

RESOLUTION OF THE CITY COUNCIL

No. 122

Approved MARCH 13, 2008

IT IS HEREBY RESOLVED, That His Honor, the Mayor, is authorized to grant a permanent, perpetual exclusive subterranean easement on Bradford Street in the City of Providence to Talon Realty Limited Partnership ("Talon"). Said easement shall be granted specifically upon the following provisions:

1. Said easement shall be utilized only for the construction and maintenance of a proposed Condominium Parking Garage and appurtenances in the ground below Bradford Street, as depicted on that drawing entitled "Proposed Subterranean Rights" prepared by Garofalo & Associates, Inc., dated September 4, 2007 ("Plan") on and adjacent to AP 26, Lot 7, AP 26, Lot 59, and Talon Realty Limited Partnership's properties at AP 26, Lots 298, 315 and 396. The Bradford Street easement is approximately five thousand two hundred ninety-eight square feet, plus or minus, as indicated on a cross-hatched area (A-B-C-D-A) on the accompanying map, entitled "Prov., RI, DPW-Engineering Office, Street line Section Plan No. 064802 dated May 11, 2007."

2. Said easement shall be deemed to run with the land and shall operate against any successors in title and the easement or a memorandum of same shall be recorded by Talon in the Office of Land Records for the City of Providence.

3. As consideration for the Easement, Talon shall tender the sum of \$225,165.00 in legal tender of the United States of America.

4. Talon shall execute an indemnification and hold-harmless agreement with the City of Providence. Said agreement shall be approved by the Department of Law of the City of Providence.

5. Talon or the condominium association, as the case may be, shall maintain the structural integrity of the subterranean parking garage and agrees to maintain Bradford Street from defects resulting from Talon's failure to so maintain the structural integrity. The City shall remain responsible for all other maintenance of Bradford Street.

6. Talon or the condominium association shall supply the City of Providence with an insurance policy naming said City of Providence, its agents, officers, servants and employees as additional-named insureds in a sum not less than five hundred thousand dollars (\$500,000.00) which policy shall be approved by the Department of Law of the City of Providence.

7. Talon agrees to honor the easement plan on record, per "Prov., RI, DPW-Engineering Office, Street line Section Plan No. 064604 or relocate the existing utilities as provided in paragraphs 8, 9, & 10 hereof.

8. Talon shall grant an easement in favor of National Grid, permitting the retention of its gas and electric facilities in their existing location, together with the right to inspect, maintain, operate and replace the same and with twenty-four hour access to said facilities, or in the alternative should it be determined by the Petitioner that any such facilities need to be relocated in order to comply with an intended use, the Petitioner shall assume all costs of relocation.

9. Talon shall grant an easement in favor of Verizon, permitting the retention of its facilities in their existing location, together with the right to inspect, maintain, operate and replace the same and with twenty-four hour access to said facilities, or in the alternative should it be determined by the Petitioner that any such facilities need to be relocated in order to comply with an intended use, the Petitioner shall assume all costs of relocation.

10. Petitioner shall grant an easement in favor of the Providence Water Supply Board, permitting the maintenance of its facilities on Bradford Street, together with the right to inspect, maintain, operate and replace the same and with twenty-four hour access to said facilities, or in the alternative should it be determined by the Petitioner that any such facilities need to be relocated in order to comply with an intended use, the Petitioner shall assume all costs of relocation.

11. Petitioner shall comply with the recommendations of the City Plan Commission, if any.

12. Petitioner shall be bound by the ruling of the Zoning Board. If the zoning board denies the zoning relief requested by petitioner (which, at petitioner's option, shall include granting less relief than requested) or petitioner withdraws its request for zoning relief, the City shall return to petitioner the compensation paid for the abandonment within 30 days of a written request therefore by petitioner and the abandonment shall become a nullity.

13. The Petitioners shall comply with all conditions contained herein (other than No. 4-12, which may not be generated within the sixty day period, but shall be complied with prior to the start of construction within Bradford Street), including recording this Resolution, not later than sixty (60) days from its approval. Upon failure to so comply for any reason, the within resolution shall automatically become a nullity.

14. Such other reasonable terms and conditions as may be reflected in the record and minutes of the City Council Committee on Public Works and/or as may be deemed appropriate by the Mayor or the Department of Law prior to the recording of this resolution.

IN CITY COUNCIL
MAR 6 2008
READ AND PASSED
[Signature]
PRES.
[Signature]
CLERK

APPROVED
[Signature] 3/13/08
MAYOR

*Member of R.I. & Mass Bars
(401) 831-4200 Ext 17

February 28, 2008

HAND-DELIVERED

Adrienne G. Southgate, Esq.
Deputy City Solicitor
275 Westminster Street, Suite 200
Providence, RI 02903

**Re: Talon Realty Limited Partnership/Vista Della Torre
Payment for Air Rights and Subterranean Easements**

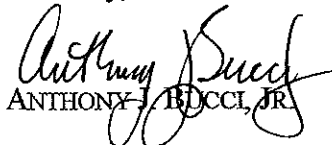
Dear Adrienne:

Enclosed are two checks made payable to the City of Providence for payment pursuant to the City Council's Public Works Committee's vote regarding the above referred to rights. The check in the amount of \$178,050 is for the Air Rights Easement and the check for \$469,030 is for the Subterranean Easement. Per our agreement you have agreed to hold these checks in escrow (i.e. not deposit them) until such time as the City Council votes to approve the granting of said easements. In the event the City Council votes against the granting of one or both easements you will return to me both uncashed checks. Additionally, should the City Council vote in favor of reducing the amount of the Subterranean Easement to correct the appraisal thereof that incorrectly valued the easement at 100% of the fee value, we ask that you not deposit that check, but give us 3 business days to provide you with a check in the amount determined by the City Council in exchange for the return of the check for the Subterranean Easement submitted herewith.

By copy of this letter to Anna Stetson, I request that this matter be placed on the Agenda for the next City Council meeting scheduled for March 6, 2006.

Thank you in advance for your anticipated cooperation. If you have any questions regarding this matter please call me.

Sincerely,


ANTHONY J. BUCCI, JR.

cc. Anna Stetson, City Clerk

Talon - Letter to Adrienne Southgate re Checks for Air Rights and Subterranean Easements.doc

COLONIAL CLASSIC

TALON REALTY LIMITED PARTNERSHIP 04/07 1051
 544 AIRPORT ROAD
 WARWICK, RI 02886

Date 2/28/08 57-12/115 69

PAY to the City of Providence \$ 178,050
 Order of

One hundred seventy-eight thousand fifty ⁰⁰/₁₀₀ Dollars

Citizens Bank
 Rhode Island

For AIR RIGHTS EASEMENT Darryl Flanagan MP

⑆011500120⑆ 1816 385 81⑆ 1051

©Clarke American DECC

COLONIAL CLASSIC

TALON REALTY LIMITED PARTNERSHIP 04/07 1050
 544 AIRPORT ROAD
 WARWICK, RI 02886

Date 2/28/08 57-12/115 69

PAY to the City of Providence \$ 469,030
 Order of

Four hundred sixty-nine thousand thirty ⁰⁰/₁₀₀ Dollars

Citizens Bank
 Rhode Island

For SUBTERRANEAN EASEMENT Darryl Flanagan MP

⑆011500120⑆ 1816 385 81⑆ 1050

©Clarke American DECC

**CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

PETITION TO THE CITY COUNCIL

TO THE HONORABLE CITY COUNCIL OF THE CITY OF PROVIDENCE:

The undersigned respectfully petitions your honorable body:

WHEREAS, Talon Realty Limited Partnership ("Owner") is the owner of that certain real property known as Assessor's Plat 26, Lot 7 (the "Property");

WHEREAS, the Owner proposes to construct a residential condominium on the Property together with a portion of that certain property known as Plat 26, Lot 59 and Plat 25, Lot 7 (the "Proposed Condominium");

WHEREAS, Bradford Realty Limited Partnership is the owner of that certain real property known as Assessor's Plat 26, Lots 298, 315 and 396 and joins in this petition.


NOW THEREFORE, the Owner respectfully requests that the City grant to Owner a permanent, perpetual right, privilege and subterranean easement to allow the Owner to locate a portion of the Proposed Condominium parking garage in the ground below Bradford Street as depicted on that drawing entitled "Proposed Subterranean Rights" prepared by Garofalo & Associates, Inc., dated September 4, 2007, (the "Plan"), a copy of said Plan being attached hereto as Exhibit A and made a part of this Petition and consists of a footprint of approximately 5,518 square feet as more particularly described on Exhibit B attached hereto; and

Further, Bradford Street will remain open to vehicular traffic and continue to be a public highway.

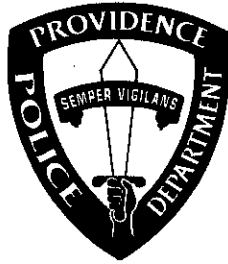
Further, if the City Council does authorize the subterranean easement of the subject portion of Bradford Street, the Petitioner agrees to enter into a mutually satisfactory agreement with the City regarding the maintenance or relocation of any utilities located under such section of the roadway.

Any questions regarding this Petition may be addressed to the undersigned.

Petitioner,
Talon Realty Limited Partnership and
Bradford Realty Limited Partnership
By their attorney,



ANTHONY J. BUCCI, JR., Esq.
155 South Main Street, Suite 405
Providence, Rhode Island 02903
Tel: 401-831-4200; Fax: 866-340-1835
Email: abucci@buccilaw.com



Department of Public Safety, Police Department
"Building Pride in Providence"

October 5, 2007

To: Anna M. Stetson, City Clerk

Subject: Easement on Bradford St.

Dear Anna:

After examining the plans, the Police Department can find no reason to object to the granting of an easement to Talon Realty and Bradford Realty as enclosed herein.

Sincerely,

Capt. James T. Nolette

George S. Farrell
Fire Marshal

George D. Calise
Deputy Fire Marshal



David N. Cicilline
Mayor

David D. Costa
Chief of Department

Providence Fire Prevention Division
"Smoke Detectors Save Lives"

October 11, 2007

Ms. Anna M. Stetson City Clerk
Providence City Hall, Department of City Clerk
25 Dorrance Street
Providence, Rhode Island 02903


Re: Request for a Permanent, Perpetual Right, Privilege and
Subterranean Easement for the Proposed Condominium Parking Garage below Bradford Street

Dear Ms. Stetson,

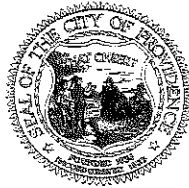
The Providence Fire Department does not object to the creation of the proposed easement requested by Anthony J. Bucci, Jr., Esq. for the request of a permanent, perpetual right, privilege and subterranean easement for the proposed condominium parking garage below Bradford Street provided that all requirements by Providence Water Supply to move, relocate or maintain any existing water mains currently existing under Bradford Street shall be abided by to ensure no reduction in water supply available to that area.

If you need any further information, please do not hesitate to call.

Sincerely,


Anthony J. Di Giulio,
Fire Marshal

JOHN D. NICKELSON, PE
Director



DAVID N. CICILLINE
Mayor

Department of Public Works
"Building Pride in Providence"

January 24, 2008

Honorable Leon F. Tejada
Chairman of the Public Works Committee
Providence City Council-City Hall
Providence, R.I. 02903

RE: Proposed Easement of a Portion of Bradford St.

Dear Councilman Tejada:

This department has no objection to the proposed easement of a portion of Bradford St. in conjunction with the attached plan, entitled "Prov., R.I.-P.W. Dept- Engineering Office, Street Line Section, Plan No. 064802; provided, conditions are placed on the conveyance of the easement that requires the developer to maintain the structural integrity of the subterranean parking garage and agrees to maintain the road from defects resulting from failure to do so.

Area of abandonment is designated as (A-B-C-D-A) on the accompanying plan. Total square footage equals 5,295.60 square feet. (±)

The easement area is subject to other easements of record.

See accompanying plan for plat and lot numbers

This plan was a revision of an original abandonment on May 11, 2007

If we can further assist you in this regard, please advise.

Very truly yours,

A handwritten signature in black ink, reading "John D. Nickelson".

John D. Nickelson, PE
Director

cc: Ann Stetson-City Clerk
BB, AZ-DPW
A. Southgate, Esq. - Law Dept.
T. Deller- Planning
J. Gelati- Tax Assessors

**CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

PETITION TO THE CITY COUNCIL

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Further, Bradford Street will remain open to vehicular traffic and continue to be a public highway.

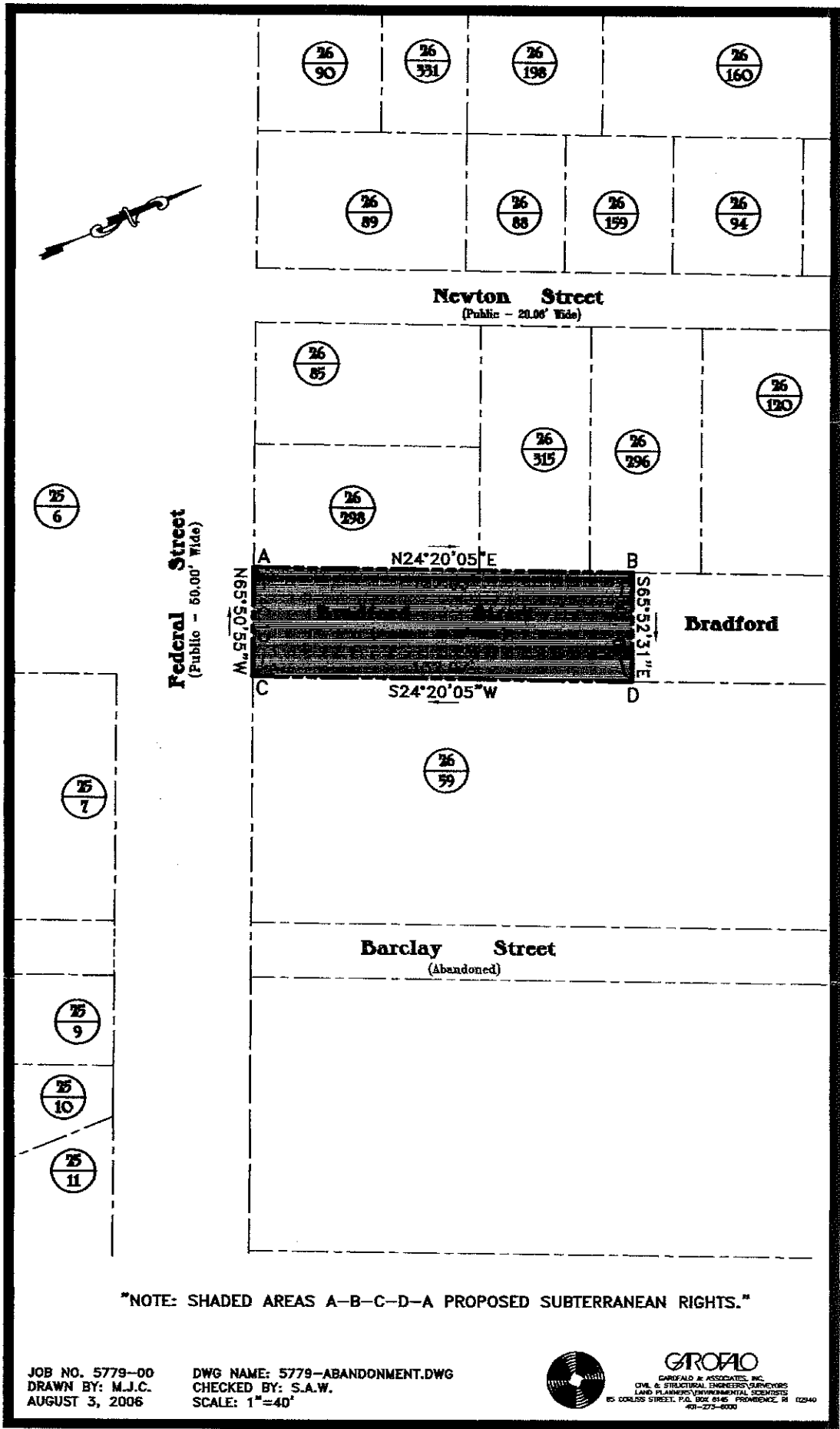
Further, if the City Council does authorize the subterranean easement of the subject portion of Bradford Street, the Petitioner agrees to enter into a mutually satisfactory agreement with the City regarding the maintenance or relocation of any utilities located under such section of the roadway.

Any questions regarding this Petition may be addressed to the undersigned.

Petitioner,
Talon Realty Limited Partnership and
Bradford Realty Limited Partnership
By their attorney,



ANTHONY J. BUCCI, JR., Esq.
155 South Main Street, Suite 405
Providence, Rhode Island 02903
Tel: 401-831-4200; Fax: 866-340-1835
Email: abucci@buccilaw.com



NOTE: SHADED AREAS A-B-C-D-A PROPOSED SUBTERRANEAN RIGHTS.

JOB NO. 5779-00
DRAWN BY: M.J.C.
AUGUST 3, 2006

DWG NAME: 5779-ABANDONMENT.DWG
CHECKED BY: S.A.W.
SCALE: 1"=40'



GARFIELD
GARFIELD & ASSOCIATES, INC.
CIVIL & STRUCTURAL ENGINEERS/SURVEYORS
LAND PLANNING/ENVIRONMENTAL SCIENTISTS
85 COLLIS STREET, P.O. BOX 5145 PROVIDENCE, RI 02940
401-273-8000

**PROPOSED DEED DESCRIPTION
FOR
SUBTERRANEAN RIGHTS IN BRADFORD STREET**

That certain tract or parcel of land with all buildings and improvements thereon situated on the northerly side of Federal Street in the City of Providence, County of Providence, State of Rhode Island is herein bounded and description;

Beginning at a point said point being the intersection of the northerly street line of Federal Street with the westerly street line of Bradford Street;

Thence proceeding north $24^{\circ}20'05''$ east along the westerly street line of said Bradford Street a distance of one hundred thirty two and $05/100$ (132.05') feet to the point, bounded westerly by Parcel C herein before described;

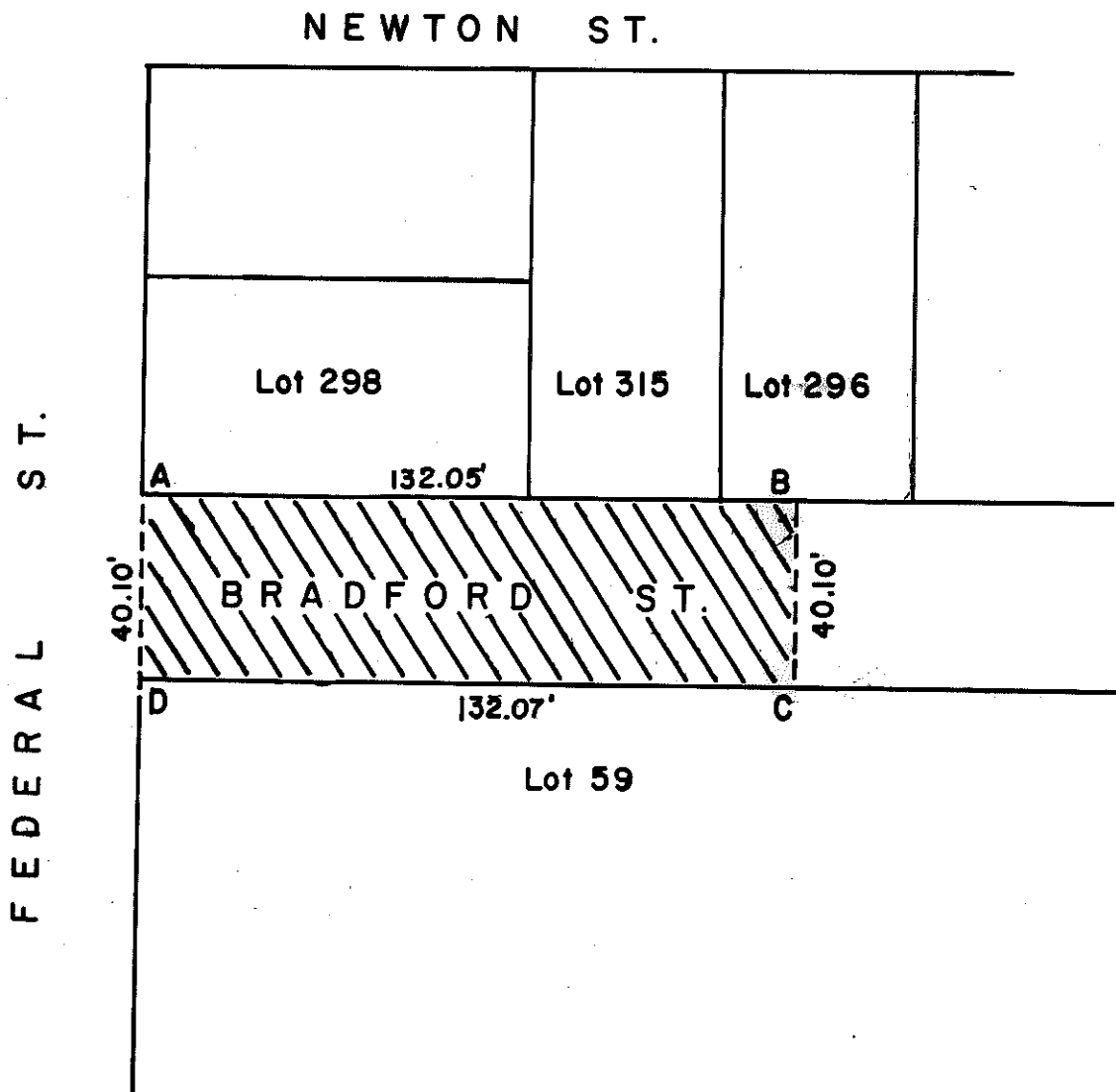
Thence proceeding south $65^{\circ}52'31''$ east a distance of forty and $10/100$ (40.10') feet to a point on the easterly street line of Bradford Street;

Thence proceeding south $24^{\circ}20'05''$ west along the easterly street line of said Bradford Street a distance of one hundred thirty two and $07/100$ (132.07') feet to a point on the northerly street line of said Federal Street, said point being located at the intersection of the easterly street line of said Bradford Street with the northerly street line of said Federal Street, bounded easterly by Parcel B herein before described;

Thence proceeding south $65^{\circ}50'55''$ west along the northerly street line of said Federal Street a distance of forty and $10/100$ (40.10') feet to the point and place of beginning;

Said parcel contains 5,296 square feet or 0.12 acres more or less.

PROVIDENCE, R. I.
 P. W. DEPT. - ENGINEERING OFFICE
 STREET LINE SECTION
 Plan No. 064802
 Date May 11, 2007



NOTES: Cross-hatched area (A-B-C-D-A) indicates proposed easement.
 Total sq. footage = 5,295.60'±
 Subject to easement plan on record. See plan no. 064604.
 (Revised 1-24-08 from abandonment to easement.)

CITY OF PROVIDENCE, R. I.
 Public Works Dept. - Engineering Office
 Showing proposed easement of a
portion of Bradford St.
 Drawn by A. Zislades Checked by _____
 Scale 1" = 40' Date 5-11-2007
 Correct _____ Associate Eng.
 Approved William J. Barnard
WCB 1-24-08 CHIEF ENGINEER

Lot numbers taken from A.P. 26.



Providence City Plan Commission

DAVID N. CICILLINE
Mayor

December 19, 2007

Honorable Leon F. Tejada, Chair
Committee on Public Works
City Hall
Providence, RI 02903

Attn: Anna Stetson, City Clerk

**Re: CPC Referrals 3282: Petition Requesting an Air-Rights Easement over
Federal Street, and 3292: Petition Requesting a Subterranean Easement under
Bradford Street**

Dear Councilman Tejada:

The City Plan Commission at its regular meeting on Tuesday, December 18, 2007 reviewed and evaluated the request of the Committee on Public Works for the Commission's recommendation on the petitions for the above-captioned easements.

The Commission voted unanimously to recommend that the Council approve the subterranean easement under Bradford Street. With regard to the air-rights easement over Federal Street, the Commission made no recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Azar", written over a horizontal line.

Robert E. Azar, AICP
Administrative Officer

cc: Anthony Bucci

ANDOLFO APPRAISAL ASSOCIATES, INC.

REAL ESTATE APPRAISERS AND CONSULTANTS
THE BUSH BUILDING
216 WEYBOSSET STREET • PROVIDENCE • RHODE ISLAND 02903
(401) 273-8989 • FAX (401) 273-2510

February 28, 2008

Mr. John Gelati
Tax Assessor
City of Providence
25 Dorrance Street
Providence, Rhode Island 02903

Re: Amended Analysis for a proposed perpetual easement under a
portion of Bradford Street - Vista Della Torre Project -
Talon Realty Limited Partnership, and Bradford Realty
Limited Partnership

Dear Mr. Gelati:

Pursuant to your request, we have re-analyzed the above-referenced matter as it relates to a partial perpetual easement under a portion of Bradford Street on Assessor's Plat 26 as it intersects with Atwells Avenue and Federal Street. **The reason for the revision results from new information submitted by the developer's attorney, Anthony J. Bucci, Jr., Esquire. Notably, there has been a change in the dimensions and the total square footage of the easement area, which is now a subterranean one versus the prior request for the partial abandonment of Bradford Street.** As you are aware, the developer has withdrawn the prior application upon which our original appraisal was based.

The proposed easement contains 5,298 square feet. The area in general measures 40.10 feet wide by 132.05 feet in length along the center line of the street. The proposed use is to develop an underground parking garage. The City's Department of Public Works has no objection to this request; however, they are requiring a Class 1 survey for recording.

Mr. John Gelati
Page 2
February 28, 2008

The parcel is zoned C-2. We have taken into account a number of factors in arriving at the fair market value of the site. The petitioner will gain full use of the subterranean ground to develop a parking garage. The highest and best use of the parcel would be commercial given its close proximity to the Broadway and Atwells Avenue commercial corridors and the downtown commercial district.

Based upon an analysis of comparable land sales as contained within the office files of Andolfo Appraisal Associates, Inc., a fee value of \$85.00 per square foot is hereby estimated. The developer will gain full use of the area below Bradford Street, but will not have access to the above portion of Bradford Street, as it will remain open to traffic. As a result, the fee value has been reduced by 50%.

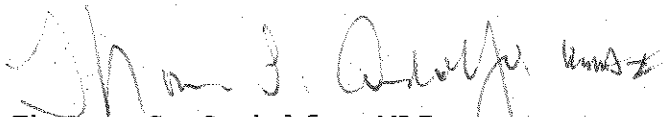
Therefore, 5,298 square feet x \$85.00 per square foot = \$450,330 x .50 = \$225,165 value of proposed subterranean easement.

Respectfully submitted,

ANDOLFO APPRAISAL ASSOCIATES, INC.



William G. Floriani
Certified Residential Appraiser



Thomas S. Andolfo, MAI
Certified General Appraiser

WGF:TSA/fad

AAA
ANDOLFO APPRAISAL ASSOCIATES, INC.

REAL ESTATE APPRAISERS AND CONSULTANTS
THE BUSH BUILDING
216 WEYBOSSET STREET • PROVIDENCE • RHODE ISLAND 02903
(401) 273-8989 • FAX (401) 273-2510

January 24, 2008

Mr. John Gelati
Tax Assessor
City of Providence
City Hall
Providence, Rhode Island 02903

Re: Proposed Perpetual Easement under a Portion of Bradford
Street

Dear Mr. Gelati:

Pursuant to your request, we have personally inspected the real estate located on Bradford Street, otherwise designated as a partial perpetual easement under a portion of Bradford Street on Assessor's Plat 26 as it intersects with Atwells Avenue and Federal Street in close proximity to Broadway.

The proposed easement contains 5,518 square feet. The area in general measures 40.10 feet by 132.07 feet in length along the center line of the street. The proposed use is to develop an underground parking garage. The City's Department of Public Works has no objection to this request; however, they are requiring a Class 1 survey for recording. The parcel is zoned C-2.

We have taken into account a number of factors in arriving at the fair market value of the site. Among those factors, the petitioner will gain full use of the site for either commercial or residential use.

The highest and best use of the parcel would be commercial given its close proximity to the Broadway and Atwells Avenue commercial corridor's and the downtown commercial district.

ANDOLFO APPRAISAL ASSOCIATES, INC.

Mr. John Gelati

Page 2

January 24, 2008

Based upon an analysis of comparable land sales as contained within the office files of Andolfo Appraisal Associates, Inc., a fee value of \$85.00 per square foot is hereby estimated as the developer will gain full use of the area.

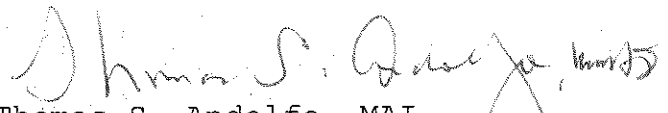
Therefore, 5,518 square feet x \$85.00 per square foot = \$469,030.

Respectfully submitted,

ANDOLFO APPRAISAL ASSOCIATES, INC.

William G. Floriani

Certified Residential Appraiser

A handwritten signature in dark ink, appearing to read "Thomas S. Andolfo", with a date "1/25" written to the right.

Thomas S. Andolfo, MAI

Certified General Appraiser

WGF:TSA/fad