

Adopted as follows:  
Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Scott, Tinsley-Talabi, and President Pro Tem. Mahaffey — 8.  
Nays — None.

**Department Of Public Works  
City Engineering Division**

January 18, 2001

Honorable City Council:  
Re: Petition No. 2303 — Real Estate Group, Inc., and Loft Works, Ltd. requesting conversion to easement of the public alleys and to maintain existing fence encroachment in the block bounded by Brush, Beaubien, R.R. R.O.W., and E. Milwaukee.

Petition No. 2303 of "Real Estate Group, Inc.", and "Loft Works, Ltd.", request permission to maintain a fence encroachment approximately 2.00 feet x 141.00 feet into E. Milwaukee Ave., 60 feet wide, and 2.00 feet x 180.00 feet into Brush Street, 60 feet wide, and request the conversion of the north-south & east-west public alleys 20 feet wide & the east-west public alley 15 feet wide in the block bounded by Brush, Beaubien, N.Y.C. Railroad, and E. Milwaukee into private easements for public utilities.

The request was approved by the Solid Waste Division — DPW, and the Traffic Engineering Division — DPW. 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) will require a minimum vertical clearance of one foot, and a minimum horizontal clearance of three feet between PLD facilities and the existing fence encroachment. The Detroit Water and Sewerage Department (DWSD) will require a minimum vertical clearance of one foot, and a minimum horizontal clearance of three and one-half feet between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facilities) and the existing fence encroachment.

The petitioner plans to use the paved street return entrance (into E. Milwaukee and Beaubien) and request such remain in their present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

All other city departments and privately owned utility companies have reported no objections to the encroachments and the conversion of public rights-of-way into private easements for public utilities. Provisions protecting utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,  
SUNDAY JAIYESIMI  
City Engineer  
City Engineering Division — DPW

By Council Member Scott:

Resolved, All that part of the east-west public alley, 15 feet wide, lying southerly of and abutting the south line of Lots 1-4, both inclusive, of "Landsberg's Subdivision of Lots 124, 125, 126 and 127 of P. McGinnis Subdivision of Lots 1 to 9, inclusive, of McCunes Subdivision of part of Fractional Section 31" Detroit, Wayne County, Michigan, as recorded in Liber 11, Page 45, Plats, Wayne County Records; also, all that part of the north-south public alley, 20 feet wide, lying easterly of and abutting the east line of Lots 112-113, both inclusive, and all that part of the east-west public alley, 20 feet wide, lying southerly of and abutting the south line of Lot 112 of "P. McGinnis Subdivision of Lots 1 to 9, inclusive, of McCunes Subdivision of part of Fractional Section 31" Detroit, Wayne County, Michigan, as recorded in Liber 4, Page 93, Plats, Wayne County Records; all within the block bounded by Brush Street, 60 feet wide, Beaubien Street, 60 feet wide, New York Central Railroad and East Milwaukee Avenue, 60 feet wide;

Be and the same is hereby vacated as a public alleys and is hereby converted into private easements for public utilities of the full width of the alleys, which easements 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 easements or rights-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 easements for the purpose above set forth,

Second, Said utility easements or rights-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 easements or rights-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 easements 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, retaining or partition walls, shall be built or placed upon said easements, 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 easements, 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 return(s) at the entrance(s) (into Brush St., Beaubien St. or E. Milwaukee Ave.), 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 heir or assigns; and be it further

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "LoftWorks Ltd." 56965 Mt. Vernon, Utica, Michigan 48316 to maintain existing fence encroachments into a portion of the southerly right-of-way line of E. Milwaukee Avenue, 60 feet wide, and the easterly right-of-way line of Brush Street, 60 feet wide, adjacent to the following described property:

Land in the City of Detroit, Wayne County, Michigan, in the block bounded by Brush Street, 60 feet wide, Beaubien Street, 60 feet wide, New York Central Railroad and East Milwaukee Avenue, 60 feet wide, lying northerly of and abutting the north line of Lot 123 and lying westerly of and abutting the west line of Lots 118-123, both inclusive, of "P. McGinnis Subdivision of Lots 1 to 9, inclusive, of McCunes Subdivision of part of Fractional Section 31" Detroit, Wayne County, Michigan, as recorded in Liber 4, Page 93, Plats, Wayne County Records.

Provided, That the existing encroachment(s) does not exceed the 2.00 feet x 141.00 feet into E. Milwaukee Ave., 60 feet wide, and 2.00 feet x 180.00 feet into Brush Street, 60 feet wide, and no permanent structure shall be constructed in the right-of-way except the existing encroachment(s); and further

Provided, LoftWorks Ltd. or its assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detailed permit application drawings prior to any public right-of-way construction; and further

Provided, That the necessary permits shall be obtained from the City Engineering Division — DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with plans submitted to and approved by these departments; including the Public Lighting Department (if necessary), the Water and Sewerage Department (if necessary), and the Traffic Engineering Division — DPW (if necessary); and further

Provided, That all costs for the construction, maintenance, permits and use of the encroachments shall be borne by LoftWorks Ltd. or its assigns; and further

Provided, That all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments, shall be borne by LoftWorks Ltd. or its assigns. Should damages to utilities occur LoftWorks Ltd. or its assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located within the public rights-of-way, by acceptance of this permission, LoftWorks Ltd. (owners) for themselves, or their assigns, (by acceptance of permits for construction near underground utility lines, conduits, or mains) waives all claims for damages to the encroaching installations and agree to pay all costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, That LoftWorks Ltd. shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and the faithful or unfaithful performance by LoftWorks Ltd. of the

terms thereof. Further, LoftWorks Ltd. shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, The property owned by LoftWorks Ltd. and the fence encroachments shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

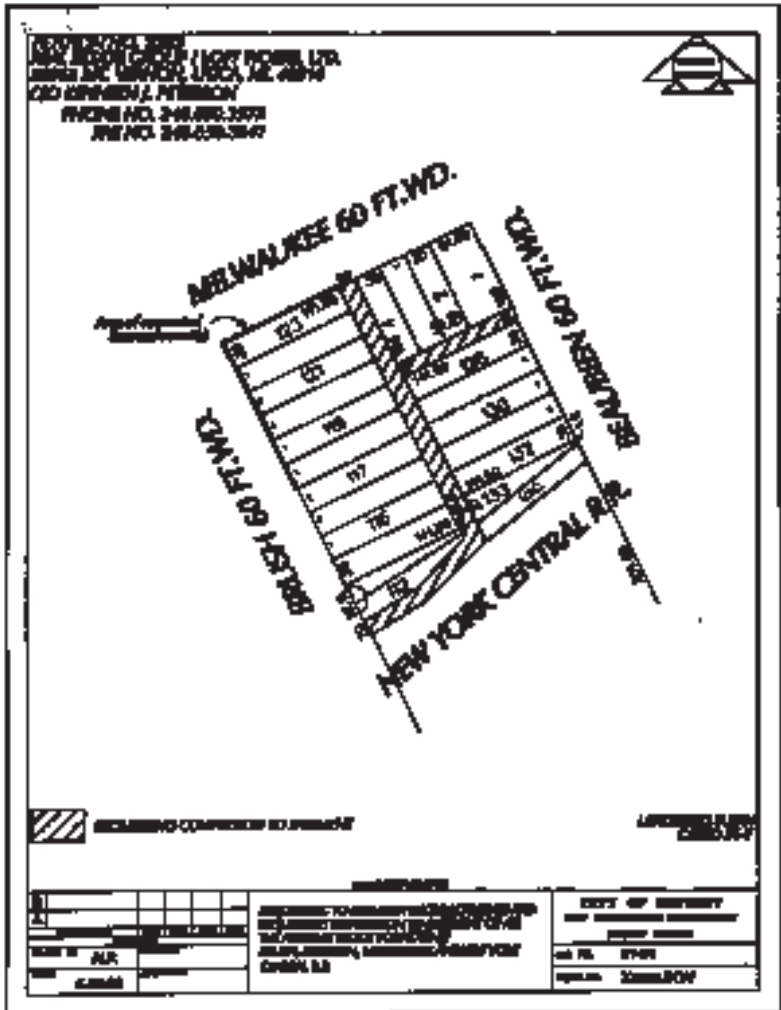
Provided, That no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at any time when so directed

by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and LoftWorks Ltd. acquires no implied or other privileges hereunder not expressly stated herein; 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.



Adopted as follows:  
Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Hood,

Scott, Tinsley-Talabi, and President Pro Tem. Mahaffey — 8.  
Nays — None.