

Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Tinsley-Talabi, and President Hill — 8.

Nays — None.

**Department of Public Works
City Engineering Division**

December 20, 2000

Honorable City Council:

Re: Petition No. 372. Orchestra Hall. Alley to Easement, second part of east-west public alley in the block bounded by Cass, Woodward, Davenport and Parsons.

Petition No. 372 of "Orchestra Hall" requests the conversion of a second part of the east-west public alley, 20 and 30 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets into a private easement for public utilities. City Council previously granted the conversion of a first part of the east-west public alley, 20 feet wide, in said block on March 5, 1997 (J.C.C. pages 455-462).

Planning and Development Department reviewed the public alley-closing request.

Traffic Engineering Division — DPW, and Solid Waste Division — DPW approved the requested conversion. The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report:

The Water and Sewerage Department will require unimpeded access to service their existing facilities. Other city departments and privately owned utility companies 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.

I am recommending adoption of the attached resolution.

Respectfully submitted,

SUNDAY JAIYESIMI

City Engineer

City Engineering Division — DPW

By Council Member Tinsley-Talabi:

Resolved, All that part of the east-west public alley, 20 and 30 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets lying southerly of and abutting the south line of Lot 17 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records; also lying northerly of and abutting the north line of the eastern 4.15 feet of Lot 12, and the western 25.85 feet of Lot 11 of the "Subdivision of Park Lot No. 66 by R. P. Toms and Henry Russel, trustees of the Estate of Sarah Davenport," City of Detroit, Wayne County, Michigan as recorded in Liber 5, Page 44, Plats,

Wayne County Records;

Be and the same is hereby vacated as part of 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 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 or 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. Free and easy access to the public sewers (15 by 20-inches pipe) and manholes within the utility easement is required for 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 facilities. 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 of the adjoining property, for themselves, their heirs and assigns further agree that no buildings or structures of any nature whatsoever including, but not limited to, porches, balconies, patios, concrete slabs or driveways, retaining or partition walls, (except necessary line fence and parking lot pavement as shown on drawings entitled: "Orchestra Place Parking Lot Expansion", prepared by Rossetti Associates

Architects, 280 N. Woodward Avenue, Birmingham, MI 48009, 810-644-0777 telephone, 810-644-0778 fax; said installations shall be subject to the review and approval of the Water and Sewerage Department, Fire Marshal, and Buildings and Safety Engineering Department, if necessary) shall be built or placed upon or over said easement, nor storage of materials, nor change of surface grade made, without prior written approval and agreement with the Water and Sewerage Department, and 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 utilities, and shall also be liable for all claims for damages resulting from their action; 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:

