



Adopted as follows:
 Yeas — Council Members Ayers, Benson, Castaneda-Lopez, Cushingberry, Jr., Leland, Sheffield, Tate and President Jones — 8.
 Nays — None.

**Department of Public Works
 City Engineering Division**

June 6, 2016

Honorable City Council:
 Re: Petition No. 352, Sam Hussein, request to allow fence enclosure to remain at 1375 Michigan.

Petition No. 352 – Sam Hussein requests to maintain an encroachment consisting of an existing fence on the north side of Leverette Street, 60 feet wide, between Eighth Street, 50 feet wide and Michigan Avenue, 120 feet wide.

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

The request is being made because the business, Metrotech Collision uses the area behind the fence for secure parking.

Traffic Engineering Division – DPW (TED), reports being involved and approves provided certain conditions are met. The TED conditions have been made a part of the attached resolution.

Public Lighting Department (PLD) reports that there is a wood pole with street lighting behind the fence and construction crews will require access for pole replacement; but they have no objection.

Detroit Water and Sewerage Department (DWSD) reports being involved, but has no objection provided the DWSD encroachment provisions are followed. The DWSD provisions have been made a part of the resolution.

All other involved City Departments, including the Public Lighting Authority; also privately owned utility companies

have reported no objections to the encroachment. Provisions protecting all utility installations are part of the attached resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,
 RICHARD DOHERTY, P.E.
 City Engineer

City Engineering Division—DPW
 By Council Member Benson:

Resolved, that the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to Sam Hussein and/or his assigns to maintain an encroachment consisting of an existing fence on the north side of Leverette Street, 60 feet wide, between Eighth Street, 50 feet wide and Michigan Avenue, 120 feet wide. The encroachment will be southerly of and adjoining land in the City of Detroit, Wayne County, Michigan being Lots 3 through 6, both inclusive "Farm of Col. D. Baker as divided into City Lots by John Mullett" as recorded in Liber 17, Page 272 of Deeds, Wayne County Records; also lying southerly of and adjoining the easterly 18.57 feet of the westerly 20.57 feet of Lot 1, Block 58 "Plat of the Woodbridge Farm as divided by the Commissioners in Part'n P.N. for extension of Trumbull Ave. and Lincoln Ave." as recorded in Liber 1, Pages 146 and 147 Plats, Wayne County Records. The encroaching fence is 9.5 feet south of the south property line on the east and 8.4 feet south of the south property line on the west.

Provided, That if there is any cost for the removing and/or rerouting of any utility facilities, it shall be done at the expense of the petitioner and/or property owner; and be it further

Provided, that the Public Lighting Department and the Public Lighting Authority shall have access to the wood pole with street light when required for maintenance and/or replacement; and be it further

Provided, by approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the right-of-way, and at all times, DWSD, its agents or employees, shall have the right to enter upon the right-of-way to maintain, repair, alter, service, inspect, or install its facilities. All costs incident to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD's facilities for maintenance, repairing, alteration, servicing or inspection caused by the encroachment shall be borne by the petitioner. All costs associated with gaining access to DWSD's facilities, which could normally be expected had the peti-

tioner not encroached into the right-of-way, shall be borne by DWSD; and be it further

Provided, That all construction performed under this petition shall not be commenced until after (5) days written notice to DWSD. Seventy-two (72) hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and be it further

Provided, That construction under this petition is subject to inspection and approval by DWSD forces. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner; and be it further

Provided, That if DWSD facilities located within the right-of-way shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all costs incident to the repair, replacement or relocation of such broken or damaged DWSD facilities; and be it further

Provided, That the petitioner shall hold DWSD harmless for any damages to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD's facilities; and be it further

Provided, That if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the right-of-way being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation; and be it further

Provided, That the contractor call MISS DIG 72 hours prior to starting any underground construction for the encroachment; and be it further

Provided, That a minimum 6 foot wide clear sidewalk shall be maintained adjacent to the encroachment at all times for pedestrian traffic; and be it 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), and the Traffic Engineering Division — DPW (if necessary); and further

Provided, That all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Sam Hussein and/or his 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 Sam Hussein and/or his

assigns. Should damages to utilities occur as a result of the encroachment, Sam Hussein and/or his assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, That no other rights in the public streets, alleys or other public places 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, That Sam Hussein shall file with the Finance Department and/or City Engineering Division – DPW an indemnity agreement in a 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 Sam Hussein of the terms thereof. Further, Sam Hussein shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

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

Provided, That the encroachment permits 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.

