



May 19, 2015

Honorable City Council:

**RE: Petition No. 513– Sunkiss Market, request to encroach in the alley in the rear of 13535 Puritan Ave., Detroit MI, 48227.**

Petition No. 513 – Sunkiss Market request to encroach in the east-west public alley, 18 feet wide, in the block bounded by Pilgrim Avenue, 60 feet wide, Puritan Avenue, 66 feet wide, Schaefer Highway, 66 feet wide and Hartwell Avenue, 60 feet wide. The proposed encroachment is for two HVAC units.

The permission for the existing encroachment with two HVAC units is being requested in order to be compliant with Building and Safety Engineering and Environmental Department.

The petition was referred to the City Engineering Division – DPW for investigation (utility clearance and review) and report. This is our report.

The request was approved by the Solid Waste Division – DPW. The Traffic Engineering Division – DPW (TED) reports involvement, but have no objection to the petitioner's request provided certain provisions are met. The TED provisions have been made a part of the resolution.

Detroit Water and Sewerage Department (DWSD) reports no objection to the encroachment provided that the provisions for encroachments are strictly followed.

All other City Departments and privately owned utility companies have reported no objections. 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

JK/

Cc: Ron Brundidge, Director, DPW  
Mayor's Office – City Council Liaison

**Michael Duggan. MAYOR**

BY COUNCIL MEMBER \_\_\_\_\_

RESOVLED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to “Sunkiss Market” and/or their assigns, to install and maintain aerial encroachments with two HVAC units mounted on the roof each being 20 feet in length and extending 3.8 feet into the east-west public alley, 18 feet wide, in the block bounded by Pilgrim Avenue, 60 feet wide, Puritan Avenue, 66 feet wide, Schaefer Highway, 66 feet wide and Hartwell Avenue, 60 feet wide above property described as: Land in the City of Detroit, Wayne County, Michigan being part the east-west public alley, 18 feet wide lying South of and adjoining Lots 10 and 11 “Kirby-Sorge-Felske-Monnier Subdivision of the N.1/2 of the N.W.1/4 of the S.W. ¼ of Section 17, T.1S.,R11E, Greenfield Township, Wayne County, Michigan” as recorded in Liber 42, Page 5 of Plats, Wayne County Records.

Provided, that by approval of this petition/request the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the alley, and at all time, DWSD its agent or employees, shall have the right to enter upon the alley to maintain, repair, alter, service, inspect, or install its facilities. All cost 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 cost associated with gaining access to DWSD’s facilities, which could normally be expected had the petitioner not encroached into the alley shall be borne by DWSD; and further

Provided, that all construction performed under this petition shall not be commence until after (5) days written notice to DWSD. Seventy-two 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 further

Provided, that if DWSD facilities located within the alley 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 further

Provided, the petition 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 further

Provided, that if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the alley being encroached upon the petitioner agrees to pay all cost for such removal and/or relocation; and further

Provided, that a vertical clear height of 12 feet be maintained as measured from the surface grade of the alley to the bottom of the encroachment.

Provided, That the petitioner shall file with the Finance Department and/or City Engineering Division – DPW an indemnity agreement in a 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, all costs for the construction, maintenance, permits, and use of the project encroachment(s) within the said public right-of-way 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-way by the acceptance of this permission, the 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 encroachment 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 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 encroachment with the two HVAC units lying within said area referred to herein shall be construed as acceptance of this resolution by "Sunkiss Market" and/or their assigns; and further

Provided, That the project encroachment(s) permit shall not be assigned or transferred without the written approval of the City Council; and further

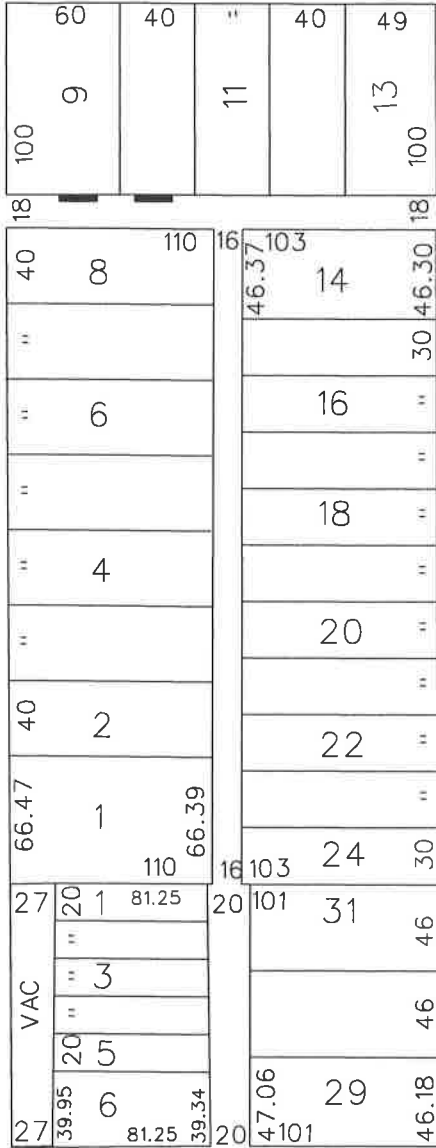
Provided, That the City Clerk shall within 30 days record a certified copy of this resolution and indemnity agreement (if attached) with the Wayne County Register of Deeds.

PETITION NO. 513  
 SUNKISS MARKET  
 13535 PURITAN AVE.  
 DETROIT, MICHIGAN 48227  
 C/O DANNY THWENI  
 PHONE NO. 313 482-7371



**PURITAN AVE. 66 FT. WD.**

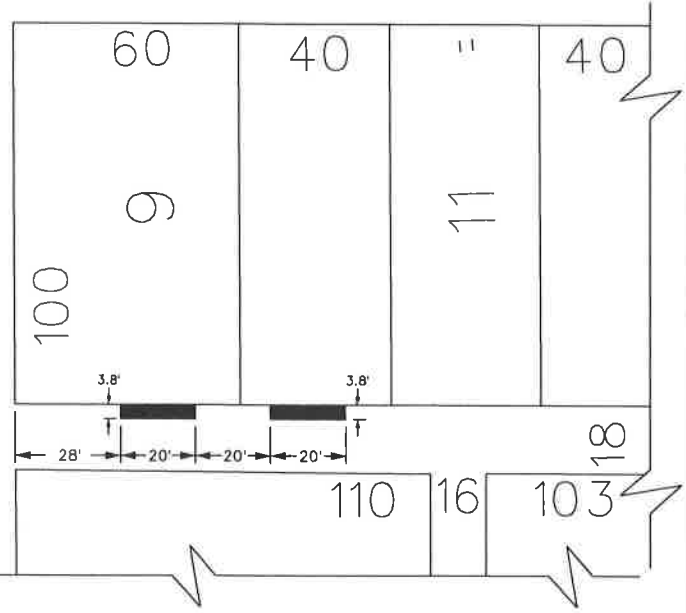
**SCHAEFER HWY. 66 FT. WD.**



**HARTWELL AVE. 60 FT. WD.**

**SCHAEFER HWY. 66 FT. WD.**

**PURITAN AVE. 66 FT. WD.**



**PILGRIM AVE. 60 FT. WD.**

- REQUEST ENCROACHMENT  
 (With HVAC Units)

(FOR OFFICE USE ONLY)

CARTO 85 F

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	WLW	CHECKED			
DATE	02-11-15	APPROVED			

**REQUEST ENCROACHMENT  
 INTO EAST/WEST ALLEY, 18 FT. WD.  
 AT 13535 PURITAN AVE.  
 (With HVAC Units)**

<b>CITY OF DETROIT</b>	
CITY ENGINEERING DEPARTMENT	
SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X 513