

City Engineering Department

November 30, 1989

Honorable City Council:

Re Petition No. 3311 City Management Corporation Street to Easement Ellery between (vacated) Fort and E. Lafayette.

Petition No. 3311 of "City Management Corporation" requests the conversion of Ellery Street, 50 feet wide, between (previously vacated) Fort Street and E. Lafayette Avenue into an easement for public utilities.

The Community and Economic Development Department reports City Management Corporation has reached an agreement with the Board of Education (Martin Luther King Jr., High School), the other adjoining property owner.

The conversion was approved by the Community and Economic Development Department. The petition was referred to the City Engineering Department for investigation and report. This is our report.

Whenever the location of a proposed new driveway (into M. L. King, Jr., High School parking lot) is approved, the Fire Department will require the relocation of a hydrant from (to be vacated) Ellery to public property. The Fire Department will approve the actual hydrant location. The hydrant must be relocated by the petitioner under private contract (at no expense to the City); subject to Water and Sewerage Department deposits, plan review, permits, inspection and specifications.

Further, the City owns (4 parcels) of Ellery Street (50 feet wide) in fee. Therefore, the Finance Director must execute a quit-claim deed to transfer converted public right-of-way to City Management Corporation.

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

The adoption of the attached resolution is recommended.

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Ravitz:

Resolved, All that part of Ellery Street, 50 feet wide, lying between and abutting the north line of (vacated) Fort Street (50 feet wide) and the south line of E. Lafayette Avenue (variable width), said

part of Ellery Street having been deeded (from Snyder Tools and Engineering Company, a Michigan Corporation) to the City of Detroit on July 12, 1955 — J.C.C. pp. 1460-62; also said part of Ellery Street (as widened and dedicated for street purposes) having been deeded (from the Board of Education) to the City of Detroit on September 22, 1964 — J.C.C. pp. 2114-16; also said part of Ellery Street containing the remaining part of the east-west public alley 20 feet wide (not previously vacated in the above referenced City Council resolutions) in the block bounded by (vacated) Elmwood Avenue, (vacated) Leib and (vacated) Fort Streets, and E. Lafayette Avenue.

The above public street right-of-way is contained with (part of) the bounds of a land parcel, being more particularly described as follows:

Commencing at the northwesterly corner of Lot 24 of "Elmwood Urban Renewal Plat No. 2 of part of Private Claims 90, 14, 91, 733, 609, 9, and 454, 11 and 453, 182, 15 and 18", City of Detroit, Wayne County, Michigan as recorded in Liber 92, Pages 77-82, Plats, Wayne County Records; thence N 59°52'22"E. along the northerly line of said Lot 24, 47.82 feet to the point of beginning; thence N 30°12'38"W. along the easterly line of Ellery Street (50 feet wide), 295.84 feet; thence S 51°38'25"W. along the southerly line of E. Lafayette Avenue (120 feet wide and variable width), 99.00 feet; thence S 30°12'38"E., 281.66 feet; thence N 59°52'22"E. along the northerly line of (vacated) Fort Street (50 feet wide), 98.00 feet to the point of beginning, containing 28,298 square feet or 0.6496 acres, more or less.

All of the Ellery Street public right-of-way (50 feet wide; referenced in this resolution) appears in the following subdivisions:

(1) "Trowbridge's Subdivision of Lot 11 of the Subdivision of the George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 14, Plats, Wayne County Records;

(2) "Hallock's Subdivision of part of Lots 10 and 11, George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 16, Plats, Wayne County Records;

Be and the same is hereby vacated as public street and is hereby converted into a public easement 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 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 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, hydrant, 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) shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Department.

Fourth, that if the owners of any lots abutting on said vacated street shall request the removal and/or relocation of any existing poles, hydrants, 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 hydrant or other 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

Provided, That if it becomes necessary

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to remove (any part of) the paved street return at the entrance (into Lafayette Avenue), such removal and construction of new curb and sidewalk shall be done under City Engineering Department permits, inspection, and specifications with all costs borne by the petitioner, their heirs or assigns; and

Provided, That the petitioner shall relocate one hydrant from said portion of Elery Street to public property (as required by the Fire Department — Water Supply Division). The Fire Department shall approve the actual hydrant location. Also, the petitioner shall make application to the Water and Sewerage Department (DWSD) for a permit. The hydrant relocation work shall be done by private contract with all costs borne by the petitioner (subject to DWSD deposits, plan review permits, inspection and specifications); and

Provided Further, That a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs; and be it further

Resolved, The Finance Director is hereby authorized and directed to execute a quit-claim deed to transfer the following converted public (street) right-of-way to "City Management Corporation", a Michigan Corporation, 3400 East Lafayette Avenue, Detroit, Michigan 48207 (for the fair market value and/or other considerations):

(1) Land in the City of Detroit, Wayne County, Michigan being (aka "Parcel One") a strip of land 26.00 feet in width and (except that part taken for the widening of E. Lafayette Avenue, variable width) 138.00 feet in depth consisting of the west 22.87 feet of Lot 27 and the east 3.13 feet of Lot 26 of "Trowbridge Subdivision of Lot 11 of the Subdivision of the George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 14, Plats, Wayne County Records; containing 3,536 square feet or 0.0812 acres, more or less; subject to an easement for public utilities; also

(2) Land in the City of Detroit, Wayne County, Michigan being (aka "Parcel Two") a strip of land 26.00 feet in width and 138.00 feet in depth, bounded on the east by an extension in a southerly direction, of the easterly boundary of Parcel One as described above, bounded on the west by an extension in a southerly direction of the westerly boundary of Parcel One as described above, and bounded on the north and south by the north and south lot lines of Lots 27 and 28 of "Hallock's Subdivision of part of Lots 10 and 11, George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 16, Plats, Wayne County Records; said Parcel Two consisting of the west 4.00 feet (more or

less) of Lot 28 and the east 22.00 feet (more or less) of Lot 27 of the last mentioned "Hallock's Subdivision", containing 3,588 square feet or 0.824 acres, more or less; subject to an easement for public utilities; also

(3) Land in the City of Detroit, Wayne County, Michigan being a strip of land the full depth of Lot 26 (except that part taken for the widening of E. Lafayette Avenue, variable width) starting 2.87 feet east of the westerly property line of Lot 26, thence 24.00 feet to a point 3.13 feet west of the easterly property line of Lot 26, which is now a dedicated public right-of-way, all of "Trowbridge Subdivision of Lot 11 of the Subdivision of the George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 14, Plats, Wayne County Records; containing 3,177 square feet or 0.0729 acres, more or less; subject to an easement for public utilities; also

(4) Land in the City of Detroit, Wayne County, Michigan being a strip of land (24.00 feet wide) the full depth of Lots 26 and 27, being the westerly 7.57 feet of said Lot 27 and the easterly 16.43 feet of said Lot 26; all of "Hallock's Subdivision of part of Lots 10 and 11, George Hunt Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 2, Page 16, Plats, Wayne County Records; containing 3,312 square feet or 0.0760 acres, more or less; subject to an easement for public utilities.

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9

Nays — None.

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STREET TO EASEMENT

VACATED

LAFAYETTE

ELLERY ST.

PLAT

PET. NO. 3311
CARTO NO. 38-A