

City Engineering Department

March 22, 1989

Honorable City Council:

Re: Petition No. 2799. Cabana Foods, Inc. Alleys to Vacation and Easement east-west and remaining portion of north-south public alley (both) west of Birwood, north of Intervale.

Petition No. 2799 of "Cabana Foods, Inc." requests the outright vacation of the east-west public alley, 16 feet wide; also the conversion (into an easement for public utilities) of the remaining portion of the north-south public alley, 8 feet wide, (both) west of Birwood Avenue and north of Intervale Avenue.

Cabana Foods, Inc. plans to expand their existing plant at 14245 Birwood (over the east-west public alley).

Both the requested outright vacation and the conversion into a public utility easement 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 petitioner plans to remove or alter the paved alley return entrances (into Intervale and/or Birwood). The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

The petitioner has deposited the following City department reimbursement cost:

Public Lighting Department:

\$5,000.00, Receipt No. C-27230
Deposit to route poles and wire from a portion of the east-west public alley.

The Detroit Edison Company has reached agreement with the petitioner regarding their pole and overhead wire installations. Satisfactory arrangements have been made with all other City departments and privately-owned utility companies.

An appropriate resolution is attached for consideration by your Honorable Body.

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Ravitz:

Resolved, All of the east-west public alley, 16 feet wide, west of Birwood Avenue and north of Intervale Avenue lying southerly of and abutting the south line of Outlot No. 3; also lying northerly of and abutting the north line of Lot 235 as platted in "Wark-Gilbert Company's Orchard Grove Subdivision" of the South Three Quarters of the Southeast Quarter of the Northeast Quarter of Section 20, and the North 18 acres of the West Half of the Northeast Quarter of the Southeast Quarter of Section 20, Town 1 South, Range 11 East, excepting Penn-Detroit Railroad right-of-way, Greenfield Township, City of Detroit, Wayne County, Michigan as recorded in Liber 41, Page 22, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley to become a part and parcel of the abutting property; and be it further

Resolved, All of the remaining north-south public alley, 8 feet wide, (first) west of Birwood Avenue and north of Intervale Avenue lying westerly of and abutting the west line of the east-west public alley (16 feet wide); also lying westerly of and abutting the west line of Lots 235 to 241 as platted in "Wark-Gilbert Company's Orchard Grove Subdivision" of the South Three Quarters of the Southeast Quarter of the Northeast Quarter of Section 20, and the North 18 acres of the West Half of the Northeast Quarter of the Southeast Quarter of Section 20, Town 1 South, Range 11 East, excepting Penn-Detroit Railroad right-of-way, Greenfield Township, City of Detroit, Wayne County, Michigan as recorded in Liber 41, Page 22, Plats, Wayne County Records; also lying westerly of and abutting the west line of Lots 174 to 176 as platted in "Birwood Park No. 1" being part of the Southeast Quarter of Section 20, Town 1 South, Range 11 East, Greenfield Township, City of Detroit, Wayne County, Michigan as recorded in Liber 36, Page 5, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a public easement of the full width of the alley, 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 alley 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 alley 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 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 alley 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 alley 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 if it becomes necessary to remove the paved alley returns (into Intervale and/or Birwood) at the entrances, such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Department specifications with all costs borne by the petitioner, their heirs or assigns; and

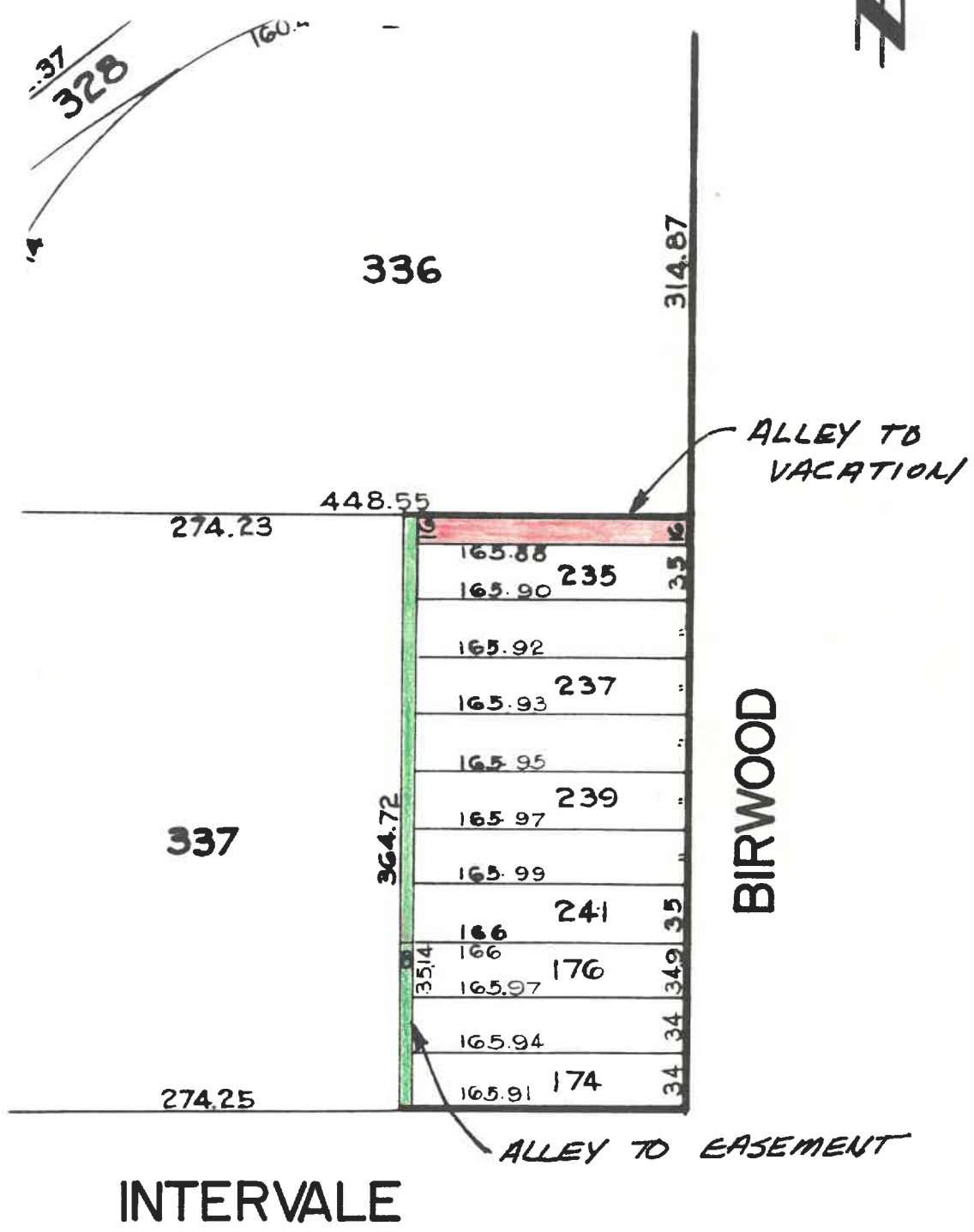
Provided Further, that a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs.

Adopted as follows:

Yeas — Council Members Collins, Hood, Mahaffey, Peoples, Ravitz, and President Henderson — 6.

Nays — None.

APRIL 5, 1989
JCC. PGS. 773-74



PET. NO. 2799
CARTO. NO. 9-D