



CITY OF DETROIT
DEPARTMENT OF PUBLIC WORKS
CITY ENGINEERING DIVISION

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December 6, 2018

Honorable City Council:

RE: Petition No. 205 – Bedrock Management LLC, request to encroach into the public right-of-way at 600 Woodward Avenue which is bounded by Woodward Avenue, Cadillac Square, the north-south alley east of Woodward and Congress Street.

Petition No. 205 – Bedrock Management Services LLC, request for an encroachment with sidewalk café, existing areaways (basements) below the sidewalk, existing steel ventilation grating flush with sidewalk grade, and architectural elements above grade on the east side of Woodward Avenue, 190 feet wide, between Congress Street, 60 feet wide and Cadillac Square, 200 feet wide; also on the north side of Congress Street between Bates Street, 50 feet wide, and Woodward Avenue.

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

The request is being made for an outdoor seating area at a new restaurant and to transfer responsibility for the existing basement under the sidewalk, ventilation grates, and for various architectural elements.

The request was approved by the Solid Waste Division – DPW, and City Engineering Division – DPW, and Traffic Engineering Division – DPW (TED). TED has conditions that are a part of the resolution.

Detroit Water and Sewerage Department (DWSD) reports being involved, but they have 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 Authority and Public Lighting Department; also privately owned utility companies have reported no objections to the encroachment. Provisions protecting all 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

COUNCIL MEMBER _____

RESOLVED, that the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to Bedrock Management LLC or their assigns to install and maintain encroachments with sidewalk café, existing areaways (basements) below the sidewalk, ventilation grates flush with the sidewalk grade, and architectural elements above grade on the east side of Woodward Avenue, 190 feet wide, between Congress Street, 60 feet wide and Cadillac Square, 200 feet wide; also on the north side of Congress Street between Bates Street, 50 feet wide, and Woodward Avenue and being land in the City of Detroit, Wayne County, Michigan: Woodward Avenue and Congress Street adjoining Lot 57 "Plan of Section numbered One of 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" as recorded in Liber 34, Page 550 of Deeds, Wayne County Records. Encroachments are further described as follows:

- 1) Outdoor café seating area including barriers, planters, etcetera being 8.5 feet wide and 38 feet in length along Woodward Avenue, and being 6.5 feet wide and 72 feet in length along Congress Street and lying west of and adjoining the west line of the North 38 feet of the South 40 feet of said Lot 57 and lying south of and adjoining the east 72 feet of the west 82 feet of said Lot 57.
- 2) Areaways (Basements below sidewalk grade) lying up to 11.5 feet below grade and being 17 feet wide and 40 feet in length along Woodward Avenue, and being 7.3 feet wide and 100 feet in length along Congress Street and lying west of and adjoining the west line of the South 40 feet of said Lot 57 and lying south of and adjoining the south line of said Lot 57.
- 3) Ventilation grates flush with sidewalk grade extending into Congress Street: 1st grate being 3.58 feet long and extending 6.33 feet from building face (property line) adjoining the westerly 3.58 feet of the easterly 4.33 feet of said Lot 57; also 2nd grate being 9.25 feet long and extending 5.00 feet from building face (property line) adjoining the westerly 9.25 feet of the easterly 27.41 feet of said Lot 57; also 3rd grate being 7.00 feet in length and extending 5.00 feet from the building face (property line) adjoining the westerly 7.00 feet of the easterly 36.92 feet of said Lot 57.
- 4) Architectural elements lying from 8.5 feet above grade to 172 feet above grade (top of building) and extending no more than 5 feet into the right-of-way and lying westerly of and adjoining the westerly line of the southerly 40 feet said Lot 57 and lying southerly of and adjoining the southerly line of said Lot 57 and including extending up to 5 feet from the southwesterly corner of said Lot 57.

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 6.0 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 access is maintained to all fire department connections, and be it further

PROVIDED, that the proposed use does not hinder or impede the operation, maintenance or replacement of DTE Gas Company facilities, 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, that 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 the petitioner maintain the DWSD required clearance of 18 feet above grade for maintenance access and repair, 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, Bedrock Management LLC 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; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Bedrock Management LLC 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 Bedrock Management LLC or their assigns. Should damages to utilities occur Bedrock Management LLC 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 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 “permittee” 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 Bedrock Management LLC or their assigns shall file with the Department of Public Works – City Engineering Division an indemnity agreement 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 of Bedrock Management LLC or their assigns of the terms thereof. Further, Bedrock Management LLC or their assigns shall agree to pay all claims, damages or expenses that may arise out of the use, repair and maintenance of the proposed encroachments; and further

PROVIDED, that filing of said indemnity agreement shall be construed as acceptance of this Resolution by the “permittee”; 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 Bedrock Management LLC, or their assigns; and further

PROVIDED, that construction of the encroachments shall constitute acceptance of the terms and conditions as set forth in this resolution; and be it further

PROVIDED, this resolution or part thereof is revocable at the will, whim or caprice of the City Council, and Bedrock Management 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 be it further

PROVIDED, that the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

