

Grand River Avenues, Elm and Ash Streets on October 2, 1996 (J.C.C. pages 2180-82); and

Whereas, In the October 1996 resolution City Council approved an interim temporary closing of that part of public alley behind 3121 and 3127 Grand River. "Goodwill Industries of Greater Detroit, Inc." is now the owner of 3121 and 3127 Grand River. Therefore, Petition No. 3139 requests the conversion of the remaining part of public alley into a private easement for public utilities; therefore be it

Resolved, All of the remaining south part of the north[west]-south[east] public alley, 18 feet wide, north of Elm Street and west of Brooklyn Avenue lying southerly of and abutting the south line of Lots 24 thru 26; also lying northerly of and abutting the north line of the south[easterly] 65.44 feet of Lot 32 of the "Subdivision of Outlots 13,14,15 and 16, Baker Farm by the City Assessor," City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 285, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities 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 and grant to 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 wazzu nature whatsoever including, but not limited to, concrete slabs or driveways, retaining or partition walls, (except necessary line fence; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary) 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 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 further

Provided, That if it becomes necessary to remove the paved alley return at its entrance (into Elm Street), 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 "Goodwill Industries of Greater Detroit, Inc." (the abutting owner), their heirs or assigns; and be it 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, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 8.

Nays — None.

**Department Of Public Works
City Engineering Division**

June 23, 1997

Honorable City Council:

Re: Petition No. 2979, American Axle Manufacturing, Inc. Requesting permission to install and maintain a privately owned underground telecommunication cable system across St. Aubin between Holbrook and Faber.

Petition No. 2979 of "American Axle Manufacturing, Inc." requests permission

to install and maintain a privately owned underground telecommunication cable system [within a bank of six pipe(s), each 4-inches diameter; proposed use: private inter-facility communications link] beneath St. Aubin Avenue, 60 feet wide, between Holbrook and Faber Avenues. The proposed cable system will link "AAM Plant No. 6" site (a/k/a part of 1840 Holbrook) and "AAM Prototype Facility" site (a/k/a 8904 St. Aubin). This is not a "common carrier" telecommunication cable system installation.

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

Cable system placement beneath St. Aubin Avenue (60 feet wide) involves a public street "open cut." American Axle Manufacturing, Inc. (AAM), must obtain permits from City Engineering Division — DPW (and the City of Hamtramck, if necessary) for any street opening, backfill, surface restoration, barricade, or occupancy of city rights-of-way to install a cable system.

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 "American Axle" cable system 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 "American Axle" cable system installation. Also, reports from Michigan Consolidated Gas Company (MCG) indicate the proposed "American Axle" cable system will cross existing gas main(s). If necessary, the contractors for the petitioner can arrange for a "pre-construction meeting" with MCG. 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 reported no objections to the proposed cable system placement; provided AAM uses "care and caution" in the "open cut" of St. Aubin Avenue. They request the petitioner make use of "Miss Dig" facilities before cable system installation-placement, and then become a participating member of that organization. This will minimize the chance of damage to "AAM" property.

Finally, the City Engineering Division — DPW requires "American Axle Manufacturing, Inc." to submit certified "as built" drawings, a map and survey, showing the exact location of the petitioner's completed cable system installation.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI,
City Engineer

By Council Member Scott

Whereas, Petition No. 2979 of "American Axle Manufacturing, Inc." requests permission to install and maintain a privately owned underground telecommunication cable system crossing beneath St. Aubin Avenue, 60 feet wide, between Holbrook and Faber Avenues [said public (street) right-of-way located in the City of Detroit]; also

Whereas, The proposed cable system 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 communication link between "American Axle Manufacturing, Inc." business sites; therefore be it

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to the "American Axle Manufacturing, Inc." to encroach underground crossing beneath the public street right-of-way of St. Aubin Avenue (60 feet wide), between two parcels described (in part) as follows:

(1) Lots 82 thru 99, and the reversionary interests in the vacated public alleys (15 and 20 feet wide), and the reversionary interests in vacated Faber Avenue (50 feet wide; said public alleys and street having been previously vacated by City Council on November 30, 1909 — J.C.C. pages 1581-82) of "William Y. Hamlins Subdivision of Lots 19 and 20 of Holbrook's Subdivision of Quarter Section 42, Ten Thousand Acre Tract," City of Detroit, Wayne County, Michigan as recorded in Liber 9, Page 61, Plats, Wayne County Records; commonly known as part of the "American Axle Manufacturing, Inc." site (a/k/a part of 1840 Holbrook Avenue)

(2) Lots 207 thru 210 of "William Y. Hamlins Subdivision of Lots 19 and 20 of Holbrook's Subdivision of Quarter Section 42, Ten Thousand Acre Tract," City of Hamtramck, Wayne County, Michigan as recorded in Liber 9, Page 61, Plats, Wayne County Records; commonly known as part of the "AAM Prototype Facility" site (a/k/a 8904 St. Aubin).

Encroachment to consist of installing and maintaining a privately owned underground telecommunication cable system [within a bank of six pipe(s), each 4-inches diameter; proposed use: private inter-facility communication link] beneath St. Aubin Avenue, 60 feet wide, between Holbrook and Faber Avenues. The proposed cable system will link "AAM Plant No. 6" site (a/k/a part of 1840 Holbrook) and "AAM Prototype Facility" site (a/k/a 8904 St. Aubin); being part of the above

described parcels (business sites):

Provided, Said underground cable system 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 system 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; including approval from the City of Hamtramck, if necessary) prior to any public right-of-way construction; and further

Provided, Said cable system 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 "American Axle" cable system installation. Also, said cable system 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 "American Axle" cable system installation; and further

Provided, All costs for the construction, maintenance, permits and use of said encroachment shall be borne by the petitioner. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives claims for any damages to the encroaching installation. Also, the use and/or operation of said telecommunication 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 St. Aubin Avenue (60 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 and/or alteration, if their removal and/or alteration becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division — DPW at "American Axle", the cable system owner, expense; and further

Provided, The petitioner, "American Axle", 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 or unfaithful 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 Division — DPW at the permittee's expense; 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 "American Axle" shall apply to and become a participating member of the "Miss Dig" organization; and further

Provided, The placement and maintenance of cable system encroachments in public rights-of way shall be construed as acceptance of the terms and conditions this resolution by "American Axle". Notwithstanding the fact that the filing of the indemnity agreement and the securing of the necessary permit(s) referred to above in this resolution are stipulations of this encroachment (permission) grant; 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; and be it further

Resolved, The petitioner, "American Axle Manufacturing, Inc.", owner of the cable system encroachments shall submit two copies of "as built" drawing(s) sealed by a professional engineer registered in the State of Michigan to the City Engineering Division — DPW within 30 days after obtaining the necessary "construction" permit(s) to install the cable system encroachments. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachments" with courses, distances, and depth throughout (containing City of Detroit datum), so that it may be deter-

mined 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. One copy of said "appendix" shall be recorded by the City Engineering Division — DPW in the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 8.

Nays — None.

**Department Of Public Works
City Engineering Division**

June 19, 1997

Honorable City Council:

Re: Petition No. 2938 Imported Auto Parts Alley to Easement westerly part of the east-west public alley in the block bounded by Rutland, Memorial, Plymouth, and Wadsworth
Petition No. 2938 of "Imported Auto Parts" requests the conversion of a westerly part of the east-west public alley, 20 feet wide, in the block bounded by Rutland and Memorial Avenues, Plymouth Road, and Wadsworth Avenue into a private easement for public utilities.

Planning and Development Department, Solid Waste Division — DPW, and Traffic Engineering Division — DPW approved the alley closing request. The petition was referred to the City Engineering Division — DPW for investigation (utility- review) and report. This is our report:

The petitioner plans to use the paved alley return entrance (into Rutland Avenue) and requests such remain in its present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately owned utility companies 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.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI,
City Engineer

By Council Member Scott:

Resolved, All that part of a westerly portion of the east-west public alley, 20 feet wide, in the block bounded by Rutland and Memorial Avenues, Plymouth Road, and Wadsworth Avenue lying southerly of and abutting the south line of Lot 533; also lying northerly of and abutting the north line of Lots 534 thru 539 of "Frischkorn's Grand View Subdivision of part of the West Half of the Southwest Quarter of Section 25, Town 1 South, Range 10 East, Redford

Township," City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 72, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities 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; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary) 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 alley shall request the removal and/or relocation of any existing poles or other utilities in said