, 20 feet wide, in the block bounded by Griswold Avenue, 90 feet wide, Woodward Avenue, 120 feet

wide, Michigan Avenue, 100 feet wide and State Street, 60 feet wide, for the proposed 12 floor parking structure.

The "1001 Woodward Parking, L.L.C.," intends to install and maintain the following encroachments: 1) Seven (7) caissons 3 feet into the north-south public alley, 20 feet wide; b) Building to cantilever 10.00 feet within said public alley, beginning at a elevation 16.00 feet above the existing grade of the alley, to a total height of approximately 141.00 feet; c) Canopy encroaching 8.00 feet into the west line of Woodward Ave., 120 feet wide, and the south line of State St., 50 feet wide; d) The installation of a 8.00 ft. x 1.00 ft. sign at the south/west corner of said Woodward Ave. and State St.

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

The Traffic Engineering Division — DPW reports no objections with the requested encroachments provided that the bottom of the proposed sign at the south/west corner of Woodward Ave. and State St., shall be at least 8.00 ft. above the sidewalk and shall have a minimum clearance of 3.00 ft. between the edge of the pavement and the outer face of the sign. Also, the requested canopy shall be at least 8.00 ft. above the sidewalk and shall have a minimum clearance of 3.00 ft. between the edge of the pavement and the outer face of the canopy. The canopy shall be fully cantilevered (no support permitted from the ground). The grade and surface shall be maintained in original condition after the completion of caisson installation and a minimum clearance of 8.00 ft. shall be maintained between the road surface and caisson top surface. Also, the requested building cantilever within the public alley shall be 16.00 ft. above the alley surface as proposed, and shall be fully cantilevered (no support permitted from the ground).

The Public Lighting Department (PLD) reports having manholes, underground street lighting, traffic signal and communication circuits running in the proposed area requested for encroachment. The petitioner will be liable for any damages to any PLD installations. Also, the PLD will require underground and overhead easement rights 24 hours for heavy vehicles for maintenance of PLD installations.

The Detroit Water and Sewerage Department (DWSD) reports existing facilities in the rights-of-way of Woodward Avenue and State Street that would not interfere with the 8-foot encroachment for canopy or the permanent encroachment for sign. However, there is an existing 8-inch DWSD water main and a 15" x 20" sewer main in the alley where the request is for a 5-foot permanent encroachment for caissons.

The DWSD has no objection to the pro-

posed encroachment provided that a horizontal clearance of 5-feet is maintained between the pipes and the caissons.

Satisfactory arrangements are being made with Detroit Edison (DTE) to insure that DTE manholes in the area are not disturbed.

All other City departments and privately owned utility companies have reported no objections or that satisfactory arrangements have been made.

Respectfully submitted,

WILLIAM TALLEY

Head Engineer

City Engineering Division — DPW

By Council Member Watson:

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "1001 Woodward Parking, L.L.C.," a Michigan limited liability company, whose address is 30078 Schoenherr, Suite 300, Warren, Michigan 48088, to install and maintain encroachments within the westerly right-of-way of Woodward Avenue, 120 feet wide, between Michigan Avenue and State Street; the southerly right-of-way line of State Street, 60 feet wide, west of said Woodward Avenue; and the north-south public alley, 20 feet wide, in the block bounded by Griswold Avenue, 90 feet wide, Woodward Avenue, 120 feet wide, Michigan Avenue, 100 feet wide and State Street, 60 feet wide, for the proposed 12 floor parking structure, and

Whereas, The Traffic Engineering Division — DPW requires that the bottom of the proposed sign at the south/west corner of Woodward Ave. and State St., shall be at least 8.00 ft. above the sidewalk and shall have a minimum clearance of 3.00 ft. between the edge of the pavement and the outer face of the sign. Also, the requested canopy shall be at least 8.00 ft. above the sidewalk and shall have a minimum clearance of 3.00 ft. between the edge of the pavement and the outer face of the canopy. The canopy shall be fully cantilevered (no support permitted from the ground). The grade and surface shall be maintained in original condition after the completion of caisson installation and a minimum clearance of 8.00 ft. shall be maintained between the road surface and caisson top surface. Also, the requested building cantilever within the public alley shall be 16.00 ft. above the alley surface as proposed, and shall be fully cantilevered (no support permitted from the ground), and

Whereas, The Public Lighting Department (PLD) requires that the petitioner will be liable for any damages to any PLD installations. Also, the PLD will require underground and overhead easement rights 24 hours for heavy vehicles for maintenance of PLD installations, and

Whereas, The Detroit Water and Sewerage Department (DWSD) requires

that a horizontal clearance of 5-feet is maintained between the DWSD pipes and the caissons, and

Whereas, The "1001 Woodward Parking, L.L.C.," intends to install and maintain the following encroachments: a) Seven (7) caissons 3 feet into the north-south public alley, 20 feet wide; b) Building to cantilever 10.00 feet within said public alley, beginning at a elevation 16.00 feet above the existing grade of the alley, to a total height of approximately 141.00 feet; c) Canopy encroaching 8.00 feet into the west line of Woodward Ave., 120 feet wide, and the south line of State St., 50 feet wide; d) The installation of a 8.00 ft. x 1.00 ft. sign at the south/west corner of said Woodward Ave. and State St., adjacent to the following described property:

Caisson Encroachment

A permanent 5 foot wide encroachment for caisson being a part of Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records, Wayne County, Michigan, and being described as:

Beginning at the southerly corner of Lot 43, Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records; thence south 60 degrees 01 minutes 38 seconds west 5.85 feet; thence north 61 degrees 13 minutes 38 seconds west 33.42 feet; thence north 30 degrees 11 minutes 27 seconds west 217.77 feet; thence north 59 degrees 53 minutes 04 seconds east 110.00 feet; thence south 30 degrees 11 minutes 27 seconds east 246.62 feet; thence south 60 degrees 01 minutes 38 seconds west 5.00 feet to the east corner of Lot 43; thence north 30 degrees 11 minutes 27 seconds west 241.84 feet along the easterly lines of Lots 40 thru 43 to the north corner of Lot 40; thence south 59 degrees 53 minutes 04 seconds west 100.00 feet along the north line of Lot 40; thence south 30 degrees 11 minutes 27 seconds east 211.38 feet along the westerly line of Lots 40 thru 43; thence south 61 degrees 13 minutes 38 seconds east 35.07 feet along the southerly line of Lot 43 to the point of beginning.

The caissons will encroach 3 feet into public rights of way at ground level (an elevation of approximately 121.2) and 5 feet at bedrock level (approximately 120' below ground level);

CANTILEVER ENCROACHMENT

A permanent 10 foot wide encroachment for cantilever being a part of Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records, Wayne County, Michigan, and being described as:

Commencing at the southerly corner of Lot 43, Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34

of Deed, Page 543, Wayne County Records; thence north 61 degrees 13 minutes 38 seconds west 35.07 feet along the southerly line of Lot 43 to the point of beginning; thence south 59 degrees 48 minutes 33 seconds west 10.00 feet; thence north 30 degrees 11 minutes 27 seconds west 211.39 feet; thence north 59 degrees 53 minutes 04 seconds east 10.00 feet; thence south 30 degrees 11 minutes 27 seconds east 211.38 feet along the westerly line of Lots 40 thru 43 to the point of beginning.

The cantilever will encroach 10 feet into public rights of way, starting at an elevation of approximately 137.2 and extending to an elevation of approximately 262.2.

CANOPY ENCROACHMENT

A permanent 8 foot wide encroachment for canopy being a part of Plan of Section 8 of Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records, Wayne County, Michigan, and being described as:

Beginning at the easterly corner of Lot 43, Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records; thence north 30 degrees 11 minutes 27 seconds west 241.84 feet along the easterly lines of Lots 40 thru 43 to the north corner of Lot 40; thence south 59 degrees 53 minutes 04 seconds west 100.00 feet along the north line of Lot 40; thence north 32 degrees 00 minutes 00 seconds west 8.04 feet; thence north 59 degrees 53 minutes 04 seconds east 108.00 feet; thence south 30 degrees 11 minutes 27 seconds east 249.63 feet; thence south 60 degrees 01 minutes 38 seconds west 8.00 feet to the point of beginning.

The canopies will encroach 8 feet into public rights of way, at an elevation of approximately 133.7.

SIGN ENCROACHMENT

A sign encroachment being a part of Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records, Wayne County, Michigan, and being described as:

Beginning at the northeast corner of Lot 40, Plan of Section 8 of the Governor and Judges Plan, as recorded in Liber 34 of Deed, Page 543, Wayne County Records; thence north 14 degrees 48 minutes 33 seconds east 8.00 feet to the point of beginning; thence north 75 degrees 11 minutes 27 seconds west 4.00 feet; thence north 14 degrees 48 minutes 33 seconds east 1.00 feet; thence south 75 degrees 11 minutes 27 seconds east 8.00 feet; thence south 14 degrees 48 minutes 33 seconds west 1.00 feet; thence north 75 degrees 11 minutes 27 seconds west 4.00 feet to the point of beginning.

The sign's bottom will be at an elevation of approximately 121.2 (ground level) and

the sign's top will be at approximately 131.7. The sign will measure 8 feet wide by 1 foot thick and be located as described above.

Provided, That any structure(s) built shall maintain a 42-inch horizontal clearance from the said Public Lighting Department (PLD) facilities. Also, the PLD will require 24-hr. access for heavy vehicles for maintenance of its installations; and further

Provided, That the petitioner make satisfactory arrangements with the PLD for the relocation, abandonment or installation of any PLD facilities, and further

Provided, That the Detroit Water and Sewerage Department (DWSD) forces shall have free and easy access to the water main and/or sewer facilities at all times to permit proper operation, maintenance and if required, alteration or repair of the water main and/or sewer facilities; and further

Provided, Should the water main and/or sewer facilities be broken or damaged as a result of any action on the part of the petitioner or assigns, then in such event the petitioner or assigns shall be liable for all costs incident to the repair of such broken or damaged water main and appurtenances, and waives all claims for damages; and further

Provided, The "1001 Woodward Parking, L.L.C.," a Michigan limited liability company, whose address is 30078 Schoenherr, Suite 300, Warren, Michigan 48088, 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 encroachment 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 of the construction, maintenance, permits and use of the encroachments shall be borne by the "1001 Woodward Parking, L.L.C.," or its assigns; and further

Provided, That all costs incurred by privately owned utility companies an/or city departments to alter, adjust, and/or relo-

cate their existing utility facilities located in close proximity to the encroachments, shall be borne by the "1001 Woodward Parking, L.L.C.," or its assigns. Should damages to utilities occur the "1001 Woodward Parking, L.L.C.," 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, the "1001 Woodward Parking, L.L.C.," (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 the "1001 Woodward Parking, L.L.C.," shall file with the Finance Department an indemnity agreement in form approved by the Law Department (COPY ATTACHED TO THIS RESOLUTION). 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 the "1001 Woodward Parking, L.L.C.," of the terms thereof. Further, the "1001 Woodward Parking, L.L.C.," 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 the "1001 Woodward Parking, L.L.C.," or its assigns and the encroachments 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 the "1001 Woodward Parking, L.L.C.," acquires no implied or other privileges hereunder not expressly stated herein, however, there shall be no revocation or termination of the permit to allow the encroachments without a resolution from the Detroit City Council directing such revocation or termination before revoking such permit, the City Council may consider engineering reports and studies from City departments and owners of the parking structure; 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 Deeds.

WRITTEN ACCEPTANCE OF THE TERMS AND CONDITIONS OF DETROIT CITY COUNCIL RESOLUTION PETITION NUMBER 2665

1001 Woodward Parking, L.L.C., a Michigan limited liability company ("Permittee"), whose address is 30078 Schoenherr, Suite 300, Warren, Michigan 48088, does hereby accept the terms and conditions of the City Council Resolution granting petition Number 2665, and agrees to comply with its requirements; and further, that pursuant to said Resolution, Permittee does hereby agree to save harmless the City of Detroit (the "City") from any and all liabilities, obligations, penalties, costs, changes, losses, damages, or expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the City by reason of the issuance of said permit(s), or the performance or nonperformance by the

Permittee of the terms of said permit(s); and further, that in accordance with said Resolution, the City Clerk may record in the Office of the Register of Deeds of Wayne County a certified copy of the aforementioned City Council Resolution.

Dated as of: September 28, 2004

PERMITTEE:
1001 WOODWARD PARKING LLC,
a Michigan limited liability company

By: _____
Lorenzo Cavaliere, Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF MACOMB)

The foregoing instrument is hereby acknowledged before me this 28th day of September, 2004, by Lorenzo J. Cavaliere, Manager of 1001 WOODWARD PARKING LLC, a Michigan limited liability company, on behalf of the company.

Print Name:* Cheryl A. Hart
Notary Public, Macomb County, Michigan
My commission expires 5/21/07
Acting in Macomb County