

RESOLUTION OF THE CITY COUNCIL

No. 59

Approved February 22, 2013

IT IS HEREBY RESOLVED, That His Honor, the Mayor, is authorized to grant a non-exclusive sub-surface easement for Thayer Street in the City of Providence to Brown University ("Brown"). Said easement shall be granted specifically upon the following provisions:

1. Said easement under Thayer Street shall not exceed two hundred thirty (230) square feet, plus or minus, and indicated on accompanying map marked "Providence, R.I. Department of Public Works – Engineering Office, Street Line Section Plan No. 064828 dated August 8, 2011" (Exhibit A). Said easement shall be utilized only for the installation, maintenance, repair and/or replacement of utilities, including without limiting the generality of the foregoing, electric, telephone, cable television, data transmission, fiber optic, gas, high temperature hot water, chilled water, and fuel oil piping, and similar utility lines.

The easement shall not exceed the shaded area bounded by a line with points (A-B-C-D-A) as shown on Exhibit A.

2. The above referenced area, as shown on Exhibit A, is hereinafter referred to as the "Premises". Said easement shall be deemed to run with the land and shall be binding on and for the benefit of any successors in title and the easement or a memorandum of same shall be recorded in the Office of Land Records for the City of Providence.

3. Said easement shall be subject to a right of reverter/right of reversion in the event that the easement is no longer utilized for a period of ten (10) years for the aforementioned purposes.

4. As consideration for this Easement, Brown shall tender the sum of three thousand, four hundred fifty dollars (\$3,450.00) in legal tender of the United States of America.

5. Any breakout necessary for installation and/or repair or replacement shall be resurfaced or rehabilitated in accordance with relevant ordinances and industry standards and to the reasonable satisfaction of the Director of the Department of Public Works.

6. The installation of utilities or utility lines shall be underground so as to preserve the public right-of-way. Brown and its successors and assigns may enter upon said Premises, to dig or excavate the soil in said Premises, to clear the Premises of vegetation and any natural or manmade structures for both access and safety purposes and to do any other acts which are necessary to carry out the purposes for which said Easement is given and to provide for the effective use thereof.

7. Any installation of electrical mechanisms shall be subject to the approval of the Director of the Department of Inspections & Standards.

23-109. Indemnity of city against claims arising out of electrical installation.

Every person erecting, maintaining or using electric wires or poles, fixture or structures, for the support or conducting of the same shall indemnify and save harmless the city, its officers, agents and servants, from and against all lawful claims and demands for injuries to persons or property occasioned by the existence of such poles, wires, fixtures or structures or the transmission of electric current by means thereof or by the digging up, opening or keeping open of any street, highway, traveled way, public place or part thereof, which shall be or has been opened for the purpose of installing, constructing or repairing any underground conduit, duct, structure, appliance or appurtenance by or for such person, or by any failure of such person to restore and keep in sound and safe condition for the required time any ground opened or dug up in the prosecution of any of its work in any street, way or place. The city, city council, or the officers, agents or servants of the city, exercising the rights, powers or permission, and subject to the restrictions, respectively given and reserved herein shall not be held liable by such person or corporation on account thereof, or by reason of any injury or damage caused thereby.

and Brown, for itself and its successors, agrees to comply with the same.

13. In addition to Paragraph 12 above, in the event that the City of Providence or its designee shall, for any public purpose, require the extinguishment of the easement granted herein and upon the reasonable notification hereinbefore mentioned, Brown shall remove said improvements to the easement areas, provided, however, that because Brown has paid consideration for said Easement, Brown shall be entitled to just compensation for any such taking for public purposes.

14. The easement shall be executed, delivered and accepted upon the express terms, covenants and conditions contained herein, which terms, covenants and conditions shall be binding upon and insure to the benefit of the parties hereto and their successors, heirs, legal representatives, and assigns. The easement is intended to be governed by and construed in accordance with the laws of the State of Rhode Island. The easement may not be amended or modified except pursuant to a written instrument signed by all parties thereto.

15. Such other 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.

8. Petitioner shall ascertain that construction results in no adverse impact on any existing utility company and shall ensure the continued integrity of those existing structures.

9. Brown 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.

10. Brown 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 one hundred thousand dollars (\$100,000.00) which policy shall be approved by the Department of Law of the City of Providence.

11. Brown shall not lay, construct or affix to the realty any temporary or permanent structure other than that described earlier herein.

12. Brown recognizes the applicability of Sections 23-107, 23-108 and 23-109 of the Code of Ordinances which read as follows:

23-107. Public work of city to take precedence over installations.

No right of any person to maintain, use or operate any poles, wires, cables, conduits, ducts, pipes, manholes, handholes, or other appliances or appurtenances in any street or other traveled way in the city, shall be in preference or hindrance of public work in the city, and should any of the same in any way interfere with the construction, alteration or repair of any public work in any such street or way, whether done by the city directly or by any contractor for the city, such person shall at his own expense protect, alter or move any of the same so interfering to some other location in such street or way, or discontinue the use and operation thereof for the time being, as directed by the director of public works, without the city being liable for any damages suffered by such person thereby. The City shall notify such person a reasonable time in advance of any public work, which will interfere with any of the same or the use or operation thereof. In case such person shall fail to comply with any such direction of said director, the city may protect, alter or move the same, and recover the cost thereof from such person.

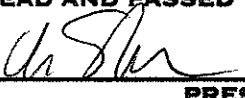
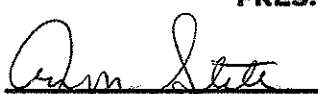
23-108. Precedence of wires, apparatus of city signal service.

The wires, poles, posts, structures and supports of the telephone, fire alarm and police signal service maintained by the city shall at all times take precedence and right-of-way as to all other wires, poles, posts, structures and supports maintained or erected in the city; and no lineman or other person, either in erecting wires, poles, posts, structures or supports in any way whatsoever shall interfere with, or disturb, disarrange or change any wires maintained by the city, or any appurtenance thereof; and in every instance of removal of any of said wires, poles, posts, structures or supports for the accommodation of any other corporation or party, or to place the same beyond danger from the electric current of any other corporation or party, the expense incident to said removal shall be paid immediately by such other corporation or party.

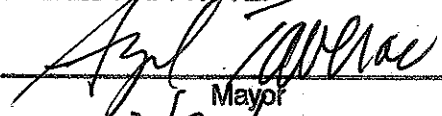
IN CITY COUNCIL

FEB 13 2013

READ AND PASSED


PRES.

CLERK

I HEREBY APPROVE.


Mayor
Date: 2/22/13

CITY OF PROVIDENCE

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PETITION TO THE CITY COUNCIL

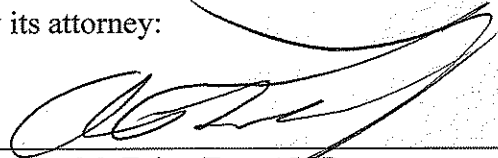
TO THE HONORABLE CITY COUNCIL OF THE CITY OF PROVIDENCE:

The undersigned respectfully petitions your honorable body for the grant of a permanent underground easement below a portion of Thayer Street, which easement would have a total area of approximately 230 square feet, and which would allow the Petitioner to install and maintain underground conduits (for utilities) in order to enable Petitioner to renovate the building located at 315 Thayer Street. In support of its petition, Petitioner represents that Petitioner owns the parcel that is currently shown as Tax Assessor's Plat 13, Lot 16 (315 Thayer Street) and the parcel that is shown as Assessor's Plat 10, Lot 577 (300 Thayer Street), which two parcels are located directly across Thayer Street from each other. Petitioner further asserts that no existing street trees will be removed or damaged due to such easement, and that additional new trees will be planted as part of the renovation of 315 Thayer Street.

Exhibit A, attached hereto, is a Locus Map showing the general location of the requested easement. Exhibit B, attached hereto, is a Survey showing the specific location of the requested easement area and Exhibit C, attached hereto, is a metes and bounds description of the proposed easement. A draft Resolution is also attached as Exhibit D.

Respectfully submitted this 7th day of October, 2011:

BROWN UNIVERSITY IN PROVIDENCE IN
THE STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS
By its attorney:

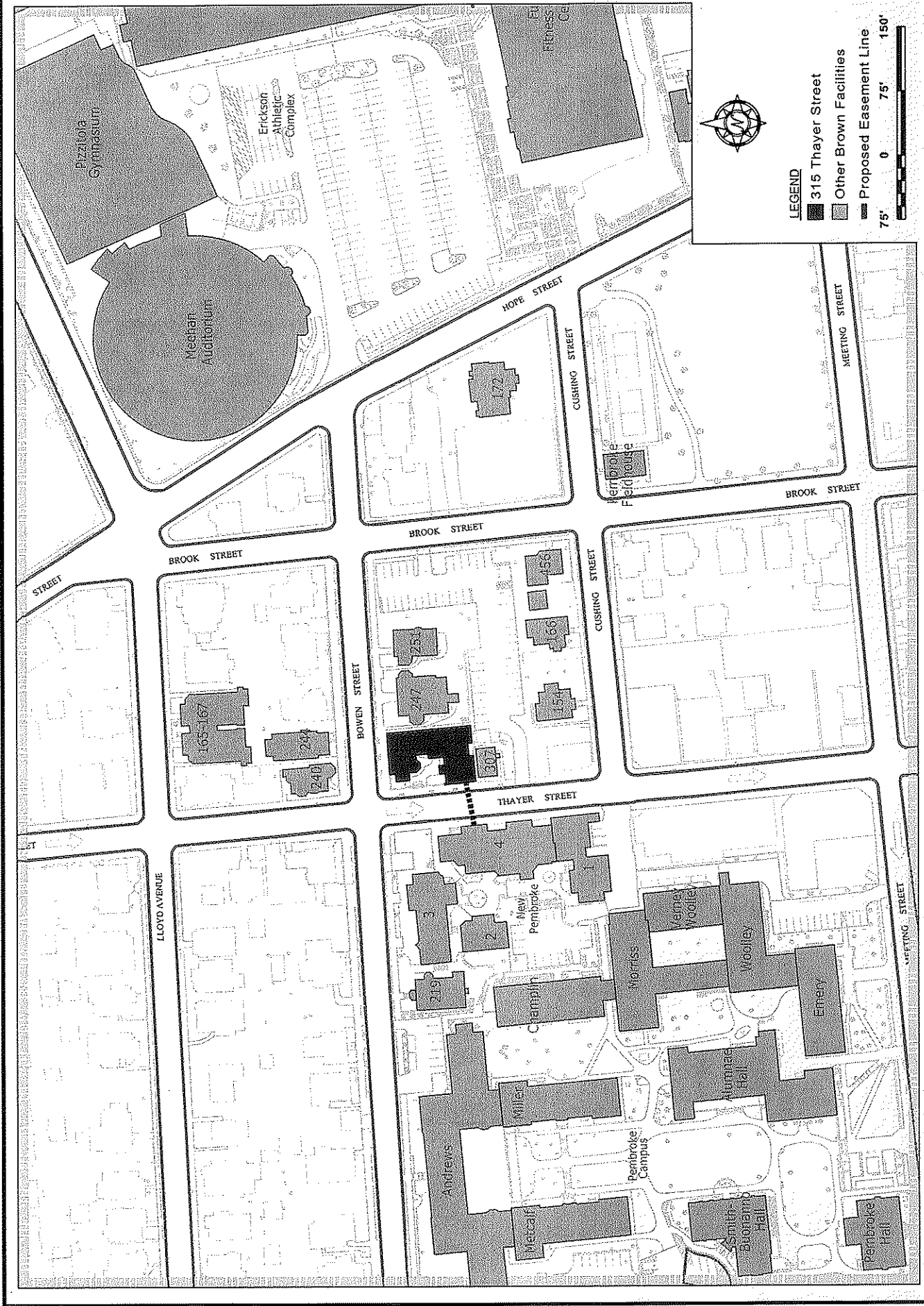


Andrew M. Teitz, Esq. AICP
Ursillo, Teitz & Ritch, Ltd.
2 Williams Street
Providence, RI 02903
401-331-2222
zoning@utrlaw.com

Mailing Address of Petitioner:

Yolanda Lamboy, Esq.
Associate Counsel
Brown University, Box 1913
Providence, RI 02912-1913

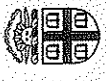
E
X
H
I
B
I
T
A



LEGEND

- 315 Thayer Street
- Other Brown Facilities
- Proposed Easement Line

75' 0 75' 150'

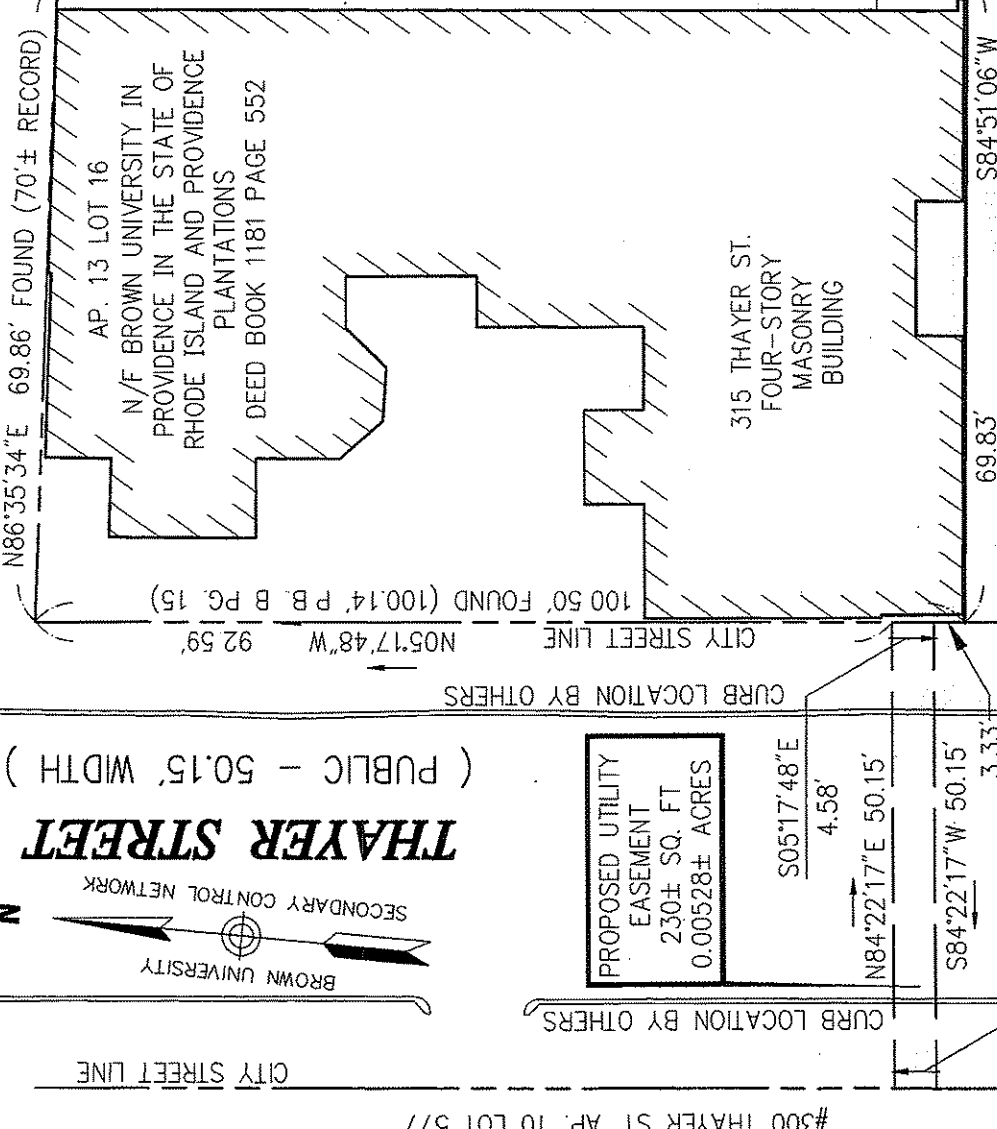
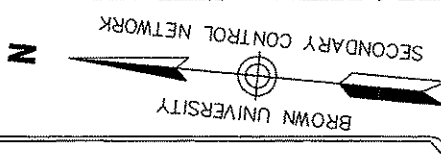


BROWN
September 19, 2011

E
X
H
I
B
I
T
B

BOWEN (PUBLIC - 60.00' WIDTH) STREET

THAYER STREET
(PUBLIC - 50.15' WIDTH)



#300 THAYER ST AP. 10 LOT 577

NOT TO SCALE

#247 BOWEN ST.
AP. 13 LOT 251
N/F BROWN
UNIVERSITY IN
PROVIDENCE IN
THE STATE OF
RHODE ISLAND
AND PROVIDENCE
PLANTATIONS

315 THAYER ST.
FOUR-STORY
MASONRY
BUILDING

NOT TO SCALE



Vanasse Hangen Brustlin, Inc.
Transportation
Land Development
Environmental Services
10 Dorrance Street
Providence, Rhode Island 02909
401.272.8100 • FAX 401.273.9694

B	ADD LOT LABEL	9/19/11	PMC
A	CLIENT COMMENTS	9/16/11	PMC
No.	Revision	Date	Appr.
Designed by	Drawn by	Checked by	
CAD checked by	Approved by	Date	
Scale	1"=20'	August 8, 2011	
Project Title	315 Thayer Street		
	Brown University		
	Providence, Rhode Island		
	Issued for		
	Recording		

Easement Plan

Drawing Number

S-1

Sheet of 1

Project Number 72350.00

PATRICK W. McCOURT

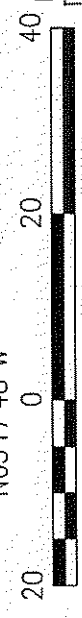
No. 1964

PROFESSIONAL LAND SURVEYOR

LEGEND

- BOUND
- AP ASSESSOR'S PLAT
- N/F NOW OR FORMERLY
- E PROPERTY LINE
- PROPERTY LINE
- EASEMENT LINE
- CITY STREET LINE

SCALE IN FEET



THIS BOUNDARY SURVEY CONFORMS TO A CLASS I STANDARD AS ADOPTED BY THE RHODE ISLAND BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS.

Patrick W. McCourt 8/8/11
PATRICK W. McCOURT, P.L.S. #1964 DATE

E
X
H
I
B
I
T
C

EXHIBIT A

Beginning at a point, at the intersection of the easterly line of Thayer Street and the southerly line of Bowen Street; thence S05°17'48"E a distance of ninety two and 59/100 feet (92.59') to the point of beginning of the described parcel;

Thence S05°17'48"E with the easterly line of Thayer a distance of four and 58/100 feet (4.58') to a point;

Thence S84°22'17"W a distance of fifty and 15/100 feet (50.15') to a point;

Thence N05°17'48"W with the westerly line of Thayer Street a distance of four and 58/100 feet (4.58') to a point;

Thence N84°22'17"E a distance of fifty and 15/100 feet (50.15') to the point of beginning;

Parcel contains 0.00528 acres or 230 square feet more or less.

E
X
H
I
B
I
T

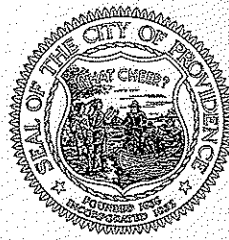
D



PROVIDENCE POLICE DEPARTMENT

TRAFFIC SERVICES

Sgt. Paul Zienowicz, Commanding



2-22-12

To: Anna Stetson, City Clerk
From: Sgt. Paul Zienowicz
Subject: 315 Thayer St

Dear. Ms Stetson

After review of all information regarding the proposed project at 315 Thayer St. for Brown University, the Police Department has no objections to this project moving forward as the plan is currently constituted.

If I can be of any further service in the matter do not hesitate to contact me.

Sincerely,

Sgt. Paul Zienowicz

Sheri Petronio

From: Anna Stetson
Sent: Monday, October 24, 2011 5:05 PM
To: Sheri Petronio
Subject: FW: 315 Thayer

Sheri, can you send me the appraisals you have for each abandonment.

Thank you

From: Michael Dillon
Sent: Monday, October 24, 2011 4:57 PM
To: Anna Stetson
Subject: 315 Thayer

The Fire Department has no objections to the granting of an underground easement at 315 Thayer St as per the request submitted on 7 Oct 2011



MICHAEL DILLON
Assistant Chief - Operations
Providence Fire Department
325 Washington Street
Providence, Rhode Island 02903
401 243 6075 OFFICE
401 243 6488 FAX
mdillon@providencert.com
www.providencert.com

PROVIDENCE THE CREATIVE CAPITAL

Sheri Petronio

From: Anna Stetson
Sent: Monday, October 31, 2011 2:30 PM
To: Sheri Petronio
Subject: FW: easement petition for Thayer St

Sheri, please file this with the Thayer Stret petition...thanks

From: William Bombard
Sent: Saturday, October 29, 2011 10:59 PM
To: 'zoning@utrlaw.com'
Cc: Anna Stetson
Subject: easement petition for Thayer St

Mr. Teitz:

Your petition on behalf of Brown U was forwarded to this office for comment.

Please provide additional information:

- What is the purpose of the easement?
- If a utility, will it be potentially hazardous, e.g., high pressure gas; high voltage electrical, etc
- How deep will the utility be located? How will it be constructed?
- What other utilities will the proposed utility cross?

Feel free to contact me if you have any questions.

William C. Bombard, PE
Chief Engineer
Department of Public Works
City of Providence
700 Allens Ave.
Providence, RI 02905
Tel: (401)467-7950
Fax: (401)941-2567



Department of Public Works
Engineering Division
William C. Bombard PE, Chief Engineer

Apr. 17, 2012

Honorable Terrence Hassett
Chairman of the Public Works Committee
Providence City Council-City Hall
Providence, R.I. 02903

RE: Proposed Easement on Thayer St.

Dear Councilman Hassett:

This department has no objection to the proposed easement on Thayer St. in conjunction with the attached plan, entitled "Prov., R.I.-P.W. Dept- Engineering Office, Street Line Section, Plan No. 064828. Area of easement is designated as (A-B-C-D-A) on the accompanying plan.

No sewer easement required.
Total square footage equals 230 square feet. (+)
See accompanying plan for plat and lot numbers.

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

Very truly yours,


William C. Bombard
Acting Director

cc: Ann Stetson-City Clerk
BB, AZ-DPW
A. Southgate, Esq.- Law Dept.
D. Quinn- Tax Assessors
J. Bennett-Planning

PROVIDENCE THE CREATIVE CAPITAL

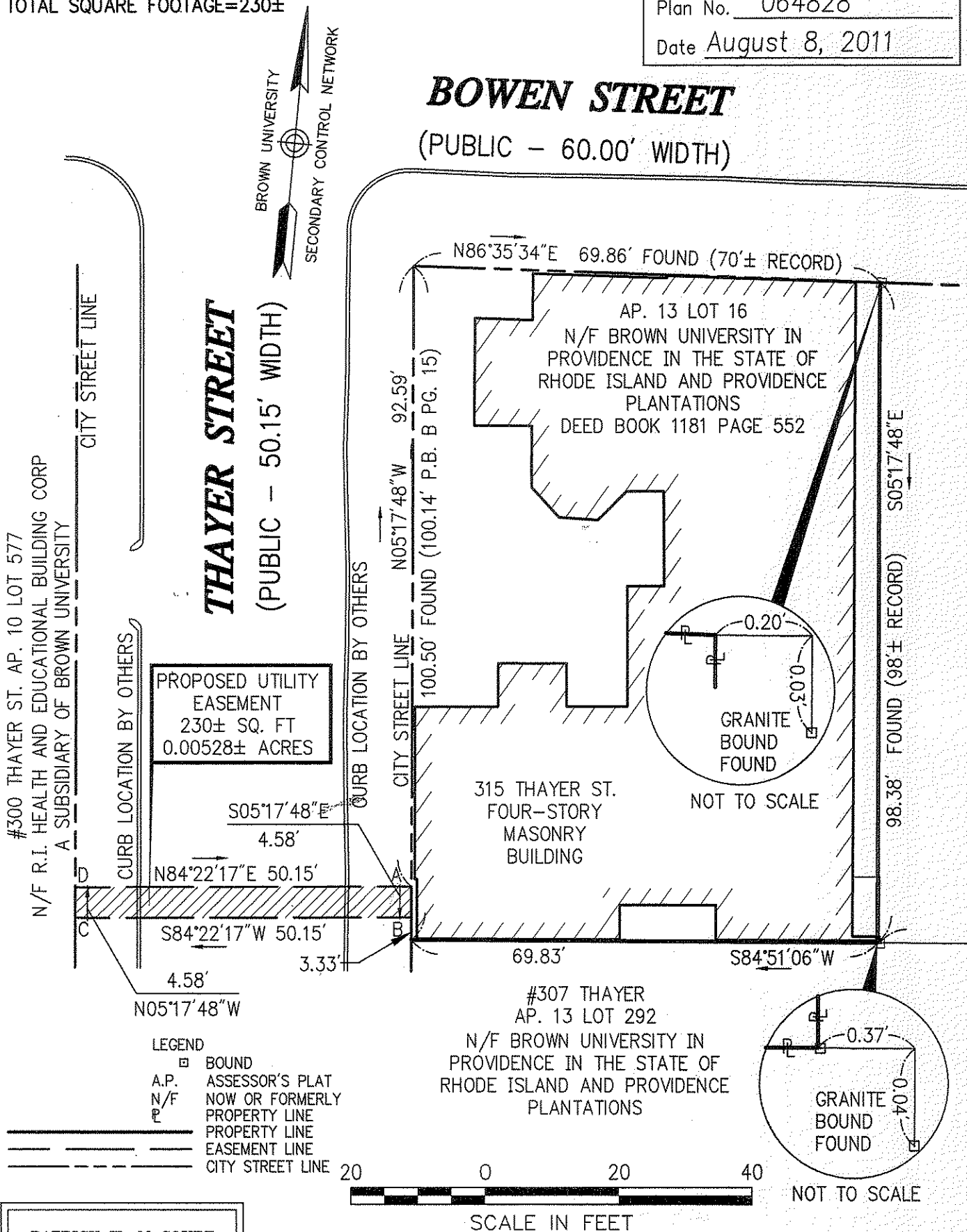
700 Allens Avenue | Providence, Rhode Island 02905 | 401 467 7950 OFFICE | 401 941 2567 FAX
www.providenceri.com

NOTES:
CROSS-HATCHED AREA
(A-B-C-D-A) INDICATES
PROPOSED EASEMENT OVER A
PORTION OF THAYER STREET
TOTAL SQUARE FOOTAGE=230±

Index By:
Thayer Street

PROVIDENCE, R. I.
P. W. DEPT. - ENGINEERING OFFICE
STREET LINE SECTION
Plan No. 064828
Date August 8, 2011

BOWEN STREET
(PUBLIC - 60.00' WIDTH)



PATRICK W. McCOURT

No. 1964

PROFESSIONAL
LAND SURVEYOR

THIS BOUNDARY SURVEY CONFORMS TO A
CLASS I STANDARD AS ADOPTED BY THE
RHODE ISLAND BOARD OF REGISTRATION FOR
PROFESSIONAL LAND SURVEYORS.

PATRICK W. McCOURT, P.L.S. #1964 DATE 8/8/11

CITY OF PROVIDENCE, R. I.

Public Works Dept - Engineering Office

Showing proposed easment over a portion
of Thayer Street

Drawn by VHB Checked By

Scale 1"=20' Date August 8, 2011

Correct Associate Engr.

Approved William C. Pombard CHIEF ENGINEER



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 23, 2012

Mr. David L. Quinn
Tax Assessor
City of Providence
25 Dorrance Street
Providence, Rhode Island 02903

Re: Proposed Street Easement at 307 Thayer Street, Providence, as Requested
by Brown University

Dear Mr. Quinn:

Pursuant to your request, we have personally inspected the real estate located on Thayer Street, otherwise designated as Lot 16 on Plat 13 of the Tax Assessor's Plat Maps for the City of Providence, State of Rhode Island. The subject is located in the East Side/College Hill neighborhood of the city.

The purpose of our inspection was to estimate the "as is" fee simple market value of a permanent utility easement, which will also be utilized for utility support systems by Brown University.

Specifically, the proposed easement runs across Thayer Street generally measuring 4.58 feet in width and 50 feet in depth for a total of 230 square feet according to a site plan as supplied by VHB Consultants, Inc. Zoning in the area is R-3 residential. The City's Department of Public Works has no objection to this request; however, they will require a Class 1 Survey for recording.

We have taken into account a number of factors in arriving at the fee simple market value for the requested easement. Notably, the petitioner will gain use of the public right of way to further enhance the commercial viability of their property (campus). Based on an analysis of comparable sales as contained within the offices of Andolfo Appraisal Associates, Inc., an "as is" value of \$60.00 per square foot is hereby estimated for this site.

However, this value must be reduced by 75% due to fact that the City is not giving up its full fee ownership of the property, i.e., the street, as the proposed easement will affect only a portion of it.

ANDOLFO APPRAISAL ASSOCIATES, INC.

Mr. David L. Quinn
Page 2
February 23, 2012

Therefore, 230 square feet x \$60.00 per square foot = \$13,800.00 x .25 =
\$3,450 "as is" fee simple market value of the proposed easement area.

Respectfully submitted,

ANDOLFO APPRAISAL ASSOCIATES, INC.

William G. Floriani (fad)

William G. Floriani
Certified Residential Appraiser

Thomas S. Andolfo, MAI

Thomas S. Andolfo, MAI
Certified General Appraiser

WGF:TSA/fad



City Plan Commission

Angel Taveras, Mayor

Councilman Terrence Hassett,
Chair, Committee on Public Works
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Attn: Anna Stetson, City Clerk

November 22, 2011

Re: Petition for a permanent underground utility easement on Thayer Street

Dear Councilman Hassett:

At a regular meeting of the City Plan Commission (CPC) on November 15, 2011, the Commission reviewed a proposal to grant the said easement. The Commission voted unanimously as described below to make certain findings of fact and to recommend that the petition be approved.

OVERVIEW

The petitioner requested that an underground easement measuring 230 SF be granted in perpetuity to allow for the maintenance and installation of underground conduits to enable renovation of the building at 315 Thayer Street. The petitioner also owns the building across the street at 300 Thayer Street.

FINDINGS OF FACT

The applicant provided a draft resolution outlining the use and operation of the easement area. The resolution stated that the easement would only be used for the maintenance, repair and replacement of utilities within the area provided on the plan. The easement shall run with the property and any breaking of the sidewalk for installation shall be replaced by the applicant, with the applicant retaining rights to maintain the area. Electrical installations shall be subject to the approval of the Director of the Department of Inspections and Standards and shall not have an adverse impact on any existing utility. Brown shall maintain an insurance policy of \$100,000 naming the City of Providence a beneficiary. No structure shall be constructed on the easement area. Sections 23-107, 23-108 and 23-109 of the City Code, where public work takes precedence over installations shall apply. The resolution acknowledges a precedence of the City's apparatus over any work taking place in the easement area. The City is indemnified against claims arising out of electrical installation.

Based on the wording of the resolution, the Commission found the proposed easement to be consistent with the intent of *Providence Tomorrow: The Interim Comprehensive Plan* and the Zoning Ordinance.

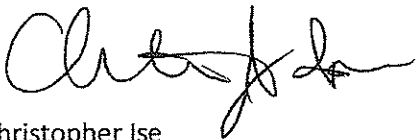
DEPARTMENT OF PLANNING AND DEVELOPMENT
444 Westminster Street, Providence, Rhode Island 02903
401 680 8400 ph | 401 680 8492 fax
www.providenceri.com

The resolution ensures that the easement will not affect the operation of existing utilities and that Brown University will maintain and replace damaged portions of the easement area or areas that require digging the easement area. It is the Commission's opinion that granting the easement would not negatively affect the health, safety and welfare of the surrounding neighborhood.

RECOMMENDATION

Based on the foregoing discussion, per its findings of fact, the CPC made a positive recommendation to the City Council to approve the request for the underground easement.

Sincerely,



Christopher Ise
Administrative Officer

cc: Yolanda Lamboy, Associate Counsel Brown University
Andrew Teitz, UTR
Anna Stetson, City Clerk

2011 NOV 23 P 2:39
PROVIDENCE, R.I.

ED