

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

March 1, 2006

To: The Department or Commission Listed Below

From: Janice M. Winfrey
Detroit City Clerk

The following petition is herewith referred to you for report and recommendation to the City Council

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

**/PLANNING AND DEVELOPMENT DEPARTMENT/
PUBLIC WORK - CITY ENGINEERING DIVISION/**

- 0181 Frank, McCormick & Khalaf, LLC - Architects (Acadie Cajun and Creole Cuisine),
for installation of steel structure balcony, with possible encroachment onto City property,
at ~~424~~ E. Larned.
541

RECEIVED
CITY ENGINEERING DIVISION

MAR 07 2006

By _____

F. GAU / S. T. WINFREY

TED
LGD

200 Coleman A. Young Municipal Center • Detroit, Michigan 48226-3400
(313) 224-3240 • Fax (313) 224-1466

28 F 2
LYM 3562

November 6, 2006

Honorable City Council:

RE: Petition No. 181 – Frank, McCormick & Khalaf, LLC – Architects (Acadie Cajun and Creole Cuisine) for installation of a steel structure balcony, with an air right encroachment over City Property.

Petition No. 181 of “Frank, McCormick & Khalaf, LLC – Architects whose address is 28 West Adams, Suite 1400, Detroit, Michigan 48226, request to encroach into the air right spaces 17.00 feet above grade, 50.00 feet in length, and 4.00 feet wide on Larned Avenue, 60 feet wide, with a steel Balcony. This request is to facilitate the final renovation of façade for the New Acadie Cajun and Creole Cuisine restaurant on 541 East Larned, Detroit, Michigan.

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

The Detroit Water and Sewerage Department (DWSD) reports existing water mains and sewers in East Larned between Beaubien and St. Antoine Avenues. DWSD has no objection to the requested encroachment for 17.00 feet (height) x 4.00 feet (width) x 50.00 feet (length) overhead balcony. When DWSD facilities are involved a minimum clearance must be maintained and the attached DWSD provisions for encroachment must be followed.

Public Lighting Department (PLD) reports an underground feed street lighting circuit running, very close to the area requested for encroachment. PLD strongly recommend that the contractor call MISS DIG to verify PLD underground facilities. No structures can be built over PLD installations. Any structure proposed to be built must maintain a 4 and a half feet horizontal clearance from PLD conduit bank and manholes, also a 10 feet horizontal clearance from overhead PLD lines and installations. The contractor must take necessary precautions not to damage PLD’s manholes and conduit banks if they plan to use heavy earth moving equipments. The contractor will be liable for any damages to any PLD underground facilities. PLD need easement rights with 24hours heavy vehicle access to the area requested for encroachment.

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

An appropriate resolution, granting the encroachments, is attached for consideration by your Honorable Body.

Respectfully submitted,

A handwritten signature in black ink, reading "Nadim Haidar". The signature is written in a cursive style with a large, sweeping initial "N".

Nadim Haidar, Acting Head Engineer
City Engineering Division – DPW

NRP/

Cc: Cathy Squares, Director – DPW
Mayor's Office – City Council Liaison

BY COUNCIL MEMBER _____

Whereas, The City Engineering Division – DPW and/or Building and Safety Engineering Department is hereby authorized and directed to issue permits to “Frank, McCormick & Khalaf, LLC – Architects” to construct a steel structure balcony that encroach into the air right spaces, 17.00 feet above grade, 50.00 feet in length, and 4.00 feet wide, into Larned Avenue, 60 feet wide by; described as follows:

Lying Southerly of and abutting the South line of Lot 78 in the “ Plat of the Antoine Beaubien Farm April 22nd 1846” as recorded in Liber 27 Page 197-9, Deeds, including Catholic and Protestant Cemetery, Wayne County Records;

Encroachment of a steel structure balcony that encroach into the air right spaces, 17.00 feet above grade, 50.00 feet in length, and 4.00 feet wide, into Larned Avenue, 60 feet wide for the final renovation of façade for the New Acadie Cajun and Creole Cuisine restaurant, abutting the above described parcel:

WHEREAS, Approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the street, and at all time, DWSD, its agents or employees, shall have the right to enter upon the street 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 by DWSD 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 street, 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 street shall break or be damaged as the result of any action on the part of the petitioner, then 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

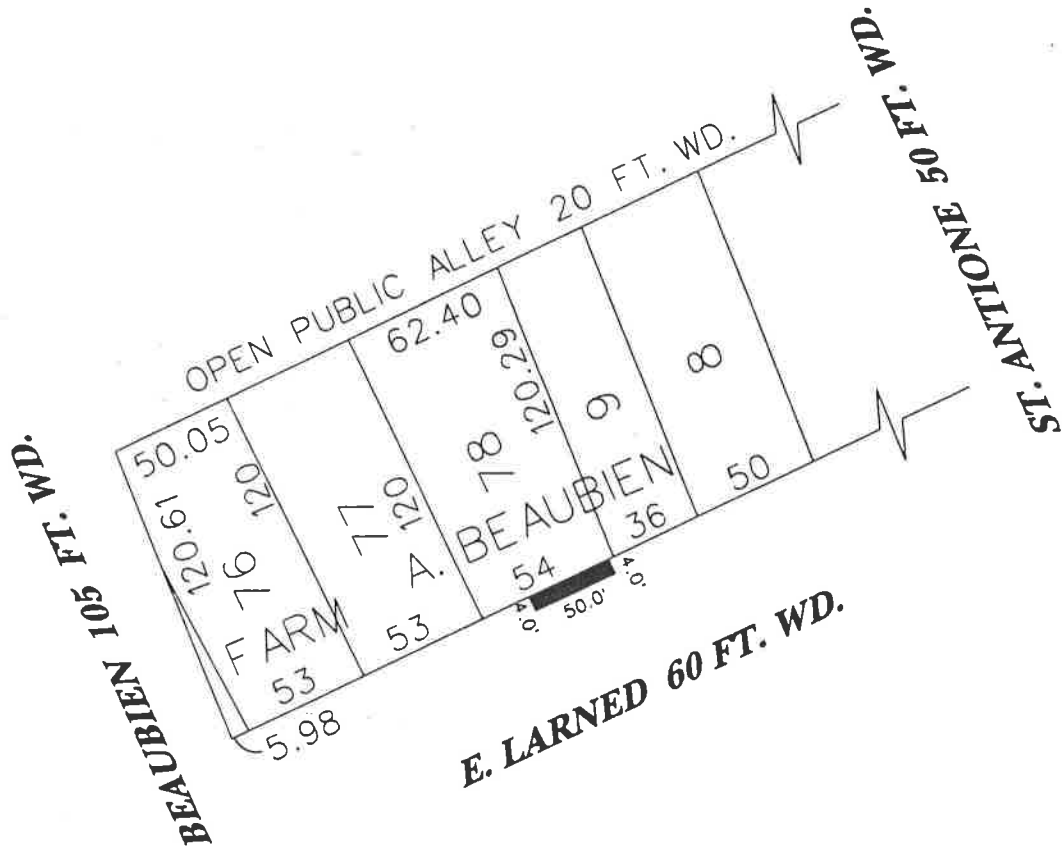
PROVIDED, That if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the street being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation; and be it further

PROVIDED, That No structure can be built over PLD installations, and any structure to be built shall maintain 4 feet and a half horizontal clearance from conduit banks and manholes; also a 10 feet horizontal clearance for the overhead PLD lines and installations; and be it 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 and indemnity agreement with the Wayne County Register of Deeds

PETITION NO. 181
 FRANK, MCCORMICK & KHALAF, LLC ARCHITECTS
 28 W. ADAMS, SUITE 1400
 DETROIT, MI 48226
 c/o RICHARD C. FRANK
 PHONE NO. 313-234-8700



AREA OF ENCROACHMENT
 (HEIGHT FROM GRADE IS 17.00 FT.)
 (WIDTH IS 4.00 FT.)
 (LENGHT IS 50.00 FT.)

NOTE: PLEASE SEE ATTACHED DRAWINGS FOR MORE DETAILS ON ENCROACHMENT.

(FOR OFFICE USE ONLY)

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
DRAWN BY	REVISIONS		CHECKED		
DATE	APPROVED				
	8/24/06				

REQUESTED TO ENCROACH INTO THE AREA OF LARNED 60 FT. WD. WITH A BALCONY 4 FT. WD., 50 FT. LONG AND 17 FT. FROM GRADE.

CARTO 28f-2
 CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU
 JOB NO. 01-01
 DRWG. NO. x181.dgn

**CITY OF DETROIT
INDEMNITY AGREEMENT**

THIS AGREEMENT is entered into as of the 11th day of SEP 2006, by and between the City of Detroit, a Municipal Corporation of the State of Michigan acting by and through its Finance Department ("City") and 541 E. Larned, LLC, a Michigan limited liability company with offices located at 547 East Jefferson, Detroit, MI 48226 ("Permittee").

WITNESSETH:

1. **WHEREAS**, Permittee operates a building and seeks to establish a decorate balcony facade ("Facade"); and
2. **WHEREAS**, This Facade will consist of a specially designated area above the public sidewalk to consist of decorative railings and provided with other features to simulate a balcony; and
3. **WHEREAS**, Permittee petitioned City council to issued permit so that it could establish the Facade; and
4. **WHEREAS**, City Council granted permittee's request provided that it obtained and executed and indemnification and maintenance agreement satisfactory to the Law Department and filed the same with the Finance Department.

1. DEFINITIONS

- 1.01 The following words and expressions or pronouns used in their stead shall wherever they appear in this contract be construed as follows:

"Associates" shall mean in reference to the permittee, its personnel, employees, consultants, subcontractors, agents, parent company, or any entities associated, affiliated, or subsidiary to the permittee, or existing or hereinafter created their agents and employees.

"City" shall mean the City of Detroit, a municipal corporation acting through its Finance Department or any other department.

"Permit" means the document granted pursuant to the resolution of the Detroit City council granting petition # 0181 a copy of which petition together with a copy of the Detroit City Council resolution granting the petition is attached and made a part of this Indemnity Agreement.

"Permittee" shall mean the person(s) or entity(s) permitted to a Facade pursuant to the resolution of the Detroit City Council granting petition # 0181.

"Permitted Activities" means all activities allowed under any Permit granted to Permittee pursuant to the City Council's resolution granting petition # 0181, including similar activities prior to the inception of the permit period and after its close.

2. DEFINITIONS

541 E. Larned, LLC, a Michigan limited liability company with offices located at 547 East Jefferson, Detroit, MI 48226, does hereby accept the terms and conditions of the city council Resolution granting Petition # 0181 of 2006, which authorizes the establishment of the Facade. Permittee agrees to comply with its requirements; and further, pursuant to the said resolution, Permittee does hereby agree to save harmless the City of Detroit from an and all liabilities, obligations, penalties, costs, charges, losses, damages, or expenses (including without limitation, fees and expenses of attorneys, experts 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 non-performance by the Permittee of the terms of the Permit(s).

3. INSURANCE

3.01 The Permittee shall maintain, at minimum and at its expense, during the term of this Permit the following insurance:

<u>TYPE</u>	<u>AMOUNT</u>
(a) Commercial General Liability Insurance (Broad-Form Comprehensive)	\$1,000,000.00 each occurrence \$1,000,000.00 aggregate

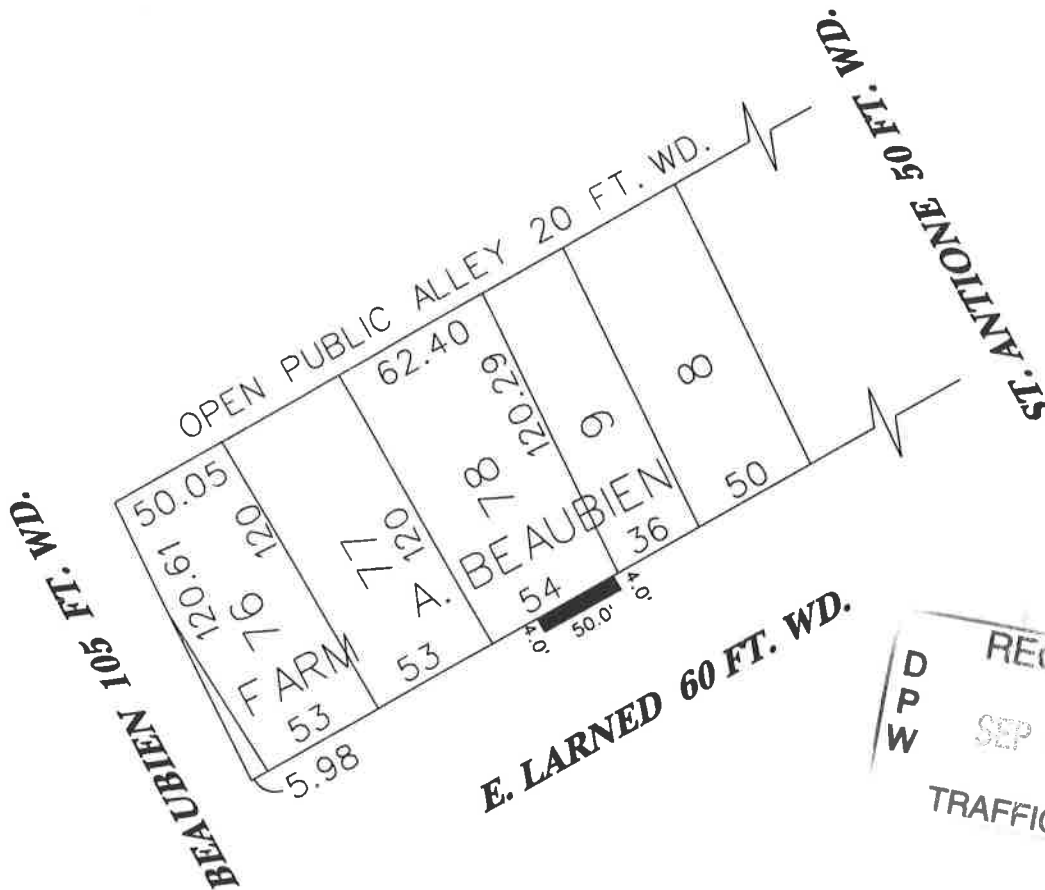
3.02 (a) The Commercial liability insurance policy shall name the "City of Detroit" as an additional insured and shall state that the Permittee's insurance is primary and not excess over any insurance already carried by the City of Detroit.

(b) If the commercial liability policy does not contain the standard ISO (Insurance Services Office) wording of "definition of insured" which reads essentially as follows: "The insurance afforded applies separately to each insured...except with respect to limits..." then, in the alternative, the public liability Insurance Policy shall contain the following cross liability endorsement:

"It is agreed that the inclusion of more than one (1) insured under this policy shall not affect the rights of any insured as respects any claim, suit or judgment made or brought by of for any other insured or by or for any employee of any other insured. This policy shall protect each insured in the same manner as though a separate policy had been issued to each, except nothing herein shall operate to increase the insurer's liability beyond the amount or amounts for which the insurer would have been liable had one (1) been named."

3.03 If during the term of this Permit changed condition or other pertinent factors should, in the reasonable judgment of the City, render inadequate the insurance limits, the Permittee will furnish on demand such additional coverage or types of coverage as may reasonably be required under the circumstances. All such insurance shall be effected at the Permittee's expense, under valid and enforceable policies, issued by insurers of

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DESCRIPTION	DRWN	CHKD	APPD	DATE	
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CITY OF DETROIT
CITY ENGINEERING DEPARTMENT
SURVEY BUREAU
 JOB NO. **01-01**
 DRWG. NO. **x181.dgn**



0181

FRANK, McCORMICK & KHALAF, LLC ARCHITECTS

February 28, 2006

Mrs. Janice M. Winfrey
City Clerk
Detroit City Council
200 Coleman A. Young Municipal Center
Two Woodward Avenue
Detroit, MI 48226

Re: Acadie Cajun and Creole Cuisine
514 E. Larned
Detroit, MI 48226

DETROIT
CITY CLERK
FEB 28 P 2:42

Dear Mrs. Winfrey,

This is a request to approve installation of a steel structure balcony above the sidewalk for the above mentioned existing building. The purpose of the balcony is to mimic the New Orleans architecture style as part of the restaurant image.

Attached please find the architectural drawings to improve the façades of the building. The drawings were approved by the City Plan Review except for the mentioned balcony. As shown in the drawings the underside of the balcony is at a height of 17'-0" above the exterior concrete side walk which is the property of the city.

Thank you for your consideration. Please do not hesitate to contact our office for further clarifications if needed.

Cordially,

FRANK, McCORMICK & KHALAF, LLC, ARCHITECTS

Richard C. Frank, FAIA
President

C/ file