

Department of Public Works
City Engineering Division

December 2, 1994

Honorable City Council:

: Addendum to Petition No. 2445 (from 1988) Forbes Management, Inc. Theatre District — Phase III Temporary Alley Closing Extended Street and Alleys to Easement all in the area bounded by Woodward, Witherell, Elizabeth and Montcalm. To develop the "Palms and Gem" vicinity as a Theatre District the following resolutions closing parts of Columbia Street, 50 feet wide, and public alleys have been previously adopted by your Honorable Body:

Petition No. 2340; September 21, 1988 — J.C.C. pages 2309-10; Addendum to #2340; September 28, 1988 — J.C.C. pages 2354-55; Petition No. 2445; September 28, 1988 — J.C.C. pages 2355-58.

To consolidate properties owned by "Forbes Management, Inc." it is necessary to convert the remaining parts of public rights-of-way, excluding one 'L-shaped' public alley (20 feet wide), in the area bounded by Woodward Avenue, Witherell, Elizabeth and Montcalm Streets into a private easement for public utilities.

The petitioner is requesting an extension of the previously granted "temporary closing" of one 'L-shaped' public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia Streets. The referenced "temporary public alley closing" expired on November 1, 1993.

The petitioner has submitted an addendum letter to the City Engineering Division — DPW.

The addendum requesting street and alley vacations east of Woodward; also the extension of the referenced "temporary public alley closing" was approved by the Planning and Development Department in a letter received on August 31, 1994.

The Water and Sewerage Department will require unimpeded access to existing sewers. Any fence and gate installations must provide 13 feet horizontal and 15 feet vertical clearances for maintenance vehicles.

The petitioner plans to use the paved street and alley return entrances (into Woodward Avenue, Montcalm and Witherell Streets) and requests such remain in their present status. Forbes Management, Inc. shall pay all incidental removal costs whenever discontinuance of use makes removal necessary. [NOTE: Permission to remove or modify the paved street return into Woodward Avenue must be obtained from the Michigan Department of Transportation.]

Forbes Management, Inc. must apply to the Department of Public Works (in conjunction with any building permits required by Buildings and Safety Engineering Department, if necessary) for the review and approval of "curb cuts" to change, remove and/or replace drive-ways and/or paved return entrance(s) into Witherell, Elizabeth or Montcalm Streets. [NOTES: The city reserves the right to require a surety bond in a penal sum of dollars, amount to be determined by the Law Department in conjunction with the Finance Department — Risk Management Division, for the proposed removal of the paved alley return into Elizabeth. A surety bond must remain in perpetuity as long as the 'L-shaped' public alley is "temporarily closed" and subject to being reopened for public use.]

All other city departments and privately-owned utility companies have reported no objections to the addendum provided they have the right to ingress and egress at all times to their facilities. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Everett:

Whereas, The following petition to temporarily close a 'L-shaped' public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia Streets has been previously granted by City Council:

Petition No. 2445; September 28, 1988 — J.C.C. pages 2355-58; and

Whereas, This temporary closing expired on November 1, 1993 and the petitioner has requested a further extension (Addendum to Petition No. 2445) as submitted in an addendum letter to the City Engineering Division — DPW (dated April 19, 1993); and

Whereas, The addendum requesting street and alley vacations east of Woodward; also the extension of the referenced "temporary public alley closing" was approved by the Planning and Development Department in a letter

received by the City Engineering Division — DPW on August 31, 1994; and

Whereas, The petitioner has complied with the terms, conditions, and restrictions of other previously granted Council resolutions; therefore be it

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "Forbes Management, Inc." to close a 'L-shaped' public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia lying westerly of and abutting the west line of Lot 80; also lying westerly of and abutting the west line of the east-west public alley (20 feet wide); also lying easterly of and abutting the east line of the southern 15.00 feet of Lot 85, and Lots 81 thru 84; also lying southerly of and abutting the south line of Lots 89 thru 97; also lying northerly of and abutting the north line of Lots 72 thru 80 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; on a temporary basis to expire on January 1, 2000;

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 or unfaithful 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 alley closing; and

Provided, The permit shall be issued after the City Clerk has recorded a certified copy of this resolution with the Wayne County Register of Deeds; and

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

Provided, No building or other structure (except necessary line fence), shall be constructed on or over the alley. The petitioner shall observe the rules and regulations of the City Engineering Division — DPW. The City of Detroit retains all rights and interests in the temporarily closed public alley. The City and all utility companies retain their rights to service, inspect, maintain, repair, install, remove or replace utilities in the temporarily closed public alley. 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 Division — DPW (if necessary, in conjunction with the Traffic Engineering Division — DPW, and the Planning and 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 alley. 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 Division — DPW 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

Resolved, All of the remaining part of Columbia Avenue, 50 feet wide, west of Witherell Street lying southerly of and abutting the south line of Lots 141 and 142; also lying northerly of and abutting the north line of Lots 96 and 97 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

All of the remaining part of Columbia Avenue, 50 feet wide, east of Woodward Avenue (120 feet wide) lying southerly of and abutting the south line of the eastern 57.62 feet of Lot 150; also lying southerly of and abutting the south line of the

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vacated north-south public alley (20 feet wide, in the block bounded by Woodward, Witherell, Columbia and Montcalm; having been previously vacated by City Council on September 28, 1988 — J.C.C. pages 2355-58); also lying northerly of and abutting the north line of the north-south public alley (20 feet wide, in the block bounded by Woodward, Witherell, Columbia and Elizabeth); also lying northerly of and abutting the north line of the eastern 60.80 feet of Lot 88 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

All that part of the north-south public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Elizabeth and Columbia Streets lying westerly of and abutting the west line of Lot 89; also lying easterly of and abutting the east line of the northern 15.00 feet of Lot 85, and Lots 86 thru 88 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

All of the remaining portions of the east-west public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Columbia and Montcalm Streets lying southerly of and abutting the south line of Lots 158, 159, 165 and 166; also lying northerly of and abutting the north line of Lots 141, 142, 148 149 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

All of the remaining part of the north-south public alley, 20 feet wide, in the block bounded by Woodward Avenue, Witherell, Columbia and Montcalm Streets lying westerly of and abutting the west line of Lot 158; also lying westerly of and abutting the west line of the east-west public alley (20 feet wide); also lying easterly of and abutting the east line of Lots 154 thru 157 of "Plat of William's Park Lots 1, 2, 3 and 4 as made and adopted by the Commissioners for the Partition of the Estate of John R. Williams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

liams (referred to in their partition) and their report duly filed in the City of Detroit, 1857", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 39, Plats, Wayne County Records; also

Be and the same are hereby vacated as public street and alleys and are hereby converted into a private easement for public utilities of the full width of the street and alleys, 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 alleys 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 and alleys 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 or alley 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 and alleys 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 Division-DPW.

Fourth, that if the owners of any lots

abutting on said vacated street and alleys 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, Forbes Management, Inc. shall apply to the Department of Public Works (in conjunction with any building permits required by the Buildings and Safety Engineering Department, if necessary) for the review and approval of detailed permit application drawings (to be submitted by the petitioner or their assigns) associated with proposed "curb cuts" to change, remove and/or replace driveways and/or paved return entrance(s) into Witherell, Elizabeth or Montcalm Streets. [Notes: The city reserves the right to require a surety bond in a penal sum of dollars, amount to be determined by the Law Department in conjunction with the Finance Department — Risk Management Division, for the proposed removal of the paved alley return into Elizabeth. A surety bond must remain in perpetuity as long as the 'L-shaped' public alley, described above in this resolution, is "temporarily closed" and subject to be reopened for public use.]; and further

Provided, That if it becomes necessary to remove the paved street and alley return entrances (into Woodward Avenue, Montcalm and Witherell Streets), 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 heirs or assigns. [Note: Permission to remove or modify the paved street return into Woodward Avenue must be obtained from the Michigan Department of Transportation.]; 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.

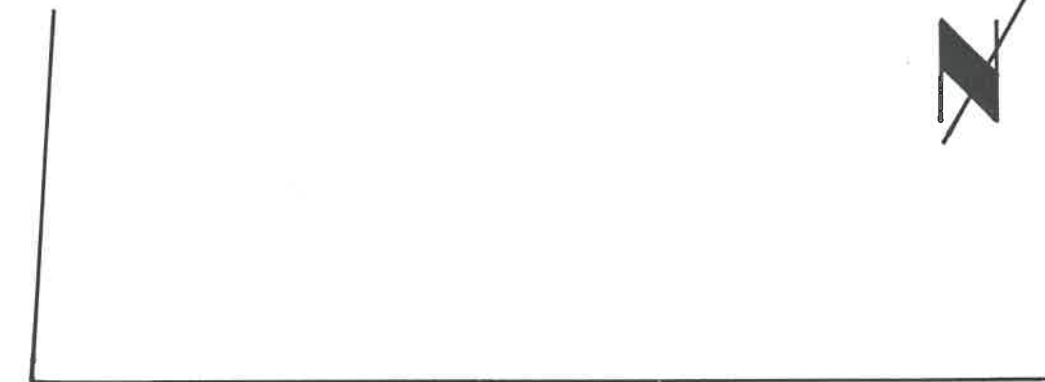
Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 9.

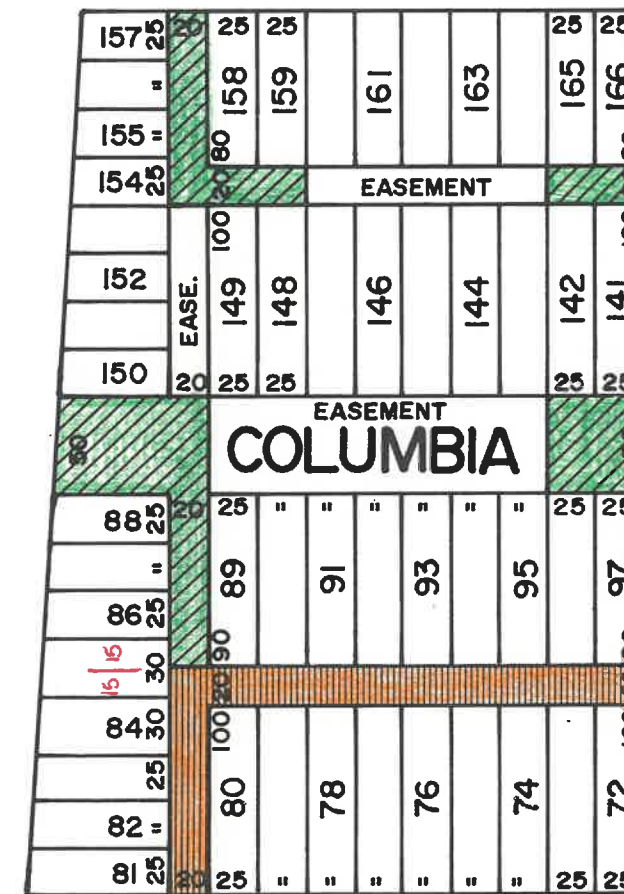
Nays — None.

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A hand-drawn diagram of a triangle. The left side of the triangle is shaded with a solid black square. A vertical line segment is drawn from the top vertex of the triangle down to the base, intersecting the shaded square.



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