

Adopted as follows:

Yeas — Council Members Ayers, Benson, Castaneda-Lopez, Leland, Sheffield, Spivey, Tate and President Pro Tem Cushingberry, Jr. — 8.

Nays — None.

**Department of Public Works
City Engineering Division**

February 23, 2017

Honorable City Council:

Re: Petition No. 1318 — Giffels Webster request for encroachments into Washington Boulevard, Park Avenue and Bagley Avenue.

Petition No. 1318 — Giffels Webster on behalf of VG Statler City LLC requests to install and maintain encroachments with awnings, displays, stairs, café seating, planters and landscaping features on the west side of Washington Boulevard, 195 feet wide, between Clifford Avenue, 60 feet wide and Park Avenue, 60 feet wide; also on the east side of Bagley Avenue, 120 feet wide, between Clifford Avenue, and Park Avenue; also on the south side of Park Avenue, 60 feet wide, from Bagley Avenue, to Washington Boulevard.

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

The request is being made to enhance the streetscape, and to allow street activity at the new mixed-use establishment.

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.

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 Department and Public Lighting Authority; also privately owned utility companies have reported no objections to the encroachment. Provisions protecting 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:

Provided, That the petitioner shall be responsible to seek approval from impacted stakeholders for the outdoor café seating, and further

Provided, That the petitioner is required to provide details of the layout of awnings, outdoor café seating, retail displays and planters for review and approval by Traffic Engineering Division of the Department of Public Works prior to installation, and further

Provided, That any construction or encroachment installation within 50 feet of the Detroit People Mover (DPM) shall require notification and approval of the DPM, and 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 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 if 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 damage 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 where they plan the underground encroachment; and be it further

Provided, That Giffels Webster or their assigns shall apply to the Buildings, Safety Engineering and Environmental

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, Safety Engineering and Environmental 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, Detroit Historical Commission; and further

Provided, That the property owner shall enter into a maintenance agreement with City Engineering Division — DPW for the encroachment area, and further

Provided, That the area being used as an Outdoor Café shall meet the general requirements set by the “Outdoor Café Guidelines” as adopted by the City Council and guided by Section 50-2-8.1 of the City Code; and further

Provided, That the petitioner obtains all necessary licenses and permits every year from Departments having jurisdiction over the outdoor café proceeds; and further

Provided, That said activities are conducted under the rules and regulations of the department of Public Works and the supervision of the Police Department; and further

Provided, That the sale of food or soft drinks is held under the direction and inspection of the Institute of Population Health; and further

Provided, That the petitioner is responsible to obtain approval of the Michigan Liquor Control Commission, if necessary and approval from the Detroit Police Liquor License Bureau if serving liquor; and further

Provided, That all costs for the construction, maintenance, permits and use

of the encroachments shall be borne by Wayside Missionary Baptist Church 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 Giffels Webster or their assigns. Should damages to utilities occur Giffels Webster 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 the Petitioner, “VG Statler City LLC” 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 “VG Statler City LLC of the terms thereof. Further, The Petitioner, “VG Statler City LLC” 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, This resolution is revocable at the will, whim or caprice of the City Council, and Giffels Webster and VG Statler City 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 further

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

