

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Eberhard, Hood, Kelley, Mahaffey, McFadden, Rogell, and President Henderson — 9.

Nays — None.

**Environmental Protection &
Maintenance Department
City Engineering Division, EPMD
December 27, 1978**

Honorable City Council:

Re: Petition No. 5787. Shiloh Freewill Baptist Church Conversion to Easement of a portion of the north-south public alley south of Wolff Avenue, between Scotten and Palmer Avenues.

The above petition requests the conversion of the above described portion of public alley, 20 feet wide, into an easement for public utilities. The requested conversion into easement for public utilities was approved by the Community and Economic Development Department, with the recommendation that sufficient land be dedicated for a new alley outlet into Scotten Avenue. The petition was then referred to us for investigation and report. Our report, accompanied by the original petition is as follows:

The petitioner has made the following deposit with the City Treasurer, which has been credited to the department and account named, for the purpose indicated:

Environmental Protection and Maintenance Department Receipt No. GR 22698 \$1,250.00 for the estimated cost to construct a new concrete alley return and grade and stone the newly dedicated alley outlet.

A Warranty Deed has been received from the petitioner, deeding to the City of Detroit, land for the new alley outlet. This deed was approved as to form and execution by the Law Department and as to description by the City Engineer, and is attached for your Honorable Body's acceptance.

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

The adoption of the attached resolution is recommended.

Respectfully submitted,
LOUIS W. KLEI
City Engineer

Approved:
JAMES W. WATTS
Director

By Council Member Cleveland:

Resolved, that all that part of the north-south public alley, 20 feet wide, south of Wolff Avenue, between Scotten and Palms Avenues, abutting the northerly 85 feet of lot 24, and abutting the rear line of lots 3 and 4 and the northerly 23 feet of lot 2, all inclusive of the Plat of Wolff's Subdivision of lots 6, 7 and 8 of Scotten's Subdivision of lots 71, 72, 73 and 74 of P.C. 563, Springwells (now Detroit), Wayne County, Michigan, as recorded in Liber 8, Page 35, 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 purpose 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 Environmental Protection and Maintenance Department.

THIRD, that if at any time in the future the owners of any lots abutting on said vacated alley shall request 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 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 be it further

Resolved, that the Warranty Deed of the Shiloh Free Will Baptist Church deeding land to the City of Detroit for alley purposes being described as:

The southerly 20 feet of the northerly 25 feet of the westerly 109.4 feet, except that part taken for an alley of lot 5 of Daniel Scotten's Subdivision of Lots 71, 72, 73 and 74 of the Subdivision of P.C. 563, J.B. Campau Farm, Township of Springwells (now Detroit) Wayne County, Michigan as recorded in Liber 1, Page 190, Plats, Wayne County Records.

Be and the same is hereby accepted, and the Finance Director is hereby directed to record said deed in the office of the Register of Deeds for Wayne County, and further

Resolved, that the City Clerk is hereby directed to send a copy of this resolution to the Detroit Edison, Michigan Bell Telephone, and the Michigan Consolidated Gas Companies.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Eberhard, Hood, Kelley, Mahaffey, McFadden, Rogell, and President Henderson — 9.

Nays — None.

**Environmental Protection &
Maintenance Department
City Engineering Division, EPMD**

Honorable City Council:

Re: Petition No. 991 Mr. G.R. Hermann. Request to erect a pool encroaching into easement.

Your Committee of the Whole referred the above petition to this office for investigation and report. The Environmental Protection and Maintenance Department has made a field investigation of petitioner's request. Our findings are as follows:

Petitioner's lot is 149 feet deep which dimension includes a 9 foot easement at the rear. Petitioner wishes to construct an above ground swimming pool which will encroach 3 feet into the easement.

We find that the above request for permission to encroach into the easement complies with the policy adopted by your Honorable Body on February 23, 1965, J.C.C. Page 348 and 349. An appropriate resolution is at-

tached for consideration and adoption by your Honorable Body.

Respectfully submitted,

LOUIS W. KLEI
City Engineer

Approved:

CHARLIE J. WILLIAM
for JAMES W. WATTS
Director

By Council Member Cleveland:

Resolved, that the Environmental Protection and Maintenance Department is hereby authorized and directed to issue permit to Mr. Gerard F. Hermann to construct an above ground swimming pool which will encroach 3 feet into the 9 foot wide public utility easement at the rear of Lot 1010 of the Yorkshire Woods Subdivision No. 5 as recorded in Liber 48, Page 79, Plats, Wayne County records; located on the east side of Moon Avenue, north of Canyon commonly known as 18944 Moon.

PROVIDED, that said permits shall be issued only after a certified copy of this resolution has been recorded by and at the petitioner's expense in the Office of the Register of Deeds for Wayne County; and further

PROVIDED, that no right in the public easement shall be considered waived by this permission which is granted expressly on the condition that the garage, driveway, building and all obstruction in connection therewith shall be removed at the expense of the grantee at any time when so directed by the Common Council; and further

PROVIDED, if at any time in the future it becomes necessary to repair or replace the sewers or other utilities located or to be located in said easement by the acceptance of this permission, the owners for themselves, their heirs and assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal, if their removal becomes necessary, and to restore the property affected to a condition satisfactory to the Department of Public Works at the owners' expense; and further

PROVIDED, that this resolution is revocable at the will, whim, or caprice of the Common Council, and the grantees by the acceptance of this permission waive any right to claim damages or compensation for any driveways or structures constructed and maintained hereunder, or for removal of the same, and they acquire no implied nor any other privileges not expressly stated herein.