

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Wednesday, April 21, 2010

To: *The Department or Commission Listed Below*
From: *Janice M. Winfrey, Detroit City Clerk*

The following petition is herewith referred to you for report and recommendation to the City Council.

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

DPW - CITY ENGINEERING DIVISION PLANNING AND DEVELOPMENT DEPARTMENT
CITY PLANNING COMMISSION

251

Giffels-Wehber, to vacate a portion of Asbury Park Avenue right-of-way to allow construction of berm adjacent to part of existing railroad tracks, relative to Garden View Estates Phase 3.

GWE
Giffels-Webster
ENGINEERS

251

March 18, 2010

Detroit City Council
City of Detroit
C/O City Clerk's Office
Coleman A. Young Municipal Center
2 Woodward Avenue
Detroit, MI 48226

Document Transmitted
from GWE Office:
 Rochester Hills

Detroit

Washington Twp

Re: Proposed Garden View Estates Phase 3
Located north of Van Buren Avenue,
east of Grandmont and south of Joy Road

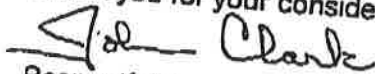
GWE # 16016.26D

Dear Council Members,

It is requested on behalf of Norstar Development / Detroit Housing Commission (developer / owner), that the City allow a portion of Asbury Park Avenue right-of-way to be vacated. The existing right-of-way is 86 feet wide of which the current property owner is only requesting half be conveyed to them.

The purpose of this vacation request is to allow the construction of a proposed berm adjacent to part of the existing railroad tracks to act as a noise barrier FOR FUTURE "Garden View Estates" Component Phase 3. In the near future, we shall be submitting a P.D. Development application to the Planning Commission and Council. We have discussed this with several city departments which are in support of this request and acknowledge that there is franchised utilities existing which need to remain. We also understand that they will have an opportunity to respond to this request.

Thank you for your consideration in this matter.



Respectfully,

GIFFELS-WEBSTER ENGINEERS, INC.

John Clark
Senior Project Manager

cc: Richard Higgins, Norstar
Lori Harris, Norstar
Robert Hunt, DHC

Attachments: 8.5" x 11" sketch

MAR 21 P 4 20

2871 Bond Street
Rochester Hills, MI 48309-3515
(248)852-3100 Fax:(248)852-6372

407 E. Fort Street, Suite 600
Detroit, MI 48226-2940
(313)962-4442 Fax:(313)962-5068

6303 26 Mile Road, Suite 100
Washington, MI 48094-3819
(586)781-8950 Fax:(586)781-8951

JOY RD



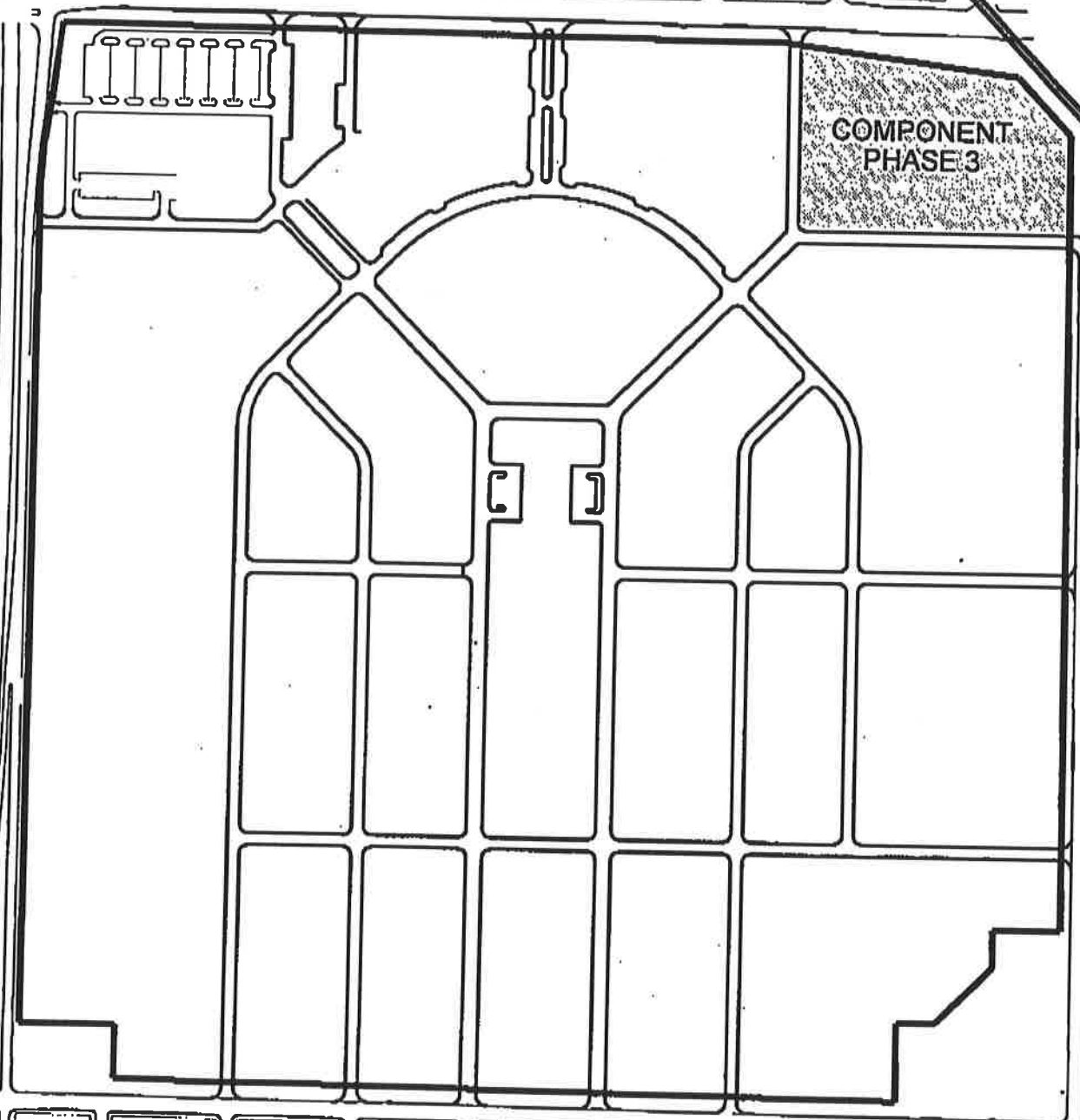
COMPONENT
PHASE 3

ASBURY AVE

SOUTHFIELD FWY

TIREMAN AVE

GARDEN VIEW ESTATES SITE PLAN



JOY ROAD (120 FT. WIDE)

NORTH LINE OF SECTION 1

NORTH 1/4 CORNER
SECTION 1,
T.-2-S., R.-10-E.

NORTH-SOUTH 1/4 LINE SECTION 1



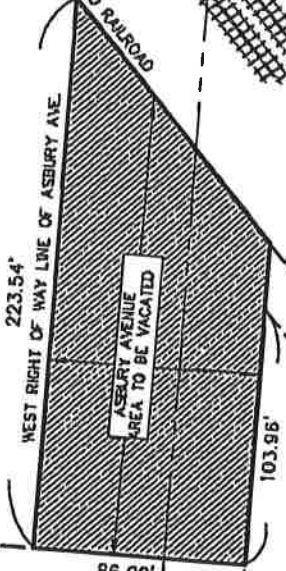
SCALE: 1"=60'



REQUESTED VACATION OF ASBURY PARK AVENUE
PART OF NORTH 1/2 OF SECTION 1, T-2-S., R-10-E.
CITY OF DETROIT, WAYNE COUNTY, MICHIGAN

C&O RAILROAD
SOUTHERLY RIGHT OF WAY LINE OF C&O RAILROAD

FUTURE
"GARDEN VIEW ESTATES"
COMPONENT
PHASE 3



C&O RAILROAD
(100 FT. WD.)

NORTH RIGHT OF WAY LINE OF VAN BUREN

**VAN BUREN
60 FT. WIDE (PUBLIC)**
(L.47198, P.868 AND L.47422, P.43-48)
(DEDICATED AS ADOPTED BY DETROIT CITY
COUNCIL, MARCH 26, 2007)

LOT 113

LOT 112

LOT 111

LOT 110

LOT 109

BASSY AND SMITH'S TIREMAN AVE. SUB.
L.44, P.7

18' WD. PUBLIC ALLEY

18' WD. PUBLIC ALLEY

LOT 136

WEST RIGHT OF WAY LINE OF ASBURY AVE.

**ASBURY PARK AVENUE
(86 FT. WIDE)**
NORTH-SOUTH 1/4 LINE SECTION 1

EAST RIGHT OF WAY LINE OF ASBURY AVE

VAN BUREN (50 FT. WD.)

VAN BUREN AVE. 60 FT. WD. (VACATED)
JOHN N. FORD'S TIREMAN AVE SUB'N NO.
L.58, P.61

343

342

CENTER OF SECTION
SECTION 1,
T.-2-S., R.-10-E.

DATE: 03/17/10	CHECKED BY: CA	DATE: 3/10	SCALE: 1"=60'
DRAWN: LDA			SHEET: 1 OF 2
DESIGN:			JOB No: 16016.26D
SECTION: 1	T-2-S., R-10-E.		

GWE
Giffels-Webster Engineers, Inc.
ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS
2871 BOND STREET, ROCHESTER HILLS, MI. 48069
(248) 852-3100

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REQUESTED VACATION OF ASBURY PARK AVENUE
 PART OF NORTH 1/2 OF SECTION 1, T-2-S., R-10-E.
 CITY OF DETROIT, WAYNE COUNTY, MICHIGAN

FUTURE
 "GARDEN VIEW ESTATES"
 COMPONENT
 PHASE 3

WEST RIGHT OF WAY LINE OF ASBURY AVE.
 ASBURY AVENUE
 AREA TO BE VACATED

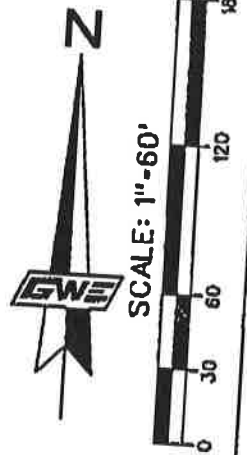
VAN BUREN
 60 FT. WIDE (PUBLIC)
 (L.47198, P.868 AND L.47422, P.43-48)
 (DEDICATED AS ADOPTED BY DETROIT CITY
 COUNCIL, MARCH 26, 2007)

VAN BUREN AVE. 60 FT. WD. (VACATED)
 JOHN N. FORD'S TIREMAN AVE SUB'N NO. 1
 L.58, P.61

CENTER OF SECTION
 SECTION 1,
 T.-2-S., R.-10-E.

GWE
Giffels-Webster Engineers, Inc.
 ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS
 2871 BOND STREET, ROCHESTER HILLS, MI. 48069
 (248) 862-9100

DATE:	03/17/10	CHECKED BY:	DATE:	SCALE:	1"=60'
DRAWN:	LDA	CA	3/10	SHEET:	1 OF 2
DESIGN:				JOB No:	16016-26D
SECTION:	1	T-2-S., R-10-E.			



No part of this drawing shall be used without the prior written consent of Giffels-Webster Engineers, Inc.

c:\16016-26D\16016-26D.dwg/survey/journal/vacation of Asbury.dwg

LEGAL DESCRIPTION

PARTIAL VACATION OF ASBURY PARK AVENUE

BEING PART OF THE NORTH HALF OF SECTION 1, T-2-S., R-10-E. CITY OF DETROIT, WAYNE COUNTY, MICHIGAN; MORE PARTICULARLY DESCRIBED AS:

THAT PART OF THE ASBURY PARK AVENUE (86 FEET WIDE) LOCATED BETWEEN THE EXTENSION OF THE NORTH RIGHT OF LINE OF VAN BUREN AVENUE (60 FEET WIDE) AS DEDICATED AND ADOPTED BY THE DETROIT CITY COUNCIL ON MARCH 26, 2007 AND RECORDED IN LIBER 47198, PAGE 868 AND LIBER 47422, PAGE 43, WAYNE COUNTY RECORDS AND THE SOUTHERLY RIGHT OF WAY LINE OF THE CHESAPEAKE & OHIO RAILROAD FORMERLY KNOWN AS THE PERE MARQUETTE RAILROAD (100 FEET WIDE), AND LYING WEST OF AND ABUTTING THE WEST LINE OF THE NORTH 103.96 FEET OF LOT 113, AND THE WEST LINE OF A PUBLIC ALLEY (18 FEET WIDE) OF "BASSETT AND SMITH'S TIREMAN AVENUE SUBDIVISION" AS RECORDED IN LIBER 44, PAGE 7 OF PLATS, WAYNE COUNTY RECORDS.

REQUESTED VACATION OF ASBURY PARK AVENUE PART OF NORTH 1/2 OF SECTION 1, T-2-S., R-10-E. CITY OF DETROIT, WAYNE COUNTY, MICHIGAN

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 with an approval of Professional Engineer, No.


Giffels-Webster Engineers, Inc.
 ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS
 2871 BOND STREET, ROCHESTER HILLS, MI, 48309
 (248) 862-3100

DATE: 03/17/10	CHECKED BY: CA	DATE: 3/10	SCALE: 1"=60'
DRAWN: LDA			SHEET: 2 OF 2
DESIGN:			
SECTION: 1	T-2-S., R-10-E.		JOB No: 16016.26D



October 6, 2010

Honorable City Council:

RE: Petition No. 251 – Giffles-Webster Engineers request to vacate a portion of Asbury Park Avenue right-of-way to allow construction of berm adjacent to part of existing railroad tracks, relative to Garden View Estates Phase 3.

Petition No. 251 of “Giffles- Webster Engineers”, whose address is 407 E. Fort Street, Suite 600, Detroit, MI 48226 request on behalf of the Detroit Housing Commission for conversion to easement a portion of Asbury Park Avenue, 60 feet wide, and to install and maintain an encroachment of a wall in Asbury Park Avenue all between Van Buren Avenue, 60 feet wide, to the west and the Railroad right-of-way. The purpose for this request is to construct a berm area and noise barrier for “Garden View Estates Component Phase 3”.

Giffles- Webster Engineers intends to build a berm area (mound of dirt) four (4) feet high from grade with a wall (eight feet high) with removable section at the top of said berm area to act as a noise barrier from the adjacent active railroad tracks. All abutting property owners have no objections to the closure of Asbury Park right-of-way.

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

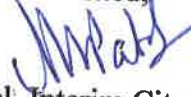
The Traffic Engineering Division – DPW reports no objections to the requested conversion to easement and encroachment of the wall in the easement area.

The Detroit Water and Sewerage Department has no objections to the requested conversion to easement and encroachment of the wall on the easement provided a minimum of ten (10) feet horizontal clearance is maintained between the wall foundation and the water main.

The Public Lighting Department (PLD) reports no structure or barricades can be built over any PLD installations. As per PLD requirements, any structure propose to be built shall maintain 4-½ feet horizontal clearance from any the PLD conduit banks and manholes. The contractor should take necessary precautions not to damage PLD overhead lines, manholes and conduit banks. The contractor will be liable for and damages to any PLD underground Facilities. PLD requires unrestricted easement rights with 24 hours heavy vehicles access to the requested area of encroachment.

All other involved City departments and privately owned utility companies reported no objections or that satisfactory arrangements have been made.

Respectfully submitted,



Manilal Patel, Interim City Engineer
City Engineering Division – DPW

NRP/

Cc: Alfred Jordan, Director – DPW
Mayor's Office City Council Liaison

BY COUNCIL MEMBER _____

RESOLVED, Land in the City of Detroit, Wayne County, Michigan being Asbury Park Avenue, 86 feet wide lying North of Van Buren Avenue and South of the Chesapeake and Ohio Railroad right-of-way, and being more particularly described as follows: Beginning at the intersection of the North line of Van Buren Avenue, 60 feet wide, opened by dedication on April 11, 2007, J.C.C. Pgs. 810-818, and the West line of Asbury Park, 86 feet wide; thence $N00^{\circ}12'52''W$ along said West line of Asbury Park, 233.54 feet to the southwest line of the Chesapeake and Ohio Railroad right-of-way; thence $S42^{\circ}49'34''E$ along the southwest line of the Chesapeake and Ohio Railroad right-of-way 127.03 feet to the East line of Asbury Park Avenue; thence $S00^{\circ}12'52''E$ along said East line of Asbury Park Avenue 140.05 feet; thence $S89^{\circ}47'08''W$ a distance of 86 feet to the point of beginning.

Be and the same is hereby converted into private a easement for public utilities of the full width of the street, which easements 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 easements or rights-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 the 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 rights-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 rights-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 task, 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, 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 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

Whereas, Petition No. 251 of “Giffles- Webster Engineers”, whose address is 407 E. Fort Street, Suite 600, Detroit, MI 48226 request on behalf of the Detroit Housing Commission request to maintain encroachments into Asbury Park Avenue, 86 feet wide, all between Van Buren Avenue, 60 feet wide, to the west and the Railroad right-of-way with a eight (8) feet tall wall. This encroachment will be a noise barrier from the adjacent active railroad tracks actives, and further

RESOLVED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to “Giffles- Webster Engineers” to install and maintain encroachments into Asbury Park Avenue, 86 feet wide, all between Van Buren Avenue, 60 feet wide, to the west and the Railroad right-of-way, with a eight (8) feet tall screen wall encroachment lying 20.00 feet parallel and East of the West right-of-way line of Asbury Park Avenue. 86 feet wide, between Van Buren Avenue, 60 feet wide, to the west and the Railroad right-of-way, attached is a site plan drawing detailing the location of the eight (8) feet tall wall location;

Whereas, Approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the street, and at all time, DWSD, its agents or employees, shall have the right to enter upon the street to maintain, repair, alter, service, inspect or install its facilities. All costs incident to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD’s facilities for maintenance, repairing, alteration, servicing and inspection by DWSD shall be borne by the petitioner. All cost associated with gaining access to DWSD’s facilities, which could normally be expected had the petitioner not encroached into the alleys shall be borne by DWSD, and further

Provided, all construction performed under this petition shall not be commenced until after five (5) days written notice to DWSD. Seventy-two (72) hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system, and further

PROVIDED, That if DWSD facilities located within the street shall break or be damaged as the result of any action on the part of the petitioner, then such event the petitioner agrees to be liable for all costs incident to the repair, replacement or relocation of such broken or damaged DWSD facilities; and be it further

PROVIDED, That the petitioner shall hold DWSD harmless for any damages to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD's facilities; and be it further

PROVIDED, That if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the street being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation; and be it further

Provided, that no structure can be built over PLD installations, as per PLD requirements, any structure proposed to built shall maintain a minimum of 10 feet horizontal clearance for the overhead PLD lines and installations. The contractor will liable for any and all damages to any PLD underground or overhead facilities; and further

PROVIDED, The petitioner, "Giffles-Webster Engineers on behalf of the Detroit Housing Commission and/or their assign" shall make application to the Building and Safety Engineering Department for a building permit (if necessary). The screen wall project (a eight feet tall screen wall encroachment shall be installed and maintained in accord with plans submitted to and approved by Building and Safety Engineering Department and/or City Engineering Division. All cost for plan review, inspection, and building permits shall be paid by the petitioner; and further

PROVIDED, That such use of the public rights-of-way shall be under the rules and regulations of the City Engineering Division in conjunction with the Building and Safety Engineering Department (if necessary). The City of Detroit retains all rights to establish, maintain, inspect, and service any utilities within or over said public alley; and further

PROVIDED all costs for the construction, maintenance, permits, and use of the screen wall project encroachment(s) within the said public right-of-ways shall be borne by the petitioner. The installation and maintenance of said encroachment(s) shall comply with the rules and regulations of the City Engineering Division – DPW (in conjunction with Buildings and Safety Engineering Department, if necessary), and Traffic Engineering Division – DPW; and further

PROVIDED, If it becomes necessary to repair or replace the utilities located or to be located in the public right-of-ways, by the acceptance of this permission, the screen wall project encroachment(s) owners for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal, if their removal becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division – DPW (in conjunction with Buildings and Safety Engineering Department, if necessary) at the encroachment owner's expense; and further

PROVIDED, That said permittee shall be subject to any tax under the provisions of the General Property Tax Act, which may be levied against it pursuant to law; and further

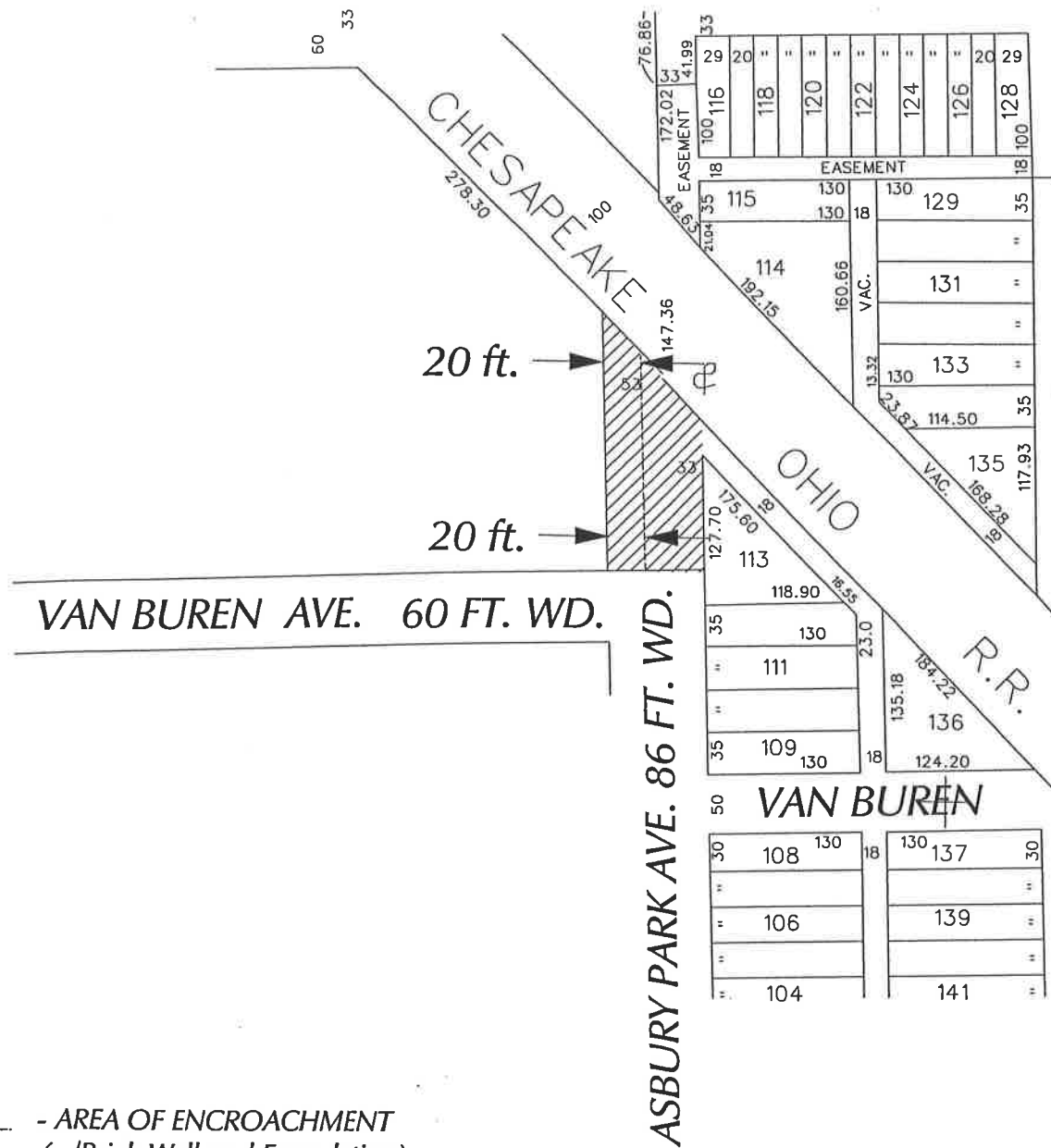
PROVIDED, That said permits issued by the City Engineering Division – DPW and/or the Buildings and Safety Engineering Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or City policies (governing the placement of encroachments in public right-of-ways are amended to provide for the levying thereafter, of a fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

PROVIDED, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

PROVIDED, That the eight (8) feet tall wall project encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

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

PETITION NO. 251
 NORSTAR DEVELOPMENT/DETROIT HOUSING COMM.
 Represented by GIFFELS-WEBSTER ENGINEERS
 2871 BOND STREET
 ROCHESTER HILLS MI. 48309
 C/O JOHN CLARK
 PHONE NO. 248 852 3100
 FAX NO. 248 852 6372



- AREA OF ENCROACHMENT
 (w/Brick Wall and Foundation)
 - CONVERSION TO EASEMENT

(FOR OFFICE USE ONLY)

CARTO 99 A & B

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	KSM				
DATE	5-24-10				
	CHECKED				
	APPROVED				

REQUEST COVERSION TO EASEMNT
 A PORTION OF ASBURY PARK 86 FT. WD.
 BETWEEN VAN BUREN 60 FT. WD. (on the west side)
 AND THE SOUTH R.O.W. LINE OF THE RAILROAD
 TO INCLUDE THE ENCROACHMENT OF A
 BRICK WALL WITH FOUNDATION

CITY OF DETROIT CITY ENGINEERING DEPARTMENT SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X251.dgn