

Provided, That such use of public property shall be under the rules and regulations of the City Engineering Department in conjunction with the Department of Transportation and the Community and Economic Development Department; and

Provided, The petitioner shall not use the berm area for parking vehicles, boats, campers or trailers; and

Provided, That the property owned by the petitioner and adjoining the herein above described berm area shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total width and length of said berm; and

Provided, That no building, tool shed, swimming pool, 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 berm area, nor any change of surface grade made, without the prior approval of the City Engineering Department; and

Provided, The City of Detroit retains all rights and interests in the berm area. Further, the City and all utility companies retain their rights to establish, maintain, inspect and service any utilities in or over said berm area. The utility companies shall have the right to cross or use the driveway and yard of the adjoining property for ingress and egress at any time to and over said berm area with any necessary equipment to perform the above mentioned tasks. The utility companies shall use due care in such crossing or use. Any property damaged by the utility companies (other than that specifically prohibited by this resolution) shall be restored to a satisfactory condition; and

Provided, Said permission to use the berm area may be rescinded at any time by the Department of Transportation. Further, the issuance of permits does not waive the rights of the City to use the area for street widening or other purposes; and

Provided, The petitioner shall negotiate an occupancy agreement for payment of an annual private use (rental) fee with the Community and Economic Development Department — Real Estate Division and the Law Department prior to the City Engineering Department issuing a berm use permit; and

Provided, The petitioner shall construct a new concrete sidewalk within the remaining berm area of Hayes Avenue (13 feet wide more or less, along the west side of the public street). The new relocated public sidewalk shall be a duplicate-replacement of the existing public sidewalk. The construction and

placement must conform to the specifications of the City Engineering Department and the Department of Transportation. Also, the petitioner shall be required to construct and maintain the new public sidewalk at his expense under City permits and inspection; and

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission. This private use of public right-of-way is a conditional encroachment-grant. Encroachments and all obstructions must be removed by the permittee at any time when directed by the City Council. The public property (berm area and sidewalk) shall be restored to a condition satisfactory to the City Engineering Department by the petitioner at the petitioner's expense; and

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and the permittee waives any right to claim damages or compensation. Further, the permittee acquires no implied or other privileges not expressly stated herein; and

Provided, That this permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, That a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs.

Adopted as follows:

Yeas — Council Members Cleveland, Eberhard, Mahaffey, Peoples, Ravitz, and President Henderson — 6.

Nays — None.

#### City Engineering Department

July 31, 1987

Honorable City Council:

Re: Petition No. 41, Mount Zion Baptist Church. Request outright vacation, conversion to easement, and dedication of alley portions north of Mack, between Van Dyke and Parker.

Petition No. 41 of Mount Zion Baptist church requests the outright vacation and conversion into a public utility easement of portions of the north-south and east-west public alleys (10, 18 and 20 feet wide) north of Mack Avenue between Van Dyke and Parker Avenues.

The petitioner is developing property to construct a new church building.

The requested outright vacations and conversion to easement were approved by the Community and Economic Development Department with the recommendation that land be dedicated for a new alley outlet into Van Dyke. The petition was referred to the City Engineering Department for investigation and report. This is our report:

A deed has been received from the petitioner, deeding to the City the necessary property. The deed was approved as to form and execution by the Law Department and as to description by the City Engineering Department.

The petitioner has received the approval of your Honorable Body to relocate the public sewer (by private contract) through the dedicated property into Van Dyke. (April 8, 1987 J.C.C. pages 724-725; revised July 29, 1987 — Petition No. 41A; L.S. #7366)

The church (through its agent) has filed a letter agreeing to stone, grade and construct a concrete return over the dedicated public alley. This work will be done by private contract (within 120 days) under City permits, inspection and specifications.

The petitioner plans to use the paved alley return entrance (into Parker Avenue) and requests such remain in its present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

The petitioner will remove the existing paved alley return entrance into Van Dyke. The petitioner shall pay all incidental removal costs.

All other involved City departments and privately-owned utility companies have reported no objection to the proposed vacation and conversion to easement. Satisfactory arrangements have been made with all City departments and privately-owned utility companies.

An appropriate resolution is attached for consideration by your Honorable Body.

Respectfully submitted,  
CLYDE R. HOPKINS  
Director

By Council Member Mahaffey:

Resolved, That all that part of the east-west public alley, 20 feet wide, north of Mack Avenue between Van Dyke and Parker Avenues lying southerly of and abutting the south line of Lot 11; also lying northerly of and abutting the north line of the west 20.00 feet of Lot 8, Lots 9 and 10 of "Thomas and Cameron's Subdivision of Lots No. 28, 29, 30, 31 and 32, Van Dyke Farm", Private Claims 100 and 679, Hamtramck Township, City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 59, Plats, Wayne County Records; also

All that part of the north-south public alley, 18 feet wide, north of Mack Avenue between Van Dyke and Parker Avenues lying easterly of and abutting the east line of the north 13.00 feet of the west 20.00 feet of Lot 8, the east-west public alley (20 feet wide), Lots 11 and 12; also lying westerly of and abutting the west line of the east-west public alley

(10 feet wide), Lots 61 and 62 of "Thomas and Cameron's Subdivision of Lots No. 28, 29, 30, 31 and 32, Van Dyke Farm", Private Claims 100 and 679, Hamtramck Township, City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 59, Plats, Wayne County Records; also

All that part of the east-west public alley, 10 feet wide, north of Mack Avenue between Van Dyke and Parker Avenues lying southerly of and abutting the south line of the west 58.50 feet of Lot 62; also lying northerly of and abutting the north line of the east 7.00 feet of Lot 8, and Lot 7 of "Thomas and Cameron's Subdivision of Lots No. 28, 29, 30, 31 and 32, Van Dyke Farm", Private Claims 100 and 679, Hamtramck Township, City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 59, Plats, Wayne County Records; also

Be and the same are hereby vacated as public alleys to become a part and parcel of the abutting property; subject to this condition:

Provided, The petitioner shall remove the existing paved alley return entrance into Van Dyke Avenue. Such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Department specifications with all costs borne by the petitioner, their heirs or assigns; and be it further

Resolved, that all that part of the east-west public alley, 10 feet wide, north of Mack Avenue between Van Dyke and Parker Avenues lying southerly of and abutting the south line of the east 51.50 feet of Lot 62; also lying northerly of and abutting the north line of Lot 6 of "Thomas and Cameron's Subdivision of Lots No. 28, 29, 30, 31 and 32, Van Dyke Farm", Private Claims 100 and 679, Hamtramck Township, City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 59, 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 herein above 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 utility easement or right-of-way in and over said vacated alley herein above described shall be forever accessible to the maintenance and inspection forces of the utility companies, or those specifically authorized by them, for the purpose of inspecting, installing, maintaining, repairing, removing, or replacing any sewer, conduit, water main, gas line or main, telephone or light pole or any utility facility placed or installed in the utility easement or right-of-way. The utility companies shall have the right to cross or use the driveways and yards of the adjoining properties for ingress and egress at any time to and over said utility easement with any necessary equipment to perform the above-mentioned tasks, with the understanding that the utility companies shall use due care in such crossing or use, and that any property damaged by the utility companies, other than that specifically prohibited by this resolution, shall be restored to a satisfactory condition.

THIRD, 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 of the City Engineering Department.

FOURTH, that if 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, shall pay all costs incidental to such removal and/or relocation, unless such charges are waived by the utility owners.

FIFTH, that if any utility located in said property shall break or be damaged as a result of any action on the part of said owners or assigns (by way of illustration but not limitation) such as storage of excessive weights of materials or construction not in accordance with Section 3, mentioned above, then in such event said owners or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility, and

Provided, That if it becomes necessary to remove the paved alley return at the (Parker Avenue) entrance, such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Department specifications

with all costs borne by the petitioner, their heirs or assigns; and

Provided Further, That a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs; and be it further

Resolved, That the warranty deed of Mount Zion Missionary Baptist Church, Incorporated, a Michigan Ecclesiastical Corporation, deeding land to the City of Detroit for a new alley outlet into Van Dyke Avenue, being described as:

Land in the City of Detroit, Wayne County, Michigan, being the south 20.00 feet of Lot 13 of "Thomas and Cameron's Subdivision of Lots No. 28, 29, 30, 31 and 32, Van Dyke Farm", Private Claims 100 and 679, Hamtramck Township, City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 59, Plats, Wayne County Records;

Be and the same is hereby accepted, and the Law Department is directed to record the deed with the Wayne County Register of Deeds; subject to these conditions:

Provided, The petitioner shall relocate the public sewer (by private contract) through the herein above described dedicated property into Van Dyke Avenue. This work shall be performed in accord with the City Council resolution(s) adopted on April 8, 1987 (J.C.C. pages 724 to 725; revised July 29, 1987 — Petition No. 41A; L.S. #7366); and

Provided, The petitioner shall construct a new concrete alley approach at the entrance of said dedicated public alley; also to stone and grade the new alley according to City permits, inspection and specifications within 120 days of the date of passage of this resolution. The petitioner shall pay all expenses.

Adopted as follows:

Yeas — Council Members Cleveland, Eberhard, Mahaffey, Peoples, Ravitz, and President Henderson — 6.

Nays — None.

#### City Planning Commission

July 29, 1987

Honorable City Council:

Re: (Petition #682) R. A. Fitzpatrick Construction Corp., 18445 Weaver Ave. Conversion to easement of portion of Faust, west of Weaver.

The R. A. Fitzpatrick Construction Corp. has requested Your Honorable Body to approve the above-noted conversion of a portion of Faust Ave. into an easement for public utilities. If this request is approved, the petitioner plans to use the paved street return entrance and requests such remain in its present status. The petitioner is making this request to eliminate problems related to trash dumping and illegal crossing of