

CITY OF NEWTON
IN BOARD OF ALDERMEN
PUBLIC FACILITIES COMMITTEE AGENDA
SPECIAL MEETING
MONDAY, MARCH 2, 2009

7:30 PM
ROOM 202

#53-09 COMMISSIONER OF PUBLIC WORKS requesting relocation (which involves abandoning an existing 15' drain easement in accordance with Massachusetts General Law Ch. 40, Sec. 15 and granting a new 15' drain easement) of a drain easement at 1012-1018 and 1020-1022 CHESTNUT STREET, to reflect the actual course of the main drain (Ward 5.) [01-30-09 @8:47 PM]

Respectfully submitted,

Sydra Schnipper, Chairman



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

David B. Cohen
Mayor

January 28, 2009

To: Honorable Board of Aldermen

From: Thomas E. Daley, Commissioner *AT*

Re: Request for Drain Easement Abandonment and Relocation
Location: 1012-1018 and 1020-1022 Chestnut St (at Winter Street), Upper

09 JAN 30 AM 8:45
CITY CLERK
NEWTON, MA 02159

Dear Ladies and Gentlemen:

On November 14, 1991, the City of Newton prepared plans to acquire an easement over a long-existing drain pipe (installed in the 1880's) at the subject location. The drain and the easement lie between 2 parcels of land. The easement was granted to the City from the prior owners of the 2 parcels on June 24, 1992. The plan was finalized by the City on June 12, 1992.

As the prior owners prepared the sell, and the new buyers prepared to buy the parcels in early January 2009, they became aware of a discrepancy in the easement layout. It appears that when the 1991-1992 plan was prepared, the easement was to have run between the building designated as #22 Winter Street and the building designated as #1020 Chestnut Street.

However, field work performed by VTP Associates establishes that the plan prepared by the City and referenced and incorporated in the grant of easement mis-locates the easement such that it runs through a portion of the building at #22. Also, it does not result in the drain pipe being located in the center of the easement. In fact, the drain pipe is almost without an easement on both the northerly and southerly ends of the properties.

The new owners wish to correct the problem with the drain easement, by filing plans and proposed documents for abandonment of the existing drain easement (15 ft wide by 116 ft long), and the granting of a new drain easement (also 15 ft wide by 116 ft long). The attached plan entitled "Easement Plan of Newton, Massachusetts Showing Easement to Be Abandoned and Proposed 15' Wide Drainage Easement at #1012-1022 Chestnut Street" as prepared by VTP Associates, Inc., dated January 21, 2009 (the Easement Plan), which will be recorded by the new owners, will correct the discrepancy.

The portions of the existing easement to be abandoned include "old easement Lot A area = 755+/- sq. ft.", and "old easement Parcel 2 area = 925+/- sq. ft." The portions of the new easement to be accepted include "new easement Lot A = 874+/- sq. ft.", and "new easement Parcel 2 area = 855+/- sq. ft."

Enclosed please find the following correspondence and plans:

#53-09

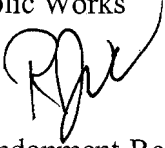
- Law Department memo dated January 27, 2009
- Atty. Peirce letter dated January 21, 2009
- Grant of Easement for Main Drain dated June 24, 1992
- Quitclaim Deed Lot A dated January 9, 2009
- Quitclaim Deed Parcel 2 dated January 9, 2009
- Draft Board Order (prepared by Atty. Peirce), dated February 2009
- Draft Grant of Easement for Main Drain (prepared by Atty. Peirce), dated February 2009
- Proposed Drain Easement Plan dated November 14, 1991
- Final Drain Easement Plan dated June 12, 1992
- Easement Plan of Newton, Massachusetts Showing Easement to Be Abandoned and Proposed 15' Wide Drainage Easement at #1012-1022 Chestnut Street" as prepared by VTP Associates, Inc., dated January 21, 2009

09 JAN 30 AM 8:47
CITY CLERK
NEWTON, MA. 02159

Accordingly, such abandonment of this existing easement will not have current or future service value to the City of Newton, provided the new easement is taken simultaneously. Therefore, in accordance with G.L. chapter 40, section 15, I hereby provide this notice to inform the Board of Aldermen that such existing easement is no longer required for public purposes; and I request that the Board of Aldermen authorize Mayor Cohen to abandon such existing easement, and take the new easement, all in accordance with the statutory procedure. The statute provides that whenever the Board of Aldermen approves abandonment of an easement, the Board must also set the minimum amount to be paid for the abandonment.

cc: Mayor Cohen
S. Pooler, Chief Administrative Officer
D. Funk, City Solicitor
R. Waddick, Assistant City Solicitor
D. Turocy, Deputy Commissioner
L. Taverna, City Engineer
D. Olson, City Clerk
Atty. M. Peirce

**CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM**

DATE: January 27, 2009
TO: Thomas E. Daley, P.E., Commissioner of Public Works
FROM: Robert J. Waddick, Assistant City Solicitor 
RE: Winter Street/Chestnut Street/ Easement Abandonment-Relocation

09 JAN 30 AM 8:47
CITY CLERK
NEWTON, MA 02159

Tom,

Enclosed are documents submitted by G. Michael Peirce to the Law Department for review.

Attorney Peirce indicated to me that the revised plan will be available for Committee.

Once the Aldermen have acted, the grant of Easement must be accepted by the Mayor. Language can be added to the easement instrument at that time.

In addition, the abandonment of the old easement will require that an instrument of abandonment is signed by the Mayor and recorded. This can also be done after the Aldermen have acted.

I have no further comments with respect to the proposed documents at this time.

Please call me at ext. 1248 if you require anything further.

January 21, 2009

IN HAND DELIVERY

Daniel M. Funk, City Solicitor
City of Newton Law Department
1000 Commonwealth Avenue
Newton, MA 02459

Re: Winter Street/Chestnut Street/Easement Abandonment-Relocation

Dear Dan:

I am writing in order to file certain plans and proposed documents to enable the city and the present owners of the properties at 1012-1018 and 1020-1022 Chestnut Street to correct a problem regarding a drain easement which the city acquired in 1992 from the former owners of those properties. As we have discussed, it appears that when the city prepared plans in 1991 to have certain work performed for, inter alia, water service replacement (see attached cover sheet and relevant portion of that plan enclosed) an easement over a long-existing (1880's) drain pipe was proposed. As can be seen on that plan the easement was to have run BETWEEN the building thereon designated as # 22 Winter Street and the building (undesigned on that plan) at 1020 Chestnut Street.

However, field work performed by VTP Associates, Inc. establishes that the plan, prepared by the city and referenced and incorporated in the grant of easement (grant instrument enclosed), entitled: "City of Newton Massachusetts Private Land Winter Street Southerly Easement to be Granted for Main Drain" dated June 12, 1992 (City # T44-38676, copy enclosed) mislocates the easement such that it runs through a portion of the building at #22 and further such that it does not result in the pipe being located in the center of the easement (as is shown on the marked version of the ALTA/ASCM Land Title Plan, provided for your information), but in fact is almost without the easement on both the northerly and southerly ends of the properties.

Finally it appears that the original grant may have been technically flawed from a record title perspective. I have had the opportunity to review a title abstract generated when these properties were recently sold (enclosed please see two (2) deeds, one for each parcel). What that review discloses is that when the easement was granted by the Logans, individually, the record title actually stood in the Progeny Trust. The proposed grant of easement, based upon the enclosed abandonment/grant of easement plan entitled: "Easement Plan Newton, Massachusetts Showing Easement To Be Abandoned and

Newton Wellesley Executive Office Park
60 Walnut Street, 4th Floor • Wellesley, Massachusetts 02481
Tel: 781-239-0400 Fax: 877-243-0405
mpeirce@gmpeircelaw.com

09 JAN 30 AM 8:47
CITY CLERK
NEWTON, MA 02459

Daniel M. Funk, City Solicitor
January 21, 2009
Page 2

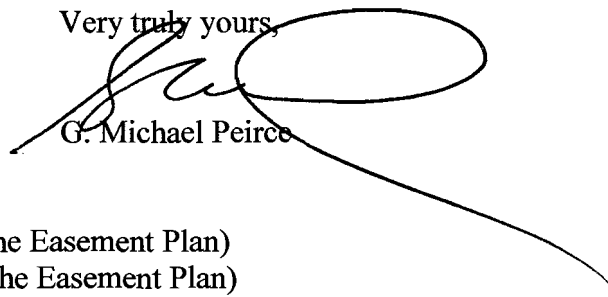
Proposed 15' Wide Drainage Easement at #1012-1022 Chestnut Street" prepared by VTP Associates, Inc., dated January 21, 2009 (the "Easement Plan"), to be recorded, will 'cure' that problem. Please note that the copy I have provided is a draft and the final plan will in fact have the title I employ here. Also the present copy of a Mylar does not clearly show the boundaries of the 'old' easement to be abandoned, but they do clearly show on the Mylar. The final plan will also have a Legend or Key which will indicate the two (2) types of line methods used to designate the respective easements to be abandoned and to be acquired. We are awaiting any final comments you may have before we print final plans to be submitted to the Public facilities Committee. The attached plan and this letter are being proved to Tom Daley and Lou Taverna simultaneously with this filing with you.

09 JAN 30 AM 8:47
CITY CLERK
NEWTON, MA 02459

I have reviewed these basic issues and materials with Commissioner Daley and City Engineer Taverna and they appear to agree with these conclusions and the proposed remedy. Commissioner Daley requested that I provide these materials for your review. Along with the plans above-referenced I have also included a proposed draft easement document (patterned after the 1992 document) and a proposed draft board order. Once you have completed that review I understand that you will contact the Commissioner so that he may docket the item with Public Facilities to enable the Mayor to abandon the present easement and accept the corrected easement.

Please contact me at your convenience if you need any additional information.

Very truly yours,



G. Michael Peirce

Cc: Commissioner Tom Daley (in hand, with the Easement Plan)
City Engineer Lou Taverna (in hand, with the Easement Plan)

2-N

GRANT OF EASEMENT FOR MAIN DRAIN

We, John F. Logan and Marie T. Logan, of 8 Hancock Avenue, Newton, in consideration of three thousand dollars (\$3,000.), the receipt of which is hereby acknowledged, hereby grant to the City of Newton, a municipal corporation duly organized under the laws of the Commonwealth, with an address of 1000 Commonwealth Avenue, Newton, easements for municipal purposes; to wit - for the purpose of installing, placing, constructing, renewing, repairing and forever operating public drain pipes, manholes, conduits, and all appurtenances for the operation of public drainage, including the right of ingress and egress, in, under, and on those two parcels shown on a plan entitled "City of Newton, Massachusetts Private Land, Winter Street Southerly, Easement to be Granted for Main Drain" signed by Paul W. Giunta, P.E., City Engineer, dated June 12, 1992 and designated City plan #T44 38676, to be recorded herewith, and being bounded and described as follows:

09 JAN 30 AM 8:47

Description of Easement Parcels

Parcel 1

Beginning at a point on the southerly sideline of Winter Street, approximately seventy-seven and twenty-six hundredths (77.26) feet east of the intersection with Chestnut Street;

Thence: N 82°00'00" E a distance of eight and nine hundredths (8.09) feet along said southerly sideline of said Winter Street;

Thence: S 13°53'32" E a distance of eighty and fifty-hundredths (80.50) feet along a boundary between the lands of John F. Logan and Marie T. Logan;

Thence: S 83°58'27" W a distance of eleven and thirty-eight hundredths (11.38) feet along another boundary between the lands of John F. Logan and Marie T. Logan;

Thence: N 11°34'47" W a distance of seventy-nine and eighty-four hundredths (79.84) feet to the point of beginning. Parcel 1 consists of seven hundred seventy-five (775) square feet.

Parcel 2

Beginning at a point on the southerly sideline of Winter Street, approximately ninety-two and twenty-nine hundredths (92.29) feet east of the intersection with Chestnut Street;

Thence: S 11°34'47" E a distance of one hundred fourteen and five hundredths (114.05) feet;

MSD 06/25/92 09:43:01 128 10.00

Plan # 506

SEE PLAN RECORDED BOOK 22152 PAGE 44

Thence: S 87°09'24" W a distance of fifteen and eighteen hundredths (15.18) feet;

Thence: N 11°34'47" W a distance of thirty-two and eighty-four hundredths (32.84) feet;

Thence: N 83°58'27" E a distance of eleven and thirty-eight hundredths (11.38) feet;

Thence: N 13°53'32" W a distance of eighty and fifty hundredths (80.50) feet to a point on the southerly sideline of said Winter Street;

Thence: N 82°00'00" E a distance of six and ninety-four hundredths (6.94) feet along the southerly sideline of said Winter Street to the point of beginning. Parcel 2 consists of nine hundred twenty-five (925) square feet.

For our title see deed of John F. Logan and Marie T. Logan, Trustees of 1978 Lomar Trust, recorded with Middlesex South Registry of Deeds Book 13410 Page 195.

Witness our hands and seals this 24 day of June, 1992.

John F. Logan

John F. Logan

Marie T. Logan

Marie T. Logan

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

June 24, 1992

Then personally appeared the above-named *John F. Logan* and *Marie T. Logan* and acknowledged the foregoing Grant of Easement as their free act and deed, before me.

[Signature]

Notary Public.
My commission expires: _____
MY COMMISSION EXPIRES MAY 9, 1997.

09 JAN 30 AM 8:47
CITY CLERK
NEWTON, MASS. 02159

CITY OF NEWTON
MASSACHUSETTS

WINTER STREET

HIGH STREET TO CHESTNUT STREET

ROWE STREET

WOLCOTT STREET TO AUBURNDALE AVENUE

CLINTON STREET

ADAMS STREETS TO CRAFTS STREET

CITY CLERK
NEWTON, MA. 02159

09 JAN 30 AM 8:47

CONTRACT PLAN

FOR

RECONSTRUCTION OF STREETS

AND

REPLACEMENT OF
WATER SERVICES

S NOTED

NOVEMBER 14, 1991

GIUNTA


Robert A. Giunta, P.E.

CITY ENGINEER

N82- 38664

PROP. 5' BIT.

POLE # 371/4
TO BE MOVED BY
OTHERS

POLE #
REPLACE
OTHERS

DRAIN

PROPOSED

5' #53-09

CONCRETE

PROP. DMH

PROP. 10" D.I.

PROP. DMH

PROP. 3" TYPE I-1 BIT.

PAVI

3+00

EX. 15" DRAIN

PROPOSED

POST &

EX. BIT. WALK
BRICK WALK

#1012-1018

BIT. AREA

#22

GET CLERK
BANKTON, MA. 02159

09 JAN 30 AM 8:48
CONC. WALK

PROPOSED DRAIN EASEMENT
EX. 15" DRAIN
(12' depth± TO REMAIN)
PROPOSED 15" DRAIN
(6' depth± OVER EXISTING)



Bk: 52063 Pg: 294 Doc: DEED
Page: 1 of 3 01/09/2009 11:14 AM

09 JAN 30 AM 8:48
CITY CLERK
NEWTON, MA. 02159

QUITCLAIM DEED

We, JOHN F. LOGAN and MARIE T. LOGAN, of Newton, Middlesex County Massachusetts, as Trustees of THE PROGENY TRUST, under declaration of trust dated January 30, 1989, recorded with South Middlesex Registry of Deeds in Book 19638, Page 419, and individually and as Trustees of the LOMAR TRUST 1978, also known as the 1978- LOMAR TRUST, under Contract and Declaration of Trust dated March 20, 1978 recorded with the Middlesex South District Registry of Deeds in Book 13410, Page 181, consideration paid of Three Hundred Five Thousand (\$305,000.00) Dollars, grant to HISTORIC CHESTNUT STREET, LLC, a Massachusetts limited liability company, having a principal place of business at 36 Dexter Road, Newton, Massachusetts, with *Quitclaim Covenants*

The land with the buildings thereon situated in Newton, Middlesex County, Massachusetts on Chestnut and Winter Streets being known as and numbered 1012 - 1018 Chestnut Street and shown on a Lot A on a plan of land entitled "Locus Map ALTA/ACSM Land Title Plan Newton, Massachusetts" by VTP Associates, Inc., dated November 4, 2008, and bearing a latest revision date of December 31, 2008, and being described according to said plan follows:

Beginning at a point at the southeasterly intersection of Chestnut and Winter Streets; thence

North 87° 03' 30" East two and 96/100 (2.96) feet by the southerly sideline of Winter Street; thence

North 08° 41' 53" West six and 90/100 (6.90) feet; thence

North 80° 47' 28" East four and 71/100 (4.71) feet; thence

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 01/09/2009 11:14 AM
Ctrl# 119537 02951 Doc# 08003525
Fee: \$1,390.80 Corp: \$305,000.00

Property Address: 1012-1018 Chestnut Street, Newton, Massachusetts

Plan No # 19 of 2009

Return to: Kenneth S. May
20th Floor
50 Milk Street
Boston, MA 02109

North 08° 40' 33" West zero and 55/100 (0.55) feet; thence

North 81° 12' 35" East twenty four and 56/100 (24.56) feet; thence

South 07° 23' 15" East three and 71/100 (3.71) feet; thence

North 82° 36' 45" East three and 30/100 (3.30) feet; thence

South 07° 23' 15" East seven and 00/100 (7.00) feet to the southerly sideline of Winter Street; thence

North 87° 03' 30" East by said southerly sideline forty nine and 89/100 (49.89) feet to land now or formerly of Logan; thence

By land of Logan in two courses South 00° 15' 24" East eighty and 50/100 (80.50) feet and South 85° 38' 27" West fifty eight and 50/100 (58.50) feet to the easterly sideline of Chestnut Street; thence

By said easterly sideline in two courses North 26° 02' 04" West thirty two and 44/100 (32.44) feet and North 14° 13' 10" West fifty three and 04/100 (53.04) feet to the point of beginning.

Said Lot A contains 6,299± square feet of land according to said plan.

{ Said Lot A is subject to a drainage agreement dated December 13, 1881 filed in the office of the City Clerk as number 1609. }

See Disclaimer of Rights in Roadway executed by the City of Newton November 13, 2008 recorded herewith.

Meaning and intending to convey a portion of the premises conveyed to the Grantor by deed recorded with said Deeds in Book 19638, Page 429, as confirmed by Confirmatory Deed recorded with said Deeds in Book 19800, Page 469.

09 JAN 30 AM 9 48
CITY CLERK
NEWTON, MA. 02459

Witness our hands and seals this 8th day of January, 2009.

John F. Logan

John F. Logan, individually and as Trustee as aforesaid

Marie T. Logan

Marie T. Logan, individually and as Trustee as aforesaid

09 JAN 30 AM 8:48
CITY CLERK
NEWTON, MA 02159

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 8th day of January, 2009, before me, the undersigned notary public, personally appeared John F. Logan and Marie T. Logan, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the persons whose names are signed above, and acknowledged the foregoing to be signed by them voluntarily as Trustees of The Progeny Trust for its stated purpose on behalf of The Progeny Trust.



Thomas J. Aherne

Notary Public

My Commission Expires:

3/17/2011

Print Notary Public's Name:

THOMAS J. AHERNE, LLC



Bk: 52063 Pg: 299 Doc: DEED
Page: 1 of 3 01/09/2009 11:14 AM

09 JAN 30 AM 8:46
CITY CLERK
NEWTON, MA. 02159

QUITCLAIM DEED

We, JOHN F. LOGAN and MARIE T. LOGAN, of Newton, Middlesex County Massachusetts as TRUSTEES of THE PROGENY TRUST, under declaration of trust dated January 30, 1989, recorded with South Middlesex Registry of Deeds in Book 19638, Page 419, and individually and as Trustees of the LOMAR TRUST 1978, also known as the 1978- LOMAR TRUST, under Contract and Declaration of Trust dated March 20, 1978 recorded with the Middlesex South District Registry of Deeds in Book 13410, Page 181, for consideration paid of Two Hundred Forty-Five Thousand (\$245,000.00) Dollars grant to HISTORIC CHESTNUT STREET, LLC, a Massachusetts limited liability company, having a principal place of business at 36 Dexter Road, Newton, Massachusetts, with *Quitclaim Covenants*

The land with the buildings thereon situated in Newton, Middlesex County, Massachusetts on Chestnut and Winter Streets being known as and numbered 1020 - 1022 Chestnut Street and 22 Winter Street and shown on a Parcel 2 on a plan of land entitled "Locus Map ALTA/ACSM Land Title Plan Newton, Massachusetts" by VTP Associates, Inc., dated November 4, 2008, and bearing a latest revision date of December 31, 2008, and being described according to said plan as follows:

Beginning at the northeasterly corner of Lot A as shown on said plan on the southerly sideline of Winter Street; thence

North 87° 03' 30" East by said southerly sideline twenty nine and 40/100 (29.40) feet; thence

In four courses by land now or formerly of Frederick I. Young Jr. et al. South 00° 44' 03" West twelve and 00/100 (12.00) feet, South 89° 15' 57" East seven and 00/100 (7.00) feet, . South 00° 44' 03" West thirty five and 00/100 (35.00) feet and North 89° 15' 57" West seven and 00/100 (7.00) feet; thence

South 00° 44' 03" West by land of said Young Jr. Et al. and land now or formerly of John F.

Property Address: 1012-1018 Chestnut Street & 22 Winter Street, Newton, Massachusetts

Plan No # 18 of 2009

Return to: Kenneth S. May
20th Floor
50 Milk Street
Boston, MA 02109

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 01/09/2009 11:14 AM
Ctrl# 119538 05452 Doc# 00003527
Fee: \$1,117.20 Cons: \$245,000.00

Neville Jr. et al. sixty eight and 71/100 (68.71) feet; thence

South 87° 47' 57" West by land now or formerly of Chestnut Street Realty Trust. seventy and 30/100 (70.30) feet to the easterly sideline of Chestnut Street; thence

By said easterly sideline in two courses by a curve to the left with a radius of four hundred and eighty one and 85/100 (441.85) feet an arc length of one and 70/100 (1.70) feet and North 02° 15' 47" West thirty three and 85/100 (33.85) feet to the southerly sideline of parcel one; thence

By said Lot A in two courses North 85° 38' 27" East fifty eight and 50/100 (58.50) feet and North 00° 15' 24" West eighty and 50/100 (80.50) feet to the point of beginning.

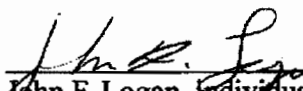
09 JAN 30 AM 10:48
CITY CLERK
NEWTON, MA. 02459

Said Parcel 2 contains 5,230± square feet of land according to said Plan.

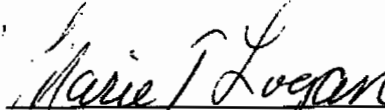
{ Said Parcel 2 is subject to a drainage agreement dated December 13, 1881 filed in the office of the City Clerk as number 1609. }

Meaning and intending to convey the a portion of the premises conveyed to the Grantor by deed recorded with said Deeds in Book 19638, Page 429, as confirmed by Confirmatory Deed recorded with said Deeds in Book 19800, Page 469.

Witness our hands and seals this 8 day of January, 2009.



John F. Logan, individually and as Trustee as aforesaid



Marie T. Logan, individually and as Trustee as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 8th day of January, 2009, before me, the undersigned notary public,
 personally appeared John F. Logan and Marie T. Logan, proved to me through satisfactory
 evidence of identification, being (check whichever applies): driver's license or other state
 federal governmental document bearing a photographic image, oath or affirmation of a
 credible witness known to me who knows the above signatory, or my own personal knowledge
 of the identity of the signatory, to be the persons whose names are signed above, and
 acknowledged the foregoing to be signed by them voluntarily as Trustees of The Progeny Trust
 for its stated purpose on behalf of The Progeny Trust.

09 JAN 30 AM 8:48
 CITY CLERK
 NEWTON, MA 02459



[Handwritten Signature]

 Notary Public

My Commission Expires: 3/17/2011

Print Notary Public's Name: THOMAS J. AHEN, JR.

09 JAN 30 AM 8:48
CITY CLERK
NEWTON, MA. 02159

CITY OF NEWTON
IN BOARD OF ALDERMEN

February , 2009

ORDERED:

That the Board of Aldermen hereby authorizes His Honor the Mayor to ABANDON a portion of a MAIN DRAIN EASEMENT, located on the properties at 1012-1018 and 1020-1022 Chestnut Street, Assessors' Parcels 51-6-16 and 51-6-16 now owned by Historic Chestnut Street, LLC pursuant to two (2) deeds recorded at Middlesex South District Registry of Deeds in Book 52063, Page 294 and 52063 Page 299.

The portion of the easement that may be abandoned is that which was granted to the City of Newton by John and Marie Logan, by instrument entitled: "Grant of Easement for Main Drain" recorded in said Deeds in Book 22152, Page 442, and as shown on the plan referenced therein entitled: "City of Newton Massachusetts Private Land Winter Street Southerly Easement to be Granted for Main Drain" dated June 12, 1992 (City plan # T44-38676), recorded with said Deeds in Book 22152, Page 441. The portions of the easement to be abandoned are also designated as "Existing Drainage Easement (To Be Abandoned)" in two (2) parcels designated as "Old Easement Lot A Area: 755 ± s.f." and "Old Easement Parcel 2 Area: 925 ± s.f." on a plan entitled "Easement Plan Newton, Massachusetts Showing Easement To Be Abandoned and Proposed 15' Wide Drainage Easement at #1012-1022 Chestnut Street" prepared by VTP Associates, Inc., dated January 21, 2009, to be recorded (the "Easement Plan").

Further, that the Board of Aldermen also hereby authorizes His Honor the Mayor to ACCEPT a MAIN DRAIN EASEMENT from the present owners, located on the above-referenced two (2) properties at

1012-1018 and 1020-1022 Chestnut Street, all as shown on the Easement Plan and as described in an instrument entitled "Grant of Easement for Main Drain," to be reviewed and approved by the City Solicitor.

The following conditions must be met by the property owner prior to the abandonment of the portion of the easement:

- The property owner shall provide a recordable version of the Easement Plan.
- The property owner shall provide to the City Solicitor for review and approval a grant of easement document in recordable form.

Further, the Board of Aldermen, pursuant to Chapter 40 §15, hereby sets \$0 as the minimum amount to be paid for such abandonment and such acceptance of grant of easement.

Under Suspension of Rules
Readings Waived and Adopted
24 yeas 0 nays

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

09 JAN 30 AM 8:48
CITY CLERK
NEWTON, MA. 02159

GRANT OF EASEMENT FOR MAIN DRAIN

Historic Chestnut Street, LLC, a Massachusetts limited liability company, of Newton, Massachusetts, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid

does hereby grant to the City of Newton, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, with an address of 1000 Commonwealth Avenue, Newton, easements for municipal purposes: to wit, for the purpose of installing, placing, constructing, renewing, repairing and forever operating public drain pipes, manholes, conduits, and all appurtenances for the operation of public drainage, including the rights of ingress and egress, in, under and on those two parcels designated, respectively, "Prop. Drainage Easement Parcel #1 and Prop. Drainage Easement #2," shown on a plan entitled: "Easement Plan Newton, Massachusetts Showing Easement To Be Abandoned and Proposed 15' Wide Drainage Easement at #1012-1022 Chestnut Street" prepared by VTP Associates, Inc., dated January 21, 2009, to be recorded herewith, and being bounded and described as follow:

09 JAN 30 AM 8:48
RECORDED
IN THE
COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

Address of Premises: 1012-1022 Chestnut Street, Newton, MA

Easement Parcel 1

Beginning at a point on the southerly sideline of Winter Street at the northeasterly property line of #1012 - #1018 Chestnut Street;

Thence South 06° 10' 24" East one hundred fifteen and 45/100 (115.45) feet to land now or formerly of Chestnut Street Realty Trust;

Thence South 87° 47' 57" West by said land fifteen and 03/100 (15.03) feet to a point;

Thence North 06° 10' 24" West thirty four and 55/100 (34.55) feet to the southerly property line of #1012 - #1018 Chestnut Street;

Thence North 85° 38' 27" East six and 70/100 by said southerly property line (6.70) feet to the northeasterly property line of said # 1012 - # 1018 Chestnut Street;

Thence North 00° 15' 24" West by said property line eighty and 50/100 (80.50) feet to the point of beginning.

Said parcel contains eight hundred and fifty five (855) ± square feet.

Easement Parcel 2

Beginning at a point on the southerly sideline of Winter Street at the northeasterly property line of #1012 - #1018 Chestnut Street;

Thence South 00° 15' 24" East by said property line eighty and 50/100 (80.50) feet to the northerly property line of #1020 - #1022 Chestnut Street;

Thence South 85° 38' 27" West by said northerly property line six and 70/100 (6.70) feet

to a point;

Thence North 06° 10' 24" West eighty and 71/100 (80.71) feet to the southerly sideline of Winter Street;

Thence North 87° 03' 30" East by said southerly sideline fifteen and 02/100 (15.02) feet to the point of beginning.

Said parcel contains eight hundred seventy four (874) ± square feet.

For title of grantor, see two (2) deeds from John and Marie Logan, Trustees individually, dated January 8, 2009, and recorded with Middlesex South District Registry of Deeds in Book 52063, Page 294 and 52063, Page 299.21977, Page 389.

Witness our hands and seal this day of February, 2009

Historic Chestnut Street, LLC

09 JAN 30 AM 8:48
CITY CLERK
NEWTON, MA 02159

Jack Foster, Manager

Elaine Lindy, Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this day of February, 2009, before me, the undersigned notary public, personally appeared the above-named Elaine Lindy and Jack Foster, Managers as aforesaid, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of Historic Chestnut Street, LLC.

Notary Public
My commission expires: