

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 shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW at the permittee's sole cost and expense; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or City policies (governing the placement of encroachments in public rights-of-way) are amended to provide for the levying thereafter, of a fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and the permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That the petitioner shall apply to and become a participating member of the "Miss Dig" organization; and further

Provided, That if it become necessary to occupy or barricade any part of the limited access right-of-way way of the John C. Lodge Freeway service drive known as James Couzens Drive to install or maintain any (permitted) monitoring well within Meyers Road, 86 feet wide, between James Couzens Drive and W. McNichols Road, such work shall be subject to the review, approval and permits of the Michigan Department of Transportation (if necessary); and further

Provided, The filing of the indemnity agreement and the securing of the necessary permit(s) referred to herein shall be construed as acceptance of this resolution by the permittee; and further

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

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds; and be it further

Resolved, The petitioner "Total Petroleum, Inc., owner of Total Station Building #2566 at 16850 James Couzens" and/or "Enecotech Midwest (Environmental Consultants), Inc." shall submit "as built" drawing(s) sealed by a professional engineer registered in the State of Michigan to the City Engineering Division — DPW within 30 days after obtaining the necessary "encroachment" permit to install four proposed monitoring wells. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachment" with courses, distances, and depth throughout (containing City of Detroit datum), so that it may be determined with certainty where any portion of the "encroachment" has been built. Copies of the certified "as built" map(s) and survey(s) shall be an "appendix" to this City Council resolution. Said "appendix" shall be recorded by the City Engineering Division — DPW in the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams, and President Mahaffey — 9.

Nays — None.

Department of Public Works City Engineering Division

November 29, 1994

Honorable City Council:

Re: Petition No. 2920. Robert R. Kelel (together with Modesto Cisneros), et al. Alleys to Easement remaining public alleys in the block bounded by Kentfield, Heyden, Puritan and Grand River.

Petition No. 2920 of "Robert R. Kelel (together with Modesto Cisneros), et al" requests the conversion of the remaining public alleys (16, 20 and variable width) in the block bounded by Kentfield, Heyden, Puritan and Grand River Avenues into a private easement for public utilities.

The requested conversion was approved by the Planning and Development Department and the Traffic Engineering Division — DPW. The petition was referred to the City Engineering Division — DPW for investigation and report. This is our report:

The petitioner(s) plan to use the paved alley return entrances (into Kentfield and Heyden Avenues) and requests such

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remain in their present status. The petitioner(s) shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately-owned utility companies have reported no objections to the conversion of public rights-of-way into a private easement for public utilities. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Everett:

Resolved, All of the remaining public alleys (16, 20 and variable width) in the block bounded by Kentfield, Heyden, Puritan and Grand River Avenues (part of the north-south public alley, 16 feet wide, in said block having been previously vacated by Wayne County Circuit Court Civil Action File No. 159400 on July 31, 1970) lying southerly of and abutting the south line of Lots 516 thru 522; also lying northerly of and abutting the north line of Lot 523; also lying easterly of and abutting the east line of Lots 523 thru 525 of "Grand River Suburban Subdivision No. 1 of part of Southeast Quarter of Northeast Quarter of Section 15, Town 1 South, Range 10 East" (Redford Township), City of Detroit, Wayne County, Michigan as recorded in Liber 36, Page 1, Plats, Wayne County Records; also lying southerly of and abutting the south line of Lots 174 thru 181; also lying northerly of and abutting the north line of Lot 182; also lying northerly of and abutting the northwesterly line of Lot 182; also lying westerly of and abutting the west line of the north 42.05 feet of Lot 182 of "Houghton Manor Subdivision of part of East Half of Northeast Quarter of Section 15, Town 1 South, Range 10 East" (Redford Township), City of Detroit, Wayne County, Michigan as recorded in Liber 59, Page 82, Plats, Wayne County Records;

Be and the same are hereby vacated as public alleys and are hereby converted into a private easement for public utilities of the full width of the alleys, 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 alleys 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 alleys 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 alleys 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 change of surface grade made, without prior approval of the City Engineering Division — DPW,

Fourth, that if the owners of any lots abutting on said vacated alleys 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 further

Provided, That if it becomes necessary to remove the paved alley returns at the entrances (into Kentfield and/or Heyden Avenues), such removal and construction of new curb and sidewalk shall be done under city permit and inspection according to City Engineering Division — DPW specifications with all costs borne

by the abutting owner(s), their heirs or assigns; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 9.

Nays — None.

**Department of Public Works
City Engineering Division**

December 2, 1994

Honorable City Council:

Re: Addendum to Petition No. 2445 (from 1988) Forbes Management, Inc. Theatre District — Phase III Temporary Alley Closing Extended Street and Alleys to Easement all in the area bounded by Woodward, Witherell, Elizabeth and Montcalm.

To develop the "Palms and Gem" vicinity as a Theatre District the following resolutions closing parts of Columbia Street, 50 feet wide, and public alleys have been previously adopted by your Honorable Body:

Petition No. 2340; September 21, 1988 — J.C.C. pages 2309-10; Addendum to #2340; September 28, 1988 — J.C.C. pages 2354-55; Petition No. 2445; September 28, 1988 — J.C.C. pages 2355-58.

To consolidate properties owned by "Forbes Management, Inc." it is necessary to convert the remaining parts of public rights-of-way, excluding one 'L-shaped' public alley (20 feet wide), in the area bounded by Woodward Avenue, Witherell, Elizabeth and Montcalm Streets into a private easement for public utilities.

The petitioner is requesting an extension of the previously granted "temporary closing" of one 'L-shaped' public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia Streets. The referenced "temporary public alley closing" expired on November 1, 1993.

The petitioner has submitted an addendum letter to the City Engineering Division — DPW.

The addendum requesting street and alley vacations east of Woodward; also the extension of the referenced "temporary public alley closing" was approved by the Planning and Development Department in a letter received on August 31, 1994.

The Water and Sewerage Department will require unimpeded access to existing sewers. Any fence and gate installations must provide 13 feet horizontal and 15 feet vertical clearances for maintenance vehicles.

The petitioner plans to use the paved street and alley return entrances (into Woodward Avenue, Montcalm and Witherell Streets) and requests such remain in their present status. Forbes Management, Inc. shall pay all incidental removal costs whenever discontinuance of use makes removal necessary. [NOTE: Permission to remove or modify the paved street return into Woodward Avenue must be obtained from the Michigan Department of Transportation.]

Forbes Management, Inc. must apply to the Department of Public Works (in conjunction with any building permits required by Buildings and Safety Engineering Department, if necessary) for the review and approval of "curb cuts" to change, remove and/or replace drive-ways and/or paved return entrance(s) into Witherell, Elizabeth or Montcalm Streets. [NOTES: The city reserves the right to require a surety bond in a penal sum of dollars, amount to be determined by the Law Department in conjunction with the Finance Department — Risk Management Division, for the proposed removal of the paved alley return into Elizabeth. A surety bond must remain in perpetuity as long as the 'L-shaped' public alley is "temporarily closed" and subject to being reopened for public use.]

All other city departments and privately-owned utility companies have reported no objections to the addendum provided they have the right to ingress and egress at all times to their facilities. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Everett:

Whereas, The following petition to temporarily close a 'L-shaped' public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia Streets has been previously granted by City Council:

Petition No. 2445; September 28, 1988 — J.C.C. pages 2355-58; and

Whereas, This temporary closing expired on November 1, 1993 and the petitioner has requested a further extension (Addendum to Petition No. 2445) as submitted in an addendum letter to the City Engineering Division — DPW (dated April 19, 1993); and

Whereas, The addendum requesting street and alley vacations east of Woodward; also the extension of the referenced "temporary public alley closing" was approved by the Planning and Development Department in a letter