

FIFTH, That if any existing 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 return at the entrance (into Sherwood Avenue), 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 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, Eberhard, Everett, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9.

Nays — None.

City Engineering Department

September 17, 1991

Honorable City Council:

Re: Petition No. 1213, Wolverine Packing Company, Requesting permission to install and maintain a privately-owned underground telecommunications cable across Rivard (near the Chrysler-Fisher Interchange).

Petition No. 1213 of "Wolverine Packing Company" requests permission to install and maintain a privately-owned underground telecommunications cable (within a 4-inch diameter PVC pipe; proposed use: private inter-facility communications link) beneath Rivard Street, 50 feet wide, between their "Cold Storage Facility" site (a/k/a 2535 Rivard) and their "Processing Plant" site (a/k/a 1326 Winder). This is not a "common carrier" telecommunications cable installation.

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

Cable placement beneath Rivard Street (50 feet wide) will involve an "open cut." Necessary permits will have to be obtained for any street opening, backfill, surface restoration, barricade, or occupancy of City rights-of-way to install cable.

The Public Lighting Department (PLD) will require a minimum vertical clearance of one foot, and a minimum horizontal clearance of three feet between PLD

facilities and the proposed "Wolverine Packing" cable installation.

The Water and Sewerage Department (DWSD) will require a minimum vertical clearance of one foot, and a minimum horizontal clearance of three and one-half feet between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facilities) and the proposed "Wolverine Packing" cable installation.

Also, reports from the Detroit Edison Company (DE) and the Michigan Bell Telephone Company (MBT) indicate the proposed "Wolverine Packing" cable will be crossing their existing utility service conduits. If necessary, the contractors for the petitioner can arrange for a "pre-construction meeting" with DE and MET. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installation.

All other involved City departments and privately-owned utility companies have reported they have no objections to the proposed cable placement provided "care and caution" are used in the "open cut" of Rivard Street. They have also requested the petitioner make use of "Miss Dig" facilities before cable installation-placement, and then become a participating member of that organization. This will minimize the chance of damage to the petitioner's property.

Finally, the City Engineering Department will require "Wolverine Packing Company" to submit certified "as built" drawings, a map and survey, showing the exact location of the petitioner's completed cable installation.

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

Respectfully submitted,
CLYDE R. HOPKINS,
Director

By Council Member Everett:

Whereas, The "Wolverine Packing Company" is requesting permission to install and maintain a privately-owned underground telecommunications cable crossing beneath a dedicated public (street) right-of-way; also

Whereas, The proposed cable installation will not be marketed as a "common carrier" service to the general public, but shall be used entirely as a privately-owned inter-facility communications link between "Wolverine Packing Company" business sites; therefore be it

Resolved, The City Engineering Department is hereby authorized and directed to issue permits to the "Wolverine Packing Company" to encroach underground crossing beneath the public

street right-of-way of Rivard Street (50 feet wide), between two lots described as follows:

(1) Part of Lot 48 of the "Plat of the Subdivision of Part of Lot No. 182, Rivard Farm, surveyed by Thomas Campau, Surveyor in 1851," City of Detroit, Wayne County, Michigan as recorded in Liber 41, Page 449, Deeds, Wayne County Records; commonly known as part of the "Wolverine Packing Co. — Cold Storage Facility" site (a/k/a 2535 Rivard Street).

(2) Lot 30 of the "Plat of the Subdivision of the North Part of Lots 1 and 2 of Morse's Subdivision on the Mullett Farm by J. F. Munro, Surveyor, 1863," City of Detroit, Wayne County, Michigan as recorded in the Book of Plats (Liber 1), Page 122, Wayne County Records; commonly known as part of the "Wolverine Packing Co. — Processing Plant" site (a/k/a 1326 Winder Street).

Encroachment to consist of installing and maintaining a privately-owned underground telecommunications cable (within a 4-inch diameter PVC pipe; proposed use: private inter-facility communications link) crossing beneath Rivard Street, 50 feet wide, between the above described lots (or business sites):

Provided, Said underground cable encroachment shall be installed to conform to the National Electrical Code as adopted by the Michigan Public Service Commission; and further

Provided, Whenever it becomes necessary to open-cut a public street, bore, jack, occupy or barricade City rights-of-way for construction or cable placement, such work shall be according to detailed permit application drawings (to be submitted by the petitioner, subject to City department review and stamp approvals) prior to any public right-of-way construction; and further

Provided, Said cable installation and maintenance shall be according to the specifications of the Public Lighting Department (PLD), including the minimum vertical clearance of one foot, and a minimum horizontal clearance of three feet between PLD facilities and the proposed "Wolverine Packing" cable installation. Also, said cable installation shall be according to the specifications of the Water and Sewerage Department (DWSD), including the minimum vertical clearance of one foot, and a minimum horizontal clearance of three and one-half feet between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes or shut-offs (and any other DWSD facilities) and the proposed "Wolverine Packing" cable installation; and further

Provided, All costs for the construc-

tion, maintenance, permits and use of the cable encroachment shall be borne by the petitioner. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installation. Also, the use and/or operation of said telecommunications cable system shall comply with the rules and regulations of the Detroit Cable Communications Commission and the Public Lighting Department; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located in Rivard Street (50 feet wide), by the acceptance of this permission, the 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 Department at the owner's expense; and further

Provided, The petitioner shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit 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 encroachments; and further

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachment shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Department at the permittee's expense; and further

Provided, That said permits issued by the City Engineering Department and/or the Public Lighting 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 cable 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 code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the condi-

tions 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 encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, That the petitioner shall apply to and become a participating member of the "Miss Dig" organization; and further

Provided, The filing of the indemnity agreement and the securing of the necessary permit(s) referred to herein shall be construed as acceptance of this resolution by the permittee; 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; and be it further

Resolved, That this resolution does not permit any use or operation of a privately-owned cable system that would conflict with previously issued franchises for cable communication system, or cable television system in accord with Detroit Code Section 9.5; and be it further

Resolved, The petitioner, "Wolverine Packing Company," shall submit "as built" drawing(s) sealed by a professional engineer registered in the State of Michigan to the City Engineering Department within 30 days after the completion of construction. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachment" with courses, distances, and depth throughout (containing City of Detroit datum), so that it may be determined with certainty where any portion of the "encroachment" has been built. Copies of the certified "as built" map(s) and survey(s) shall be an "appendix" to this City Council resolution. Said "appendix" shall be recorded by the City Engineering Department in the Wayne County Register of Deeds.

Adopted as follows:

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

Nays — None.

City Planning Commission

September 11, 1991

Honorable City Council:

Re: Proposed Capital Agenda, 1991-92 through 1995-96 (Recommend adoption of attached resolution)

On July 1, 1991 Your Honorable Body held a public hearing on the Proposed Capital Agenda for 1991-92 through 1995-96. Subsequent to that public hearing and pursuant to Section 8-202 of the City Charter, Council requested the recommendations of the Director of the Planning Department on proposed amendments to the document submitted by the City Planning Commission. Mr. Hewitt, in his letter to Council dated August 8, 1991, (Copy on file in the City Clerk's office) responded to Council's request for recommendations.

CPC staff has reviewed the Planning Department's responses and believes that the Council should make the following amendments to the proposed Capital Agenda.

Amendments recommended and agreed to by the Planning Department:

1) CEDD — That the Description of the Brush Park Development Plan include the following language: "the preservation of the historical and architecturally significant character of the Brush Park Historic District";

2) CEDD — That CEDD present its capital projects in priority groups in future Capital Agendas;

3) CEDD — That the funding amounts and sources for the Brush Street Widening, Cass Corridor, and Moderate Multi-Family Rehabilitation projects be corrected as indicated in the CPC recommendation.

4) Housing — That the Housing Department's capital improvement program for Brewster-Douglas Homes include the construction of 250 new public housing units.

5) Police — That the Westside Replacement Precinct project be replaced with the New Fourth Precinct project.

6) Recreation — That the changes made in the Recreation Department's capital program as approved by Council in the Department's Detroit Recreation Department Plan, 1991-95 be incorporated into the Capital Agenda.

Amendments revised by CPC staff in consideration of the Planning Department's recommendation:

1) Library — That the Library Department's Automated Book Circulation system be indicated in the narrative of the next capital agenda since it is an ongoing project but needs no additional budgeted City funds.

2) Budget — That, to keep the costs