

**City Engineering Department**

October 31, 1990

Honorable City Council:

Re: Petition No. 569. Commonwealth Industries. Request permission to construct and maintain a building addition encroaching 14 feet into the east side of Commonwealth, south of Marquette.

Petition No. 569 of "Commonwealth Industries" requests permission to construct and maintain a building addition encroaching (approximately) 14 feet (by 120 feet) into the east side of Commonwealth Avenue, 73.50 feet wide, south of Marquette Avenue. (Note: A part of the east 6.50 feet of Commonwealth Avenue, 80 feet wide, south of Marquette Avenue was previously vacated by Council on May 19, 1964 — J.C.C. pg. 1077.)

The petition was referred to the City Engineering Department for investigation and report. This is our report:

The Department of Transportation has acquiesced a 6 feet wide pedestrian margin in front of the proposed building addition.

The petitioner has reached an agreement with the Detroit Edison Company regarding necessary alterations of overhead utility wires. All other involved City departments and privately-owned utility companies have reported no objection to this encroachment. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations.

An appropriate resolution, granting the petition, is attached for consideration by your Honorable Body.

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Eberhard:

Resolved, The City Engineering Department is hereby authorized to issue permits to "Commonwealth Industries, Division of TriMas Corporation", to construct and maintain a building addition encroaching (approximately) 14 feet (by 120 feet) into the east side of Commonwealth Avenue, 73.50 feet wide, south of Marquette Avenue; property described as follows:

All of Lots 43 to 46 as platted in "D. B. Woodbridge's Subdivision of the North part of the Woodbridge Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 11, Page 7, Plats, Wayne County Records; also the reversionary interest in that part of the easterly 6.50 feet of Commonwealth Avenue, 80 feet wide, adjoining the west line of said Lots 43 to 46 (said part of public street right-of-way having been previously vacated by City Council on

May 19, 1964 — J.C.C. pg. 1077); also the reversionary interest in the westerly half of that part of the vacated north-south public alley, 20 feet wide, south of Marquette Avenue between Commonwealth and Trumbull Avenues, adjoining the east line of said Lots 43 to 46 (said part of public alley right-of-way having been previously vacated by City Council on November 20, 1973 — J.C.C. pgs. 2886-87; amended on January 8, 1974 — J.C.C. pg. 48; subject to utility easements of record);

Encroachment to consist of a proposed building addition extending (approximately) 14 feet (by 120 feet) into the east side of Commonwealth Avenue, 73.50 feet wide, in front of the above described property;

Provided, That before any construction into said portion of public street right-of-way, the petitioner shall apply to the Buildings and Safety Engineering Department for a building permit. Also, the use and maintenance of said building encroachment shall comply with the rules and regulations of the City Engineering Department, the Buildings and Safety Engineering Department, and the Department of Transportation; and further

Provided, The property owned by the petitioner and the building encroachment shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

Provided, Whenever it becomes necessary to occupy or barricade the public street right-of-way for construction and/or maintenance of the building addition encroachment, such work shall be done under City Engineering Department permits and inspection with all costs borne by the petitioner; and further

Provided, Whenever it becomes necessary to alter overhead utility wires in the public street right-of-way for construction and/or maintenance of the building addition encroachment, such (overhead wire) work shall be done under Public Lighting Department permits and inspection with all costs borne by the petitioner (Detroit Code Section 42, Articles 1 to 3); and further

Provided, If the gas line (or main), water line (or main), utility poles, or overhead wires located (or to be located) in the public street right-of-way shall break or be damaged as a result of any action on the part of the petitioner or their assigns (by way of illustration but not limitation, such as storage of materials or any construction not in accordance with Detroit Building Code), then the petitioner or assigns shall be liable for all costs incidental to the repair of the broken or damaged gas line (or main), water line (or main), utility poles, or overhead



wires. The petitioner and assigns shall be liable for all claims, damages, or expenses resulting from their actions; and further

Provided, If the gas line (or main), water line (or main), utility poles, or overhead wires located (or to be located) in the public street right-of-way shall break, causing damage to any construction, property or materials, the owners for themselves, their heirs and assigns, (by acceptance of permits for construction near underground utility lines or mains, and overhead utility wires) waives all claims for damages to the encroaching installations and agree to pay the costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, If it becomes necessary to repair or replace the gas line (or main), water line (or main), utility poles, or overhead wires located (or to be located) in the public street right-of-way, the owners for themselves, their heirs or assigns, (by acceptance of permits for construction near underground utility lines or mains, and overhead utility wires) waives all claims for damages to the encroaching installations and agree to pay the costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, That said permits issued by the City Engineering Department, Buildings and Safety Engineering Department, and/or the Public Lighting Department are granted with the distinct understanding that in the event the City Charter, or Detroit Codes, or ordinances, or resolutions, or City policies (governing the placement of building encroachments in public rights-of-way) 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 codes, or ordinances, or resolutions, or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or codes, or ordinances, or resolutions, or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, The permittee (at the time of obtaining said permits) shall file with the Finance Department an indemnity agreement in form approved by the Law Department, saving and protecting the City of Detroit harmless from any and all claims, damages or expenses that may arise by reason of the issuance of said permits and the faithful performance by

the permittee of the terms thereof, and in addition to pay all claims, damages or expenses that may arise out of the maintenance of said encroachment; 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, and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That the 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 with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9.

Nays — None.

#### City Engineering Department

September 7, 1990

Honorable City Council:

Re: Petition No. 401 City Signal, Inc.

Requesting permission to install fiber optic cable beneath or across various City streets, from the NE corner of Wabash and Bagley to the Grand Trunk Railroad (at Woodbridge).

Petition No. 401 of "City Signal, Inc.", a Grand Rapids, Michigan corporation, requests permission to install fiber optic cable beneath or across various City streets from (a switching station near) the northeast corner of Wabash and Bagley Avenues to the Grand Trunk Railroad right-of-way (at Woodbridge Street).

The petition was referred to the City Engineering Department for investigation and report. This is our report:

Cable placement will involve 10 City streets. Also, other rights-of-way under the jurisdiction of the State of Michigan are involved. Permission for crossing the John C. Lodge Freeway, Michigan Avenue, Grand River Avenue, Washington Blvd., Woodward Avenue, Randolph Street, E. Jefferson Avenue, and the Chrysler Freeway will have to be obtained from the Michigan Department of Transportation.

Cable placement at 3 locations will involve overhead attachment to existing utility poles within Bagley Avenue, Porter and Labrosse Streets. Cable placement at 7 locations will involve installation by pulling cable through existing Detroit Edison conduit beneath Rosa Parks Blvd.