



September 12, 2017

Honorable City Council:

RE: Petition No. 1366 – Shake Shack request for a permanent Outdoor Café located at 660 Woodward Avenue, Suite 5A.

Petition No. 1366 – Shake Shack request to install and maintain an encroachment consisting of café seating on the east side of Woodward Avenue, 190 feet wide, north of Congress Street, 60 feet wide, and south of Cadillac Square, 200 feet wide.

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

The request is being made to expand the existing Outdoor Café at this location previously granted to the property owner, Bedrock Real Estate by your Honorable Body on October 7, 2014, J.C.C. pages 2069-72.

Traffic Engineering Division – DPW (TED) and City Engineering Division – DPW (CED), both report being involved and approve provided certain conditions are met. The TED and CED conditions have been made a part of the attached resolution.

Detroit Water and Sewerage Department (DWSD) reports being involved, but has no objection provided the DWSD encroachment provisions are followed. The DWSD provisions have been made a part of the resolution.

All other involved City Departments, including Public Lighting Authority and Great Lakes Water Authority (GLWA); also privately owned utility companies have reported no objections to the encroachment. 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

JMK/

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

BY COUNCIL MEMBER _____

RESOLVED, That the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to Shake Shack whose address is 660 Woodward Avenue, Suite 5A, Detroit, MI, 48226 to install and maintain an encroachment consisting of café seating on the east side of Woodward Avenue, 190 feet wide, north of Congress Street, 60 feet wide, and south of Cadillac Square, 200 feet wide, the sidewalk café seating including barriers and planters shall extend no more than 10.00 feet into Woodward Avenue from the building frontage. The encroachment location further described as: Land in the City of Detroit, Wayne County, Michigan, being the easterly 10 feet of Woodward Avenue lying westerly of and adjoining the westerly line of the northerly 44.67 feet of the southerly 77.25 feet of Lot 53 "Plan of Section numbered one in the City of Detroit, in the Territory of Michigan confirmed by the Governor and Judges on the 27th day of April, 1807 and ordered to be a record and to be signed by the Governor and attested by the Secretary of the Board. Attest: Peter Audrain, Sec'y." as recorded in Liber 34, Page 550 of Deeds, Wayne County Records.

PROVIDED, that if there is any cost for the removing and/or rerouting of any utility facilities, it shall be done at the expense of the petitioner and/or property owner; and be it further

PROVIDED, that a minimum of 6.5 feet wide clear and unobstructed sidewalk shall be maintained for pedestrian traffic in front of the outdoor seating area at all times; and be it further

PROVIDED, that the remaining sidewalk width meets minimum ADA requirements and all City standards and policies are met; and be it further

PROVIDED, 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 right-of-way, and at all times, DWSD, its agents or employees, shall have the right to enter upon the right-of-way 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 caused by the encroachment 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 right-of-way, 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 right-of-way 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 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 any tent or other enclosure is to be used on the subject site, Shake Shack or their assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detail permit application drawings submitted to the City Engineering Division – DPW prior to any public right-of-way construction; and further

PROVIDED, that the necessary permits shall be obtained from the City Engineering Division – DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with plans submitted to and approved by these departments, including the Public Lighting Department (if necessary), and the Traffic Engineering Division – DPW (if necessary); and further

PROVIDED, that the area being used as an Outdoor Café shall meet the general requirements set by the “Outdoor Café Guidelines” as adopted by the City Council and guided by Section 50-2-20 (aka code 1964 § 58-2-8.1) of the City Code; and further

PROVIDED, that the petitioner obtains all necessary licenses and permits every year from Departments having jurisdiction over the outdoor café process; and further

PROVIDED, that said activities are conducted under the rules and regulations of the Department of Public Works and the supervision of the Police Department; and further

PROVIDED, that the sale of food or soft drinks is held under the direction and inspection of the Detroit City Health Department; and further

PROVIDED, that the “permitee” remit the required annual fee(s) to Department of Public Works – City Engineering Division for issuance of a use-permit and confirm license of the establishment in compliance with City Code; and further

PROVIDED, that this use-permit shall be for a period of one year, after receiving approval of City Council, and may be renewable thereafter on an annual basis; and further

PROVIDED, that the "permitee", prior to obtaining said permit file an indemnity agreement in a form approved by the Law Department, saving and protecting the City of Detroit harmless from any or all claims, damages or expenses that may arise by reason of the issuance of said permit and the faithful performance by the "permitee" of the terms thereof; and in addition, to pay all claims, damages or expenses that may arise out of the maintenance of said encroachments; and further

PROVIDED, that filing of said indemnity agreement shall be construed as acceptance of this Resolution by the "permitee"; and further

PROVIDED, that the petitioner is responsible to obtain approval of the Michigan Liquor Control Commission, if necessary and approval from the Detroit Police Liquor License Bureau if serving liquor; and further

PROVIDED, that the designated outdoor seating area shall be identified through the use of railings or other physical barrier in order to regulate the serving of liquor within the perimeter of the café; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Shake Shack or their assigns; and further

PROVIDED, that all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments shall be borne by Shake Shack or their assigns. Should damages to utilities occur Shake Shack shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

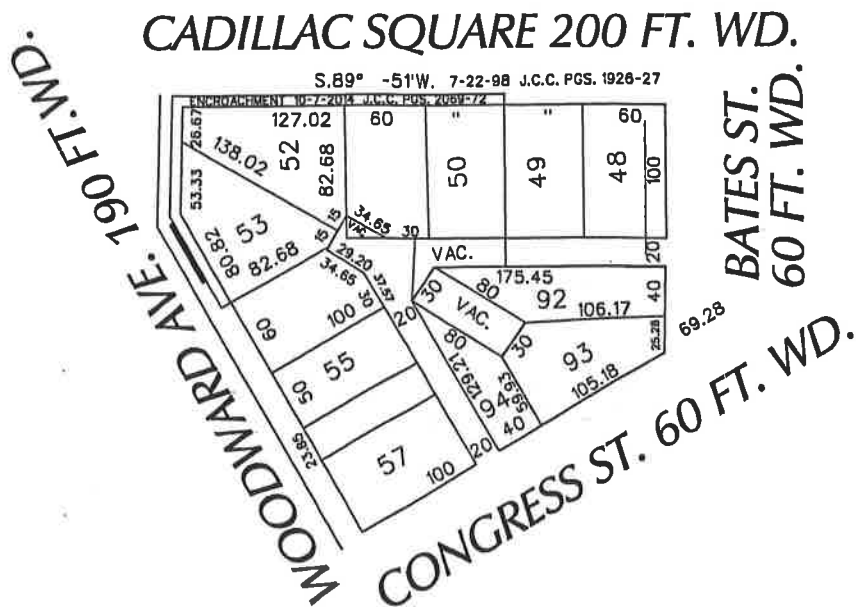
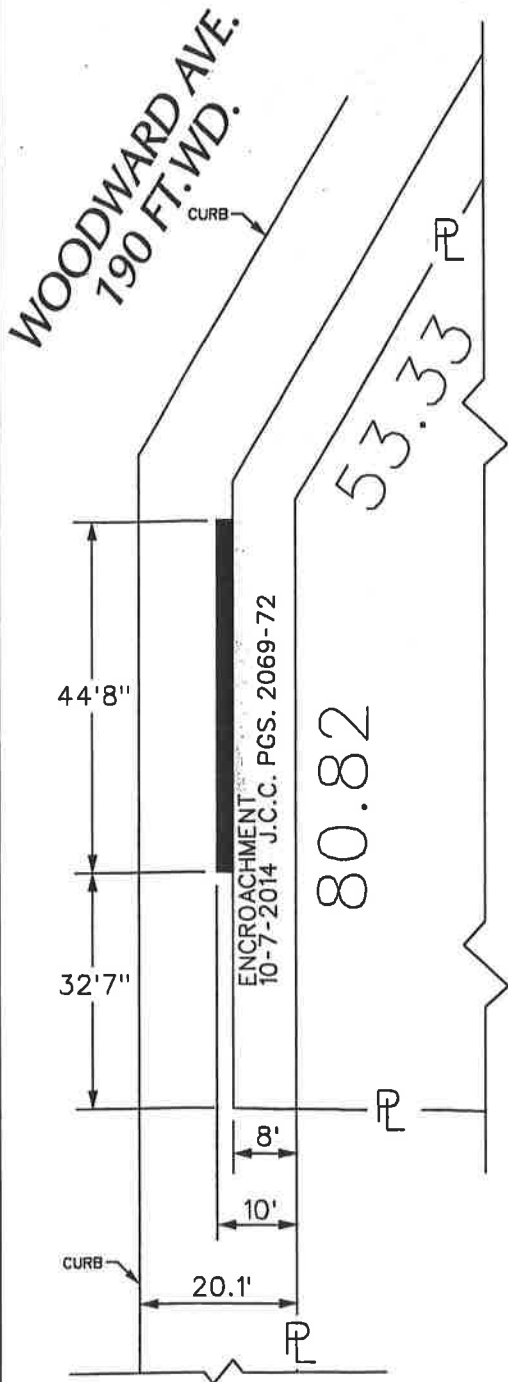
PROVIDED, that no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division – DPW; and further

PROVIDED, this resolution is revocable at the will, whim or caprice of the City Council, and Shake Shack acquires no implied or other privileges hereunder not expressly stated herein; 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.

PETITION NO. 1366
 SHAKE SHACK
 660 WOODWARD AVE. SUITE 5A
 DETROIT, MICHIGAN 48226
 C/O TY JACKSON
 PHONE NO. 646 747-3444



 - AREA OF ENCROACHMENT
 (With Outdoor Seating)

(FOR OFFICE USE ONLY)

CARTO 28 F

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY		CHECKED			
DATE		APPROVED			
03-28-17					

REQUEST ENCROACHMENT
 INTO WOODWARD
 AT 660 WOODWARD AVE.
 (With Outdoor Cafe)

CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU

JOB NO. 01-01

DRWG. NO. X 1366