

## City Engineering Department

October 31, 1990

Honorable City Council:

Re: Petition No. 26, Burger King, Inc.,

Alley to Easement portion of east-west public alley in the block bounded by Stout, Heyden, Plymouth and Wadsworth.

Petition No. 26 of "Burger King, Inc." requests the conversion of a portion of the east-west public alley, 20 feet wide, in the block bounded by Stout and Heyden Avenues, Plymouth Road, and Wadsworth Avenue into an easement for public utilities.

The requested conversion was approved by the Community and Economic Development Department. The petition was referred to the City Engineering Department for investigation and report. This is our report:

The petitioner plans to use the paved alley return entrance (into Stout) and requests such remain in its present status. The petitioner 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 utility easement. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,

CLYDE R. HOPKINS,

Director

By Council Member Collins:

Resolved, All that part of the east-west public alley, 20 feet wide, in the block bounded by Stout and Heyden Avenues, Plymouth Road, and Wadsworth Avenue lying southerly of and abutting the south line of Lot 61; also lying northerly of and abutting the north line of Lots 55 to 60 of "Maples Park Subdivision" of part of the Southeast Quarter of Section 27, Town 1 South, Range 10 East, Redford Township, City of Detroit, Wayne County, Michigan as recorded in Liber 53, Page 9, Plats, Wayne County Records;

Be and the same is hereby vacated as public alley and is hereby converted into a public easement 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 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 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 Department.

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

Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Stout Avenue), such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Department specifications with all costs borne by the petitioner, their heirs or assigns; and further

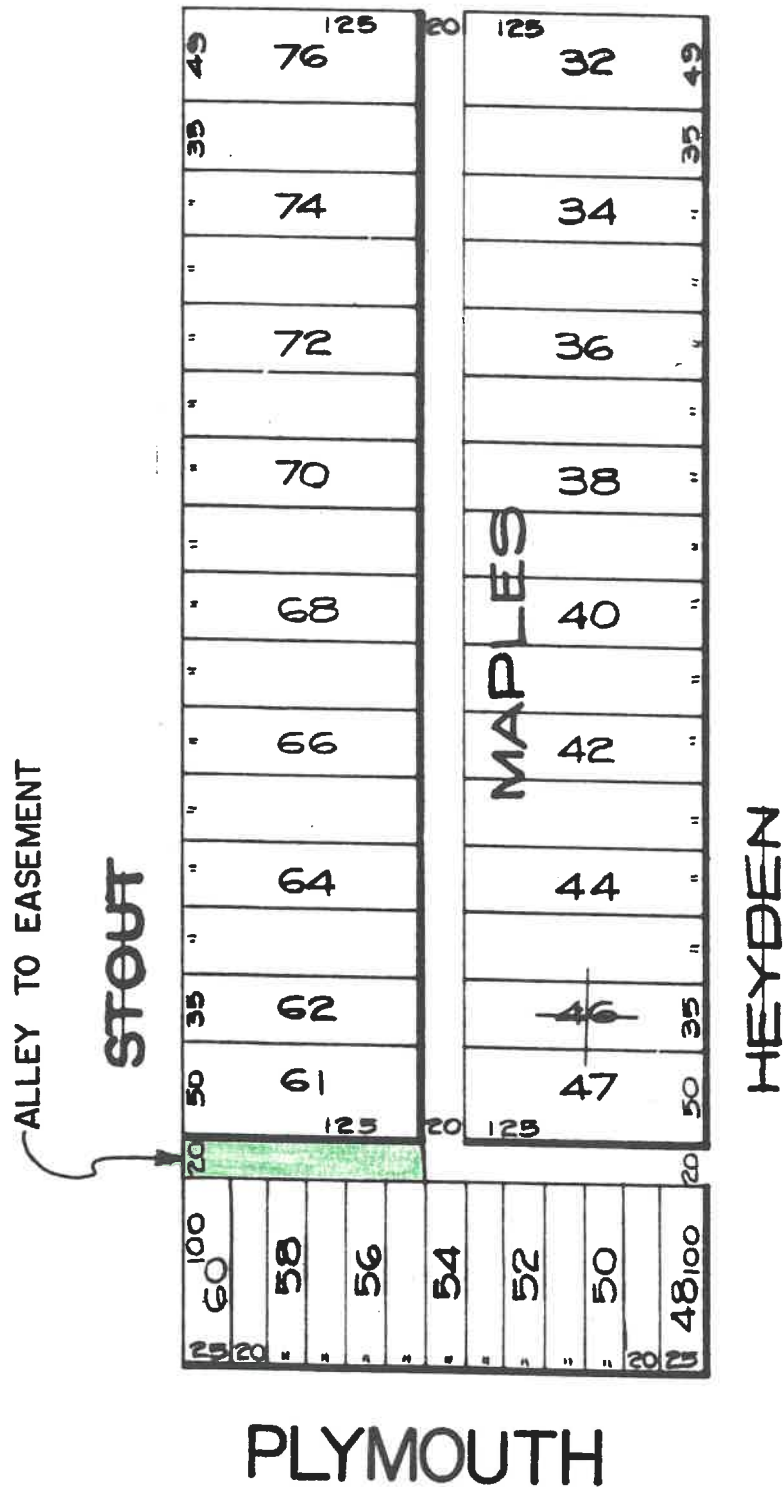
Provided, That the City Clerk shall within 30 days, record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Ravitz, and President Mahaffey — 8.

Nays — None.

Nov. 7, 1990  
J.C.C. Pgs. 2430-32



PET. NO. 26  
CARTO NO. III-E