

City Engineering Department  
September 20, 1990

Honorable City Council:

Re: Planning Department — Street to Easement. Additional portion of remaining Bates Street, south of E. Jefferson.

A petition from the "Planning Department" requests the conversion of an additional portion of remaining Bates Street, 50 feet wide, south of E. Jefferson Avenue into an easement for public utilities.

Bates Street, 50 feet wide, was previously closed between the north line of old Atwater Street (50 feet wide) and the south line of E. Jefferson Avenue (210 feet wide) by City Council on August 2, 1955 to construct the (existing) underground garage. However, to retain the "as built" condition of said garage it is necessary to close an additional portion of said Bates Street.

A "letter of understanding" (LOU), associated with the Comerica Headquarters project, called for the sale of the underground garage. The LOU was approved by your Honorable Body on July 18, 1990.

The request 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:

The City Engineering Department has contacted all involved City departments and/or utilities. Existing access and maintenance rights will be retained. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended with a waiver of reconsideration (as requested by the Planning Department).

Respectfully submitted,  
CLYDE R. HOPKINS,  
Director

By Council Member Kelley:

Resolved, All that part of the remaining portion of Bates Street, 50 feet wide, lying between the north line of (vacated) Atwater Street (50 feet wide) and a line 15.50 feet southerly of and parallel to said north line of Atwater Street of the "Plan of Section numbered four in the City of Detroit in the Territory of Michigan, confirmed by the Governor and Judges". (also known as the Governor and Judges Plan) as recorded in Liber 34, Pages 546 and 547, Deeds, 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, 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 (except the existing underground parking structure, subject to and/or together with all previously granted easements or rights of record; also except the proposed public plaza development associated with the Comerica Headquarters project) 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, 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 utility, 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, and send a certified copy to the State Treasurer.

Adopted as follows:

Yeas — Council Members Cleveland, Collins, Eberhard, Hill, Hood, and Kelley — 6.

Nays — Council Members Butler, Ravitz, and President Mahaffey — 3.

\*WAIVER OF RECONSIDERATION (No. 3), per Motions before Adjournment.

SEPT. 26, 1990

J.C.C. PGS. 2000-01

