

City Engineering Department
November 30, 1992

Honorable City Council:

Re: Petition No. 3510, Wheel and Rim Supply Company Temporary Street Closing and Street to Easement, part of Beard, north of Bostwick; also part of Goldsmith, west of Waterman.

Petition No. 3510 of "Wheel and Rim Supply Company" requests the closing of part of Beard Avenue, 60 feet wide, north of Bostwick Avenue; also the conversion of part of Goldsmith Avenue, 50 feet wide, west of Waterman Avenue into an easement for public utilities.

A report (dated June 3, 1991) from the City Planning Commission was submitted to City Council.

The public street closings were 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 Department of Transportation (now DPW — Traffic Engineering Division) reported no objections to the public street closings subject to the consent of the Detroit Board of Education, a property owner abutting the west side of Beard Avenue.

The Board of Education has submitted a letter to the City (received by the City Engineering Department on November 9, 1992) consenting to the "temporary closing" of part of Beard Avenue, subject to conditions.

All other involved city departments and privately-owned utility companies have reported no objections to the closings, provided they have the right to ingress and egress at all times to their facilities.

An appropriate resolution containing the necessary conditions is attached for consideration by your Honorable Body.

Respectfully submitted,

CLYDE R. HOPKINS,
 Director

By Council Member Butler:

Whereas, the Detroit Board of Education ("Board") has submitted a letter to the City (received by the City Engineering Department on November 9, 1992) consenting to the temporary closing of part of Beard Avenue; said public street right-of-way lying between and abutting properties owned by the "Board" and the Wheel and Rim Supply Company ("petitioner"); subject to the following conditions:

(1) The Board of Education does not waive nor relinquish its ownership (interests) and reversionary rights to the westerly half of the affected Beard (Avenue) right-of-way; (and)

(2) The Board assumes no cost nor liability for the installation and maintenance of said temporary fencing; (and)

(3) The Board has advertised to the general public the availability for sale of said adjacent 7.00 acre(s) McNamara Skills Center site at the established (1989) asking price of \$125,000 and does hereby solicit possible interest in the purchase of said site by the denoted petitioner, the Wheel and Rim Supply Company, and/or its indicated neighboring firm, Bob Brown and Associates; (and)

Whereas, the City Engineering Department has been told by the "Board" that said partial temporary public street closing (subject to the above conditions) is acceptable to the "petitioner"; therefore be it

Resolved, The City Engineering Department is hereby authorized and directed to issue permits to "Wheel and Rim Supply Company" to close all that part of Beard Avenue, 60 feet wide, north of Bostwick Avenue lying westerly of and abutting the south 24.50 feet of the west line of Lot 11, and the northerly half of the west line of Goldsmith Avenue (50 feet wide) of "Thomas Brother's Subdivision of the South 165 feet of Lot 34 of Scotten of Lovett's Subdivision of Parts of Private Claims 267, 268, and 270 lying between Fort Street of the D.&M.&T.R.R. west of Waterman Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 26, Page 86, Plats, Wayne County Records; also lying westerly of and abutting the southerly half of the west line of Goldsmith Avenue (50 feet wide), and Lots 17 thru 22 of "Thomas Brother's Subdivision of Lot 33 of Scotten and Lovett's Subdivision of Parts of Private Claims 267, 268, and 270 lying between Fort Street and the D.&M.&T.R.R. west of Waterman Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 24, Page 88, Plats, Wayne County Records; also lying westerly of and abutting the west line of Lots 19 thru 24 of "Cunningham and Brigham's Subdivision of Lots 29 and 31 of the Subdivision of part of Private Claims 267, 268, and 270 between Fort Street and Detroit, Monroe, and Toledo Railroad, Springwells (Township)," City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 3, Plats, Wayne County Records; also lying easterly of and abutting the north 383.01 feet of the east line of Lot 100 of "Lovett's Subdivision of Lots 12, 14, 16, 18, 20, 22, 24, 26, 28, 30 and 32 of Scotten and Lovett's Subdivision of all those parts of Private Claims 267 and 270 lying between Fort Street and D.&M.&T.R.R. and west of Waterman Avenue, Springwells (Township)," City of Detroit, Wayne County, Michigan as recorded in Liber 14, Page 66, Plats, Wayne County Records; being more particularly described as follows: Beginning at the southwest corner of Lot 24 of said "Cunningham and Brigham's Subdivision," City of Detroit, Wayne County, Michigan as recorded in Liber 10, Page 3, Plats, Wayne County Records; thence S.61°54'19"W., along the south lot line extended westerly to the west line of said Beard Avenue, 60.00 feet; thence N.28°05'41"W., along the west line of said Beard Avenue, 383.01 feet; thence N.27°14'31"E., along the southerly line of railroad right-of-way, 72.95 feet; thence S.28°05'41"E., along the east line of said Beard Avenue, 424.50 feet to the point of beginning (containing 24,225 square feet or 0.5561 acres more or less); on a temporary basis to expire on January 1, 1998;

Provided, The petitioner shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit harmless from all claims, damages or expenses that may arise by reason of the issuance of permits and the faithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the temporary public street closing; and

Provided, The permit shall be issued after the City Clerk has recorded a certi-

fied copy of this resolution with the Wayne County Register of Deeds; and

Provided, The property owned by the petitioner and adjoining the temporary public street closing shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total width and length of the street; and

Provided, No building or other structure (except necessary line fence), shall be constructed on or over the street. The petitioner shall observe the rules and regulations of the City Engineering Department. The City of Detroit retains all rights and interest in the temporarily closed public street. The City and all utility companies retain their rights to service, inspect, maintain, repair, install, remove or replace utilities in the temporarily closed public street. Further, the petitioner shall comply with all specific conditions imposed to insure unimpeded 24-hour-per-day access to the City and utility companies; and

Provided, All of the petitioner's public property fence and gate installation(s) shall be subject to the review and approval of the City Engineering Department (if necessary, in conjunction with the Department of Public Works — Traffic Engineering Division, Planning Department, and the Community and Economic Development Department); and

Provided, The petitioner's fence and gate installation shall provide 13 feet horizontal and 15 feet vertical clearance(s) for utility maintenance vehicles; and

Provided, This resolution does not permit the storage of materials, display of merchandise, or signs within the temporarily closed public street. Further, the placement of materials, merchandise, or signs on any adjacent berm area is prohibited; and

Provided, That at the expiration of the permit, all obstructions shall be removed at the petitioner's expense. The public property shall be restored to a condition satisfactory to the City Engineering Department by the petitioner at the petitioner's expense; and

Provided, This resolution is revocable at the will, whim or caprice of the City Council without cause. The petitioner waives the right to claim damages or compensation for removal of encroachments. Further, the permittee acquires no implied or other privileges hereunder not expressly stated herein. If this permit is continued for the five (5) year period, the City Council may (upon written request and if the circumstances justify accordingly) grant an extension thereto; and

Provided, This permit shall not be assigned or transferred without the written approval of the City Council; and be it further

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Resolved, All that part of Goldsmith Avenue, 50 feet wide, lying between and abutting the east line of Beard Avenue (60 feet wide) and the west line extended northerly of the north-south public alley (18 feet wide) first west of Waterman Avenue; also lying southerly of and abutting the south line of Lots 5 thru 10; also lying southerly of and abutting the south line of the (vacated) north-south public alley (18 feet wide; second west of Waterman Avenue, north of said Goldsmith Avenue having been previously vacated by City Council on July 6, 1926 — J.C.C. pg. 2031); also lying southerly of and abutting the south line of Lot 11 of "Thomas Brother's Subdivision of the South 165 feet of Lot 34 of Scotten of Lovett's Subdivision of Parts of Private Claims 267, 268, and 270 lying between Fort Street of the D. & M. & T.R.R. west of Waterman Avenue", City of Detroit, Wayne County, Michigan as recorded in Liber 26, Page 86, Plats, Wayne County Records; also lying northerly of and abutting the north line of Lot 17; also lying northerly of and abutting the north line of the (vacated) north-south public alley (18 feet wide; first east of Beard Avenue, south of said Goldsmith Avenue having been previously vacated by City Council on March 19, 1975 — J.C.C. pgs. 524-25 and June 11, 1975 — J.C.C. pg. 1194); also lying northerly of and abutting the north line of Lots 5 thru 16 of "Thomas Brother's Subdivision of Lot 33 of Scotten and Lovett's Subdivision of Parts of Private Claims 267, 268, and 270 lying between Fort Street and the D. & M. & T.R.R. west of Waterman Avenue", City of Detroit, Wayne County, Michigan as recorded in Liber 24, Page 88, Plats, Wayne County Records;

Be and the same is hereby vacated as a 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 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 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.

Adopted as follows:

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

Nays — None.

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 - CONV. TO EASEMENT

 - TEMP. CLOSED UNTIL 1-1-98