

RESOLUTION OF THE CITY COUNCIL

No. 730

Approved November 10, 2000

WHEREAS, by virtue of Resolution No. 386 approved August 10, 1990 (copy attached), the City of Providence abandoned the former highway known as Garnet Street; and

WHEREAS, Resolution No. 597 approved November 15, 1991 (copy attached) sought to rescind Resolution No. 386; and

WHEREAS, a subsequent action in the Superior Court determined that Resolution No. 597 was a nullity and that Garnet Street remained abandoned. (Copy of Judgment Order attached),

NOW, THEREFORE, BE IT RESOLVED, that the City of Providence acknowledges that determination and Judgment Order by the court and, further, that the Director of Public Works and other relevant city agencies shall mark their records accordingly.

IN CITY COUNCIL
NOV 2 2000
READ AND PASSED

[Signature]
PRES.

Richard R. Clement
CLERK

APPROVED

NOV 10 2000
[Signature]
MAYOR

READ AND PASSED
IN CITY COUNCIL

BY

CLERK

IN CITY COUNCIL
SEP 21 2000

FIRST READING
REFERRED TO COMMITTEE ON
PUBLIC WORKS

Michael R. Clemens
Clerk

THE COMMITTEE ON
PUBLIC WORKS
Approves Passage of
The Within Resolution

Claire E. Bottariff
Oct. 10, 2000 Clerk

PROVIDENCE, R. I.
 P.W. DEPT. - ENGINEERING OFFICE
 STREET LINE SECTION
 Plan No. 064657
 Date Aug. 30, 2000

WEYBOSSET ST.

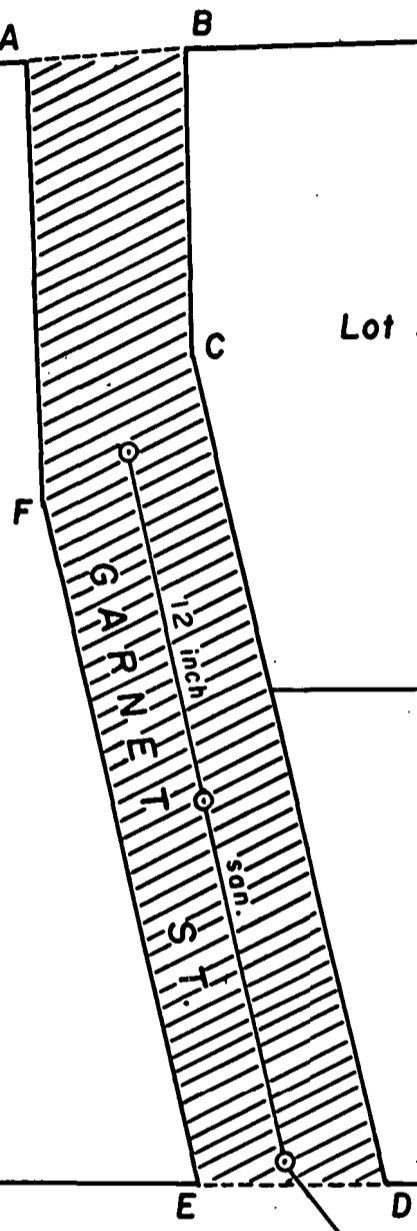
PAGE ST.

Lot 254

Lot 371

Lot 373

PINE ST.



NOTES: Cross-hatched area (A-B-C-D-E-F-A) indicates proposed abandonment.
 Full sewer easement will be required.
 Total square footage = 13,500±

Lot numbers taken from A.P. 20.

CITY OF PROVIDENCE, R. I.
 Public Works Dept. - Engineering Office
 Showing Proposed abandonment of a portion of Garnet St.
 Drawn by A. Zisiades Checked by JLC
 Scale 1" = 50' Date 8-30-2000
 Correct James J. J... Associate Engr.
 Approved [Signature] CHIEF ENGINEER

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

JOHNSON & WALES UNIVERSITY

:
:
:
:
:

C.A. NO. 93-4568

JUDGMENT ORDER

The above-entitled matter came on for hearing before Mr. Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side of

True Copy Attest

Offices of Clerk of Superior Court
Providence & Bristol
Providence, Rhode Island

Handwritten signature
Clerk of Superior Court
Providence & Bristol
Providence, Rhode Island

Garnet Street, and in City Place Associates, which owned land on the opposite side of Garnet Street, and Johnson & Wales is now the successor in title to the interest of City Place Associates in Garnet Street;

6. That the abandonment of Garnet Street vested title in fee simple in the abutters, subject to existing easements, which were preserved in the Resolution of the City Council of August 10, 1990, and there is no need for Johnson & Wales to convey any easements in Garnet Street;

7. That the vesting of title to Garnet Street in abutting land owners as a result of its abandonment was not subject to defeasance by a later resolution and the Resolution of the City Council of the City of Providence dated November 15, 1991, purporting to rescind the prior abandonment, is null and void and absolutely of no effect;

8. That as the fee owner of Garnet Street Johnson & Wales University may not take any action to obstruct the easements of the utilities referred to in the Resolution of August 10, 1990.

ENTERED as an Order of this Honorable Court on the 26th day of August, 1993.

ENTER:

ORDER:

[Signature]
Judge
1.4.93

[Signature]
Clerk

Presented by:

[Signature]
Girard R. Visconti, Esq.
VISCONTI & PETROCELLI, LTD.
55 Dorrance Street
Providence, RI 02903

Vincent A. Cianci, Jr.

Mayor



City Solicitor

Department of Law
"Building Pride In Providence"

MEMORANDUM

To: Ferdinand C. Ihenacho, P.E.
Director, Department of Public Works

From: John T. D'Amico, Jr., Senior Assistant City Solicitor

Date: August 21, 2000

RE: Garnet Street

A handwritten signature in black ink, appearing to be "JD", with a large loop and a horizontal stroke extending to the right.

Thank you for your communication of August 17, 2000 referencing Garnet Street. As you know - in that you have received a copy of the court order and have spoken with me in that regard - litigation followed the enactment of Resolution No. 597 approved November 15, 1991. The result of that litigation was that the afore-referenced resolution was a nullity and the portion of Garnet Street running from Weybossett to Pine Street was deemed abandoned subject to existing easements.

JTD:cmr

Gaebe & Kezirian

128 Dorrance Street
Providence, RI 02903
Attorneys At Law
(401) 331-0800
(401) 861-2260 (fax)

Dana H. Gaebe, Esq.
Wayne M. Kezirian, Esq.

Allison Rock, Esq.

FAX TRANSMITTAL COVER SHEET

TO: Ferdinand C. Ihenacho, P.E.
Department of Public Works

FAX #: 941-2567

FROM: Wayne M. Kezirian

DATE: July 17, 2000

RE: JOHNSON & WALES UNIVERSITY ABANDONMENT OF GARNET
STREET

() Original of this document will also be forwarded via regular mail
(xxx) This will be the only form of delivery of this document

Number of pages transmitted, including this cover sheet:

19

COMMENTS:

Enclosure: Letter dated July 17, 2000 with exhibits.

This fax is intended to be read only by the person(s) to whom it is addressed. It may contain privileged or confidential information. If you have received this fax by mistake, do not read, copy or share it with anyone else. Instead, please call us (collect) and we will tell you whether you should destroy this document or return it to us at our expense. Thank you.

(2)

GAEBE & KEZIRIAN
ATTORNEYS AT LAW
128 DORRANCE STREET
PROVIDENCE, RHODE ISLAND 02903

(401) 331-0800

DANA H. GAEBE
WAYNE M. KEZIRIAN
ALLISON ROCK

FAX (401) 861-2260

July 17, 2000

VIA MAIL & FAX: 941-2567

Ferdinand C. Ihenacho, P.E.
Director
Department of Public Works
City of Providence
700 Allens Avenue
Providence, RI 02905

RE: *JOHNSON & WALES UNIVERSITY ABANDONMENT OF GARNET STREET*

Dear Mr. Ihenacho:

I represent Johnson & Wales University which is in the process of constructing a new business building at the corner of Weybosset and Page Streets in Providence, Rhode Island. This new building is bounded on the east by the abandoned roadbed of Garnet Street. There is a 12 inch VC sanitary sewer located in the roadbed of the abandoned Garnet Street which requires repair. As a result, representatives of Johnson & Wales University met with Janice Carrazza of your office to discuss the necessary repair to the 12 inch VC sanitary sewer. They were surprised to learn that the records of the Department of Public Works continued to indicate that Garnet Street is a city street and the purpose of this letter is to correct that mistake.

Garnet Street was abandoned on August 10, 1990 pursuant to Resolution No. 385 of the City Council. I have enclosed a copy of that Resolution with this letter as Exhibit "A". Thereafter on November 15, 1991 after the abandonment of the street had been properly completed, the City Council by Resolution No. 597 "rescinded" the abandonment of Garnet Street, a copy is attached as Exhibit "B". The rescission of the Garnet Street abandonment is the last entry in the files at the Department of Public Works. The November, 1991 rescission resulted in litigation and on August 26, 1993 Justice Needham entered a Judgment Order declaring (see Paragraph 7) that the City Council Resolution dated November 15, 1991 is "null and void and absolutely of no effect." The Order also concluded that Johnson & Wales University was the owner of Garnet Street. I have attached a copy of the Judgment Order as Exhibit "C" to this letter.

EXHIBIT "A"

RESOLUTION OF THE CITY COUNCIL

No. 385

Approved August 10, 1990

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled: "Providence, Rhode Island, Department of Public Works-Engineering Office, Street Line Section Plan No. 064485 dated March 13, 1990".

VIZ:

Garnet Street, (portion of) from Weybosset Street to Pine Street, shown as cross-hatched area on the accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and the same is proposed to be abandoned as a Public Highway, provided that a full sewer easement is granted for the 12 inch sanitary sewer, an easement be granted to the Water Supply Board to provide unrestricted access over the full width of the street, and an easement be granted to the Providence Gas Company for its mains and the damage to the abutters is appraised at nothing and so awarded, and it is further

ORDERED, That the Traffic Engineer be, and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway", and it is further

ORDERED, That after the entry of this order or decree, the City Clerk shall cause a notice, thereof, to be published in a newspaper published in the County of Providence at least once a week for three successive weeks, and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

IN CITY COUNCIL

AUG 2 - 1990
READ AND PASSED

PRES.

CLERK

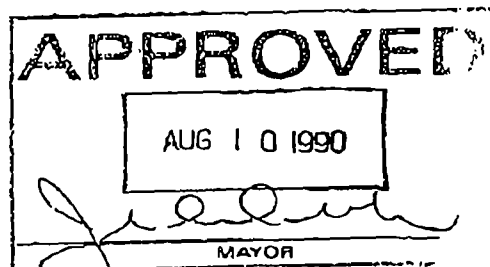


EXHIBIT "B"

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

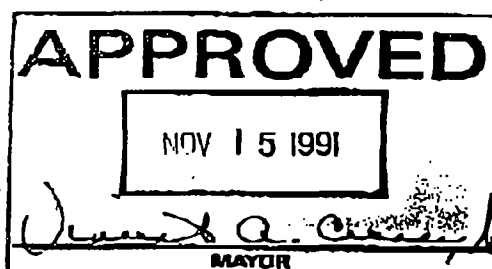
RESOLUTION OF THE CITY COUNCIL

No. 597

Approved November 15, 1991

RESOLVED, that the Abandonment of a portion of
Garnet Street, approved August 10, 1990 is hereby rescinded.

IN CITY COUNCIL
NOV 15 1991
READ AND PASSED
[Signature]
PRES.
[Signature]
CLERK



A true copy,
Attest:
[Signature]
Jean M. Angelone
First Deputy City Clerk

EXHIBIT "C"

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

JOHNSON & WALES UNIVERSITY

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:
:
:

C.A. NO. 93-4568

JUDGMENT ORDER

The above-entitled matter came on for hearing before M Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side

True Copy Attest

Offices of Clerk of Superior Court
Providence, Rhode Island

Handwritten signature
R. P. Anderson
Clerk of Superior Court
Providence, RI

EXHIBIT "D"

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 822

Approved November 29, 1993

RESOLVED, That His Honor, the Mayor, is hereby authorized to execute an Agreement with Johnson & Wales University so as to provide for the discontinuance of the existing water supply easement on Garnet Street. Said discontinuance is specifically conditioned upon the following:

1. The Providence Water Supply Board shall communicate in writing to the City Clerk that there is no health, safety or engineering reason militating against such discontinuance;
2. The payment of forty thousand dollars (\$40,000.00) to the City of Providence by Johnson & Wales University;
3. Johnson & Wales University shall, at its own expense, relocate all water service now in existence below Garnet Street unless such relocation is limited or waived by the Providence Water Supply Board. Any relocation shall be to the satisfaction of the Providence Water Supply Board and the Department of Public Works; and
4. Such other conditions as the Mayor and the City Solicitor may deem necessary to effect the intent of this Resolution.

A True Copy,
Attest:

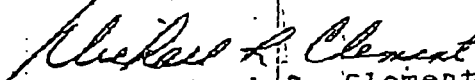

Michael R. Clement
City Clerk

EXHIBIT "E"

7K2904FG080

DISCONTINUANCE OF EASEMENT

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN JOHNSON & WALES UNIVERSITY, a corporation established under the laws of the State of Rhode Island, its successors and assigns, (hereinafter collectively called "JOHNSON & WALES"), and THE CITY OF PROVIDENCE, Rhode Island, its successors and assigns, (hereinafter collectively called the "CITY").

WHEREAS, The CITY has certain rights in and to the existing underground water supply system now maintained, in, under, through, over and across that portion of Garnet Street, between Pine and Weybosset Streets (hereinafter called "Garnet Street"), in the City and County of Providence, State of Rhode Island, which was abandoned by said CITY by virtue of Resolution No. 385 of the City Council of said City of Providence, approved August 10, 1990 (hereinafter called the "Abandonment Resolution"). For purpose of this Agreement, the underground water supply system now maintained in Garnet Street is hereinafter referred to as the "Facilities"; and

WHEREAS, the Abandonment Resolution indicated inter alia that the abandonment of Garnet Street was subject to an easement being granted for such water supply service; and

WHEREAS, The CITY, through the Providence Water Supply Board, maintains the water supply system in the City of Providence; and

WHEREAS, the Parties recognize that JOHNSON & WALES is an important part of the City's continued vitality and JOHNSON & WALES recognizes its correlative responsibility to be a good neighbor to other members of the Providence community; and

WHEREAS, the parties hereto have determined that such water supply service is no longer dictated by the public health and safety. Further, it has been determined that alternative sources of supply to nearby locations are readily available.

WHEREAS, that based on the foregoing, the easement hereto referenced is no longer required to promote the health, safety, welfare or convenience of the public and the parties hereto wish to discontinue and extinguish said easement.

WHEREAS, the CITY, by virtue of Resolution No. 822 of the City Council of said City of Providence, approved November 29, 1993 (a copy of which is attached), authorized the Mayor to execute an agreement with JOHNSON &

2904 PG 081

WALES so as to provide for the discontinuance of the existing water supply service easement in and over Garnet Street;

NOW, THEREFORE, for and in consideration of FORTY THOUSAND DOLLARS (\$40,000.00) paid this day by JOHNSON & WALES to the CITY, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, the parties agree as follows:

1. Any and all water supply easements in Garnet Street are hereby discontinued and extinguished. JOHNSON & WALES may, at any time and at its own expense, remove the Facilities provided that said removal is conducted with the foreknowledge and approval of the Providence Water Supply Board (hereinafter collectively called the "Water Supply Board"). Prior to removing the Facilities, JOHNSON & WALES shall notify the Water Supply Board and shall comply with such reasonable precautions as may be prescribed by the Water Supply Board to insure that the removal of the Facilities from Garnet Street do not present a hazard to the members of the general public.

2. In the event that JOHNSON & WALES elects not to remove the existing facilities or in the event that the Water Supply Board determines that such removal and/or relocation cannot be accomplished without any adverse impact to the health, safety or welfare of the users of the Water Supply Board system, then JOHNSON & WALES agrees to maintain said facilities in appropriate working order so as to safeguard the public health. Further, in the event of such removal, JOHNSON & WALES covenants for itself and its successors and assigns that it shall assume the whole of the costs of the installation of new or added service(s) to the properties it presently owns which is adjacent to the facilities and that such service shall conform to the requirements of the Water Supply Board.

This obligation shall run with the land and shall be binding upon JOHNSON & WALES and its successors and assigns.

This Agreement shall be recorded and after such recordation the Facilities shall be the exclusive responsibility of JOHNSON & WALES.

3. Should JOHNSON & WALES elect not to remove the Facilities, it shall be responsible for the repair and maintenance of the Facilities at its own expense and shall keep the Facilities in proper operating condition.

IN WITNESS WHEREOF, said JOHNSON & WALES UNIVERSITY has caused these presents to be executed and its corporate seal to be hereto affixed by its proper officer, thereunto duly authorized this day 17th of DECEMBER, 1993, and, the CITY, acting by and through its Mayor,

67-904 PG 082

Vincent A. Cianci, Jr., acting pursuant to the authority granted him by the Home Rule Charter of the City of Providence and by Resolution No. 822 of the City Council of said City of Providence, approved on the 29th day of November, 1993, have caused these presents to be executed this 8th day of FEBRUARY, 1994.

JOHNSON & WALES UNIVERSITY

BY: Christopher T. Del Sesto
CHRISTOPHER T. DEL SESTO,
SENIOR VICE PRESIDENT
AND TREASURER

CITY OF PROVIDENCE

BY: Vincent A. Cianci, Jr. Feb 8, 1994
VINCENT A. CIANCI, JR., MAYOR 5:25 PM

STATE OF RHODE ISLAND
PROVIDENCE, SC.

In Providence, in said County on the 17th day of December, 1993, before me personally appeared the above named CHRISTOPHER T. DEL SESTO, in his capacity as Senior Vice President & Treasurer of JOHNSON & WALES University, to be known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed in said capacity and the free act and deed of JOHNSON & WALES University.

Wayne M. Kezarian

Notary Public
WAYNE M. KEZARIAN
Notary Public of Rhode Island
My Commission Expires June 23, 1995

STATE OF RHODE ISLAND
PROVIDENCE, SC.

In Providence, in said County on the 8th day of FEBRUARY, 1994, before me personally appeared the above named VINCENT A. CIANCI, JR., in his capacity as Mayor of the City of Providence, to be known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed in said capacity and the free act and deed of the City of Providence.

Joan T. D'Amico, Jr.
Notary Public

CONSENTED TO IN FORM AND SATISFACTORY TO ME:

Joan T. D'Amico, Jr. 2/8/94 at 2:10 PM.
Senior Notary Public

EXHIBIT "F"

One Charles Street Providence, Rhode Island 02904 (401) 272-2554
Fax 273-0270

The Providence Partnership ARCHITECTURE ENGINEERING INTERIOR DESIGN
A Corporation

July 14, 2000

Mr. Ferdinand Ihenacho, P.E.
Director, Department of Public Works
City of Providence
700 Allens Avenue
Providence, RI 02905

RE: RESIDENCE HALL - PHASE II
32 PAGE STREET
JOHNSON & WALES UNIVERSITY

Dear Mr. Ihenacho:

I am writing on behalf of Johnson & Wales University regarding the above-referenced project.

S & R Construction, site contractor, has been installing the new storm drain lines for the building which ties into the existing sewer manhole in the former Garnet Street. The portion of Garnet Street between Weybosset Street and Pine Street has been abandoned with the City maintaining a sewer easement for the 2 manholes and lines which connect to the 20" combination line in Pine Street.

In the process of making the tie-in to the existing sewer manhole #1 (see attached drawing), it was discovered that an approximate 30' section of the existing 12" VC pipe between SMH#1 & SMH#4 was partially crushed and cracked since it had apparently been previously backfilled with large stones. Our concern is that the remainder of the line is also in similar condition. Since the University is in the process of making substantial site improvements as a part of this project, we feel it is prudent to replace the line between SMH#1 & SMH#4 (approximately 90') now to avoid problems in the future. Therefore, we are requesting permission to replace the line with 12" PVC SDR pipe at the University's expense.

Since time is of the essence, we ask if you could respond as soon as possible. If you need any additional information, please do not hesitate to call. Thank you.

Sincerely,

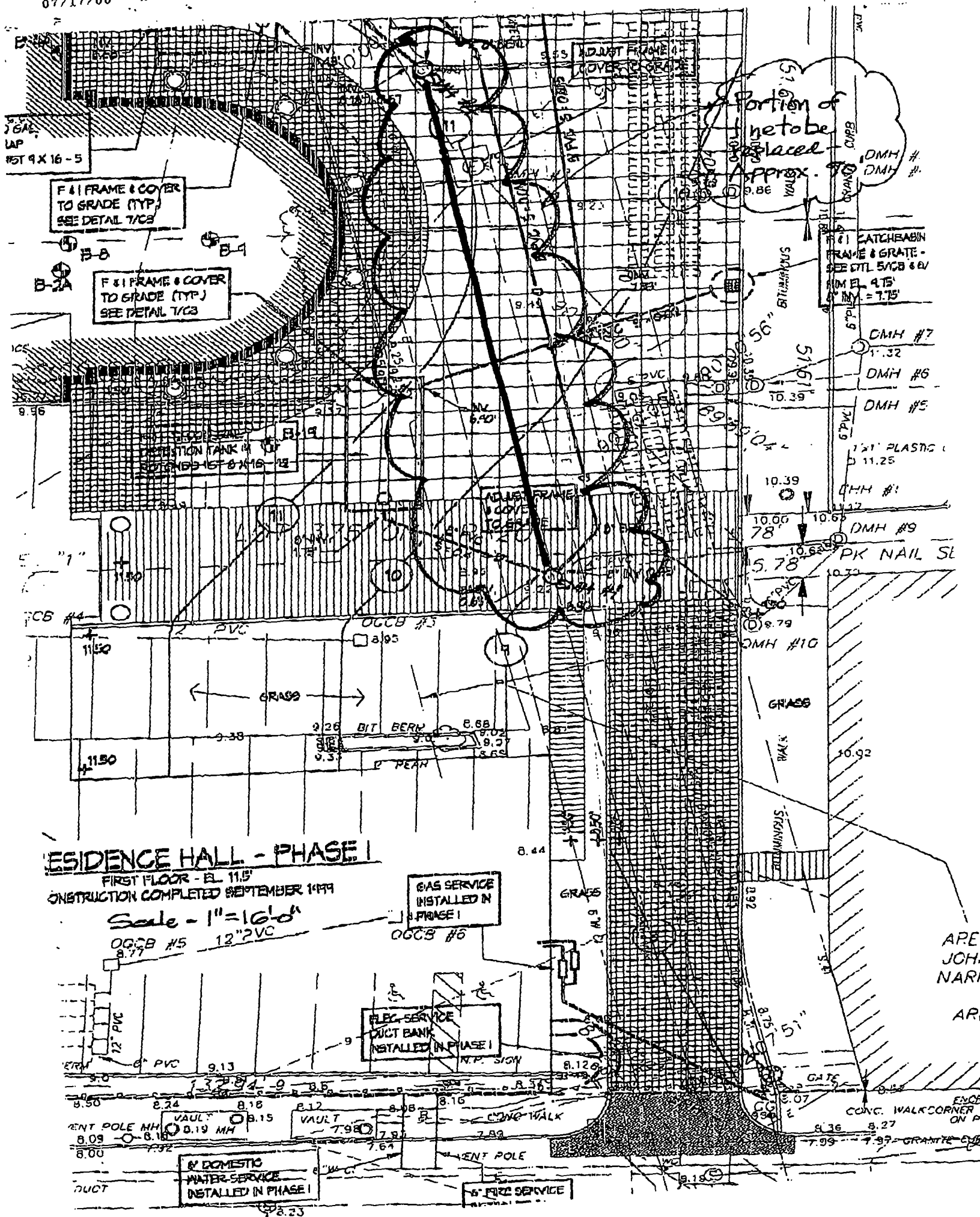


Steven R. Kile, AIA

SRK:tlc

Enclosures as noted.

Cc: D. DeStefano
S. Agostini
R. Ashton
R. Loqa



FERDINAND C. IHENACHO, P.E., PTOE.

Director



M. Clement
VINCENT A. CIANCI, JR.

Mayor

Department of Public Works

"Building Pride In Providence"

August 31, 2000

Hon. Robert M. Clarkin
Chairman of the Public Works Committee
Providence City Council -- City Hall
Providence, R.I. 02903

Re: Garnet St. Abandonment
Weybosset St. to Pine St.

Dear Councilman Clarkin:

This correspondence is being sent to request that Garnet St. be abandoned from Weybosset St. to Pine St.

As you may be aware, Resolution No. 385, 8/10/90, approved this abandonment; however, on 1/15/91, Resolution No. 597 rescinded said abandonment.

The Senior City Solicitor has rendered an opinion (attached) that this abandonment of Garnet St. should be reinstated by Court Order. The Public Works Department has no objection to said abandonment, and is requesting abandonment of the street and sewer lines. Attached is this Department's Record Plan No.064657, titled "Proposed Abandonment of Garnet Street," showing that portion abandonment.

Thank you for your assistance, and please do not hesitate to call me if you have any questions.

Sincerely,

Ferdinand C. Ihenacho, P.E.
Director

CC: C. Mansolillo
M. Clement ✓
J. D'Amico
G. Florio
JLC
SZ

Wayne M. Kezirian
Gaebe & Kezirian
128 Dorrance St.
Prov., RI 02903

President
Johnson & Wales Univ.
8 Abbott Park Pl.
Prov., RI 02903

IN CITY COUNCIL
SEP 21 2000
FIRST READING
REFERRED TO COMMITTEE ON
PUBLIC WORKS

Richard R. Clement CHIEF

PROPOSED ABANDONMENT OF A PORTION
OF GARNET ST.

A.P. 20 LOT 254 - JOHNSON & WALES 8 ABBOTT PARK PLACE
PROV. 02903

LOT 371 - JOHNSON & WALES

LOT 373 - JOHNSON & WALES

Charles R. Mansolillo
City Solicitor



Vincent A. Cianci, Jr.
Mayor

Department of Law
"Building Pride In Providence"

October 10, 2000

The Honorable Robert Clarkin
Council Committee on Public Works
City Hall
Providence, RI 02903

Dear Chairman Clarkin:

In reviewing the agenda for this evening's meeting, I noticed a request with reference to Garnet Street. Attached please find a photocopy of an earlier court order. That court order nullifies the rescission of the abandonment resolution. Hence, there is a judicial determination that Garnet Street is abandoned and any action taken by the Committee with respect to that abandonment is unnecessary.

Very truly yours,

A handwritten signature in black ink, which appears to read "John T. D'Amico, Jr.", is written over a circular embossed seal. The seal is partially obscured by the signature.

John T. D'Amico, Jr.
Senior Assistant City Solicitor

JTD:cmr
Enclosure

RESOLUTION OF THE CITY COUNCIL

No. 385

Approved August 10, 1990

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled: "Providence, Rhode Island, Department of Public Works-Engineering Office, Street Line Section Plan No. 064485 dated March 13, 1990".

VIZ:

Garnet Street, (portion of) from Weybosset Street to Pine Street, shown as cross-hatched area on the accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and the same is proposed to be abandoned as a Public Highway, provided that a full sewer easement is granted for the 12 inch sanitary sewer, an easement be granted to the Water Supply Board to provide unrestricted access over the full width of the street, and an easement be granted to the Providence Gas Company for its mains and the damage to the abutters is appraised at nothing and so awarded, and it is further

ORDERED, That the Traffic Engineer be, and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway", and it is further

ORDERED, That after the entry of this order or decree, the City Clerk shall cause a notice, thereof, to be published in a newspaper published in the County of Providence at least once a week for three successive weeks, and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

IN CITY COUNCIL

AUG 2 - 1990

READ AND PASSED

PRES.

CLERK

APPROVED

AUG 10 1990

MAYOR

PROVIDENCE, R. I.
P.W. DEPT. - ENGINEERING OFFICE
STREET LINE SECTION
Plan No. 064657
Date Aug. 30, 2000

WEYBOSSET ST.

PAGE ST.

Lot 254

Lot 371

Lot 373

PINE ST.

NOTES: Cross-hatched area (A-B-C-D-E-F-A) indicates proposed abandonment.
Full sewer easement will be required.
Total square footage = 13,500±

Lot numbers taken from A.P. 20.

CITY OF PROVIDENCE, R. I.
Public Works Dept. - Engineering Office
Showing Proposed abandonment of a portion of Garnet St.
Drawn by A. Zisiades Checked by ME
Scale 1" = 50' Date 8-30-2000
Correct James J. Jones Associate Engr.
Approved [Signature] CHIEF ENGINEER

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

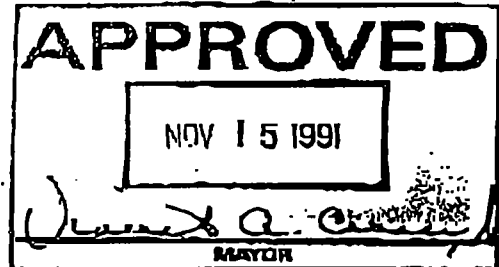
RESOLUTION OF THE CITY COUNCIL

No. 597

Approved November 15, 1991

RESOLVED, that the Abandonment of a portion of
Garnet Street, approved August 10, 1990 is hereby rescinded.

IN CITY COUNCIL
NOV 15 1991
READ AND PASSED
[Signature]
PRES.
[Signature]
CLERK



A true copy,
Attest:
[Signature]
Jean M. Angelone
First Deputy City Clerk

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

C.A. NO. 93-4568

JOHNSON & WALES UNIVERSITY

JUDGMENT ORDER

The above-entitled matter came on for hearing before Mr. Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side of

True Copy Attest

Office of Clerk of Superior Court
Providence, Rhode Island

Garnet Street, and in City Place Associates, which owned land on the opposite side of Garnet Street, and Johnson & Wales is now the successor in title to the interest of City Place Associates in Garnet Street;

6. That the abandonment of Garnet Street vested title in fee simple in the abutters, subject to existing easements, which were preserved in the Resolution of the City Council of August 10, 1990, and there is no need for Johnson & Wales to convey any easements in Garnet Street;

7. That the vesting of title to Garnet Street in abutting land owners as a result of its abandonment was not subject to defeasance by a later resolution and the Resolution of the City Council of the City of Providence dated November 15, 1991, purporting to rescind the prior abandonment, is null and void and absolutely of no effect;

8. That as the fee owner of Garnet Street Johnson & Wales University may not take any action to obstruct the easements of the utilities referred to in the Resolution of August 10, 1990.

ENTERED as an Order of this Honorable Court on the 26th day of August, 1993.

ENTER:

ORDER:

[Signature]
Judge
1.4.93

[Signature]
Clerk

Presented by:

[Signature]
Girard R. Visconti, Esq.
VISCONTI & PETROCELLI, LTD.
55 Dorrance Street
Providence, RI 02903

BK 4758 PG 032

see Res. # 341
6/29/2001

RESOLUTION OF THE CITY COUNCIL

No. 730

Approved November 10, 2000

WHEREAS, by virtue of Resolution No. 386 approved August 10, 1990 (copy attached), the City of Providence abandoned the former highway known as Garnet Street; and

WHEREAS, Resolution No. 597 approved November 15, 1991 (copy attached) sought to rescind Resolution No. 386; and

WHEREAS, a subsequent action in the Superior Court determined that Resolution No. 597 was a nullity and that Garnet Street remained abandoned. (Copy of Judgment Order attached),

NOW, THEREFORE, BE IT RESOLVED, that the City of Providence acknowledges that determination and Judgment Order by the court and, further, that the Director of Public Works and other relevant city agencies shall mark their records accordingly.

IN CITY COUNCIL
NOV 2 2000
READ AND PASSED

PRES.

CLERK

APPROVED

NOV 10 2000

MAYOR

A true copy,

Attest:

Michael R. Clement
City Clerk

FERDINAND C. IHENACHO, P.E., PTOE.

Director



RK 4758 PG 033

M. Clement

VINCENT A. CIANCI, JR.

Mayor

Department of Public Works

"Building Pride In Providence"

August 31, 2000

Hon. Robert M. Clarkin
Chairman of the Public Works Committee
Providence City Council -- City Hall
Providence, R.I. 02903

Re: Garnet St. Abandonment
Weybosset St. to Pine St.

Dear Councilman Clarkin:

This correspondence is being sent to request that Garnet St. be abandoned from Weybosset St. to Pine St.

As you may be aware, Resolution No. 385, 8/10/90, approved this abandonment; however, on 1/15/91, Resolution No. 597 rescinded said abandonment.

The Senior City Solicitor has rendered an opinion (attached) that this abandonment of Garnet St. should be reinstated by Court Order. The Public Works Department has no objection to said abandonment, and is requesting abandonment of the street and sewer lines. Attached is this Department's Record Plan No. 064657, titled "Proposed Abandonment of Garnet Street," showing that portion abandonment.

Thank you for your assistance, and please do not hesitate to call me if you have any questions.

Sincerely,

A handwritten signature, likely of Ferdinand C. Ihenacho, written over a grid pattern.

Ferdinand C. Ihenacho, P.E.
Director

CC: C. Mansolillo
M. Clement ✓
Jo D'Amico
G. Florio
JLC
SZ

Wayne M. Kezirian
Gaebe & Kezirian
128 Dorrance St.
Prov., RI 02903

President
Johnson & Wales Univ.
8 Abbott Park Pl.
Prov., RI 02903

700 Allens Avenue - Providence, Rhode Island 02905 - (401) 467-7950 - FAX 941-2567 - TDD 751-0203

BK4758PG034

PROPOSED ABANDONMENT OF A PORTION
OF GARNET ST.

2.20 LOT 254 - JOHNSON & WALES 8 ABBOTT PARK PLACE
PROV. 02903

LOT 371 - JOHNSON & WALES

LOT 373 - JOHNSON & WALES

PROVIDENCE, R. I.
P. W. DEPT. - ENGINEERING OFFICE
STREET LINE SECTION
Plan No. 064657
Date Aug. 30, 2000

WEYBOSSET ST.

PAGE ST.

Lot 254

Lot 371

Lot 373

PINE ST.

GARNET ST.

12 inch

SDN.

NOTES: Cross-hatched area (A-B-C-D-E-F-A) indicates proposed abandonment.
Full sewer easement will be required.
Total square footage = 13,500±

Lot numbers taken from A.P. 20.

CITY OF PROVIDENCE, R. I.
Public Works Dept. - Engineering Office
Showing Proposed abandonment of a portion of Garnet St.
Drawn by A. Zisiades Checked by MC
Scale 1" = 50' Date 8-30-2000
Correct James J. Zisiades Associate Engr.
Approved [Signature] CHIEF ENGINEER

Charles R. Mansolillo
City Solicitor

BK 4758 PG 03



Vincent A. Cianci, Jr.
Mayor

Department of Law
"Building Pride In Providence"

October 10, 2000

The Honorable Robert Clarkin
Council Committee on Public Works
City Hall
Providence, RI 02903

Dear Chairman Clarkin:

In reviewing the agenda for this evening's meeting, I noticed a request with reference to Garnet Street. Attached please find a photocopy of an earlier court order. That court order nullifies the rescission of the abandonment resolution. Hence, there is a judicial determination that Garnet Street is abandoned and any action taken by the Committee with respect to that abandonment is unnecessary.

Very truly yours,

A handwritten signature in black ink, appearing to read "John T. D'Amico, Jr.", written over a horizontal line.

John T. D'Amico, Jr.
Senior Assistant City Solicitor

JTD:cmr
Enclosure

100 Fountain Street • Providence, Rhode Island 02903-1845
(401) 421-7740 (Voice) • (401) 751-0203 (TDD) • (401) 351-7596 (Facsimile)

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

C.A. NO. 93-4568

JOHNSON & WALES UNIVERSITY

JUDGMENT ORDER

The above-entitled matter came on for hearing before Mr. Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side of

True Copy Attest

Offices of Clerk of Superior Court
Counties of Providence & Bristol
Providence, Rhode Island

Garnet Street, and in City Place Associates, which owned land on the opposite side of Garnet Street, and Johnson & Wales is now the successor in title to the interest of City Place Associates in Garnet Street;

6. That the abandonment of Garnet Street vested title in fee simple in the abutters, subject to existing easements, which were preserved in the Resolution of the City Council of August 10, 1990, and there is no need for Johnson & Wales to convey any easements in Garnet Street;

7. That the vesting of title to Garnet Street in abutting land owners as a result of its abandonment was not subject to defeasance by a later resolution and the Resolution of the City Council of the City of Providence dated November 15, 1991, purporting to rescind the prior abandonment, is null and void and absolutely of no effect;

8. That as the fee owner of Garnet Street Johnson & Wales University may not take any action to obstruct the easements of the utilities referred to in the Resolution of August 10, 1990.

ENTERED as an Order of this Honorable Court on the 26th day of August, 1993.

ENTER:

ORDER:

[Signature]
Judge

[Signature]
Clerk

Presented by:

[Signature]
Girard R. Visconti, Esq.
VISCONTI & PETROCELLI, LTD.
55 Dorrance Street
Providence, RI 02903



Department of Law
"Building Pride In Providence"

MEMORANDUM

BK 4758PG039

To: Ferdinand C. Ihenacho, P.E.
Director, Department of Public Works

From: John T. D'Amico, Jr., Senior Assistant City Solicitor

Date: August 21, 2000

RE: Garnet Street

Thank you for your communication of August 17, 2000 referencing Garnet Street. As you know - in that you have received a copy of the court order and have spoken with me in that regard - litigation followed the enactment of Resolution No. 597 approved November 15, 1991. The result of that litigation was that the afore-referenced resolution was a nullity and the portion of Garnet Street running from Weybossett to Pine Street was deemed abandoned subject to existing easements.

JTD:cmr

BR 4 758PG040

Gaebe & Kezirian
128 Dorrance Street
Providence, RI 02903
Attorneys At Law
(401) 331-0800
(401) 861-2260 (fax)

Dana H. Gaebe, Esq.
Wayne M. Kezirian, Esq.

Allison Rock, Esq.

FAX TRANSMITTAL COVER SHEET

TO: Ferdinand C. Ihenacho, P.E.
Department of Public Works

FAX #: 941-2567

FROM: Wayne M. Kezirian

DATE: July 17, 2000

RE: JOHNSON & WALES UNIVERSITY ABANDONMENT OF GARNET
STREET

() Original of this document will also be forwarded via regular mail
(xxx) This will be the only form of delivery of this document

Number of pages transmitted, including this cover sheet:

19

COMMENTS:

Enclosure: Letter dated July 17, 2000 with exhibits.

This fax is intended to be read only by the person(s) to whom it is addressed. It may contain privileged or confidential information. If you have received this fax by mistake, do not read, copy or share it with anyone else. Instead, please call us (collect) and we will tell you whether you should destroy this document or return it to us at our expense. Thank you.

BK4758PG041

(2)

GAEBE & KEZIRIAN
ATTORNEYS AT LAW
128 DORRANCE STREET
PROVIDENCE, RHODE ISLAND 02903

(401) 331-0800

DANA H. GAEBE

FAX (401) 861-2260

WAYNE M. KEZIRIAN

ALLISON ROCK

July 17, 2000

VIA MAIL & FAX: 941-2567

Ferdinand C. Ihenacho, P.E.
Director
Department of Public Works
City of Providence
700 Allens Avenue
Providence, RI 02905

RE: *JOHNSON & WALES UNIVERSITY ABANDONMENT OF GARNET STREET*

Dear Mr. Ihenacho:

I represent Johnson & Wales University which is in the process of constructing a new business building at the corner of Weybosset and Page Streets in Providence, Rhode Island. This new building is bounded on the east by the abandoned roadbed of Garnet Street. There is a 12 inch VC sanitary sewer located in the roadbed of the abandoned Garnet Street which requires repair. As a result, representatives of Johnson & Wales University met with Janice Carrazza of your office to discuss the necessary repair to the 12 inch VC sanitary sewer. They were surprised to learn that the records of the Department of Public Works continued to indicate that Garnet Street is a city street and the purpose of this letter is to correct that mistake.

Garnet Street was abandoned on August 10, 1990 pursuant to Resolution No. 385 of the City Council. I have enclosed a copy of that Resolution with this letter as Exhibit "A". Thereafter on November 15, 1991 after the abandonment of the street had been properly completed, the City Council by Resolution No. 597 "rescinded" the abandonment of Garnet Street, a copy is attached as Exhibit "B". The rescission of the Garnet Street abandonment is the last entry in the files at the Department of Public Works. The November, 1991 rescission resulted in litigation and on August 26, 1993 Justice Needham entered a Judgment Order declaring (see Paragraph 7) that the City Council Resolution dated November 15, 1991 is "null and void and absolutely of no effect." The Order also concluded that Johnson & Wales University was the owner of Garnet Street. I have attached a copy of the Judgment Order as Exhibit "C" to this letter.

EK 4758 PG 042

EXHIBIT "A"

Successor
No. 597
Approved: 11/15/9

RESOLUTION OF THE CITY COUNCIL

No. 385

Approved August 10, 1990

BK 4758PG043

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled: "Providence, Rhode Island, Department of Public Works-Engineering Office, Street Line Section Plan No. 064485 dated March 13, 1990",

VIZ:

Garnet Street, (portion of) from Weybosset Street to Pine Street, shown as cross-hatched area on the accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and the same is proposed to be abandoned as a Public Highway, provided that a full sewer easement is granted for the 12 inch sanitary sewer, an easement be granted to the Water Supply Board to provide unrestricted access over the full width of the street, and an easement be granted to the Providence Gas Company for its mains and the damage to the abutters is appraised at nothing and so awarded, and it is further

ORDERED, That the Traffic Engineer be, and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway", and it is further

ORDERED, That after the entry of this order or decree, the City Clerk shall cause a notice, thereof, to be published in a newspaper published in the County of Providence at least once a week for three successive weeks, and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

IN CITY COUNCIL
AUG 2 1990
READ AND PASSED
PRES.
CLERK

APPROVED
AUG 10 1990
MAYOR

7/17/00 - 10:51 - 401 861 2260

BK4758PG044

EXHIBIT "B"

BK4758PG045

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

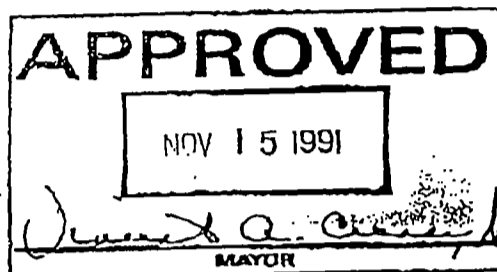
RESOLUTION OF THE CITY COUNCIL

No. 597

Approved November 15, 1991

RESOLVED, that the Abandonment of a portion of
Garnet Street, approved August 10, 1990 is hereby rescinded.

IN CITY COUNCIL
NOV 7 1991
READ AND PASSED
[Signature]
PRES.
[Signature]
CLERK



A true copy,
Attest:
[Signature]
Jean M. Angelone
First Deputy City Clerk

BK4758PG046

EXHIBIT "C"

BK4758PG047

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

C.A. NO. 93-4568

JOHNSON & WALES UNIVERSITY

JUDGMENT ORDER

The above-entitled matter came on for hearing before M Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side

True Copy Attest

Richard P. Adams
 Office of Clerk of Superior Court
 Providence, Rhode Island

1/11/00 10:52 0401 861 2280

BK4758PG048

EXHIBIT "D"

RESOLUTION OF THE CITY COUNCIL

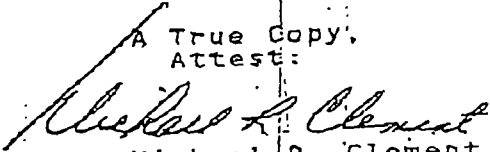
No. 822

Approved November 29, 1993

RESOLVED, That His Honor, the Mayor, is hereby authorized to execute an Agreement with Johnson & Wales University so as to provide for the discontinuance of the existing water supply easement on Garnet Street. Said discontinuance is specifically conditioned upon the following:

1. The Providence Water Supply Board shall communicate in writing to the City Clerk that there is no health, safety or engineering reason militating against such discontinuance;
2. The payment of forty thousand dollars (\$40,000.00) to the City of Providence by Johnson & Wales University;
3. Johnson & Wales University shall, at its own expense, relocate all water service now in existence below Garnet Street unless such relocation is limited or waived by the Providence Water Supply Board. Any relocation shall be to the satisfaction of the Providence Water Supply Board and the Department of Public Works; and
4. Such other conditions as the Mayor and the City Solicitor may deem necessary to effect the intent of this Resolution.

A True Copy,
Attest:


Michael R. Clement
City Clerk

BK4758PG050

EXHIBIT "E"

DISCONTINUANCE OF EASEMENT

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN JOHNSON & WALES UNIVERSITY, a corporation established under the laws of the State of Rhode Island, its successors and assigns, (hereinafter collectively called "JOHNSON & WALES "), and THE CITY OF PROVIDENCE, Rhode Island, its successors and assigns, (hereinafter collectively called the "CITY").

WHEREAS, The CITY has certain rights in and to the existing underground water supply system now maintained, in, under, through, over and across that portion of Garnet Street, between Pine and Weybosset Streets (hereinafter called "Garnet Street"), in the City and County of Providence, State of Rhode Island, which was abandoned by said CITY by virtue of Resolution No. 385 of the City Council of said City of Providence, approved August 10, 1990 (hereinafter called the "Abandonment Resolution"). For purpose of this Agreement, the underground water supply system now maintained in Garnet Street is hereinafter referred to as the "Facilities"; and

WHEREAS, the Abandonment Resolution indicated inter alia that the abandonment of Garnet Street was subject to an easement being granted for such water supply service; and

WHEREAS, The CITY, through the Providence Water Supply Board, maintains the water supply system in the City of Providence; and

WHEREAS, the Parties recognize that JOHNSON & WALES is an important part of the City's continued vitality and JOHNSON & WALES recognizes its correlative responsibility to be a good neighbor to other members of the Providence community; and

WHEREAS, the parties hereto have determined that such water supply service is no longer dictated by the public health and safety. Further, it has been determined that alternative sources of supply to nearby locations are readily available.

WHEREAS, that based on the foregoing, the easement hereto referenced is no longer required to promote the health, safety, welfare or convenience of the public and the parties hereto wish to discontinue and extinguish said easement.

WHEREAS, the CITY, by virtue of Resolution No. 822 of the City Council of said City of Providence, approved November 29, 1993 (a copy of which is attached), authorized the Mayor to execute an agreement with JOHNSON &

WALES so as to provide for the discontinuance of the existing water supply service easement in and over Garnet Street;

NOW, THEREFORE, for and in consideration of FORTY THOUSAND DOLLARS (\$40,000.00) paid this day by JOHNSON & WALES to the CITY, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, the parties agree as follows:

1. Any and all water supply easements in Garnet Street are hereby discontinued and extinguished. JOHNSON & WALES may, at any time and at its own expense, remove the Facilities provided that said removal is conducted with the foreknowledge and approval of the Providence Water Supply Board (hereinafter collectively called the "Water Supply Board"). Prior to removing the Facilities, JOHNSON & WALES shall notify the Water Supply Board and shall comply with such reasonable precautions as may be prescribed by the Water Supply Board to insure that the removal of the Facilities from Garnet Street do not present a hazard to the members of the general public.

2. In the event that JOHNSON & WALES elects not to remove the existing facilities or in the event that the Water Supply Board determines that such removal and/or relocation cannot be accomplished without any adverse impact to the health, safety or welfare of the users of the Water Supply Board system, then JOHNSON & WALES agrees to maintain said facilities in appropriate working order so as to safeguard the public health. Further, in the event of such removal, JOHNSON & WALES covenants for itself and its successors and assigns that it shall assume the whole of the costs of the installation of new or added service(s) to the properties it presently owns which is adjacent to the facilities and that such service shall conform to the requirements of the Water Supply Board.

This obligation shall run with the land and shall be binding upon JOHNSON & WALES and its successors and assigns.

This Agreement shall be recorded and after such recordation the Facilities shall be the exclusive responsibility of JOHNSON & WALES.

3. Should JOHNSON & WALES elect not to remove the Facilities, it shall be responsible for the repair and maintenance of the Facilities at its own expense and shall keep the Facilities in proper operating condition.

IN WITNESS WHEREOF, said JOHNSON & WALES UNIVERSITY has caused these presents to be executed and its corporate seal to be hereto affixed by its proper officer, thereunto duly authorized this day 17th of

DECEMBER, 1993, and, the CITY, acting by and through its Mayor,

65-904 PG 082

BK4758PG053

Vincent A. Cianci, Jr., acting pursuant to the authority granted him by the Home Rule Charter of the City of Providence and by Resolution No.822 of the City Council of said City of Providence, approved on the 29th day of November, 1993, have caused these presents to be executed this 8th day of FEBRUARY, 1994.

JOHNSON & WALES UNIVERSITY

BY: Christopher T. Del Sesto
CHRISTOPHER T. DEL SESTO,
SENIOR VICE PRESIDENT
AND TREASURER

CITY OF PROVIDENCE

BY: Vincent A. Cianci, Jr. Feb 5, 1994
VINCENT A. CIANCI, JR., MAYOR 5:25 PM

STATE OF RHODE ISLAND
PROVIDENCE, SC.

In Providence, in said County on the 17th day of December, 1993, before me personally appeared the above named CHRISTOPHER T. DEL SESTO, in his capacity as Senior Vice President & Treasurer of JOHNSON & WALES University, to be known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed in said capacity and the free act and deed of JOHNSON & WALES University.

Wayne M. Kezarian

Notary Public
WAYNE M. KEZARIAN
Notary Public of Rhode Island
My Commission Expires June 23, 1995

STATE OF RHODE ISLAND
PROVIDENCE, SC.

In Providence, in said County on the 8th day of FEBRUARY, 1994, before me personally appeared the above named VINCENT A. CIANCI, JR., in his capacity as Mayor of the City of Providence, to be known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed in said capacity and the free act and deed of the City of Providence.

Joan T. D'Amico, Jr.
Notary Public

CONSENTED TO IN FORM AND SATISFACTORY TO ME:

Joan T. D'Amico, Jr. 2/8/94 at 2:10 PM
Senior Assistant

BK4758PG054

EXHIBIT "F"

BK4758PG055

One Charles Street Providence, Rhode Island 02904 (401) 272-2354
Fax 273-0270

The Providence Partnership ARCHITECTURE ENGINEERING INTERIOR DESIGN
A Corporation

July 14, 2000

Mr. Ferdinand Ihenacho, P.E.
Director, Department of Public Works
City of Providence
700 Allens Avenue
Providence, RI 02905

RE: RESIDENCE HALL - PHASE II
32 PAGE STREET
JOHNSON & WALES UNIVERSITY

Dear Mr. Ihenacho:

I am writing on behalf of Johnson & Wales University regarding the above-referenced project.

S & R Construction, site contractor, has been installing the new storm drain lines for the building which ties into the existing sewer manhole in the former Garnet Street. The portion of Garnet Street between Waybosset Street and Pine Street has been abandoned with the City maintaining a sewer easement for the 2 manholes and lines which connect to the 20" combination line in Pine Street.

In the process of making the tie-in to the existing sewer manhole #1 (see attached drawing), it was discovered that an approximate 30' section of the existing 12" VC pipe between SMH#1 & SMH#4 was partially crushed and cracked since it had apparently been previously backfilled with large stones. Our concern is that the remainder of the line is also in similar condition. Since the University is in the process of making substantial site improvements as a part of this project, we feel it is prudent to replace the line between SMH#1 & SMH#4 (approximately 90') now to avoid problems in the future. Therefore, we are requesting permission to replace the line with 12" PVC SDR pipe at the University's expense.

Since time is of the essence, we ask if you could respond as soon as possible. If you need any additional information, please do not hesitate to call. Thank you.

Sincerely,

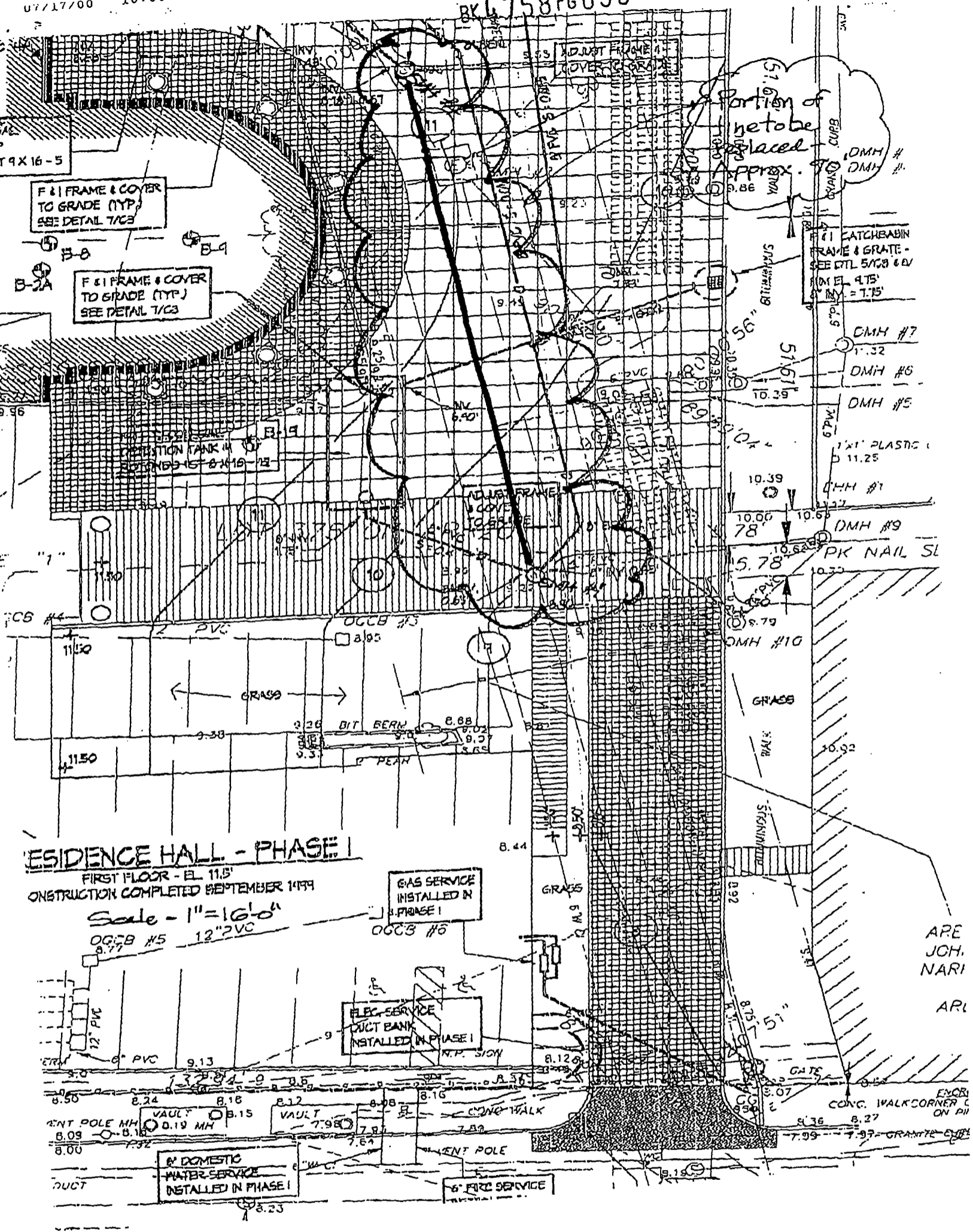


Steven R. Kile, AIA

SRK:tlc

Enclosures as noted.

Cc: D. DeStefano
S. Agostini
R. Ashton
R. Loqa



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 385

Approved August 10, 1990

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled: "Providence, Rhode Island, Department of Public Works-Engineering Office, Street Line Section Plan No. 064485 dated March 13, 1990".

VIZ:

Garnet Street, (portion of) from Weybosset Street to Pine Street, shown as cross-hatched area on the accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and the same is proposed to be abandoned as a Public Highway, provided that a full sewer easement is granted for the 12 inch sanitary sewer, an easement be granted to the Water Supply Board to provide unrestricted access over the full width of the street, and an easement be granted to the Providence Gas Company for its mains and the damage to the abutters is appraised at nothing and so awarded, and it is further

ORDERED, That the Traffic Engineer be, and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway", and it is further

ORDERED, That after the entry of this order or decree, the City Clerk shall cause a notice, thereof, to be published in a newspaper published in the County of Providence at least once a week for three successive weeks, and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

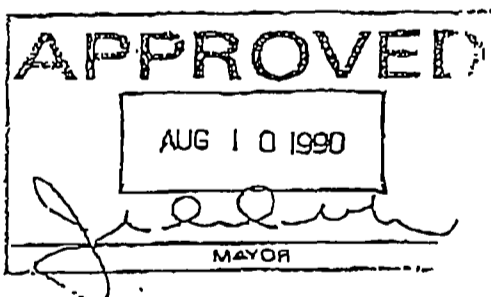
IN CITY COUNCIL

AUG 2 - 1990

READ AND PASSED

PRES.

CLERK



BK 4758PG058

PROVIDENCE, R. I.
 P.W. DEPT. - ENGINEERING OFFICE
 STREET LINE SECTION
 Plan No. 064657
 Date Aug. 30, 2000

WEYBOSSET ST.

PAGE ST.

Lot 254

Lot 371

Lot 373

PINE ST.

NOTES: Cross-hatched area (A-B-C-D-E-F-A)
 indicates proposed abandonment.
 Full sewer easement will be required.
 Total square footage = 13,500±

Lot numbers taken from A.P. 20.

CITY OF PROVIDENCE, R. I.
 Public Works Dept. - Engineering Office
 Showing Proposed abandonment of a
portion of Garnet St.
 Drawn by A. Zisiades Checked by He
 Scale 1" = 50' Date 8-30-2000
 Correct James J. J... Associate Engr.
 Approved [Signature] CHIEF ENGINEER

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

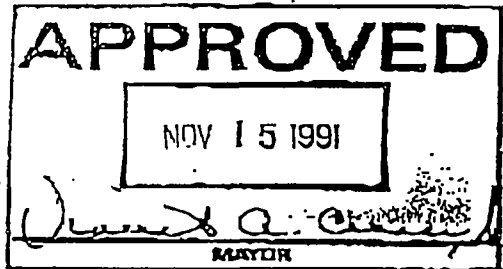
RESOLUTION OF THE CITY COUNCIL

No. 597

Approved November 15, 1991

RESOLVED, that the Abandonment of a portion of
Garnet Street, approved August 10, 1990 is hereby rescinded.

IN CITY COUNCIL
NOV 15 1991
READ AND PASSED
[Signature]
PRES.
[Signature]
CLERK



A true copy,
Attest:
[Signature]
Jean M. Angelone
First Deputy City Clerk

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CITY OF PROVIDENCE

VS.

C.A. NO. 93-4568

JOHNSON & WALES UNIVERSITY

JUDGMENT ORDER

The above-entitled matter came on for hearing before Mr. Justice Needham on August 25, 1993 on Plaintiff's Motion for Preliminary Injunction and Defendant's Objection thereto and Defendant's Motion for Declaratory Judgment and Motion that the trial of the action on the merits of the claims for equitable and declaratory relief be advanced and consolidated with the hearing of Plaintiff's Motion, and after consideration of an agreed statement of facts filed by the parties, the taking of testimony from a witness, the consideration of other evidence and argument of counsel, judgment shall enter as follows:

1. That the trial of the action on the merits of the claims for equitable and declaratory relief is advanced and consolidated with the hearing of Plaintiff's Application for Preliminary Injunction;

2. The Plaintiff's Application for Preliminary Injunction is denied;

3. That by Resolution approved by the City Council of the City of Providence on August 10, 1990, the City of Providence abandoned the portion of Garnet Street running from Weybosset Street to Pine Street;

4. That the abandonment of Garnet Street by the City of Providence vested title in fee simple in abutting land owners on each side of Garnet Street, subject only to existing easements, as noted in the Resolution of August 10, 1990;

5. That the City Council Resolution of August 10, 1990 vested title in fee simple to Garnet Street in Johnson & Wales University, which at the time owned land abutting one side of

True Copy Attest

[Signature]
 Officers of Clerk of Superior Court
 Providence, Rhode Island

Garnet Street, and in City Place Associates, which owned land on the opposite side of Garnet Street, and Johnson & Wales is now the successor in title to the interest of City Place Associates in Garnet Street;

6. That the abandonment of Garnet Street vested title in fee simple in the abutters, subject to existing easements, which were preserved in the Resolution of the City Council of August 10, 1990, and there is no need for Johnson & Wales to convey any easements in Garnet Street;

7. That the vesting of title to Garnet Street in abutting land owners as a result of its abandonment was not subject to defeasance by a later resolution and the Resolution of the City Council of the City of Providence dated November 15, 1991, purporting to rescind the prior abandonment, is null and void and absolutely of no effect;

8. That as the fee owner of Garnet Street Johnson & Wales University may not take any action to obstruct the easements of the utilities referred to in the Resolution of August 10, 1990.

ENTERED as an Order of this Honorable Court on the 26th day of August, 1993.

ENTER:

ORDER:

Judge

Clerk

Presented by:

Girard R. Visconti, Esq.
VISCONTI & PETROCELLI, LTD.
55 Dorrance Street
Providence, RI 02903

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Barbara A. Troncy

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