

Adopted as follows:

Yeas — Council Members Ayers, Benson, Castaneda-Lopez, Leland, McCalister, Jr., Sheffield, Spivey, Tate and President Jones — 9.

Nays — None.

**Department of Public Works
City Engineering Division**

September 24, 2020

Honorable City Council:

Re: Petition No. 1292 — Cedar Investments LLC, request to encroach into the Miller Avenue and Selkirk Avenue right-of-way between Mount Elliott Street and Foster Avenue.

Petition No. 1292 — Cedar Investments LLC, request an encroachment of rail spurs within Miller Avenue, 66 ft. wide, and Selkirk Avenue, 50 ft. wide, between Mount Elliott Avenue, 66 ft. wide, and Foster Avenue, 50 ft wide.

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

The request is being made in relation to the shipping operations located at 6836 Georgia Street, where a rail line will connect 6836 Georgia Street to the New York Central Belt Line.

The request was approved by the Solid Waste Division — DPW, and City Engineering Division — DPW. The request was approved by the Traffic Engineering Division — DPW.

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

All other involved City Departments, including the Public lighting Authority and Public Lighting Department; 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 Cedar Investments LLC or their assigns to install and maintain encroachment for rail spurs within Miller Avenue, 66 ft. wide, and Selkirk Avenue, 50 ft. wide. Encroachments are further described as follows: land in the City of Detroit, Wayne County, Michigan being:

1. That part of Miller Avenue, 66 ft.

wide, lying northerly of and adjacent to lots 154 & 155 of "Kosciuszko Subdivision" as recorded in Liber 32, Page 91 of Plats, Wayne County Records; and lying southerly of and adjacent to lots 3 & 4 of "Mount Elliot Heights Subdivision" as recorded in Liber 30, Page 82 of Plats, Wayne County Records. Also described as the centerline of the rail spur, 17 ft wide, being 97.4 ft. from the centerline of the New York Central Belt Line, 94.5 ft. wide, at the north line of Miller Ave, 66 ft. wide; also the rail spur centerline, 17 ft. wide, being 79.4 ft from the centerline of the New York Central Belt Line, 94.5 ft. wide, at the south line of Miller Avenue.

2. That part of Selkirk Avenue, 50 ft. wide, lying northerly of and adjacent to lots 134 through 136 of "Kosciuszko Subdivision" as recorded in Liber 32, Page 91 of Plats, Wayne County Records, otherwise known as the New York Central Belt Line. Also described as the centerline of the rail spur, 17 ft. wide, being 1638 ft. from the centerline of the New York Central Belt Line, 94.5 ft wide, at the north line of Selkirk Ave, 50 ft wide; also the rail spur centerline, 17 ft. wide, being 9.6 ft. from the centerline of the New York Central Belt Line, 94.5 ft. wide, at the south line of Selkirk Avenue, 50 ft wide.

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 access is maintained to all fire department connections, and be it further

Provided, That 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 petitioner 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 encroachment constructed or installed under this petition which may be caused by the failure of DWSD's facilities; and be it further

Provided, That the Cedar Investments LLC or their assigns provide as-built drawings of their installation and the relationship to other utility infrastructure to the Department of Public Works – City Engineering Division, and further

Provided, Cedar Investments LLC or their 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 detail 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; and further

Provided, That all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Cedar Investments LLC or their 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 Cedar Investments LLC or their assigns. Should damages to utilities occur Cedar Investments LLC or their 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 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, That Cedar Investments LLC or their assigns shall file with the Department of Public Works – City Engineering Division 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 of Cedar Investments LLC or their assigns of the terms thereof. Further, Cedar Investments LLC or their assigns shall agree to pay all claims, damages or expenses that may arise out of the use, repair and maintenance of the proposed encroachments; and further

Provided, That filing of said indemnity agreement shall be construed as acceptance of this Resolution by the "permittee"; and further

Provided, That all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Cedar Investments LLC, or their assigns; and further

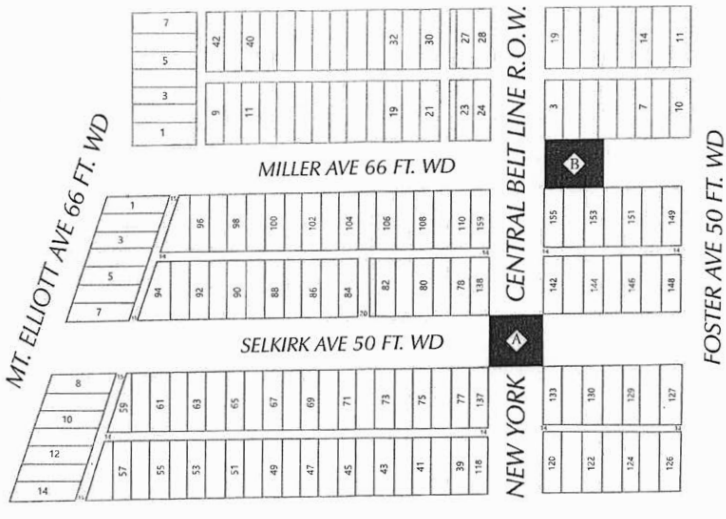
Provided, That construction of the encroachments shall constitute acceptance of the terms and conditions as set forth in this resolution; and be it further

Provided, This resolution or part thereof is revocable at the will, whim or caprice of the City Council, and Cedar Investments LLC 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 be it further

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

PETITION NO. 1292
 C/O DANIEL ONIFER
 CEDAR INVESTMENTS, LLC.
 12225 STEPHENS
 WARREN, MI 48209
 (586) 467-1711



17' WIDE ENCROACHMENTS
 FOR RAILROAD CROSSINGS,
 RUNNING THE ENTIRE
 WIDTH OF THE STREET.

(FOR OFFICE USE ONLY)

CARTO 49 F & CARTO 50 E

B					MULTIPLE ENCROACHMENTS: RAIL CONSTRUCTION ADJACENT TO THE NEW YORK CENTRAL R.O.W. IN THE NORTHSOUTH IN THE BLOCK BOUND BY SELKIRK AVE., MT. ELLIOTT AVE., MILLER AVE. AND FOSTER AVE.	CITY OF DETROIT CITY ENGINEERING DIVISION SURVEY BUREAU
	A	DESCRIPTION	DRAWN	CHD		
DRAWN BY		REVISIONS		JOB NO.		
DATE		CHECKED		DRWG. NO.		
06-18-20		APPROVED BY		X 1292		
		kj		JD		