

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Thursday, December 18, 2008

RECEIVED
JAN 5 2009

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.

DPW - CITY ENGINEERING DIVISION

3105 *Bayview Servicing, LLC, request that the City vacate the .03 foot encroachment in the area of 1260 Library St. or grant an easement into the Library Street right of way.*

NOTE: **The Detroit City Council is on recess from:**
DECEMBER 10, 2008 through JANUARY 6, 2009

The City Clerk requests that Departments directly handle requests which fall within those dates.

PLEASE EXPEDITE!!!

200 Coleman A. Young Municipal Center • Detroit, Michigan 48226-3400
(313) 224-3260 • Fax (313) 224-1466

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September 30, 2009

Honorable City Council:

RE: Petition No. 3105 – Bayview Loan Servicing, LLC request to encroach three tenths (.3) of a foot in the area of 1260 Library Street.

Petition No. 3105 of “Bayview Loan Servicing LLC” request to encroach three tenths (.3) of a foot into Library Avenue, 71 feet wide, between East Grand River Avenue, 60 feet wide, and Gratiot Avenue, variable width.

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 non-standard materials.


The Detroit Water and Sewerage Department (DWSD) reports there is a water main in Library near the area of encroachment, however, DWSD has no objections to the encroachment provided that the provision for the encroachment is strictly followed.

The Public Lighting Department (PLD) reports that there is underground fed streetlight very close to the area of encroachment; however, PLD has no objections to the encroachment provided that PLD’s requirements are 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 non-standard materials 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 “Bayview Loan Servicing LLC and assigns”, to install and/or maintain an encroachment of three tenths (.3) of a foot of an existing building within public rights-of-way; said public right-of-way being nearby or adjoining property described as follows:

Lying within Library Avenue, 71 feet wide, between East Grand River Avenue, 60 feet wide, and Gratiot Avenue, variable width, adjacent to the North 45.00 feet of Lot 61, Plat of the City of Detroit as Laid Out by the Governor and Judges “Plan of the Section Number Seven in the City of Detroit confirmed the 13th day of April 1807” as recorded in Liber 34 Page 544, Deeds, Wayne County Records;

Encroachment(s) to consist of “permanently” (meaning more than thirty days, or other long-term duration) installed and/or existing 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 .03 feet of the building encroachment that is 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 the three tenths (.3) of a foot of the building encroachment (**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 to require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans and/or surveys (containing construction details and distances from property lines) of the three tenths (.3) of a foot building encroachment. Also, the City Engineering Division – DPW may require the permit applicant to secure approval(s) of said encroachment 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 times, 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 cost incident to the damaging, dismantling, demolish, removal and replacement of structures or other improvements herein permitted and in cull in 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 encroached into the street shall be born by DWSD; and further

PROVIDED, That all construction performed, if any, 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 any such 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 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 the petitioner has, concurrently herewith, filed 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, if not already a member, the petitioner shall apply to become a participating member of the “MISS DIG” organization; 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

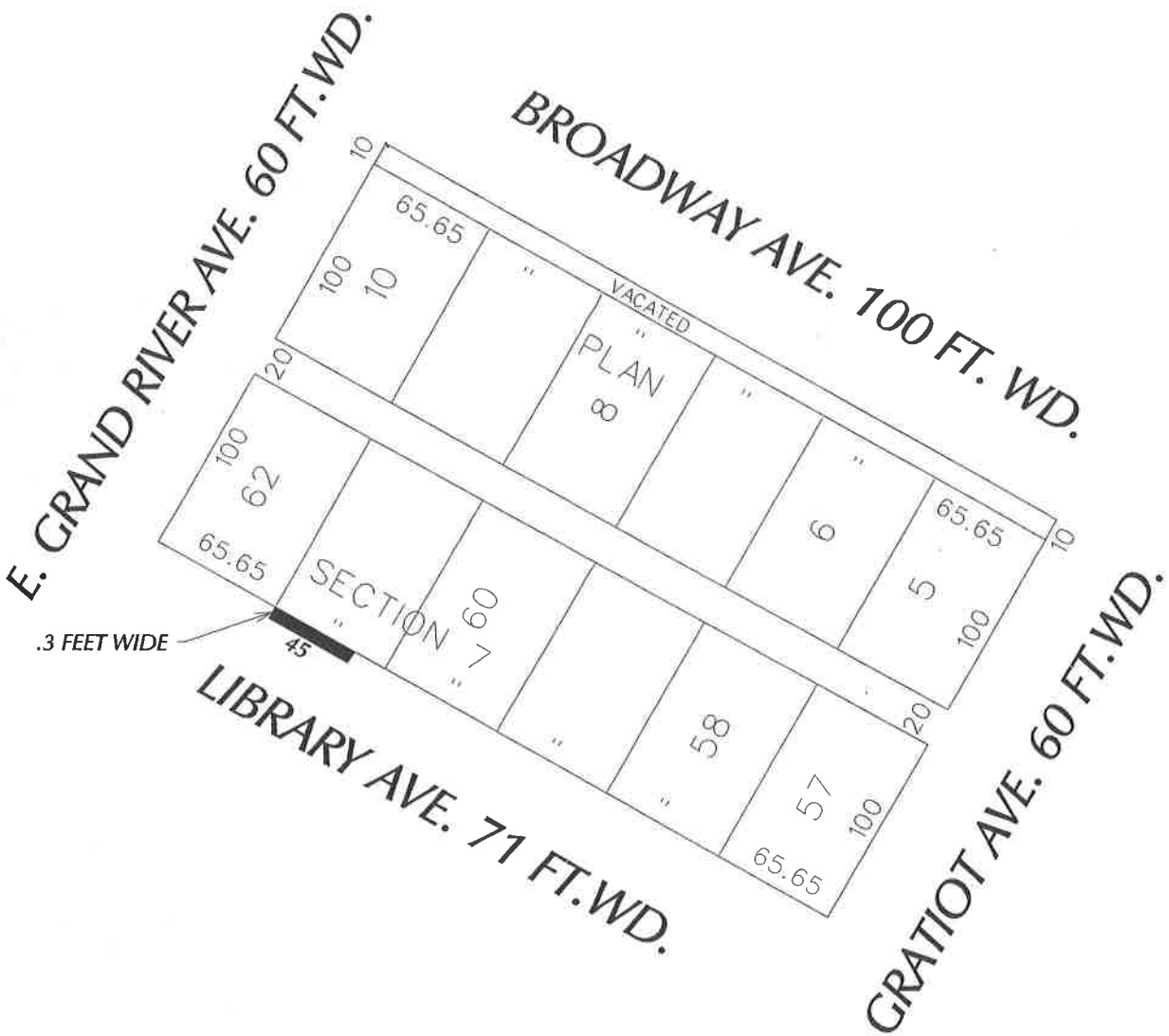
PROVIDED, That no structure or barricades can be built over PLD installations or on existing utility easement areas. As per PLD requirements, any structures proposed or existing shall maintain a 10 feet horizontal clearance from the overhead PLD lines and installations; and further

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 this encroachment permits shall not be assigned or transferred by the permittee, excepting by transfer of the title to the building, without the written approval of the City Council; and further

PROVIDED, That, all requirements required herein having been met by petitioner, the City Clerk shall within 30 days of City Council’s approval of this encroachment, record a certified copy of this resolution with the Wayne County Register of Deeds.

PETITION NO. 3105
 BAYVIEW SERVICING LLC
 REPRESENTED BY:
 POTESTIVO & ASSOCIATES
 811 SOUTH BLVD. STE. 100
 ROCHESTER HILLS, MI 48307
 c/o ANGELA S. VEDA
 PHONE NO. 248.853.4400
 FAX NO. 248.853.0404



 - AREA OF ENCROACHMENT

(FOR OFFICE USE ONLY)

CARTO 28A

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY		CHECKED			
DATE		APPROVED			
NP					
10-01-09					

REQUESTED TO INSTALLED AND/OR MAINTAIN
 A ENCROACHMENT OF .3 FEET INTO LIBRARY
 BETN. E. GRAND RIVER AND GRATIOT.

CITY OF DETROIT CITY ENGINEERING DEPARTMENT SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X3105.dgn

WRITTEN ACCEPTANCE OFF THE TERMS AND CONDITIONS OF DETROIT
CITY COUNCIL RESOLUTION PETITION NUMBER 3105 , ADOPTED _____

Vernier Holdings, LLC (“Permittee”) whose address is 16012 East Seven Mile, Detroit, Michigan 48205 does hereby accept the terms and conditions of the City Council Resolution granting Petition Number 3105, 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 limitation, fees, and expenses of attorneys, expert witness and other consultants) which may be imposed upon, incurred by or asserted against the City by reason of the insurance of said permit(s), 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 encroachment by Permittee’s personnel, agents, and employees; and further, that in accordance with the said Resolution, a 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.

Wherefore, we have hereunto set our hands on this _____ day of _____, 2009

Witnessed By:



Permittee: Vernier Holdings, LLC

By: 

Its: *Manager*

Approved By Law Department

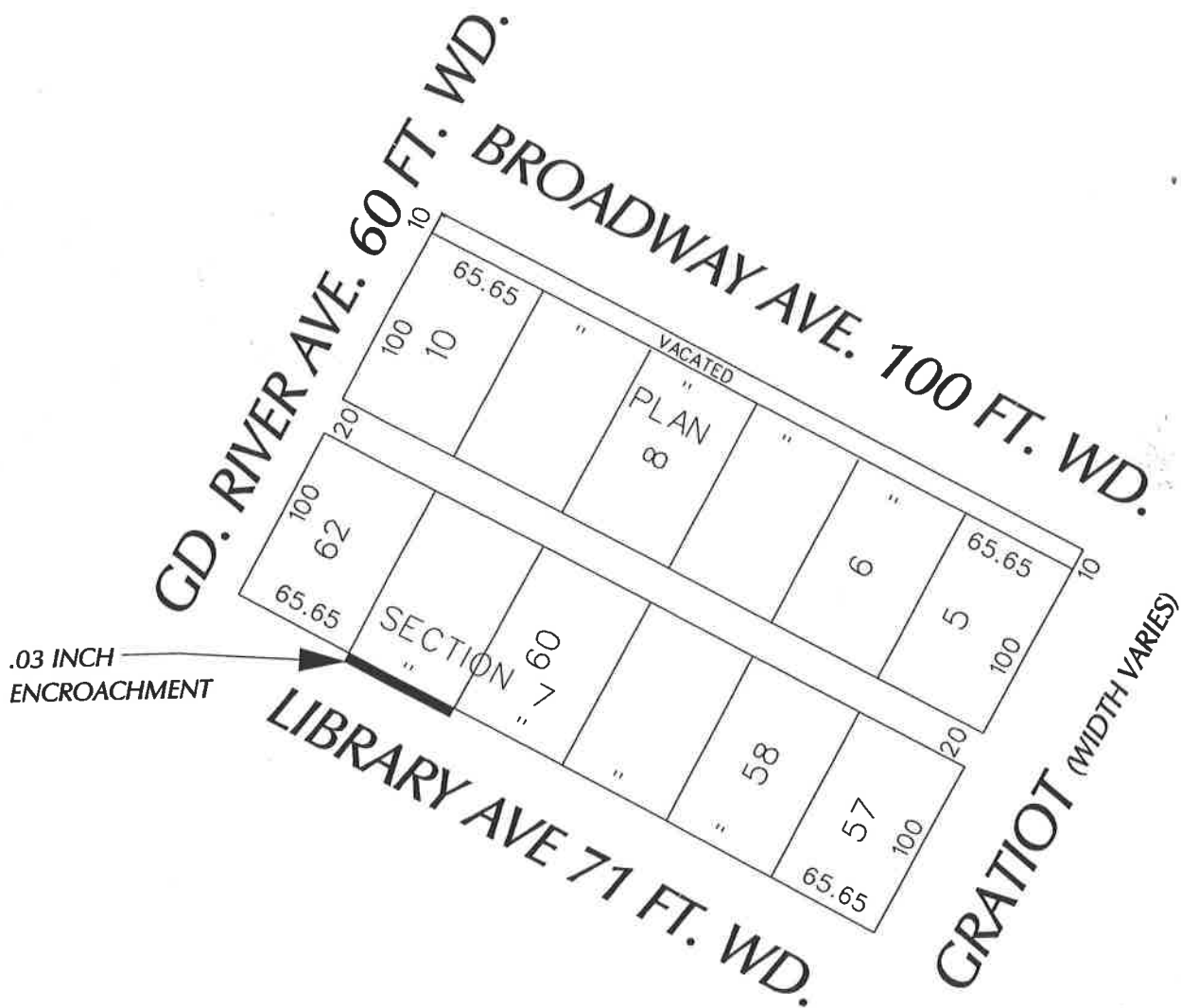


Corporation Counsel

9-14-09

Date

PETITION NO. 3103
 BAYVIEW SERVICING, LLC
 Represented By:
 POTESTIVO & ASSOCIATES
 811 SOUTH BOULEVARD, STE. 100
 ROHESTER HILLS, MI. 48307
 C/O ANGELA S. VEDA
 PHONE NO. 248 853 4400
 FAX NO. 248 853 0404



 - AREA OF ENCROACHMENT

(FOR OFFICE USE ONLY)

CARTO 28

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY KM		CHECKED			
DATE 4-1-09		APPROVED			

REQUEST FOR .03 ENCROACHMENT
 INTO FARMER AT
 1260 FARMER

CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU
 JOB NO. 01-01
 DRWG. NO. x3105dgn