

Adopted as follows:

Yeas — Council Members Bates, K. Cockrel, Jr., S. Cockrel, Collins, Everett, McPhail, Scott, Tinsley-Talabi, and President Mahaffey — 9.

Nays — None.

**Department of Public Works
City Engineering Division**

December 5, 2001

Honorable City Council

Re: Petition No. 4141 — Frank Askar et. al., requesting conversion of alley to easement in the area of Harper and I-94.

Petition No. 4141 of "Frank Askar et al," requests the conversion of a portion of East-West public alley, 20 feet wide, in the block bounded by Edsel Ford Expressway, Harper Avenue, 103 feet wide, Cadieux Avenue, 106 feet wide, and Guilford Avenue, 60 feet wide, into a private easement for public utilities.

The request was approved by the Solid Waste Division — DPW, and the Traffic Engineering Division — DPW, with conditions. The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report.

As a condition of the alley closure, the Traffic Engineering Division — DPW requires that the petitioner reserve a perpetual ingress/egress easement for vehicular traffic over the surface of the alley to be converted to utility easement. This requirement is to insure the flow of traffic onto Cadieux Avenue.

All other city departments and private 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 this resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

SUNDAY JAIYESIMI

City Engineer

City Engineering Division — DPW

By Council Member K. Cockrel, Jr.:

Whereas, As a condition of the alley closure, the Traffic Engineering Division — DPW requires that the petitioner reserve a perpetual ingress/egress easement for vehicular traffic over the surface of the alley to be converted to utility easement. This requirement is to insure the flow of traffic onto Cadieux Avenue, Therefore Be It

Resolved, All that part of the East-West public alley, 20 feet wide, lying Northerly of and abutting the North line of lots 1101 through 1097, both inclusive, also lying Southerly of and abutting the South line of lot 1096, in the "Yorkshire Woods Subdivision No. 6" of parcel 1 of the Plat of Commissioners on partition of the Estate of Joseph Young deceased, of Part

of Lot 7 of Sub'n of Back Concession of P.C. 258 Lots 1-2-3 and 4 of Sub'n of the S.E. 1/2 of Additional Donation to P.C. 584 and 261. Part of the N.W. 1/2 of Additional Donation to P.C. 584-261 Lot 6 and N.W. 1/2 of Lot 4 of Sub'n of Back Concession of P.C. 262-272 as described in Liber 1559 Page 328 deeds as recorded in Liber 49 Page 2, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities of the full width of the alley, with reservation of a perpetual ingress/egress easement for vehicular traffic, 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 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 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 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, retaining or partition walls, 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 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 petitioner, its owners or assigns reserve a perpetual ingress/egress easement for vehicular traffic over the full width of the alley, as described above; and further

Provided, The petitioner shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims which may arise therefrom; and further

Provided, That the property owned by the petitioner and adjoining the herein above described part of public alley rights-of-way shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total area of said public alley; and further

Provided, That the ingress/egress easement 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.

PETITION NO. 4111
FRANK ASCH
14277 WELLESLEY
PHONE NO. 373-582-4659

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REVISION OF PLAN



REGULATED AND LIMITATION TO EASEMENT

APPROVED FOR THE CITY OF DETROIT
BY THE CITY CLERK
JAN 16 2002

REGISTERED
10000 10000

CARD 104-B
KAREN WOODS
CITY OF DETROIT
10000 10000