

Department of Public Works
City Engineering Division

December 4, 1996

Honorable City Council:

Re: Petition No. 2083, Fitzgerald Finishing Company. Utility Easement to Vacation and Alleys to Easement southern part of Brimson, east of Filer; also remaining public alleys in the block bounded by Filer, Railroad, McNichols and Davison.

Petition No. 2083 of "Fitzgerald Finishing Company" requests the (outright) vacation of the southern 35.00 feet, of Brimson Avenue, 70 feet wide, east of Filer Avenue. The southern 35.00 feet of Brimson was previously converted into a private easement for public utilities by City Council on October 25, 1995 (J.C.C. pages 2718-19). The petition also requests the conversion of the remaining public alleys (16, 18 and 20 feet wide) in the block bounded by Filer Avenue, New York Central Railroad, E. McNichols Road, and E. Davison Avenue.

The requests were approved by the Traffic Engineering Division - DPW and the Solid Waste Division - DPW. The petition was referred to the City Engineering Division - DPW for investigation (utility review) and report. This is our report:

The City is owner in fee of the east-west public alley, 20 feet wide, first south of Brimson Avenue and east of Filer Avenue. The public alley was acquired by deed on April 23, 1929 (J.C.C. page 1048). Therefore, the Finance Director must execute a Quit-Claim Deed to transfer the vacated public right-of-way to Fitzgerald Finishing Company.

Satisfactory arrangements have been made with the Ameritech/Michigan Bell Telephone Company, and the Detroit Edison Company regarding the relocation and/or alteration of their facilities in the utility easement or (former public street) right-of-way.

All other City departments and privately owned utility companies have reported no objections to the requested (outright) vacation. Provisions protecting utility installations (in the public alleys) are a part of the resolution.

Fitzgerald Finishing Company plans to use the paved public street return into Filer Avenue; and requests such remain in its present status. Fitzgerald Finishing Company will pay all expenses to remove the paved public street return whenever discontinuance of use makes removal necessary; subject to City specifications, permits and inspection.

I am recommending adoption of the attached resolution.

Respectfully submitted,

SUNDAY JAIYESIMI

City Engineer

By Council Member Hill:

Resolved, All that part of the southern 35.00 feet of Brimson Avenue, 70 feet wide, east of Filer Avenue (said part of a public street having been vacated and converted into a private easement for public utilities by City Council on October 25, 1995 - J.C.C. pages 2718-19) lying northerly of and abutting the north line of Lot 15 of "Mast's Subdivision of Block 28 and part of Block 27 of the original town plat of Norris (North Detroit), Hamtramck Township, Wayne County, Michigan," City of Detroit, Wayne County, Michigan as recorded in Liber 34, Page 83, Plats, Wayne County Records:

Be and the same is hereby (outright) vacated as a utility easement or right-of-way to become part and parcel of the abutting property; subject to the following provision:

Provided, That if it becomes necessary to remove the paved street return at the entrance (into Filer Avenue), 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 heirs or assigns; and be it further

Resolved, All of the remaining part of the north-south public alley, 16 feet wide, in the block bounded by Filer Avenue, New York Central Railroad, E. McNichols Road, and E. Davison Avenue lying westerly of and abutting the west line of Lot 24; also lying westerly of and abutting the west line of a vacated part of Brimson Avenue (70 feet wide; having been previously vacated by City Council on May 29, 1923 - J.C.C. page 1420); also lying westerly of and abutting the west line of Lot 23; also lying easterly of and abutting the east line of Lots 1 thru 14; also lying easterly of and abutting the east line of a vacated part of Brimson Avenue (70 feet wide; having been previously vacated by City Council on October 25, 1995 - J.C.C. pages 2718-19); also lying easterly of and abutting the east line of Lots 15 thru 22 of "Mast's Subdivision of Block 28 and part of Block 27 of the original town plat of Norris (North Detroit), Hamtramck Township, Wayne County, Michigan," City of Detroit, Wayne County, Michigan as recorded in Liber 34, Page 83, Plats, Wayne County Records; also

All of the remaining part of the north-south public alley, 18 feet wide, in the block bounded by Filer Avenue, New York Central Railroad, E. McNichols Road, and E. Davison Avenue lying westerly of and abutting the west line of the northern 20.00 feet of Lot 51; also lying easterly of and abutting the east line of the northern 20.00 feet of Lot 52 as platted in "Victor Peninsular Resubdivision of part of Lots 6 and 15, Lots 7 to 14, both inclusive of Block 24, all of Blocks 25 and 26 and part of the South Half of Block 27, also that part of Covert Avenue vacated from Mt. Elliott Avenue to Michigan Central Railroad right of way of the original Plat of Village of Norris as recorded in Liber 3 of Plats, page 30 being part of the East Half of the Southwest quarter of Section 9, Town 1 South, Range 12 East," (Hamtramck Township), City of Detroit, Wayne County, Michigan as recorded in Liber 51, Page 91, Plats, Wayne County Records; also

All of the east-west public alley, 20 feet wide, in the block bounded by Filer Avenue, New York Central Railroad, E. McNichols Road, and E. Davison Avenue having been platted as the north 20.00 feet of Lot 52 of "Victor Peninsular Resubdivision of part of Lots 6 and 15, Lots 7 to 14, both inclusive of Block 24, all of Blocks 25 and 26 and part of the South Half of Block 27, also that part of Covert Avenue vacated from Mt. Elliott Avenue to Michigan Central Railroad right of way of the original Plat of Village of Norris as recorded in Liber 3 of Plats, page 30 being part of the East Half of the Southwest quarter of Section 9, Town 1 South, Range 12 East," (Hamtramck Township), City of Detroit, Wayne County, Michigan as recorded in Liber 51, Page 91, Plats, Wayne County Records, said part of lot having been deeded to the City of Detroit for a public alley on April 23, 1929 - J.C.C. page 1048;

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 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; 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 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 if it becomes necessary to remove the paved alley return at the entrance (into Filer Avenue), 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 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

Provided, That 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 Fitzgerald Finishing Company, 17450 Filer Avenue, Detroit, MI 48212 for the fair market value and/or other valuable considerations:

"Land in the City of Detroit, Wayne County, Michigan being the north 20.00 feet of Lot 52 of "Victor Peninsular Resub-division of part of Lots 6 and 15, Lots 7 to 14, both inclusive of Block 24, all of Blocks 25 and 26 and part of the South Half of Block 27, also that part of Covert Avenue vacated from Mt. Elliott Avenue to Michigan Central Railroad right of way of the original Plat of Village of Norris as recorded in Liber 3 of Plats, page 30 being part of the East Half of the Southwest Quarter of Section 9, Town 1 South, Range 12 East," (Hamtramck Township), City of Detroit, Wayne County, Michigan as recorded in Liber 51, Page 91, Plats, Wayne County Records (said part of lot having been deeded to the City of Detroit for a public alley on April 23, 1929 - J.C.C. page 1048); containing 2,200 square feet or 0.0505 acre more or less; 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.

CONVERTED TO EASEMENT

OCT. 25, 1995

EASEMENT TO OUTRIGHT VAC.
also remaining alleys into
easement

JAN. 8, 1997

J.C.C. pp. 43-45

(89)

PETITION NO. 2083
FITZGERALD FINISHING CO.
17450 FILER DET. MI. 48212-1908
C/O SHARON HALNY
(313)368-3630
FAX: (313)368-6210

NORTH

E. DAVISON 70 FT. WD.

OCT. 25, 1995
J.C.C. 2718-19

LEVEL 32
WT = 50
LC = 66
CO = 66

LEVEL 30
WT = 5
LC = 0
CO = 47

Resolution was
submitted before
meeting
City Council per
A. MORRIS

FILER 70 FT. WD.

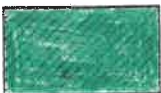
NEW YORK CENTRAL R.R. R.O.W.

E. McNICHOLS 70 FT. WD.

16



REQUESTED OUT-RIGHT VACATION OF CONVERTED UTILITY EASEMENT



REQUESTED CONVERSION TO EASEMENT

"MAST'S SUBDIVISION"

CARTO. NO. 539
SCALE: 1 IN = 160 FT

FOR OFFICE USE ONLY

B					
A					
DESCRIPTION		DRWN	CHID	APPD	DATE
REVISIONS					
DRAWN BY		CHECKED			
N. PERRY					
DATE		APPROVED			
6-28-96					

REQUESTED OUT-RIGHT VACATION OF THE SOUTH
35 FT. WD. BRIMSON ST. AND CONVERSION TO
EASEMENT OF THE REMAINING PUBLIC ALLEY IN
THE BLOCKS BOUNDED BY RAILROAD R.O.W.,
FILER, E. McNICHOLS AND E. DAVISON.

CITY OF DETROIT
CITY ENGINEERING DIVISION
DEPARTMENT OF PUBLIC WORKS
SURVEY BUREAU

JOB NO. 01-01

DRWG. NO. X2083.DGN