

**Department of Public Works
City Engineering Division**

November 30, 1994

Honorable City Council:

Petition No. 2899, City Management Corporation Street and Alleys to Easement all in the area bounded by Grand Trunk Railroad, St. Aubin, Frederick and Ferry.

Petition No. 2899 of "City Management Corporation" requests the conversion of the remaining part of Kirby Avenue, 60 feet wide, between the Railroad and St. Aubin; also the remaining public alleys (15, 16, 20 and 25 feet wide) in the area bounded by the Grand Trunk Railroad, St. Aubin, Frederick and Ferry Avenues into a private easement for public utilities. The request is part of a three-phase development plan to modify the Kirby Avenue entrance(s) into City Management's — North Treatment Building site.

The requested conversion was approved by the Planning and Development Department. The petition was referred to the City Engineering Division — DPW for investigation and report. This is our report:

City Management Corporation 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 and/or replace driveway entrance(s) into St. Aubin Avenue, 50 feet wide.

The petitioner plans to use the paved alley return entrances (into Frederick and Ferry Avenues) and requests such remain in their present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately-owned utility companies have reported no objections to the conversion of public rights-of-way into a private easement for public utilities. 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:

Resolved, All of the remaining part of Kirby Avenue, 60 feet wide, between Grand Trunk Railroad and St. Aubin Avenue having been opened on September 29, 1895 and being the southerly 60.00 feet of the northerly 267.52 feet of the easterly 371.36 feet of the easterly 371.36 feet of Outlot 29 inclusive of the "Plat of the Subdivision of Private Claim 90 by the heirs of James Withereil," City of Detroit, Wayne County, Michigan as recorded in Liber 34, Page 2, Deeds, Wayne County Records; also lying southerly of and abutting the south line of Lots 37 thru 42; also lying southerly of and abutting the south line of the north-south public alley (15 feet wide; west of St. Aubin and north of Kirby); also lying southerly of and abutting the south line of Lot 3; also lying northerly of and abutting the north line of Lot 4; also lying northerly of and abutting the north line of the north-south public alley (15 feet wide; west of St. Aubin and south of Kirby); also lying northerly of and abutting the north line of Lots 31 thru 36 of "Phillis Beaubien Subdivision of Outlot No. 51, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 16, Plats, Wayne County Records; and

All of the north-south public alley, 15 feet wide; west of St. Aubin Avenue and north of Kirby Avenue lying westerly of and abutting the west line of Lots 1 thru 3; also lying easterly of and abutting the east line of Lot 42 of "Phillis Beaubien Subdivision of Outlot No. 51, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 16, Plats, Wayne County Records; and

All of the north-south public alley, 15 feet wide, west of St. Aubin Avenue and south of Kirby Avenue lying westerly of and abutting the west line of Lots 4 thru 14; also lying easterly of and abutting the east line of Lot 30; also lying easterly of and abutting the east line of the east-west public alley (20 feet wide; west of St. Aubin between Frederick and Kirby); also lying easterly of and abutting the east line of Lot 31 of "Phillis Beaubien Subdivision of Outlot No. 51, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 16, Plats, Wayne County Records; and

All of the east-west public alley, 20 feet wide, west of St. Aubin Avenue between Frederick and Kirby Avenues lying southerly of and abutting the south line of Lots 31 thru 36; also lying northerly of and abutting the north line of Lots 25 thru 30 of "Phillis Beaubien Subdivision of Outlot No. 51, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 16, Plats, Wayne County Records; and

All of the north-south public alley, 25 feet wide (a/k/a "Secor Place"), west of St. Aubin Avenue and south of Ferry Avenue lying westerly of and abutting the west line of Lots 17 thru 22 of "Secor and Davis Subdivision of the South 273.20 feet of Outlot 54, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 41, Plats, Wayne County Records; and

All of the east-west public alley, 20 feet wide, west of St. Aubin Avenue and south of Ferry Avenue lying southerly of and abutting the south line of Lots 11 thru 16; also lying northerly of and abutting the north line of the north-south public alley (25 feet wide; west of St. Aubin and south of Ferry); also lying northerly of and abutting the north line of Lot 17 of "Secor and Davis Subdivision of the South 273.20 feet of Outlot 54, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 41, Plats, Wayne County Records; and

All of the north-south public alley, 16 and 20 feet wide, west of St. Aubin Avenue and south of Ferry Avenue lying westerly of and abutting the west line of Lots 1 thru 10; also lying easterly of and abutting the east line of Lot 11; also lying easterly of and abutting the east line of the east-west public alley (20 feet wide; west of St. Aubin and south of Ferry); also lying easterly of and abutting the east line of Lots 17 thru 22 of "Secor and Davis Subdivision of the South 273.20 feet of Outlot 54, St. Aubin Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 41, Plats, Wayne County Records;

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 or 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, that if it becomes necessary to occupy or barricade any part of St. Aubin Avenue, 50 feet wide, to build privately-owned roads, such work shall be subject to the review and approval of the Department of Public Works (in conjunction with application to the Buildings and Safety Engineering Department for any building permits, if necessary). Also, City Management Corporation shall apply to the Department of Public Works 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 modify and/or replace driveway entrance(s) into St. Aubin Avenue, 50 feet wide; and further

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Provided, that if it becomes necessary to remove the paved alley returns at the entrances (into Frederick and/or Ferry Avenues), 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; 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.

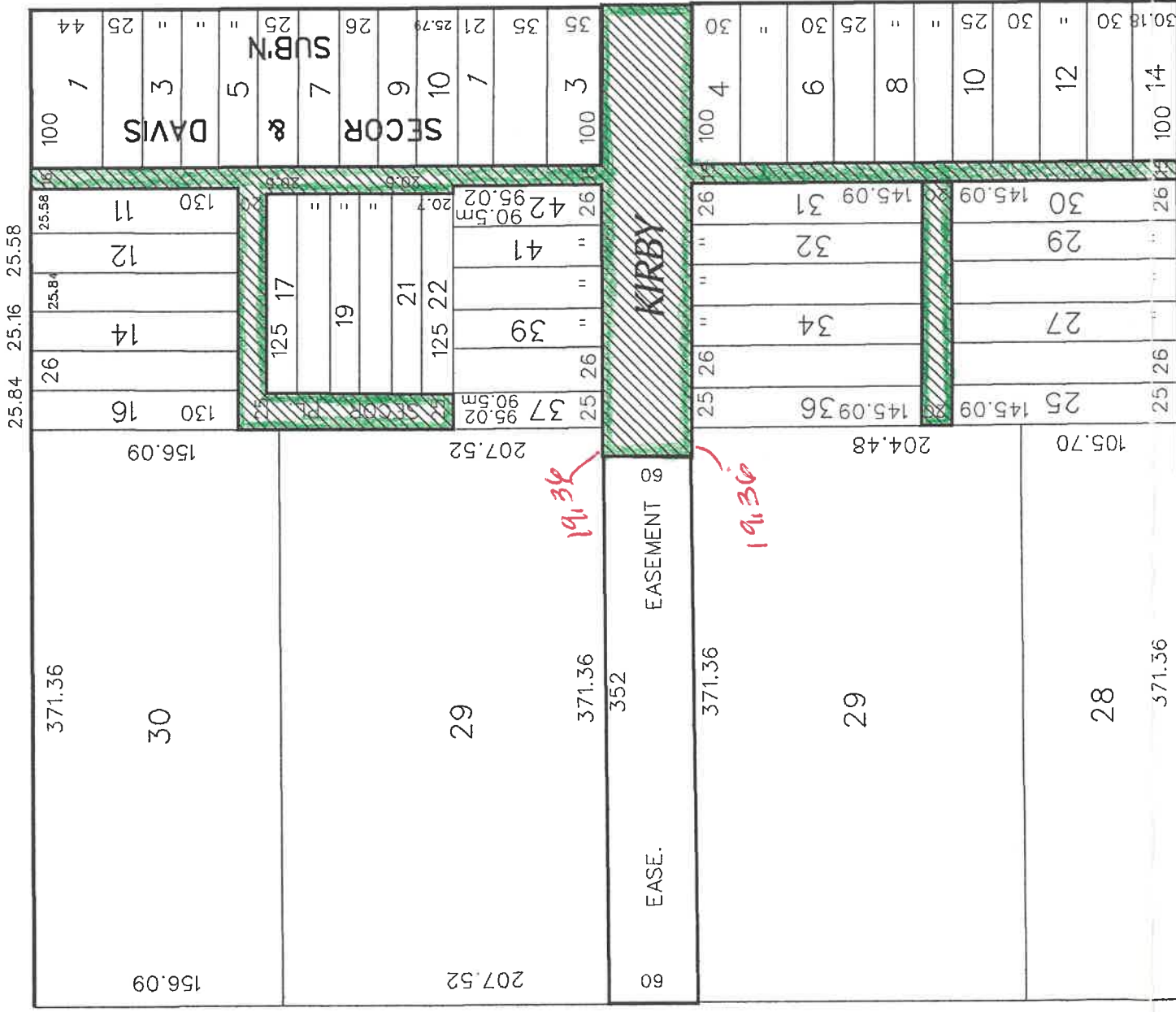
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REQUESTED CONVERSION TO EASEMENT



FERRY AVE.



FREDERICK AVE.

G.T.R.R.