

May 22, 2006

Honorable City Council:

RE: Petition No. 4380  
Detroit Medical Center—Wayne State University  
DMC—Main Campus  
Partial Vacation(s) of Brush Street Mall  
in the area bounded by John R, Beaubien, Mack and Canfield

City Council adopted a Project Plan for the Medical Center Rehabilitation Project No. 2 on March 1, 1966. That Plan provided for public street and alley modifications. Over forty years of expansion projects include various hospital operating facilities, Wayne State University—Medical School buildings, and condominium structures that enfold the Brush Street Mall at the Detroit Medical Center (DMC—Main Campus). A variety of permitted hospital support facilities, an existing tunnel system; also the existing DMC telecommunication cable and equipment network intertwine beneath the surface of the Brush Street Mall at the DMC—Main Campus.

The City Engineering Division—DPW is unable to find a City Council resolution that will permit part(s) of the Brush Mall at the DMC—Main Campus to be conveyed into a condominium form of ownership. Therefore, Petition No. 4380 of "DMC—Wayne State University" requests approval from City Council for the following partial vacation(s) of Brush Street Mall:

- (1) Vacate and convert into a private easement for public utilities, part of the Brush Street Mall (described in the Council resolution adopted on January 12, 2000—J.C.C. pages 80-81); and
- (2) Outright vacate part of the Brush Street Mall, "Wertz Center—Expansion Area A"; subject to conditions that obligate the relocation of certain existing public utilities.

The petition was referred to City Engineering Division - DPW for investigation and report. This is our report:

The table on page two is a summary of earlier City Council resolution-grants involving the Brush Street Mall (previously submitted by City Engineering Division—DPW):

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 Petition No. 4380  
 Partial Vacation(s) of Brush Street Mall  
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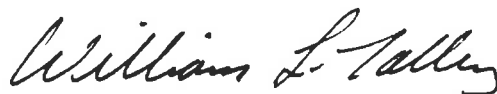
JCC Year-Month-Day	Petitioner	Brush Street Mall—Resolution Grants
1977 May 25 J.C.C. pages 1140-41	Detroit Medical Center Corporation	Removal of Traffic, Brush Street Mall between Mack and Canfield – Encroachment UG Pedestrian Tunnel across Brush at Alexandrine
1985 July 24 J.C.C. pages 1691-92	Harper Hospital	Brush Street Mall Encroachment – Magnetic Resonance Imaging Facility UG
2000 January 12 J.C.C. pages 80-81	Detroit Medical Center – Harper Hospital	Brush Street Mall Encroachment – Wertz Clinical Cancer Center Phase Two
<p><b>NOTES:</b> The City Engineering Division—DPW participated in the review of reference engineering drawings known as Job No. DMC-1, dated October 24, 1985, prepared by Harris McBurney Services, Inc. This project permitted the placement, easements and maintenance of underground (UG) lines for the existing DMC telecommunication cable and equipment network. A joint document, "Declaration of Easements"—containing covenants that bind lands owned by DMC-Hospitals, Wayne State University and the City of Detroit—is dated October 31, 1985 and recorded in Liber 22728, Pages 097-119, Wayne County Records.</p>		

DTE Energy—Edison Company, DTE Energy—MichCon Gas Company, Detroit Thermal L.L.C. and the Water and Sewerage Department (DWSD) reviewed the Brush Street Mall, "Wertz Center—Expansion Area A". Necessary conditions that obligate "Detroit Medical Center - Wayne State University" to protect and/or relocate certain utility installations are part of the resolution.

All other involved city departments and privately owned utility companies reported no objections to the outright vacation. Provisions protecting utility installations within Brush Street Mall are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,



William L. Talley, Head Engineer  
 City Engineering Division – DPW

AM:JDF

Cc: Cathy Square - Director, Department of Public Works  
 Kandia Milton, Mayor's Office

BY COUNCIL MEMBER: \_\_\_\_\_

**Whereas,** The Detroit Medical Center (DMC) is the leading academically integrated delivery system in metropolitan Detroit and the largest health care provider in southeast Michigan. The DMC has more than 2,000 licensed beds, 3,000 affiliated physicians, and is the teaching and clinical research site for Wayne State University School of Medicine, the nation's fourth largest medical school; and

**Whereas,** City Council adopted a Project Plan for the Medical Center Rehabilitation Project No. 2 on March 1, 1966. That Plan provided for public street and alley modifications. Over forty years of expansion projects include various hospital operating facilities, Wayne State University—Medical School buildings, and condominium structures that enfold the Brush Street Mall at the Detroit Medical Center (DMC—Main Campus). A variety of permitted hospital support facilities, an existing tunnel system; also the existing DMC telecommunication cable and equipment network intertwine beneath the surface of the Brush Street Mall at the DMC—Main Campus; and

**Whereas,** The table below is a summary of earlier City Council resolution-grants involving the Brush Street Mall (previously submitted by City Engineering Division—DPW):

JCC Year-Month-Day	Petitioner	Brush Street Mall—Resolution Grants
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**NOTES:** The City Engineering Division—DPW participated in the review of reference engineering drawings known as Job No. DMC-1, dated October 24, 1985, prepared by Harris McBurney Services, Inc. This project permitted the placement, easements and maintenance of underground (UG) lines for the existing DMC telecommunication cable and equipment network. A joint document, "Declaration of Easements"—binding upon DMC-Hospitals, Wayne State University and the City of Detroit—is dated October 31, 1985 and recorded in Liber 22728, Pages 097-119, Wayne County Records.

However, the City Engineering Division—DPW is unable to find a City Council resolution that will permit part(s) of the Brush Street Mall at the DMC—Main Campus to be conveyed into a condominium form of ownership. Therefore, Petition No. 4380 of "DMC—Wayne State University" requests approval from City Council for the following partial vacation(s) of Brush Street Mall:

- (1) Vacate and convert into a private easement for public utilities, part of the Brush Street Mall (described in the Council resolution adopted on January 12, 2000—J.C.C. pages 80-81); and

- (2) Outright vacate part of the Brush Street Mall, "Wertz Center—Expansion Area A"; subject to conditions that obligate the relocation of certain existing public utilities; therefore be it

RESOLVED, Land in the City of Detroit, Wayne County, Michigan being that part of Brush Street (Mall) and the Recreational Park as replatted in the "MEDICAL CENTER URBAN RENEWAL PLAT NO. 1", as recorded in Liber 88 of Plats, Pages 74, 75, and 76, Wayne County Records; and "MEDICAL CENTER URBAN RENEWAL PLAT NO. 2", as recorded in Liber 90 of Plats, Pages 89 through 91, Wayne County Records, being more particularly described as follows:

BEGINNING at the POINT of intersection of the center line of WILLIS AVENUE (100 feet wide) and the Westerly line of BRUSH STREET (187.35 feet wide); Thence, along the extension Easterly of said centerline, N 59°50' 30" E, 187.80 feet; Thence, along the Easterly line of said BRUSH STREET, S 26°09' 00" E, 521.06 feet; Thence, along the Southerly line of vacated ALEXANDRINE AVENUE (50 feet wide) and the Northerly line of Lot 7 of said "MEDICAL CENTER URBAN RENEWAL PLAT NO. 1", S 63°41' 30" W, 57.35 feet; Thence, along the Westerly line of said Lot 7 and Easterly line of BRUSH STREET (35 feet wide), lying Easterly of said Recreational Park, S 26°08' 30" E, 100.90 feet; Thence S 63°51' 30" W, 130.00 feet; Thence, along the Westerly line of BRUSH STREET (35 feet wide), lying Westerly of said Recreational Park, N 26°08' 30" W, 179.87 feet; Thence, along the Westerly line of Brush Street (187.35 feet wide), N 26°09' 00" W, 429.10 feet to the POINT OF BEGINNING;

Be and the same is hereby vacated as part of a public street and is hereby converted into a public easement which easement shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of adjoining lots ("DMC Detroit Medical Center - Wayne State University"), abutting on said Brush Street Mall and by their heirs, executors, administrators and assigns, forever to wit:

FIRST, said owners of adjoining lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns), hereby grant to and for the use of the public an easement or right-of-way over said vacated public street herein described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or mains, telephone cable, thermal steam system, electric light conduits 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 cable, thermal steam system, telecommunications cable and equipment network, 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 of adjoining lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns), further agree that no buildings or structures of any nature whatsoever (except the previous City Council resolution-grants—approved in the calendar years of 1977, 1985 and 2000—that permit certain existing DMC-WSU structures; also except the "Wertz Center—Expansion Area A", described below in this resolution) 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 lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns) abutting on said vacated street shall request the removal and/or relocation of any existing 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 of adjoining lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns), shall be liable for all costs incidental to the repair of such broken or damaged utility; and be it further

RESOLVED, The following public right-of-way (part of the vacated and converted Brush Street Mall; also known as "Wertz Center—Expansion Area A"), described next in this resolution, be and the same is hereby outright vacated to become part and parcel of the adjoining property (subject to conditions that obligate "DMC Detroit Medical Center - Wayne State University" to create private easements and/or pay necessary relocation costs) for certain existing utility facilities of DTE Energy—Edison, "Detroit Thermal L.L.C.", and the Water and Sewerage Department (DWSD):

Commencing at the Southeasterly corner of Lot 6 of "MEDICAL CENTER URBAN RENEWAL PLAT NO. 1", as recorded in Liber 88 of Plats, Pages 74, 75, and 76, Wayne County Records, said point also being the intersection of the Easterly right-of-way line of JOHN R. STREET (variable width), and the Northerly right-of-way line of MACK AVENUE (variable width);

Thence the following four courses along the said Easterly right-of-way line of JOHN R. STREET:

- (1) N 26°21' 30" W, 1223.92 feet, and
- (2) N 60°06' 30" E, 4.33 feet, and
- (3) N 20°53' 10" W, 204.21 feet, and
- (4) N 26°24' 30" W, 174.46 feet to a point on the South line of vacated WILLIS AVENUE (100 feet wide);

Thence N 59°50' 30" E, 227.03 feet along said South line of vacated WILLIS AVENUE; Thence N 26°21' 41" W, 16.34 feet; Thence N 63°58' 17" E, 49.84 feet; Thence N 26°07' 22" W, 26.54 feet; Thence N 63°58' 17" E, 26.71 feet; Thence S 26°07' 22" E, 26.54 feet; Thence N 64°02' 06" E, 43.71 feet; Thence N 26°00' 00" W, 42.52 feet; Thence N 59°50' 30" E, 43.59 feet; Thence S 57°37' 46" E, 28.28 feet; Thence S 26°13' 47" E, 72.85 feet; Thence N 63°59' 28" E, 61.84 feet; Thence S 26°00' 00" E, 10.67 feet; Thence N 64°00' 44" E, 27.87 feet to a point on the West line of BRUSH STREET (variable width); Thence S 27°03' 19" E, 5.22 feet to the POINT OF BEGINNING; Thence N 63°52' 39" E, 10.95 feet; Thence along a non-tangent curve to the right, 120.82 feet, said curve having a radius of 58.00 feet, a central angle of 119°21' 20", and a long chord bearing N 63°52' 33" E, 100.13 feet; Thence S 26°07' 21" E, 102.04 feet; Thence N 63°52' 39" E, 13.47 feet; Thence S 26°07' 21" E, 31.75 feet; Thence N 63°52' 39" E, 11.00 feet; Thence S 26°07' 21" E, 12.00 feet; Thence N 63°52' 39" E, 12.75 feet; Thence S 26°07' 21" E, 12.50 feet; Thence S 63°52' 39" W, 84.03 feet; Thence S 26°07' 21" E, 5.71 feet; Thence S 63°52' 39" W, 44.89 feet; Thence S 26°09' 00" E, 12.76 feet; Thence S 63°52' 39" W, 19.29 feet to a point on the West line of BRUSH STREET; Thence N 26°09' 00" W, 176.76 feet along said Westerly line to the POINT OF BEGINNING and containing 0.492 acres.

PROVIDED, The owners of adjoining lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns), shall put forth their reasonable and best efforts to arrange for the orderly transfer, reroute, relocation and/or abandonment of utility facilities (including DTE Energy—Edison, "Detroit Thermal L.L.C." and DWSD existing utilities) to lands outside of the above described outright vacated part of the Brush Mall right-of-way at no expense to the City; related to the construction and operation of the "Wertz Center—Expansion Area A". [NOTES: DTE Energy—Edison contact-person is Todd A. Henning at 313-235-3594. "Detroit Thermal L.L.C." contact-person is Paul Razo at 313-963-3844. DWSD contact-person is Bharat Doshi at 313-967-1541.]; and further

PROVIDED, The City Engineering Division - DPW, if necessary, upon proper application and cash deposit, is hereby authorized and directed to issue permits to the public utilities and private utility companies for relocation of their facilities from the outright vacated part of the Brush Mall right-of-way—to remaining city public streets and alleys consistent with the public health, safety, convenience and general welfare; and further

PROVIDED, The City Engineering Division—DPW shall be unable to "sign-off" on building plans until satisfactory agreements between the owners of "DMC Detroit

Medical Center - Wayne State University" and the Detroit Water and Sewerage Department (DWSD) have been reached. Any additional grants of private easement for city-owned DWSD utilities (and other utility facilities of DTE Energy—Edison and "Detroit Thermal L.L.C."), shall be conveyed by legal descriptions and survey maps suitable for recording in public land records. The legal descriptions and survey maps for DWSD shall be reviewed and approved by the City Engineering Division—DPW (in conjunction with the Law Department as to form and execution, if necessary); and further

PROVIDED, "DMC Detroit Medical Center - Wayne State University" shall design and construct proposed alterations of water mains and sewers as required by the Detroit Water and Sewerage Department (DWSD); and further

PROVIDED, The plans for the proposed DWSD alterations shall be prepared by an engineer registered in the State of Michigan; and further

PROVIDED, DWSD be and is hereby authorized to review the drawings for the proposed DWSD alterations and to issue permits for the construction of the DWSD alterations; and further

PROVIDED, The entire work is to be performed in accordance with plans and specifications approved by DWSD and constructed under the inspection and approval of DWSD; and further

PROVIDED, The entire cost of the proposed DWSD alterations, including construction, inspection, survey and engineering shall be borne by "DMC Detroit Medical Center - Wayne State University"; and further

PROVIDED, "DMC Detroit Medical Center - Wayne State University" shall deposit with DWSD, in advance of engineering, inspection and survey, such amounts as the department deems necessary to cover the costs of these services; and further

PROVIDED, "DMC Detroit Medical Center - Wayne State University" shall grant the City of Detroit a satisfactory easement(s) for the DWSD alterations, as required, before the start of the proposed DWSD alterations or construction; and further

PROVIDED, The Board of Water Commissioners shall accept and execute the DWSD easement grant(s) for and on behalf of the City; and further

PROVIDED, "DMC Detroit Medical Center - Wayne State University" shall provide DWSD with as-built drawings of the DWSD alterations; and further

PROVIDED, "DMC Detroit Medical Center - Wayne State University" shall provide a term warranty for the DWSD alterations, a reasonable duration shall be determined by DWSD; and further

PROVIDED, That upon satisfactory completion, the DWSD alterations shall become City property and become part of the City system; and be it further

RESOLVED, All of the partial vacation(s) of Brush Street Mall, described above in this resolution, is subject to the following provisions:

PROVIDED, The partial vacation(s) of Brush Street Mall, that may include any portion of the Recreational Park, described in this resolution shall become effective at the time the Law Department concludes that the City possesses the appropriate rights, title, and interest in said (public street right-of-way, and its park) properties to convey said lands to the owners of lots ("DMC Detroit Medical Center - Wayne State University", and/or successors or assigns) abutting on said vacated street; and further

PROVIDED, The City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.