

August 29, 2005

Honorable City Council:

RE: Petition No. 3309 – Joseph Brophy/Covington Apartments. Correction of resolution to replace authorization for quit-claim deed from the Planning and Development Department Director with the dedication of land for a new alley outlet in the area of Covington Avenue and Third Avenue.

Petition No. 3309 of “Joseph Brophy/Covington Apartments, L.L.C.” at 1344 Bennaville Street, Birmingham, Michigan 48009, request conversion to easement of a portion of the East – West public alley 20 feet wide and dedication of land for an new alley outlet all in the block bounded by Covington Avenue, 45 feet wide, Manderson Avenue, 60 feet wide, Whitmore Avenue, 60 feet wide, and Third Avenue, 60 feet wide was granted by your Honorable Body on June 22, 2005. However, errors in the resolution will require corrections.

An appropriate resolution, correcting the authorization of the quit-claim deed, is attached for consideration by your Honorable Body.

Respectfully submitted,



William Talley, Head Engineer
City Engineering Division – DPW

NRP/

Cc: James A. Jackson, Director – DPW
Mayor’s Office – City Council Liaison
James D. Foster – Supervisor of Maps and Records

BY COUNCIL MEMBER _____

RESOLVED, That for the purpose of "correction", the following described privately owned property dedicated for public alley purpose (part of the resolution adopted on June 22, 2005 granting Petition No. 3309 - Joseph Brophy/Covington Apartments) is hereby replaced (correction in bold);

RESOLVED, All that part of the East - West public alley, 20 feet wide, lying Southerly of and abutting the South line of the West 15 feet of Lot 271 and abutting Lots 272 through 276, both inclusive; and abutting the South 44.03 feet of the Southeasterly line of Lot 277, and lying Northerly of and abutting the North line of Lots 283 through 285, both inclusive, and the West 15.00 feet of Lot 286; and lying Westerly of and abutting the West line of said Lot 283 all in the "Merrill - Palmer Subdivision" being a Subdivision of Part of Section 11 T.1.S.R.11.E., City of Detroit, Wayne County, Michigan as recorded in Liber 45 Pages 54-55, 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, 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 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 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 at the entrance (into Manderson 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 heir or assigns; and be it further

RESOLVED, The following described privately owned property is hereby dedicated for public alley purpose;

Land in the City of Detroit, County of Wayne, State of Michigan; being the East 20.00 feet of Lot 286 in the “Merrill – Palmer Subdivision” being a Subdivision of Part of Section 11 T.1.S.R.11.E., City of Detroit, Wayne County, Michigan as recorded in Liber 45 Pages 54-55, Plats, Wayne County Records;

PROVIDED, that all taxes with respect to the property of which the Dedication Area is a part of shall be paid and proof thereof furnished to the Law Department; and

PROVIDED, that proof of compliance with the Detroit Ordinance No. 29-94, Detroit Code Section 2-2-11 through 2-2-15 also known as the Environmental Review Guidelines, is furnished to the Law Department; and

PROVIDED, that the fee, owner submit a properly executed deed acceptable to the Law Department (copy attached); and

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