

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

RECEIVED
JAN 25 2007

DEPARTMENTAL REFERENCE COMMUNICATION

January 17, 2007

To: The Department or Commission Listed Below

From: Janice M. Winfrey
Detroit City Clerk

The following petition is herewith referred to you for report and recommendation to the City Council

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

/PUBLIC WORKS - CITY ENGINEERING DIVISION/

1163 Ryan's Foods - Raad Kathawa, request vacation of alley and conversion into easement for property located at 5858 W. Vernor, south of Newberry Avenue.

CEB
TED
ADBL

January 17, 2007

Honorable City Council
Coleman A. Young Municipal Center
Two Woodward Avenue, Room 200
Detroit, MI 48226

RE:

- REQUEST TO VACATE WITH EASEMENT THE EAST-WEST ALLEY LOCATED AT 5858 W. VERNOR HWY. and
- GRANT THE CITY AN EASEMENT FOR AN ALLEY OUTLET AT 5858 W. VERNOR HWY. (on portion of Lot 959)

LOCATED IN THE PARKING LOT AT RYAN'S FOODS - 5858 W. Vernor
(NORTH OF VERNOR HIGHWAY AND SOUTH OF NEWBERRY AVENUE)

To the Honorable Council:

Mr. Raad Kathawa of Ryan's Foods is requesting a petition to vacate with easement the alley which adjoins his business at 5858 W. Vernor. The alley has not functioned as an alley or thoroughfare for residents for over 15 years. During that time it has been utilized as part of a large parking lot at that location.

The petitioner is willing to grant an easement for an alley outlet on the applicable portion of Lot 959 which is actively used as an alley thoroughfare.

We thank you for your consideration of this request.

Respectfully submitted,



S. Shelby Bradley
Representative for Mr. Kathawa, Ryan's Foods
243 W. Congress, Suite 350
Detroit, MI 48226
313.961.7884

cc: Mr. Noel Perry, City Engineering Div. / DPW
Mr. Raad Kathawa

March 26, 2007

Honorable City Council:

RE: Petition No. 1163 – Ryan’s Foods – Raad Kathawa, request for vacation and conversion to easement of the alley located at 5858 West Vernor Hwy. and Newberry Avenue.

Petition No. 1163 of “– Ryan’s Foods – Raad Kathawa” request for outright vacation and conversion to easement of the East – West public alley, 20 feet wide,(a portion Deeded on September 17, 1963 – JCC Pg. 2368) in the block bounded by Newberry Avenue, 50 feet wide, West Vernor Highway, 66 feet wide, Cavalry Avenue, 50 feet wide, and Campbell Avenue, 66 feet wide; also request to grant the City of Detroit an easement, 18 feet wide, for vehicular traffic over private land for an alley outlet.

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

The Detroit Water and sewerage Department reports no objections to the outright vacation, conversion to easement, and granting the City of Detroit an easement over private property. Provided that an easement of the full width of the alley is reserved.

The Public Lighting Department (PLD) reports that PLD will need 24 hours heavy vehicle access to the existing utility easement. No structure or barricades can be built over PLD installations or on existing utility easement areas. As per PLD requirements, any structure proposed to be built shall maintain a 4-½ feet horizontal clearance from the PLD conduit bank and manholes and a 12-inch horizontal clearance for the overhead PLD lines and installations. The contractor should take necessary precautions not to damage PLD manholes and conduit banks, which carry high voltage lines if they plan to use heavy earth moving equipments. The contractor will be liable for any damages to any PLD underground facilities.

DTE Energy – Electric Division reports Overhead lines and equipment along the alleys. DTE Energy has no objections to the requested conversion to easement or vacation provided the width of the easement is maintained and the overhead lines are not disturbed.

All other City departments and privately owned utility companies have reported no objections to the conversion easement and outright vacation of public rights-of-way. Provisions protecting utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jessy Jacob".

Jessy Jacob, Interim City Engineer
City Engineering Division – DPW

NRP\

cc: Cathy Square, Director – DPW
Mayor's Office – Kandia Milton, City Council Liaison

BY COUNCIL MEMBER

RESOLVED, all that part of the East – West public alley, 20 feet wide, (Deeded to the City on September 17, 1963 – JCC Pgs 2368- 2369) being described as: the Southerly 18.00 feet of Lot 991 of the Subdivision of the Plot of the Walter Crane Farm as recorded in Liber 5, Page 29 of Plats, Wayne County Records, and all that part of Lots 996 to 999, both inclusive, of the Subdivision of the Plat of the Walter Crane Farm as recorded in Liber 5, Page 29, of Plats Wayne County Records more particularly described as follows; Beginning at the Southeasterly corner of Lot 996 of the above mentioned subdivision, thence Northerly along the easterly line of said Lot 996, 18.00 feet to a point; thence Westerly along a line 18.00 feet North of and parallel to the South line of Lot 996, 50.00 feet to a point in the easterly line of Lot 998, thence Southwesterly along a line to a point in the Southerly line of Lot 999 said point being 15.00 feet East of the Southwest corner of Lot 999; thence Easterly along the Southerly line of Lots 996 to 999, 85.00 feet to the place of beginning;

Be and the same is hereby vacated (outright) as public rights-of-way to become part and parcel of the abutting property, subject to the following provisions;

RESOLVED, all that part of the remaining portions of the East – West public alley, 2.00 feet and variable width, lying Northerly of and abutting the North line of the previously vacated public alley on September 17, 1963 – JCC Pgs. 236-2369;

Also All that part of the East – West public alley, 20 feet wide, lying Northerly of and abutting the North line of the West 20 feet of Lot 964 and Lots 960 through 963, both inclusive, and the East 7.00 feet of Lot 959 and lying Southerly of and abutting the South line of the East 20.00 feet of Lot 999, and Lots 1000 through 1003, both inclusive, and the East 7.00 feet of Lot 1004 all in the “Plat of the Subdivision of the Walter Crane Farm” Springwells (now City of Detroit) Wayne County, Michigan, T.2S. R.11E., as recorded in Liber 5 Page 29, Plats, Wayne County Records;

Also, all that part of the remaining portion of the North – South public alley, 20 feet wide, being the Southerly 18.00 feet lying Easterly of and abutting the South 18.00 feet of Lot 996, and lying Easterly of and abutting the East line of the South 18.00 feet of Lot 991 all in the “Plat of the Subdivision of the Walter Crane Farm” Springwells (now City of Detroit) Wayne County, Michigan, T.2S. R.11E., as recorded in Liber 5 Page 29, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into private easements for public utilities of the full width of the alleys, which easements 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 easements or rights-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, 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 easements for the purpose above set forth.

Second, said utility easements or rights-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 easements or rights-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 easements 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, concrete slabs or driveways, retaining or partition walls, shall be built or placed upon said easements, 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 alleys 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 an easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewerage Department for the purpose of installing, maintaining, repairing, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement for the purpose above set forth; and further

PROVIDED, that free and easy access to the sewers, water mains, fire hydrant and appurtenance within the easement is required for Detroit Water and Sewerage Department equipment, including the use of backhoes, bull dozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities; and further

PROVIDED, that the Detroit Water and Sewerage Department retains the right to install suitable permanent main location guide posts over its water mains at reasonable intervals and at points of deflection; and further

PROVIDED, that said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including fences, porches, patios, balconies, etc., shall be built upon or over said easement, or that no grade changes or storage of materials shall be made within said easement without prior written approval and agreement with the Detroit Water and Sewerage Department; and further

PROVIDED, that if at any time in the future, the owners of any lots abutting on said vacated street shall request the removal and/or relocation of the aforementioned utilities in said easement, such owners shall pay all costs incident to such removal and/or relocation. It is further provided that if sewers, water mains, and/or appurtenances in said easement shall break or be damaged as a result of any action on the part of the owner, or assigns, then in such event, the owner or assigns shall be liable for all costs incident to the repair of such broken or damage sewers and water mains, and shall also be liable for all claims for damages resulting form his/her action; and further

PROVIDED, that if it becomes necessary to remove the paved alley return at the entrances (into Campbell Ave.), 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 further

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

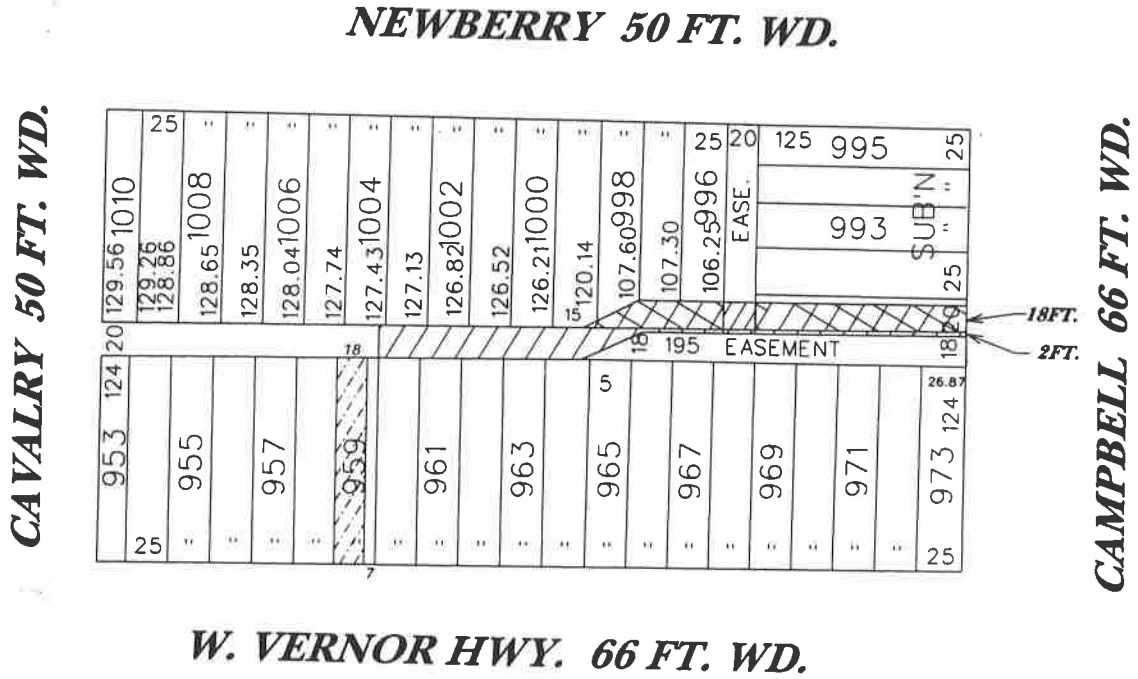
RESOLVED, The Planning and Development Department Director is hereby authorized to issue quit-claim deeds to transfer the following described parcel of land for the fair market value and/or other valuable consideration:




Land in the City of Detroit, Wayne County, Michigan being all that part of the East – West public alley, 20 feet wide, being described as: the Southerly 18.00 feet of Lot 991 of the Subdivision of the Plot of the Walter Crane Farm as recorded in Liber 5, Page 29 of Plats, Wayne County Records, and all that part of Lots 996 to 999, both inclusive, of the Subdivision of the Plat of the Walter Crane Farm as recorded in Liber 5, Page 29, of Plats Wayne County Records more particularly described as follows; Beginning at the Southeasterly corner of Lot 996 of the above mentioned subdivision, thence Northerly along the easterly line of said Lot 996, 18.00 feet to a point; thence Westerly along a line 18.00 feet North of and parallel to the South line of Lot 996, 50.00 feet to a point in the easterly line of Lot 998, thence Southwesterly along a line to a point in the Southerly line of Lot 999 said point being 15.00 feet East of the Southwest corner of Lot 999; thence Easterly along the Southerly line of Lots 996 to 999, 85.00 feet to the place of beginning;

RESOLVED, That your Honorable Body authorize the acceptance of the following described easement over property owned by the petitioner for an alley outlet for the residents and/or property owners on Newberry Avenue, West Vernor Hwy, and Cavalry Avenue, subject to the approval of the Traffic Engineering Division – DPW and any other public and privately owned utility company, if necessary;

Land in the City of Detroit, Wayne County, Michigan, being the West 18.00 feet of Lot 959 in the “Plat of the Subdivision of the Walter Crane Farm” Springwells (now City of Detroit) Wayne County, Michigan, T.2S. R.11E., as recorded in Liber 5 Page 29, Plats, Wayne County Records;

PETITION NO. #1163
 RYAN'S FOODS
 5858 W. VERNOR
 DETROIT, MI
 c/o MR. RAAD KATHAWA
 PHONE NO. #313-961-7884



-  -GRANTING AN EASEMENT
(FOR AN ALLEY OUTLET)
-  -REQUESTED CONVERSION TO EASEMENT
-  -OUTRIGHT VACATION

(FOR OFFICE USE ONLY)

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	CHECKED				
DATE	APPROVED				
1/22/07					

REQUESTED OUTRIGHT VACATION, CONVERSION TO EASEMENT AND GRANTING AN EASEMENT FOR AN ALLEY OUTLET ALL IN THE AREA OF W. VERNOR HWY., CAVALRY, NEWBERRY, AND CAMPBELL.

CARTO 11 B

CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU

JOB NO. 01-01

DRWG. NO. x1163.dgn