

12 Chestnut Street
Andover, MA 01810-3706
Tel: 978-475-4488
Fax: 978-475-6703
www.jblclaw.com
bob@jblclaw.com

Mark B. Johnson (MA, NH, DC)
Donald F. Borenstein (MA, ME, NH)

Patrick M. Groulx (MA, NH)
Keri M. Armstrong (MA, NH)
Gordon T. Glass (ME, MA)
Andrew Lechner (VT)

Of Counsel
Robert W. Lavoie (MA, NH)

Paralegals
Karen L. Bussell
Lianne Patenaude
Ellen M. Melvin
Tina M. Wilson

November 22, 2022

Town of Andover
ATTN.: Conservation Commission
32 Bartlet Street
Andover, Mass 01810

RE: Tantallon NOI DEP File #090-1382

Documentation regarding the Bank's 10 Parking spaces

Dear Conservation Commission

The purpose of this letter is to document and explain the 10 parking spaces which have been in existence for at least 80 years (per attached 1938 Aerial photo) which were assigned by the attached 1986 Deed to Union National Bank recorded at Essex North Registry of Deeds at Book 2266, Page 19, as more fully described below.

The Applicant and its attorneys have been asked to provide information regarding the creation, ownership and rights which Bank of New England possesses in connection with the 10 parking spaces located on Tantallon Road (a private way owned by the Applicant) where Tantallon Road intersects Haverhill Street, and being directly adjacent to the Shawsheen River.

Tantallon Road has been in existence for at least 90 years; attached is a 1932 plan recorded with the Registry of Deeds as Plan #880, where it is shown as "Proposed Road". The Assessors office indicates that the building at 7TantallonRoad (sometimes called the "creamery building") was built in approximately 1900. It's quite likely that the private way providing access and parking predates the 1932 plan, and the attached 1938 aerial photograph).

In 1956, Registry Plan #3276 was recorded, showing Tantallon Road, as well as the building contained on Applicant's property labeled "New England Milk Production Association", while 16 Haverhill Street is labeled as Brush Factory. Also attached is an aerial photograph believe to be from the 1960s showing the current buildings and parking associated therewith.

November 22, 2022

Page 2

As Legal Counsel for the Applicant, our office has reviewed the above the plans, deeds, and Reciprocal Easement Agreement relating to the land where 7 Tantallon Road is located. Once owned by Agri Mark , Inc., the “campus“ which in the 1980s came to be known as “Shawsheen Village Commerce Center“ presently consists consisting of four parcels of land, Parcels, A, B, C and D containing a total of three commercial buildings. Augustine P Sheehy acquired the property in 1982 by virtue of Agri Mark, Inc.’s deed recorded on June 15, 1982 at Book 1583, Page 190.

The Applicant owns 7 Tantallon Rd. by virtue of the Deed from Shawsheen Village Commerce Center Partnership dated October 4, 2002, and recorded at Book 9393, page 1. The property consists of Parcel A and Parcel C as shown on the 1983 plan which Augustine P Sheehy (Sheehy) prepared, Plan #9209.

Plan #9209 was prepared in order to show the layout of Parcels, A, B, C and D, and to create the attached Reciprocal Easement Agreement (“REA”) recorded by Sheehy dated August 30, 1983, and recorded at Book 1715, Page 219.

By Deed recorded August 8, 1986 at Book 2266, Page 199, Union National Bank acquired the property at 12 Haverhill St., being Parcel B. Shawsheen Village Commerce Center Partnership convey the property to Union National Bank “subject to all easements and restrictions of record”, including the attached Declaration of Easements comprising the REA recorded at Book 1715, Page 218. The Deed goes on to state the following:

“In addition to all other easements, hearing before described, grantor hereby grants to grantee the following additional easements:

“Easement No. 1. (Parking easement for the benefit of the herein conveyed premises.) An easement for the parking of motor vehicles, and access to and from said parking spaces, being namely, ten (10) parking spaces located on the westerly side of Tantallon Road and being the parking spaces which are currently numbered on the ground as parking spaces numbers 23 through 32 (which said 10 parking spaces are also noted as spaces numbered 25 through 34 on a certain plan of land entitled “Site Plan of Land in Andover, MA, dated April 22, 1986, Malcolm P. McDowel, PE-LS. Said parking spaces are located on Parcel “A” on the previously described plan No. 9209 and commence with the parking space closest to Haverhill Street, located along the boundary of said Parcel “A” abutting the Shawsheen River (said Parcel “A“ being also shown as Parcel “A” on the previously described Plan No. 3511).”

November 22, 2022

Page 3

As time went on, 12 Haverhill St., the bank location, became to be owned by Bank of New England (formerly known as Southern New Hampshire Bank and Trust). The occupants and banks that have been located at 12 Haverhill St. have consistently utilized the 10 spaces, which were clearly deeded as permanent appurtenant easement rights to the property at 12 Haverhill St.

The Applicant and its attorneys have been in frequent communication with Bank of New England for the past 24 months, and as late as October 2022, the bank has consistently indicated that they have no interest whatsoever in altering the 10 parking spaces which have been appurtenant to the legal title of the Bank property since the 1986 deed into Union National Bank.

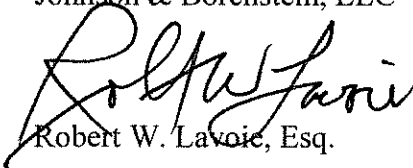
As is the case with all "parking easements" and for that matter, easements of all types, by definition, the easement holder does not own "fee simple title" to the land covered by the easement. However, there can be no doubt that Bank of New England holds good and clear record title to the easement rights to said, 10 parking spaces.

Bank of New England has communicated that it has no interest in altering its legal rights to said 10 parking spaces, and as owner of those parking rights, the only way Bank of New England could legally be deprived of the right to use said ten (10) parking spaces would be by virtue of some governmental agency lawfully exercising rights of eminent domain. It's fair to say that no one has likely heard any governmental interest or communications regarding any such drastic action as eminent domain being ever contemplated.

We are available to discuss our analysis whenever requested.

Very Truly yours,

Johnson & Borenstein, LLC



Robert W. Lavoie, Esq.

#3276

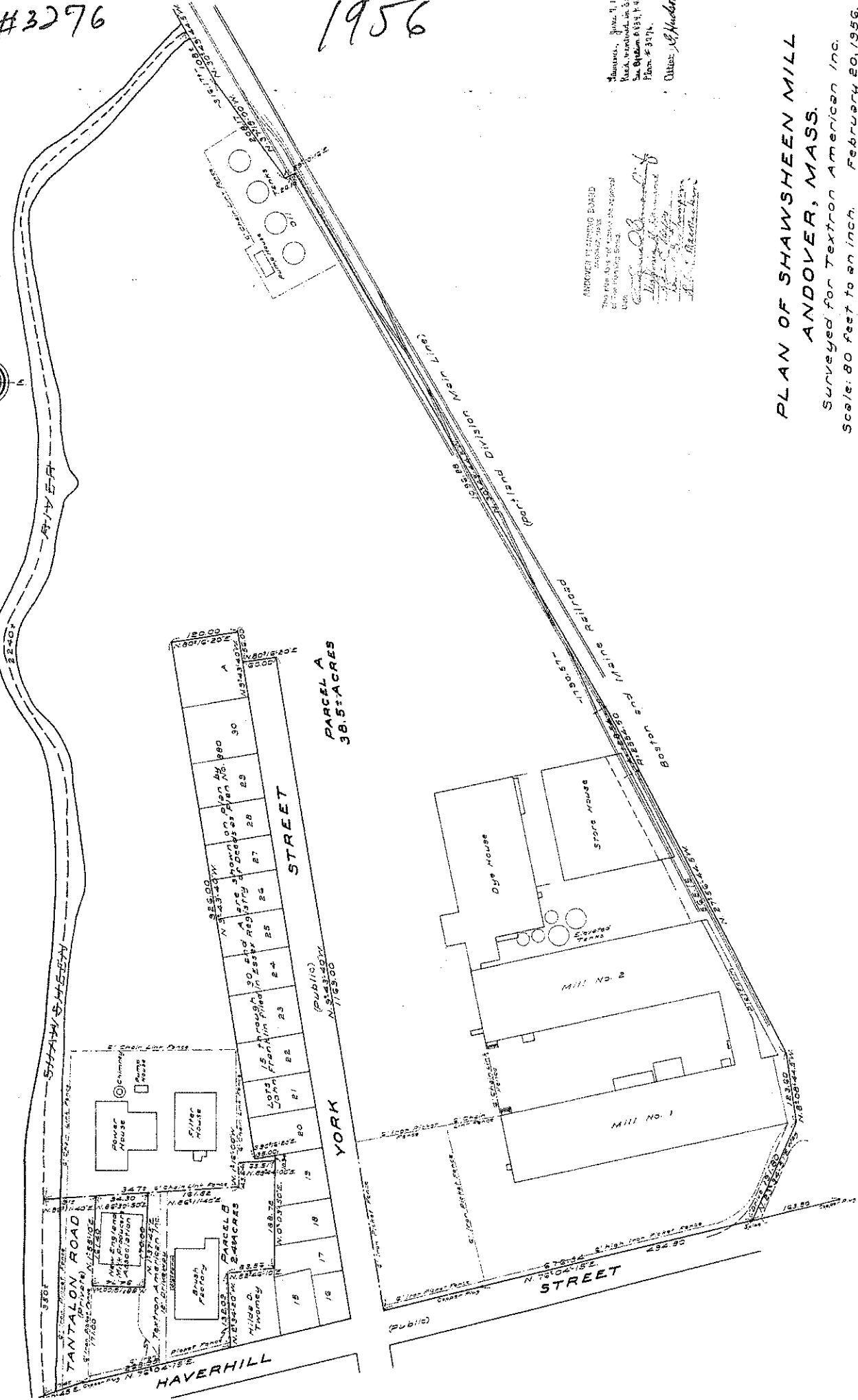
1956

Surveyed, June 19, 1956, and recorded in the Office of the Registrar of Deeds, State of Massachusetts, on February 20, 1956. Plan No. 3276. Oliver S. Hudson

AMERICAN ENGINEERING BOARD
The plan above was prepared and approved by the American Engineering Board.
[Signatures]
Oliver S. Hudson

PLAN OF SHAWSHEN MILL AND OVER, MASS.

Surveyed for Textron American Inc.
Scale: 80 feet to an inch. February 20, 1956.
Lewis W. Perkins and Son, Engineers, Hingham, Mass.



1938

on road andover ma

go



← purchase image and/or print

- 2018
- 2016
- 2014
- 2013
- 2012
- 2010
- 2008
- 2005
- 2003
- 2001
- 1998
- 1995
- 1987
- 1986
- 1978
- 1971
- 1965
- 1963
- 1938



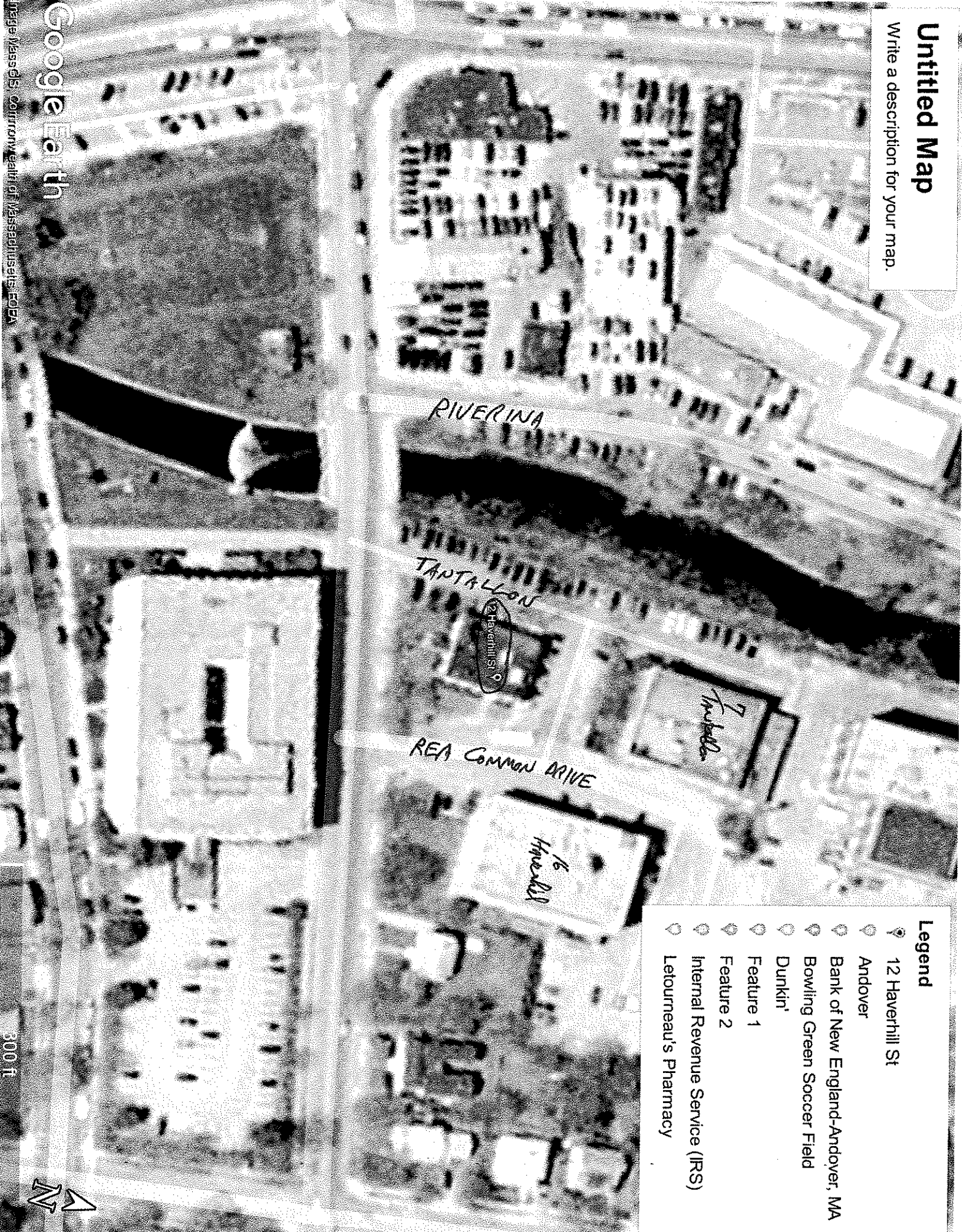
SHAWSHEEN RIVER

7 Tintalor
Haverhill St

#16 Haverhill St

Untitled Map

Write a description for your map.



Legend

- 12 Haverhill St
- Andover
- Bank of New England-Andover, MA
- Bowling Green Soccer Field
- Dunkin'
- Feature 1
- Feature 2
- Internal Revenue Service (IRS)
- Letourneau's Pharmacy

Google Earth

Image courtesy of Massachusetts EOEA

300 ft



FOR REGISTRY USE ONLY
 2009
 Registry of Deeds
 Third District Court Building
 Revised and recorded
 August 2, 1983 1:02 PM
 A. J. [Signature]

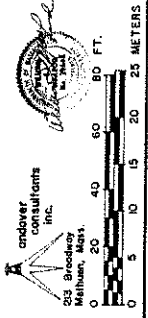
NOTE: BEARING SYSTEM BASED ON 1921 COUNTY LAYOUT OF HAVERHILL STREET.

I HEREBY CERTIFY THE FOLLOWING:
 1) THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS AND WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR STREETS OR WAYS OR OWNERSHIP OR FOR NEW WAYS ARE SHOWN.
 2) THAT THIS SURVEY AND PLAN CONFORM WITH THE PRECEDENT AND THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.
 3) THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF MASSACHUSETTS.

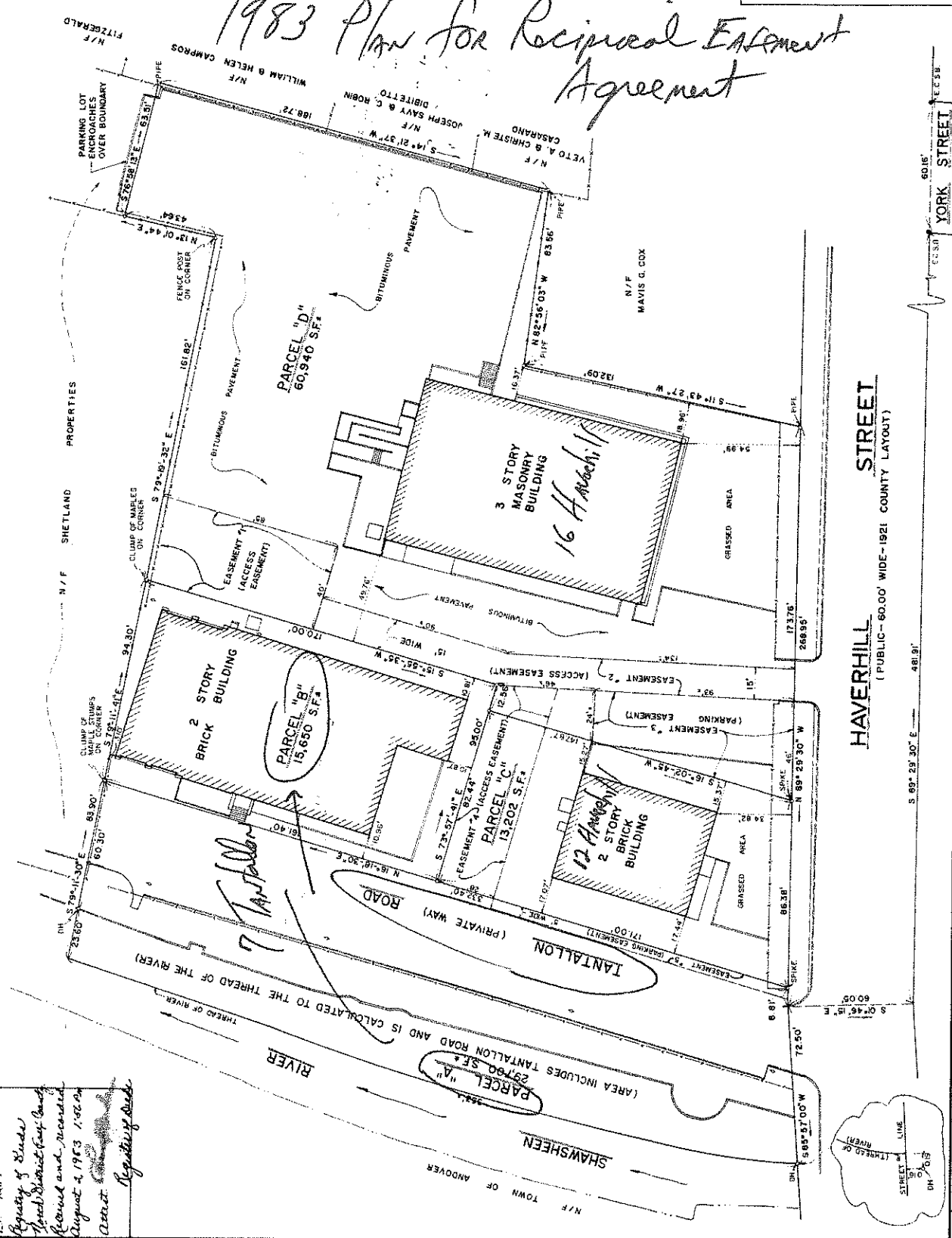
WILLIAM S. MARLECO
 REGISTERED LAND SURVEYOR

NOTE: THIS PLAN SHOWS VARIOUS EASEMENTS AND ENCROACHMENTS. EASEMENTS SHOWN ON THIS PLAN NO. 3511 AND PLAN NO. 9354 ARE SUPERSEDED BY THIS PLAN.

PLAN OF LAND IN ANDOVER, MASS. DEPICTING EASEMENTS
 PREPARED FOR: AUGUSTINE P. SNEYDY
 SCALE: 1"=20' DATE: JAN 19, 1983



1983 Plan for Reciprocal Easement Agreement



HAVERHILL STREET
 (PUBLIC - 60.00' WIDE - 1921 COUNTY LAYOUT)

DECLARATION OF EASEMENTS

1983 REA

218

KNOW ALL MEN BY THESE PRESENTS, THAT I, AUGUSTINE P. SHEEHY, of Andover, Essex County, Commonwealth of Massachusetts, being the owner of various parcels of land on the Northerly side of Haverhill Street, in said Andover, all as shown on plan of land entitled "Plan of Land in Andover, Mass. Depicting Easements prepared for Augustine P. Sheehy, Scale: 1"=20' Date: Jan. 19, 1983" which plan has been recorded with the Essex North District Registry of Deeds as Plan #9209, which parcels I acquired by deeds of Agri-Mark, Inc., duly recorded with said Deeds, Book 1583, Page 170, and BarclaysAmerican/Business Credit, Inc., recorded with said Deeds, Book 1583, Page 183, in which reference is made to certain access easements of record granted by a prior holder of the common title to all of the parcels I now own as shown on Plan #9209; and

WHEREAS, I desire to modify and amend the rights of access between these parcel and Haverhill Street in said Andover, by terminating the former easements for access; and

WHEREAS, I desire to establish certain parking easements within the aforesaid parcel for the benefit of the other parcels as shown on said plan; and

WHEREAS, I desire to establish the location and boundaries of these access and parking easements in a clear and concise manner,

NOW THEREFORE, I hereby declare all prior access and driveway easements to be terminated, and I substitute the following:

Easement #1 (Access Easement for the benefit of Parcel B)

Being a rectangle at the northwest corner of Parcel "D" as shown on said plan and more particularly bounded and described as follows:

NORTHERLY	by land now or formerly of Shetland Properties, forty (40) feet, more or less;
EASTERLY	by part of Parcel "D", eighty-five (85) feet;
SOUTHERLY	by part of Parcel "D", forty (40) feet;
WESTERLY	by Parcel "B", eighty-five (85) feet, more or less.

Easement #2 (Access Easement for the benefit of Parcels B & C)

Being a strip of land fifteen (15) feet wide lying entirely within Parcel "D" as shown on said plan between Haverhill Street on the South and Easement #1 described above on the North and more particularly bounded and described as follows:

NORTHERLY by that part of Parcel "D" designated as Easement #1, fifteen (15) feet;

EASTERLY by part of Parcel "D" by two (2) lines, ninety (90) and one hundred thirty-four (134) feet, more or less;

SOUTHERLY by Haverhill Street, fifteen (15) feet;

WESTERLY in part by Parcel "D" one hundred thirty-nine (139) feet, more or less, and in part by Parcel "C", ninety (90) feet, more or less.

Easement #3 (Parking Easement for the benefit of Parcel C)

Being an area at the southwest corner of Parcel "D" as shown on said plan and more particularly bounded and described as follows:

NORTHERLY by part of Parcel "D", twenty-four (24) feet, more or less;

EASTERLY by Easement #2, ninety-three (93) feet, more or less;

SOUTHERLY by Haverhill Street, Forty-six (46) feet;

WESTERLY by Parcel "C", ninety-eight (98) feet, more or less.

Easement #4 (Access Easement for the benefit of Parcels B & C)

Being a strip of land twenty-eight (28) feet wide along the northerly boundary of Parcel "C" and extending into Parcel "D", as shown on said plan and more particularly bounded and described as follows:

NORTHERLY by Parcel "B", ninety-five (95) feet;

EASTERLY by Easement #2, thirty (30) feet, more or less;

SOUTHERLY in part by Parcel "D" and the remaining portion of Parcel "C", one hundred two (102) feet, more or less;

WESTERLY by Parcel "B", twenty-eight (28) feet.

Easement #5 (Parking Easement for the benefit of Parcel C)

Being an area on the easterly side of Tantallon Road along the westerly boundary of Parcel "C" as shown on said plan and more particularly bounded and described as follows:

BK1715

220 NORTHERLY by Tantalion Road, five (5) feet;
EASTERLY by part of Parcel "C," one hundred seventy-one and no/100 (171.00) feet;
SOUTHERLY by Haverhill Street, five (5) feet, more or less; and
WESTERLY by Tantalion Road, one hundred seventy-two (172) feet, more or less.

And I hereby leave unchanged all prior utilities easements of record affecting the various parcels shown on said Plan #9209.

WITNESS my hand and seal this 30th day of August, 1983.

Domenic S. Terranova
Witness

Augustine P. Sheehy
Augustine P. Sheehy

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

August 30, 1983

Then personally appeared the above-named Augustine P. Sheehy and declared the execution of the foregoing instrument to be his free act and deed, before me,

Domenic S. Terranova
DOMENIC S. TERRANOVA
Notary Public
My comm. exp. 6-1-84

Recorded Aug. 31, 1983 at 12:47PM #14720

BK 2200

QUITCLAIM DEED

199

1986
See P. 2 for Parking

KNOW ALL MEN BY THESE PRESENTS that we, Philip K. Allen, Peter J. Brennan, Augustine P. Sheehy, Daniel M. Brennan, David J. Day, Theodore W. Robinson, Jr., Thomas H. Curtin & Peter K. Foley as partners of Shawsheen Village Commerce Center Partnership of Boston, Suffolk County, Massachusetts

for consideration paid, in full consideration of \$560,000.00

Grant to Union National Bank, a national bank organized under the laws of the United State of America with a usual place of business at 61 Merrimack Street, Lowell, Middlesex County, Massachusetts

with QUITCLAIM COVENANTS

A certain piece or parcel of land with all the buildings and improvements and appurtenances thereto located in the Town of Andover, County of Essex, and Commonwealth of Massachusetts, shown as "Parcel B" on a plan entitled "Plan of Land in Andover, Massachusetts, as surveyed for New England Milk Producer's Association" dated June, 1957 by Clinton F. Goodwin, Reg. Prof. Eng., and bounded and described as follows:

- SOUTHERLY: by said Haverhill Street, eighty-six and 38/100 (86.38) feet;
- WESTERLY: by Parcel A hereinabove described, one hundred seventy-one (171) feet;
- EASTERLY: by other land now or formerly of Seller's grantor, one hundred forty-seven and 87/100 (147.87) feet; and
- NORTHERLY: by other land of Seller, eighty-two and 44/100 (82.44) feet;

Containing 13,190 square feet of land, more or less, according to said plan.

CANCELLED MASSACHUSETTS
 REGISTRY OF DEEDS
 AUG-01-06 998.00

CANCELLED MASSACHUSETTS
 REGISTRY OF DEEDS
 255.00

200


Said premises are also shown as Parcel C on a plan entitled "Plan of Land in Andover, MA, depicting Easements", prepared 1"=20", dated Jan. 19, 1983, drawn by Andover Consultants, Inc., William S. MacLeod, Registered Land Surveyor, which plan has been filed with the Essex North District Registry of Deeds as plan #9209.

Subject to all easements and restrictions of record.

Being the same premises conveyed to the Grantors by Deed of Augustine P. Sheehy, said deed being dated June 12, 1985 and recorded with said deeds at Book 1986, Page 255.

Said premises are conveyed with the benefit of, and subject to, the Easements for access, parking and otherwise, as more fully set forth in a certain document entitled "DECLARATION OF EASEMENTS" by Augustine P. Sheehy dated August 30, 1983 and duly recorded with said Deeds at Book 1715, Page 218.

In addition to all other easements hereinbefore described, Grantor hereby grants to Grantee the following additional easements:

1. Easement No. 1 (Parking easement for the benefit of the herein conveyed premises.) An easement for the parking of motor vehicles, and access to and from said parking spaces, being namely ten (10) parking spaces located on the westerly side of Tantalion Road and being the parking spaces which are currently numbered on the ground as parking spaces numbers 23 through 32 (which said ten parking spaces are also denoted as spaces number 25 through 34 on a certain Plan of Land entitled "Site Plan of Land in Andover, MA, dated April 22, 1986, Malcolm P. McDowel, PE-LS. Said parking spaces are located on Parcel "A" on the previously described Plan No. 9209, and commence with the parking space closest to Haverhill Street, located along the boundary of said Parcel "A" abutting the Shawsheen River (said Parcel "A" being also shown as Parcel "A" on the previously described Plan No. 3511). 
2. Easement No. 2 - (Modification of Easement Areas Nos. 3 and 5 in Declaration of Easements recorded at Book 1715, Page 218.) Additional easement rights over said

easement areas being described as Easement No. 3 and Easement No. 5 on said Plan No. 9202 and in said Declaration of Easements recorded at Book 1715, Page 218, so as to permit the Grantee to install a driveway over portions of said Easement areas to permit access to the front portion of the building located on the premises herein conveyed, being generally described as follows: An easement for vehicular access to the area shown on said Plan No. 9209 as Easement No. 5, said vehicular access easement being comprised of a strip of land 20 feet by 5 feet, said strip commencing approximately 33 feet from the street line so as to permit travel of said strip from Tantalum Road to the premises; in addition, easements for vehicular access over that portion of land shown on said Plan No. 9209 as Easement No. 3, being comprised of a strip of land 10 feet by 40 feet ending with a curb onto the access easement area known as Easement No. 2 on said Plan No. 9209, said strip of land starting approximately 19 feet from the street line.

3. Easement No. 3 - (Granting an access easement over Easement Area No. 2 on Plan No. 9209.) An easement for access for all purposes over that portion of the land shown on Plan No. 9209 as Easement Area No. 2, the within granted easement being for all purposes of travel over said Easement Area No. 2 to and from the premises granted herein.
4. Easement No. 4 - (Walkway easement over herein shown as Easement No. 3 on Plan No. 9209.) Grantor hereby grants an easement over such portion of land on Plan No. 9209 shown as Easement No. 3 thereon, involving a strip of land 5 feet by 30 feet starting approximately 75 feet from the street line, said easement being the right to access for ingress and egress over said strip of land from the premises granted herein out to the access easement shown as Easement No. 2 on said Plan No. 9202.
5. Easement No. 5 - (Parking easement over herein shown as Easement No. 4 on Plan No. 9209.) Grantor hereby reserves a parking easement over a portion of the land on Plan No. 9209 shown as Easement No. 4 thereon, involving a strip of land of varying width, such width not to exceed 9 feet, on the northerly bound of said Easement No. 4; said easement is for the purposes of parking motor vehicles to the south of the building on Parcel B on the aforesaid plan.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 31st day of July, 1986.

Philip K. Allen
Philip K. Allen, Partner of
Shawsheen Village Commerce
Center Partnership

Peter J. Brennan
Peter J. Brennan, Partner of
Shawsheen Village Commerce
Center Partnership

Augustine P. Sheehy
Augustine P. Sheehy, Partner of
Shawsheen Village Commerce
Center Partnership

Daniel M. Brennan
Daniel M. Brennan, Partner of
Shawsheen Village Commerce
Center Partnership

David J. Day
David J. Day, Partner of
Shawsheen Village Commerce
Center Partnership

Theodore W. Robinson, Jr.
Theodore W. Robinson, Jr., Partner
of Shawsheen Village Commerce
Center Partnership

Thomas H. Curtin
Thomas H. Curtin, Partner of
Shawsheen Village Commerce
Center Partnership

Peter M. Foley
Peter M. Foley, Partner of
Shawsheen Village Commerce
Center Partnership

1399R

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Aug 7, 1986

Then personally appeared the above-named, ~~Philip K. Allen,~~
Peter J. Brennan, Augustine P. Sheehy, Daniel M. Brennan, David
J. Day, ~~Theodore W. Robinson, Jr.,~~ Thomas H. Curtin and Peter
M. Foley, Partners as aforesaid and acknowledged the foregoing
instrument to be their free act and deed, before me,

Notary Public
Notary Public
My Commission Expires: 8-1-91



LOCUS PLAN
as shown

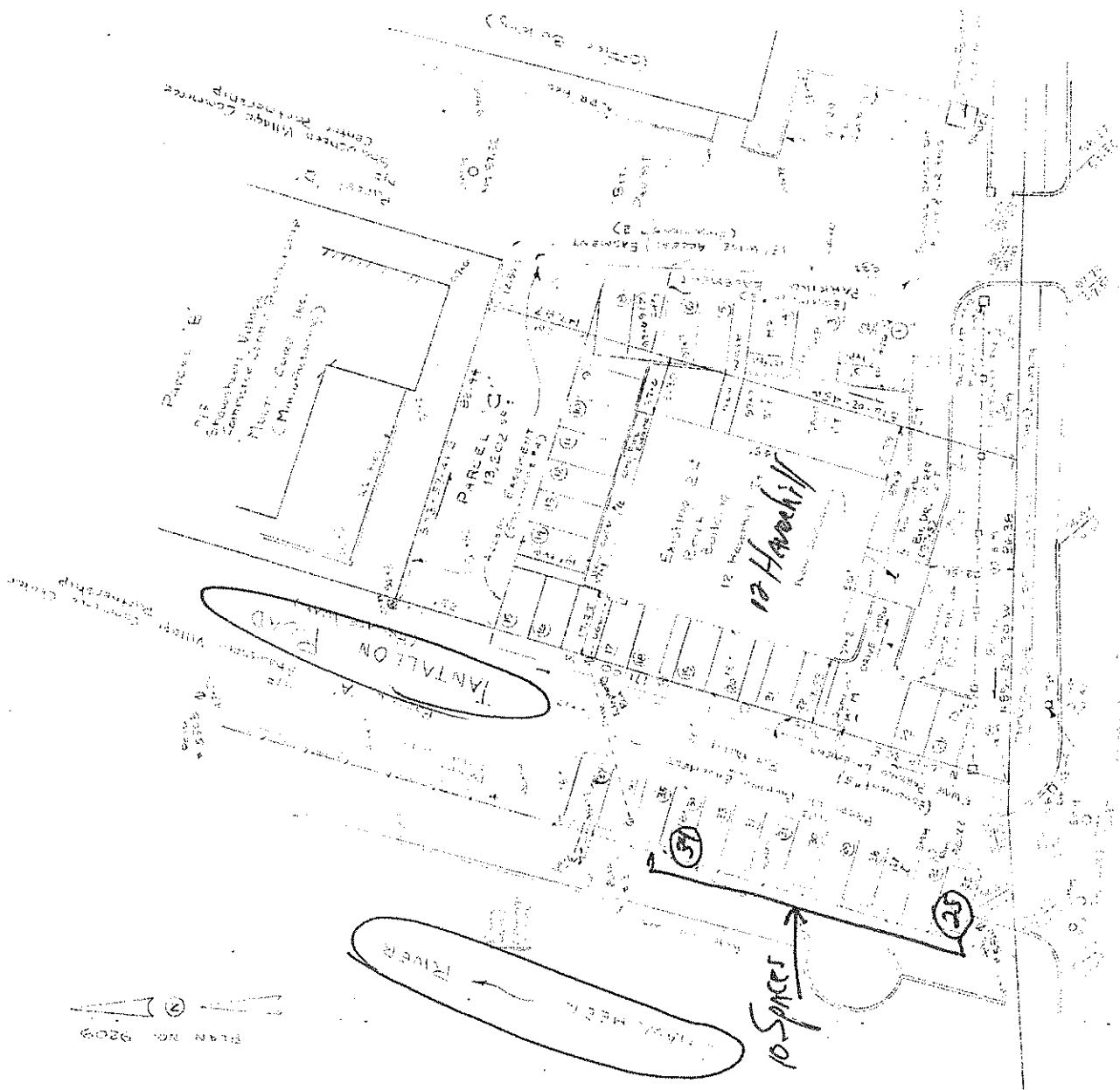
NOTES:

- 1) Precising line was established from PLAN No. 9204 effective Aug 8 1983 at North Street corner corner boundary.
- 2) Precising line at street of intersection will be covered by this project, remaining quantities shall be shown on plan.
- 3) All utilities and existing structures are not to be disturbed and shown on plan are not shown on this plan.
- 4) Parcel C is parcel 1A 10 west of parcel B.
- 5) Enclosure 1 is the boundary of Parcel B/C.
- 6) Enclosure 2 is the boundary of Parcel C.
- 7) Enclosure 3 is the boundary of Parcel B/C.
- 8) Enclosure 4 is the boundary of Parcel B/C.
- 9) Enclosure 5 is the boundary of Parcel C.

LEGEND

- 10' Easement
- 20' Easement
- 30' Easement
- 40' Easement
- 50' Easement
- 60' Easement
- 70' Easement
- 80' Easement
- 90' Easement
- 100' Easement
- 110' Easement
- 120' Easement
- 130' Easement
- 140' Easement
- 150' Easement
- 160' Easement
- 170' Easement
- 180' Easement
- 190' Easement
- 200' Easement

SITE PLAN - LAND MANAGER MA	
Submitted by: USRA NATIONAL BANK	
SCALE 1" = 20'	APPROVED BY:
DATE AND TIME:	DATE BY:
OWNER: USRA NATIONAL BANK	
PROJECT: 100' x 100' PARCEL C/A	
Submitted by: [Signature]	
DATE: [Date]	
BY: [Signature]	



HAYWARD STREET

Melan P. [Signature] 4-20-84