

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Wednesday, December 10, 2008

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.

CITY PLANNING COMMISSION PLANNING AND DEVELOPMENT DEPARTMENT
DPW - CITY ENGINEERING DIVISION

3086 *The Eastside Rebuilding Communities Inc., requesting approval to place four concrete benches on various Mack Ave. intersections.*

RECEIVED
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CITY CLERK -

November 10, 2008

11143 Harper
Detroit, MI 48213
313-571-2800 - phone
313-571-7510 - fax

The Honorable Monica Conyers
Detroit City Council President
Coleman A. Young Municipal Center
Two Woodward Avenue Suite 1126
Detroit, MI 48226

Re: Mack Avenue Bench Placement

Dear Honorable Council President:

Rebuilding Communities Inc. is requesting the approval of the City Council for the placement of four concrete benches on Mack Avenue: one on the southeast corner of Mack Avenue and Philip Avenue; one on the northwest corner of Mack Avenue and Chalmers Avenue; one on the northwest corner of Mack Avenue and Barhan Avenue; and one on Mack Avenue east of Aiter Road.

We are interested in contributing to the beautification of Mack Avenue and wish to help in attracting and retaining businesses. We ask that you would support our endeavors and consider our request to place these four benches on Mack Avenue.

If you have any questions or concerns, please contact me, Christine Wilson, at 267-1103.

Thank You,

Christine Wilson

Christine Wilson
Executive Director

sustainable eastside neighborhoods

August 31, 2009

Honorable City Council:

RE: Petition No. 3086 – The Eastside Rebuilding Communities Inc. request approval to place four (4) concrete benches on various Mack Ave. intersections.

Petition No. 3086 of “The Eastside Rebuilding Communities Inc.” whose address is 11148 Harper, Detroit, Michigan 48213 request to install and maintain four (4) benches to encroach into Mack Avenue, 120 feet wide, on the north side between Lakewood Avenue, 100 feet wide, and between Chalmers Avenue, 100 feet wide, and Lakepointe Avenue, 60 feet wide, and Barham 100 feet wide, also on the south side of Mack Avenue between Philip Avenue. 60 feet wide. and Manistique Avenue, 60 feet wide, and between Alter Road and Wayburn Avenue, 60 feet wide.

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

Necessary permits will have to be obtained from City Engineering Division – DPW Permit Bureau for any street or alley construction, backfill, or occupancy of the City rights-of-way to install four (4) concrete benches.

DTE Energy Gas Division reports no objections provided that the proposed encroachments are at least 3.5 feet away existing facilities.

Traffic Engineering Bureau reports no objection provided that a minimum of 6 feet clear sidewalk is maintained.

The Public Lighting Department (PLD) reports no objection to the proposed encroachment, provided that No structure can be built over PLD installations. As per our PLD require, any structure proposed to be built shall maintain of 3’ horizontal clearance and 12” vertical clearance from the PLD conduit bank and manholes.

The Detroit Water and Sewerage Department (DWSD) reports no objection provided that the encroachment provision is strictly followed.

All other city departments and privately-owned utility companies have requested that the petitioner make use of the "MISS DIG" facilities before any construction, backfill, or occupancy of the City rights-of-way to install four (4) concrete benches in the public (street or alley) rights-of-way. Should damages to the utilities occur, the petitioner shall be liable for all claims and damages related to the encroachment installation.

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

Respectfully submitted,



Jessy Jacob P.E., City Engineer
City Engineering Division – DPW

Cc: Alfred Jordan, Director – DPW
Mayor's Office City Council Liaison

BY COUNCIL MEMBER _____

RESOLVED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to “The Eastside Rebuilding Communities Inc”, to install and maintain four (4) concrete benches to encroach within public rights-of-way for the purpose of beautification of Mack Avenue; said public rights-of-way being nearby or adjoining property described as follows:

Lying within Mack Avenue, 120 feet wide, between Lakewood Avenue, 100 feet wide, and Chalmers Avenue, 60 feet wide adjacent to Lots 2 through 4, both inclusive, in the “Finn’s Park Subdivision of Part of Private Claim 321” north of Mack Avenue, City of Detroit, Wayne County Michigan as recorded in Liber 40 Page 17, Plats, Wayne County Records;

Lying within Mack Avenue, 120 feet wide, between Lakepointe Avenue, 60 feet wide, and Barham Avenue, 60 feet wide adjacent to Lots 367 and 366 in the “Abbott and Beymer’s Cloverdale Subdivision” of a part of Private Claim 570, Grosse Pointe and Gratiot Township (now City of Detroit) Wayne County, Michigan as recorded in Liber 29 Page 97, Plats, Wayne County Records;

Lying within Mack Avenue, 120 feet wide, between Alter Road, 80 feet wide, and Wayburn Avenue, 60 feet wide, adjacent to Lots 63 through 65, both inclusive, in the “Maryland Park Subdivision” of Lot 1 of Plat of Lot No. 2 of Alter’s Palt of west part of Private Claim 570 Grosse Pointe Township (now the City of Detroit) Wayne County, Michigan as recorded in Liber 34, Page 95, Plats, Wayne County Records;

Lying within Mack Avenue, 120 feet wide, between Philip Avenue, 60 feet wide, and Manistique Avenue, 60 feet wide, adjacent to Lots 115 and 116 in the “C.B. Sherrard Subdivision” of that part of Private Claim 120 lying between the Northerly line of Kercheval Avenue and the Center line of Mack Avenue, city of Detroit, and the Township of Grosse Pointe (now City of Detroit) Wayne County, Michigan as recorded in Liber 32 Page 58, Plats, Wayne County Records;

Encroachment(s) to consist of “permanently” (meaning more than thirty days, or other long-term duration) installed within public rights-of-way, nearby or adjacent to the above-described property;

PROVIDED, That nothing in this resolution shall be construed as giving any authority, permission or grant to the permittee for any part of the encroaching four (4) concrete benches to be placed upon the surface or underground rights of privately-owned property. Enforcement of violations of fire safety regulations and buildings code is the responsibility of the Fire Marshal and Buildings and Safety Engineering Department. The petitioner shall apply to the Buildings and Safety Department for approval and permits to place any concrete benches on privately owned property (if necessary); and further

PROVIDED, It is the intention of this resolution to authorize the City Engineering Division – DPW (prior to the issuance of “encroachment” permits) to act in behalf of the city require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans (containing construction details and distances from property lines) of each proposed concrete bench encroachment. Also, the City Engineering Division – DPW may require the permit applicant to secure approval(s) of said plans from Wayne County, the State of Michigan, any city departments (including city commissions, authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies are specifically enumerated in this resolution or not; and 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 street, and at all time, DWSD, its agent or employee, shall have the right to enter upon the street to maintain, repair, alter service, inspect, or install its facilities. All cost incident to the damaging, dismantling, demolish, removal and replacement of structures or other improvement herein permitted and including gaining access to DWSD shall be born by the petitioner. All cost associated with gaining access to DWSD facilities which could normally be expected had the petitioner not encroachment into the street shall born by DWSD; and further

PROVIDED, That all construction performed under this petition shall not be commenced until after (5) five 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 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 DPW, be borne by the petitioner; and 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 in such event the petitioner agrees to be liable for all cost 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 facilities; and be it further

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

PROVIDED, That a minimum of 6.00 feet clear sidewalk is maintained adjacent to the encroachment, and further

PROVIDED, That a 3' horizontal clearance and 12" vertical clearance from the PLD conduit bank and manholes is maintained, and further

PROVIDED, That the petitioner shall file with the Finance Department and/or City Engineering Division – DPW 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 faithful or unfaithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages, or expenses that may arise out of the maintenance of the proposed encroachments; and further

PROVIDED, That said permittee shall be subject to any tax under the provision of the General Property Tax act, which may be levied against it pursuant to law; and further

PROVIDED, That no other rights in the public streets, alley or other public places shall be consider waived by this permission which is granted expressly on the condition that said encroachments shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to City Engineering Division – DPW at the permittee sole cost and expense; and further

PROVIDED, That the petitioner shall apply to become a participating member of the "MISS DIG" organization (if necessary); and further

PROVIDED, That said permits issued by the City Engineering Division – DPW and/or the Buildings and Safety Engineering Department(s) are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or city policies (governing the placement of encroachments in the public rights-of-ways) are amended to provide for levying thereafter, of fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or Code(s), or ordinance(s), or resolution(s), or policies; also said permittee dose hereby bind itself thereunto, and accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or Code(s), or ordinance(s), or resolution, or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

PROVIDED, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

PROVIDED, The installation and maintenance of the encroachments referred to herein shall be construed as acceptance of this resolution by the permittee; 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.

WRITTEN ACCEPTANCE OF THE TERMS AND CONDITIONS OF DETROIT CITY COUNCIL RESOLUTION PETITION NUMBER 3086, ADOPTED _____

Rebuilding Communities Incorporated (“Permittee”), whose address is 14600 Mack Avenue, Detroit, Michigan 48213, by and through Christine Wilson, its Director does hereby accept the terms and conditions of the City Council Resolution granting Petition Number 3086, and agrees to comply with its requirements; and further, that pursuant to the said Resolution, Permittee does hereby agree to defend and save harmless the City of Detroit (“The City”) from any and all liabilities, obligations, penalties, costs, changes, losses, damages, or expenses (including without limitations, 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), for four (4) benches placed at bus stops along Mack Avenue or the performance or non-performance by the Permittee of the terms of the permit (s) hereof, or that may rise out of the maintenance of the above described easement by Permittee’s personnel, agents, and employees; and Further, that in accordance with the said Resolution, certified copy of the aforementioned City Council resolution will be recorded in the Office of the Register of Deeds of Wayne County by the City Clerk.

STATE OF MICHIGAN }
 }
COUNTY OF WAYNE }

RECEIVED
JUL 29 2009

On this 21 day of July 2009, before me, a Notary Public in and for said County,
Appeared Christine Wilson to me known personally, who is being

duly sworn, did say that she is the Director of Rebuilding Communities Incorporated, and that the Written Acceptance of the Terms and Conditions of the City Council Resolution Approving Petition No. 3086 adopted on _____ was signed on behalf of said corporation be authority of its Board of Directors.


Notary Public

SELINA L. HARRIS
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES May 21, 2010
ACTING IN THE COUNTY OF

Wherefore, we have hereunto set our hands on this 21st day of July,
2009.

Witnessed By:

Permittee: Rebuilding Communities Incorporated



ROSANN L. BARKER

By: Christine Wilson

Its: Executive Director

Approved By Law Department

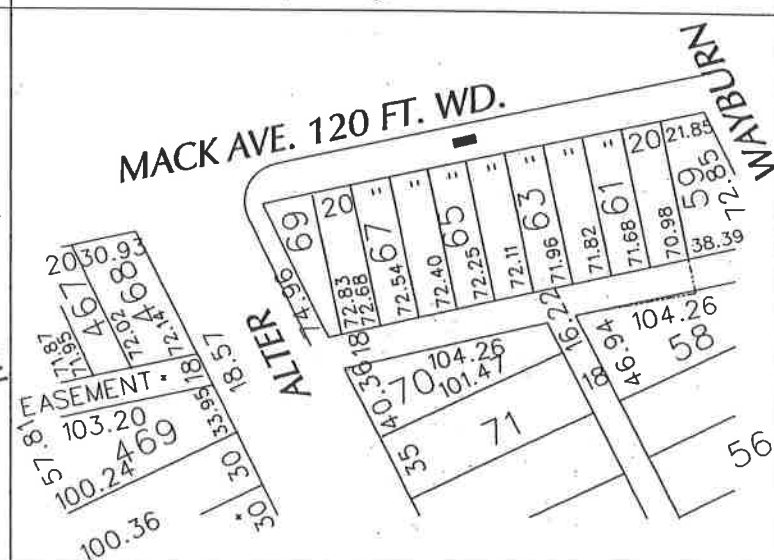
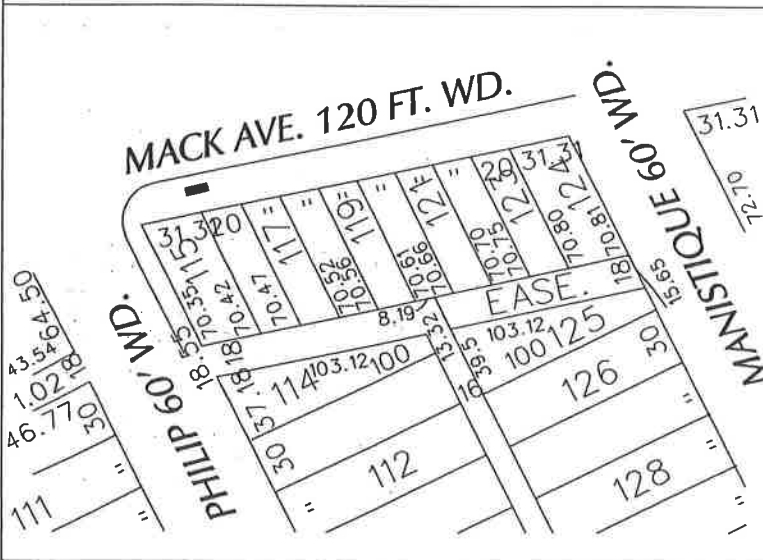
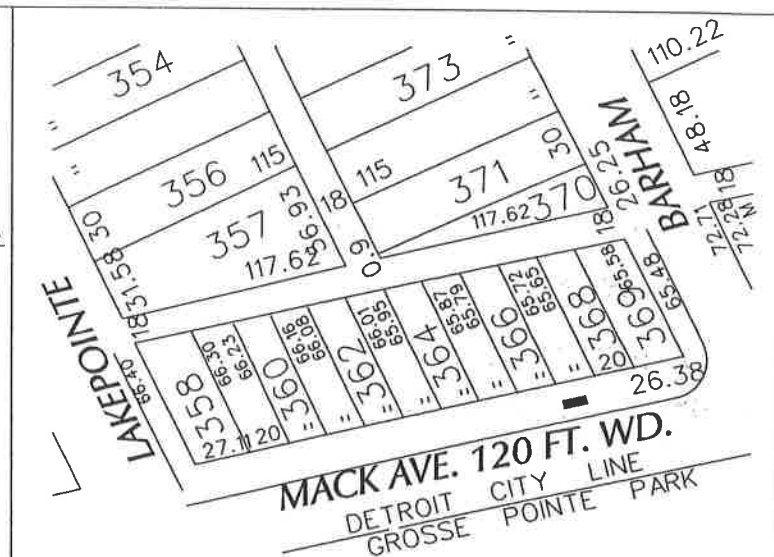


Corporation Counsel

7-21-09

Date

11148 HARPER
 DETROIT, MICHIGAN 48213
 PHONE NO. 313 571 2800
 FAX NO. 313 571 7510
 C/O CHRISTINE WILSON



NOTE: PLEASE SEE ATTACHMENTS FOR DETAILS ON LOCATIONS OF BENCHES

- REQUESTED AREA OF ENCROACHMENT (WITH BENCHES)

(FOR OFFICE USE ONLY)

CARTO 63 A

| B | | | | | |
|-------------|--|----------|------|------|------|
| A | | | | | |
| DESCRIPTION | | DRWN | CHKD | APPD | DATE |
| REVISIONS | | | | | |
| DRAWN BY | | CHECKED | | | |
| DATE | | APPROVED | | | |
| KM | | | | | |
| 4-16-09 | | | | | |

REQUEST ENCROACHMENT OF MACK
 AT ABOVE LOCATIONS

CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU

JOB NO. 01-01

DRWG. NO. x3086.dgn