



January 11, 2016

Honorable City Council:

**RE: Petition No. 883 –Du Charme Place LLC, request for encroachment on the easement located at 1544-1556 East Lafayette.**

Petition No. 883 – Du Charme Place LLC requests to install and maintain an encroachment consisting of a pedestrian bridge and two security gates in the public easement first westerly of Orleans Street, 52 feet wide, between Du Charme Place, 70 feet wide and East Lafayette Boulevard, 120 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 as part of a development consisting of 185 apartment units in three buildings in Lafayette Park. The easement will remain accessible for all utilities in addition to providing a fire lane between two of the apartment buildings

Traffic Engineering Division – DPW (TED), reports being involved and approves provided certain conditions are met; the pedestrian bridge must maintain a minimum vertical under clearance of 13 feet 6 inches. City Engineering – DPW (CED) reports no involvement. The TED 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 the Public Lighting Department and Public Lighting Authority; also privately owned utility companies have reported no objections to the encroachment. DTE Energy – Gas Division reports a gas main in the easement. Provisions protecting utility installations including the gas main 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 Du Charme Place LLC and/ or their assigns to install and maintain encroachments for a pedestrian bridge and two security gates in the public easement, 33 feet wide, with a centerline 207.32 feet westerly of and parallel to the westerly line of Orleans Street, 54 feet wide, said public easement lying northerly of the northerly line of Du Charme Place, 70 feet wide, and southerly of the southerly line of East Lafayette Boulevard, 120 feet wide; also said easement lying within Lot 1 "South Lafayette Park Subdivision of parts of Private Claims 6, 181, 7, 12, 13, 8 and 17, City of Detroit, Wayne County, Michigan" as recorded in Liber 8, page 88 of Plats, Wayne County Records; the encroachments being further described as follows:

- 1) Pedestrian bridge is located in the above said easement and the bridge is 6.6 feet wide with a centerline located 113.3 feet southerly of the southerly line of East Lafayette Boulevard and the minimum clearance distance between the surface grade and the bottom of the bridge is 13 feet and 6 inches. The bridge spans the full width of the public easement, 33 feet wide.
- 2) Security gate and 3 foot wide island is located in the above said easement 11 feet southerly of the southerly line of East Lafayette Boulevard, 120 feet wide.
- 3) Security gate and 3 foot wide island is located in the above said easement 26 feet northerly of the northerly line of Du Charme Place, 70 feet wide.

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, the pedestrian bridge must maintain a minimum vertical under clearance of 13 feet 6 inches; and be it further

PROVIDED, that DTE currently has a 4" steel gas main located 12' east of the west line of the public easement 33 feet wide. Please contact the DTE Gas Company Public Improvement Department: Michael Fedele at 313-389-7211 (supervisor) or Laura Forrester at 313-389-7261 (Gas Planner), for the estimated cost of DTE services in abandoning/removing/ and/or relocating /rerouting, including the survey, design and drawing of the utilities (if necessary).

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 at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the right-of-way being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation; and be it further

PROVIDED, that the contractor abides by Public Act 53 to call MISS DIG 72 hours prior to starting any underground construction for the encroachment; and be it further

PROVIDED, that Du Charme Place LLC and/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 all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Du Charme Place LLC and/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 Du Charme Place LLC and/ or their assigns. Should damages to utilities occur Du Charme Place LLC and/ or their assigns 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, That Du Charme Place LLC shall file with the Finance Department and/or City Engineering Division – DPW an indemnity 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 the faithful or unfaithful performance by Du Charme Place LLC of the terms thereof. Further, Du Charme Place LLC shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

PROVIDED, this resolution is revocable at the will, whim or caprice of the City Council, and Du Charme Place LLC 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.