

November 12, 2014

Board of Selectmen
Town of Stoneham
35 Central Street
Stoneham, MA 02180

Re: *Stoneham Greenway – Co-Existence with Businesses*

Dear Members of the Board of Selectmen:

As longtime members of the business community in Stoneham, we have always been able to expect a level of consistency, fair dealings and transparency with the Town of Stoneham officials. It is unfortunate that over the past few years during the design phase of the Stoneham Greenway such consistency, fair dealings and transparency have not always been apparent. It is our hope that the events that transpired at the October 2014 Town Meeting including the rejection of Article 10 involving the Greenway can bring about a new process and turn the page from the previous heavy handed approach taken in regards to the design of this Greenway.

Our businesses for many years were led to believe that co-existence on the right of way would be incorporated. This was not a belief, but clearly a viable option, as Fay, Spofford & Thorndike (FST) created just such a plan which included co-existence with abutting businesses (Co-Existence Plan). For reasons that have never being clearly explained, co-existence was abandoned. At this time, town officials began a process of removing each business that was in control of a license or lease along the right of way with a threat of legal action for non-compliance. Pursuant to the lease agreements, all use of the right of way by businesses ended on June 30, 2014 and at the Special Town Meeting in June 2014, the town officials spoke out against any co-existence with businesses after only days before discussing the potential for co-existence.

Our businesses have incurred legal costs and disruptions to our operations. We have had to endure public disparagement at town meetings and in the newspapers. We have been called encroachers and our uses termed as illegal. These statements were made in regards to a use which each of our businesses paid for through a lease or license agreement.

It is with this background that we as long time members of the business community were perplexed to find out that the businesses at 39 Pleasant Street were allowed to co-exist with the Greenway and that the design had specifically incorporated that use. This property includes private for-profit businesses no different than our operations. The physical constraints of the property make it impossible to reach the rear parking lot or the side parking spaces without use of 20-30 feet of the railroad right of way. The town officials never explained to the other businesses or to the town residents before the June 2014 Special Town Meeting vote that this co-existence with private businesses was part of the overall design.

The property at 39 Pleasant Street also had a similar lease to the one each of our businesses signed. The lease for 39 Pleasant Street terminated on June 30, 2014. At that date, 39 Pleasant Street no longer was required to make payments to the Town of Stoneham and follow the conditions of the lease. For reason that have not been explained, after the termination of the lease and the last payments were made, the private businesses at 39 Pleasant Street continued to use the railroad right of way. There was no threat of legal action, eviction, or public condemnation.

The co-existence of the 39 Pleasant Street businesses on the railroad right of way to date has not caused any ill effects. There have been no town officials who have spoken out against this co-existence. There have been no issues raised over the traffic or the safety of the Greenway in regards to its co-existence with the passing and parking of vehicles into 39 Pleasant Street. There have additionally been no issues raised by federal, state or local officials who are monitoring the 5.5 million dollars in state and federal dollar allocated to the Tri-Community Greenway stating such co-existence with private businesses would threaten the funding of the Greenway. Clearly the co-existence of a business on the railroad right of way with the Greenway does not put the viability of the Greenway in jeopardy.

As has been explained above, co-existence with abutting businesses can be accomplished without threatening the Greenway. Our businesses on Manison Street wish to also co-exist with the Greenway. We believe co-existence of business use and the Greenway can maximize, just as it was done on 39 Pleasant Street, the best overall use of the railroad right of way. Further our businesses are willing to make payments for the use of a portion of the railroad right of way. We are also willing to maintain any portion that one of our businesses use. The new lease payments will help deflect the long term cost of the maintenance of the Greenway. The areas that are leased will lessen the amount of Greenway that will require maintenance as our businesses will incur the cost of maintaining those sections.

The design that our businesses envision are similar to the traffic pattern designed at the 39 Pleasant Street property. At our locations between section 600 and 609 the following is desired:

- 1) 20 foot entry from Maple Street
- 2) Gravel/Dirt way for Vehicular Travel of a width of approximately 15-17 feet
- 3) Elevation of approximately 70' from Section 605 to Maple Street. Both the Bike Trail and the Gravel/Dirt Way would be at Elevation 70'
- 4) From Section 600 to 605 the elevation would rise from approximately 55.85' to 70' with an approximate grade rise of 2.8%
- 5) From Section 609-600 the Bike Trail and Gravel/Dirt Way would be divided by a guardrail

The gravel/dirt way is envisioned as a safety corridor with restricted access to authorized vehicles such as police, fire, and ambulances. The present access for these town safety officials is limited and presents a safety concern especially at the tunnel under 93. A direct vehicular access as envisioned would allow these town safety officials to monitor this area with greater efficiency which is a benefit to all the residents of Stoneham.

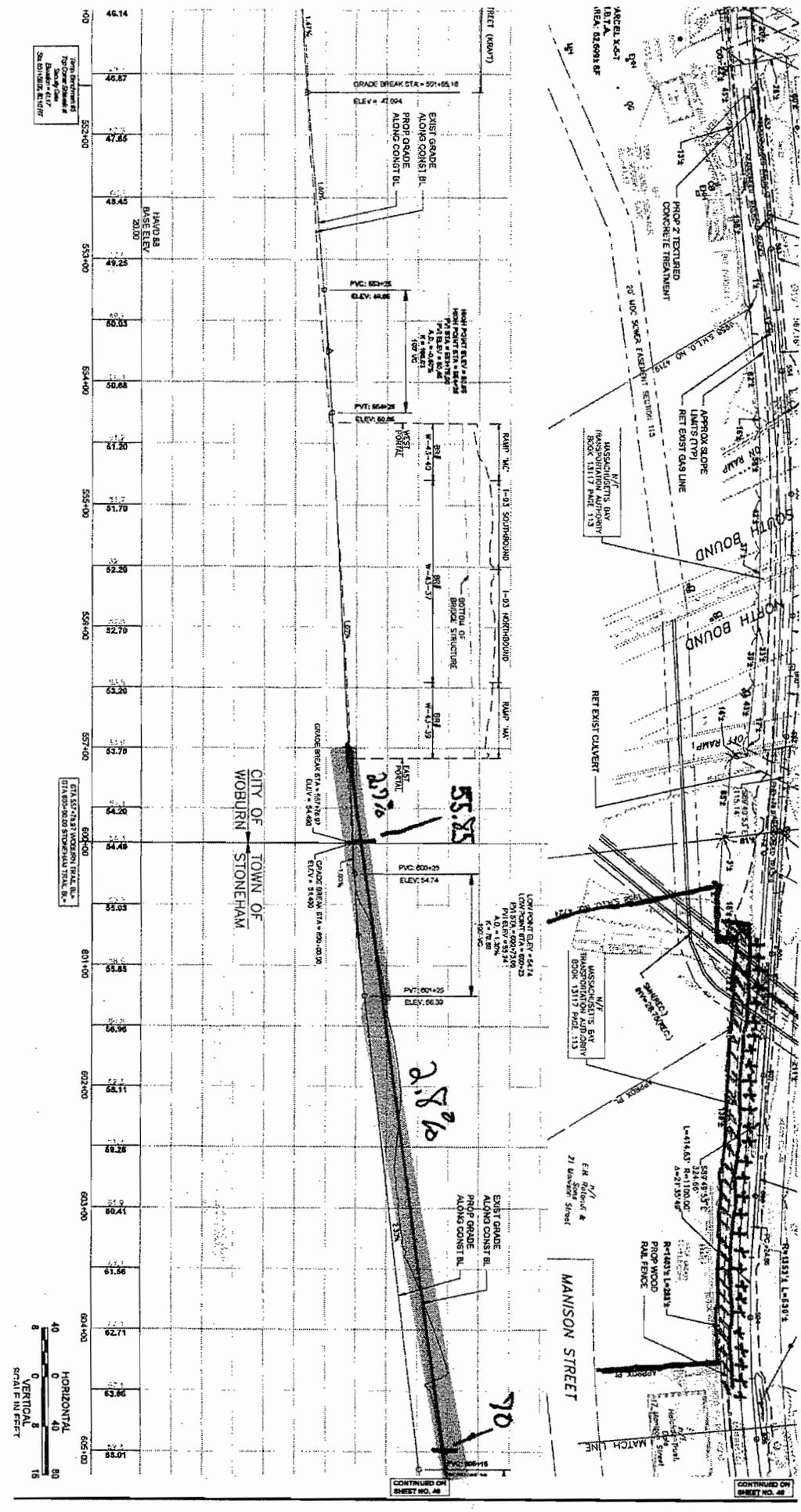
We hope a more constructive discussion can be begun moving forward which will include the co-existence of businesses and the Greenway. Our businesses will be in attendance at the November 17 Meeting requested by Mr. Ragucci and hope to discuss this issue at that time.

Sincerely,

Manison Almeda Realty Trust – 17 Manison Street
E.B Rotondi & Sons – 21 Manison Street

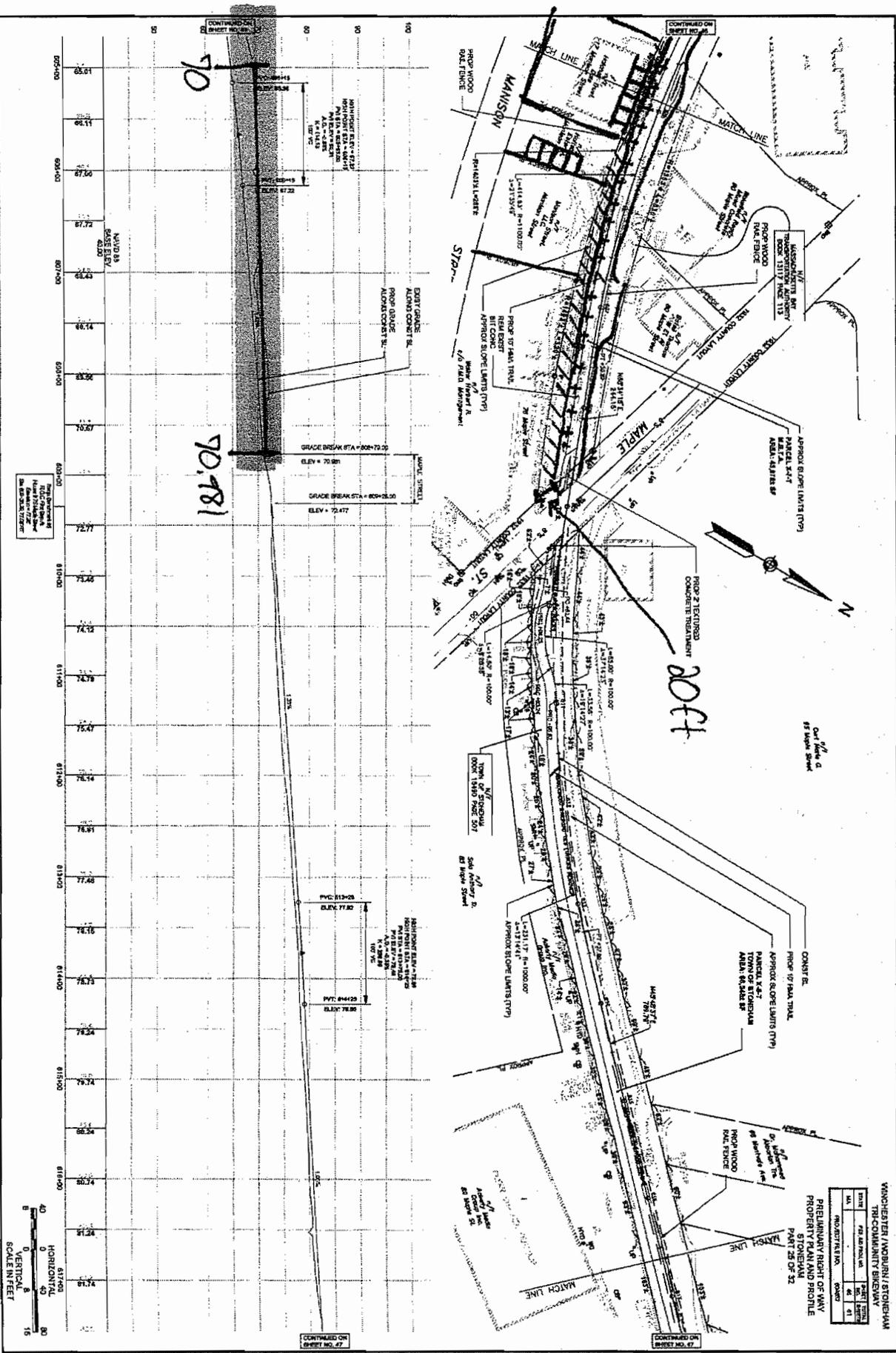
CC: David Ragucci,
Michael Day,
Stoneham Greenway/Bike Trail Committee
Stoneham Chamber of Commerce

+++++ Guardrail
 Safety Corridor Restricted Access
 Vehicle
 Travel

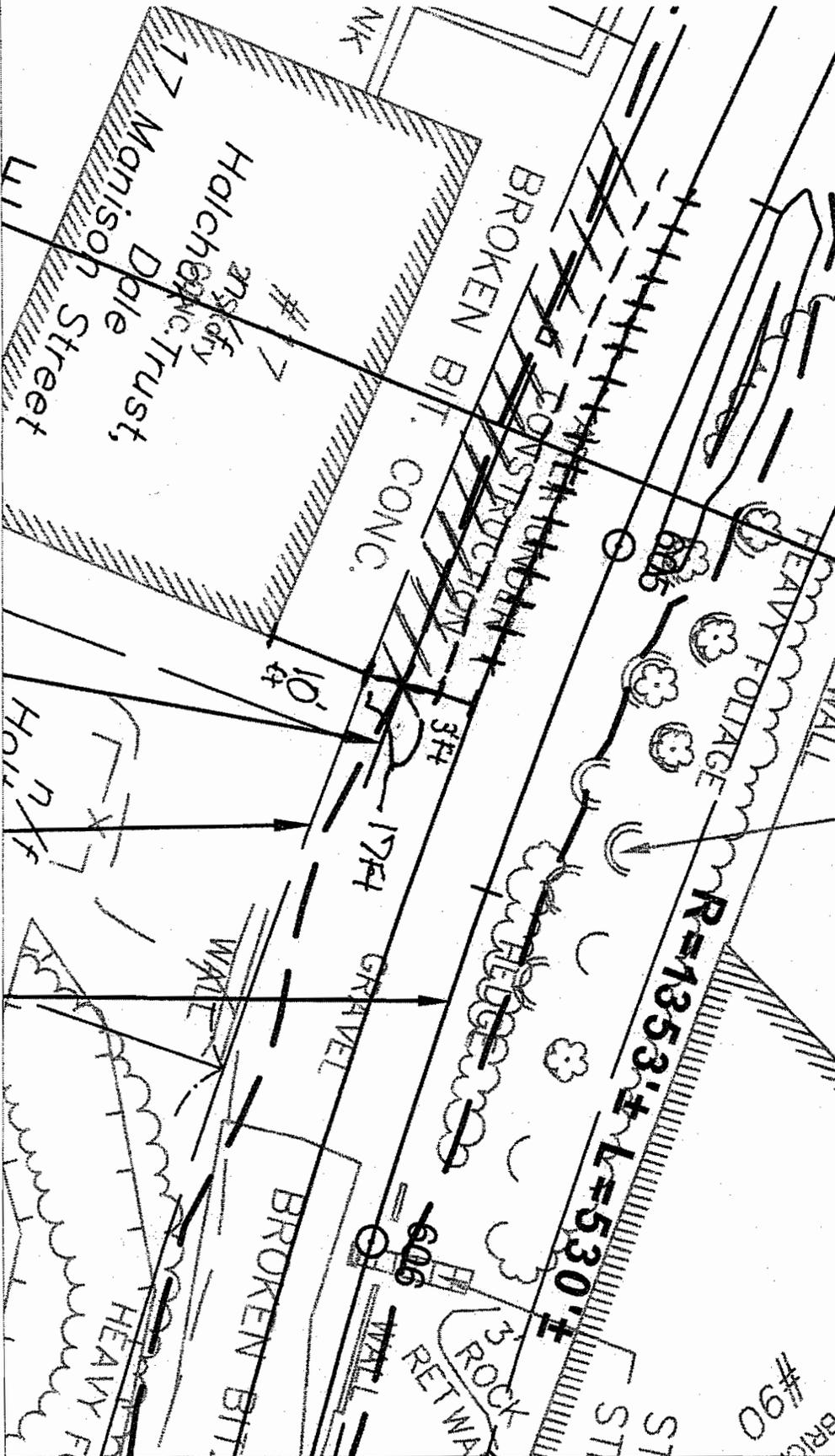


+++ Guardrail

//// Safety Corridor
Vehicle Travel
Restricted Access



CONTIN
SHEET



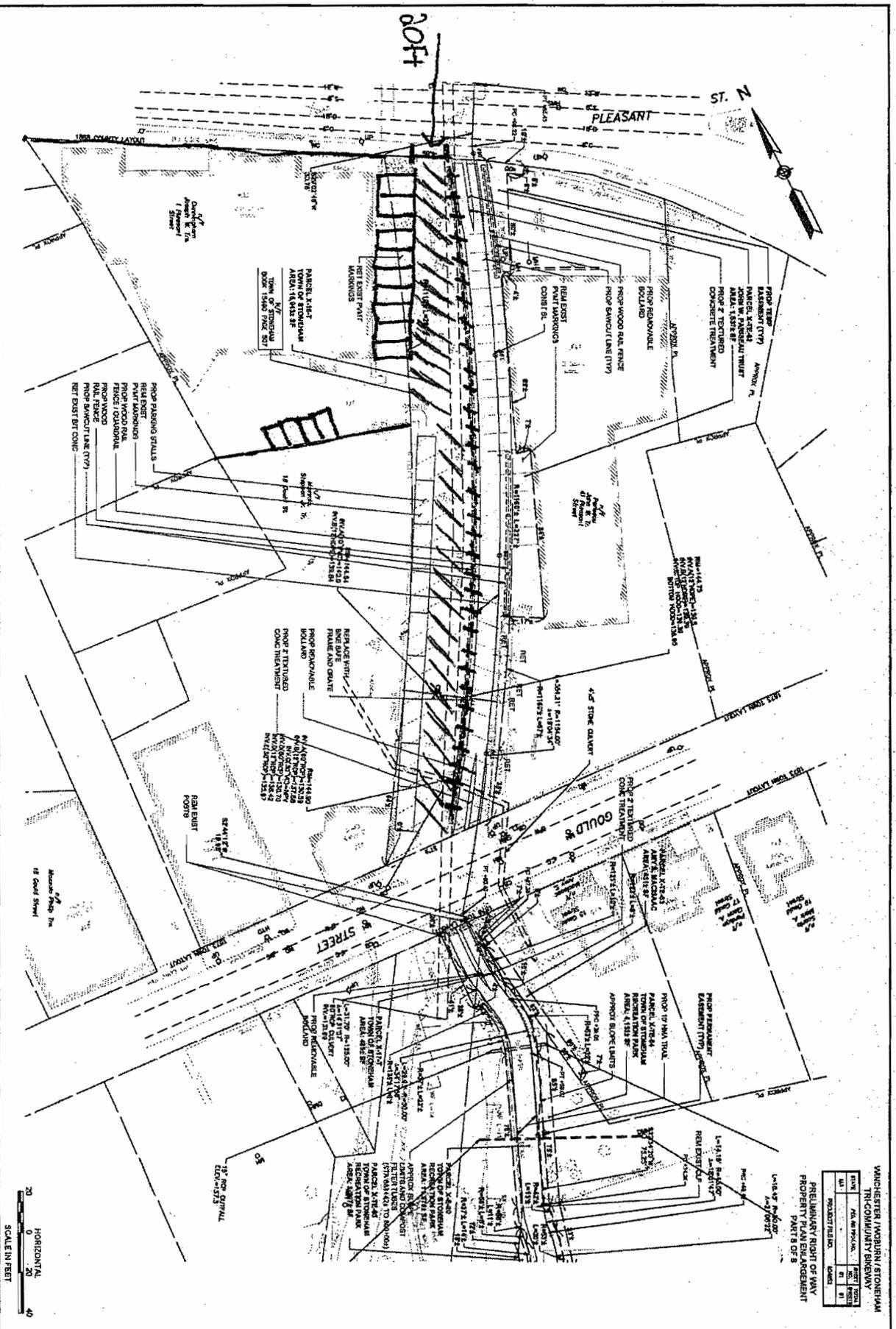
+++++ Guardrail

||||| Travel

Safety Corridor - Restricted Access
Vehicular

+++++ Guardrail
 1111 Vehicle
 Travel

39 Pleasant Street

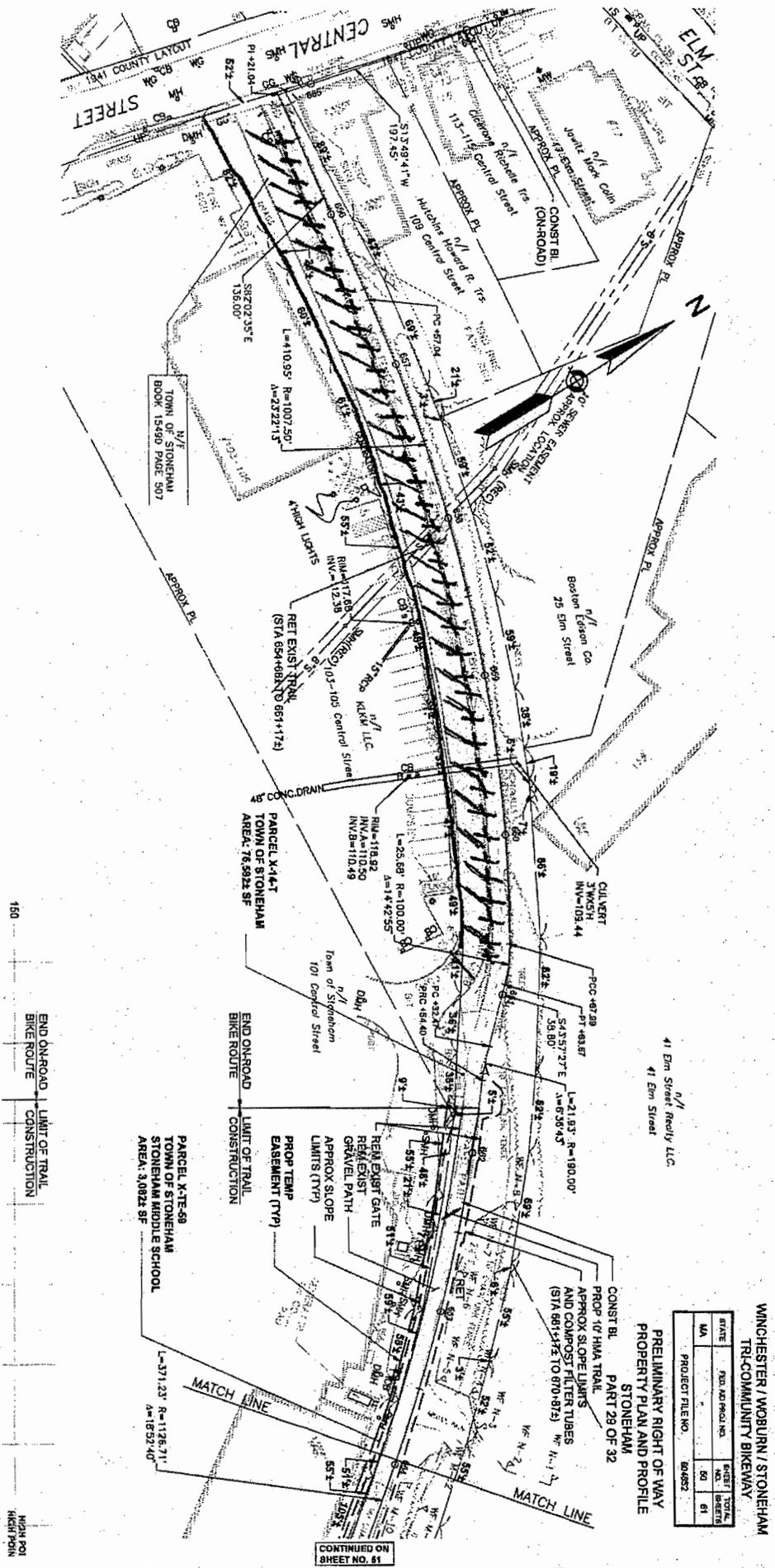


WALSH/TELLER/STONEMAN
 TRICOMMUNITY BROWNY
 PRELIMINARY RIGHT OF WAY
 PROPERTY PLAN ENLARGEMENT
 PARTS OF 2

| DATE | BY | SCALE | DESCRIPTION |
|----------|-----------------------|----------|------------------|
| 11/11/11 | WALSH/TELLER/STONEMAN | AS SHOWN | PRELIMINARY PLAN |
| 11/11/11 | WALSH/TELLER/STONEMAN | AS SHOWN | REVISIONS |
| 11/11/11 | WALSH/TELLER/STONEMAN | AS SHOWN | REVISIONS |
| 11/11/11 | WALSH/TELLER/STONEMAN | AS SHOWN | REVISIONS |

+++ Guardrail/Woodfence
 //// Vehicular Travel

Stonham
 Middle School



| DATE | REV. NO. | BY | CHKD. BY |
|------|----------|----|----------|
| MA | | | |

PROJECT FILE NO. 04053

PRELIMINARY RIGHT OF WAY
 PROPERTY PLAN AND PROFILE
 STONHAM
 PART 28 OF 32

WINCHESTER / WOBURN / STONHAM
 TRI-COMMUNITY BIKEWAY

CONTINUED ON
 SHEET NO. 81

**MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
TOWN OF STONEHAM
USE AND OCCUPANCY AGREEMENT
RAILROAD PROPERTIES
STONEHAM MASSACHUSETTS
JOSEPH CUNNINGHAM**

STONEHAM
TOWN CLERK
REGISTRARS
2009 OCT 29 A 9:59

1. Use and Occupancy Agreement

The Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, established and existing pursuant to Chapter 161A of the Massachusetts General Laws, with a usual place of business at 10 Park Plaza, Boston, Massachusetts (hereinafter referred to as "MBTA"), hereby grants to Joseph Cunningham with a usual place of business at 39 Pleasant Street, Stoneham, Massachusetts, (hereinafter referred to as "OCCUPANT"), the right and privilege to enter upon, use and occupy a portion of former railroad property owned by the Town of Stoneham identified as the Stoneham Branch in Stoneham, Massachusetts as shown on Exhibit A attached hereto, and incorporated herein, (hereinafter referred to as the "Premises") for the purposes described in the Scope of Use and Occupancy below. (This Agreement is entered into pursuant to the License Agreement by and between the Town of Stoneham – owner of the Premises and the MBTA dated September 16, 2009.) Such use and occupancy may be conducted only during the Term.

2. General Conditions

- 2.1 Date:** October 1, 2009
- 2.2 OCCUPANT:** Joseph Cunningham
- 2.3 Term:** Month to month beginning October 1, 2009, except that the OCCUPANT may terminate this Agreement at any time with thirty (30) days written notice and the MBTA may terminate this Agreement at any time with thirty (30) days written notice in the event of the commencement of construction of the former Railroad Right of Way as a bikeway, linear park, or other recreational area as referenced in subparagraph (i) hereinbelow. The term of this Agreement shall be limited to a period of time no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right of Way as a bikeway, linear park, or other recreation area, or (ii) June 30, 2014.
- 2.4 Occupancy Fee:** \$1,363.50 per year payable in the amount of \$113.63 per month in advance on the first day of each month without demand. **An additional monthly fee of \$340.88 shall be payable monthly for a period of twelve months starting at the commencement date for past unauthorized use of the Premises. Total monthly fee of \$454.51 during first year, amount payable to the MBTA is \$249.98 and**

amount payable to the Town of Stoneham is \$204.53. After the first year commencing October 1, 2010, amount due the MBTA shall be \$62.50 and the amount due the Town of Stoneham shall be \$51.13.

2.5 **Administrative Fee:** \$500.00 to MBTA

2.6 **Premises:** A certain parcel of land containing approximately 3,030 square feet, located on the Town's Right-of-Way, known as the Stoneham Branch in Stoneham, Massachusetts as shown in Exhibit A attached hereto.

2.7 **Scope of Use and Occupancy Agreement:**

To use and occupy the Premises solely for purpose of driveways, parking of vehicles and the storage of equipment and materials associated with its business operation at Pleasant Street and for no other purpose, subject to the remainder of this Agreement Including, Exhibit B, attached hereto and incorporated herein and made a part herein. No permanent structures shall be placed on the premises. No construction or improvements are permitted hereunder without the express written consent of the MBTA, which may include additional terms and conditions. No hazardous materials are to be stored on the property.

OCCUPANT understands and agrees to the following conditions:

- OCCUPANT shall remove all equipment stored on the premises after notice from the MBTA and/or Town of Stoneham that Alternative Transportation Corridor will be constructed or ROW is needed for transportation purposes.
- OCCUPANT is responsible for general maintenance of the Premises as well as snow removal, which must not be deposited onto the right-of-way.

2.8 **Notices:**

MBTA:
Real Estate Department
Massachusetts Bay Transportation Authority
10 Park Plaza, Room 5720
Boston, Massachusetts 02116
Attn: Assistant General Manager for Development

and

DESIGNATED REPRESENTATIVE:
Transit Realty Associates, LLC
77 Franklin Street-9th fl
Boston, Massachusetts 02110
Attn: Executive Director

and,

TOWN OF STONEHAM

Stoneham Town Hall
35 Central Street
Stoneham, MA 02180

OCCUPANT:

Joseph Cunningham
39 Pleasant Street
Stoneham, MA 02180

3. Consideration

The rights contained in this Agreement are granted for good and valuable consideration, including, the sufficiency of which is hereby acknowledged.

4. Terms and Conditions of Agreement

This Agreement is subject to the following terms and conditions:

4.1 Scope of Use and Occupancy

(a) Scope of Use and Occupancy

Subject to the terms and conditions in this Agreement, the OCCUPANT, its agents, employees, contractors, subcontractors and/or representatives are hereby granted the right to enter upon, use and occupy the Premises for the purposes more fully described in Paragraph 2.7.

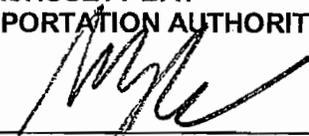
(b) Utilities

OCCUPANT acknowledges that there may be surface and subsurface utilities on and adjacent to the Premises and agrees to exercise extreme caution in performance of any activity. OCCUPANT shall comply with Massachusetts General Laws, Chapter 82, Section 40 (said statute also known as the "Dig Safe" law) and the regulations promulgated pursuant thereto. Including, but not limited to, the Code of Massachusetts Regulations, more particularly, 220 CMR 99.00 et seq. To the extent MBCR, the MBTA, or parties acting in behalf of either, locate and mark railroad utilities in the railroad rights of way and appurtenant thereto, OCCUPANT shall be responsible for payment to such parties for such services which may include, but not be limited to, locating and marking utilities, facilities and appurtenances thereto serving the railroad line(s) or used in connection with services or operations of the MBTA and/or the railroad companies. Any damage to utilities, including but not limited to railroad utilities, facilities and appurtenances thereto, caused by OCCUPANT shall be the sole responsibility of OCCUPANT. The MBTA, without being under any obligation to do so and without waiving the OCCUPANT's obligation hereunder, may repair any utilities damaged by the OCCUPANT immediately and without notice in case of emergency. In the event the MBTA exercises such right, the OCCUPANT shall pay to the

Special Provisions to this Agreement, if any, are attached as Exhibit D hereto and incorporated herein. In any instances where any Special Provision shall conflict with preceding provisions of the Agreement or Exhibits attached hereto; the Special Provisions shall prevail.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this 20th day of October 2009.

**MASSACHUSETT BAY
TRANSPORTATION AUTHORITY**

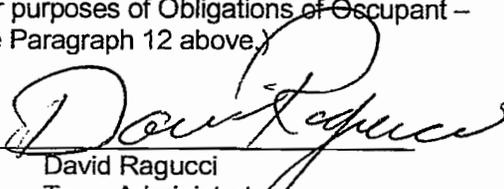
By: 
Mark Boyle
Assistant General Manager
for Development

**OCCUPANT:
JOSEPH CUNNINGHAM**

By: 
Joe Cunningham
Printed Name

Title (Duly Authorized)

TOWN OF STONEHAM
(For purposes of Obligations of Occupant –
See Paragraph 12 above.)

By: 
David Ragucci
Town Administrator

G: Use and occupancy agreement\cunninghampleas090309rev091709

EXHIBIT A

PLAN OF PROPERTY

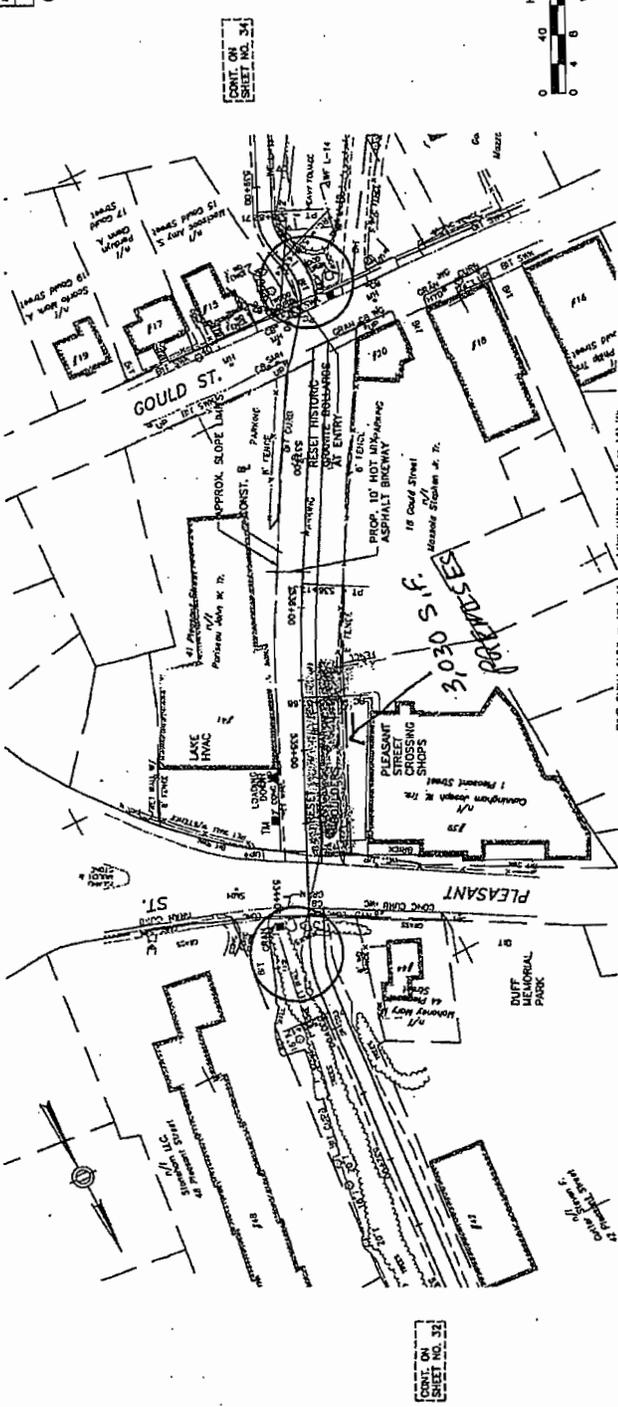
CONSTRUCTION PLAN
 SHEET 33 OF 34

DRAINAGE DETAILS
 NONE

WATER SUPPLY ALTERATIONS
 NONE

TRAFFIC SIGNAL CONDUIT
 NONE

HWY. GUARD TYPE SW
 NONE



CONT. ON
 SHEET NO. 31

CONT. ON
 SHEET NO. 32

PW STA = 530+75
 PW ELEV = 143.90
 A.D. = 0.75
 K = 133.65
 100.00' VC

HIGH POINT STA = 527+25
 LOW POINT STA = 528+41.02
 PW STA = 528+25
 PW ELEV = 146.91
 A.D. = -3.35
 K = 23.85
 100.00' VC

PW STA = 520+75
 PW ELEV = 128.52
 A.D. = 1.93
 K = 91.16
 100.00' VC

BVC: 526+75
 EVC: 528+75
 BVC: 527+75
 EVC: 528+75
 BVC: 530+25
 EVC: 531+25
 BVC: 142.58
 EVC: 144.39

BVC: 526+75
 EVC: 528+75
 BVC: 527+75
 EVC: 528+75
 BVC: 530+25
 EVC: 531+25
 BVC: 142.58
 EVC: 144.39

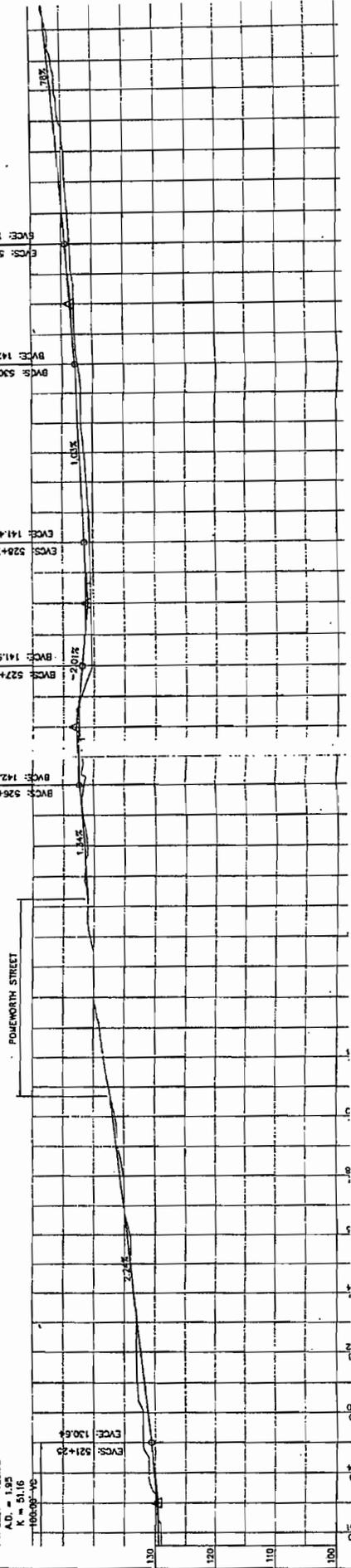


EXHIBIT B

SCOPE OF USE AND OCCUPANCY

(1) **Use of the Premises.**

The Premises shall be used solely for the purposes described in Paragraph 2.7.

OCCUPANT shall have control of the Premises; except that the MBTA may enter the Premises at any time with forty-eight (48) hours notice to OCCUPANT (except in case of emergency when the MBTA shall give whatever notice is feasible.)

OCCUPANT shall operate and maintain the Premises and its installations thereon in a safe manner and immediately notify the MBTA if any problem occurs which may result in a safety hazard. If any unsafe situation should occur, OCCUPANT will correct the situation by eliminating any safety hazard immediately or, if the situation cannot be reasonably cured immediately, then in such longer time as is reasonably required, and in all such unsafe situations, MBTA Railroad Operations Safety Procedures shall be followed as well as MBTA Safety Procedures for Subway Operations as may be applicable depending on the location of the safety hazard.

(2) **Other Uses of the Premises.**

If other uses are permitted herein, then OCCUPANT shall either (a) follow the requirements in Section (2) above, or (b) meet all requirements of the MBTA and the Town of Stoneham to place barriers between the Premises and the Right of Way.

1177591.2



RCN BecoCom, LLC.

650 College East, Suite 3100
Princeton, NJ 08540
Tel (703) 434-8245
Fax (703) 434-8389

November 11, 2014

Town of Stoneham
c/o Board of Selectmen
35 Central Street
Stoneham, MA 02180

RE: 3rd Quarter 2014 PEG Fees Section 8.1b

Dear Sir/Madam,

Please find enclosed payment of \$ 4,867.73 for the PEG Section 7.1 Agreement between Town of Stoneham and RCN Becocom, LLC. The payment is for the 3rd Quarter 2014.

If you have any question, please feel free to contact me at (703) 434-8245

Sincerely,



Ephantus Limo

Senior Tax Accountant

Quarterly Franchise Payment
 RCN-BecoCom, LLC
 Town of Stoneham
 Sales Statistics:
 2014

| | July | August | September |
|-------------------|------------------|------------------|------------------|
| VIDEO SUBSCRIBERS | 383 | 381 | 380 |
| Video Revenue | 33,863.84 | 33,331.65 | 30,159.21 |
| | <u>33,863.84</u> | <u>33,331.65</u> | <u>30,159.21</u> |

Q3 2014

| | | |
|-----------------------|-------|------------------|
| Quarter Video Total | | <u>97,354.70</u> |
| PEG Fees Section 8.1b | 5% | <u>4,867.73</u> |
| PEG Grant Section 7.1 | Fixed | |

RCN Telecom Services, LLC

650 College Rd E.
Suite 3100
Princeton, NJ 08540

CHECK NUMBER

00787413

VENDOR NAME : TOWN OF STONEHAM

VENDOR NUMBER 37459

| INVOICE NUMBER | INVOICE DATE | DESCRIPTION | NET AMOUNT |
|-------------------|--------------|-------------|-------------------|
| Q3 2014 | 11/04/2014 | | \$4,867.73 |
| TOTAL PAID | | | \$4,867.73 |

RCN Telecom Services, LLC

650 College Rd E.
Suite 3100
Princeton, NJ 08540

PNC bank NA
Jeanette, PA 60-162 / 433

*** VOID AFTER 90 DAYS ***

CHECK NUMBER

00787413

CHECK DATE

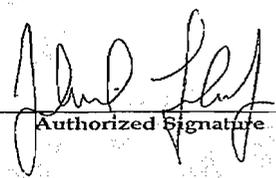
11/05/2014

CHECK AMOUNT

\$4,867.73

PAY Four Thousand Eight Hundred Sixty Seven Dollars And 73 Cents

TO THE ORDER OF TOWN OF STONEHAM
149 FRANKLIN ST
STONEHAM, MA 02180


Authorized Signature

⑈00787413⑈ ⑆043301627⑆ 1006219622⑈





STONEHAM HIGH SCHOOL
ATHLETIC HALL OF FAME
149 Franklin Street
Stoneham, Massachusetts 02180



NOTICE OF MEETING
November 24, 2014
January 12, 2015

6:30pm

Hall of Fame Committee
High School
Room 107A

AGENDA

1. Review 2016 Long List
2. Time line for 2016 Banquet

| Date | Invoice No. | Doc No. | Gross | Discount | Net |
|------------|--------------------------------------|------------|-----------|----------|-----------|
| 11/06/2014 | 36561FIOS 36561FIOS Video Payment | 1900035169 | 58,805.74 | 0.00 | 58,805.74 |

Check Total 58,805.74

1231

Please call 972-718-5090 if there are questions regarding this payment
For further payment information visit our web site at

PAGE 1 / 1

FOLD ALONG PERFORATED DOTTED LINE & REMOVE CHECK



THIS DOCUMENT CONTAINS MULTIPLE FRAUD DETERRENT SECURITY FEATURES - SEE REVERSE

66-156/531

Date: 11/07/2014

Check No
1231009107

PAY EXACTLY *** FIFTY-EIGHT THOUSAND EIGHT HUNDRED FIVE USD and SEVENTY-FOUR
Cents ***

\$*****58,805.74*

1231

TO THE TOWN OF STONEHAM
ORDER OF

Wells Fargo Bank, N.A.

Verizon Treasury

Security Features Included (B) Details on back

⑈ 1231009107 ⑈ ⑆ 053101561 ⑆ 8018013196 ⑈

PEG Grant Report 3rd Quarter 2014

Town of Stoneham

Verizon - fBA

Massachusetts

PEG Fee Rate: 5.00%

| | July | August | September | Quarter Total |
|--|--------------|--------------|--------------|----------------|
| Monthly Recurring Cable Service Charges (e.g. Basic, Enhanced Basic, Premium and Equipment Rental) | \$342,425.42 | \$342,045.60 | \$346,606.46 | \$1,031,077.48 |
| Usage Based Charges (e.g. PayPer View, Installation) | \$12,703.62 | \$14,591.69 | \$15,090.11 | \$42,385.42 |
| Advertising | \$9,339.05 | \$8,387.96 | \$11,397.08 | \$29,124.09 |
| Home Shopping | \$1,372.79 | \$916.39 | \$769.12 | \$3,058.30 |
| Late Payment | \$535.00 | \$445.00 | \$610.43 | \$1,590.43 |
| Other Misc. (Leased Access & Other Misc.) | \$16,561.07 | \$7,218.43 | \$5,050.44 | \$28,829.94 |
| License Fee Billed | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| PEG Fee Billed | \$19,460.34 | \$18,700.18 | \$19,171.84 | \$57,332.36 |
| Less: | | | | |
| Bad Debt | (\$8,759.56) | (\$2,550.49) | (\$5,973.37) | (\$17,283.42) |
| Total Receipts Subject to PEG Fee Calculation | \$393,637.73 | \$389,754.76 | \$392,722.10 | \$1,176,114.59 |
| PEG Grant | \$19,681.89 | \$19,487.74 | \$19,636.11 | \$58,805.74 |

Verizon New England Inc. is hereby requesting that this information be treated as confidential and proprietary business information in accordance with the terms of the Cable Television Final License granted to Verizon New England Inc. This information is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided herein, would cause substantial harm to competitive position of Verizon in the highly competitive video marketplace if disclosed, is intended to be proprietary confidential business information and is treated by Verizon as such.