

tractor under the terms of final payment.

FLOYD C. MORSE,
Engr. of Tests and Insp.
G. R. THOMPSON,
City Engineer.
CARL D. WARNER,
Commissioner.

By Councilman Kronk:

Whereas, It appears from the foregoing communication that the paving contracts therein listed have been duly completed, and

Whereas, Said work has been found to be in accordance with the contracts and specifications for the same, and has been accepted by the Commissioner of Public Works, therefore be it

Resolved, That said contracts be and the same are hereby accepted.

Adopted as follows:

Yeas—Councilmen Beck, Connor, Garlick, Kronk, Rogell, Smith, Van Antwerp, Youngblood, and President Miriani—9.

Nays—None.

Reconsideration

Councilman Connor moved to reconsider the vote by which the resolution was adopted.

Councilman Garlick moved to suspend Rule 23 for the purpose of indefinitely postponing the motion to reconsider, which motion prevailed as follows:

Yeas—Councilmen Beck, Connor, Garlick, Kronk, Rogell, Smith, Van Antwerp, Youngblood, and President Miriani—9.

Nays—None.

Councilman Van Antwerp then moved that the motion to reconsider be indefinitely postponed, which motion prevailed.

The regular order was resumed

Department of Public Works

December 2, 1953.

Honorable Common Council:

Gentlemen—Your Committee of the Whole referred to this office for investigation and report the petition of Sears, Roebuck and Company (No. 7315) requesting the vacation of portions of Parker and Moffat Avenues and portions of the alleys south of Gratiot Avenue and west of Parker Avenue. The zoning changes and vacation of the streets and alleys were approved by the City Plan Commission in their communication to your Honorable Body of October 8, 1953.

We wish to advise that our investigations are completed and they disclose that the following departments and utility companies are affected by the changes as proposed:

1. Department of Water Supply: The petitioners have executed an easement over the portions of streets vacated protecting this department's interest in the water mains in the

streets to be vacated. The easement grant was approved by the Board of Water Commissioners and the Corporation Counsel's Office. This satisfies the requirements of the Department of Water Supply.

2. Detroit Fire Department: It will be necessary for this department to reroute three fire hydrants and telegraph circuits because of the vacation of the streets and alleys. The estimated cost of doing the necessary work is \$2,175.00.

3. Public Lighting Commission: The vacations will necessitate the rerouting of Public Lighting Commission overhead facilities located in the portion of Moffat Avenue to be vacated at an estimated cost of \$8,700.00.

4. Department of Public Works:

a) Street Design Division: This department requires the petitioner to reimburse the City \$1,300.89 for the original cost of paving Moffat, Maxwell and Parker Avenues at the intersection of the streets and alleys to be vacated.

b) Sewer Design Division: A proper provision is incorporated in the vacating resolution protecting the City's interests in the sewers located in the vacated area.

c) Street Maintenance Division: This department requires the petitioner to pave the newly deeded streets and to improve the land deeded for alley purposes. It also requires the petitioner to remove the paved returns at the entrance to the streets and alleys to be vacated and to construct straight curbing and sidewalks incident thereto.

5. Privately Owned Utility Companies (Gas, Edison and Telephone Company): All three privately owned utility companies are affected by the vacation of the streets and alleys.

It will be necessary for the petitioner to pay the costs of rerouting or abandoning all facilities affected by the vacations. Since the costs in some instances are as yet undetermined, the petitioner procured a surety bond in the amount of \$25,000, conditioned on payment of all costs incurred in the vacation of the streets and alleys by the City departments and privately owned utility companies. The amount of \$25,000 is stated not to be a limitation on the costs to be borne by the petitioner, said petitioner agreeing to pay all costs involved, the decision of the departments involved to be conclusive on all matters. The acceptance of the bond in lieu of an immediate cash deposit is approved by this office. The form of bond and its execution was approved by the Corporation Counsel.

Since the petitioner does not have title to the land to be deeded for street and alley purposes as per City Plan Commission's recommendation, petitioner merely having options

thereon, is has signed an agreement to deed the necessary land within 30 days after the adoption by your Honorable Body of a resolution amending the zoning ordinances and vacating the streets and alleys. Under the circumstances, we feel the agreement should be accepted. The vacations will be made subject to the proviso that such deeds are given the City within 30 days.

We recommend the adoption of the attached resolution.

Respectfully submitted,

CARL D. WARNER, Commissioner.

By Councilman Kronk:

Resolved, That all that part of Parker Avenue, 60 feet wide, south of Gratiot Avenue, as platted in Walch's Subdivision of Outlots 12, 13, 14, and 15, Subdivision of the Van Dyke Farm, P. C.'s 100 and 679, between Gratiot and Mack Avenues as recorded in Liber 21, Page 83 of Plats, Wayne County Records, lying between the south line, extended easterly, of Lot 79 of last mentioned subdivision and a line extending from the northwest corner of Lot 44 of last mentioned subdivision to the existing northeast corner of Lot 1 of Nicholas Walch's resubdivision of Lots 92 to 98, both inclusive, also vacated alley in rear of lots 93 to 98, of Walch's Subdivision of Outlots 12, 13, 14 and 15, Subdivision of the Van Dyke Farm, P. C. 100 and 679 between Gratiot and Mack Avenues as recorded in Liber 28, Page 12 of Plats, Wayne County Records, said existing northeast corner of Lot 1 being in the south line of Gratiot Avenue as now established at this point; Also, all of Moffat Avenue, 60 feet wide, between Parker and Maxwell Avenues, as platted in said Walch's Subdivision, lying south of and adjoining the south line of Lots 19 and 52, and the vacated alley lying between Lots 19 and 52, and north of and adjoining the north line of Lots 18 and 53 and the vacated alley lying between Lots 18 and 53 of last mentioned Subdivision; Also, all that part of north-south public alley 18 feet wide, in the block south of Moffat Avenue between Van Dyke and Parker Avenues, the westerly 1.56 feet and the easterly 6.44 feet of which was acquired by the City for alley purposes through condemnation proceedings and the remaining 10 feet of which was platted in said Walch's Subdivision, heretofore mentioned, lying west of the existing west line of Lots 79 to 83, both inclusive, of last mentioned subdivision; Also, all of east-west public alley, 20 feet wide, south of Moffat Avenue, between Van Dyke and Parker Avenues, which alley was deeded to the City of Detroit, and which said alley is in fact the north 20 feet of lot 83 of last

mentioned Walch's Subdivision; Also, all that part of north-south public alley, 18 feet wide, south of Moffat Avenue, between Parker and Maxwell Avenues, as platted in said Walch's Subdivision, lying west of and adjoining the west line of the north 15.50 feet of Lot 18 and east of and adjoining the east line of the north 15.50 feet of Lot 53 of last mentioned Subdivision; Be and the same are hereby vacated as public streets and alleys to become a part and parcel of the adjoining property, however, the above described alleys and all of Moffat Avenue and that portion of Parker Avenue lying between the extended north and south lines of Moffat Avenue are vacated subject to the following provisions:

(a) An easement is hereby reserved to the City of Detroit in the said vacated streets and alleys for the purpose of maintaining, operating, inspecting, replacing and/or repairing water mains and/or sewers and/or appurtenances located there, in said easement to be further evidenced by a written agreement, approved by the Corporation Counsel, signed by the parties and filed with the Register of Deeds of Wayne County, Michigan; which said agreement, in addition to any other provisions, shall also include the provisions of paragraphs (a) to (j), both inclusive, herein;

(b) All present manhole covers and other means of access to said water mains and sewers shall be maintained and preserved, but other such means may be substituted satisfactory to the Board of Water Commissioners of the said City; and the said City of Detroit and any official or agent thereof shall have the right to enter into and upon the said easement at any and all times for the purpose of maintaining, operating, inspecting, replacing and/or repairing said water mains and/or sewers and/or appurtenances thereto;

(c) No building or structure or part thereof of any nature whatsoever shall be erected, constructed or permitted within the limits of said easement and it shall be kept free from all obstructions or obstacles which would impede access with the necessary equipment to said water mains and sewers. If any building, structure or part thereof is erected, constructed or permitted thereon the City of Detroit, or its authorized agent, reserves the right and is authorized to enter upon the said limits and to dismantle, tear down and remove any and all parts thereof so encroaching, and the owner for itself, its successors and assigns, waives all claims of damages against the City of Detroit and/or its authorized agent due to trespass or damage resulting from such dismantling, tearing down or removal;

(d) That the Petitioner shall agree to assume the defense of and to indemnify and save harmless the said City of Detroit, its successors and assigns, from any and all claims of loss, damage, costs and expenses to the said City of Detroit which may result from the breach of any of the terms of this Agreement, and/or from any and all claims of loss, damage, costs and expenses to persons or property, including that of the said Petitioner, which may occur on the premises owned or under the control of the said Petitioner and covered by this easement herein granted, as the result of the existence of, or the failure of said water mains and/or sewers and/or appurtenances, or from the acts of the said City of Detroit or its agents, in maintaining, operating, inspecting, replacing and/or repairing said water mains and/or sewers and/or appurtenances, and/or from any and all claims of loss, damage, costs and expenses whatsoever to persons or property wherever located, including that of the parties hereto, which may occur as the result of any acts of the Petitioner, its agents, successors or assigns, which causes or contributes to damage ensuing from the existence of, or a failure of said water mains and/or sewers and/or appurtenances;

(e) That the Petitioner grant and convey to the said City of Detroit for street and alley purposes (1) the southerly 26 feet of Lot 18 and of Lot 64 of said Walch's Subdivision, and (2) All of Lots 77 and 78 of said Walch's Subdivision, and (3) All that part of Lot 16 of Subdivision of part of Van Dyke Farm P. C. 100 north of Mack Street, in P. C. 679 between Gratiot and Mack Streets, as recorded in Liber 1, page 149 of Plats, Wayne County Records, being the westerly 110 feet of the northerly 40 feet of the southerly 60 feet of the northerly 371.71 feet of said Lot 16, lying southerly of, and adjoining the southerly line of Moffat, 60 feet wide, as now established and lying easterly of, and adjoining the southerly line of Moffat, 60 feet wide, as now established and lying easterly of, and adjoining the easterly line of Van Dyke, 66 feet wide, as now established, which said parcel adjoins the northerly limit of lands conveyed by said petitioner to the City of Detroit in Warranty Deed recorded in Liber 5010, page 459 in said Wayne County Records; and (4) the westerly 20 feet of Lot 16 of Subdivision of Van Dyke Farm;

(f) That the Petitioner shall construct an ornamental concrete and picket fence or screen along all the easterly and southerly outside boundaries of its new parking area, except for the required exits or entrances, and shall plant trees along the northerly line of the extension of Parker

Avenue to the west connecting with Van Dyke Avenue, together with such landscaping on that line as may be practical;

(g) That Petitioner shall reimburse the City of Detroit for the original cost of paving one-half of the said intersecting streets and alleys and shall pay all costs for removing the paving return at the entrance to the vacated areas and for the construction of new curbings and sidewalks, and for other costs incident to the said vacations;

(h) That the said easement shall not be terminated in whole or in part or otherwise modified or changed except by and with the approval of the Common Council of the City of Detroit, and in the event of the termination of said easement through the action of such Common Council, the Petitioner shall pay to the said City of Detroit all costs of rerouting and relocating said water mains and/or sewers and/or appurtenances under plans and specifications satisfactory to the said City of Detroit;

(i) That the above vacations shall not become effective unless and until a properly executed deed to certain lands to be used for street and alley purposes in accordance with the City Plan Commission's recommendation is given to the City and accepted by the Common Council within 30 days from the date of this resolution;

(j) That the said vacations shall not be effective until the said Petitioner has carried out the provisions embodied herein and the Common Council by resolution has so stated.

Adopted as follows:

Yeas — Councilman Beck, Connor, Garlick, Kronk, Smith, Van Antwerp, and President Miriani—7.

Nays — Councilmen Rogell, and Youngblood—2.

Department of Public Works

December 2, 1953.

Honorable Common Council:

Gentlemen—When Pembroke Avenue from Northrop to Lahser was paved in 1951, and from Berg to Northrop in 1953, there was an unplatted parcel on the south side of the center line of Pembroke from the center line of McIntyre to 55.43 feet east of the east property line of Northrop, a distance of 391.88 feet.

Since the owners refused to dedicate this portion for street purposes, it was necessary to omit this section of paving. Subsequently, condemnation proceedings were instituted and the land became part of the street in November, 1953.

In order to complete the paving at this point and to eliminate a traffic hazard, it is recommended that this section of the street be paved with one course concrete to a width of fifteen feet, under the Forced Paving