

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Friday, January 27, 2017

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

1414 *U-Wash Development Company LLC, request for Encroachment of Billboard into the Prest Ave Right of Way. At 15325 W Eight Mile*

LINNELL & ASSOCIATES

A Professional Limited Liability Company

ATTORNEYS
RICHARD D. LINNELL
ANDREW J. HEROLD
DAVID H. APPLEBAUM
OF COUNSEL
JACK K. WALLER

TO: The Honorable City Counsel
Attention: Office of the City Clerk
200 Coleman A. Young Municipal Center
Detroit, Michigan 48226

FROM: U-Wash Development Company, LLC;
U-Wash Plymouth Road Inc.; Mauricio Mickam.

RE: Petition for Encroachment of Billboard into
the Prest Avenue Right of Way

DATE: January 20, 2017

To Whom It May Concern:

Attached to this cover letter please find a Petition for Encroachment of Billboard into the Prest Avenue Right of Way, Request for Hearing, and accompanying exhibits on behalf of the U-Wash Development Company, LLC and U-Wash Plymouth Road, Inc. Mr. Mauricio Mickam is the managing member of the entities requesting the Encroachment. Per the request of Mr. Keith McCrary, Mr. Mickam's direct contact number is (248) 867-3344. Otherwise, as Linnell and Associates, PLLC has been retained to assist U-Wash Development, U-Wash Plymouth Road and Mr. Mickam in filing this petition, please direct all correspondence, questions and billing requests to Linnell and Associates, PLLC. Please contact me at rlinnell@linnellfirm.com or my assisting attorney Hunter Avis at havis@linnellfirm.com at any time via telephone, email, or whichever means is most convenient.

Sincerely,

/s/ Richard D. Linnell

RICHARD D. LINNELL
Attorney at Law
rlinnell@linnellfirm.com
(248) 977-4182

2804 ORCHARD LAKE RD | STE 203
KEEGO HARBOR | MI 48320
P: 248.977.4182 F: 248.252.6179

WWW.LINNELLFIRM.COM

TO: Keith McCrary
ATTN: Office of the Clerk
200 Coleman A. Young Municipal Center
Detroit, Michigan 48226

FROM: U-Wash Development Co., LLC; U-Wash Plymouth Road Inc.; Mauricio Mickam
(248) 867-3344; and Linnell & Associates, PLLC.

RE: 15325 W. Eight Mile Road Sign Encroachment Petition

DATE: 1/20/2017

PETITIONER U-WASH DEVELOPMENT CO., LLC AND
U-WASH PLYMOUTH ROAD INC'S. PETITION
FOR ENCROACHMENT OF A BILLBOARD
IN THE PREST AVENUE RIGHT OF WAY AND HEARING REQUEST

INTRODUCTION

Petitioner U-WASH DEVELOPMENT CO., LLC, a Michigan Limited Liability Company (“U-Wash Development”) and U-Wash Plymouth Road, Inc. d/b/a/ The Original \$3.50 Soft Cloth Car Wash (“U-Wash Plymouth), the owners of and operators of the car wash located at 15421 West Eight Mile Road, Detroit, MI 48235 (the “Car Wash”).

The Car Wash is currently in operation, and located at the intersection of Greenfield Road and the 8 Mile Service Road. The Car Wash is surrounded by a public alley running parallel to the 8 Mile Service Road, and Prest Avenue running parallel to Greenfield Road. For a visual reference please see below:



U-Wash Development is in the business of leasing property to car wash businesses in Detroit. In 2004, U-Wash Development had the opportunity to acquire the lot immediately across Prest Avenue from the Car Wash. This lot is commonly known as 15325 W. Eight Mile Road, Detroit, Michigan 48235 (“15325 W. Eight Mile”).

U-Wash Development acquired the lot from the City of Detroit, with three primary restrictions on development and use of the lot summarized as (1) the previously existing structure on the lot would not be used for any car wash usage, however the purchaser may vend car wash products; (2) no ingress or egress permitted to the east-west alley behind 8 Mile; (3) the property abutting Prest Avenue shall be appropriately landscaped (**Exhibit A**, Quit Claim Deed). U-Wash Development removed the dilapidated structure on the lot, nicely landscaped it, and installed adequate fencing. When the lot was purchased, it had a freestanding billboard sign (the “Billboard”) erected on what appeared to be the lot. The City instructed U-Wash Development on the location where the fence should be installed, and where and what kind of landscaping should be included on 15325 W. Eight Mile. Before the City released its interest on 15325 W.

Eight Mile, City officials came and personally made sure 15325 W. Eight Mile was completed to their satisfaction. Having performed fully, U-Wash Development received a Release of Reverter Interest confirming such (**Exhibit B**, release of interest).

After obtaining free and clear interest to 15325 W. Eight Mile, upon belief the Billboard was located on 15325 W. Eight Mile, U-Wash Development began using this billboard to advertise the Car Wash. For reference, a current Google Maps image of the billboard, and its location on the lot and proximity to Prest Avenue, is produced below.



On or about 2015, a City sign ordinance inspector came to the Car Wash and determined that the ownership of the Billboard was unclear. Importantly, it appeared to the inspector that U-Wash Development did not own the Billboard or the land on which the Billboard was constructed, as U-Wash Development had believed. Through investigations with the City sign ordinance inspector and a review of surveys, it became apparent that the Billboard was constructed just off the property line, and slightly in the right-of-way (**Exhibit C**, Survey). Through the aid and assistance of the City sign ordinance inspector, U-Wash Development was able to determine that the sign had been legally constructed as an encroachment in the right-of-

way for the Great Lakes Bowling Corporation (petition No. 12351) with City Counsel granting permission for the construction of the sign on or about December 7, 1961 (**Exhibit D**, City Counsel minutes). The Great Lakes Bowling Corporation no longer operates, and is not in the location it was when permission was granted for construction of the sign and the encroachment.

Now, for the reasons to be discussed, U-Wash Development seeks to petition for permission for the Billboard encroachment, and permission to use the Billboard and pay all associated fees with maintaining the Billboard encroachment and signage on the Billboard. The analysis as to why a grant of permission to encroach should be given to U-Wash Development will be formatted pursuant to the “Who” “What” “When” “Where” “Why” form indicated in the petition instructions.

ANALYSIS

I. WHO

U-Wash Development and U-Wash Plymouth seek permission for the encroachment into the right-of-way. U-Wash Development owns the lot where the Car Wash is located at 15421 W. Eight Mile Rd, as well as the lot the Billboard abuts, located at 15325 W. Eight Mile.

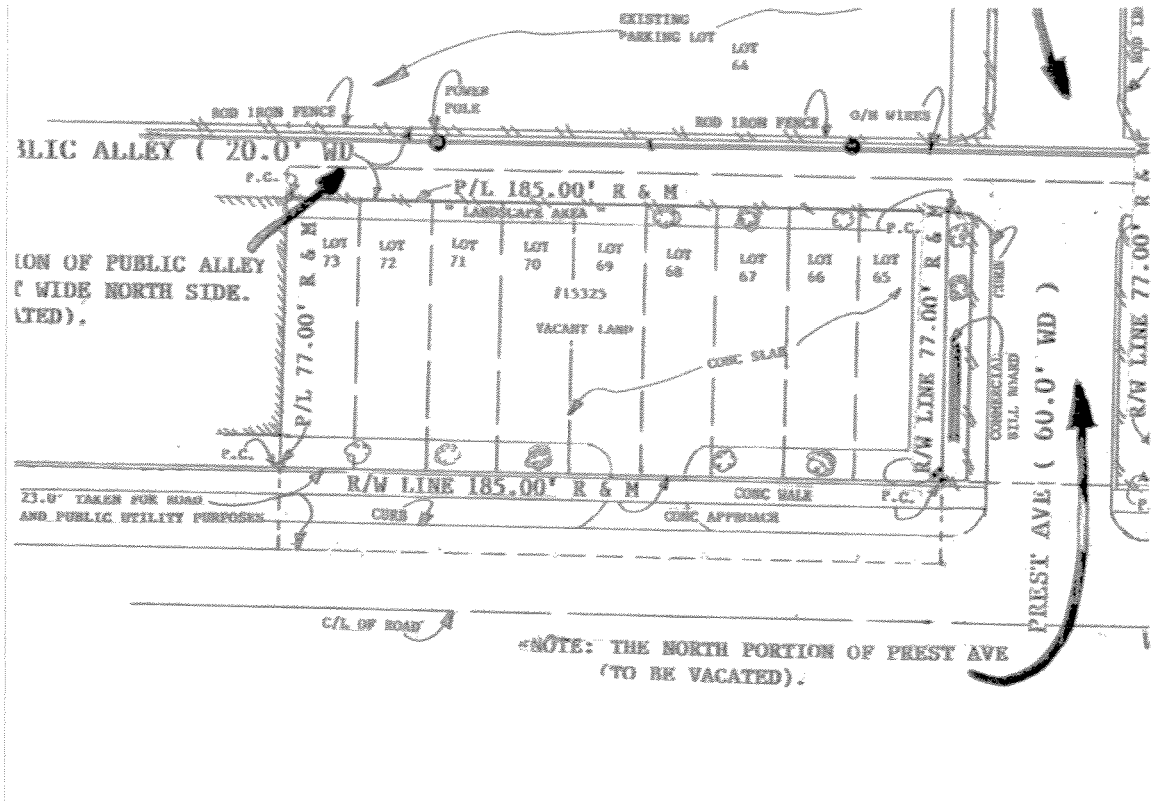
II. WHAT

U-Wash Development seeks permission for an encroachment of a pre-existing Billboard into the Prest Avenue right-of-way.

III. WHERE

The exact location of the Billboard is indicated in the survey reproduced here, and is parallel to the R/W Line and Prest Avenue. The Billboard is just outside of the property line for 15325 W. Eight Mile, and far inside the curb barrier. The Billboard is not in the roadway, and

there are no sidewalks or pedestrian rights of way for the Billboard to interfere with. A full size survey is attached as **Exhibit C** with more detail.



IV. WHEN

U-Wash Development seeks permission for, and to hold the rights to, the encroachment as soon as possible. The Billboard currently exists, and was initially constructed in 1961 with permission from the City of Detroit.

V. WHY

As previously discussed, on or about December 7, 1961 City Council granted permission to the Great Lakes Bowling Corporation to construct the Billboard to advertise its bowling alley. At the time of construction, Prest Avenue served as an entrance to and extension of the parking

lot for the Great Lakes Bowling Alley. At the time of construction, City Counsel evaluated certain factors in deciding whether or not to grant permission for the sign. When City Counsel made its decision, Prest Avenue was not paved, but City Counsel was aware of the City's intent to pave Prest Avenue. Regarding Prest Avenue, the City Counsel noted that "[i]ts principal function is to serve as an entrance to the parking lot of the North Lanes Bowling Alley" and further reasoned:

[i]t is quite evident that no sidewalks will ever be required, and it appears that no harm would result from the erection of a sign in the area between the curb and the easterly property of Prest Avenue (Exhibit D).

Now, many years later, the City Counsel's reasoning is still sound and valid regarding a current grant of permission for the Billboard encroachment.

Firstly, the purpose of Prest Avenue has not changed since the initial grant of encroachment. Then, as now, Prest Avenue is a low-traffic roadway that primarily serves to allow ingress and egress to a parking lot. It is unlikely that the purpose of Prest Avenue will change in the foreseeable future. Secondly, there remains no need to construct a pedestrian sidewalk that might possibly interfere with the Billboard on Prest Avenue given that its length and use have not changed. Thirdly, while the Billboard is technically in the right-of-way, in actual application it is far removed from the road surface and poses no obstruction or danger whatsoever. Finally, before granting initial permission for the construction of the sign in 1961, City Counsel sought permission of the landowner of the property that abutted the portion of the street upon which the sign is to be erected, who had no objection. Now, U-Wash Development owns the abutting property, and as it seeks permission for the encroachment, it has no objection to the Billboard. Therefore, it is within the public interest to grant U-Wash Development

permission to use, maintain, and pay associated fees for the pre-existing, lawfully constructed Billboard that abuts its property at 15325 W. Eight Mile.

Please forward a copy of all correspondence to:

LINNELL & ASSOCIATES, PLLC

Dated: January 20, 2017

/s/ Richard D. Linnell
BY: RICHARD D. LINNELL (P59339)
Attorneys for Petitioners
2804 Orchard Lake Rd., Ste. 203
Keego Harbor, Michigan 48320
Telephone: (248) 977-4182

EXHIBIT A

REGISTER OF DEEDS

QUIT CLAIM DEED

The City of Detroit, a Michigan public body corporate whose address is 2 Woodward, Detroit, MI 48226 quit claims to U-Wash Development Company LLC, a Michigan Limited Liability Company, whose address is P. O. Box 19120, Detroit, Michigan 48219, the premises located in the City of Detroit, Wayne County, Michigan, described as:

a/k/a 15325 W. Eight Mile

22/18720-8 (see attachment)

(The Property), for the sum of Seventeen Thousand Dollars and No Cents (\$17,000.00) subject to and reserving to Grantor its rights under public easements and rights of way, easements of record, applicable zoning ordinances, development plans pursuant to Act 344 of 1945 as amended (if any), and restrictions of record.

The estate conveyed by this deed is a fee simple subject to a condition subsequent such that if Purchaser has not obtained a certificate of occupancy or a certificate of acceptance (as applicable) for the Property within 12 months from the date of this Deed, then title to the Property shall revert to the Grantor upon the Grantor recording a notice of default (said notice to be recorded only after expiration of the 12 month period described above). The condition subsequent shall be deemed released upon recording of an affidavit by the authorized agent of the Grantor stating that the condition is released, or upon the Purchaser recording an affidavit with an attached copy of the certificate of occupancy or certificate of acceptance for the Property prior to the City recording a notice of default. The condition subsequent and the Grantor's reverter interest in the Property are specifically subject to a bona fide first mortgage lien securing purchase and/or construction financing for the Property if the mortgage is held by a state or federally chartered institution or is insured or guaranteed by an agency of the federal government. If the Property is rented for residential occupancy, the Property must be registered as a rental property pursuant to Ordinance 579-H (Detroit City Code § 26-5-42.5). Further subject to compliance with conditions set forth on Attachment A.

WITNESSES:

GRANTOR: CITY OF DETROIT, a Michigan public body corporate

Edwin L Hill
Print: EDWIN L HILL
Rose Harris
Print: ROSE HARRIS

By: Kathleen L Royal
KATHLEEN L ROYAL

STATE OF MICHIGAN)
)ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me on DECEMBER 30, 2003, by KATHLEEN L ROYAL, the EXECUTIVE MANAGER, REAL ESTATE DIVISION of the City of Detroit, a Michigan public body corporate, on behalf of the City.

NOTARY PUBLIC
MY COMMISSION EXPIRES APR 15, 2007
Print: LETTIA R BUELS
Notary Public, Wayne County, Michigan
My commission expires: 4-15-07

Pursuant to § 18-5-12 of the Detroit City Code, I hereby certify that proper and fair consideration has been received by the City pursuant to this instrument.

Approved by City Council on 05 / 23 / 03, JCC pp _____ or
Detroit Legal News, 06 / 04 / 03,
pp 5 on file in my office.
Approved by Mayor on 06/03 / 03.

151
Finance Director

This deed is dated as of 1/21/04

Approved as to form and execution:
Tracy Kott
City Corporation Counsel

Jackie Currie
City Clerk

This Instrument Drafted by:
City of Detroit Law Department
1650 First National Building
660 Woodward Avenue
Detroit, MI 48226

When recorded, return to:
City of Detroit Planning and Development
Real Estate Division
65 Cadillac Square, Ste. 1100
Detroit, MI 48226

Exempt from transfer taxes pursuant to MCL § 207.505(h)(i) and MCL § 207.526(h)(i)

QCD 12 GR 275 S E(h) (11)

NO REVENUE ATTACHED

"ATTACHMENT A"

Land in the City of Detroit, County of Wayne and State of Michigan being Lots 65, 66, 67, 68, 69, 70, 71, 72 and 73 except Eight Mile as widened; "Division Heights Subdivision" being part of the Northwest ¼ of Section 6, T. 1 S., R. 11 E., Greenfield Township, Wayne County, Michigan. Rec'd L. 50 P. 36 Plats, W.C.R.

DESCRIPTION CORRECT
ENGINEER OF SURVEYS

BY 
METCO SERVICES, INC.

a/k/a 15325 W. Eight Mile
Ward 22 Item 18720-8

EH:jk

Additional restrictions on development:

The Property is subject to the following restrictions imposed by Detroit City Council by resolution adopted 5/23/03 authorizing sale of the Property to Purchaser:

1. The structure at 15325 W. Eight Mile may not be utilized for any car wash usage and no car wash equipment may be installed in this building; however purchaser may vend car wash products.
2. There shall be no ingress or egress permitted to the east-west alley behind 15325 W. Eight Mile so that the flow of traffic will not be affected on Audrey or Greenfield, and appropriate permanent fencing, landscaping or other barriers shall be erected along the east-west alley.
3. The portion of the Property abutting Prest Street shall be appropriately landscaped.

Compliance with these restrictions shall be a prerequisite of issuance of a certificate of occupancy for the Property and the restrictions set forth on this page may not be released except by specific authorization of Detroit City Council.

RETURN TO:

Linda G. Anderson
Attorney at Law
13407 Farmington Rd., Ste. 102
Livonia, MI 48150

EXHIBIT B

AFFIDAVIT- RELEASE OF REVERTER INTEREST

In accordance with MCL §§ 565.451a(b), this affidavit is submitted for recording to state facts that terminate an estate or interest in certain real property located in the City of Detroit, Wayne County, Michigan (the "Property"), more particularly: described as:

Land in the City of Detroit, County of Wayne and State of Michigan being Lots 65, 66, 67, 68, 69, 70, 71, 72 and 73 except Eight Mile as widened; "Division Heights Subdivision" being part of the Northwest ¼ of Section 6, T. 1 S., R. 11 E., Greenfield Township, Wayne County, Michigan. Rec'd L. 51, P. 18 Plats, W.C.R.

Ward 22, Item 18720-8, more commonly known as **15325 W. Eight Mile**

1. The City of Detroit sold the Property pursuant to U-Wash Development Company LLC, a Michigan Limited Liability Company, whose address is P.O. Box 19120, Detroit, MI 48219 ("Grantee") by a deed dated December 30, 2003 and recorded by the Wayne County Register of Deeds on February 2, 2004 at Liber 40082, Pages 64 & 65, Wayne County Records, Register number 204114707 (the "Deed").
2. The conveyance evidenced by the Deed was subject to a condition subsequent such that title would revert to the City of Detroit in certain events.
3. By execution of this affidavit, the undersigned certifies that the City of Detroit's reverter interest in the Property has terminated, and the City of Detroit releases its reverter interest to Grantee, its successors and assigns.

This release is dated February 11, 2005.

City of Detroit, a Michigan public body corporate

By *O'Neal Edwards*
O'Neal Edwards
Executive Manager,
Real Estate

STATE OF MICHIGAN)
)ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me on FEBRUARY 11, 2005 by O'Neal Edwards, the Executive Manager, Planning & Development Department, Real Estate Division, of the City of Detroit, a Michigan public body corporate, on behalf of the City.

MARGARET NEAL
NOTARY PUBLIC WAYNE CO., MI
MY COMMISSION EXPIRES Apr 26, 2007

Margaret Neal
Print: Margaret Neal
Notary Public, Wayne County, MI
My commission expires: April 26, 2007

This instrument drafted by:
City of Detroit Law Department
1650 First National Building
660 Woodward Avenue
Detroit, MI 48226
By: Timothy A. Beckett P40479
Attorney at Law

When recorded, return to:
Linda G. Anderson
Attorney at Law
13407 Farmington R., Ste. #102
Livonia, MI 48150

AFF 1p9 S CV

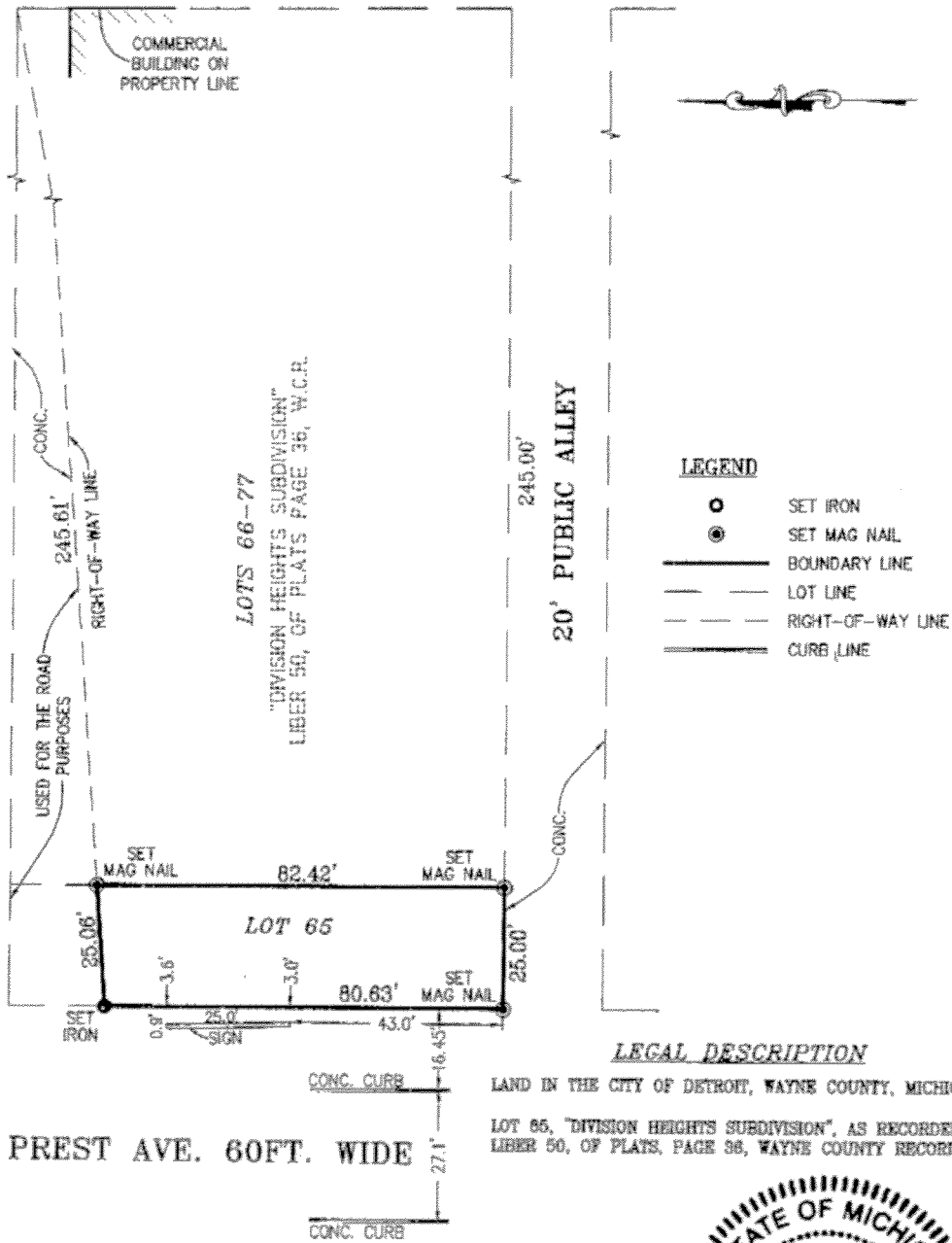
EXHIBIT C

CERTIFICATE OF SURVEY
ENVIRO MATRIX LAND S.E.A. CORPORATION
Surveying • Engineering
 401 S. Main Street, Clawson, MI 48017
 (248) 588-2600 Fax (248) 588-3117
 E-MAIL: envirolandsea@aol.com

JOB NO.: LS-04045

AUDREY AVENUE 60 FT. WIDE

EIGHT MILE ROAD (WIDTH VARIES)



- LEGEND**
- SET IRON
 - SET MAG NAIL
 - BOUNDARY LINE
 - - - LOT LINE
 - - - RIGHT-OF-WAY LINE
 - CURB LINE

LEGAL DESCRIPTION

LAND IN THE CITY OF DETROIT, WAYNE COUNTY, MICHIGAN.
 LOT 65, "DIVISION HEIGHTS SUBDIVISION", AS RECORDED IN
 LIBER 50, OF PLATS, PAGE 36, WAYNE COUNTY RECORDS.



Vijaysinh U. Mahida

VIJAYSINH U. MAHIDA P.E., P.S.#17806

| | |
|---|--------------------------|
| CLIENT : KETAN MEHTA | |
| SITE LOCATION : PREST AVE. & EIGHT MILE RD. | |
| CITY, STATE : DETROIT, MICHIGAN | |
| COUNTY : WAYNE | DATE : JULY 16, 2009 |
| SURVEYED BY : B.B. | SCALE : 1" = 30' |
| CHECKED BY : | DWG. # : LS-04045-LOT-05 |
| DRAWN BY : R.P. | SHT. # : 1 OF 1 |

1584645-4000 W. 8th St. Ex. 100

LOCATION - 30750 - STREET - DATE 1-8-69

BETWEEN 100' RIGHT-OF-WAY AND 8 MILE AND NORTH

OWNERS GREAT LAKES SOULING CORP. 12706

ADDRESS 6366 WOODWARD-2

DIRECTOR JOHN BROWN CO.

ADDRESS 6209 JOHN LODGE EXP. -2

TYPE GROUND

NON-ILLUMINATED

MEASUREMENT HORIZONTAL

WORKING NORTH LAKES APP. TESTS BY J.C.C. 12-12-61 WITH CONDITIONS

REMARKS: U.L.#C-482009

ILLUMINATED MATERIAL METAL & PLASTIC

36 feet 459 ASD ft.

TEMPORARY

ZONING R2

AMOUNT PAID

J.C.C. 1.00

12.00 13.00

1980-05-05

EXHIBIT D

2017-01-27

1414

1414 *Petition of U-Wash Development
Company LLC, request for
Encroachment of Billboard into the
Prest Ave Right of Way. At 15325 W
Eight Mile*

REFERRED TO THE FOLLOWING DEPARTMENT(S)

DPW/CITY ENGINEERING