

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 and restricted plant materials; said fence and gate installations shall be subject to the review and approval of the Fire Marshall and Buildings and Safety Engineering Departments, if necessary; also plant materials shall be subject to the review and approval of the Recreation Department, if necessary) 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 street shall request the removal and/or relocation of any hydrants, catch basins, drains, 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 cost incidental to the repair of such broken or damaged utility; and further

Provided, An easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewerage Department (DWSD) for the purpose of installing, maintaining, repairing, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement for the purpose above set forth. Free and easy access to the sewers, water mains, fire hydrants and appurtenances within the easement is required for the DWSD equipment, including the use of backhoes, bulldozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities. The DWSD retains the right to install suitable permanent main location guide post over its water mains at reasonable intervals and at points of deflection; and further

Provided, Said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including fences, porches, patios, balconies, etc.,

shall be built upon or over said easement, or that no grade changes or storage of materials shall be made within said easement without prior written approval and agreement with the DWSD; and further

Provided, That if it becomes necessary to remove the paved street return at the entrance (into Kingsville Avenue), 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 "St. John Hospital and Medical Center," 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, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Williams, and President Hill — 9.

Nays — None.

#### **Department of Public Works City Engineering Division**

Honorable City Council:

Re: Petition No. 0330 Steve Murphy/GNI Development Company Requesting alley closings in the block bounded by Evergreen, Plainview, Plymouth and Wadsworth.

Petition No. 0330 of "Steve Murphy/GNI Development Company" requests that the east/west public alley, 20 feet wide, and a southern portion of the north/south public alley, 20 feet wide, to be vacated, also, requests the conversion of the remaining portion of said north/south public alley, 20 feet wide, into a private easement for public utilities, all in the block bounded by Evergreen Avenue, Plainview Avenue, Plymouth Road and Wadsworth Avenue. The vacation is requested in order to construct a Walgreen Drug Store for retail sales.

The petition was referred to the City Engineering Division-DPW for investigation (utility review) and report. This is our report.

The Public Lighting Department (PLD) has no objection to the proposed conversion to easement and the proposed outright vacation. However, the PLD has two (2) street lighting transformers (constant current, multiple) and one traffic signal transformer in the proposed alley closing. Also, PLD has overhead primary in the alley. In order to vacate the alley, PLD will have to remove and relocate their overhead facilities. The cost of the project is estimated at \$30,000.00. The resolution contains provisions to protect the facilities and utility services of PLD. Also, the PLD is interested in providing electrical service to the Walgreen Stores.



The Detroit Water and Sewerage Department (DWSD) reports according to their records, there is a 12 inch sewer and a 24 inch sewer located in the east/west alley proposed to be vacated. Also, there is a 24 inch sewer located in the portion of the north/south alley proposed to be converted into an easement. The DWSD has no objection to the conversion of a portion of the 20 feet wide north/south alley adjacent to lots 449 to 460, into an easement. Also, DWSD can agree to the outright vacation of the remaining portion of north/south alley and the east/west alley located at the subject site provided that;

The Petitioner relocate the sewer lines, and all work necessary to relocate the sewers is to be done by the Petitioner at no costs to DWSD. In addition, all work is to be done under DWSD's Permit and Inspection and in accordance with plans reviewed and approved by DWSD. The resolution contains provisions to protect the facilities and utility services of DWSD.

Ameritech (MBT) has reported their involvement; the nature of their services, and the estimated cost of removing and/or rerouting approximately 540 feet of 300 pair cable; place 2 sections, 120 feet each, of 6 meter strand and 8 anchors and Down Guys. Remove 3 poles, 2 anchors and guys and another 540 feet of 300 pair cable, are to be \$11,614.24, to be paid prior to authorizing the work.

The resolution contains provisions to protect the facilities and utility services of Ameritech.

Comcast Cablevision of Detroit has reported that there is no reason why they cannot move the CATV aerial plant from the pole line running east/west north of Plymouth Road. Comcast cannot immediately vacate but will work with the petitioner during their excavation phase and put the facilities underground. Comcast has estimated the cost to be between \$33,000.00 and \$35,000.00. Steve Murphy/GNI Development Company (the Petitioner) has agreed to pay all cost associated with this move.

The Petitioner, Steve Murphy/GNI Development Company Incorporated has not made all payments to the utility companies (both public and private) listed above, for the relocation and/or rerouting of its facilities.

After careful consideration an alternative solution was put in place to assure that all said utility companies will be paid or satisfied.

With the support of the Mayor's Office and the Office of Consumer Affairs, the petitioner; Mr. Steve Murphy, vice president, GNI Development Company Incorporated; 3208 South Alpine Road, Rockford, Illinois, 61109 together with Mr. Stephen S. Herseth, of the Law offices of Schwartz, Cooper, Greenberger & Krauss (chartered) 180 North LaSalle Street,

Chicago, Illinois, 60601, have agreed to offer assurance to the City of Detroit regarding payment to the applicable utilities for the relocation of the services now located in the alleys to be vacated. Mr. Steve Murphy and Mr. Stephen S. Herseth has through Key Bank, a Key Corp Bank, KeyBank National Association, International Operations, 127 Public Square, Cleveland, Ohio 44114-1306 issued Irrevocable Standby Letter of Credit to draw on. The Letters of Credit would be held by the City of Detroit's Office of Consumer Affairs, and upon request from a utility, delivered to the utility. The amounts of the Letters of Credit will be 125% of the maximum amounts each utility has estimated as the cost of their relocation or removal. Mr. Steve Murphy and Mr. Stephen S. Herseth would have its bank issue three Letters of Credit with the following utility companies as beneficiaries in the following amounts.

Ameritech—\$14,517.81

Comcast CATV of Detroit—\$43,750.00

City of Detroit Public Lighting Department—\$43,750.00

City of Detroit's Traffic Engineering Division-DPW reports, no objection provided 100% abutting property consents have been secured.

When the petition was filed there had been 22 of 26 (or 85.6%) taxpayers signatures secured. By the time of the writing of this resolution the petitioner has made great attempts to secure the consents of the remaining property owners. They now have 24 of 26 (or 93.2%) of the abutting property owners consents. The missing 2 (two) properties are at 11658 Evergreen, Ward 22, Item 95418 and 11671 Plainview, Ward 22, Item 94586. The Evergreen property was recently repossessed by H.U.D. from a Leslie Small, and the taxpayer of the Plainview property, Mr. Jon Simmonds, has recently died. It is CED's opinion that by providing the security to the 93.2% of the property owners and that the alley is not in condition to allow vehicular or pedestrian traffic, that the petitioner be allowed to present the Walgreen development to City Council.

All other involved city departments and privately owned utility companies reported no objections to the outright vacation and the conversion of public rights of way into a private easement for public utilities. Provisions protecting certain utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

SUNDAY JAIYESIMI

City Engineer

By Council Member Hood:

Resolved, All that part of the east-west and north-south, public alleys, 20 feet wide, in the Block bounded by Evergreen



Road, 113 feet wide, Plainview Avenue, 50 feet wide, Wadsworth Avenue, 60 feet wide, and Plymouth Road, 130 feet wide, described as, lying northerly of and abutting the north line of lots 40-51, both inclusive; also lying east of and abutting the east line of lots 52-58, both inclusive, and the south 9 feet of lot 59 of "Fogle's Plymouth-Evergreen Park Subdivision" of part of the west 1/2 of the SW 1/4 of Section 26, T. 1S., R. 10E., City of Detroit, County of Wayne, Michigan, Recorded in Liber 57, Page 59 Plats, Wayne County Records; also

Be and the same hereby vacated (outright) as a public (alley) right-of-way to become part and parcel of the abutting property owners; subject to the following provisions:

Provided, that the Petitioner as part of outright vacation of the southerly portion of the N/S alley and all of the E/W alley all in the block bounded by Plymouth, Wadsworth, Plainview and Evergreen shall relocate the existing sewers located therein; and be it further

Provided, that the Detroit Water and Sewerage Department (DWSD) be and is hereby authorized to review the drawings for the relocation of the sewer lines and to issue a permit for construction; and be it further

Provided, that the plans for the relocation of the sewers shall be prepared by a registered engineer; and be it further

Provided, that the entire work is to be performed in accordance with plans and specifications approved by the City of Detroit DWSD, and be constructed subject to the inspection and approval of the DWSD; and be it further;

Provided, that the entire cost of the sewer construction including inspection, survey and engineering shall be borne by the Petitioner, and be it further

Provided, that the petitioner shall grant the City of Detroit a 20 feet wide easement for the relocated sewer lines before start of construction; and further

Provided, that the Board of Water Commissioners shall accept and execute the easement grant on behalf of the City of Detroit; and be it further

PROVIDED, that upon satisfactory completion of the sewer line construction, the sewer line shall be City of Detroit property and become part of the City System; and further

Provided, that the utility company both public and private accept from petitioner signed and secured irrevocable Letters of Credit to cover all cost associated with the removal or relocation of facilities; and be it further

Provided, that before any construction shall be permitted within the vacated (outright) part of alley, described above, the abutting property owners, shall apply to the Buildings and Safety Engineering Department for a building permit; be it further

Resolved, all of the remaining part of the north-south alley, 20 feet wide, in the block bounded by Evergreen Road, 113 feet wide, Plainview Avenue, 50 feet wide, Wadsworth Avenue, 60 feet wide, and Plymouth Road, 130 feet wide, described as, lying easterly of and abutting the east line of lots 60-80, both inclusive, and the north 11 feet of lot 59, of "Fogle's Plymouth-Evergreen Park Subdivision" of part of the west 1/2 of the SW 1/4 of Section 26, T. 1S., R. 10E., City of Detroit, County of Wayne, Michigan, Recorded in Liber 57, Page 59 Plats, Wayne County Records;

Be and the same are hereby vacated as a public alley and is hereby converted into a private easement for public utilities 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 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 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 task, 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 and restricted plant materials; said fence and



gate installations Engineering Departments, if necessary; also plant materials shall be subject to the review and approval of the Recreation Department, if necessary) 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 alley shall request the removal and/or relocation of any hydrants, catch basins, drains, 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 cost 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 entrance (into Wadsworth, Plainview Avenues, Evergreen and Plymouth Roads), 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 "Steve Murphy/GNI Development Company", 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, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Williams, and President Hill — 9.

Nays — None.

**Department of Public Works  
City Engineering Division**

July 24, 1998

Honorable City Council:

Re: Petition No. 2711 United States Postal Service (USPS) Brightmoor Station Street and Alleys to Vacation in the area bounded by Braile, Fielding, Outer Drive, and Fenkell; also USPS intent to build a new east-west connector road and deed the completed road to the city

Petition No. 2711 of "United States Postal Service [USPS]" requests the outright vacation of the following public street and alleys in the area bounded by Braile and Fielding Avenues, West Outer Drive, and Fenkell Avenue:

(1) A northerly part of Patton Avenue, 50 feet wide, between Fenkell Avenue and West Outer Drive; also

(2) A westerly part of the east-west public alley, 18 feet wide, first south of Fenkell Avenue between Patton and Fielding Avenues; also

(3) All of the east-west public alley, 18 feet wide, first south Fenkell Avenue between Braile and Patton Avenues; also

(4) A northerly part of the north-south public alley, 16 feet wide, in the block bounded by Braile and Patton Avenues, West Outer Drive, and Fenkell Avenue.

The petition was referred to City Engineering Division — DPW for investigation (utility clearances) and report. This is our report:

The Fire Marshal and Traffic Engineering Division — DPW requires USPS to maintain neighborhood and emergency vehicle traffic circulation in the area. USPS developed plans to build a new east-west connector roadway at no expense to the city. USPS acquired land and set-aside funding to build the new connector roadway. The roadway will be built by private contract within USPS properties under City Engineering Division — DPW inspection and permits. When the roadway is completed to city specifications, USPS intends to deed the property to the city. City Council is requested to declare the city's 'intent' to accept the deed and roadway for public street purposes; provided said property complies with the requirements of Detroit codes and ordinances, also known as the 'Environmental Review Guidelines.' A separate resolution-recommending acceptance of the deed—will be presented to City Council for consideration.

USPS reached agreement with privately owned utility companies, regarding alteration and/or removal of their services at the proposed Brightmoor Station site. The following privately owned utilities reported costs paid by USPS: Ameritech/Michigan Bell Telephone Company, Comcast Cablevision, Detroit Edison Company, and Michigan Consolidated Gas Company.

Public Lighting Department received \$2,500.00 for the estimated cost to remove and reroute overhead street and alley lighting circuits.

Water and Sewerage Department [DWSD] received \$5,000.00 for the estimated cost to review and approve engineering design plans of USPS alterations to water main(s) and abandonment of public sewers. USPS must pay all expenses to reroute certain existing water mains and construct new connections to the DWSD network. USPS must provide DWSD suitable easements for the public water main(s) system before the start of construction. The new rerouted water main(s) must be engineered and con-