



**DEPARTMENT OF PUBLIC
WORKS**

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March 12th, 2024

Honorable City Council:

RE: Petition No. x2024-087 – A.S. & J.D. McClellan, request for encroachment within the northerly part of Plumer Street, adjacent to the parcel commonly known as 5860 Plumer Street, for the approval of a fence/Gate and guard rail constructed within the right-of-way.

Petition No. x2024-087 – A.S. & J.D. McClellan, request for encroachment within the northerly part of Plumer Street, 66 ft. wide, adjacent to the parcel commonly known as 5860 Plumer Street, for the approval of a fence/gate and guard rail constructed within the right-of-way.

This petition seeks approval for encroachment to overturn a compliance issue regarding the constructed fence.

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

The request was approved by the Solid Waste Division – DPW, and City Engineering Division – DPW. Traffic Engineering Division

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

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 A.S. & J.D. McClellan or their assigns to install and maintain encroachment within Plumer Street, further described as: Land in the City of Detroit, Wayne County, Michigan;

Chain link Fence/Gate and Guard Rail, within Plumer Street, 66 ft. wide, lying southerly of and adjacent to lot 179 of "Leavitt's Subdivision" as recorded in Liber 2, Page 29 of Plats, Wayne County Records. Also lying adjacent to that part of vacated Manson Avenue, 65.75 ft. wide, lying easterly of and adjacent to said lot 179. Said chain link fence shall be installed extending 11.61' into the northerly part of Plumer at its easterly boundary, 22.5' at its maximum, and 0' at its westerly boundary. The encroachment area shall be 122.5' wide along the property line. The mentioned guard rail shall be installed using seven (7) metal posts that shall extend no more or less than 3' below grade and be encased in concrete. Said guard rail posts shall extend above grade no more than 4'.

PROVIDED, that A.S. & J.D. McClellan, its assigned or employees, shall not operate heavy machinery or drive/park vehicles upon the public sidewalk, and be it further

PROVIDED, that A.S & J.D. McClellan maintains the sidewalk in good condition and complies to the City of Detroit construction standards, and be it further

PROVIDED, that A.S & J.D. McClellan, its assigned or employees, shall not store hazardous materials within the encroachment area. The City maintain the authority to conduct environmental reviews within the encroachment area. A.S. & J.D. McClellan shall be held responsible for any hazardous materials or contamination discovered in the ground soil and shall take any or all measures necessary to resolve the issue, and be it further

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 access is maintained to all fire department connections, 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 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, 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 A.S. & J.D. McClellan 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 A.S. & J.D. McClellan or their assigns. Should damages to utilities occur A.S. & J.D. McClellan 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 A.S. & J.D. McClellan 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 A.S. & J.D. McClellan or their assigns of the terms thereof. Further,

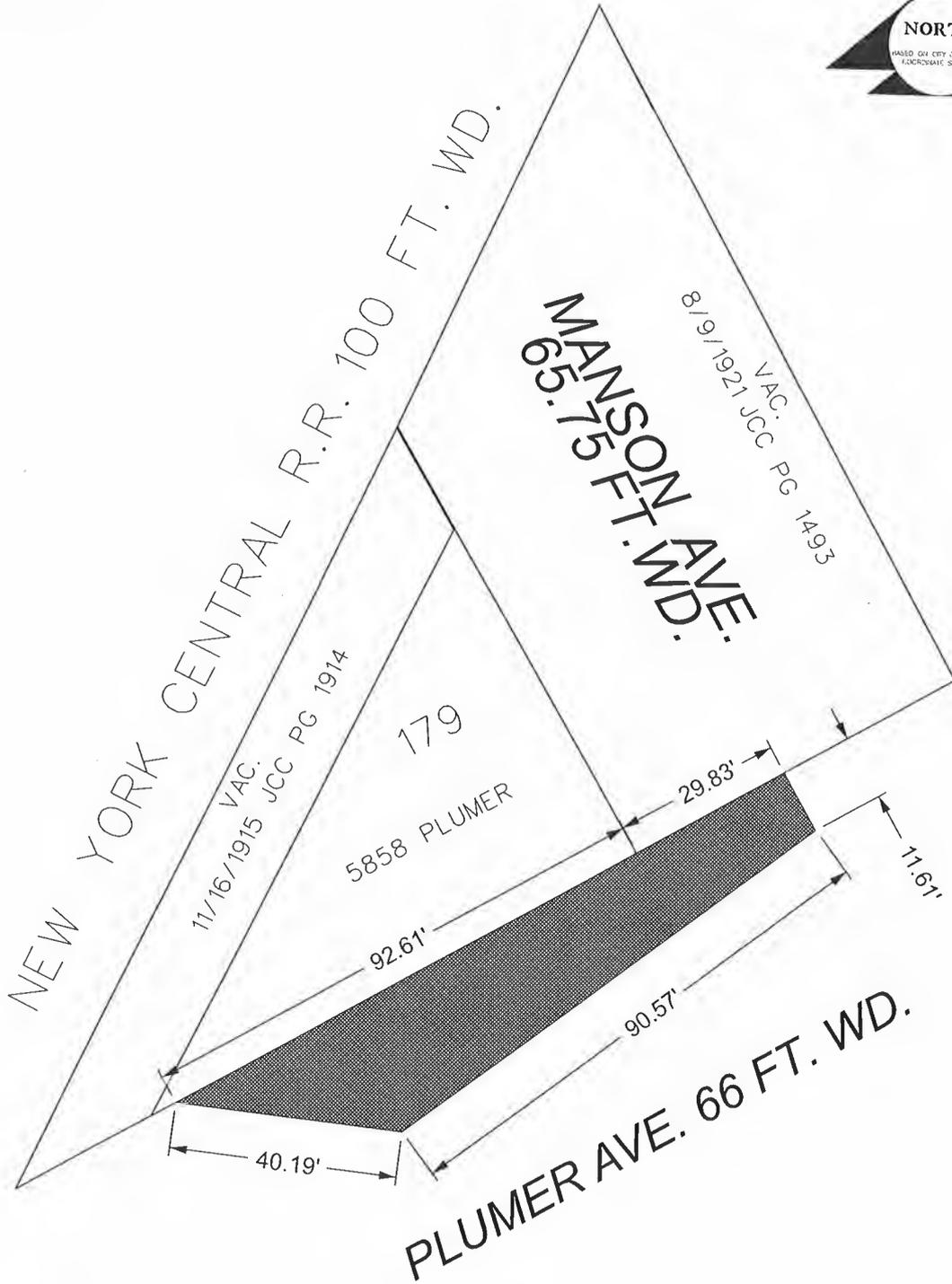
A.S. & J.D. McClellan or their assigns shall agree to pay all claims, damages or expenses that may arise out of the use, repair and maintenance of the proposed encroachments; and further

PROVIDED, that 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 is revocable at the will, whim or caprice of the City Council, and A.S. & J.D. McClellan 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.



- REQUEST ENCROACHMENT

(FOR OFFICE USE ONLY)

CARTO 12 E

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	LC	CHECKED		AP	
DATE	01-19-2024	APPROVED		JD	

REQUEST ENCROACHMENT
INTO PLUMER AVE.
AT 5858 PLUMER

CITY OF DETROIT
CITY ENGINEERING DIVISION
SURVEY BUREAU

JOB NO. 23-169

DRWG. NO.