

City Engineering Department

July 9, 1990

Honorable City Council:

Re: Petition No. 3048. John W. Vincent, 17304 Parkside Avenue, Street Vacation and Easement, Santa Maria between Parkside and Fairway Drive (a private street).

Petition No. 3048 of "John W. Vincent (owner of 17304 Parkside Avenue)" requests the conversion of a portion of Santa Maria Avenue, 50 feet wide, between Parkside Avenue and Fairway Drive (a private street) into an easement for public utilities; also the outright vacation of the remaining (10' x 129') portion of said Santa Maria Avenue.

The unimproved (dead end) public street right-of-way has been maintained by the adjoining property owner since 1926 (estimate). The petitioner owns lots on both sides of said Santa Maria Avenue.

The requested conversion was approved by the Community and Economic Development Department. The petition was referred to the City Engineering Department for investigation and report. This is our report:

The City Engineering Department has made a field investigation of the request. A sun porch and patio encroaches within the public street right-of-way. Also, the petitioner has a private asphalt driveway across the public street right-of-way. Our field survey notes (containing the existing encroachments) were reviewed by the public and privately-owned utilities. The outright vacation of a (10' x 129') portion of the public street will remove an encumbrance to any sale of the residential parcel.

The existing driveway is paved with asphalt. The petitioner can be allowed to maintain the existing driveway, but resurfacing must be with asphaltic (or other bituminous) material on an earth sub-grade.

City departments and privately-owned utility companies have reported no objections to the outright vacation (of a 10' x 129' portion) and the conversion of public rights-of-way into a utility easement. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
CLYDE R. HOPKINS,
Director

By Council Member Cleveland:

Resolved, All that part of the north 10.00 feet of the west 129.00 feet of Santa Maria Avenue, 50 feet wide, east of Parkside Avenue lying southerly of and abutting the west 129.00 feet of the south line of Lot 652 as platted in "Golf Club Addition of a Part of the West Half

of Section 10, Town 1 South, Range 11 East, Greenfield Township", City of Detroit, Wayne County, Michigan as recorded in Liber 37, Page 1, Plats, Wayne County Records;

Be and the same is hereby vacated as public (street) right-of-way to become a part and parcel of the abutting property; and be it further

Resolved, All that part of the south 40.00 feet of Santa Maria Avenue, 50 feet wide, east of Parkside Avenue lying northerly of and abutting the north line of Lot 653 as platted in "Golf Club Addition of a Part of the West Half of Section 10, Town 1 South, Range 11 East, Greenfield Township", City of Detroit, Wayne County, Michigan as recorded in Liber 37, Page 1, Plats, Wayne County Records; also

All that part of the north 10.00 feet of the east 6.00 feet of Santa Maria Avenue, 50 feet wide, west of Fairway Drive (a private street, 45 feet wide) lying southerly of and abutting the east 6.00 feet of the south line of Lot 652 as platted in "Golf Club Addition of a Part of the West Half of Section 10, Town 1, South, Range 11 East, Greenfield Township", City of Detroit, Wayne County, Michigan as recorded in Liber 37, Page 1, Plats, Wayne County Records;

Be and the same is hereby vacated as public street and is hereby converted into a public easement of the full width of the street, 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 street 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 street 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 street 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 street 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 concrete driveways, retaining or partition walls (except necessary line fence, and the existing residential asphalt driveway) shall be built or placed upon said easement, nor 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 street 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 any part of the existing driveway over said utility easement is resurfaced, then it must be resurfaced with asphaltic (or other bituminous) materials on an earth subgrade. Also, if any concrete slab is placed over said utility easement (prohibited by Section 3, mentioned above), then said owners or assigns shall be liable for all additional removal costs incurred by public or private utilities in the installation, maintenance, or repair of utility facilities; 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.

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9.

Nays — None.

City Engineering Department

June 26, 1990

Honorable City Council:

Re: Petition No. 3538, Eugene A. Gargaro, Jr. and Liberty Temple Baptist Church. Alley to Easement portion of north-south public alley in the block bounded by Greenfield, Prest, W. McNichols, and Santa Maria; also requesting permission to encroach with a masonry screen wall (longitudinally) along and across the alley.

Petition No. 3538 of "Eugene A. Gargaro, Jr. and Liberty Temple Baptist Church" requests the conversion of a portion of the north-south public alley, 20 feet wide, in the block bounded by Greenfield Road, Prest Avenue, W. McNichols Road, and Santa Maria Avenue into an easement for public utilities; also to encroach (longitudinally) along and across the (converted) public alley with a masonry screen wall (approximately 4.50 to 6 feet in height with below grade footings).

The encroaching screen wall is necessary to separate church parking (P1 zoning lots) and residential properties.

The requested conversion into a public utility easement was approved by the Community and Economic Development Department. The petition was referred to the City Engineering Department for investigation and report. This is our report:

The petitioner(s) were unable to obtain the written consent from the owners of 17171 and 17203 Prest Avenue. However, all of the abutting property owners have reversionary interest in the (to be converted) public alley. To acquire the entire (converted) public alley for parking, the petitioner(s) must purchase the reversionary interest of all the abutting residential property owners.

Provisions protecting the Water and Sewerage Department's interests in the public sewer are incorporated into the resolution.

All other City departments and privately-owned utility companies have replied they have no objection to the proposed conversion or the encroachment. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations.

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

Respectfully submitted,
CLYDE R. HOPKINS,
Director

By Council Member Cleveland:

Resolved, The City Engineering Department is hereby authorized to issue