

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Wednesday, October 28, 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 PLANNING AND DEVELOPMENT DEPARTMENT

3888 *Albert Kahn Associates, Inc., for encroachment of portion of an alley mid-block between Garfield and Forest Avenues.*

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October 9, 2009

Detroit City Council
c/o City Clerk
Two Woodward Avenue
Detroit, Michigan 48226

Re: University Cultural Center Association
Detroit, Michigan
Sugar Hill Redevelopment
Kahn Project No. 03058-A0.000

Dear City Council:

This letter is to request permission for an encroachment in a portion of the alley located mid-block between Garfield and Forest Avenues. The alley runs west from John R. and turns north adjacent to the existing N'Namdi Gallery and Church's Chicken properties.

The existing alley is an integral part of a planned pedestrian axis for the redevelopment of the Sugar Hill Arts District. The Arts District project area includes a two block area bounded by Woodward Avenue, Forest Avenue, John R and Canfield Avenue. Garfield Avenue unites the two blocks as the center of the district and a pedestrian axis located in the middle of the block will be highly visible to pedestrians and further unite the district.

Several services for the project site are proposed to cross the alley to unite the block. Services include electrical conduit from a proposed DTE transformer located adjacent to 71 Garfield, irrigation piping, site drainage piping and overflow storm water drainage into the existing storm sewer located in the alley. Drainage of storm water will be a combination of typical overland drainage to the existing combined storm and sanitary sewer and drainage through permeable pavers to a cistern for use as site irrigation in the Sugar Hill project.

The vision for the Sugar Hill Arts District is one that will convey an image of creative opportunities and artistic display while also being a stable, safe, welcoming neighborhood that encourages the creative class to take root. The Master Plan prepared by Albert Kahn Associates contains urban design and streetscape recommendations for Garfield, Forest and John R, as well as for the spaces and connections in-between each block that provide opportunities for pedestrian access, public gathering, venues for artistic display, renewable energy, green design and sustainable development practices.

The alley will be repaved with integral color concrete and permeable concrete pavers. A maintenance agreement between the University Cultural Center Association and the City of Detroit is currently under review.

Very truly yours,



Mandy Prentis
Project Manager
Albert Kahn Associates, Inc.

mllp

c: City of Detroit - Noel Perry (with drawings)
UCCA - Sue Mosey
Kahn - Mike West, Riccardo Pappini, Mike Nowicki



May 25, 2010

Honorable City Council:

RE: Petition No. 3888 – “Albert Kahn Associates Inc.”, request for encroachments in the mid portion of an alley between Garfield and Forest.

Petition No. 3888 of “Albert Kahn Associates Inc.” whose address is 7430 Second Avenue, Detroit, Michigan 48202 on behalf of the University Cultural Center Association – Sugar Hill Redevelopment request permission to install and maintain encroachments within the open public alley, 20 feet wide, with a 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers in the block bounded by Forest Avenue, 70 feet wide, Garfield Avenue, 60 feet wide, John R., 60 feet wide, and Woodward Avenue, 120 feet wide. This request is an integral part of a planned pedestrian axis for the redevelopment of the Sugar Hill Arts District.

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.

AT&T telecommunications report no objections to the request, however, AT&T have underground conduit in said alley and to make sure to contact MISS DIG prior to construction/digging.

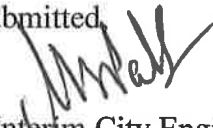
DTE Energy Electric Division (DTE) reports no objection to the request, however, there is DTE facilities within said alley being approximately 3 feet underground running east – west down the said alley. The conduit run contains two (2) 4.8KV lines and two (2) 600V lines.

Detroit Water and Sewerage Department (DWSD) report no objection to the request provided that DWSD’s provision for encroachments are 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 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,



Manilal Patel, Interim City Engineer
City Engineering Division – DPW

NRP/

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

Whereas, Petition No. 3888 of "Albert Kahn Associates Inc." whose address is 7430 Second Avenue, Detroit, Michigan 48202 on behalf of the University Cultural Center Association – Sugar Hill Redevelopment request to maintain and install encroachments into the East – West public alley, 20 feet wide, with a 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers in the block bounded by Forest Avenue, 70 feet wide, Garfield Avenue, 60 feet wide, John R., 60 feet wide, and Woodward Avenue, 120 feet wide. This request is an integral part of a planned pedestrian axis for the redevelopment of the Sugar Hill Arts District.

RESOLVED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to "Albert Kahn Associates Inc." to install and maintain encroachments into the East – West public alley, with a 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers all encroachments lying within the East – West public alley, 20 feet wide; adjacent to the following described property:

Lying within the East West public alley, 20 feet wide, in the block bounded by Forest Avenue, 70 feet wide, Garfield Avenue, 60 feet wide, John R., 60 feet wide, and Woodward Avenue, 120 feet wide, adjacent to Lots 5 through 7, both inclusive, in the "Brooks and Carlisle's Subdivision" of Park Lots 34 and 35 and part of Park Lot 33, August 14th, 1869, J.F. Monro as recorded in Liber 1, Page 245, Plats, Wayne County Records; Also adjacent to Lots 6 and 7 of "Plat of Hubbard and Kings Subdivision" of Park Lot 32 and part of Park Lot 33, November 3rd, 1882, J.F. Monro – T.2S.,R.12E. as recorded in Liber 7, Page 20, Plats, Wayne County Records;

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 alleys, and at all time, DWSD, its agents or employees, shall have the right to enter upon the alley 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 and inspection by DWSD shall be borne by the petitioner. All cost associated with gaining access to DWSD's facilities, which could normally be expected had the petitioner not encroached into the alleys shall be borne by DWSD, and further

Provided, all construction performed under this petition shall not be commenced until after five (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 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 alleys 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 alleys being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation; and be it further

PROVIDED, that prior to construction, Easement Encroachment Permit (EEP) will have to be obtained and the insurance required by the EEP should not expire until after completion of the construction; and be it further

PROVIDED, that the grade shall be maintained in the original condition after installation of the pipes; and be it further

PROVIDED, The petitioner, "Albert Kahn Associates Inc and/or their assign" shall make application to the Building and Safety Engineering Department for a building permit (if necessary). The pipes, color concrete and concrete pavers project (a 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers encroachments shall be installed and maintained in accord with plans submitted to and approved by Building and Safety Engineering Department, City Engineering Division and/or Detroit Water and Sewerage Department. All cost for plan review, inspection, and building permits shall be paid by the petitioner; 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, defend 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 such use of the public rights-of-way shall be under the rules and regulations of the City Engineering Division in conjunction with the Building and Safety Engineering Department (if necessary). The City of Detroit retains all rights to establish, maintain, inspect, and service any utilities within or over said public alley; and further

PROVIDED all costs for the construction, maintenance, permits, and use of the pipes, color concrete and concrete pavers project encroachment(s) within the said public right-of-ways shall be borne by the petitioner. The installation and maintenance of said encroachment(s) shall comply with the rules and regulations of the City Engineering Division – DPW (in conjunction with Buildings and Safety Engineering Department, if necessary), and Traffic Engineering Division – DPW; and further

PROVIDED, If it becomes necessary to repair or replace the utilities located or to be located in the public right-of-ways, by the acceptance of this permission, the pipes, color concrete and concrete pavers project encroachment(s) owners for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal, if their removal becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division – DPW (in conjunction with Buildings and Safety Engineering Department, if necessary) at the encroachment owner's expense; and further

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

PROVIDED, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said pipes, color concrete and concrete pavers project encroachment(s) shall be removed at any time when so directed by the City Council, and the public/easement property affected shall be restored to a condition satisfactory to the City Engineering Division – DPW; and further

PROVIDED, That said permits issued by the City Engineering Division – DPW and/or the Buildings and Safety Engineering Department 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 public right-of-ways are amended to provide for the levying thereafter, of a 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 does 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(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

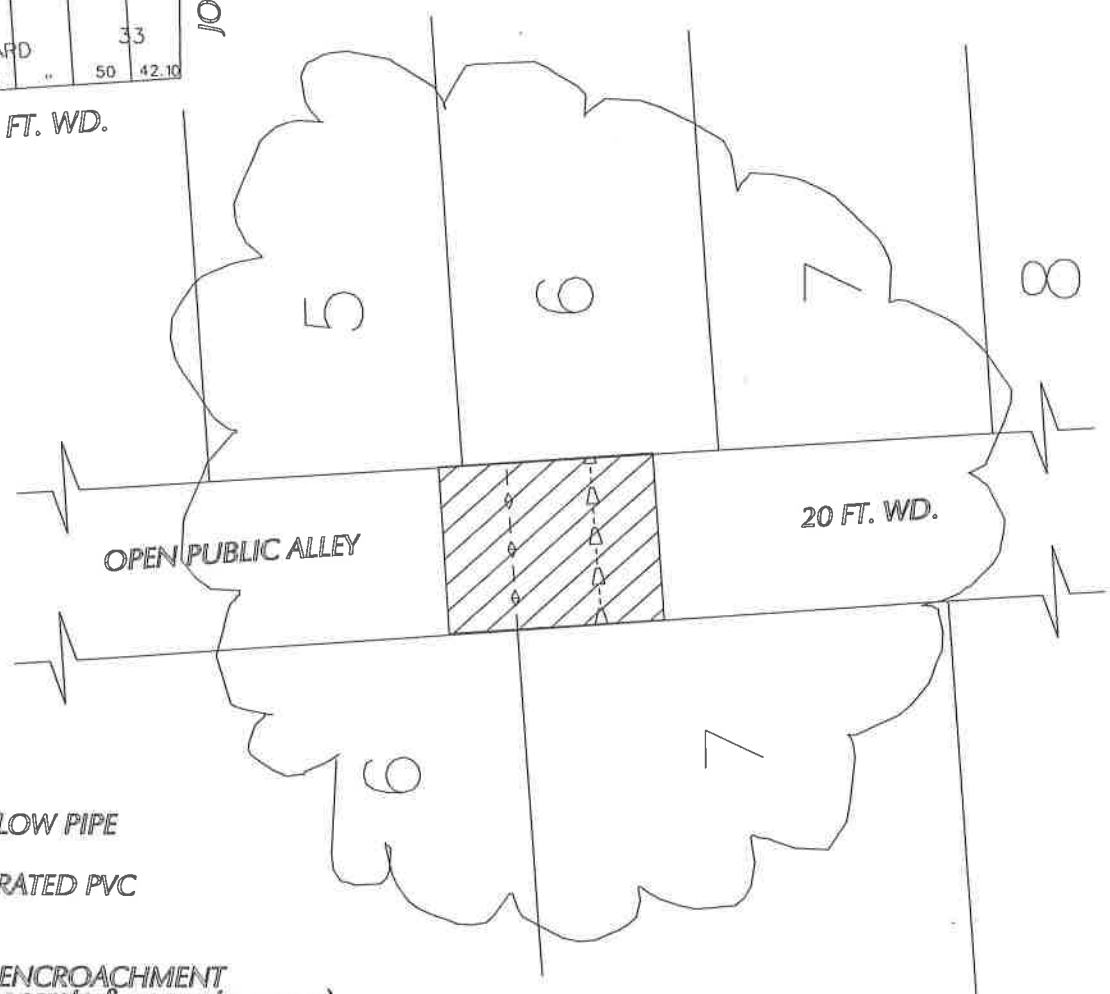
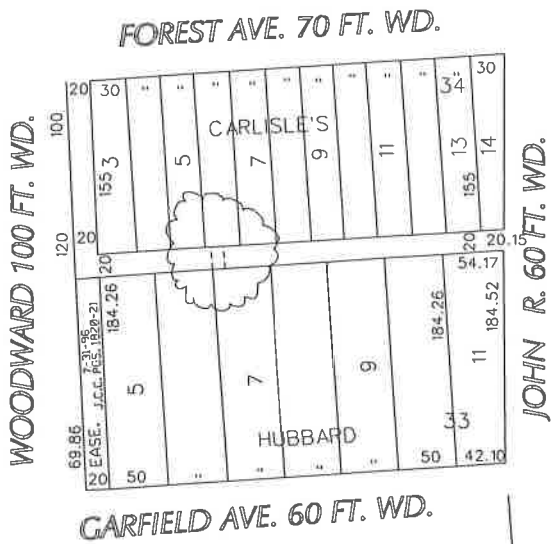
PROVIDED, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein;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

PROVIDED, The installation and maintenance of encroachments [that is, the 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers project in the block bounded by Forest Avenue, 70 feet wide, Garfield Avenue, 60 feet wide, John R., 60 feet wide, and Woodward Avenue, 120 feet wide ; said pipes, color concrete and concrete pavers project encroachments require the filing of an indemnity agreement and the securing of the necessary permit(s)] referred to herein shall be construed as acceptance of this resolution by "Albert Kahn Associates Inc and/or their assign"; and further

PROVIDED, That the 3-inch overflow pipe, 6-inch perforated PVC pipe, irrigation pipes, integral color concrete and permeable concrete pavers encroachment(s) permit 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 (as attached) with the Wayne County Register of Deeds

SUBMITTAL NO. 3888
 ALBERT KAHN ASSOCIATES, INC.
 7430 SECOND AVENUE
 DETROIT, MICHIGAN 48202-2798
 C/O MANDY PRENTIS
 PHONE NO. 313 202 7000
 FAX NO. 313 202 7001



- - - - - 3" OVERFLOW PIPE
 - - - - - 6" PERFORATED PVC

 AREA OF ENCROACHMENT
 (w/color concrete & concrete pavers)

(FOR OFFICE USE ONLY)

CARTO 30 F

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	KSM		CHECKED		
DATE	2-10-10		APPROVED		

REQUEST TO ENCROACH
 IN 20 FT WD. E/W ALLEY
 BOUND BY
 WOODWARD, FOREST, JOHN R. AND GARFIELD



CITY OF DETROIT	
CITY ENGINEERING DEPARTMENT	
SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X3888.dgn

WRITTEN ACCEPTANCE OFF THE TERMS AND CONDITIONS OF DETROIT
CITY COUNCIL RESOLUTION PETITION NUMBER #3888 , ADOPTED _____

I, George N’Namdi, East Forest Art Project, LLC whose address is 66 East Forest, Detroit, Michigan, 48201, by and thought me, the owner does hereby accept the terms and conditions of the City Council Resolution granting Petition Number #3888, 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, charges, 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 issuance 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 18th day of May, 2010.

Witnessed By:





Permittee: East Forest Arts Project, LLC

By: 

Its: managing partner

Approved by Law Department:



Corporation Counsel

5-20-10

Date

STATE OF MICHIGAN }
 }
COUNTY OF WAYNE }

On this 18th day of May, 2010, before me, a Notary Public in and for said County, appeared George R. N'Namdi to me known personally, who being duly sworn, did say that he is the managing partner owner of the East Forest Art Project, LLC and that the Written Acceptance of the Terms and Conditions of the City of Council Resolution Approving Petition No. 3888, adopted on May 18, 2010, was signed on behalf of said corporation.

Leonora King
Notary Public **LEONORA KING**
Notary Public, State of Michigan
County of Wayne
My Commission Expires Nov. 5, 2010
Acting in the County of Wayne

Wherefore, we have hereunto set our hands on this 18th day of May, 2010.

Witnessed By:
[Signature]
[Signature]

Permittee: East Forest Arts Project, LLC
By: [Signature]
Its: managing partner