

July 29

1998

Office of the Register of Deeds for Wayne County by and at permittee's expense;
 Provided, That the sale of food and soft drinks is held under the direction and inspection of the Department of Health;

Adopted as follows:

Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Williams, and President Hill — 9.
 Nays — None.

Planning & Development Department July 21, 1998

Honorable City Council:
 Re: Petition 1880 to vacate streets and alleys in the Clairpointe of Victoria Park development area.

Attached for your consideration and approval is a resolution vacating outright parts of certain streets and alleys, and converting to easement parts of other alleys, in the Clairpointe of Victoria Park condominium development located in the Jefferson-Chalmers Rehabilitation Area. The resolution had initially been presented to your Honorable Body in December, 1997, but was withdrawn at your request in order for additional information to be obtained.

Background. Previously, your Honorable Body approved the sale of approximately 13.2 acres of land located generally between Essex, Conner, Tennessee, and Avondale to the developer, Clairpointe Woods, LLC, for the purposes of developing an approximately 41 unit site condominium project. In order to fully develop the project according to the approved site plan, it is necessary to vacate the streets and alleys located within the project boundaries. The developer submitted petition 1880 asking for the streets and alleys to be vacated.

The City Engineering Division of the Department of Public Works handled the petition. In reviewing the petition, City Engineering noted that the petition, if granted, would result in two cul-de-sac alleys. City Engineering, in accordance with its policy, stated that it would not recommend approval of the petition unless either (1) property was dedicated to create "L" shaped alleys continuing to the adjacent streets, or (2) 100% consent of the owners of property along the cul-de-sac alleys was obtained. Option 1 was not feasible under the site plan, and despite substantial efforts, 100% affirmative consent could not be obtained (even though there were no objections).

In December of 1997, City Engineering submitted a letter and proposed resolution to your Honorable Body for approval of Petition 1880, subject, however, to a "report of legal merit" from the Law Department as to the effect of adopting a resolution without either option being satisfied. Your Honorable Body declined

action on the petition at that time, asking us and the developer to redouble efforts to obtain consents of abutting property owners.

Report of Legal Merit. The Law Department's "report of legal merit" stated that while either option 1 or option 2 was sufficient, there was a third option. In essence, the report states that your Honorable Body has the legal authority to vacate an alley in such a way that it would create a cul-de-sac alley as long as your Honorable Body could reasonably conclude that the vacating would not reduce the value of the property in that block.

In order to determine the effect vacating the alleys would have, we obtained appraisals on several of the parcels for which consents could not be obtained. In every instance, the appraisals conclude that, in the professional opinion of the appraiser, the property value would not be reduced as a result of the vacation:

"In conclusion, the research...implies that not only does the 'vacating of alleys have no adverse impact on real property', but that the non-vacated alleys do." (Emphasis in original report).

Our own analysis leads us to the same conclusion, that vacating the alleys here will increase the value of the abutting properties.

Consents. At your request, the developer sought once more to obtain all possible consents to the vacation. There are 40 parcels abutting the alleys to be vacated, not including the Clairpointe parcel, of which consents have been obtained for 31 of the parcels, or 77.5%. Some of the parcels are owned by the same owner, so there are 34 different owners of the 40 parcels. Consents have been obtained from 25 of the 34 owners, or 73.5%. If measured by frontage on the alleys to be vacated, then owners of 90% of the frontage along the alleys have consented to the action. Finally, and most significantly, there have been no objections to the vacation.

Conclusion. Consents for the vacation petition have been obtained from approximately 3/4 of the abutting property owners, and there are no objections. The Law Department has concluded that your Honorable Body has the legal authority to vacate the streets and alleys. Vacating the streets and alleys has always been part of the site plan. Granting of the petition is of critical importance for the development to move forward. We therefore ask that your Honorable Body adopt the attached resolution submitted for your consideration, with a waiver of reconsideration.

Respectfully submitted,
 JOSEPH J. VASSALLO
 Interim Director

By Council Member K. Cockrel, Jr.:
 Whereas, City Council designated the Clairpointe of Victoria Park area as a

Neighborhood Enterprise Zone on May 1, 1996 — J.C.C. pages 921-22; and

Whereas, Clairpointe Woods L.L.C. executed an Agreement and Grant of Easement [#96-15] with the Detroit Water and Sewerage Department (DWSD) for the purpose of allowing DWSD to operate, maintain, repair, remove, use and replace water mains and sewers, and related improvements and appurtenances. City Council approved the agreement on October 2, 1996 — J.C.C. pages 2185-88; and

Whereas, Petition No. 1880 of "Planning and Development Department (together with Clairpointe Woods, L.L.C.)" requests the vacation of parts of Clairpointe Avenue, 25 and 50 feet wide; also part of Tennessee Avenue, 50 feet wide; also part of Essex Avenue, 60 feet wide; also part of Avondale Avenue, 60 feet wide; also parts of two north-south public alleys, 16 and 18 feet wide; being public (streets and alleys) rights-of-way within the "Clairpointe Woods" parcels A and B boundaries; therefore be it

Resolved, That public rights-of-way of Clairpointe, Essex, Tennessee, and Avondale Avenues within the bounds of the parcel described below in this resolution as Parcel "A" and Parcel "B" (except the northernmost 20 feet of Tennessee, adjacent to Lots 263 and 286), and the public alleys within the bounds of the parcel described below in this resolution as Parcel "A" and Parcel "B" (except the alley in the block bounded by Tennessee, Conner, Avondale, and Essex):

Land in the City of Detroit, Wayne County, Michigan being part of Lots 33 through 52 of "Hendrie and Hillger Subdivision of part of Lot 7 of the Henry Connor Estate, Subdivision of Private Claims 385 and 386," as recorded in Liber 27, Page 67 of Plats, Wayne County Records; also part of Lots 65 through 90 of "Hendrie and Hillger Subdivision No. 1 of part of Lot 7 of Henry Connor Estate, Subdivision of Private Claims 385 and 386," as recorded in Liber 36, Page 59 of Plats, Wayne County Records; also part of Lot 1 and all of Lots 2 through 20 of "Connor's Creek Subdivision of part of Lot 8, Subdivision of Private Claim 385 and 386 for the Heirs of H. Connor," as recorded in Liber 34, Page 34 of Plats, Wayne County Records; also all of Lots 69 through 117 and part of Lots 118 through 121 of "Connor's Creek Subdivision No. 1 of part of Lot 8, Subdivision of Private Claims 385 and 386 for the Heirs of H. Connor," as recorded in Liber 38, Page 38 of Plats, Wayne County Records; also all of Lots 263 through 273, plus part of Lot 274, all of Lots 275 through 286, and 377 through 386 of the "Grosse Pointe Lands Co. Subdivision No. 1 of part of Private Claim 388, lying South of Jefferson Avenue," as recorded in Liber 36, Page 58

of Plats, Wayne County Records; also part of Lot 7 of the "Plat of Subdivision of Private Claim 385 and 386," as recorded in Liber 49, Page 494 of deeds, Wayne County Records; also part of Maheras Park being part of Private Claim 388, and being more particularly described with the following bounds:

Parcel "A"

**CLAIRPOINTE OF VICTORIA PARK
CITY OF DETROIT,
WAYNE COUNTY, MICHIGAN**

Beginning at the intersection of the northerly line of Lot 65 of "Hendrie and Hillger Subdivision," as recorded in Liber 36, Page 59 and a line 79.00 feet westerly of and parallel with the centerline of Clairpointe Avenue, 50 feet wide, being the proposed easterly line of new Clairpointe; thence S. 25° 52' 48" E. 1,239.97 feet along said line parallel with and 79.00 feet westerly thereof to a point 436.55 feet northerly of the northerly line of Avondale Avenue, 60 feet wide, said point being a point of curve; thence 465.84 feet along the arc of a curve concave to the northeast with a radius of 485.00 feet, central angle of 55° 01' 56" and a long chord bearing of S. 53° 23' 46" E., 448.14 feet to a point of tangency; thence S. 80° 54' 44" E. 300.89 feet to a point on proposed Conner Avenue extension; thence along the following three courses, being the proposed Conner Avenue extension: (1) 45.85 feet along the arc of a curve concave to the northwest with a radius of 945.00 feet, central angle of 02° 46' 47" and a long chord bearing of N. 25° 03' 57" E., 45.84 feet to a point of tangency, and (2) N. 26° 27' 20" E., 97.20 feet to a point of curve, and (3) 53.99 feet along the arc of a curve convex to the east with a radius of 59.10 feet, central angle of 52° 20' 49" and a long chord bearing of N. 00° 16' 56" E., 52.13 feet to the intersection of the northerly line of Avondale Avenue, and the westerly line of Conner Avenue, 50 feet wide; thence N. 25° 53' 29" W., 300.00 along said westerly line of Conner Avenue to the northeasterly corner of Lot 377 of "Grosse Pointe Lands Co. Subdivision No. 1," as recorded in Liber 36, Page 58 of Plats, Wayne County Records; thence S. 63° 59' 07" W., 116.45 feet along the southerly line of Lot 376 of "Grosse Pointe Lands Co. Subdivision No. 1," to the west line of a public alley, 18 feet wide; thence N. 25° 53' 29" W., 60.00 feet along the westerly line of said public alley to the northeasterly corner of Lot 286 of said "Grosse Pointe Lands Co. Subdivision No. 1," as recorded in Liber 36, Page 58 of Plats, Wayne County Records; thence S. 63° 59' 07" W., 266.00 feet along the northerly line of Lots 286 and 263 of said subdivision to the westerly line of a public alley 16 feet wide; thence N. 25° 53' 29" W., 1,316.18 feet along said line to the northeast cor-

ner of Lot 69 of said subdivision; thence S. 63° 59' 07" W., 206.36 feet along the northerly line of said Lot 69 extended to the point of beginning, containing about 466,960 square feet or 10.72 acres more or less; also

Parcel "B"
CLAIRPOINTE OF VICTORIA PARK
CITY OF DETROIT,
WAYNE COUNTY, MICHIGAN

Being more particularly described with the following bounds: Commencing at the intersection of the northerly line of Freud Avenue, 60 feet wide, and a line 27.00 feet westerly of the westerly line of Clairpointe Avenue; thence N. 25° 52' 48" W., 22.00 feet along said line to the point of beginning; thence continuing along said line N. 25° 52' 48" W., 178.17 feet; thence N. 28° 44' 46" W., 220.00 feet to a point 38.00 feet westerly of the westerly line of Clairpointe Avenue; thence N 25° 52' 48" W., 180.08 feet along said line 38.00 feet westerly of the westerly line of Clairpointe Avenue, to the northerly line of Lot 33 of the "Hendrie and Hillger Subdivision," as recorded in Liber 27, Page 67 of Plats, Wayne County Records; thence N. 63° 59' 07" E. 190.17 feet along said northerly line of said Lot 33 and the northerly line of Lot 20 of Connor's Creek Subdivision, as recorded in Liber 34, Page 34 of Plats, Wayne County Records to the westerly line of a public alley, 16 feet wide; thence S. 25° 53' 29" E., 578.00 feet along said westerly line of a public alley; thence S. 63° 59' 07" W., 179.29 feet to the point of beginning and containing about 106,770 square feet or 2.45 acres more or less;

Be and the same are hereby vacated (outright) as parts of public (streets and alleys) rights-of-way to become part and parcel of the abutting property, subject to the following provisions, easements and building and use restrictions:

Provided, That before any construction shall be permitted within the vacated (outright) parts of public streets and/or alleys, mentioned above, "Clairpointe Woods, L.L.C.", the developer of Clairpointe of Victoria Park, a site condominium project, shall apply to the Buildings and Safety Engineering Department for a building permit. Simultaneously, "Clairpointe Woods, L.L.C." shall submit said building plans to the Water and Sewerage Department (DWSD) for review and approval. All costs for plan review associated with the relocation of sewers, water mains and/or other construction that may be required by DWSD (designed to prevent damages and maintain public sewer and water main services to the homeowners inside and outside the development Parcels A and B) including but not limited to inspection, survey, engineering, and permits shall be paid by "Clairpointe Woods, L.L.C." The City Engineering

Division — DPW shall be unable to sign building plans to build over sewer(s) and water mains that must remain public, unless plans are first reviewed and approved by DWSD; and further

Provided, That the plans for the water main and sewer relocations shall be prepared by a registered Engineer; and further

Provided, That the entire work is to be performed in accordance with plans and specifications approved by the Detroit Water and Sewerage Department, and constructed subject to the inspection and approval of the Detroit Water and Sewerage Department; and further

Provided, That the entire cost of the water main and sewer construction, including inspection, survey and engineering shall be borne by the petitioner, "Clairpointe Woods, L.L.C."; and further

Provided, that the petitioner, "Clairpointe Woods, L.L.C.", shall deposit with the Detroit Water and Sewerage Department, in advance of engineering, inspection and survey, such amounts as that Department deems necessary to cover the cost of these services; and further

Provided, That the petitioner, "Clairpointe Woods, L.L.C.", shall grant the Water and Sewerage Department through the Board of Water Commissioners (for and on behalf of the City of Detroit) satisfactory easements for the public sewers and water mains across property owned by "Clairpointe Woods, L.L.C." After said easements have been reviewed and accepted by the Board of Water Commissioners (for and on behalf of the City of Detroit), then said grant of sewer and water main easements shall be conveyed by properly executed documents, containing legal descriptions suitable for recording. Additionally, the Water and Sewerage Department shall record said executed documents in the Wayne County Register of Deeds; and further

Provided, That upon satisfactory completion of the water main and sewer construction, the water mains and sewers shall be City of Detroit property and become part of the city system; and further

Provided, That the petitioner, "Clairpointe Woods, L.L.C.", shall grant the Detroit Fire Department (for and on the behalf of the City of Detroit) a satisfactory easement for public emergency vehicle access across property owned by "Clairpointe Woods, L.L.C." After said easement has been reviewed and accepted by the Detroit Fire Department (together with the Department of Public Works, City Engineering Division, if necessary) then said grant of easement for public emergency vehicle access shall be conveyed by a properly executed document, containing a legal description suitable for

recording. Additionally, the Detroit Fire Department shall record (or cause to be recorded as part of a site condominium plat) said executed document in the Wayne County Register of Deeds; and be it further

Provided, That the petitioner, "Clairpointe Woods, L.L.C.", shall dedicate to the City of Detroit for street purposes the following two parcels of land: (1) the westerly 10' of the northerly 20' of Lot 286, and (2) the easterly 10' of the northerly 20' of Lot 263, both lots located in "Grosse Pointe Lands Co. Subdivision No. 1 of part of Private Claim 388, lying South of Jefferson Avenue," City of Detroit, Wayne County, Michigan, as recorded in Liber 36, Page 58, Plats, Wayne County Records, in accordance with the map accompanying Petition 1880. Further, the petitioner, "Clairpointe Woods, L.L.C.", shall improve such two parcels and the portion of Tennessee abutting such two parcels into a 20' by 60', 8" thick non-reinforced concrete turn-around pad in accordance with the drawings prepared by Giffels-Webster Engineers, GWE Project No. 14135.50, subject to all specifications and standards of construction established by the Department of Public Works, City Engineering Division. The dedication shall be made by a properly executed deed of dedication which shall contain a legal description suitable for recording. The deed, after review and approval by the Law Department, shall be recorded by the Law Department which shall be proof of acceptance by the City of the dedication; and further

Resolved, All of the remaining part of the north-south public alley, 16 feet wide, in the block bounded by Clairpointe, Tennessee, Avondale and Essex Avenues lying westerly of and abutting the west line of Lots 247 through 262 of "Grosse Pointe Lands Co. Subdivision No. 1 of part of Private Claim 388, lying South of Jefferson Avenue," City of Detroit, Wayne County, Michigan, as recorded in Liber 36, Page 58, Plats, Wayne County Records; also lying easterly of and abutting the east line of Lots 95 through 110 of "Connor's Creek Subdivision No. 1 of part of Lot 8, Subdivision of Private Claims 385 and 386 for the Heirs of H. Connor," City of Detroit, Wayne County Michigan as recorded in Liber 38, Page 38, Plats, Wayne County Records; and

All of the remaining part of the north-south public alley, 18 feet wide, in the block bounded by Tennessee, Conner, Avondale, and Essex lying westerly of and abutting the west line of Lots 359 through 376 of "Grosse Pointe Lands Co. Subdivision No. 1 of part of Private Claim 388, lying South of Jefferson Avenue," City of Detroit, Wayne County, Michigan, as recorded in Liber 36, page 58, Plats,

Wayne County Records; also lying easterly of and abutting the east line of Lot 285 through 302 of "Grosse Pointe Lands Co. Subdivision No. 1 of part of Private Claim 388, lying South of Jefferson Avenue," City of Detroit, Wayne County, Michigan, as recorded in Liber 36, Page 58, Plats, Wayne County Records; and

All of the remaining part of Clairpointe Avenue, 50 feet wide, south of Freud Avenue (60 feet wide) lying westerly of and abutting the west line of Lots 59 through 68 of "Connor's Creek Subdivision No. 1 of part of Lot 8, Subdivision of Private Claims 385 and 386 for the Heirs of H. Connor," City of Detroit, Wayne County, Michigan as recorded in Liber 38, Page 38, Plats, Wayne County Records; also lying easterly of and abutting the east line of Lot 63 and 64 of "Hendrie and Hillger Subdivision No. 1 of part of Lot 7 of Henry Connor Estate, Subdivision of Private Claims 385 and 386," City of Detroit, Wayne County, Michigan as recorded in Liber 36, Page 59, Plats, Wayne County Records; also lying easterly of and abutting the east line of Lots 55 through 62 of "Hendrie and Hillger Subdivision of part of Lot 7 of the Henry Connor Estate, Subdivision of Private Claims 385 and 386," City of Detroit, Wayne County, Michigan as recorded in Liber 27, Page 67, Plats, Wayne County Records;

Be and the same are hereby vacated as a public street and alley and are hereby converted into a private easement for public utilities of the full width of the street and 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 street and 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 street and 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 street and 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 or 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; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering 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 and 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 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.

*WAIVER OF RECONSIDERATION (No. 1), per Motions before Adjournment.

Planning & Development Department

July 23, 1998

Honorable City Council:

Re: Cash advance for Section 108 Loan Repayments and St. Joseph Hospital Payment.

Section 108 Loan repayments are due for the following projects in August, 1998:

- Caraco Pharmaceutical Project \$756,571.00

- Garfield Building Project \$ 82,670.25
- Jefferson Connor Industrial Project \$395,625.00
- Riverbend Plaza Project \$119,341.00

The court mandated payment of \$5,357,500 for the Central Industrial Park St. Joseph Hospital acquisition is also due in August.

Funds to cover these payments were included in the 1998-99 Action Plan portion of the HUD Consolidated Plan. However, HUD has not yet approved the Plan. Although we anticipate approval soon, it is possible that the payments will come due prior to receipt of HUD approval.

Thus, we request that your Honorable Body authorize the Finance Director to make cash advances from the General Fund if these payments come due prior to receipt of HUD approval of our 1998-99 Action Plan and draw down of funds from the HUD Integrated Disbursement Information System (IDIS).

Repayment to the General Fund for any advances will be made as soon as HUD approves the 1998-99 Action Plan and funds are drawn from the IDIS system.

Respectfully submitted,
JOSEPH J. VASSALLO
Interim Director

Approved:

- JON MESSNER
Deputy Budget Director
- ROGER SHORT
Deputy Finance Director

By Council Member Everett:

Resolved, That the Finance Director be and is hereby authorized to make temporary cash advances from the General Fund to make repayments for Section 108 Guaranteed Loans and to make court mandated payments for the Central Industrial Park St. Joseph Hospital acquisition;

Resolved, That all cash advances from the General Fund shall be repaid immediately upon receipt of approval of the 1998-99 Action Plan portion of the HUD Consolidated Plan, and receipt of funds drawn from the HUD Integrated Disbursement and Information System in accordance with the foregoing communication, this resolution, and the regulations and accounting practices of the City of Detroit.

Adopted as follows:

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

Nays — None.

Planning & Development Department

July 27, 1998

Honorable City Council:

Re: Request Authorization for Submission of an Economic Development Initiative (EDI) Grant applica-