

# RESOLUTION OF THE CITY COUNCIL

No. 178

*Approved* March 26, 2002

WHEREAS, upon review of "Resolution No. 493 Approved September 14, 2001," the map number referenced thereon is incorrect; and

WHEREAS, the City Council wishes to correct said error,

NOW, THEREFORE, BE IT RESOLVED, that the above-referenced Resolution is reconsidered.

BE IT FURTHER RESOLVED, that the amended Resolution shall read as follows and shall include that amendatory map attached hereto:

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

1. Said easement shall be utilized only for the installation and maintenance of fiber optic conduit. Said easement shall not exceed the area of thirty-five feet by three feet by three feet and is indicated by the shaded area on the accompanying maps marked as Exhibit A.

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 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 situs of the easement is no longer utilized for the aforesated purposes. Additionally, it shall be for a term of not more than twenty (20) years.

4. Brown shall tender the sum of One Thousand Fifty Dollars (\$1,050.00) in legal tender of the United States of America.

5. Any breakout necessary for installation and/or repair or replacement shall be resurfaced/rehabilitated to the approval of the Director of the Department of Public Works.

6. Any installation of utilities or utility lines shall be underground so as to preserve the public right-of-way.

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

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. Grantee 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 23-190 of the Code of Ordinances which read as follows:

**23-107. Indemnity of city against claims arising out of electrical 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, under, or over 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, 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 not fewer than ninety (90) days prior to such 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.

**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.

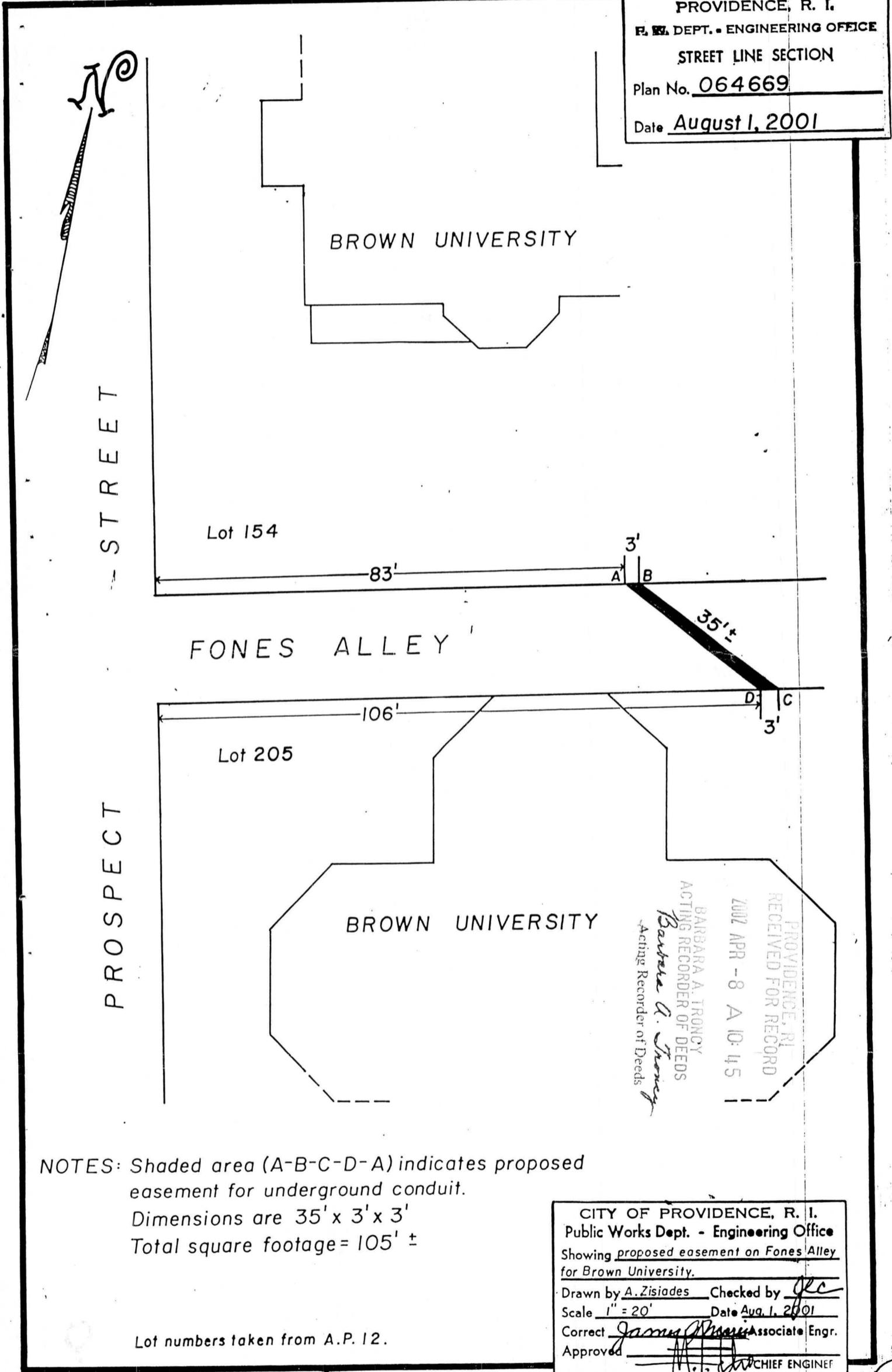
13. Brown shall repave all excavated roadways in accordance with relevant ordinances, industry standards and to the reasonable satisfaction of the Director of Public Works.

14. 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 ninety (90) days notice hereinbefore mentioned, Brown shall, at its own expense, and without claim against the City, its officers, servants or employees, remove said improvements to the easement area.

15. Such other terms and conditions as may be reflected in the record and minutes of the City Council Committee on Public Property and/or as may be deemed appropriate by the Mayor or the Department of Law.


  
**INCITY COUNCIL**  
**MAR 21 2002**  
**READ AND PASSED**  
 \_\_\_\_\_ PRES.  
 \_\_\_\_\_ CLERK  
**A true copy,**  
**Attest:**  
**Michael R. Clement**  
**City Clerk**  
**APPROVED**  
**MAR 26 2002**  
**Thomas A. Cianci**  
**MAYOR**

PROVIDENCE, R. I.  
 P. W. DEPT. - ENGINEERING OFFICE  
 STREET LINE SECTION  
 Plan No. 064669  
 Date August 1, 2001



FONES ALLEY

STREET

PROSPECT

Lot 154

Lot 205

BROWN UNIVERSITY

BROWN UNIVERSITY

PROVIDENCE, RI  
 RECEIVED FOR RECORD  
 2001 APR - 8 A 10: 45  
 BARBARA A. TRONCY  
 ACTING RECORDER OF DEEDS  
*Barbara A. Troncy*  
 Acting Recorder of Deeds

NOTES: Shaded area (A-B-C-D-A) indicates proposed easement for underground conduit.

Dimensions are 35' x 3' x 3'  
Total square footage = 105' ±

Lot numbers taken from A.P. 12.

CITY OF PROVIDENCE, R. I.  
 Public Works Dept. - Engineering Office  
 Showing proposed easement on Fones Alley  
for Brown University.  
 Drawn by A. Zisiades Checked by Jlc  
 Scale 1" = 20' Date Aug. 1, 2001  
 Correct Jammy Associate Engr.  
 Approved [Signature] CHIEF ENGINEER

5898 / 41-44



PROVIDENCE, RI  
RECEIVED FOR RECORD  
2002 APR -8 A 10:45  
BARBARA A. TRONCY  
ACTING RECORDER OF DEEDS

20054

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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 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 situs of the easement is no longer utilized for the aforesaid purposes. Additionally, it shall be for a term of not more than twenty (20) years.

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IN CITY COUNCIL  
FEB 21 2002  
FIRST READING  
REFERRED TO COMMITTEE ON  
PUBLIC WORKS

Michael B. Clement CLERK  
CB

THE COMMITTEE ON  
PUBLIC WORKS  
Approves Passage of  
The Within Resolution, as amended

Barbara A. Poirier  
March 4, 2002 Clerk CB

Councilman Clark

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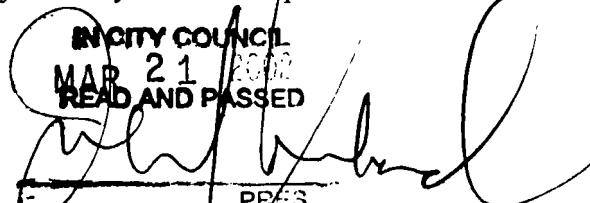
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**CITY COUNCIL**  
**MAR 21 2002**  
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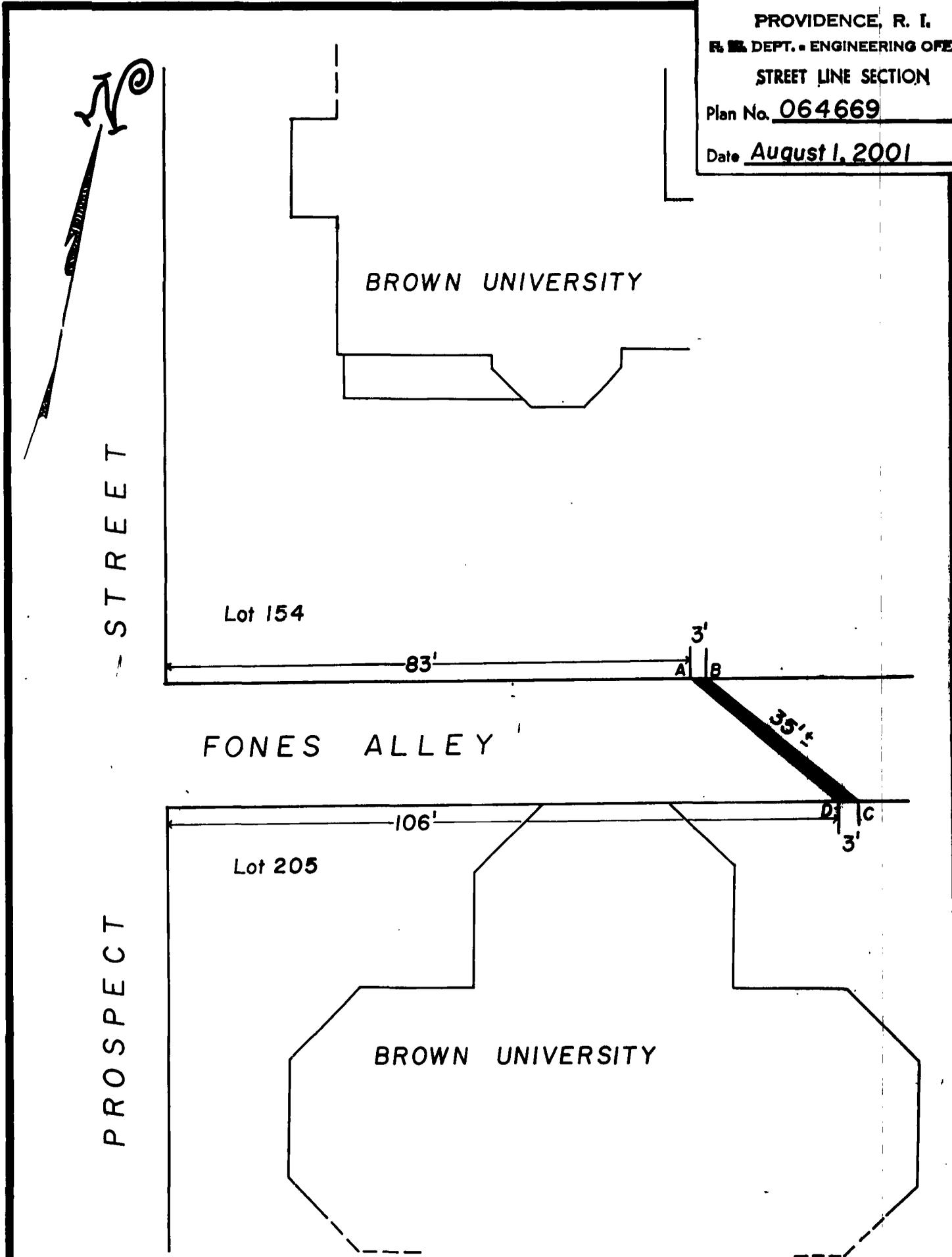

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**PRES**  
  
**CLERK (P)**

**APPROVED**  
**MAR 26 2002**  
  
**MAYOR**

C.C.R. # 493 7/14/01

PROVIDENCE, R. I.  
R. I. DEPT. - ENGINEERING OFFICE  
STREET LINE SECTION  
Plan No. 064669  
Date August 1, 2001



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CITY OF PROVIDENCE, R. I.  
Public Works Dept. - Engineering Office  
Showing proposed easement on Fones Alley  
for Brown University.

Drawn by A. Zisiades Checked by JLC  
Scale 1" = 20' Date Aug. 1, 2001  
Correct Jacques J. ... Associate Engr.  
Approved [Signature] CHIEF ENGINEER