

whenever the discontinuance of use makes such removal necessary.

All other involved City departments and privately-owned utility companies reported that they have no objections to the conversions of public right of way into an easement provided that proper provisions are incorporated into the vacating resolution protecting their installations located therein.

The adoption of the attached resolution is recommended.

Respectfully submitted,

CLARENCE C. RUSSELL  
Commissioner

By Councilman Rogell:

Resolved, That all that part of the north-south public alley, 15 feet wide, first easterly of Cass Avenue between Stimson and Myrtle Avenues lying between and abutting the northerly line of Stimson Avenue and the southerly line of Myrtle Avenue, as opened on December 26, 1962, J.C.C. 2928 to 2930, said alley appearing in the following subdivisions:

'Stimson's Subdivision of part of Park Lot 68', City of Detroit, as recorded in Liber 1, Page 217, Plats, Wayne County records;

Morhous Subdivision of lots 3 and 4 of Stimson's Subdivision of part of Park Lot 68, City of Detroit, Wayne County, Michigan, as recorded in Liber 20, Page 50, Plats, Wayne County records;

Be and the same is hereby vacated as a public alley and is hereby converted into a public easement of the full width of the alley, which easement shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of the lots abutting on said alley and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public an easement or right of way over said vacated public alley hereinabove described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or mains, telephone, electric light conduits or poles or things usually placed or installed in a public alley in the City of Detroit, with the right to ingress and egress at any time to and over said easement for the purpose above set forth,

Second, said owners for their heirs and assigns further agree that no buildings or structures of any nature whatsoever including but not limited to concrete slabs or driveways, retaining or partition walls (except necessary line fence) shall be built or placed upon said easement, nor any change of surface grade made, without prior approval by the Department of Public Works,

Third, that if at any time in the future the owners of any lots abutting on said vacated alley shall re-

quest the removal and-or relocation of any existing poles or other utilities in said easement, such owners, upon whose property the poles or other utilities are located shall pay all costs incidental to such removal and-or relocation, unless such charges are waived by the utility owners,

Provided Further, that if any utility located or to be located in said property shall break or be damaged as a result of any action on the part of the petitioner or assigns (by way of illustration but not limitation), such as storage of excessive weights of materials or construction not in accordance with Section 2, mentioned above, then in such event the petitioner or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility, and further

Resolved, That if at any time in the future it becomes necessary to remove the paved alley returns, then such removal and construction of new curb and sidewalk will be done by City permit and inspection, and according to Department of Public Works specification with the entire cost being borne by the petitioner or his assigns.

Adopted as follows:

Yeas — Councilmen Browne, Eberhard, Henderson, Hood, Levin, Rogell, and President Ravitz — 7.

Nays — None.

#### Department of Public Works

September 10, 1973

Honorable Common Council:

Re: Petition No. 6043; Use of Berm Area for Off-Street Parking at the Northwest Corner of Cass and Willis.

In compliance with policy adopted by your Honorable Body on August 24, 1972, (J.C.C. Pages 2195-97) concerning use of berm areas for parking of motor vehicles, the Department of Public Works has consulted with the City Plan Commission, Corporation Counsel, Community Development Commission, and the Department of Streets and Traffic regarding the above petition.

All Departments have approved the use of the berm area for public parking. The Petitioner is to provide necessary concrete curb stops to prevent cars from overhanging the sidewalk.

We are, therefore, submitting the following resolution authorizing the use of berm area and recommend approval of same.

Respectfully submitted,  
CLARENCE C. RUSSELL  
Commissioner

By Councilman Rogell:

Resolved, That the Department of Public Works be and it is hereby authorized and directed to issue permits to Robert A. Cobb to use southerly 25 feet of the paved area at the northerly side of Willis Avenue at the west side of Cass Avenue as

shown on Department of Public Works drawing number X-6043 as revised on September 7, 1973.

Provided, That the necessary permits be obtained from the Department of Public Works; and

Provided, That such use of said public property shall be made under the rules and regulations of the Department of Public Works and the Department of Streets and Traffic in accordance with plans approved by those departments, the Community Development Commission, and the City Plan Commission; and

Provided, That permittee install pre-cast concrete curb stops to prevent vehicular encroachment onto the sidewalk; and

Provided, That said permission may be rescinded at any time it is deemed necessary by Department of Streets and Traffic, and further, that the issuance of the permits shall not in any way waive the rights of the City to utilize the area for street widening or other purposes as may become necessary in the future; and

Provided, That the Department of Streets and Traffic post signs limiting parking to non-commercial vehicles; and

Provided, That all construction costs be borne by permittee; and

Provided, That the parking spaces shall not in any way waive the requirements of the Zoning Ordinance regarding off-street parking; and

Provided, That the berm area shall be open to the general public and shall not be reserved for the specific use of any certain establishment or establishments and/or their customers; and

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission, which is granted expressly on the condition that said encroachment and all obstructions in connection therewith shall be removed at the expense of the permittee at any time when so directed by the Common Council, and that the public property affected shall be restored to a condition satisfactory to said Departments by said permittee at its expense; and

Provided, That this resolution is revocable at the will, whim or caprice of the Common Council and permittee hereby expressly waives any right to claim damages or compensation for removal of encroachment; and further that permittee acquire no implied or other privileges hereunder not expressly stated herein; and

Provided, That these permits shall not be assigned or transferred without written approval of the Common Council; and

Provided, That the area be subject to any tax which may be levied against it under the terms of Public Act 189 of 1953 and such other taxes

as may be properly assessed and levied; and

Provided, That the securing of the necessary permits referred to herein shall be construed as acceptance of the terms of this resolution by the permittee; and

Provided, That a certified copy of this resolution be recorded with the office of the Register of Deeds for Wayne County.

Adopted as follows:

Yeas — Councilmen Browne, Eberhard, Henderson, Hood, Levin, Rogell, and President Ravitz — 7.

Nays — None.

#### Department of Public Works

September 14, 1973

Honorable Common Council:

Re: Petition No. 3905; Barton Homes, Inc.; Vacation of a portion of Pierson Avenue between Sawyer and Tireman.

The above petition requests the vacation of a portion of Pierson Avenue between Sawyer and Tireman Avenues. The requested vacation was recommended by the City Plan Commission with the further recommendation that sufficient land be dedicated for a new street turnaround. The petition was then referred to us for investigation and report. Our report, accompanied by the original petition, is as follows:

In accordance with the stipulations set forth by your Honorable Body at a hearing with the petitioner on April 10, 1973, the Corporation Counsel has approved a contract submitted by the petitioner and the property owners which stipulates:

"(1) Payment of Sixty-Nine Thousand Dollars (\$69,000.00) be made to the City for the necessary street paving, rerouting of City water-main, sewers and fire hydrant relocation, and creation for a turn around in Pierson Avenue, North of Sawyer Avenue.

"The petitioners agree to pay the sum of Ten Thousand Dollars (\$10,000.00) upon the signing of this Agreement, Six Thousand Dollars (\$6,000.00) of which will be payment for relocation of an existing water main to the City Department of Water and Supply, and payment of the balance of Fifty-Nine Thousand Dollars (\$59,000.00) during the period of time of construction of the aforementioned apartment building.

"Petitioners further agree, that in the event construction of said apartment building is completed and the payment of the balance of Fifty-Nine Thousand Dollars (\$59,000.00) aforementioned has not been made by the Petitioners; the City can and will withhold their required 'occupancy permit' until such payment is secured.

"Petitioners further agree, that in the event construction of their said apartment building is never com-