

City Engineering Department

June 29, 1994

Honorable City Council:

Re: Petition No. 3255, Kughn Enterprises (Whitney mansion) together with Wayne State University, Alleys to Easement, U-shaped public alleys north of W. Canfield between Cass and Woodward.

Petition No. 3255 of "Kughn Enterprises, owner of the Whitney mansion," together with "Wayne State University" requests the conversion of the "U-shaped public alleys, (all) 20 feet wide, north of W. Canfield Avenue between Cass and Woodward Avenues into a private 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 petitioners plan to use the paved alley return entrances (into W. Canfield Avenue) and requests such remain in their present status. The first public alley return east of Cass Avenue enters into 'Wayne State' properties, and the first public alley return west of Woodward

Avenue enters into 'The Whitney' properties. The petitioners 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 private easement for public utilities. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
WILLIAM L. TALLEY
Head Engineer

By Council Member Hood:

Resolved, All of the east-west public alley, 20 feet wide, first North of W. Canfield Avenue between Cass and Woodward Avenues (the southern half) lying northerly of and abutting the north line of Lots 7 thru 14 of "Ira Davis' Subdivision of Park Lot 60," City of Detroit, Wayne County Michigan as recorded in Liber 1, Page 289, Plats, Wayne County Records; also lying northerly of and abutting the north line of the west 39.14 feet of Lot 4, and Lot 5 of the "Resubdivision of Lots 4, 5, 6 and part of an alley of Ira Davis Subdivision of Park Lot 60, Town 2 South, Range 12 East," City of Detroit, Wayne County Michigan as recorded in Liber 9, Page 28, Plats, Wayne County Records; also (the northern half) being part of Park Lot 59 of the "Plat of Park Lots," City of Detroit, Wayne County, Michigan as recorded in Liber 34, Page 542, Deeds, Wayne County Records; also

All of the north-south public alley, 20 feet wide, first East of Cass Avenue and North of W. Canfield Avenue lying easterly of and abutting the east line of Lots 15 thru 18; also lying westerly of and abutting the west line of Lot 14; also lying westerly of and abutting the west line of the southern half of the east-west public alley (20 feet wide, first North of W. Canfield Avenue between Cass and Woodward Avenues) of "Ira Davis' Subdivision of Park Lot 60", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 289, Plats, Wayne County Records; also

All of the north-south public alley, 20 feet wide, first West of Woodward Avenue and North of W. Canfield Avenue being the east 20.00 feet of the west 39.14 feet of Lot 4 of the "Resubdivision of Lots 4, 5, 6 and part of an alley of Ira Davis Subdivision of Park Lot 60, Town 2 South, Range 12 East," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 28, Plats, Wayne County Records (said public alley having been deeded to the City of Detroit on July 19

1889 as recorded in Liber 339, Page 401, Deeds, Wayne County Records);

Be and the same are hereby vacated as public alleys and are hereby converted into a private easement for public utilities of the full width of the alleys, 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 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 an easement or right-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, telephones, 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 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 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 alleys 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 if it becomes necessary to remove the paved alley returns at the entrances (into W. Canfield 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 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; and be it further

Resolved, The Finance Director is hereby authorized and directed to issue a quit-claim deed to transfer the following vacated public (alley) right-of-way to "The Richard P. Kughn 1978 Trust" (Suite 310, Franklin Center, 29100 Northwestern Highway, Southfield, MI 48034), for the fair market value and/or other valuable considerations:

"Land in the City of Detroit, Wayne County, Michigan being all of the north-south public alley, 20 feet wide, first West of Woodward Avenue and North of W. Canfield Avenue; said public alley having been platted as the east 20.00 feet of the west 39.14 feet of Lot 4 of the "Resubdivision of Lots 4, 5, 6 and part of an alley of Ira Davis Subdivision of Park Lot 60, Town 2 South, Range 12 East," as recorded in Liber 9, Page 28, Plats, Wayne County Records (said public alley having been deeded to the City of Detroit on July 19, 1889 as recorded in Liber 339, Page 401, Deeds, Wayne County Records); subject to a private easement for public utilities."

Adopted as follows:

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

Nays — None.

JULY 20, 1994
J.C.C. Pgs. 1443-45

498.4

472 46 46 47

50

Cass AVE.

426.27

12.13

4533

141.77
147.23

22.86

60 SUB'N.

JAS.

A. JONES

204.18

91.18

Canfield

60 FT. WD.

30-F

41.85 45.13 45.33 47.34

127.65 151.38 146.41 135.23 40.34

TEMP CLOSED 172 14 12 10 8 7 5 4

IRA DAVIS

RE-SUB'N OF LOTS 4-5-6 OF IRA DAVIS SUB'N.

205.95

202.52

341.14

3 YRS UNTIL JUNE 18, 1977

60.01 62.01 62.01

243.49

181.10

JAMES VERNOR
59
GINGER ALE CO.

TEMP CLOSED FOR 3 YRS.
UNTIL 6-18-77

330

171.35 167 14 12 10 8 6 5

5004 30.27 18 20

162.78 160.90 159.01 157.13 155.20

4404 4404 4404 4404 4404

70 FT. WD.

N 27° 27' 30" W

Woodward