



October 26, 2017

Honorable City Council:

RE: Petition No. 1390 InSite Real Estate LLC, request to convert a public right-of-way to an easement over a portion of Lantz Avenue between Sherwood (east boundary) and Michigan Central Railroad (west Boundary).

Petition No. 1390 by InSite Real Estate LLC request to vacate and convert to easement Lantz Avenue, 40 feet wide, and variable width, from Sherwood Avenue, 76 feet wide, and 66 feet wide, to Michigan Central Railroad right-of-way, 50 feet wide.

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

The request is being made to consolidate properties, and for site improvements and modifications.

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

Public Lighting Department (PLD) reports involvement with a primary circuit in the subject area. A provision for 24-hour access by PLD is a part of the resolution.

Public Lighting Authority (PLA) reports involvement and the estimated cost of removing their services is 698.70 dollars. A provision for the PLA removals are a part of the 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.

DTE energy (DTE) reports involvement and has no objection provided their access is maintained and certain clearances are kept. A provision for DTE is a part of the resolution.

All other involved City Departments, 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.



I am recommending adoption of the attached resolution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Doherty".

Richard Doherty, P.E., City Engineer
City Engineering Division – DPW

/JK

Cc: Ron Brundidge, Director, DPW
Mayor's Office – City Council Liaison

BY COUNCIL MEMBER _____

RESOLVED, that Lantz Avenue, 40 feet wide, and variable width, from Sherwood Avenue, 76 feet wide, and 66 feet wide, to Michigan Central Railroad right-of-way, 50 feet wide and described as land in the City of Detroit, Wayne County, Michigan lying southerly of and adjoining the southerly line of part of the N.E. 1/4 of S.W. 1/4 of Section 4, T.1S.,R.12E; and also described as lying southerly of and adjoining the southerly line of Lots 20, 21, 44, and Out Lot A, and the vacated streets and alleys adjoining said Lots and Out Lot "Paterson Bros. & Co. Mt. Elliott Avenue Subdivision of part of the N.E. 1/4 of S.W. 1/4 of Section 4, T.1S.,R.12E., City of Detroit, Wayne County, Michigan" as recorded in Liber 56, Page 79 of Plats, Wayne County Records, above said Plat vacated by Circuit Court October 19, 1945 File Number 240168. Also that part of Lantz Avenue deeded for street purposes and accepted by the City of Detroit on January 31, 1967 as described in J.C.C. page 165 and as follows: All that part of the Southwest 1/4 Section 4, Town 1 South, Range 12 East; Commencing with the intersection of the Westerly line of Sherwood Avenue, 66 feet wide, with the Southerly line of Lantz Avenue, 30 feet wide as the point of beginning; thence Westerly along the Southerly line of Lantz Avenue, 574.77 feet, more or less to a point in the Easterly boundary of the right-of-way line of the Michigan Central Railroad; thence Southerly along the Easterly boundary of the right-of-way line of the Michigan Central Railroad 10 feet to a point; thence Easterly and parallel to the Southerly line of Lantz Avenue, 30 feet wide, 574.77 feet, more or less, to a point in the Westerly line of Sherwood Avenue, 66 feet wide; thence Northerly along the Westerly line of Sherwood Avenue, 66 feet wide, 10 feet, more or less, to the point of beginning.

Be and the same is hereby vacated as a public right-of-way and converted into private easement for public utilities of the full width of the right-of-way, 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 rights-of-way 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 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 (except necessary line fences), 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 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 the Public Lighting Department shall have access at all times, 24 hours a day, and 7 days a week, to maintain and repair the primary circuit in the easement area; and further

Provided, that the petitioner make the necessary arrangements with the Public Lighting Authority for the removal of their services in the easement area, with the cost (estimated at \$689.70) to be borne by the petitioner or their assigns; and further

Provided, that DTE Energy equipment shall be accessible at all times and that any new construction shall maintain a 5 foot radius from DTE equipment, and comply with safety clearances; 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 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 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 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 Sherwood 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.

