

**Department of Public Works  
City Engineering Division**

August 26, 2015

Honorable City Council:

Re: Petition No. 533, Americas Top Auto, request to vacate or convert to easement Ellis Street located between parcel number 22040280-4 and parcel number 22040278.002L.

Petition No. 533 — Americas Top Auto, request to vacate and convert to easement Ellis Street, 34.27 feet wide, between Hubbell Avenue, 66 feet wide, and the north-south alley, 18 feet wide, first west of Hubbell Avenue.

This request is being made to consolidate two properties, one north and one south of Ellis Street.

The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report.

The request was approved by the Solid Waste Division — DPW, and Traffic Engineering Division — DPW.

All involved City Departments, including the Public Lighting Department, Public Lighting Authority and privately owned utility companies have reported no objections to the conversion of the public right-of-way into a private easement for public utilities. Provisions protecting utility installations are part of the attached resolution.

Detroit Water and Sewerage Department (DWSD) has no objection to the conversion to easement. The specific DWSD provisions for easements are included in the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,  
RICHARD DOHERTY, P.E.

City Engineer

City Engineering Division — DPW

By Council Member Benson:

Resolved, All of that part of Ellis Street, 34.27 feet wide, lying west of the west of Hubbell Avenue, 66 feet wide, and lying east of the east line of the north-south public alley, 18 feet wide, first west of Hubbell Avenue, and described as: Land in the City of Detroit, Wayne County, Michigan being that part of Ellis Street, 34.27 feet wide, lying northerly of and adjoining the northerly line of Lot 1408 "Frischkorn's West Chicago Boulevard Subdivision No. 1 of part of the S.E. 1/4 of S.W. 1/4 of Sec. 31, T1S.,R11E, Greenfield Township, Wayne County, Michigan" as recorded in Liber 46, Page 8 of Plats, Wayne County Records, also lying southerly of and adjoining the southerly line of the east 100 feet on the south line of a parcel of land being : Part of S. W. 1/4 of Section 31 T.1S.,R.11E., described as: Commencing at the south 1/4 corner of said Section 3; thence N0°02'W 883.57 feet; thence S89°23'04"W 33 feet to the intersection of the

west line of Hubbell Avenue, 66 feet wide and the north line of Ellis Avenue and the Point of Beginning; thence S89°23'04"W along the north line of Ellis Avenue 118.50 feet ; thence N0°02'W 120.83 feet; thence S89°50'E 118.50 feet; thence S0°02'E along the west line of Hubbell 119.15 feet to the Point of Beginning.

Be and the same is hereby vacated as a public street and converted into a private easement for public utilities of the full width of the street, 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 street 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 street 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 street 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 street 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, concrete slabs or driveways, 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 street 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 illustrations 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

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 be it further

Provided, That free and easy access to the sewers, water mains, fire hydrants and appurtenances 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 be it further

Provided, That the Detroit Water and Sewerage Department retains the right to install suitable permanent main location guide post over its water mains at reasonable intervals and at points deflection; and be it 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 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 be it further

Provided, that if 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 incidental 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 incidental to the repair of such broken or damaged sewers and water mains, and shall also be liable for all claims for damages resulting from his action; and be it further

Provided, that if it becomes necessary to remove the paved street return at the entrance (into Hubbell 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 further

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

