

RECEIVED BY
OFFICE OF CITY CLERK
RACKEMANN, SAWYER & BREWSTER

PROFESSIONAL CORPORATION
1985 OCT 21 AM 10:06
COUNSELLORS AT LAW

ONE FINCH STREET
CAMBRIDGE MA.
BOSTON, MASSACHUSETTS 02111

AREA CODE 617-542-2300

TELECOPIER 617-542-7437

RICHARD H. LOVELL
WILLIAM B. TYLER
DAVID G. COIT
GEORGE V. ANASTAS
PETER W. KILBORN
HENRY H. THAYER
BRIAN S. MEYER
JOSEPH L. SERAFINI
STEPHEN CARR ANDERSON
LAWRENCE E. KAPLAN
ALBERT M. FORTIER, JR.
MICHAEL F. O'CONNELL
JOHN J. GRIFFIN, JR.
STUART T. FREELAND
RAYMOND J. BRASSARD
ALAN B. RUBENSTEIN
BARBARA KIND PERRY
MARTIN R. HEALY
RICHARD TELLER

OF COUNSEL
ROGER B. TYLER
ALBERT B. WOLFE
AUGUST R. MEYER

COUNSEL
HAROLD J. CARROLL

JAMES R. SHEA, JR.
KEVIN J. TOOMEY
BRIAN M. HURLEY
MALCOLM PITTMAN
JANET M. SMITH
JOHN T. CARROLL
PETER FRIEDENBERG
RICHARD S. NOVAK
CHRISTINE DONELAN HUBBARD
JOHN J. O'BRIEN
STEVEN J. MASTROVICH
JAMES A. MORAN
JANE H. PITT
DANIEL J. OSSOFF
ANN CLAFFEY
BARBARA E. HUNT
JOHN E. McELHINNEY
JUDITH R. PIKE
WILLIAM F. BRADY
A. JAMES CASNER III
NICOLE LACCETTI RIVES
SANFORD M. MATATHIA
RUTH R. ARONSON

October 17, 1985

Mr. Joseph Connarton,
Deputy City Clerk
City of Cambridge
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Re: NYNEX/Polaroid Order adopted October 7, 1985

Dear Mr. Connarton:

Thank you very much for your assistance with the above-referenced matter. I have received the certified copies that I requested.

I am enclosing the original executed Order so that it can be recorded by the City Clerk "in books kept exclusively therefor" as required by M.G.L. Chapter 166, Section 22. I am also enclosing the statutory recording fee of \$4.00 pursuant to M.G.L. Chapter 262, Section 34, Clause 62.

Thank you again for you assistance.

Very truly yours,



Ruth R. Aronson

Enclosures

RRA/smg



City of Cambridge

17.

COUNCILLOR WALTER SULLIVAN

IN CITY COUNCIL

October 7, 1985

ORDERED: Pursuant to Massachusetts General Laws (M.G.L.) Chapter 166, Section 22, the undersigned hereby grant permission to Polaroid Corporation to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the following public way or ways:

Main Street
Portland Street

Along the route substantially shown on the attached plan filed with the City Council.

<u>Alfredo La Rosa</u>	<u>Alan P. Wolf</u>
<u>Thomas W. Donohy</u>	<u>Daniel J. Clinton</u>
<u>David E. Sullivan</u>	<u>Sandra Shepard</u>
<u>Walter J. Sullivan</u>	<u>Robert Vellucci</u>
	<u>Wm. H. Aubrey</u>

In City Council October 7, 1985

Adopted by a yea and nay vote:-

Yeas ⁹; Nays ⁰; Absent ⁰.

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the 7th day of October, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as owner of the underground conduit facilities.

Attest:-

Paul E. Healy
Clerk of the City of Cambridge.

ACCEPTANCE

Polaroid Corporation hereby accepts without reservation the above Order of the City Council adopted on the 7th day of October, 1985, with the conditions, terms and provisions contained therein and the ordinances of the City and future amendments therof. Polaroid further agrees to carry out, observe, perform and be subject to the same.

Dated: October 10, 1985

POLAROID CORPORATION

By: Edward R. Bedrosian
Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

I HEREBY CERTIFY that the full executed Order was recorded in accordance with the requirements of M.G.L. Chapter 166, Section 22, in books kept exclusively thereafter in the office of the City Clerk on the 10th day of October, 1985.

ATTEST:-

Paul E. Leahy
Clerk of the City of Cambridge

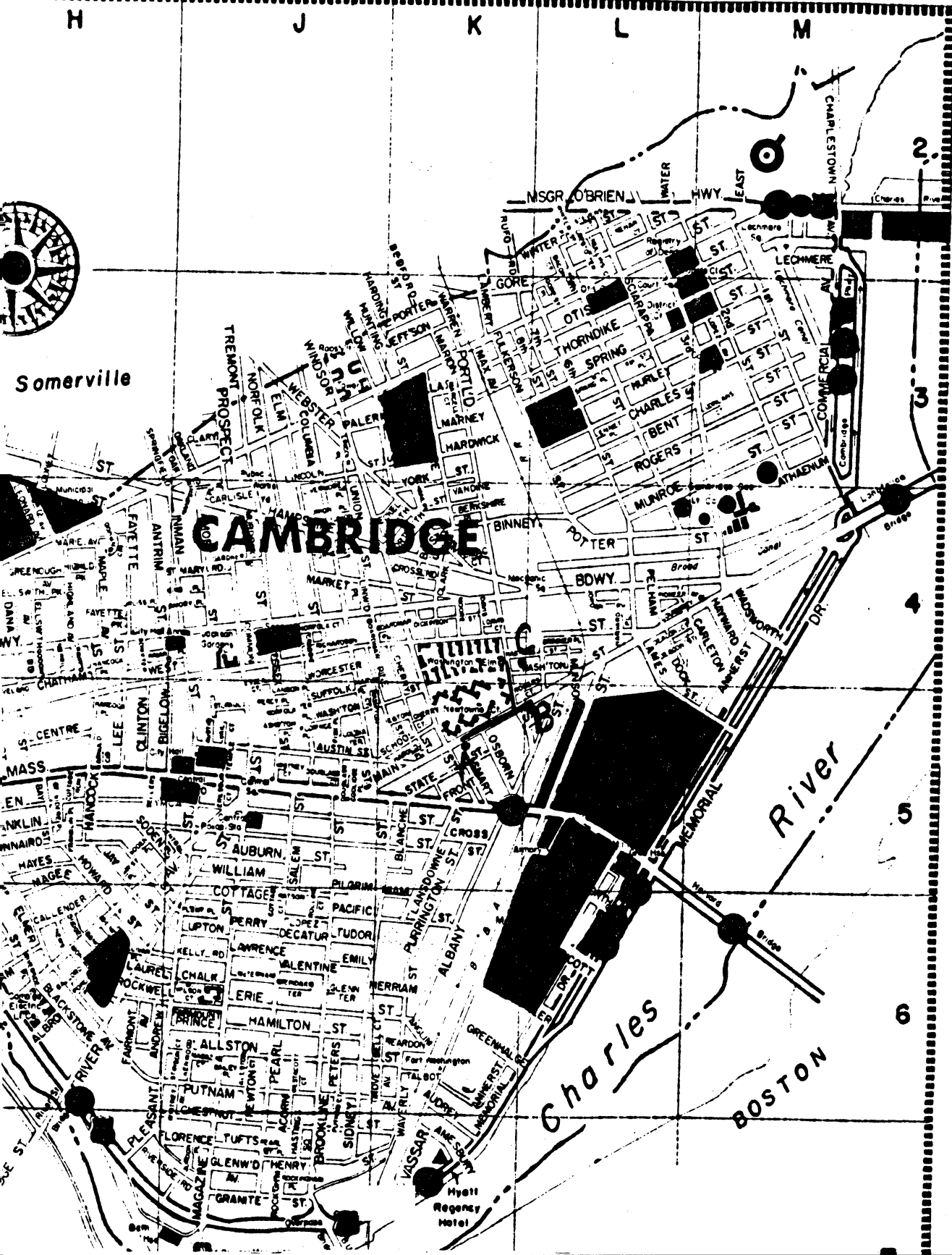
C. BRENDON NOONAN & CO. Real Estate

Commercial • Industrial • Residential
Appraisers • Auctioneers

323 Broadway
CAMBRIDGE, MA. 02139 (617) 876-3500

- "A" 750 Main Street
- "B" 600 Main Street
- "C" 565 Tech Square

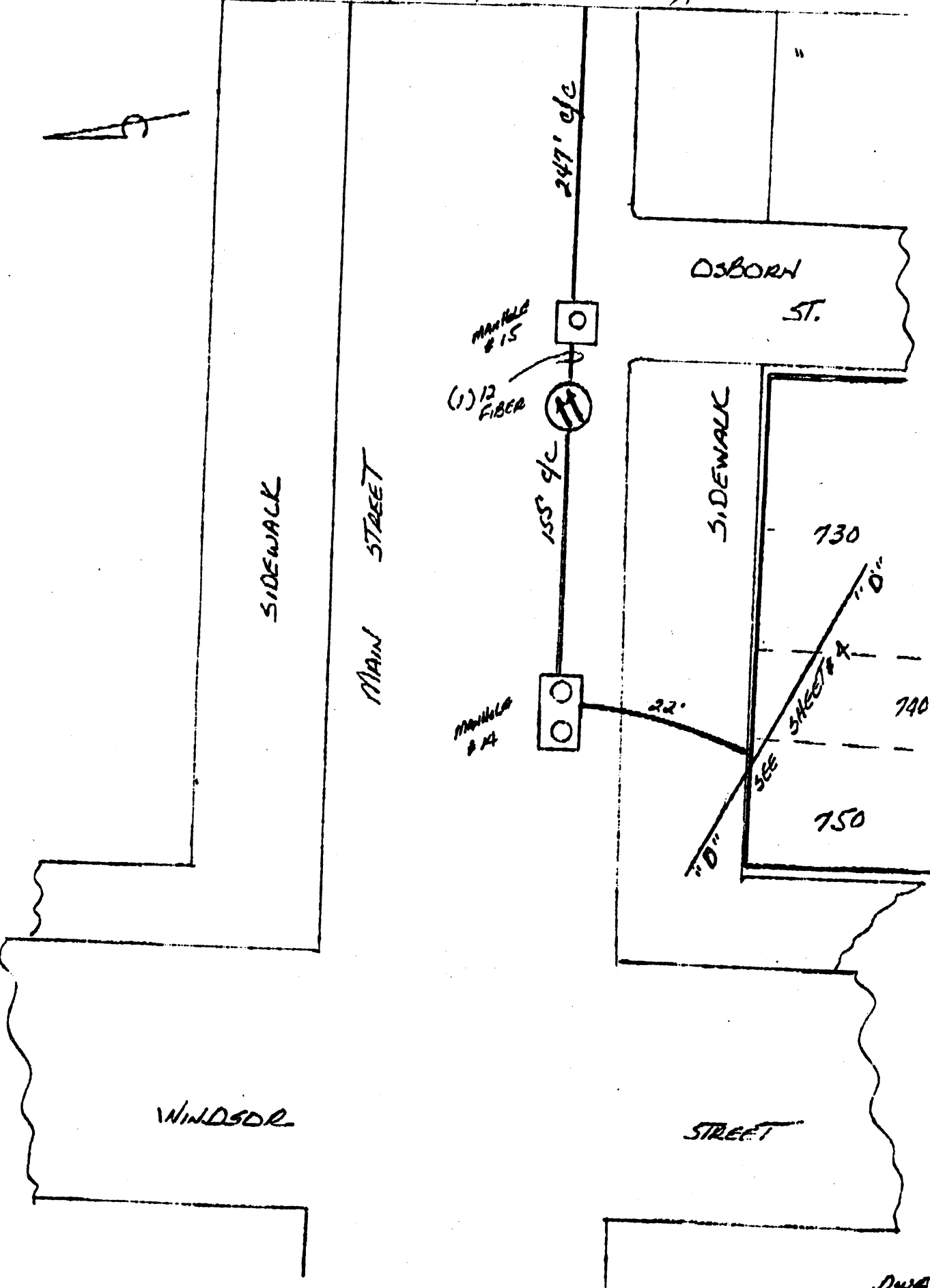
LOCATION OF EXISTING UNDERGROUND
CONDUIT FACILITIES CONNECTING
THREE POLAROID CORPORATION
FACILITIES ("A", "B" and "C")
IN CAMBRIDGE, MA



POLAROID CORP. - CAMBRIDGE

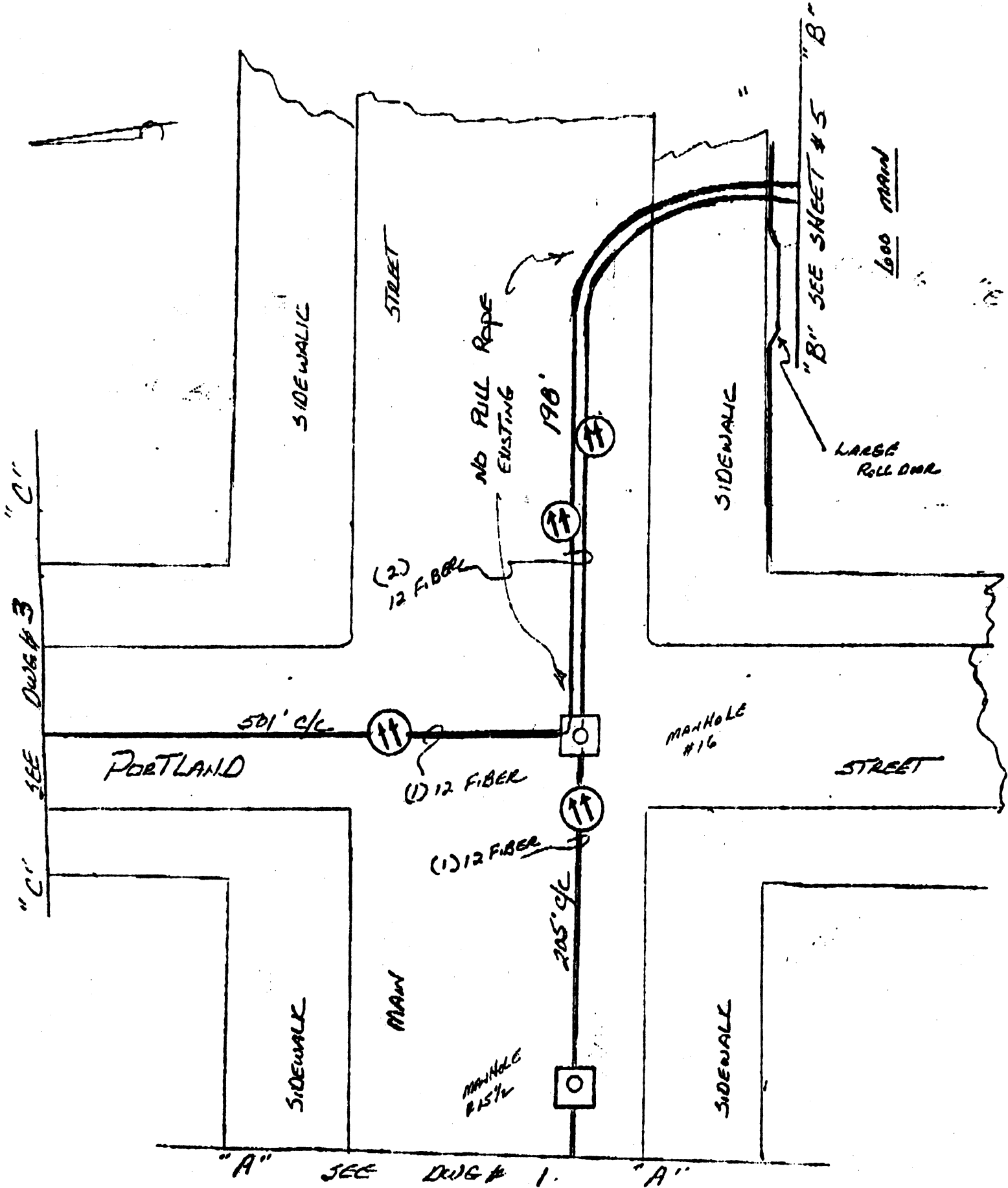
"A" SEE SHEET # 2

"A"



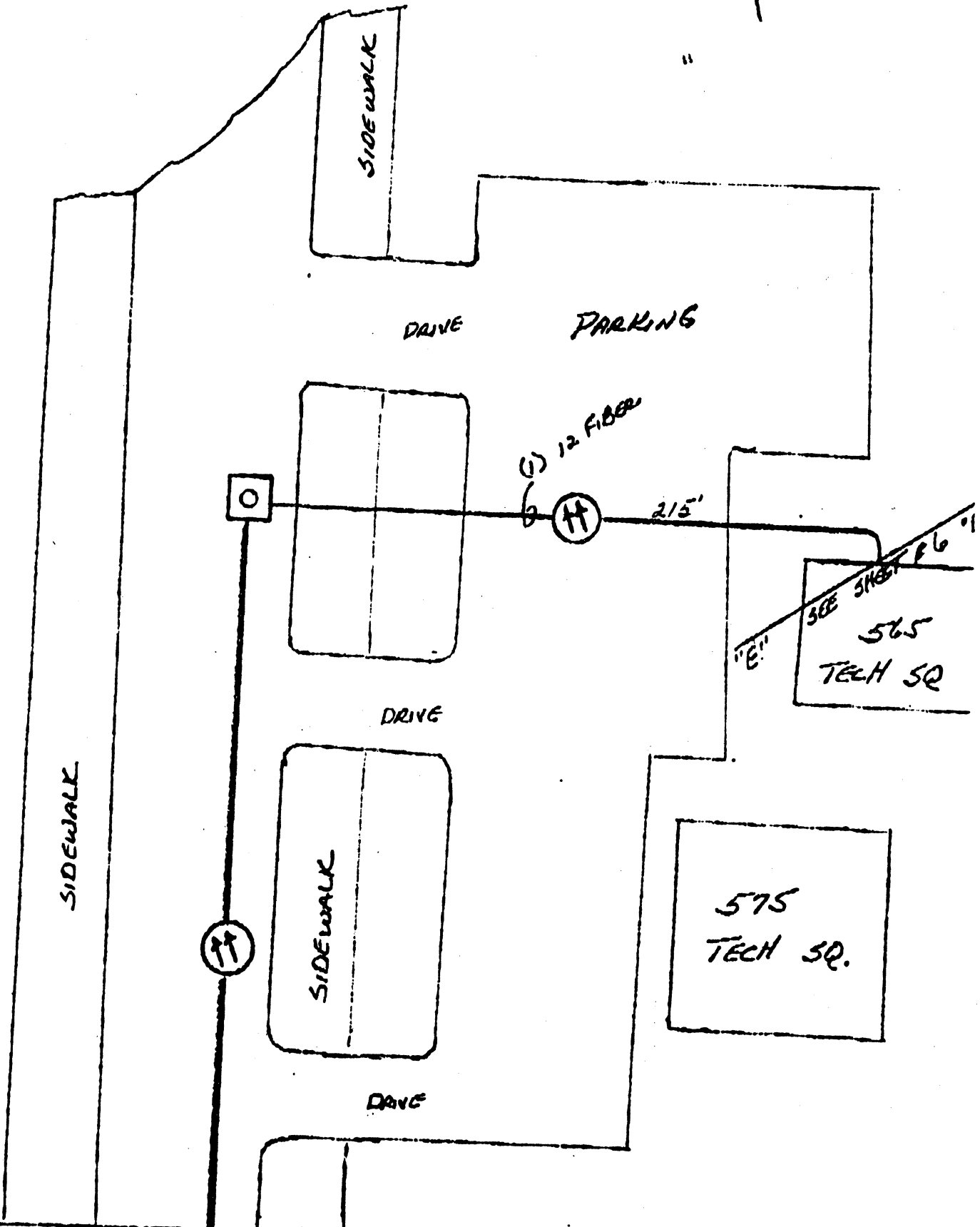
NO SCALE

DWG # 1



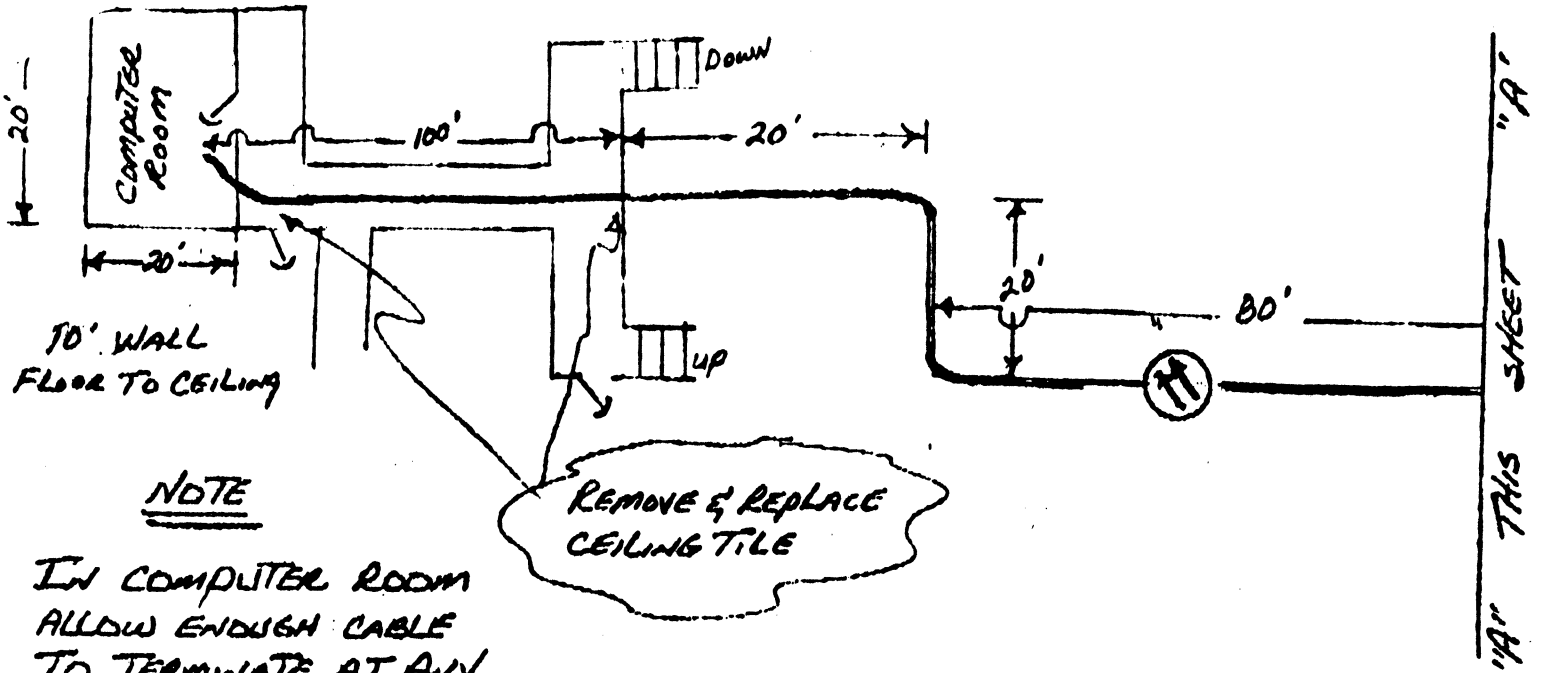
NO SCALE

DWG . .



"C" SEE SHEET # 2 "C"

NO SCALE
SHEET # 3



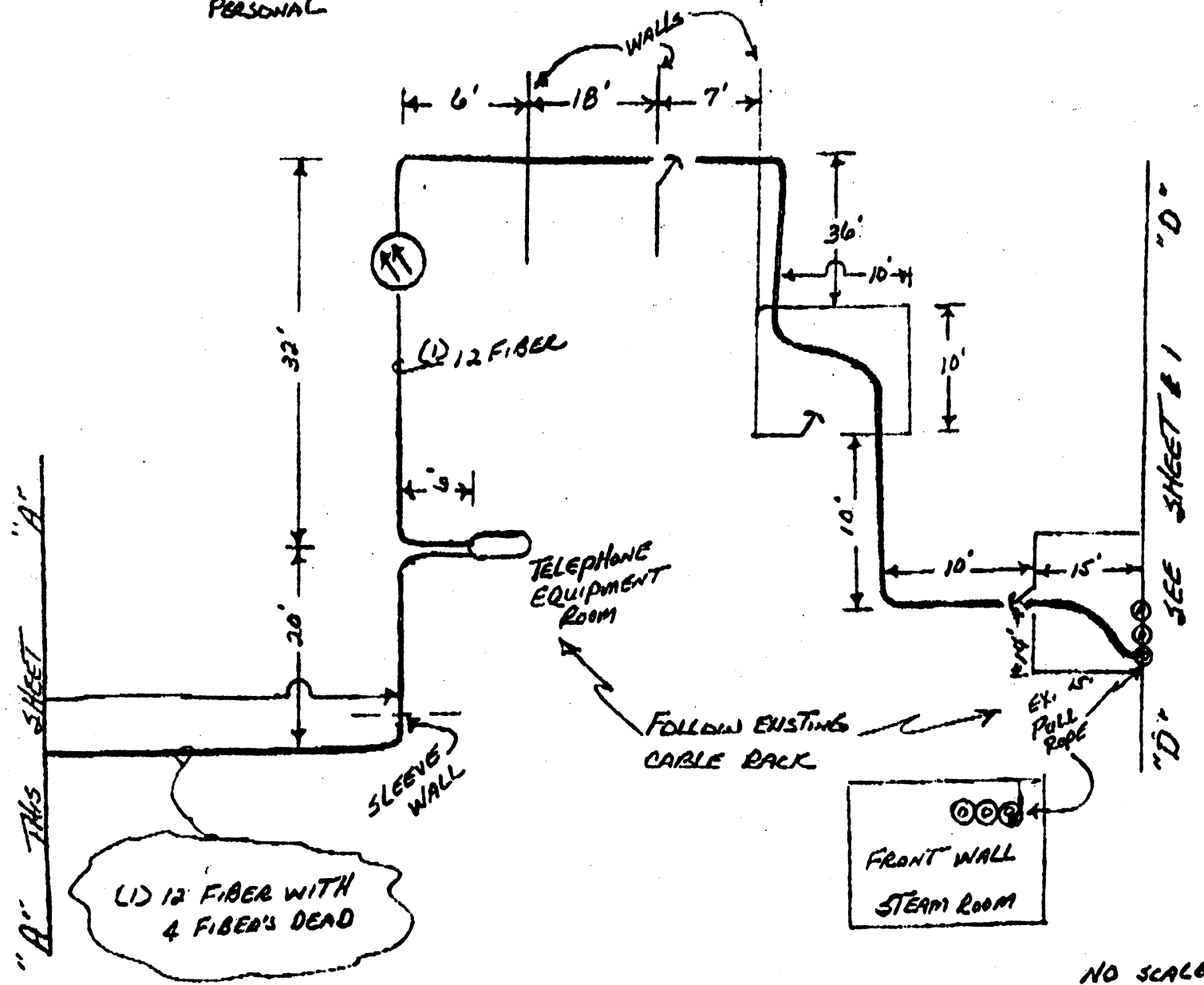
NOTE

IN COMPUTER ROOM
ALLOW ENOUGH CABLE
TO TERMINATE AT ANY
LOCATION

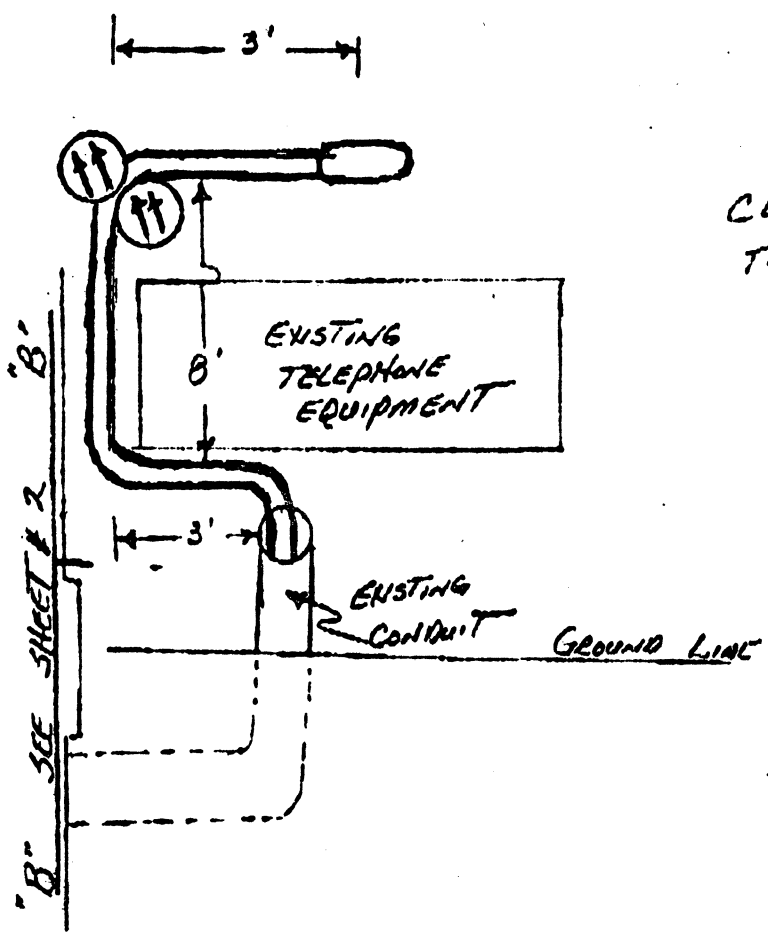
REMOVE & REPLACE
CEILING TILE

750 MAIN STREET

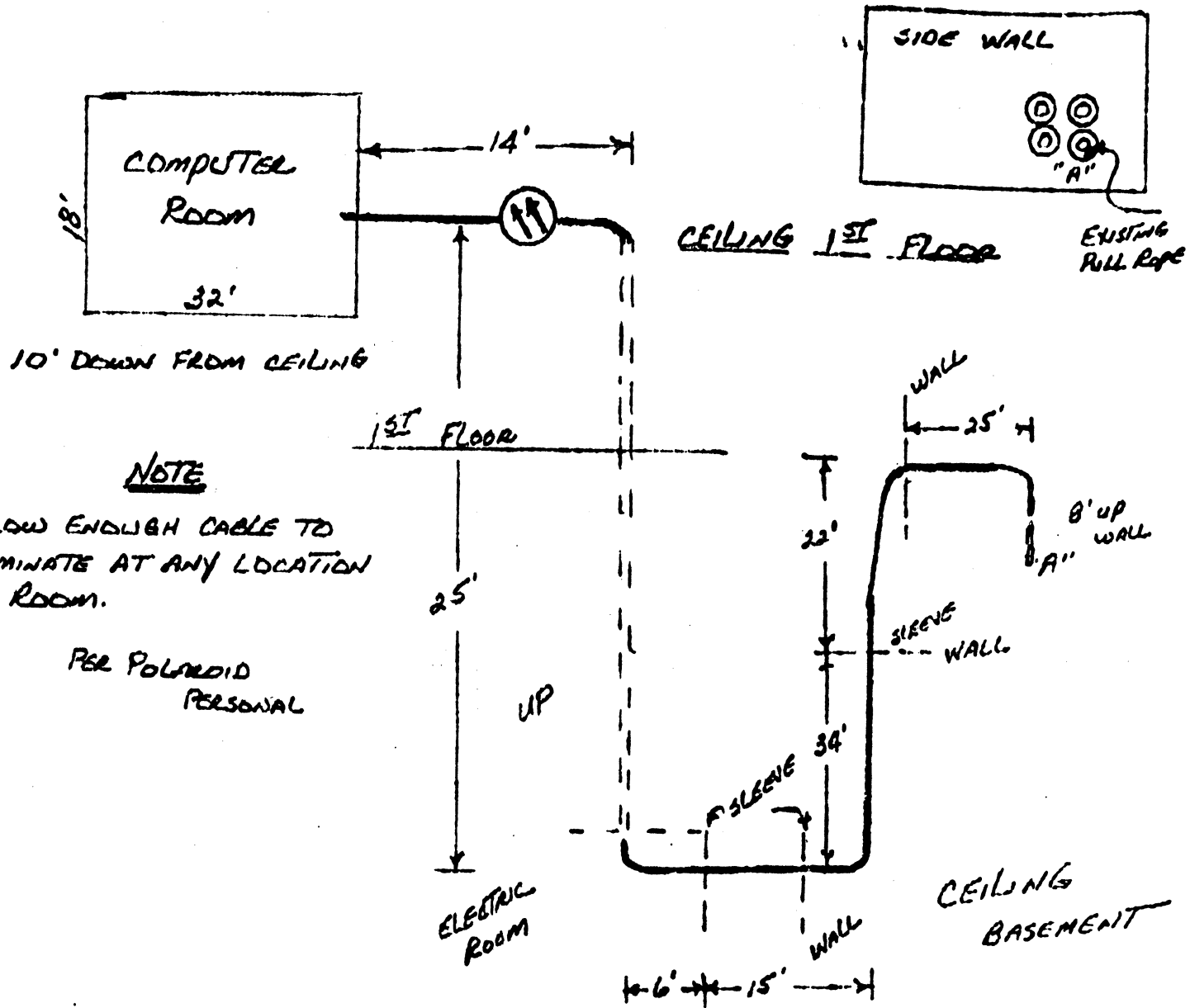
PER POLAROID
PERSONAL



600 MAIN STREET



565 TECH SQUARE



NOTE
 ALLOW ENOUGH CABLE TO
 TERMINATE AT ANY LOCATION
 IN ROOM.

PER POLAROID
 PERSONAL

STRAP CABLE TO EXISTING CONDUITS

NO SCALE

SHEET # 6

P 625 670 379

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

★ U.S.G.P.O. 1983-403-517

PS Form 3800, Feb. 1982

Sent to		John Ahearn, NET
Street and No.		245 State Street
P.O., State and ZIP Code		Boston, MA 02109
Postage		\$
Certified Fee		
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to whom and Date Delivered		
Return receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees		\$
Postmark or Date		

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.



City of Cambridge

17.

COUNCILLOR WALTER SULLIVAN

IN CITY COUNCIL

October 7, 1985

ORDERED: Pursuant to Massachusetts General Laws (M.G.L.) Chapter 166, Section 22, the undersigned hereby grant permission to Polaroid Corporation to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the following public way or ways:

Main Street
Portland Street

Along the route substantially shown on the attached plan filed with the City Council.

<u>Alfredo LaRosa</u>	<u>Alan P. Wolf</u>
<u>Thomas W. Donohy</u>	<u>Daniel J. Clinton</u>
<u>David E. Sullivan</u>	<u>Sandra Liskow</u>
<u>Walter J. Sullivan</u>	<u>Joseph Bellucci</u>
	<u>Wm. H. Aubrey</u>

In City Council October 7, 1985
Adopted by a ye and nay vote:-
Yeas ⁹; Nays ⁰; Absent ⁰.
Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk.

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the 7th day of October, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as owner of the underground conduit facilities.

Attest:-

Paul E. Healy
Clerk of the City of Cambridge.

ACCEPTANCE

Polaroid Corporation hereby accepts without reservation the above Order of the City Council adopted on the 7th day of October, 1985, with the conditions, terms and provisions contained therein and the ordinances of the City and future amendments therof. Polaroid further agrees to carry out, observe, perform and be subject to the same.

POLAROID CORPORATION

Dated:

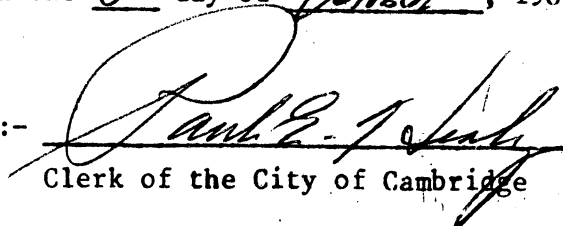
By: _____

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

I HEREBY CERTIFY that the full executed Order was recorded in accordance with the requirements of M.G.L. Chapter 166, Section 22, in books kept exclusively thereafter in the office of the City Clerk on the 7th day of October, 1985.

ATTEST:-


Clerk of the City of Cambridge

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Dated:

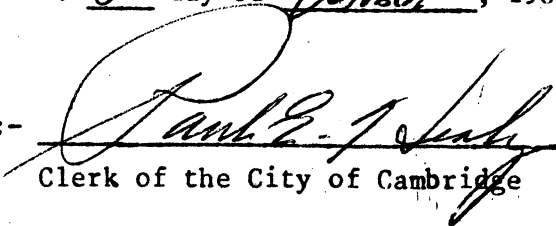
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City of Cambridge

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<u>Thomas W. Donohy</u>	<u>Daniel J. Clinton</u>
<u>David E. Sullivan</u>	<u>Sandra Liskow</u>
<u>Kath. J. Sullivan</u>	<u>Joseph Bellucci</u>
	<u>Wm. H. Aubrey</u>

In City Council October 7, 1985

Adopted by a ye and nay vote:-

Yeas 9; Nays 0; Absent 0

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the 7th day of October, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as owner of the underground conduit facilities.

Attest:-

Paul E. Healy
Clerk of the City of Cambridge.



City of Cambridge

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David E. Sullivan

Kathleen J. Sullivan

Alan P. Wolf

Daniel J. Clinton

Sandra L. Graham

Joseph V. Bellucci

Wm. H. Aubrey

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Paul E. Healy, City Clerk

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Attest:-

Paul E. Healy
Clerk of the City of Cambridge.

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POLAROID CORPORATION

Dated:

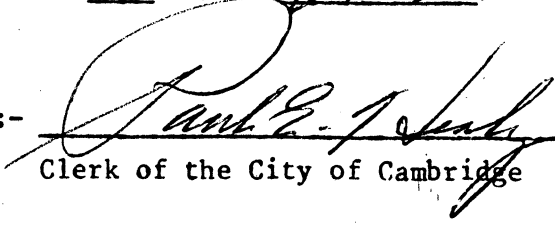
By: _____

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

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City of Cambridge

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Joseph Bellucci

Wm. H. Aubrey

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Yeas ⁹; Nays ⁰; Absent ⁰.

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk.

CERTIFICATION

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Attest:-

Paul E. Healy
Clerk of the City of Cambridge.

ACCEPTANCE

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POLAROID CORPORATION

Dated:

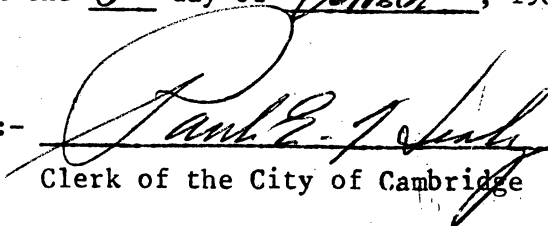
By: _____

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

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City of Cambridge

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<u>Thomas W. Darnell</u>	<u>Daniel J. Clinton</u>
<u>David E. Sullivan</u>	<u>Sandra G. Sporn</u>
<u>Walter J. Sullivan</u>	<u>Joseph Bellucci</u>
	<u>Wm. H. Aubrey</u>

In City Council October 7, 1985
Adopted by a ye and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the 7th day of October, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as owner of the underground conduit facilities.

Attest:-

Paul E. Healy
Clerk of the City of Cambridge.

ACCEPTANCE

Polaroid Corporation hereby accepts without reservation the above Order of the City Council adopted on the 7th day of October, 1985, with the conditions, terms and provisions contained therein and the ordinances of the City and future amendments therof. Polaroid further agrees to carry out, observe, perform and be subject to the same.

POLAROID CORPORATION

Dated:

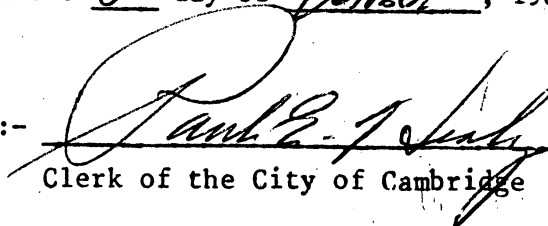
By: _____

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Vice President and
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CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the ___ day of _____, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as the owner of the underground conduit facilities.

Attest:

Clerk of the City of Cambridge

ACCEPTANCE

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Dated:

POLAROID CORPORATION

By:

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

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Attest:

Clerk of the City of Cambridge



C. BRENDON NOONAN & CO. Real Estate

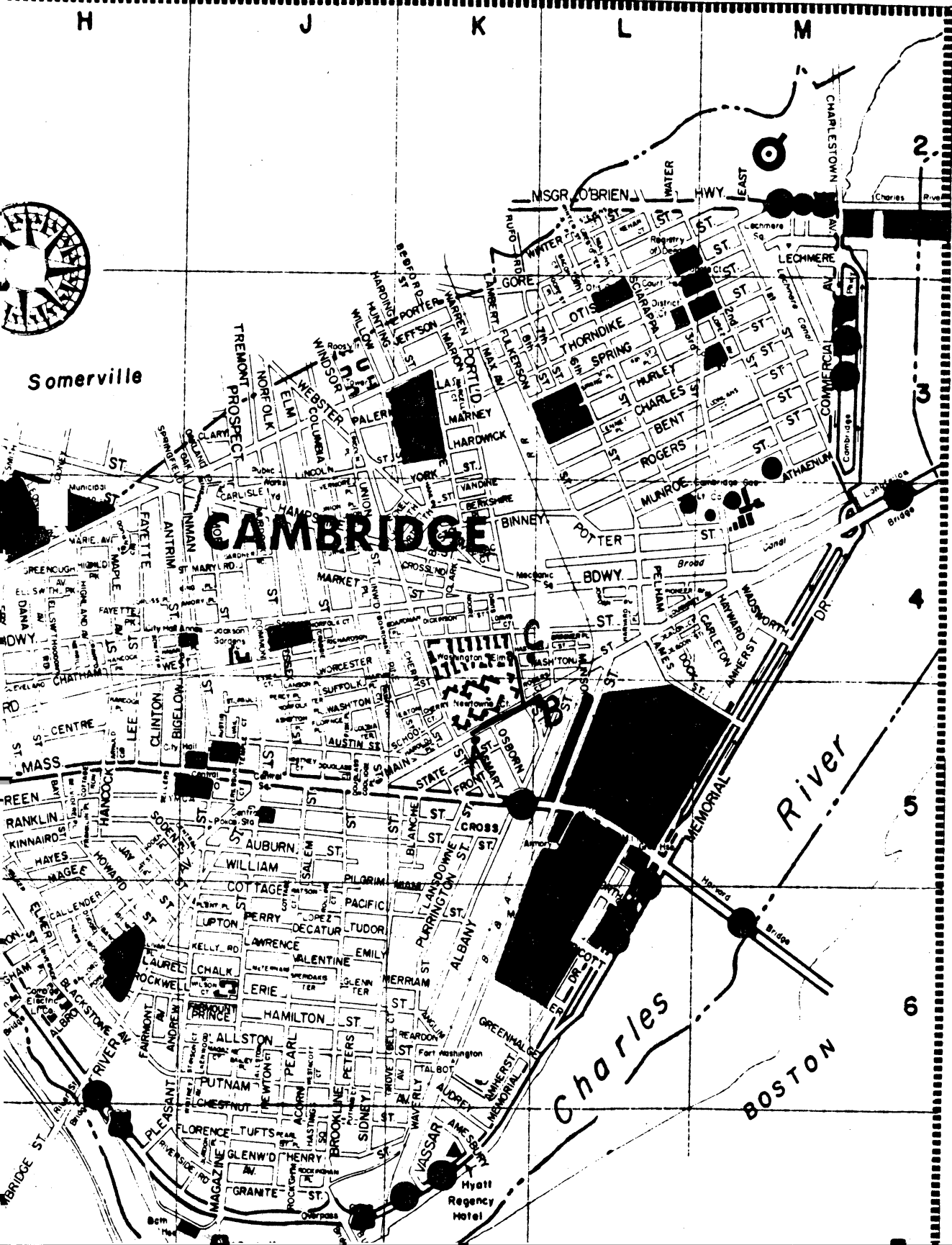
Commercial • Industrial • Residential
Appraisers • Auctioneers

323 Broadway
CAMBRIDGE, MA. 02139

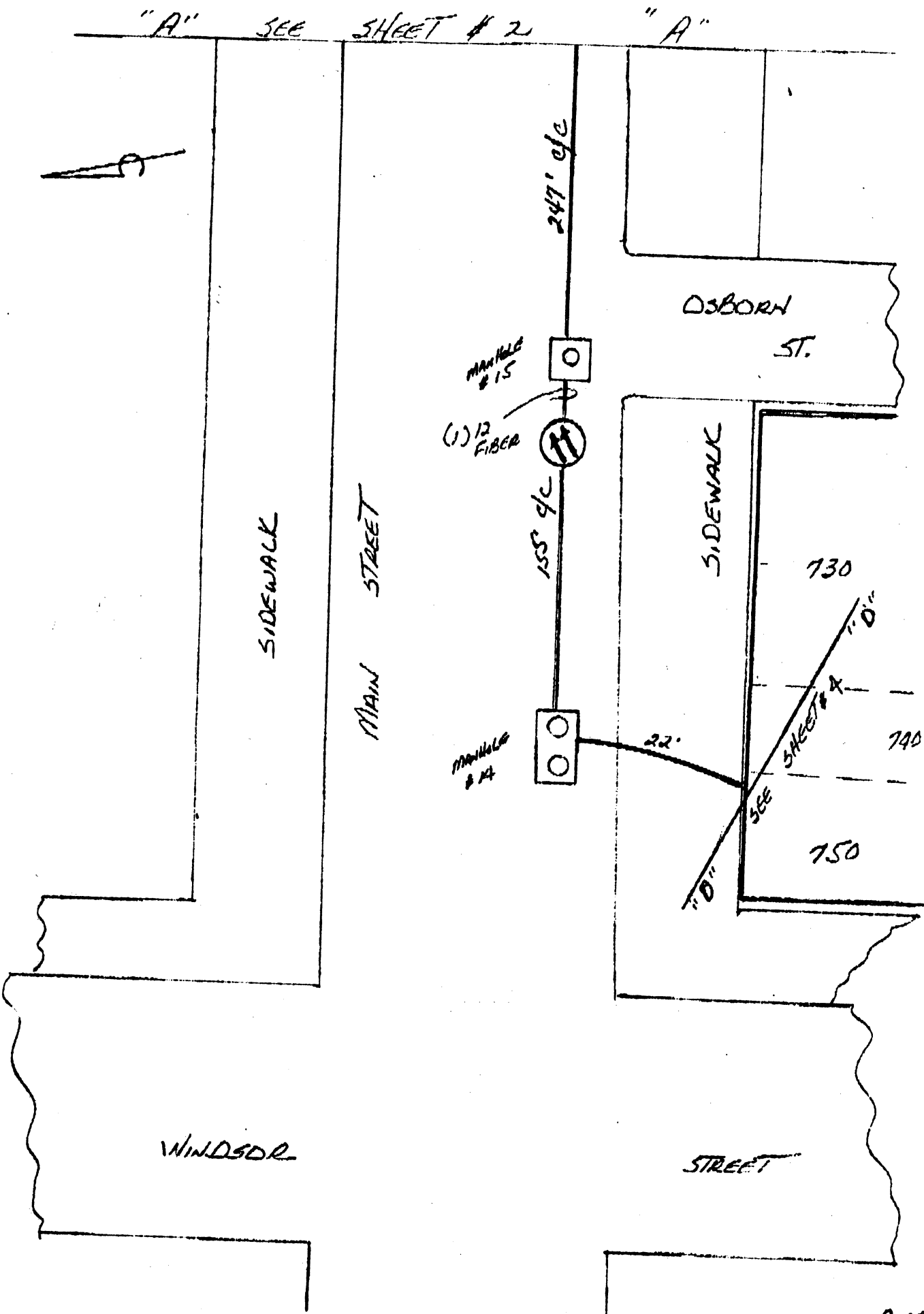
(617) 876-3500

- "A" 750 Main Street
- "B" 600 Main Street
- "C" 565 Tech Square

LOCATION OF EXISTING UNDERGROUND
CONDUIT FACILITIES CONNECTING
THREE POLAROID CORPORATION
FACILITIES ("A", "B" and "C")
IN CAMBRIDGE, MA

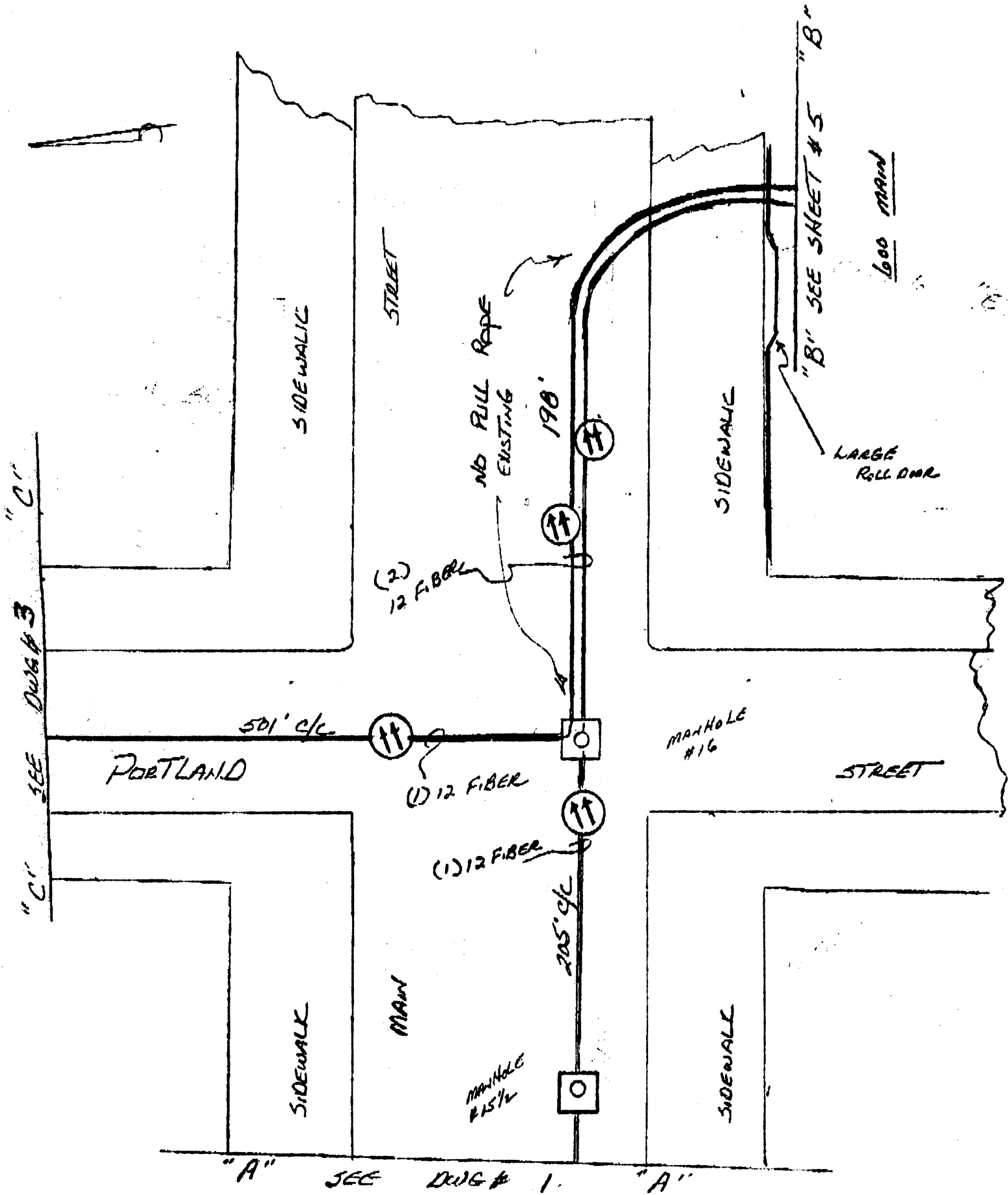


POLAROID CORP. - CAMBRIDGE



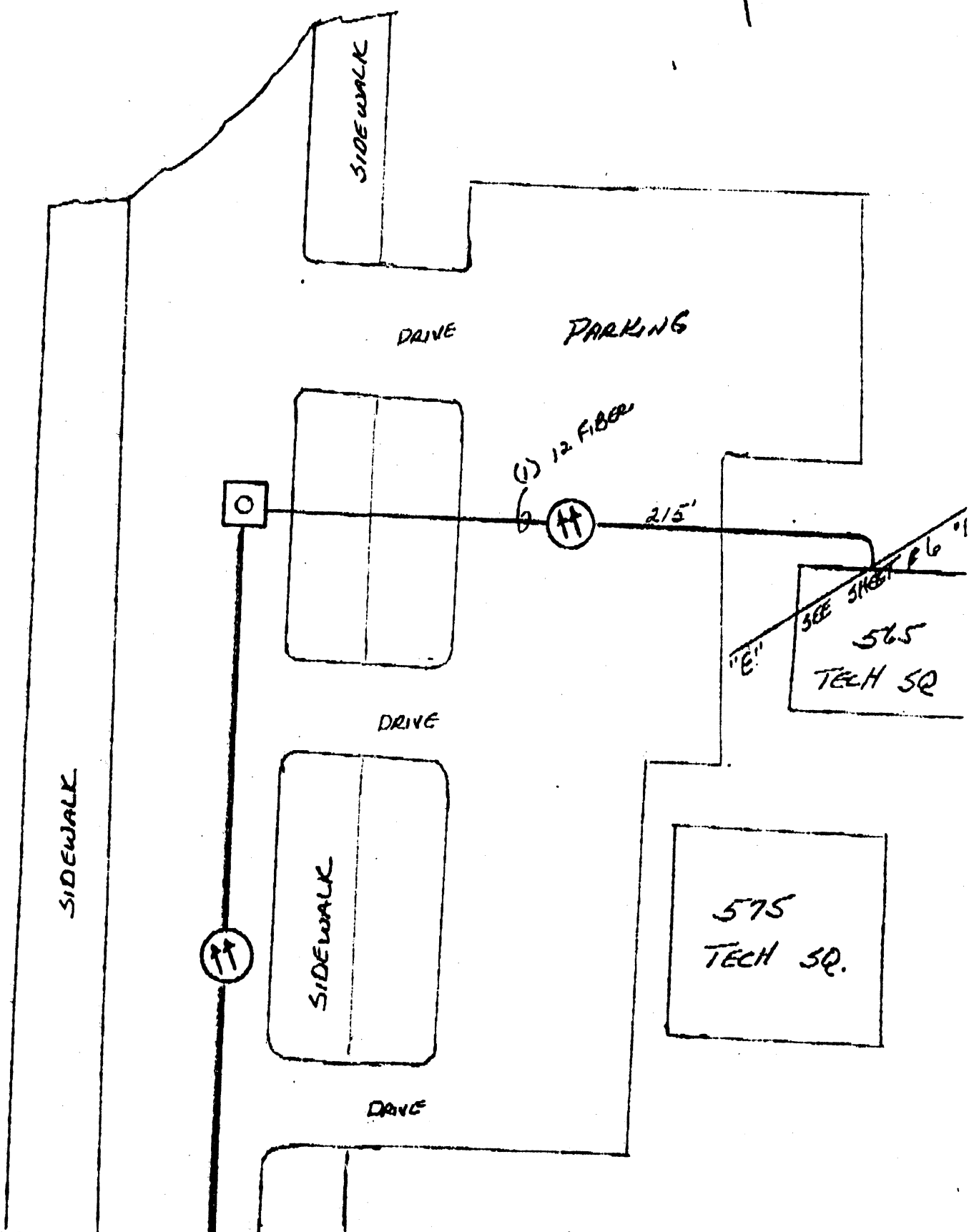
NO SCALE

DWG # 1



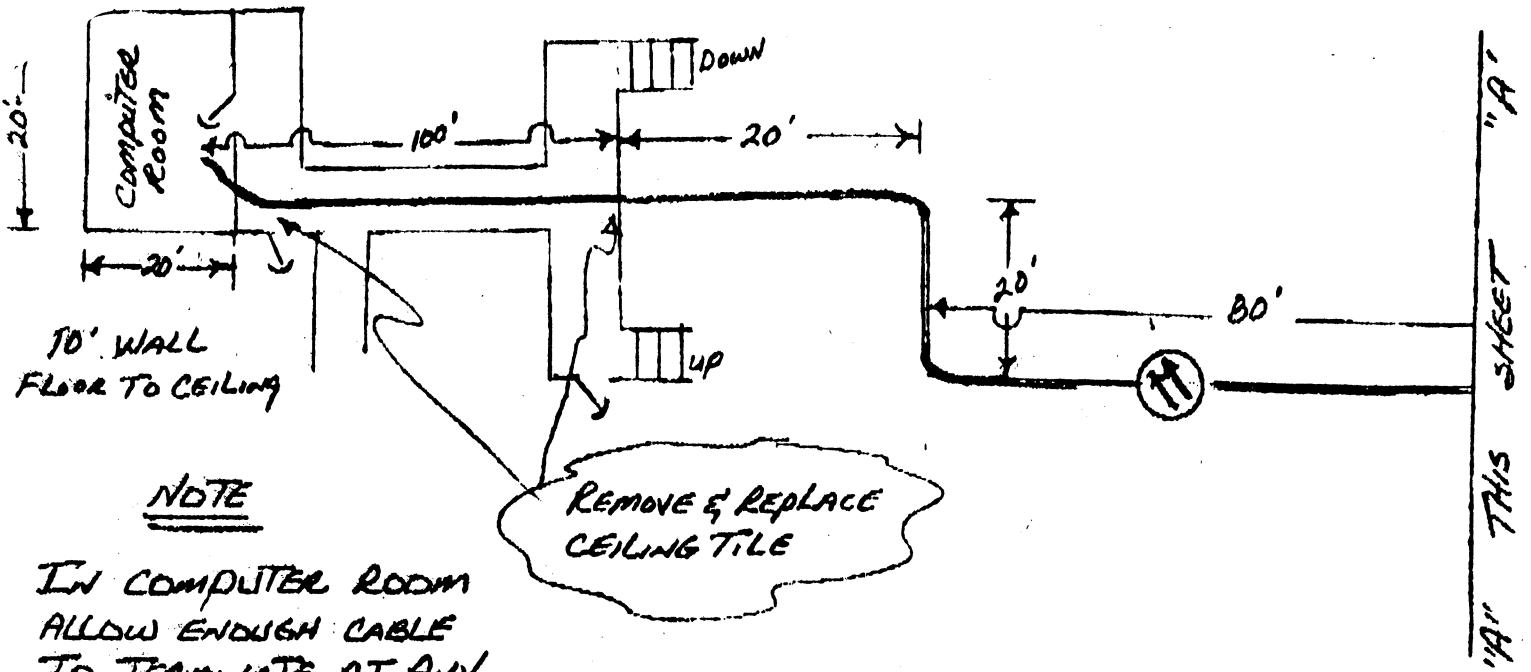
NO SCALE

DWG . . .



"C" SEE SHEET # 2 "C"

NO SCALE
SHEET # 3



10' WALL
FLOOR TO CEILING

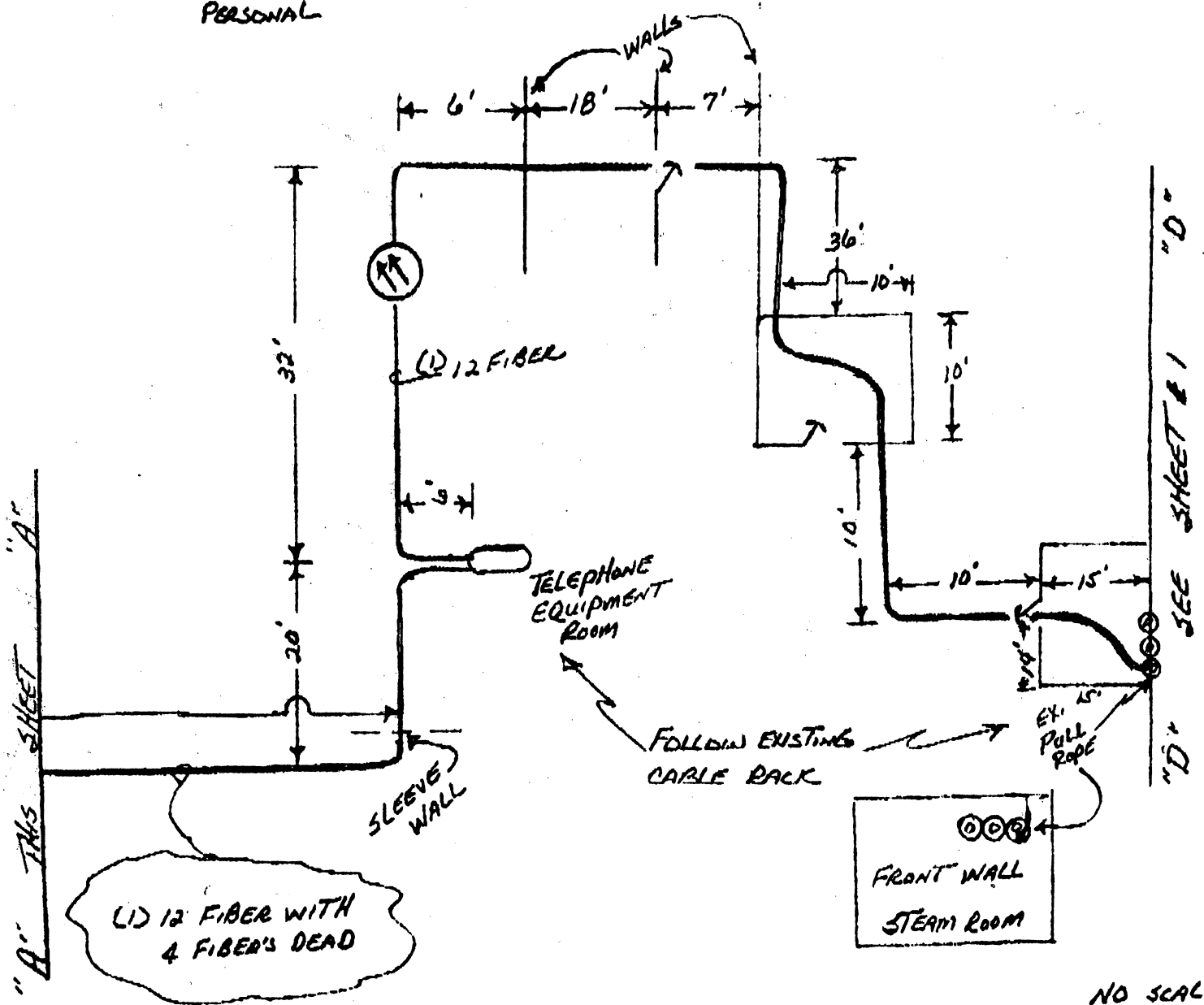
NOTE

IN COMPUTER ROOM
ALLOW ENOUGH CABLE
TO TERMINATE AT ANY
LOCATION

REMOVE & REPLACE
CEILING TILE

750 MAIN STREET

PER POLAROID
PERSONAL



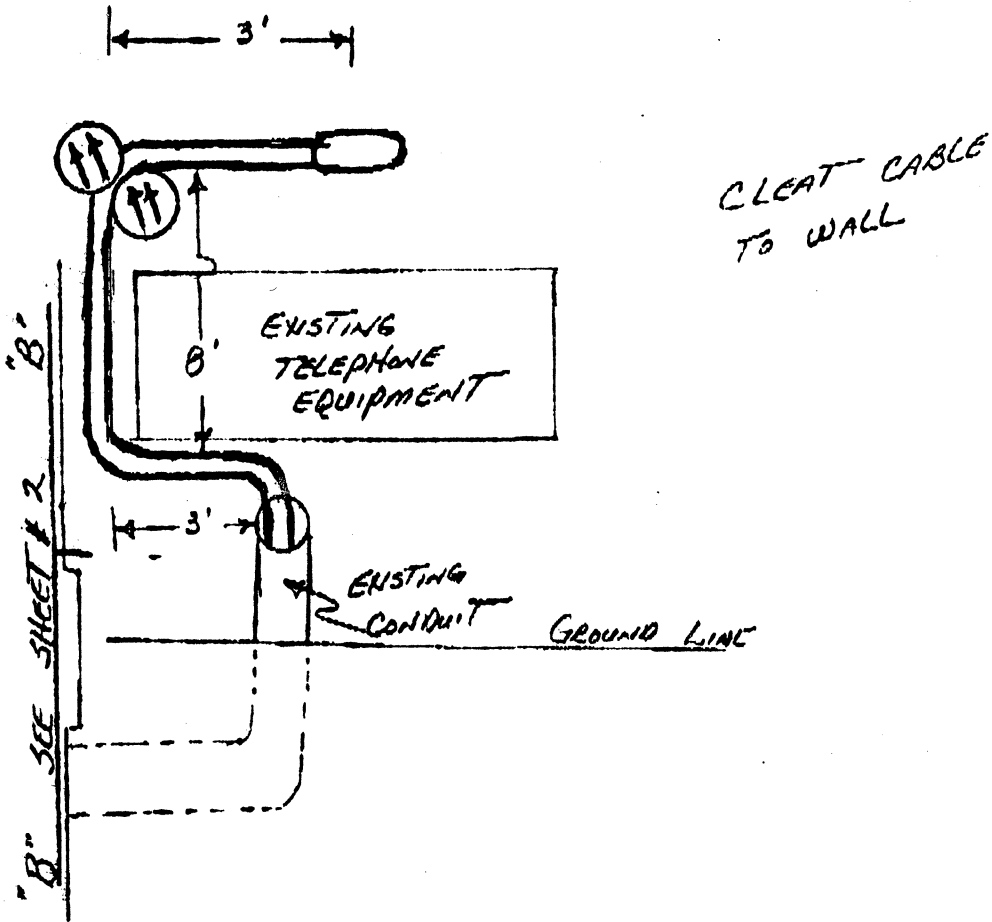
L12 FIBER WITH
4 FIBER'S DEAD

TELEPHONE
EQUIPMENT
ROOM

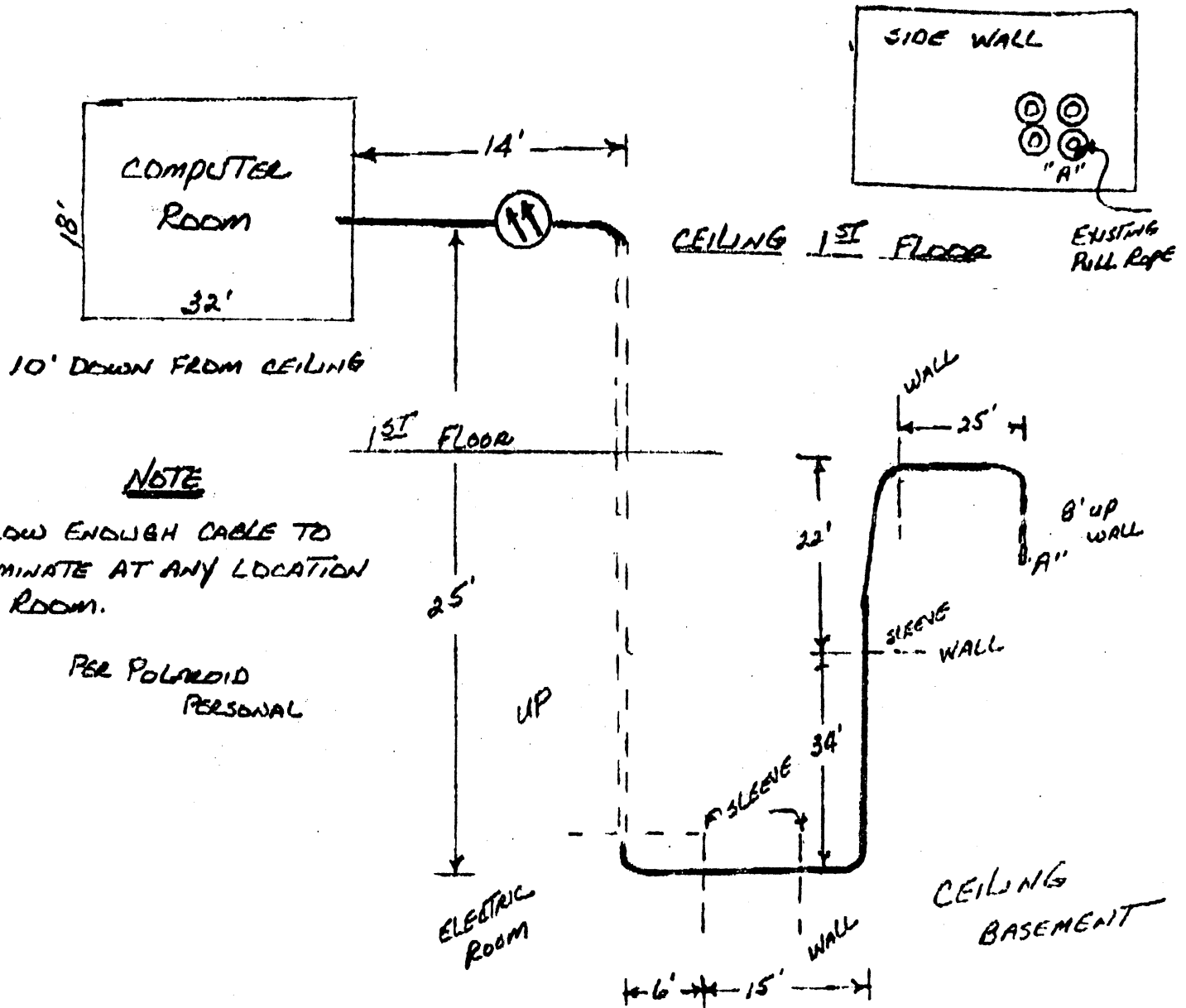
FOLLOW EXISTING
CABLE BACK

FRONT WALL
STEAM ROOM

600 MAIN STREET



565 TECH SQUARE



STRAP CABLE TO EXISTING CONDUITS

NO SCALE

SHEET # 6

ORDER

Pursuant to Massachusetts General Laws (M.G.L.) Chapter 166, Section 22, the undersigned hereby grant permission to Polaroid Corporation to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the following public way or ways:

Main Street
Portland Street

Along the route substantially shown on the attached plan filed with the City Council.

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the ____ day of _____, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as the owner of the underground conduit facilities.

Attest:

Clerk of the City of Cambridge

ACCEPTANCE

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Dated:

POLAROID CORPORATION

By:

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

I HEREBY CERTIFY that the fully executed Order was recorded in accordance with the requirements of M.G.L. Chapter 166, Section 22, in books kept exclusively therefor in the office of the City Clerk on the ____ day of _____, 1985.

Attest:

Clerk of the City of Cambridge



C. BRENDON NOONAN & CO. Real Estate

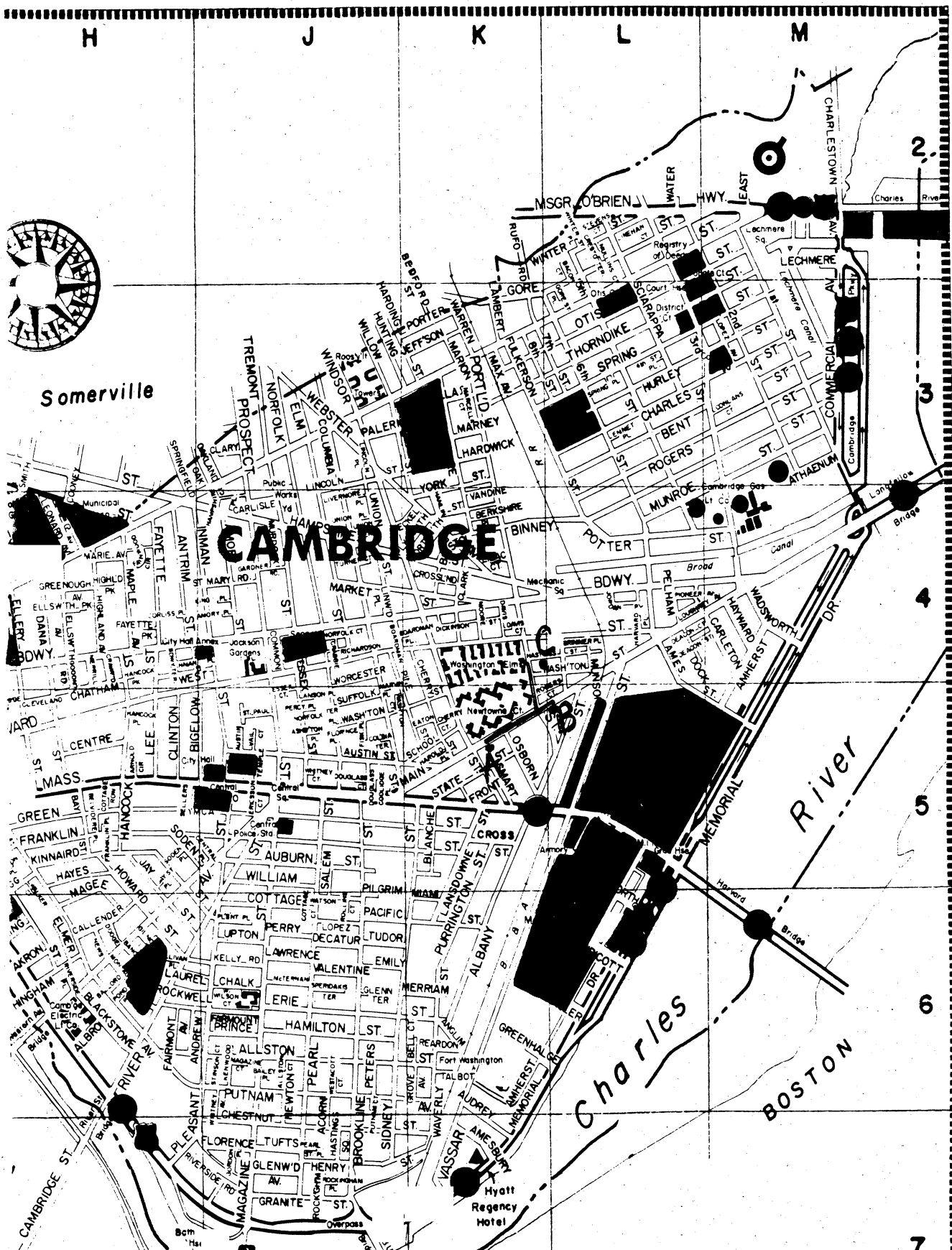
Commercial • Industrial • Residential
Appraisers • Auctioneers

323 Broadway
CAMBRIDGE, MA. 02139

(617) 876-3500

- "A" 750 Main Street
- "B" 600 Main Street
- "C" 565 Tech Square

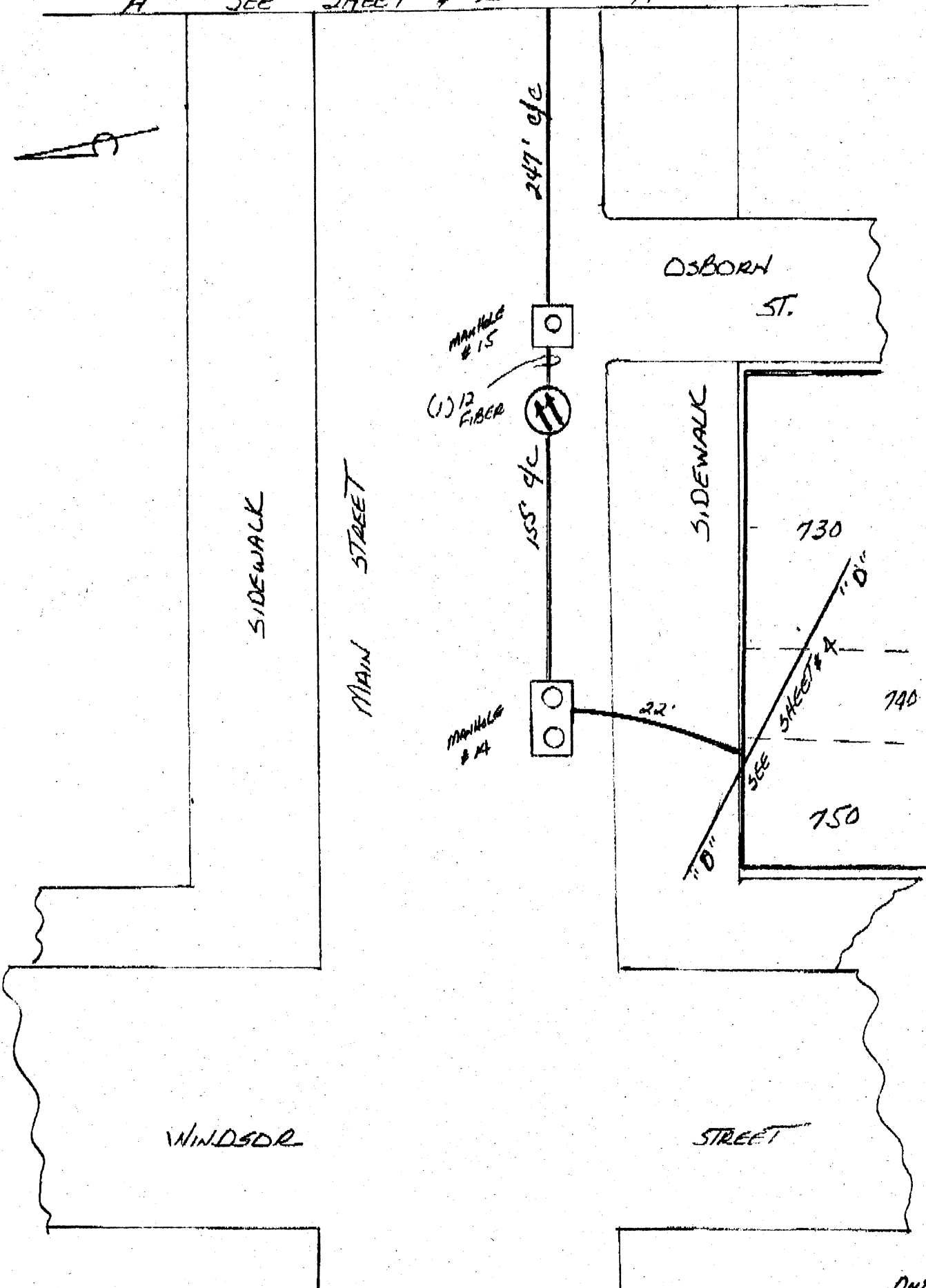
LOCATION OF EXISTING UNDERGROUND
CONDUIT FACILITIES CONNECTING
THREE POLAROID CORPORATION
FACILITIES ("A", "B" and "C")
IN CAMBRIDGE, MA



POLAROID CORP. - CAMBRIDGE

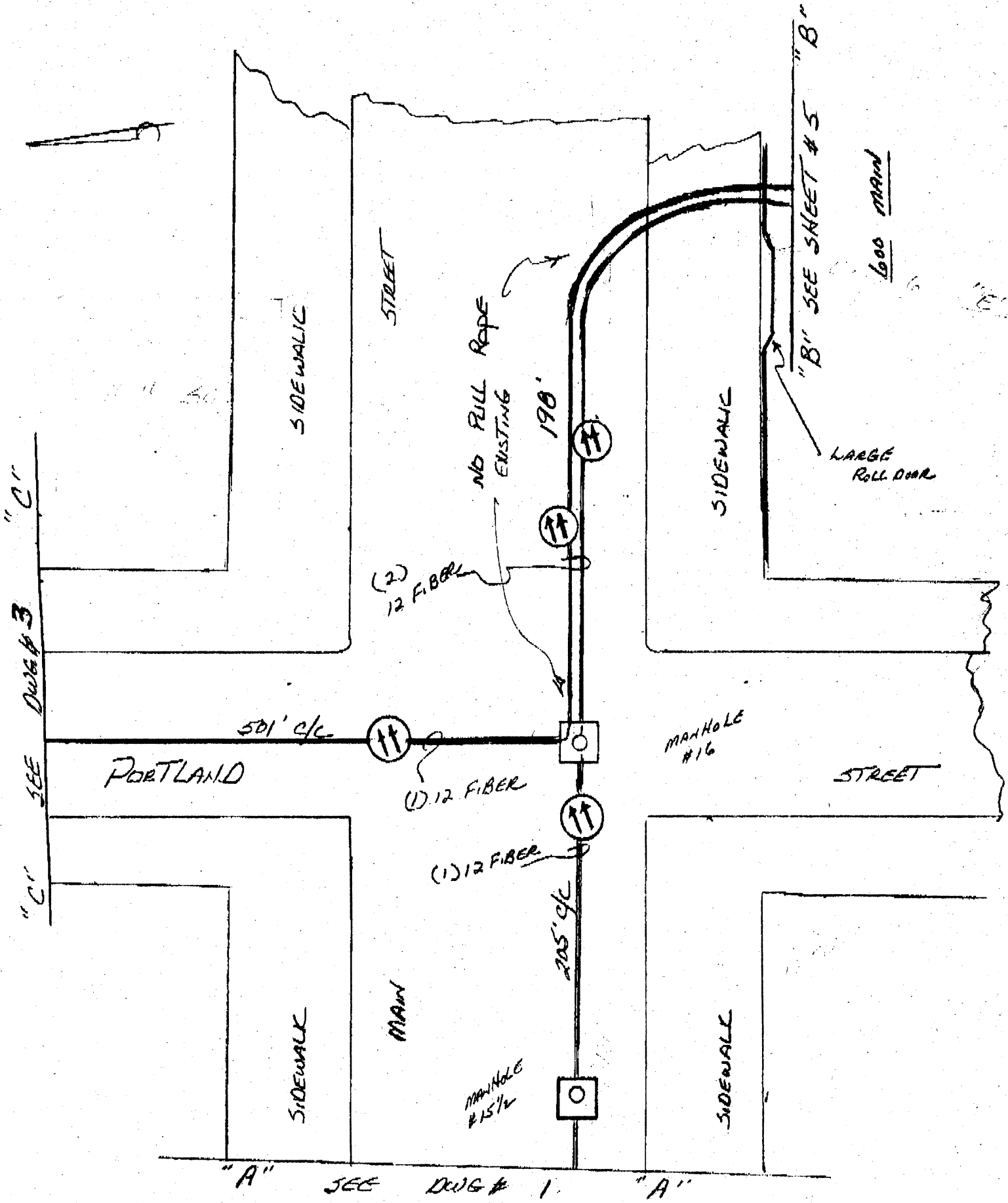
"A" SEE SHEET # 2

"A"



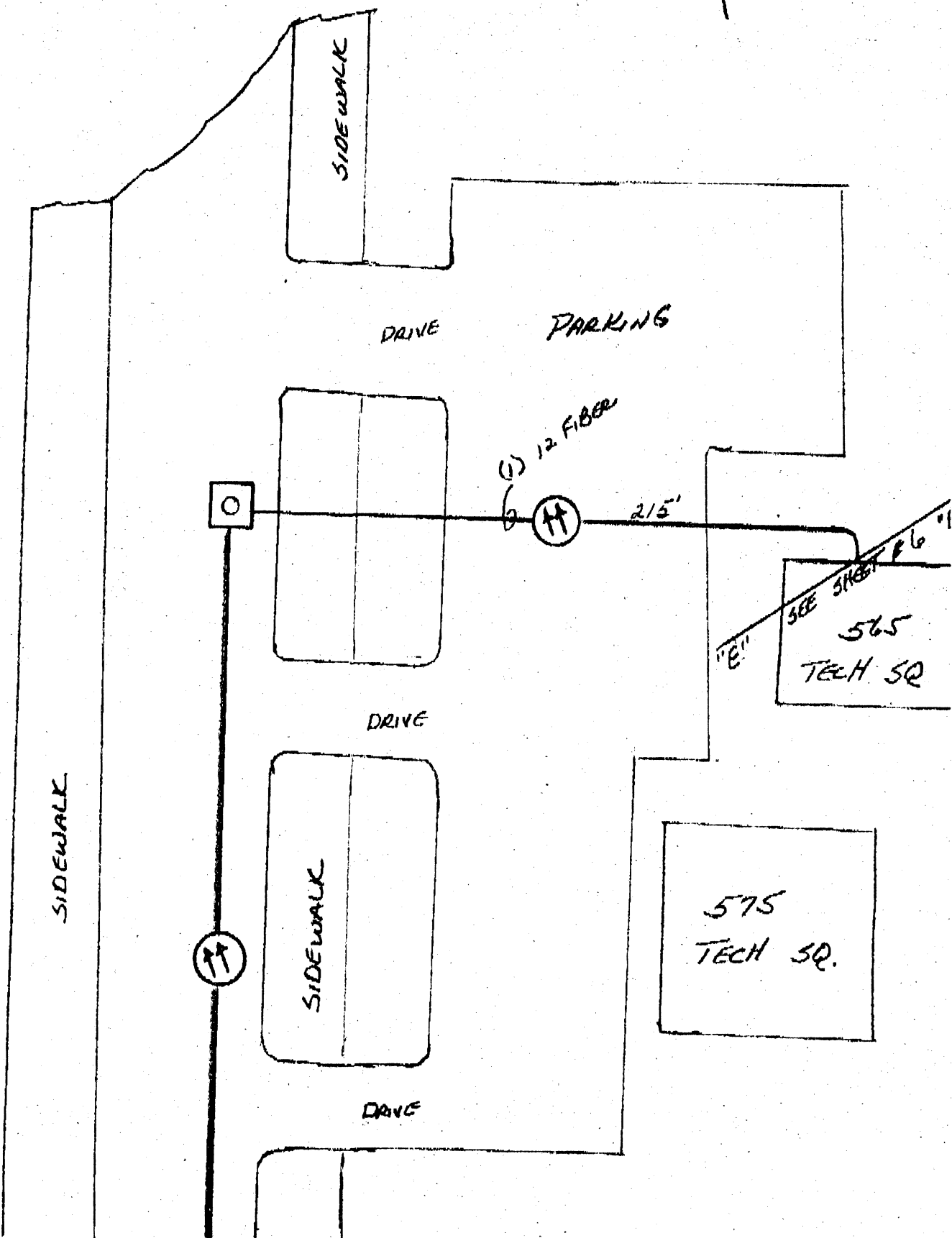
NO SCALE

DWG # 1



NO SCALE

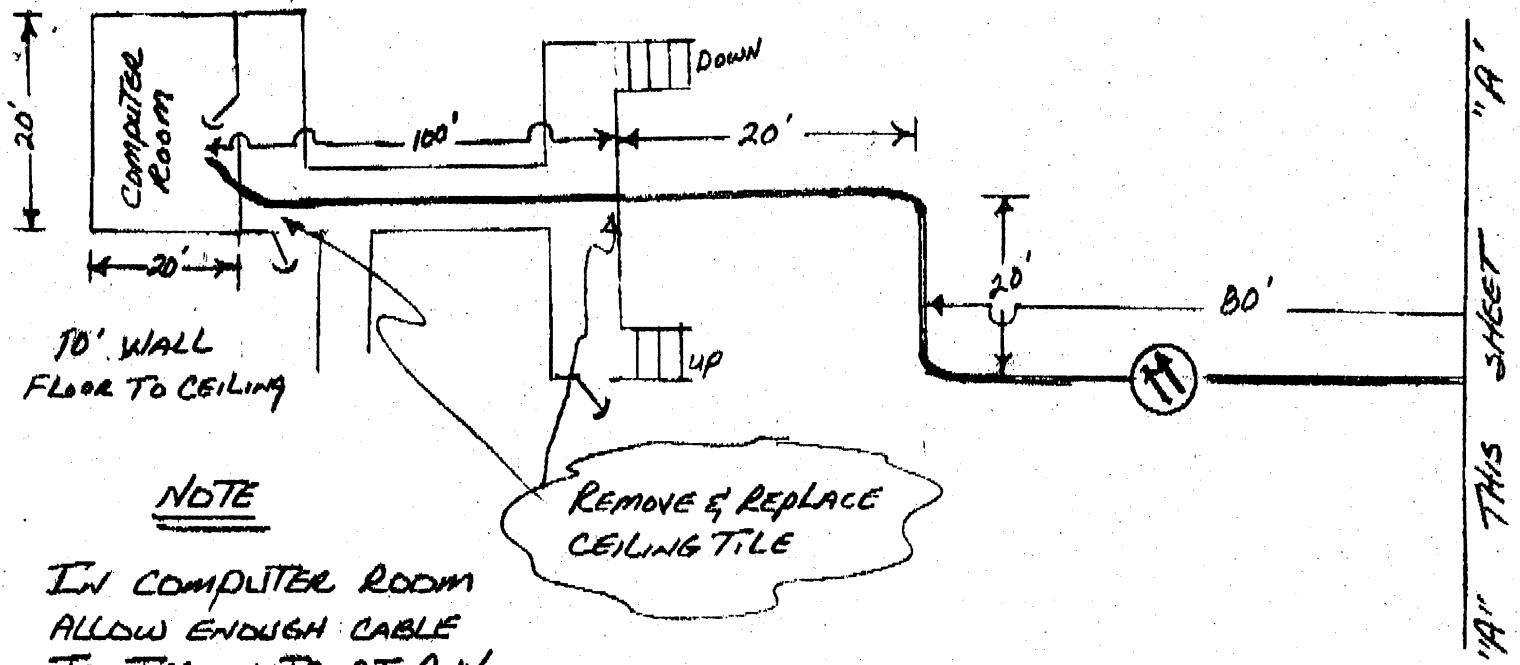
DWG # 3



"C" SEE SHEET # 2 "C"

NO SCALE

SHEET # 3



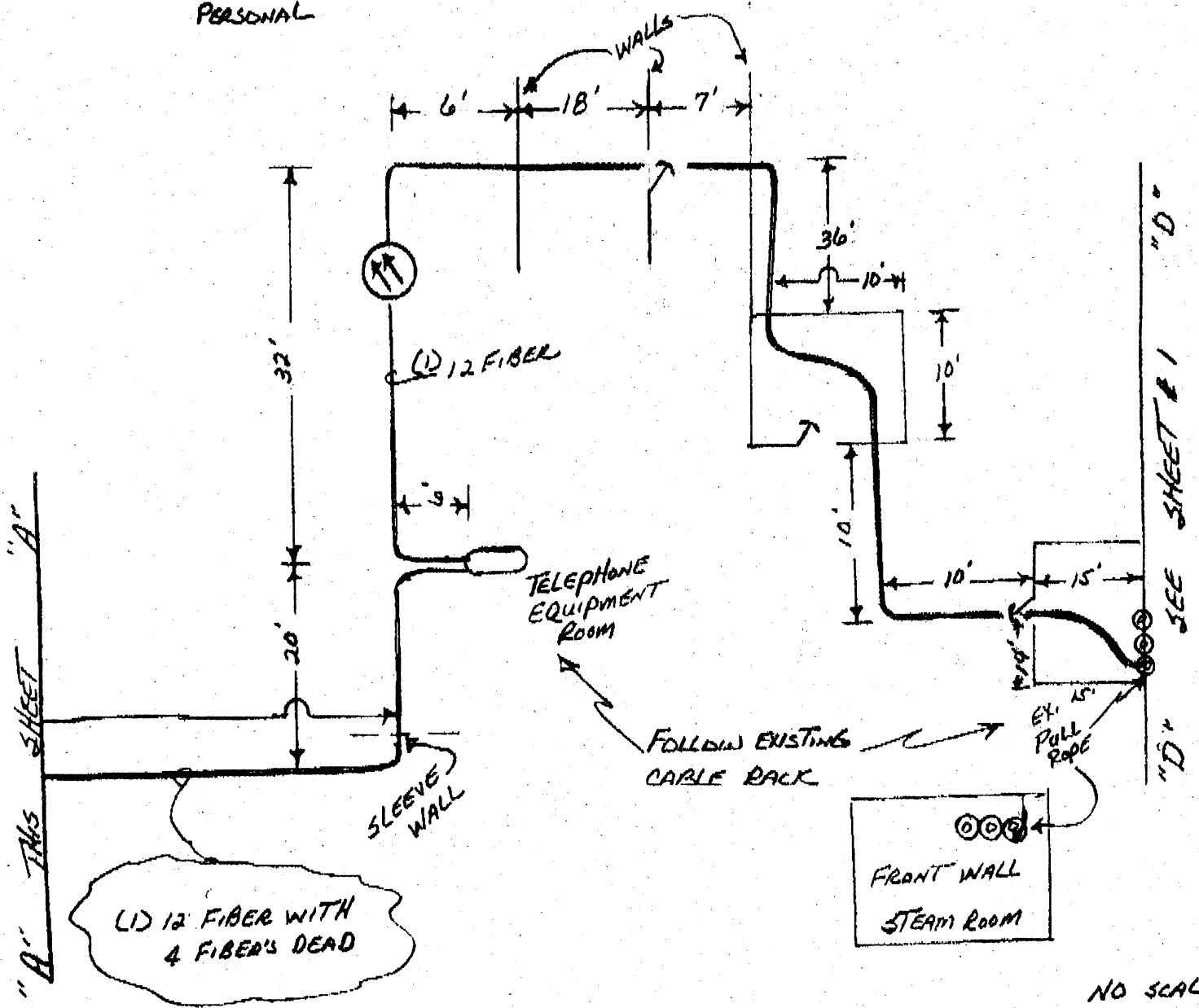
NOTE

IN COMPUTER ROOM
ALLOW ENOUGH CABLE
TO TERMINATE AT ANY
LOCATION

REMOVE & REPLACE
CEILING TILE

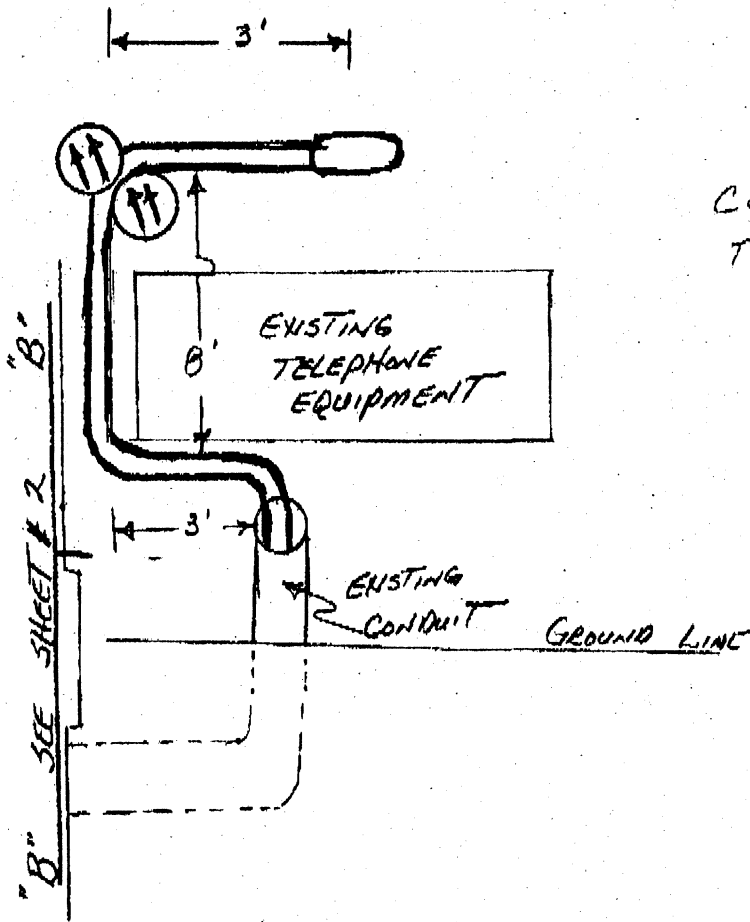
750 MAIN STREET

PER POLAROID
PERSONAL



NO SCALE
SHEET # 4

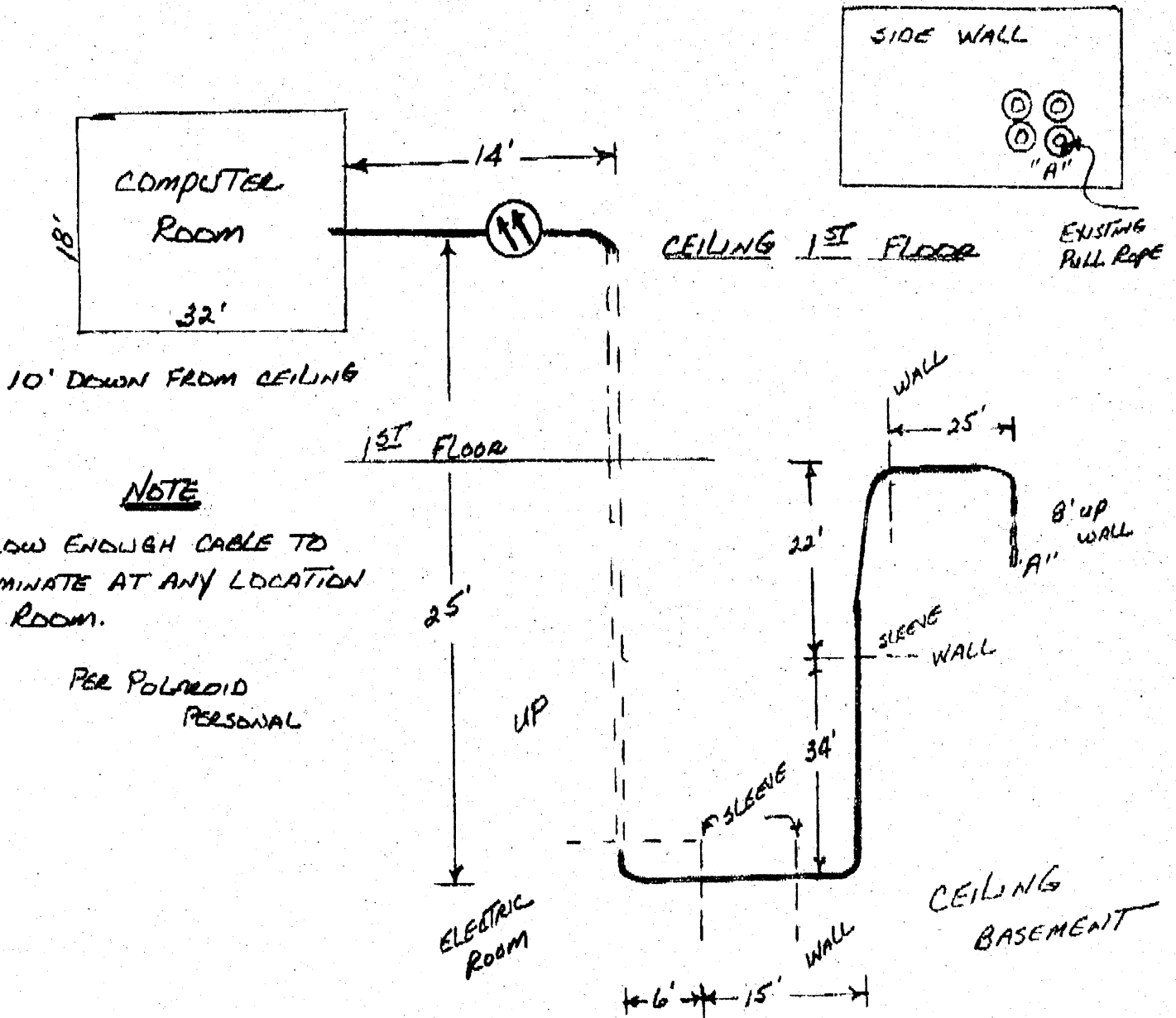
600 MAIN STREET



CLEAT CABLE
TO WALL

NO SCALE
DWG # 5

565 TECH SQUARE



STRAP CABLE TO EXISTING CONDUITS

NO SCALE

SHEET # 6

NOTICE OF PUBLIC MEETING

Notice is hereby given pursuant to M.G.L. Chapter 166, Section 22 that the City Council of the City of Cambridge will hold a public meeting on September __, 1985 in the City Hall at ___ p.m. on a petition by Polaroid Corporation for permission to install fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company in the following public ways:

Main Street
Portland Street

Copies of a plan showing the proposed street locations of the cable and information describing the type of cable and method of installation are available for inspection at the office of the City Clerk from 9:00 A.M. to 5:00 P.M., Monday through Friday.

Filed with the office of the City Clerk on September __, 1985 (required by M.G.L. Chapter 39, Section 23B).

Posted on municipal bulletin board on September __, 1985 (at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting).

Certification

I, Paul Healy, hereby certify that a copy of the Notice attached hereto as Exhibit "A" was filed with the office of the City Clerk on September __, 1985 and was posted on the municipal bulletin board on September __, 1985 (at least 48 hours, including Saturdays, but not Sundays and legal holidays prior to the public meeting to be held on September __, 1985, as required by M.G.L. Chapter 39, Section 23B), and was mailed to New England Telephone and Telegraph Company on September __, 1985 as owner of the existing conduit facilities.

CITY OF CAMBRIDGE
CITY COUNCIL

Attest:

Paul Healy, Clerk of the City
Council and City Clerk

Dated: _____

RACKEMANN, SAWYER & BREWSTER

PROFESSIONAL CORPORATION

C O U N S E L L O R S A T L A W

ONE FINANCIAL CENTER

BOSTON, MASSACHUSETTS 02111

AREA CODE 617-542-2300

TELECOPIER 617-542-7437

RICHARD H. LOVELL
WILLIAM B. TYLER
DAVID G. COLT
GEORGE V. ANASTAS
PETER W. KILBORN
HENRY H. THAYER
BRIAN S. MEYER
JOSEPH L. SERAFINI
STEPHEN CARR ANDERSON
LAWRENCE E. KAPLAN
ALBERT M. FORTIER, JR.
MICHAEL F. O'CONNELL
JOHN J. GRIFFIN, JR.
STUART T. FREELAND
RAYMOND J. BRASSARD
ALAN B. RUBENSTEIN
BARBARA KIND PERRY
MARTIN R. HEALY
RICHARD TELLER

OF COUNSEL
ROGER B. TYLER
ALBERT B. WOLFE
AUGUST R. MEYER

COUNSEL
HAROLD J. CARROLL

JAMES R. SHEA, JR.
KEVIN J. TOOMEY
BRIAN M. HURLEY
MALCOLM PITTMAN
JANET M. SMITH
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PETER FRIEDENBERG
RICHARD S. NOVAK
CHRISTINE DONELAN HUBBARD
JOHN J. O'BRIEN
STEVEN J. MASTROVICH
JAMES A. MORAN
JANE H. PITT
DANIEL J. OSSOFF
ANN CLAFFEY
BARBARA E. HUNT
JOHN E. McELHINNEY
JUDITH R. PIKE
WILLIAM F. BRADY
A. JAMES CASNER III
NICOLE LACCETTI RIVES
SANFORD M. MATATHIA
RUTH R. ARONSON

September 18, 1985

Russell B. Higley, Esq.
City Solicitor
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

Re: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mr. Higley:

To follow up on our recent telephone conversation, I am enclosing herewith copies of materials submitted to the City Council in connection with the above-captioned project. NYNEX Business Information Systems Company ("NYNEX") has been retained by Polaroid Corporation ("Polaroid") to supply and install a fiber optic cable that will facilitate high-speed data communication among Polaroid's facilities in Cambridge, Massachusetts. The enclosed materials describe in detail the nature of the project and the scope of the work to be performed. The enclosed petition seeks permission from the City Council under Massachusetts General Laws ("M.G.L.") - Chapter 166, Section 22 to install fiber optic cable in existing underground conduit facilities located in the public way. The project will involve only the placement of cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET"). Enclosed are copies of plans and specifications which indicate the proposed placement of the cable.

As we discussed in our telephone conversation, Polaroid's petition to place cables in existing underground conduit facilities is made pursuant to the second paragraph of M.G.L. Chapter 166, Section 22 which provides in part that:

Russell B. Higley, Esq.
September 18, 1985
Page 2

after the erection or construction of such line, the board of aldermen or selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration of the location of the poles, piers, abutments or conduits or in the height of the wires or cables.

The foregoing requires that notice be given to NET as the owner of the underground conduit facilities. Since NYNEX is not proposing to construct any new poles or conduit facilities in or under the public way the City Council may act on Polaroid's petition without giving notice to landowners along the way and without holding a public hearing, provided NET is given notice and an opportunity to be heard. I am enclosing herewith for your review a copy of Gillis v. Mass. Cable Vision, Inc., 369 Mass. 526, 340 NE 2d 872 (1976) in which the Supreme Judicial Court held that such a grant may be made without notice or a hearing, by order of the City Council.

I am also enclosing a copy of NYNEX's informational letter to the City Council of even date requesting that Polaroid's petition be entertained by the City Council at its meeting on September 30, 1985. As I mentioned in our telephone conversation, representatives of NYNEX, Polaroid, Henkels & McCoy, the engineering firm who will install the cable, and people from our office will be in attendance at the meeting to answer any questions that the City Council may have. We hope that you will be able to attend the meeting at which Polaroid's petition will be entertained.

Thank you for your assistance on this matter. Please feel free to call me if I can answer any additional questions you may have.

Very truly yours,



Ruth R. Aronson

cc: Michael C. Costello, Assistant City Solicitor
Joseph Connarton, Deputy Clerk
Robert Healy, City Manager

2365A
Enclosures

REARDON, J. (dissenting, with whom Wilkins, J., joins). I dissent from the denial of the petition for rehearing for the same reasons I gave in the dissent to the opinion as first issued. While I welcome the attempt to narrow the scope of that opinion I believe that the concerns expressed in the briefs filed by the board, the Attorney General, and the friends of the court on the petition should be heard in argument before us since they have not been put to rest by the court's supplementary opinion.

JOSEPH F. GILLIS & others vs. MASS. CABLEVISION, INC.

Barnstable. November 5, 1975. — January 9, 1976.

Present: TAURO, C. J., QUIRICO, BRAUCHER, HENNESSEY, & KAPLAN, JJ.

Statute, Construction. License. Community Antenna Television Systems.

Statute 1971, c. 1103, § 4, providing that "any person who . . . has received a license or permit for construction and operation of a community antenna television system or has commenced construction or operation of such a community antenna television system," prior to the effective date of G. L. c. 166A, and who otherwise complies with c. 166A, "shall receive . . . a license which shall replace any prior permit or license," protected a licensee who had been granted a license by the selectmen of a town pursuant to c. 166, authorizing the granting of permits for laying lines under and across public ways and places and the establishment of regulations for the erection and maintenance of such lines, notwithstanding the fact that the license contained unauthorized or void terms. [527-534] KAPLAN, J., concurring.

BILL IN EQUITY filed in the Superior Court on July 19, 1973.

The suit was heard by *Travers, J.*

After review was sought in the Appeals Court, the Supreme Judicial Court, on its own initiative, ordered direct appellate review.

Robert T. Capeless for Mass. Cablevision, Inc. (*Edward W. Farrell*, Town Counsel, for the Board of Selectmen of Falmouth, with him).

Joseph F. Gillis for the plaintiffs.

James D. St. Clair & Linda H. Wish for Cape Cod Cablevision Corporation; *Michael B. Isaacs* for The Massachusetts Community Antenna Television Commission, and *Marshall Simonds, Kenneth Cohen & Cathleen Cavell* for The New England Cable Television Association, amici curiae, submitted briefs.

BRAUCHER, J. Community antenna television (CATV) systems are regulated under G. L. c. 166A, inserted by St. 1971, c. 1103, § 1. Section 4¹ of c. 1103 is a "grandfather clause," protecting any person who had previously "received a license or permit for construction and operation" of a CATV system. We are asked to determine whether a license issued to the defendant Mass. Cable-

¹Section 4 reads: "The provisions of said chapter one hundred and sixty-six A and all rules, regulations, orders and promulgations of said commission pursuant to said chapter shall apply to all community antenna television systems authorized or constructed prior to the effective date of said chapter one hundred and sixty-six A, provided that nothing therein shall prevent any person who, prior to the effective date of said chapter one hundred and sixty-six A, has received a license or permit for construction and operation of a community antenna television system or has commenced construction or operation of such a community antenna television system in any city or town from continuing such construction or operation therein without applying for a license thereunder or paying an application fee, but such person shall within thirty days of the effective date of said chapter one hundred and sixty-six A submit to the issuing authority a bond in accordance with subsection (k) of section five of said chapter one hundred and sixty-six A. Said person shall within ninety days furnish said issuing authority all other information required by section four of said chapter one hundred and sixty-six A and shall comply with all other applicable sections of said chapter and shall receive from the issuing authority a license in conformity with section three of said chapter one hundred and sixty-six A which shall replace any prior permit or license, however designated. The term of such new license shall run from the date of its issuance for a term not more than fifteen years. Said new license may be renewed under the provisions of said chapter one hundred and sixty-six A."

vision, Inc. (the licensee), by the board of selectmen of the town of Falmouth (the board) is such a "license or permit." We hold that it is, and reverse the contrary judgment appealed from.

The action was begun in the Superior Court in 1973 by a bill for a declaratory judgment. After demurrers were sustained, a petition for a writ of mandamus was substituted, and the defendants by amendment to their answer sought declaratory relief. The case was submitted on statements of agreed facts. In September, 1974, the judge made "Findings, Rulings and Order," and in October, 1974, judgment was entered declaring that the license was invalid and that the licensee had not commenced construction or operation before the effective date of c. 166A, and ordering the board to take the necessary steps to prevent the installation and maintenance of a CATV system until the licensee complied with c. 166A. The defendants appealed.

We summarize the agreed facts. The plaintiffs are taxpayers, residents and property owners of the town. The defendants are the members of the board, the licensee and its parent corporation. On May 3, 1971, the board voted to approve the issuance to the licensee of a license to construct and operate a CATV system in the town, and executed and issued a document entitled "License to Install and Maintain Television Cable Lines within the Town of Falmouth, Massachusetts." The license provided that it was granted under G. L. c. 166. There was no public hearing, "other than [*sic*] an application for a pole set permit." There was no by-law of the town authorizing CATV licenses. After the license was issued, the licensee notified television broadcast stations, made joint use agreements for rental of space on poles and in conduits of the telephone company and the electric utility serving the town, and negotiated but did not execute a proposed construction contract. On November 16, 1971, St. 1971, c. 1103, took effect. The licensee complied with the requirements of § 4 for a replacement license,

and in December, 1972, the board voted to issue the replacement license. Subsequently the Federal Communications Commission (FCC) "unconditionally certified" the licensee and the proposed replacement license.

The judge ruled that when G. L. c. 166A came into effect the licensee had not commenced construction or operation of a CATV system. He further ruled that G. L. c. 166, §§ 21 and 25, merely authorize permits for laying lines under and across public ways and places, and the establishment of regulations for the erection and maintenance of such lines. Such a permit, he ruled, was not "a license or permit for construction and operation" of a CATV system within the meaning of § 4; and there was no authority to grant a right to construct and operate a CATV system.

Briefs in support of the licensee have been submitted by the Massachusetts CATV Commission (the CATV commission) and the New England Cable Television Association as friends of the court. A brief in support of the plaintiffs has been submitted by the Cape Cod Cablevision Corporation.

1. *Background.* From 1950 to 1965 the CATV industry grew rapidly in the United States without any comprehensive government regulation. After 1960 the FCC gradually asserted jurisdiction over CATV. See *United States v. Southwestern Cable Co.*, 392 U.S. 157, 161-167 (1968). In 1966 the Attorney General of Massachusetts expressed the opinion that "Massachusetts does not have the constitutional authority to impose general regulation upon CATV." He went on to suggest that State and local authorities might "as a matter of contract, for valid consideration such as a grant of permission to use municipal rights-of-way (see G. L. c. 166, § 25), impose reasonable conditions upon CATV operations which do not conflict with Federal policy. Likewise, municipalities may impose certain regulations of a particularly local nature, such as by-laws or ordinances governing the

location of poles and cables." Rep. A. G., Pub. Doc. No. 12, at 350, 352 (1966).

In 1968 a different Attorney General reviewed the situation. Rep. A. G., Pub. Doc. No. 12, at 182, 183, 184 (1968). He found in G. L. c. 166, §§ 21 and 25, authority for a municipality "merely" to grant a licensee "the right to lay its television lines under and across public ways or places," and to establish reasonable regulations relating "only to 'the erection and maintenance' of the lines." Except for those "very limited powers," he concluded, "the towns and cities have no additional powers which they may legally exercise with respect to granting CATV franchises, licenses and permits other than such powers, if any, as they may invoke by proper action under the Home Rule Amendment." He also concluded that the Department of Public Utilities had no authority for direct regulation of CATV systems.

Later in 1968, in the *Southwestern Cable* case, *supra*, the Supreme Court of the United States upheld the authority of the FCC to regulate CATV systems. 392 U.S. at 178. The FCC regulations then in force laid down many requirements for the operation of CATV systems, but franchises were granted by State or local regulatory agencies. *Id.* at 163 n.15. The FCC regulations on commencing operations referred to "obtaining a franchise," to "entering into a lease or other arrangement to use facilities," and to cases "where no new local authorization or contractual arrangement is necessary." 47 C.F.R. § 74.1105(a) (Supp. 1971), as amended through 32 Fed. Reg. 10306 (1967). For the present regulations, see 47 C.F.R. §§ 76.1-76.617 (Supp. 1974), inserted by 37 Fed. Reg. 3278 (1972), as amended, particularly Subpart C-Federal-State/Local Regulatory Relationships § 76.31. Thus the Federal regulatory scheme contemplated State or local authorization. *TV Pix, Inc. v. Taylor*, 304 F. Supp. 459, 466 (D. Nev. 1968), *aff'd* 396 U.S. 556 (1970). But there was serious doubt whether any State or local authority in Massachusetts could go

beyond a regulation of the erection and maintenance of cable lines.

2. *The 1971 statute and the CATV commission.* In this situation St. 1971, c. 1103, was enacted, effective November 16, 1971, entitled "An Act permitting cities and towns to authorize the installation and operation of community antenna television systems and providing for the regulation thereof." Section 1 of the statute inserted G. L. c. 166A, establishing the CATV commission and providing for municipal licensing of CATV systems subject to regulations of the commission and review by it. As originally proposed, the grandfather clause would have protected only those who had commenced construction or operation. 1971 House Doc. No. 5221, app. D, § 2. The provision protecting permits in the absence of construction or operation was added during the enactment process.

The CATV commission informs us that only two municipalities acted pursuant to the Home Rule Amendment, and that all other licenses or permits granted before the effective date of the 1971 statute were granted pursuant to G. L. c. 166, like the license in the present case. The judge's ruling in the present case, we are told, would invalidate purported authorizations granted in some twenty-five municipalities. The commission has interpreted the protection of St. 1971, c. 1103, § 4, the grandfather clause, as extending to "licenses" or "franchises" granted pursuant to c. 166, even though they contained unauthorized terms, "so long as there was compliance with the procedures for issuance of a Chapter 166 permit and the authorization was not procured by fraud, misrepresentation, bribery or any other criminal act." Under this interpretation the terms of the license would be brought in compliance with c. 166A by the issuance of a replacement license pursuant to the grandfather clause.

3. *Interpretation of the grandfather clause.* We think the reading given § 4 by the CATV commission is a permissible one, and we adopt it. See *Board of Educ. v.*

Assessor of Worcester, 368 Mass. 511, 515-516 (1975), and cases cited. A person subject to the proviso of § 4 need not apply for a license or pay an application fee, but is to comply with other provisions of c. 166A and receive a new license "which shall replace any prior permit or license, however designated." Two categories are subject to the proviso: (1) "any person who . . . has received a license or permit for construction and operation" and (2) "any person who . . . has commenced construction or operation." As to the second category, no distinction is drawn between persons whose licenses contained invalid terms, and other persons. It appears likely that every license for "construction and operation," as distinguished from "erection and maintenance" of lines, contained terms of doubtful validity under the 1968 opinion of the Attorney General. If so, to exclude all such licenses from the proviso would be to deprive the first category of any effect at all. "An intention to enact a barren and ineffective provision is not lightly to be imputed to the Legislature." *Insurance Rating Bd. v. Commissioner of Ins.*, 356 Mass. 184, 189 (1969), and cases cited.

Nor do we think it would serve a useful purpose for us now to review the validity of the superseded terms of licenses subject to the grandfather clause. The obvious purpose of the 1971 statute was to substitute firm lines of authority and coherent regulation for the preexisting chaos and doubt. To that end, in mandatory language, the statute provides that a person protected by the grandfather clause "shall" receive a replacement license. See *Massachusetts Soc'y of Graduate Physical Therapists, Inc. v. Board of Registration in Medicine*, 330 Mass. 601, 603 (1953). The statute should be interpreted to carry out its purpose rather than to preserve for litigation the numerous questions as to the validity of particular license terms which could arise in the pre-1971 situation. Unauthorized terms in licenses were void, but the inclusion of unauthorized terms did not totally invalidate the licenses or

deprive them of the protection of the grandfather clause. Cf. *New England Tel. & Tel. Co. v. Brockton*, 332 Mass. 662, 666-667 (1955).

4. *Validity of the license.* General Laws c. 166, § 21, as appearing in St. 1951, c. 476, § 1, provides in relevant part, "A company incorporated . . . for the transmission of television signals, whether by electricity or otherwise, . . . may, under this chapter, construct lines for such transmission upon, along, under and across the public ways . . . by the erection or construction of the poles, . . . conduits and other fixtures, except bridges, which may be necessary to sustain or protect the wires of its lines; but such company shall not incommode the public use of public ways or endanger or interrupt navigation." Section 25, as appearing in St. 1951, c. 476, § 2, provides in part, "The selectmen may, within their towns, permit . . . television lines to be laid under any public way or place, and may establish reasonable regulations for the erection and maintenance of all lines for the transmission of intelligence by . . . television . . ." Those sections are to be read with § 22 prescribing the procedure (G. L. c. 166, § 22, as amended through St. 1948, c. 550, § 36). See *Sudbury v. Department of Pub. Util.*, 343 Mass. 428, 433 (1962); *Metropolitan Home Tel. Co. v. Emerson*, 202 Mass. 402, 407-408 (1909).

The license here in issue was not effective in so far as it purported to grant authority to erect new poles. An application for a permit to erect poles, under § 22, first paragraph, can only be granted after a public hearing. The agreed facts do not show that there was a public hearing. In any event, there was no grant of "a location for such line, specifying therein where the poles . . . may be placed," as required by § 22. See *Metropolitan Home Tel. Co. v. Emerson*, 202 Mass. 402, 404-406 (1909); cf. *Opinion of the Justices*, 293 Mass. 589, 607 (1935).

But the license also granted authority to the licensee "to install and maintain cable lines . . . on existing poles" owned by the telephone company and the electric utility

serving the town. Under § 22, second paragraph, such a grant may be made "without notice or hearing, by order." The locations of existing lines were already fixed, and the grant was of course subject to the consent of the owners of the poles and to any limitations to which their permits were subject. The license was valid and effective to that extent, and hence it came within the grandfather clause as we have interpreted it.

5. *Disposition.* The judgment is reversed. A new judgment is to be entered declaring that the license issued to the licensee by the board, dated May 3, 1971, was a valid permit under G. L. c. 166 and constituted a license or permit within St. 1971, c. 1103, § 4.

So ordered.

KAPLAN, J. (concurring). I agree with the result and with the court's opinion, of which a particularly telling argument, for me, is the fact that the CATV commission reads § 4 of St. 1971, c. 1103, as covering the defendant "licensee" and others in similar position. Left without the aid of such a judgment on the part of the regulatory agency, I am frank to say I would be reluctant to hold under § 4 that a license to install cable lines on existing poles, granted by selectmen of the town without notice or hearing, could be inflated into a full license under G. L. c. 166A. That interpretation of § 4 is, however, a permissible one textually, and I am bound to pay attention to the views of a commission presumptively knowledgeable in the field and charged with protecting the public interest.

NYNEX

Business Information Systems (A)

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mayor Francis H. Duehay, Chairman

RE: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mayor Duehay:

NYNEX Business Information Systems Company ("NYNEX") respectfully submits the enclosed petition on behalf of Polaroid Corporation ("Polaroid") pursuant to Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 for permission to place fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the public way. M.G.L. Chapter 166 Section 22 provides in part that "after the erection or construction of such line, the board of aldermen or board of selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration in the location of the poles, piers, abutments or conduits or in the height of the wires or cables." Our attorneys, Messrs. Rackemann, Sawyer & Brewster were informed by Joseph Connarton that the City Council will entertain Polaroid's petition at one of the Council's regularly scheduled meetings. NYNEX respectfully requests that Polaroid's petition be placed on the City Council's agenda for September 30, 1985.

I. Introduction

NYNEX has been retained by Polaroid to supply and install fiber optic cable to connect three of Polaroid's facilities in Cambridge, Massachusetts. The cable will facilitate high-speed voice and data communications between Polaroid's facilities.

It is expected to take approximately three days to install the cable. In order to facilitate Polaroid's needs, the system must be operational by October, 1985. Polaroid will own the line after installation and will pay NET, as the owner of the conduit facilities, a user fee under the terms and conditions of a conduit facilities occupancy agreement. Plans and specifications for the cable, including a map showing the street locations for the cable, are enclosed herewith.

II. Description of Cable and Work to be Performed

The fiber optic cable, manufactured by Fibronics International Incorporated, will be installed in existing conduit facilities owned by NET. The fiber will be a 100/140 micron graded-index multimode fiber. The fiber design consists of a germanium doped core and a silica cladding. A dual construction protective coating is applied over the fiber cladding to cushion the fiber against microbending losses, provide abrasion resistance, and preserve the mechanical strength of the glass. Each fiber is proof tested so that it will survive the installation loads and the associated long term residual stresses, even under extreme environmental conditions. Each fiber is measured for optical and dimensional properties for compliance with the manufacturer's specifications. The nonmetallic 12-fiber stranded cable is less than three-quarters of an inch in diameter.

III. Installation and Maintenance of the Cable

The proposed method of installation will involve opening five existing manholes and inserting the cable into existing interducts located in the underground conduit facilities. The installation of the cable will comply with the standards imposed by NET, and the National Electric Safety Code.

The fiber optic cables will be installed by Henkels & McCoy, Inc. under contract to NYNEX. A copy of the firm's resume is enclosed herewith. Henkels & McCoy, founded in 1923, is a highly diversified multinational engineering and construction company headquartered in Blue Bell, Pennsylvania. Henkels & McCoy maintain a satellite office in Braintree, Massachusetts. They are the largest independently owned telecommunications management, engineering, construction, training and maintenance company in the United States with gross annual revenues in excess of a quarter of a billion dollars.

Henkels & McCoy have almost 60 years of construction experience servicing utility companies and over 30 years of experience in CATV systems installation. The work to be performed for Polaroid will be directed by a full time on site Henkels & McCoy field supervisor.

It is expected that remedial and preventive maintenance of the cable network will be performed by Henkels and McCoy under contract to Polaroid. Remedial maintenance will be provided on a 24 hour per day, 365 day per year basis. Minor problems that are not service affecting will be responded to within 24 hours. Major problems will be responded to promptly. Preventive maintenance will be performed on a prearranged schedule so as to minimize disruptions.

IV. Polaroid to Obtain Permission from NET to Utilize Existing Underground Conduit Facilities

The project will involve only the placement of a cable in existing underground conduit facilities. NYNEX is presently negotiating a License Agreement for Occupancy of Underground Conduit Systems with NET to authorize Polaroid's use of the conduit facilities.

V. Conclusion

NYNEX will take all required safety procedures to insure that the cable will be installed safely and without any unnecessary inconvenience or interruption to users of the public ways under which the cable is proposed to be located. NYNEX respectfully requests that its petition on behalf of Polaroid to install such fiber optic cable in the public way in accordance with the plans and specifications enclosed herewith be approved by the City Council.

Very truly yours,

NYNEX Business Information
Systems Company

By: 

Frederick B. Peirce
Project Manager

Enclosures

cc: (w/encls.)

Russell B. Higley, Esq., City Solicitor
Michael C. Costello, Esq., Assistant City Solicitor
Robert Healy, City Manager
George Fernandez, City Electrician
Anthony Paolillo, Police Chief
Thomas Scott, Fire Chief
Everett Kennedy, Commissioner of Public Works


2377A

City of Cambridge
Cambridge City Council
September 18, 1985
Page 2

if you would send the Notice and informational material out to NET in order to give NET a reasonable opportunity to prepare for the meeting. M.G.L. Chapter 39, Section 23B also requires that notice of the meeting be posted on the municipal bulletin board at least 48 hours, including Saturdays, but not Sundays and legal holidays, prior to the public meeting. After notice has been mailed and posted, I would appreciate it if you would fill out and sign the enclosed form of Certification and return it to me so that I will have a record for my files.

If you have any questions regarding this project, please do not hesitate to call. Thank you very much for your assistance.

Cordially,



Ruth R. Aronson

cc: Russell B. Higley, Esquire, City Solicitor
Joseph Connarton, Deputy City Clerk

RRA:me
2382A

NYNEX
Business Information Systems ©

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mayor Francis H. Duehay, Chairman

RE: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mayor Duehay:

NYNEX Business Information Systems Company ("NYNEX") respectfully submits the enclosed petition on behalf of Polaroid Corporation ("Polaroid") pursuant to Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 for permission to place fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the public way. M.G.L. Chapter 166 Section 22 provides in part that "after the erection or construction of such line, the board of aldermen or board of selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration in the location of the poles, piers, abutments or conduits or in the height of the wires or cables." Our attorneys, Messrs. Rackemann, Sawyer & Brewster were informed by Joseph Connarton that the City Council will entertain Polaroid's petition at one of the Council's regularly scheduled meetings. NYNEX respectfully requests that Polaroid's petition be placed on the City Council's agenda for September 30, 1985.

I. Introduction

NYNEX has been retained by Polaroid to supply and install fiber optic cable to connect three of Polaroid's facilities in Cambridge, Massachusetts. The cable will facilitate high-speed voice and data communications between Polaroid's facilities.

It is expected to take approximately three days to install the cable. In order to facilitate Polaroid's needs, the system must be operational by October, 1985. Polaroid will own the line after installation and will pay NET, as the owner of the conduit facilities, a user fee under the terms and conditions of a conduit facilities occupancy agreement. Plans and specifications for the cable, including a map showing the street locations for the cable, are enclosed herewith.

II. Description of Cable and Work to be Performed

The fiber optic cable, manufactured by Fibronics International Incorporated, will be installed in existing conduit facilities owned by NET. The fiber will be a 100/140 micron graded-index multimode fiber. The fiber design consists of a germanium doped core and a silica cladding. A dual construction protective coating is applied over the fiber cladding to cushion the fiber against microbending losses, provide abrasion resistance, and preserve the mechanical strength of the glass. Each fiber is proof tested so that it will survive the installation loads and the associated long term residual stresses, even under extreme environmental conditions. Each fiber is measured for optical and dimensional properties for compliance with the manufacturer's specifications. The nonmetallic 12-fiber stranded cable is less than three-quarters of an inch in diameter.

III. Installation and Maintenance of the Cable

The proposed method of installation will involve opening five existing manholes and inserting the cable into existing interducts located in the underground conduit facilities. The installation of the cable will comply with the standards imposed by NET, and the National Electric Safety Code.

The fiber optic cables will be installed by Henkels & McCoy, Inc. under contract to NYNEX. A copy of the firm's resume is enclosed herewith. Henkels & McCoy, founded in 1923, is a highly diversified multinational engineering and construction company headquartered in Blue Bell, Pennsylvania. Henkels & McCoy maintain a satellite office in Braintree, Massachusetts. They are the largest independently owned telecommunications management, engineering, construction, training and maintenance company in the United States with gross annual revenues in excess of a quarter of a billion dollars.

Henkels & McCoy have almost 60 years of construction experience servicing utility companies and over 30 years of experience in CATV systems installation. The work to be performed for Polaroid will be directed by a full time on site Henkels & McCoy field supervisor.

It is expected that remedial and preventive maintenance of the cable network will be performed by Henkels and McCoy under contract to Polaroid. Remedial maintenance will be provided on a 24 hour per day, 365 day per year basis. Minor problems that are not service affecting will be responded to within 24 hours. Major problems will be responded to promptly. Preventive maintenance will be performed on a prearranged schedule so as to minimize disruptions.

IV. Polaroid to Obtain Permission from NET to Utilize Existing Underground Conduit Facilities

The project will involve only the placement of a cable in existing underground conduit facilities. NYNEX is presently negotiating a License Agreement for Occupancy of Underground Conduit Systems with NET to authorize Polaroid's use of the conduit facilities.

V. Conclusion

NYNEX will take all required safety procedures to insure that the cable will be installed safely and without any unnecessary inconvenience or interruption to users of the public ways under which the cable is proposed to be located. NYNEX respectfully requests that its petition on behalf of Polaroid to install such fiber optic cable in the public way in accordance with the plans and specifications enclosed herewith be approved by the City Council.

Very truly yours,

NYNEX Business Information
Systems Company

By: 

Frederick B. Peirce
Project Manager

Enclosures

cc: (w/encls.)

Russell B. Higley, Esq., City Solicitor
Michael C. Costello, Esq., Assistant City Solicitor
Robert Healy, City Manager
George Fernandez, City Electrician
Anthony Paolillo, Police Chief
Thomas Scott, Fire Chief
Everett Kennedy, Commissioner of Public Works

2377A

RACKEMANN, SAWYER & BREWSTER

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SANFORD M. MATATHIA
RUTH R. ARONSON

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mr. Paul Healy

RE: NYNEX Business Information Systems Company/Polaroid Corporation-Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mr. Healy:

In reference to the above-captioned project, enclosed herewith please find (1) Polaroid's Petition for Occupancy of Existing Underground Conduit Facilities; (2) an informational cover letter to the City Council from NYNEX; (3) a proposed form of Order; (4) the form of Notice to be posted on the municipal bulletin board; (5) a pre-addressed envelope with enclosed Notice and informational material to be sent to New England Telephone and Telegraph Company ("NET"); and (6) a form of Certification.

I would appreciate your bringing this matter to the attention of the City Council so that it can be placed on the City Council's agenda as soon as possible. As stated in the informational cover letter to the City Council, it would be best if Polaroid's petition could be entertained at the meeting on the evening of September 30, 1985. Once a date has been selected would you please insert that date on the form of Notice, and notify me of the date.


Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 requires that notice of the meeting be given to the owner of the conduit facilities, in this case NET. Once this matter has been placed on the City Council's agenda, I would appreciate it

City of Cambridge
Cambridge City Council
September 18, 1985
Page 2

if you would send the Notice and informational material out to NET in order to give NET a reasonable opportunity to prepare for the meeting. M.G.L. Chapter 39, Section 23B also requires that notice of the meeting be posted on the municipal bulletin board at least 48 hours, including Saturdays, but not Sundays and legal holidays, prior to the public meeting. After notice has been mailed and posted, I would appreciate it if you would fill out and sign the enclosed form of Certification and return it to me so that I will have a record for my files.

If you have any questions regarding this project, please do not hesitate to call. Thank you very much for your assistance.

Cordially,



Ruth R. Aronson

cc: Russell B. Higley, Esquire, City Solicitor
Joseph Connarton, Deputy City Clerk

RRA:me
2382A

RICHARD H. LOVELL
WILLIAM B. TYLER
DAVID G. COLT
GEORGE V. ANASTAS
PETER W. KILBORN
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COUNSEL
HAROLD J. CARROLL

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September 18, 1985

Russell B. Higley, Esq.
City Solicitor
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

Re: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mr. Higley:

To follow up on our recent telephone conversation, I am enclosing herewith copies of materials submitted to the City Council in connection with the above-captioned project. NYNEX Business Information Systems Company ("NYNEX") has been retained by Polaroid Corporation ("Polaroid") to supply and install a fiber optic cable that will facilitate high-speed data communication among Polaroid's facilities in Cambridge, Massachusetts. The enclosed materials describe in detail the nature of the project and the scope of the work to be performed. The enclosed petition seeks permission from the City Council under Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 to install fiber optic cable in existing underground conduit facilities located in the public way. The project will involve only the placement of cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET"). Enclosed are copies of plans and specifications which indicate the proposed placement of the cable.

As we discussed in our telephone conversation, Polaroid's petition to place cables in existing underground conduit facilities is made pursuant to the second paragraph of M.G.L. Chapter 166, Section 22 which provides in part that:

Russell B. Higley, Esq.
September 18, 1985
Page 2

after the erection or construction of such line, the board of aldermen or selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration of the location of the poles, piers, abutments or conduits or in the height of the wires or cables.

The foregoing requires that notice be given to NET as the owner of the underground conduit facilities. Since NYNEX is not proposing to construct any new poles or conduit facilities in or under the public way the City Council may act on Polaroid's petition without giving notice to landowners along the way and without holding a public hearing, provided NET is given notice and an opportunity to be heard. I am enclosing herewith for your review a copy of Gillis v. Mass. Cable Vision, Inc., 369 Mass. 526, 340 NE 2d 872 (1976) in which the Supreme Judicial Court held that such a grant may be made without notice or a hearing, by order of the City Council.

I am also enclosing a copy of NYNEX's informational letter to the City Council of even date requesting that Polaroid's petition be entertained by the City Council at its meeting on September 30, 1985. As I mentioned in our telephone conversation, representatives of NYNEX, Polaroid, Henkels & McCoy, the engineering firm who will install the cable, and people from our office will be in attendance at the meeting to answer any questions that the City Council may have. We hope that you will be able to attend the meeting at which Polaroid's petition will be entertained.

Thank you for your assistance on this matter. Please feel free to call me if I can answer any additional questions you may have.

Very truly yours,



Ruth R. Aronson

cc: Michael C. Costello, Assistant City Solicitor
Joseph Connarton, Deputy Clerk
Robert Healy, City Manager

2365A
Enclosures

RACKEMANN, SAWYER & BREWSTER

PROFESSIONAL CORPORATION

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Ruth R. Aronson

cc: Russell B. Higley, Esquire, City Solicitor
Joseph Connarton, Deputy City Clerk

RRA:me
2382A

REARDON, J. (dissenting, with whom Wilkins, J., joins). I dissent from the denial of the petition for rehearing for the same reasons I gave in the dissent to the opinion as first issued. While I welcome the attempt to narrow the scope of that opinion I believe that the concerns expressed in the briefs filed by the board, the Attorney General, and the friends of the court on the petition should be heard in argument before us since they have not been put to rest by the court's supplementary opinion.

JOSEPH F. GILLIS & others vs. MASS. CABLEVISION, INC.

Barnstable. November 5, 1975. — January 9, 1976.

Present: TAURO, C. J., QUIRICO, BRAUCHER, HENNESSEY, & KAPLAN, JJ.

Statute, Construction. License. Community Antenna Television Systems.

Statute 1971, c. 1103, § 4, providing that "any person who . . . has received a license or permit for construction and operation of a community antenna television system or has commenced construction or operation of such a community antenna television system," prior to the effective date of G. L. c. 166A, and who otherwise complies with c. 166A, "shall receive . . . a license which shall replace any prior permit or license," protected a licensee who had been granted a license by the selectmen of a town pursuant to c. 166, authorizing the granting of permits for laying lines under and across public ways and places and the establishment of regulations for the erection and maintenance of such lines, notwithstanding the fact that the license contained unauthorized or void terms. [527-534] KAPLAN, J., concurring.

BILL IN EQUITY filed in the Superior Court on July 19, 1973.

The suit was heard by *Travers, J.*

After review was sought in the Appeals Court, the Supreme Judicial Court, on its own initiative, ordered direct appellate review.

Robert T. Capeless for Mass. Cablevision, Inc. (*Edward W. Farrell*, Town Counsel, for the Board of Selectmen of Falmouth, with him).

Joseph F. Gillis for the plaintiffs.

James D. St. Clair & Linda H. Wish for Cape Cod Cablevision Corporation; *Michael B. Isaacs* for The Massachusetts Community Antenna Television Commission, and *Marshall Simonds, Kenneth Cohen & Cathleen Cavell* for The New England Cable Television Association, amici curiae, submitted briefs.

BRAUCHER, J. Community antenna television (CATV) systems are regulated under G. L. c. 166A, inserted by St. 1971, c. 1103, § 1. Section 4¹ of c. 1103 is a "grandfather clause," protecting any person who had previously "received a license or permit for construction and operation" of a CATV system. We are asked to determine whether a license issued to the defendant Mass. Cable-

¹Section 4 reads: "The provisions of said chapter one hundred and sixty-six A and all rules, regulations, orders and promulgations of said commission pursuant to said chapter shall apply to all community antenna television systems authorized or constructed prior to the effective date of said chapter one hundred and sixty-six A, provided that nothing therein shall prevent any person who, prior to the effective date of said chapter one hundred and sixty-six A, has received a license or permit for construction and operation of a community antenna television system or has commenced construction or operation of such a community antenna television system in any city or town from continuing such construction or operation therein without applying for a license thereunder or paying an application fee, but such person shall within thirty days of the effective date of said chapter one hundred and sixty-six A submit to the issuing authority a bond in accordance with subsection (k) of section five of said chapter one hundred and sixty-six A. Said person shall within ninety days furnish said issuing authority all other information required by section four of said chapter one hundred and sixty-six A and shall comply with all other applicable sections of said chapter and shall receive from the issuing authority a license in conformity with section three of said chapter one hundred and sixty-six A which shall replace any prior permit or license, however designated. The term of such new license shall run from the date of its issuance for a term not more than fifteen years. Said new license may be renewed under the provisions of said chapter one hundred and sixty-six A."

vision, Inc. (the licensee), by the board of selectmen of the town of Falmouth (the board) is such a "license or permit." We hold that it is, and reverse the contrary judgment appealed from.

The action was begun in the Superior Court in 1973 by a bill for a declaratory judgment. After demurrers were sustained, a petition for a writ of mandamus was substituted, and the defendants by amendment to their answer sought declaratory relief. The case was submitted on statements of agreed facts. In September, 1974, the judge made "Findings, Rulings and Order," and in October, 1974, judgment was entered declaring that the license was invalid and that the licensee had not commenced construction or operation before the effective date of c. 166A, and ordering the board to take the necessary steps to prevent the installation and maintenance of a CATV system until the licensee complied with c. 166A. The defendants appealed.

We summarize the agreed facts. The plaintiffs are taxpayers, residents and property owners of the town. The defendants are the members of the board, the licensee and its parent corporation. On May 3, 1971, the board voted to approve the issuance to the licensee of a license to construct and operate a CATV system in the town, and executed and issued a document entitled "License to Install and Maintain Television Cable Lines within the Town of Falmouth, Massachusetts." The license provided that it was granted under G. L. c. 166. There was no public hearing, "other than [*sic*] an application for a pole set permit." There was no by-law of the town authorizing CATV licenses. After the license was issued, the licensee notified television broadcast stations, made joint use agreements for rental of space on poles and in conduits of the telephone company and the electric utility serving the town, and negotiated but did not execute a proposed construction contract. On November 16, 1971, St. 1971, c. 1103, took effect. The licensee complied with the requirements of § 4 for a replacement license,

and in December, 1972, the board voted to issue the replacement license. Subsequently the Federal Communications Commission (FCC) "unconditionally certified" the licensee and the proposed replacement license.

The judge ruled that when G. L. c. 166A came into effect the licensee had not commenced construction or operation of a CATV system. He further ruled that G. L. c. 166, §§ 21 and 25, merely authorize permits for laying lines under and across public ways and places, and the establishment of regulations for the erection and maintenance of such lines. Such a permit, he ruled, was not "a license or permit for construction and operation" of a CATV system within the meaning of § 4; and there was no authority to grant a right to construct and operate a CATV system.

Briefs in support of the licensee have been submitted by the Massachusetts CATV Commission (the CATV commission) and the New England Cable Television Association as friends of the court. A brief in support of the plaintiffs has been submitted by the Cape Cod Cablevision Corporation.

1. *Background.* From 1950 to 1965 the CATV industry grew rapidly in the United States without any comprehensive government regulation. After 1960 the FCC gradually asserted jurisdiction over CATV. See *United States v. Southwestern Cable Co.*, 392 U.S. 157, 161-167 (1968). In 1966 the Attorney General of Massachusetts expressed the opinion that "Massachusetts does not have the constitutional authority to impose general regulation upon CATV." He went on to suggest that State and local authorities might "as a matter of contract, for valid consideration such as a grant of permission to use municipal rights-of-way (see G. L. c. 166, § 25), impose reasonable conditions upon CATV operations which do not conflict with Federal policy. Likewise, municipalities may impose certain regulations of a particularly local nature, such as by-laws or ordinances governing the

location of poles and cables." Rep. A. G., Pub. Doc. No. 12, at 350, 352 (1966).

In 1968 a different Attorney General reviewed the situation. Rep. A. G., Pub. Doc. No. 12, at 182, 183, 184 (1968). He found in G. L. c. 166, §§ 21 and 25, authority for a municipality "merely" to grant a licensee "the right to lay its television lines under and across public ways or places," and to establish reasonable regulations relating "only to 'the erection and maintenance' of the lines." Except for those "very limited powers," he concluded, "the towns and cities have no additional powers which they may legally exercise with respect to granting CATV franchises, licenses and permits other than such powers, if any, as they may invoke by proper action under the Home Rule Amendment." He also concluded that the Department of Public Utilities had no authority for direct regulation of CATV systems.

Later in 1968, in the *Southwestern Cable* case, *supra*, the Supreme Court of the United States upheld the authority of the FCC to regulate CATV systems. 392 U.S. at 178. The FCC regulations then in force laid down many requirements for the operation of CATV systems, but franchises were granted by State or local regulatory agencies. *Id.* at 163 n.15. The FCC regulations on commencing operations referred to "obtaining a franchise," to "entering into a lease or other arrangement to use facilities," and to cases "where no new local authorization or contractual arrangement is necessary." 47 C.F.R. § 74.1105(a) (Supp. 1971), as amended through 32 Fed. Reg. 10306 (1967). For the present regulations, see 47 C.F.R. §§ 76.1-76.617 (Supp. 1974), inserted by 37 Fed. Reg. 3278 (1972), as amended, particularly Subpart C-Federal-State/Local Regulatory Relationships § 76.31. Thus the Federal regulatory scheme contemplated State or local authorization. *TV Pix, Inc. v. Taylor*, 304 F. Supp. 459, 466 (D. Nev. 1968), *aff'd* 396 U.S. 556 (1970). But there was serious doubt whether any State or local authority in Massachusetts could go

beyond a regulation of the erection and maintenance of cable lines.

2. *The 1971 statute and the CATV commission.* In this situation St. 1971, c. 1103, was enacted, effective November 16, 1971, entitled "An Act permitting cities and towns to authorize the installation and operation of community antenna television systems and providing for the regulation thereof." Section 1 of the statute inserted G. L. c. 166A, establishing the CATV commission and providing for municipal licensing of CATV systems subject to regulations of the commission and review by it. As originally proposed, the grandfather clause would have protected only those who had commenced construction or operation. 1971 House Doc. No. 5221, app. D, § 2. The provision protecting permits in the absence of construction or operation was added during the enactment process.

The CATV commission informs us that only two municipalities acted pursuant to the Home Rule Amendment, and that all other licenses or permits granted before the effective date of the 1971 statute were granted pursuant to G. L. c. 166, like the license in the present case. The judge's ruling in the present case, we are told, would invalidate purported authorizations granted in some twenty-five municipalities. The commission has interpreted the protection of St. 1971, c. 1103, § 4, the grandfather clause, as extending to "licenses" or "franchises" granted pursuant to c. 166, even though they contained unauthorized terms, "so long as there was compliance with the procedures for issuance of a Chapter 166 permit and the authorization was not procured by fraud, misrepresentation, bribery or any other criminal act." Under this interpretation the terms of the license would be brought in compliance with c. 166A by the issuance of a replacement license pursuant to the grandfather clause.

3. *Interpretation of the grandfather clause.* We think the reading given § 4 by the CATV commission is a permissible one, and we adopt it. See *Board of Educ. v.*

Assessor of Worcester, 368 Mass. 511, 515-516 (1975), and cases cited. A person subject to the proviso of § 4 need not apply for a license or pay an application fee, but is to comply with other provisions of c. 166A and receive a new license "which shall replace any prior permit or license, however designated." Two categories are subject to the proviso: (1) "any person who . . . has received a license or permit for construction and operation" and (2) "any person who . . . has commenced construction or operation." As to the second category, no distinction is drawn between persons whose licenses contained invalid terms, and other persons. It appears likely that every license for "construction and operation," as distinguished from "erection and maintenance" of lines, contained terms of doubtful validity under the 1968 opinion of the Attorney General. If so, to exclude all such licenses from the proviso would be to deprive the first category of any effect at all. "An intention to enact a barren and ineffective provision is not lightly to be imputed to the Legislature." *Insurance Rating Bd. v. Commissioner of Ins.*, 356 Mass. 184, 189 (1969), and cases cited.

Nor do we think it would serve a useful purpose for us now to review the validity of the superseded terms of licenses subject to the grandfather clause. The obvious purpose of the 1971 statute was to substitute firm lines of authority and coherent regulation for the preexisting chaos and doubt. To that end, in mandatory language, the statute provides that a person protected by the grandfather clause "shall" receive a replacement license. See *Massachusetts Soc'y of Graduate Physical Therapists, Inc. v. Board of Registration in Medicine*, 330 Mass. 601, 603 (1953). The statute should be interpreted to carry out its purpose rather than to preserve for litigation the numerous questions as to the validity of particular license terms which could arise in the pre-1971 situation. Unauthorized terms in licenses were void, but the inclusion of unauthorized terms did not totally invalidate the licenses or

deprive them of the protection of the grandfather clause. Cf. *New England Tel. & Tel. Co. v. Brockton*, 332 Mass. 662, 666-667 (1955).

4. *Validity of the license.* General Laws c. 166, § 21, as appearing in St. 1951, c. 476, § 1, provides in relevant part, "A company incorporated . . . for the transmission of television signals, whether by electricity or otherwise, . . . may, under this chapter, construct lines for such transmission upon, along, under and across the public ways . . . by the erection or construction of the poles, . . . conduits and other fixtures, except bridges, which may be necessary to sustain or protect the wires of its lines; but such company shall not incommode the public use of public ways or endanger or interrupt navigation." Section 25, as appearing in St. 1951, c. 476, § 2, provides in part, "The selectmen may, within their towns, permit . . . television lines to be laid under any public way or place, and may establish reasonable regulations for the erection and maintenance of all lines for the transmission of intelligence by . . . television . . ." Those sections are to be read with § 22 prescribing the procedure (G. L. c. 166, § 22, as amended through St. 1948, c. 550, § 36). See *Sudbury v. Department of Pub. Util.*, 343 Mass. 428, 433 (1962); *Metropolitan Home Tel. Co. v. Emerson*, 202 Mass. 402, 407-408 (1909).

The license here in issue was not effective in so far as it purported to grant authority to erect new poles. An application for a permit to erect poles, under § 22, first paragraph, can only be granted after a public hearing. The agreed facts do not show that there was a public hearing. In any event, there was no grant of "a location for such line, specifying therein where the poles . . . may be placed," as required by § 22. See *Metropolitan Home Tel. Co. v. Emerson*, 202 Mass. 402, 404-406 (1909); cf. *Opinion of the Justices*, 293 Mass. 589, 607 (1935).

But the license also granted authority to the licensee "to install and maintain cable lines . . . on existing poles" owned by the telephone company and the electric utility

serving the town. Under § 22, second paragraph, such a grant may be made "without notice or hearing, by order." The locations of existing lines were already fixed, and the grant was of course subject to the consent of the owners of the poles and to any limitations to which their permits were subject. The license was valid and effective to that extent, and hence it came within the grandfather clause as we have interpreted it.

5. *Disposition.* The judgment is reversed. A new judgment is to be entered declaring that the license issued to the licensee by the board, dated May 3, 1971, was a valid permit under G. L. c. 166 and constituted a license or permit within St. 1971, c. 1103, § 4.

So ordered.

KAPLAN, J. (concurring). I agree with the result and with the court's opinion, of which a particularly telling argument, for me, is the fact that the CATV commission reads § 4 of St. 1971, c. 1103, as covering the defendant "licensee" and others in similar position. Left without the aid of such a judgment on the part of the regulatory agency, I am frank to say I would be reluctant to hold under § 4 that a license to install cable lines on existing poles, granted by selectmen of the town without notice or hearing, could be inflated into a full license under G. L. c. 166A. That interpretation of § 4 is, however, a permissible one textually, and I am bound to pay attention to the views of a commission presumptively knowledgeable in the field and charged with protecting the public interest.

Sales Division

NYNEX

Business Information Systems 

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mayor Francis H. Duehay, Chairman

RE: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mayor Duehay:

NYNEX Business Information Systems Company ("NYNEX") respectfully submits the enclosed petition on behalf of Polaroid Corporation ("Polaroid") pursuant to Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 for permission to place fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the public way. M.G.L. Chapter 166 Section 22 provides in part that "after the erection or construction of such line, the board of aldermen or board of selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration in the location of the poles, piers, abutments or conduits or in the height of the wires or cables." Our attorneys, Messrs. Rackemann, Sawyer & Brewster were informed by Joseph Connarton that the City Council will entertain Polaroid's petition at one of the Council's regularly scheduled meetings. NYNEX respectfully requests that Polaroid's petition be placed on the City Council's agenda for September 30, 1985.

I. Introduction

NYNEX has been retained by Polaroid to supply and install fiber optic cable to connect three of Polaroid's facilities in Cambridge, Massachusetts. The cable will facilitate high-speed voice and data communications between Polaroid's facilities.

It is expected to take approximately three days to install the cable. In order to facilitate Polaroid's needs, the system must be operational by October, 1985. Polaroid will own the line after installation and will pay NET, as the owner of the conduit facilities, a user fee under the terms and conditions of a conduit facilities occupancy agreement. Plans and specifications for the cable, including a map showing the street locations for the cable, are enclosed herewith.

II. Description of Cable and Work to be Performed

The fiber optic cable, manufactured by Fibronics International Incorporated, will be installed in existing conduit facilities owned by NET. The fiber will be a 100/140 micron graded-index multimode fiber. The fiber design consists of a germanium doped core and a silica cladding. A dual construction protective coating is applied over the fiber cladding to cushion the fiber against microbending losses, provide abrasion resistance, and preserve the mechanical strength of the glass. Each fiber is proof tested so that it will survive the installation loads and the associated long term residual stresses, even under extreme environmental conditions. Each fiber is measured for optical and dimensional properties for compliance with the manufacturer's specifications. The nonmetallic 12-fiber stranded cable is less than three-quarters of an inch in diameter.

III. Installation and Maintenance of the Cable

The proposed method of installation will involve opening five existing manholes and inserting the cable into existing interducts located in the underground conduit facilities. The installation of the cable will comply with the standards imposed by NET, and the National Electric Safety Code.

The fiber optic cables will be installed by Henkels & McCoy, Inc. under contract to NYNEX. A copy of the firm's resume is enclosed herewith. Henkels & McCoy, founded in 1923, is a highly diversified multinational engineering and construction company headquartered in Blue Bell, Pennsylvania. Henkels & McCoy maintain a satellite office in Braintree, Massachusetts. They are the largest independently owned telecommunications management, engineering, construction, training and maintenance company in the United States with gross annual revenues in excess of a quarter of a billion dollars.

Henkels & McCoy have almost 60 years of construction experience servicing utility companies and over 30 years of experience in CATV systems installation. The work to be performed for Polaroid will be directed by a full time on site Henkels & McCoy field supervisor.

It is expected that remedial and preventive maintenance of the cable network will be performed by Henkels and McCoy under contract to Polaroid. Remedial maintenance will be provided on a 24 hour per day, 365 day per year basis. Minor problems that are not service affecting will be responded to within 24 hours. Major problems will be responded to promptly. Preventive maintenance will be performed on a prearranged schedule so as to minimize disruptions.

IV. Polaroid to Obtain Permission from NET to Utilize Existing Underground Conduit Facilities


The project will involve only the placement of a cable in existing underground conduit facilities. NYNEX is presently negotiating a License Agreement for Occupancy of Underground Conduit Systems with NET to authorize Polaroid's use of the conduit facilities.

V. Conclusion

NYNEX will take all required safety procedures to insure that the cable will be installed safely and without any unnecessary inconvenience or interruption to users of the public ways under which the cable is proposed to be located. NYNEX respectfully requests that its petition on behalf of Polaroid to install such fiber optic cable in the public way in accordance with the plans and specifications enclosed herewith be approved by the City Council.

Very truly yours,

NYNEX Business Information
Systems Company

By: 
Frederick B. Peirce
Project Manager

Enclosures

cc: (w/encls.)

Russell B. Higley, Esq., City Solicitor
Michael C. Costello, Esq., Assistant City Solicitor
Robert Healy, City Manager
George Fernandez, City Electrician
Anthony Paolillo, Police Chief
Thomas Scott, Fire Chief
Everett Kennedy, Commissioner of Public Works

2377A

HENKELS & McCOY

Jolly Road
Blue Bell, Pennsylvania 19422
(215) 283-7600

HENKELS & McCOY - STATEMENT OF QUALIFICATIONS

THE COMPANY

Founded in 1923, Henkels & McCoy is the largest independently held telecommunications engineering, construction and maintenance firm in the United States. Through 20 divisions with permanent offices and operations facilities strategically located across the nation, Henkels & McCoy offers one of the largest service networks of qualified individuals and state-of-the-art equipment available in the communications industry. Our staff of more than 5300 highly experienced engineering and technical personnel provides the resources necessary to design and service your communications system - regardless of its size, from facilities analysis and engineering to its installation and maintenance.

Over the years, Henkels & McCoy has established a reputation for quality performance—the inevitable result of responsible supervision and expert craftsmanship. One measure of our capability in the communications industry is that we installed over 12 million telephones for the operating telephone companies prior to industry deregulation. With deregulation, we have made this nationwide capability available to the telephone end-user.

Among our largest clients are American Telephone & Telegraph Company and the independent telephone companies, General Telephone & Electronics, United Telecommunications, Continental Telephone, and others which employ on a contract basis over 1,500 of our engineers and craftsmen. In addition, we serve the major and most of the minor independent telephone operating companies in the United States.

In addition to our work for the operating telephone utilities, we are involved on a national basis in the area of private telephone service for a variety of clients. We are prepared to consult, design, install and service electronic key and PABX systems of any size, including outside and inside plant.

We are experienced in the engineering, construction, training and maintenance of complex Central Office, Outside Plant and Interconnect projects and utilize the latest telecommunications technology as manufactured by the world's major suppliers.

We are accustomed to successfully working in adverse foreign environments, on complex projects requiring a high degree of interface utilizing the latest computerized management techniques (CPM, PERT, etc. al.) to achieve desired goals.

EXPERIENCE

A. GENERAL

Henkels & McCoy for many years, has served all the major and most of the minor telephone operating companies in the United States.

We have installed over 12,000,000 telephones and the necessary outside Plant and Central Office to insure their function. This represents more telephones than presently exist in New York City, Chicago and Washington D.C. combined.

PERFORMANCE has built our business . . .

Billings to the telephone companies for our services in the past five years exceeds \$400,000,000.

Daily, we provide technicians to the operating companies to construct and/or maintain their systems. These technicians routinely perform service such as:

- Installation of central office equipment, PBX's and station equipment.
- Installation of outside plant
- Splicing
- Cable plowing
- Duct systems
- Pole lines
- Microwave
- CATV
- Fiber Optics
- Direct buried cable

These forces have engineering support thoroughly qualified to design the systems we install. They are extremely knowledgeable in:

- All forms of outside plant, central office and interconnect projects
- Training
- Network Design - Local Area Networks
- Records Reconciliation
- Operating Assistance
- Inspection and Supervision Services

B. NATIONAL

We have been a prime or subcontracting source for many private telecommunications projects across the country as the partial list illustrates:

Subcontracts

Las Vegas, Nevada

Subcontracted to Centel for installation of private switching systems for major hotels/casinos (MGM Grand, Ceasars Palace, Circus Circus, Hacienda, etc.). Over 10,000 lines.

Hollywood, California

Subcontracted to Com Systems to design and install duct system, outside and inside cable/wire facilities, as well as, station installation (Burbank and MGM Studios). Over 10,000 lines.

Clairmont, California

Subcontracted to Com Systems to assist in traffic and system clean-up, both outside and inside plant, at Clairmont College. Over 3,500 lines.

State of New Mexico and Westinghouse in Pittsburgh, PA
Subcontracted to GTE BCS for outside and inside Cable and wire design and installation of 20,000 plus lines.

Henkels & McCoy has designed, installed and maintained numerous client telephone systems. Following are a few of our systems in the Northeastern United States:

Bay Banks
Faulkner Hospital
Good Samaritan Hospital
Norton Company
Boston City Hospital
John Hancock Insurance
Kelsey Hayes
Leonard Silver Company
Presbyterian Hospital

The complete list includes customers from all areas of business and industry, in most major U.S. cities (available upon request).

Our National Account customers include firms such as K Mart, Kelly Services, Johnson & Johnson, Lomas & Nettleton, American Express, Merrill Lynch, American Standard, Nashua Corp., and Pitman Moore to name a few.

C. INTERNATIONAL

In addition to domestic projects, some overseas work Henkels & McCoy recently completed includes the following:

Saudi Arabia

Provided over 100 engineers and craftsmen to ARAMCO for planning, design, installation and maintenance of telephone systems.

Iran

Participated in a joint venture project worth \$300 million dollars to install 288,000 lines of additional telephone capacity in Outside Plant for 58 towns through the Provinces.

Nigeria

Total inside and outside plant cable installation of 112 miles including all equipment from the switch to telephone instruments at Mohammed Murtala International Airport in Lagos. Training and maintenance programs are still in progress.

China

Provided engineering, installation supervision, training and distribution of cable/hardware supplies in a joint venture with GTE-International for a GTD 10000 - 700 plus station interconnect project for Jian Guo Hotel in Beijing, P.R.C.

D. TRANSMISSION SYSTEMS

Our telecommunications experience also includes construction of transmission systems such as:

Microwave

Henkels & McCoy has performed site preparation, building foundation and structure with associated back-up systems for:

MCI - 26 sites as prime contractor
TVA - 9 sites as subcontractor

Fiber Optics & CATV

Henkels & McCoy has been involved with the design and installation of fiberoptic cable for more than five years. Our work has included the field design of over 255 miles of fiberoptic cable for the MCI Corporation and 25 miles for Southern Pacific Communications. We have also placed fiberoptic cable in aerial, underground and buried installation for a half dozen operating telephone companies. Our work has also involved splicing of the light guide, repeater placement and termination.

Our engineering and construction forces have also designed and placed hundreds of miles of CATV coaxial cable across the country. This has included projects in Phoenix, Portland, Omaha, Philadelphia and Dallas. We can work from the head end through to the subscriber connection.

E. THIRD PARTY MAINTENANCE

Third Party Maintenance has evolved in response to the deregulation of the telephone industry, and the growing need for a "sole source" company with the experience and the resources to install and maintain major corporate communications systems.

To accomplish this goal Henkels & McCoy employs a communications staff comprised of:

- Civil Engineers
- Communications Engineers
- Communications Consultants
- Computer Operators
- Customer Service Representatives
- Data Communications Specialists
- Data Communications Consultants
- Draftsmen
- Electrical Engineers
- Estimators
- Journeyman Technicians
- Mechanical Engineers
- Project Managers; Voice & Data
- Specification Writers
- Structural Engineers
- Surveyors

Each Area Office includes installation, maintenance, training and administrative personnel. These include:

San Francisco, California
Hartford, Connecticut
Tampa, Florida
Boston, Massachusetts
Worcester, Massachusetts
Grand Rapids, Michigan
Lansing, Michigan
Portland, Oregon
Philadelphia, Pennsylvania
Salt Lake City, Utah
Richmond Virginia
Kennewick, Washington
Seattle, Washington
Spokane, Washington

Some additional Henkels & McCoy offices providing direct services include the following:

Phoenix, Arizona
Los Altos, California
Menlo Park, California
Denver, Colorado
New Castle, Delaware
Fort Myers, Florida
Jacksonville, Florida
Miami, Florida
Tallahassee, Florida
Boise, Idaho
Salem, Illinois
Elkhart, Indiana
Indianapolis, Indiana
Kansas City, Kansas
Lebanon, Kentucky
Monroe, Louisiana
Baltimore, Maryland
Rising Sun, Maryland
Alpena, Michigan
Detroit, Michigan
Helena, Montana
Lincoln, Nebraska
Omaha, Nebraska
Burlington, New Jersey
Albuquerque, New Mexico
Goldsboro, North Carolina
Shelby, North Carolina
Columbus, Ohio
Oklahoma City, Oklahoma
Eugene, Oregon
Pendleton, Oregon
Pittsburgh, Pennsylvania
York, Pennsylvania
Chattanooga, Tennessee

Dallas, Texas
Houston, Texas
Lewisville, Texas
Milwaukee, Wisconsin
Casper, Wyoming

Localities not listed are serviced through our many other facilities to insure complete cost effective National coverage, (complete listings available).

Notable current projects include

- Merrill Lynch; Consulting and Project Management at new campus complex in Plainsboro, NJ (6 bldgs)
- Cornell University; Consultants/Engineering
- Drexel University; Consultants/Engineering
- MCI; engineering design and installation of Fiber Optic Cable from Washington D.C. to New York
- IBM; Installation and Maintenance of 6600 line PBX in Manassas, Virginia
- Bell; Installation of PBX for Marketing arm of Bell Atlantic in Princeton, NJ
- ATT Communications; Engineering, design and installation of Fiber Optic Cable from Chicago to Harrisburg, Pa.

PERFORMANCE HAS BUILT OUR BUSINESS...

Over the past six decades, Henkels & McCoy has served a diverse number of clients worldwide. As our company has grown, we have continued to provide the best and most timely service possible in every endeavor we undertake. We are proud of our long list of clients—including our first two—who continue to turn to Henkels & McCoy because of our excellent capabilities. The reputation we have built over the years continues to be the standard by which we do our work. Clearly, our business has been built on the quality of our performance. We extend to you this same commitment to quality in the design, project management, installation and maintenance of your communications system.

PETITION FOR OCCUPANCY OF
EXISTING UNDERGROUND CONDUIT FACILITIES

TO: City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

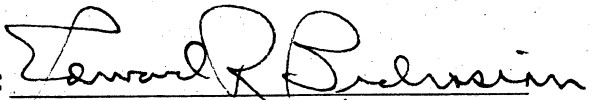
Attention: Mayor Francis H. Duehay

Polaroid Corporation ("Polaroid") respectfully requests permission to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company located in the following public way or ways:

Main Street
Portland Street

A plan showing the location of the existing underground conduit facilities within which said cables shall be installed is attached hereto.

POLAROID CORPORATION

By: 
Edward R. Bedrosian,
Vice President and
Treasurer

Dated this 18th day of September, 1985.



C. BRENDON NOONAN & CO. Real Estate

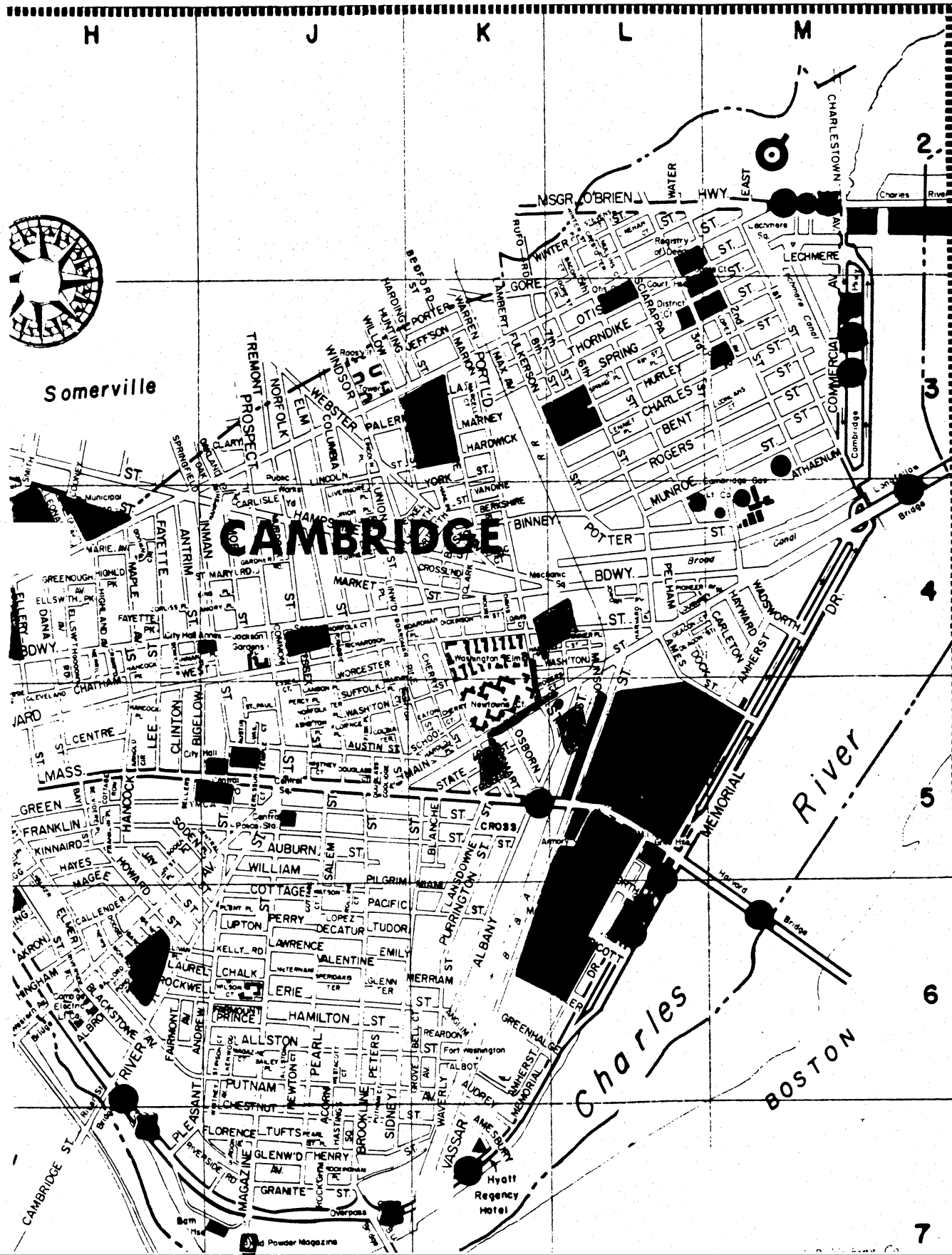
Commercial • Industrial • Residential
Appraisers • Auctioneers

323 Broadway
CAMBRIDGE, MA. 02139

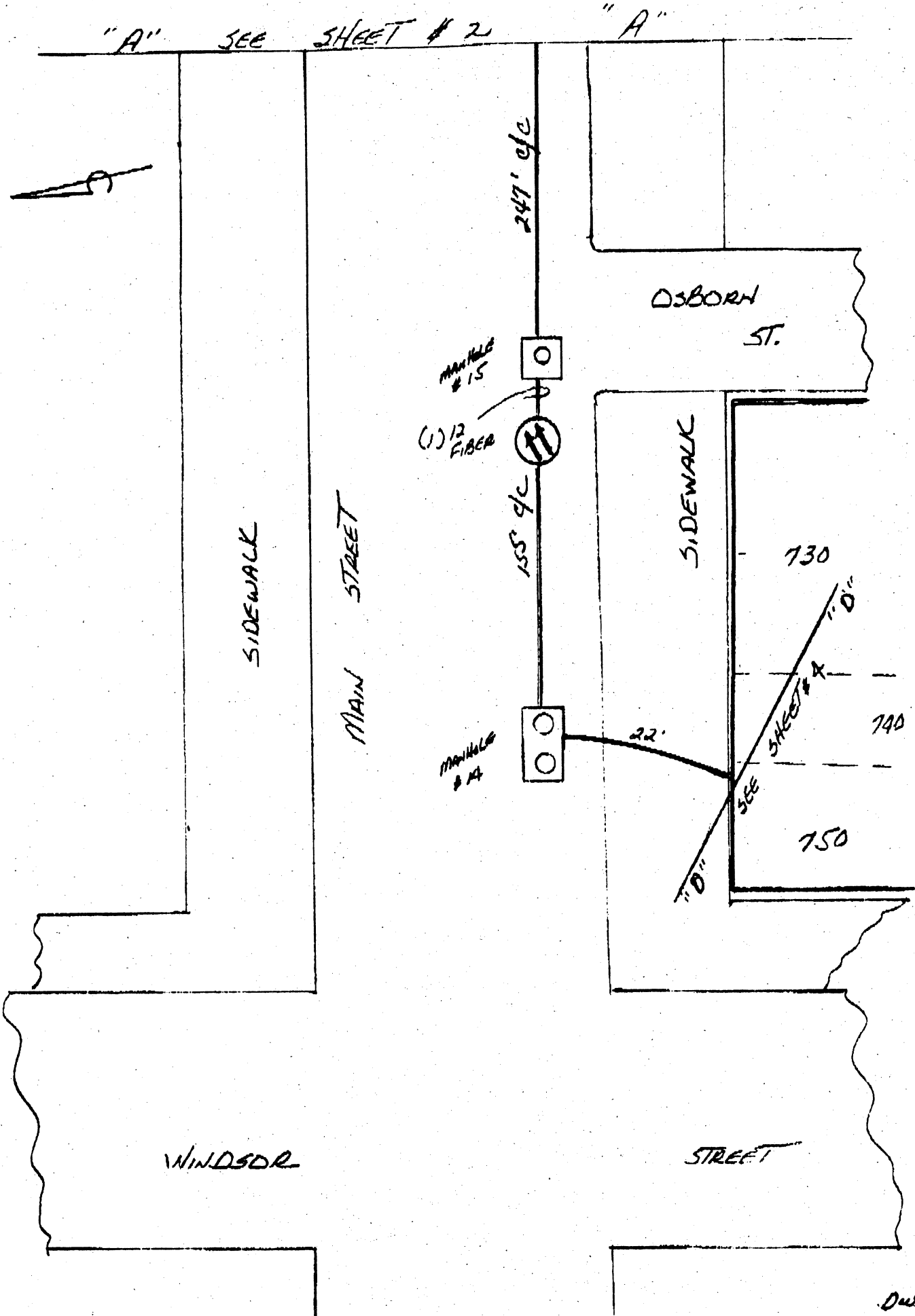
(617) 876-3500

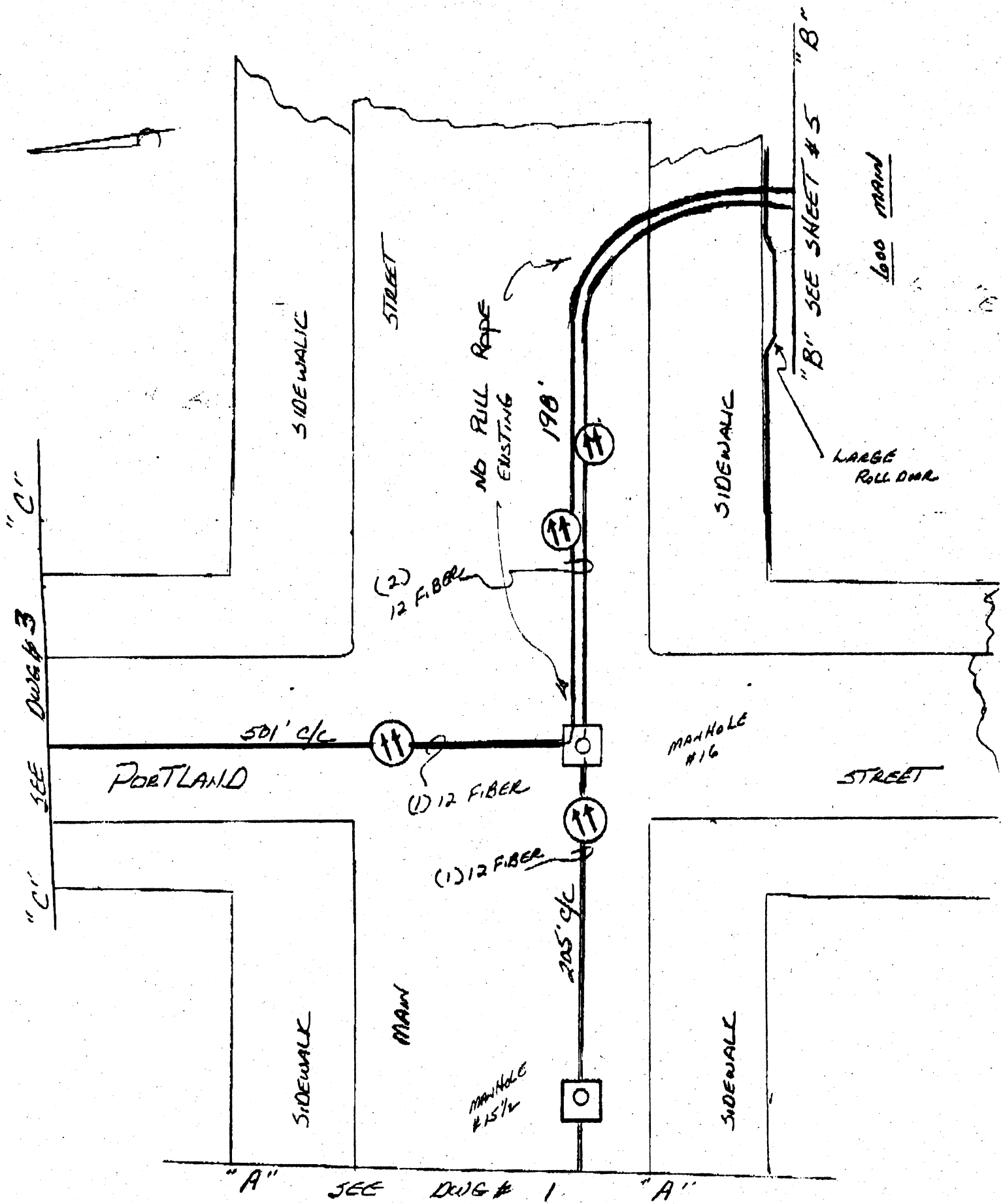
"A" 750 Main Street
"B" 600 Main Street
"C" 565 Tech Square

LOCATION OF EXISTING UNDERGROUND
CONDUIT FACILITIES CONNECTING
THREE POLAROID CORPORATION
FACILITIES ("A", "B" and "C")
IN CAMBRIDGE, MA



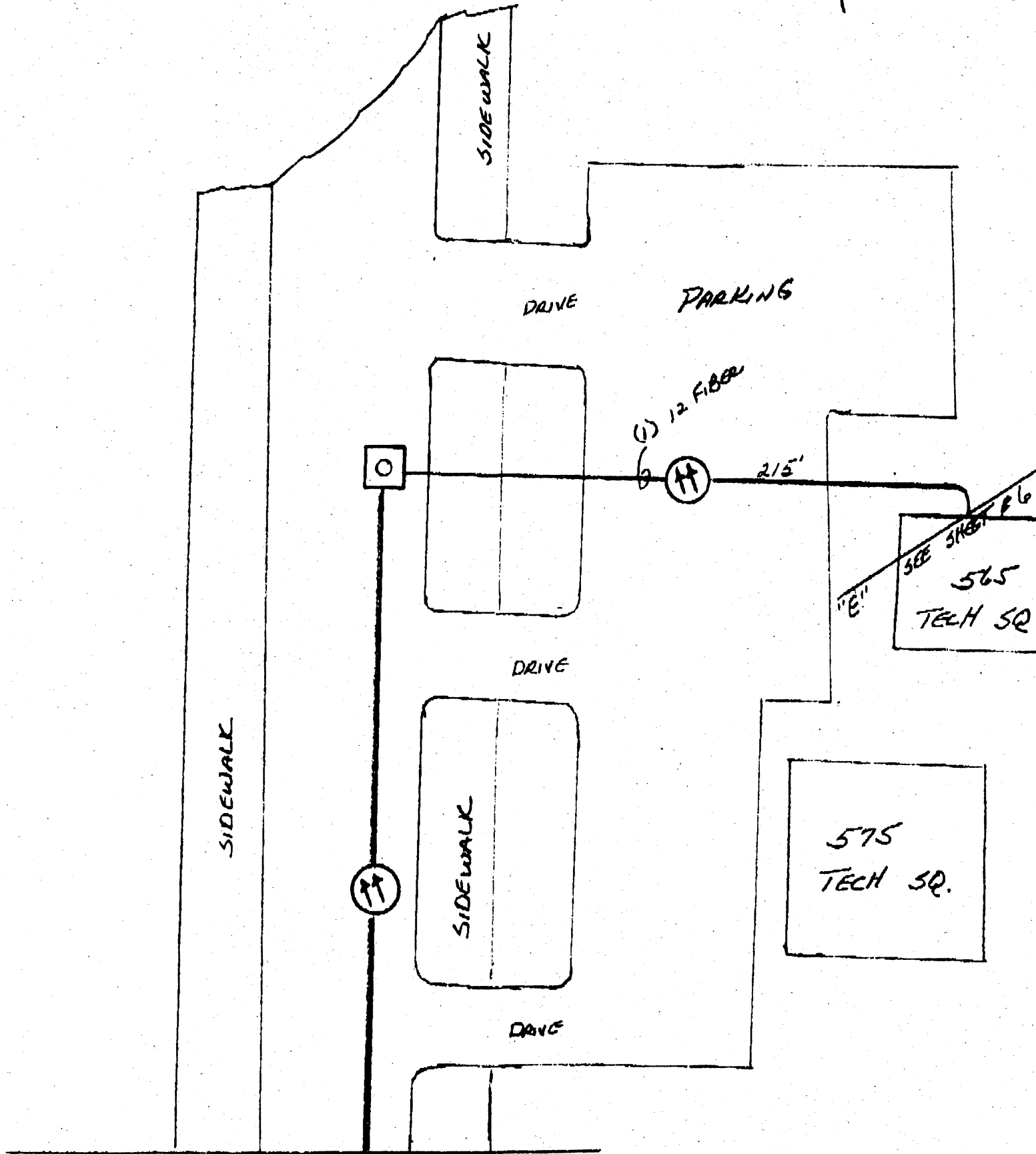
POLAROID CORP. - CAMBRIDGE





NO SCALE

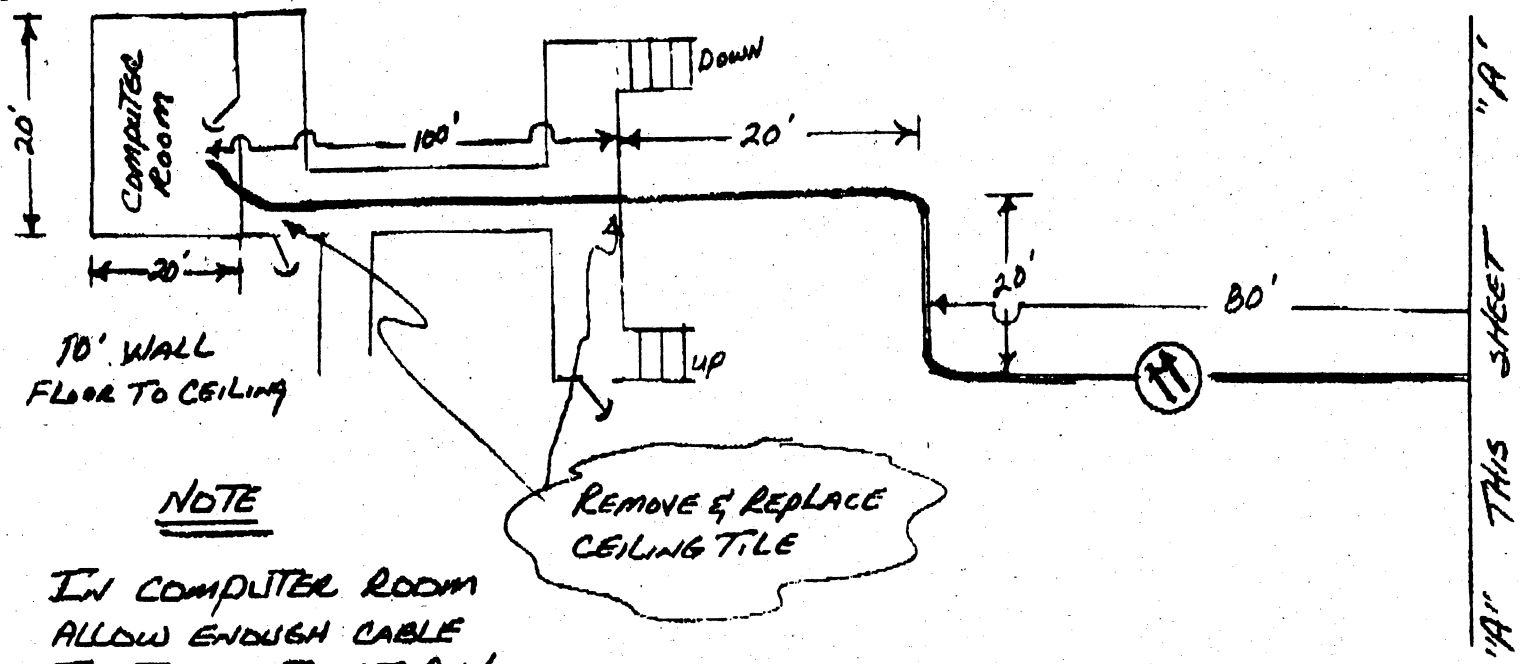
DWG # 9



"C" SEE SHEET # 2 "C"

NO SCALE

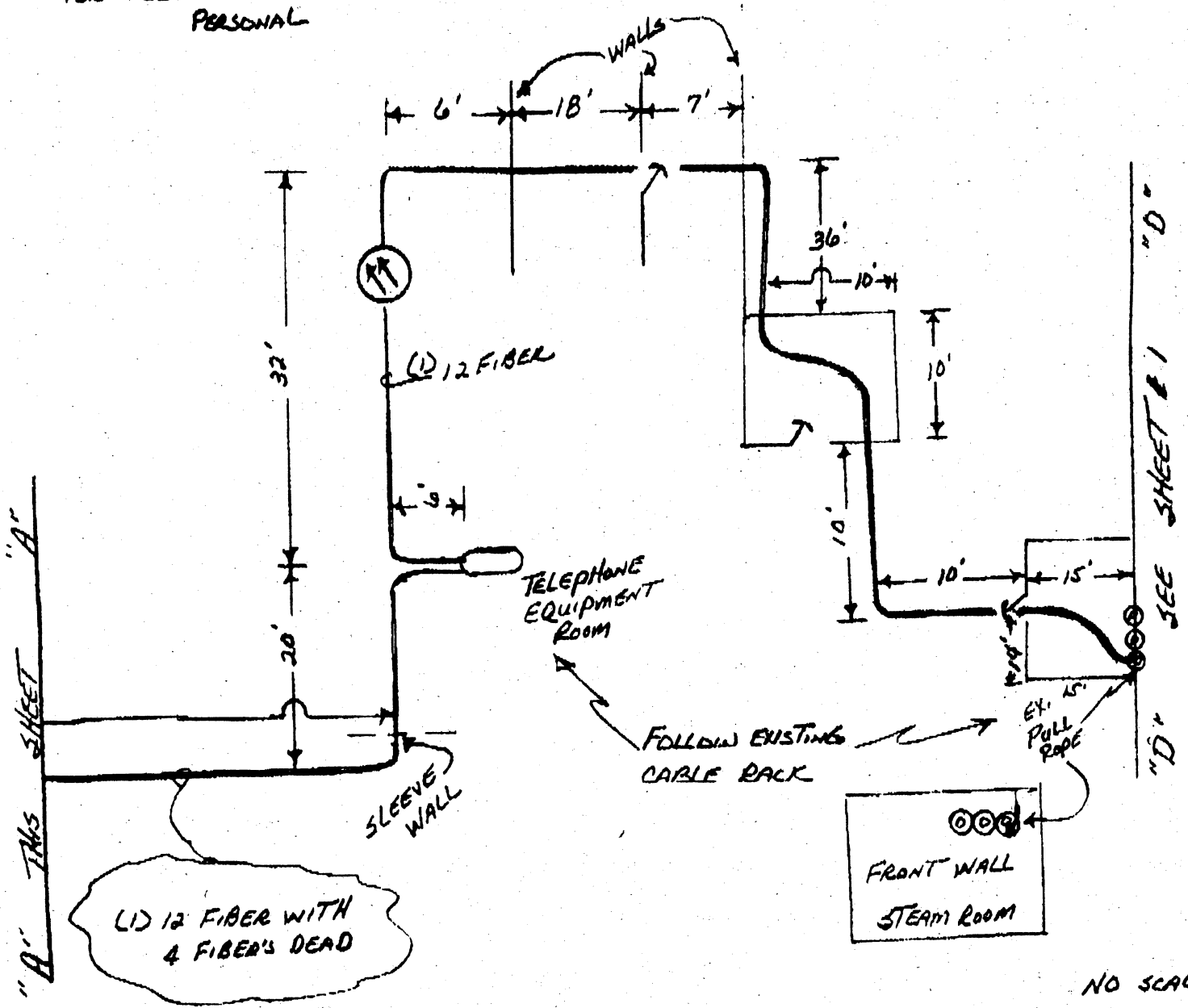
SHEET # 3



NOTE
 IN COMPUTER ROOM
 ALLOW ENOUGH CABLE
 TO TERMINATE AT ANY
 LOCATION

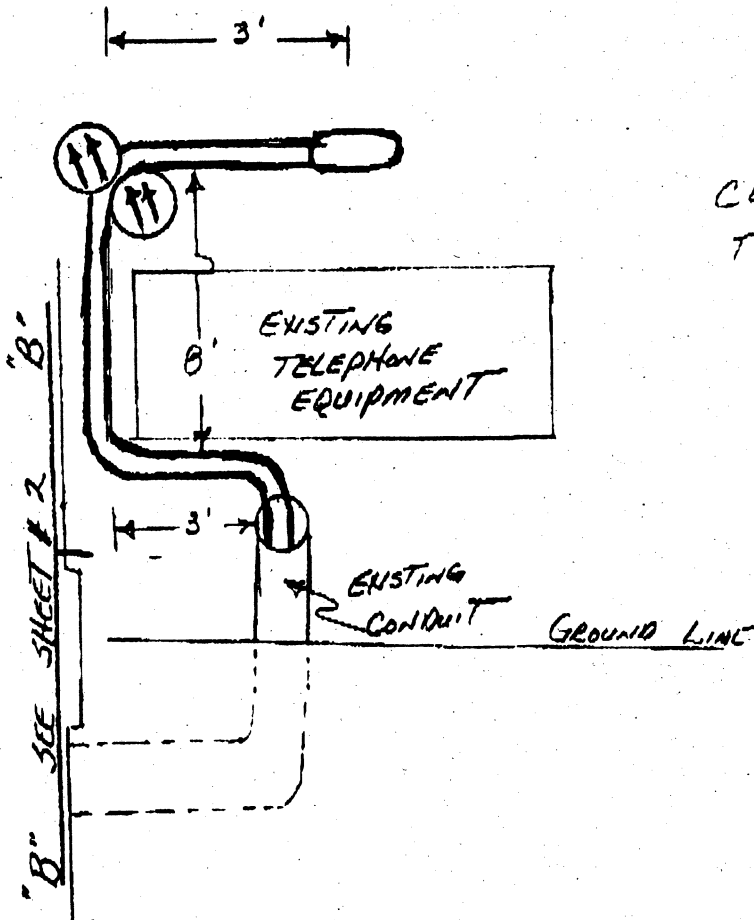
750 MAIN STREET

PER POLAROID
 PERSONAL



NO SCALE
 SHEET # 4

600 MAIN STREET



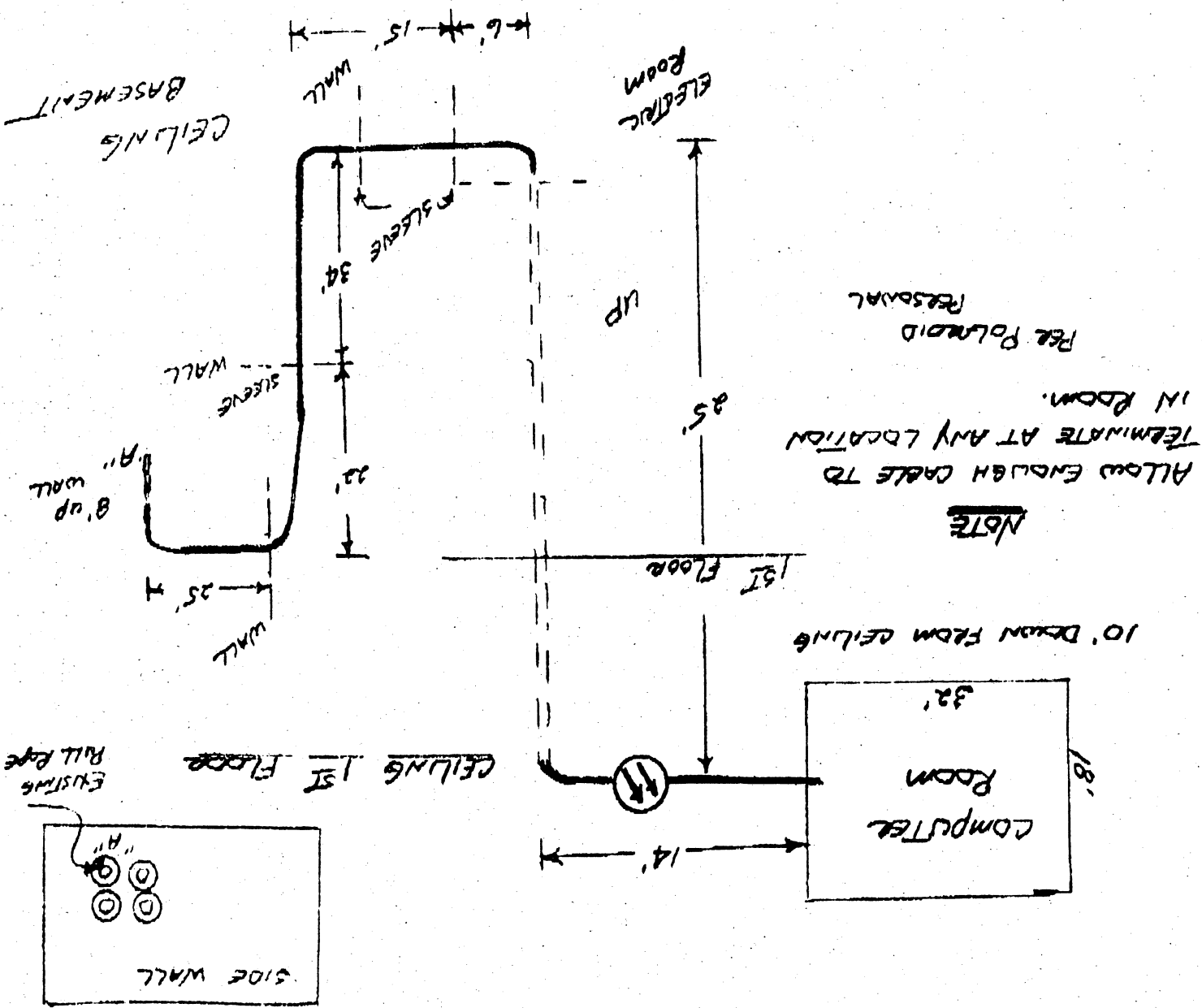
No SCALE
DRAWN 5

SHEET # 6

NO SCALE

STRAP CABLE TO EXISTING CONDUITS

56.5 TECH SQUARE



NOTE
 ALLOW ENOUGH CABLE TO
 TERMINATE AT ANY LOCATION
 IN ROOM.
 PER POLYMERID
 REPAIR

10' DOWN FROM CEILING

UP

ELECTRIC ROOM

CEILING BASEMENT

SLEEVE WALL

CEILING 1ST FLOOR

SIDE WALL

EXISTING RAIL EYE

8" UP WALL

25'

32'

SLEEVE

6' 15"

1ST FLOOR

25'

14'

32'

18'

COMPUTER ROOM

10' DOWN FROM CEILING

NOTICE OF PUBLIC MEETING

Notice is hereby given pursuant to M.G.L. Chapter 166, Section 22 that the City Council of the City of Cambridge will hold a public meeting on October 7, 1985 in the City Hall at 6:00 p.m. on a petition by Polaroid Corporation for permission to install fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company in the following public ways:

Main Street
Portland Street

Copies of a plan showing the proposed street locations of the cable and information describing the type of cable and method of installation are available for inspection at the office of the City Clerk from 9:00 A.M. to 5:00 P.M., Monday through Friday.

Filed with the office of the City Clerk on September 19, 1985 (required by M.G.L. Chapter 39, Section 23B).

Posted on municipal bulletin board on October 1st, 1985 (at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting).

Paul E. Healy, City Clerk.

RECEIVED BY
OFFICE OF CITY CLERK

1985 OCT -1 PM 4: 44

NOTICE OF PUBLIC MEETING

Notice is hereby given pursuant to M.G.L. Chapter 166, Section 22 that the City Council of the City of Cambridge will hold a public meeting on ~~October~~ 7, 1985 in the City Hall at 6:00 p.m. on a petition by Polaroid Corporation for permission to install fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company in the following public ways:

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RECEIVED BY
OFFICE OF CITY CLERK

1985 OCT -1 PM 4: 44



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

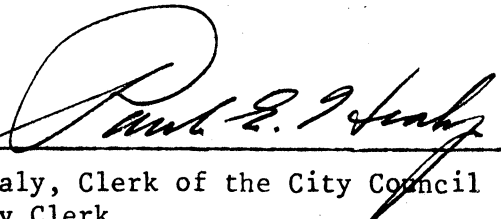
OFFICE OF
THE CITY CLERK

CERTIFICATION

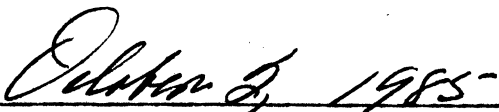
I, Paul Healy, hereby certify that a copy of the Notice attached hereto as Exhibit "A" was filed with the office of the City Clerk on September 19, 1985 and was posted on the municipal bulletin board on October 1, 1985 (at least 48 hours, including Saturdays, but not Sundays and legal holidays prior to the public meeting to be held on October 7, 1985, as required by M.G.L. Chapter 39, Section 23B), and was mailed to New England Telephone and Telegraph Company on October 2, 1985 as owner of the existing conduit facilities.

CITY OF CAMBRIDGE
CITY COUNCIL

Attest:


Paul Healy, Clerk of the City Council
and City Clerk

Dated:


October 2, 1985



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

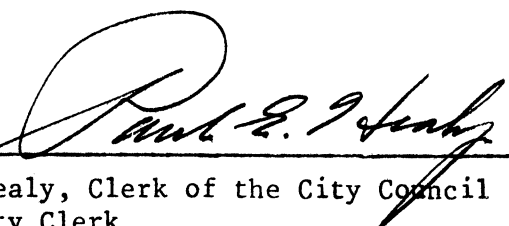
OFFICE OF
THE CITY CLERK

CERTIFICATION

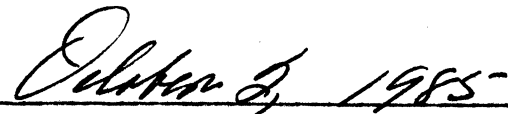
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CITY OF CAMBRIDGE
CITY COUNCIL

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Paul Healy, Clerk of the City Council
and City Clerk

Dated:

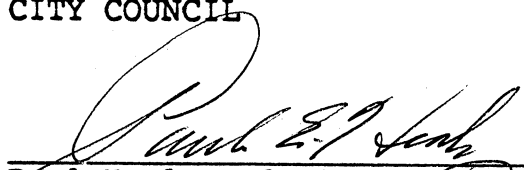

October 2, 1985

Certification

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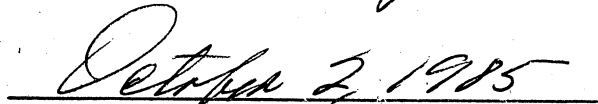
CITY OF CAMBRIDGE
CITY COUNCIL

Attest:



Paul Healy, Clerk of the City
Council and City Clerk

Dated:



October 2, 1985

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Filed with the office of the City Clerk on September 19, 1985 (required by M.G.L. Chapter 39, Section 23B).

Posted on municipal bulletin board on October 1st __, 1985 (at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting).

NOTICE OF PUBLIC MEETING

Notice is hereby given pursuant to M.G.L. Chapter 166, Section 22 that the City Council of the City of Cambridge will hold a public meeting on October 7th__, 1985 in the City Hall at 6:00 p.m. on a petition by Polaroid Corporation for permission to install fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company in the following public ways:

Main Street
Portland Street

Copies of a plan showing the proposed street locations of the cable and information describing the type of cable and method of installation are available for inspection at the office of the City Clerk from 9:00 A.M. to 5:00 P.M., Monday through Friday.

Filed with the office of the City Clerk on September 19, 1985 (required by M.G.L. Chapter 39, Section 23B).

Posted on municipal bulletin board on October 1st __, 1985 (at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting).

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Filed with the office of the City Clerk on September 19, 1985 (required by M.G.L. Chapter 39, Section 23B).

Posted on municipal bulletin board on October 1st __, 1985 (at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting).

Sales Division

NYNEX
Business Information Systems 

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mayor Francis H. Duehay, Chairman

RE: NYNEX Business Information Systems Company/Polaroid Corporation - Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mayor Duehay:

NYNEX Business Information Systems Company ("NYNEX") respectfully submits the enclosed petition on behalf of Polaroid Corporation ("Polaroid") pursuant to Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 for permission to place fiber optic cable in existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the public way. M.G.L. Chapter 166 Section 22 provides in part that "after the erection or construction of such line, the board of aldermen or board of selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without notice or hearing, by order permit an increase in the number of wires or cables, and direct an alteration in the location of the poles, piers, abutments or conduits or in the height of the wires or cables." Our attorneys, Messrs. Rackemann, Sawyer & Brewster were informed by Joseph Connarton that the City Council will entertain Polaroid's petition at one of the Council's regularly scheduled meetings. NYNEX respectfully requests that Polaroid's petition be placed on the City Council's agenda for September 30, 1985.

I. Introduction

NYNEX has been retained by Polaroid to supply and install fiber optic cable to connect three of Polaroid's facilities in Cambridge, Massachusetts. The cable will facilitate high-speed voice and data communications between Polaroid's facilities.

It is expected to take approximately three days to install the cable. In order to facilitate Polaroid's needs, the system must be operational by October, 1985. Polaroid will own the line after installation and will pay NET, as the owner of the conduit facilities, a user fee under the terms and conditions of a conduit facilities occupancy agreement. Plans and specifications for the cable, including a map showing the street locations for the cable, are enclosed herewith.

II. Description of Cable and Work to be Performed

The fiber optic cable, manufactured by Fibronics International Incorporated, will be installed in existing conduit facilities owned by NET. The fiber will be a 100/140 micron graded-index multimode fiber. The fiber design consists of a germanium doped core and a silica cladding. A dual construction protective coating is applied over the fiber cladding to cushion the fiber against microbending losses, provide abrasion resistance, and preserve the mechanical strength of the glass. Each fiber is proof tested so that it will survive the installation loads and the associated long term residual stresses, even under extreme environmental conditions. Each fiber is measured for optical and dimensional properties for compliance with the manufacturer's specifications. The nonmetallic 12-fiber stranded cable is less than three-quarters of an inch in diameter.

III. Installation and Maintenance of the Cable

The proposed method of installation will involve opening five existing manholes and inserting the cable into existing interducts located in the underground conduit facilities. The installation of the cable will comply with the standards imposed by NET, and the National Electric Safety Code.

The fiber optic cables will be installed by Henkels & McCoy, Inc. under contract to NYNEX. A copy of the firm's resume is enclosed herewith. Henkels & McCoy, founded in 1923, is a highly diversified multinational engineering and construction company headquartered in Blue Bell, Pennsylvania. Henkels & McCoy maintain a satellite office in Braintree, Massachusetts. They are the largest independently owned telecommunications management, engineering, construction, training and maintenance company in the United States with gross annual revenues in excess of a quarter of a billion dollars.

Henkels & McCoy have almost 60 years of construction experience servicing utility companies and over 30 years of experience in CATV systems installation. The work to be performed for Polaroid will be directed by a full time on site Henkels & McCoy field supervisor.

It is expected that remedial and preventive maintenance of the cable network will be performed by Henkels and McCoy under contract to Polaroid. Remedial maintenance will be provided on a 24 hour per day, 365 day per year basis. Minor problems that are not service affecting will be responded to within 24 hours. Major problems will be responded to promptly. Preventive maintenance will be performed on a prearranged schedule so as to minimize disruptions.

IV. Polaroid to Obtain Permission from NET to Utilize Existing Underground Conduit Facilities

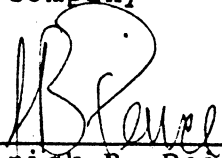
The project will involve only the placement of a cable in existing underground conduit facilities. NYNEX is presently negotiating a License Agreement for Occupancy of Underground Conduit Systems with NET to authorize Polaroid's use of the conduit facilities.

V. Conclusion

NYNEX will take all required safety procedures to insure that the cable will be installed safely and without any unnecessary inconvenience or interruption to users of the public ways under which the cable is proposed to be located. NYNEX respectfully requests that its petition on behalf of Polaroid to install such fiber optic cable in the public way in accordance with the plans and specifications enclosed herewith be approved by the City Council.

Very truly yours,

NYNEX Business Information
Systems Company

By: 
Frederick B. Peirce
Project Manager

Enclosures

cc: (w/encls.)

Russell B. Higley, Esq., City Solicitor
Michael C. Costello, Esq., Assistant City Solicitor
Robert Healy, City Manager
George Fernandez, City Electrician
Anthony Paolillo, Police Chief
Thomas Scott, Fire Chief
Everett Kennedy, Commissioner of Public Works

2377A

HENKELS & McCOY - STATEMENT OF QUALIFICATIONS

THE COMPANY

Founded in 1923, Henkels & McCoy is the largest independently held telecommunications engineering, construction and maintenance firm in the United States. Through 20 divisions with permanent offices and operations facilities strategically located across the nation, Henkels & McCoy offers one of the largest service networks of qualified individuals and state-of-the-art equipment available in the communications industry. Our staff of more than 5300 highly experienced engineering and technical personnel provides the resources necessary to design and service your communications system - regardless of its size, from facilities analysis and engineering to its installation and maintenance.

Over the years, Henkels & McCoy has established a reputation for quality performance—the inevitable result of responsible supervision and expert craftsmanship. One measure of our capability in the communications industry is that we installed over 12 million telephones for the operating telephone companies prior to industry deregulation. With deregulation, we have made this nationwide capability available to the telephone end-user.

Among our largest clients are American Telephone & Telegraph Company and the independent telephone companies, General Telephone & Electronics, United Telecommunications, Continental Telephone, and others which employ on a contract basis over 1,500 of our engineers and craftsmen. In addition, we serve the major and most of the minor independent telephone operating companies in the United States.

In addition to our work for the operating telephone utilities, we are involved on a national basis in the area of private telephone service for a variety of clients. We are prepared to consult, design, install and service electronic key and PABX systems of any size, including outside and inside plant.

We are experienced in the engineering, construction, training and maintenance of complex Central Office, Outside Plant and Interconnect projects and utilize the latest telecommunications technology as manufactured by the world's major suppliers.

We are accustomed to successfully working in adverse foreign environments, on complex projects requiring a high degree of interface utilizing the latest computerized management techniques (CPM, PERT, etc. al.) to achieve desired goals.

EXPERIENCE

A. GENERAL

Henkels & McCoy for many years, has served all the major and most of the minor telephone operating companies in the United States.

We have installed over 12,000,000 telephones and the necessary outside Plant and Central Office to insure their function. This represents more telephones than presently exist in New York City, Chicago and Washington D.C. combined.

Billings to the telephone companies for our services in the past five years exceeds \$400,000,000.

Daily, we provide technicians to the operating companies to construct and/or maintain their systems. These technicians routinely perform service such as:

- Installation of central office equipment, PBX's and station equipment.
- Installation of outside plant
- Splicing
- Cable plowing
- Duct systems
- Pole lines
- Microwave
- CATV
- Fiber Optics
- Direct buried cable

These forces have engineering support thoroughly qualified to design the systems we install. They are extremely knowledgeable in:

- All forms of outside plant, central office and interconnect projects
- Training
- Network Design - Local Area Networks
- Records Reconciliation
- Operating Assistance
- Inspection and Supervision Services

B. NATIONAL

We have been a prime or subcontracting source for many private telecommunications projects across the country as the partial list illustrates:

Subcontracts

Las Vegas, Nevada

Subcontracted to Centel for installation of private switching systems for major hotels/casinos (MGM Grand, Ceasars Palace, Circus Circus, Hacienda, etc.). Over 10,000 lines.

Hollywood, California

Subcontracted to Com Systems to design and install duct system, outside and inside cable/wire facilities, as well as, station installation (Burbank and MGM Studies). Over 10,000 lines.

Clairmont, California

Subcontracted to Com Systems to assist in traffic and system clean-up, both outside and inside plant, at Clairmont College. Over 3,500 lines.

State of New Mexico and Westinghouse in Pittsburgh, PA
Subcontracted to GTE BCS for outside and inside Cable and wire design and installation of 20,000 plus lines.

Henkels & McCoy has designed, installed and maintained numerous client telephone systems. Following are a few of our systems in the Northeastern United States:

Bay Banks
Faulkner Hospital
Good Samaritan Hospital
Norton Company
Boston City Hospital
John Hancock Insurance
Kelsey Hayes
Leonard Silver Company
Presbyterian Hospital

The complete list includes customers from all areas of business and industry, in most major U.S. cities (available upon request).

Our National Account customers include firms such as K Mart, Kelly Services, Johnson & Johnson, Lomas & Nettleton, American Express, Merrill Lynch, American Standard, Nashua Corp, and Pitman Moore to name a few.

C. INTERNATIONAL

In addition to domestic projects, some overseas work Henkels & McCoy recently completed includes the following:

Saudi Arabia

Provided over 100 engineers and craftsmen to ARAMCO for planning, design, installation and maintenance of telephone systems.

Iran

Participated in a joint venture project worth \$300 million dollars to install 288,000 lines of additional telephone capacity in Outside Plant for 58 towns through the Provinces.

Nigeria

Total inside and outside plant cable installation of 112 miles including all equipment from the switch to telephone instruments at Mohammed Murtala International Airport in Lagos. Training and maintenance programs are still in progress.

China

Provided engineering, installation supervision, training and distribution of cable/hardware supplies in a joint venture with GTE-International for a GTD 10000 - 700 plus station interconnect project for Jian Guo Hotel in Beijing, P.R.C.

D. TRANSMISSION SYSTEMS

Our telecommunications experience also includes construction of transmission systems such as:

Microwave

Henkels & McCoy has performed site preparation, building foundation and structure with associated back-up systems for:

MCI - 26 sites as prime contractor
TVA - 9 sites as subcontractor

Fiber Optics & CATV

Henkels & McCoy has been involved with the design and installation of fiberoptics cable for more than five years. Our work has included the field design of over 255 miles of fiberoptic cable for the MCI Corporation and 25 miles for Southern Pacific Communications. We have also placed fiberoptic cable in aerial, underground and buried installation for a half dozen operating telephone companies. Our work has also involved splicing of the light guide, repeater placement and termination.

Our engineering and construction forces have also designed and placed hundreds of miles of CATV coaxial cable across the country. This has included projects in Phoenix, Portland, Omaha, Philadelphia and Dallas. We can work from the head end through to the subscriber connection.

E. THIRD PARTY MAINTENANCE

Third Party Maintenance has evolved in response to the deregulation of the telephone industry, and the growing need for a "sole source" company with the experience and the resources to install and maintain major corporate communications systems.

To accomplish this goal Henkels & McCoy employs a communications staff comprised of:

- Civil Engineers
- Communications Engineers
- Communications Consultants
- Computer Operators
- Customer Service Representatives
- Data Communications Specialists
- Data Communications Consultants
- Draftsmen
- Electrical Engineers
- Estimators
- Journeyman Technicians
- Mechanical Engineers
- Project Managers; Voice & Data
- Specification Writers
- Structural Engineers
- Surveyors

Each Area Office includes installation, maintenance, training and administrative personnel. These include:

San Francisco, California
Hartford, Connecticut
Tampa, Florida
Boston, Massachusetts
Worcester, Massachusetts
Grand Rapids, Michigan
Lansing, Michigan
Portland, Oregon
Philadelphia, Pennsylvania
Salt Lake City, Utah
Richmond Virginia
Kennewick, Washington
Seattle, Washington
Spokane, Washington

Some additional Henkels & McCoy offices providing direct services include the following:

Phoenix, Arizona
Los Altos, California
Menlo Park, California
Denver, Colorado
New Castle, Delaware
Fort Myers, Florida
Jacksonville, Florida
Miami, Florida
Tallahassee, Florida
Boise, Idaho
Salem, Illinois
Elkhart, Indiana
Indianapolis, Indiana
Kansas City, Kansas
Lebanon, Kentucky
Monroe, Louisiana
Baltimore, Maryland
Rising Sun, Maryland
Alpena, Michigan
Detroit, Michigan
Helena, Montana
Lincoln, Nebraska
Omaha, Nebraska
Burlington, New Jersey
Albuquerque, New Mexico
Goldsboro, North Carolina
Shelby, North Carolina
Columbus, Ohio
Oklahoma City, Oklahoma
Eugene, Oregon
Pendleton, Oregon
Pittsburgh, Pennsylvania
York, Pennsylvania
Chattanooga, Tennessee

Dallas, Texas
Houston, Texas
Lewisville, Texas
Milwaukee, Wisconsin
Casper, Wyoming

Localities not listed are serviced through our many other facilities to insure complete cost effective National coverage, (complete listings available).

Notable current projects include

- Merrill Lynch; Consulting and Project Management at new campus complex in Plainsboro, NJ (6 bldgs)
- Cornell University; Consultants/Engineering
- Drexel University; Consultants/Engineering
- MCI; engineering design and installation of Fiber Optic Cable from Washington D.C. to New York
- IBM; Installation and Maintenance of 6600 line PBX in Manassas, Virginia
- Bell; Installation of PBX for Marketing arm of Bell Atlantic in Princeton, NJ
- ATT Communications; Engineering, design and installation of Fiber Optic Cable from Chicago to Harrisburg, Pa.

PERFORMANCE HAS BUILT OUR BUSINESS...

Over the past six decades, Henkels & McCoy has served a diverse number of clients worldwide. As our company has grown, we have continued to provide the best and most timely service possible in every endeavor we undertake. We are proud of our long list of clients—including our first two—who continue to turn to Henkels & McCoy because of our excellent capabilities. The reputation we have built over the years continues to be the standard by which we do our work. Clearly, our business has been built on the quality of our performance. We extend to you this same commitment to quality in the design, project management, installation and maintenance of your communications system.

ORDER

Pursuant to Massachusetts General Laws (M.G.L.) Chapter 166, Section 22, the undersigned hereby grant permission to Polaroid Corporation to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company ("NET") located in the following public way or ways:

Main Street
Portland Street

Along the route substantially shown on the attached plan filed with the City Council.

CERTIFICATION

I HEREBY CERTIFY that the foregoing Order was adopted by the City Council at a meeting of said Council held on the ___ day of _____, 1985, that said meeting was duly noticed in accordance with the requirements of M.G.L. Chapter 39, Section 23B, and that notice was given to New England Telephone and Telegraph Company as the owner of the underground conduit facilities.

Attest: _____
Clerk of the City of Cambridge

ACCEPTANCE

Polaroid Corporation hereby accepts without reservation the above Order of the City Council adopted on the ____ day of _____, 1985, with the conditions, terms and provisions contained therein and the ordinances of the City and future amendments thereof. Polaroid further agrees to carry out, observe, perform and be subject to the same.

POLAROID CORPORATION

Dated:

By:

Edward R. Bedrosian
Vice President and
Treasurer

CERTIFICATION

I HEREBY CERTIFY that the fully executed Order was recorded in accordance with the requirements of M.G.L. Chapter 166, Section 22, in books kept exclusively therefor in the office of the City Clerk on the ____ day of _____, 1985.

Attest:

Clerk of the City of Cambridge



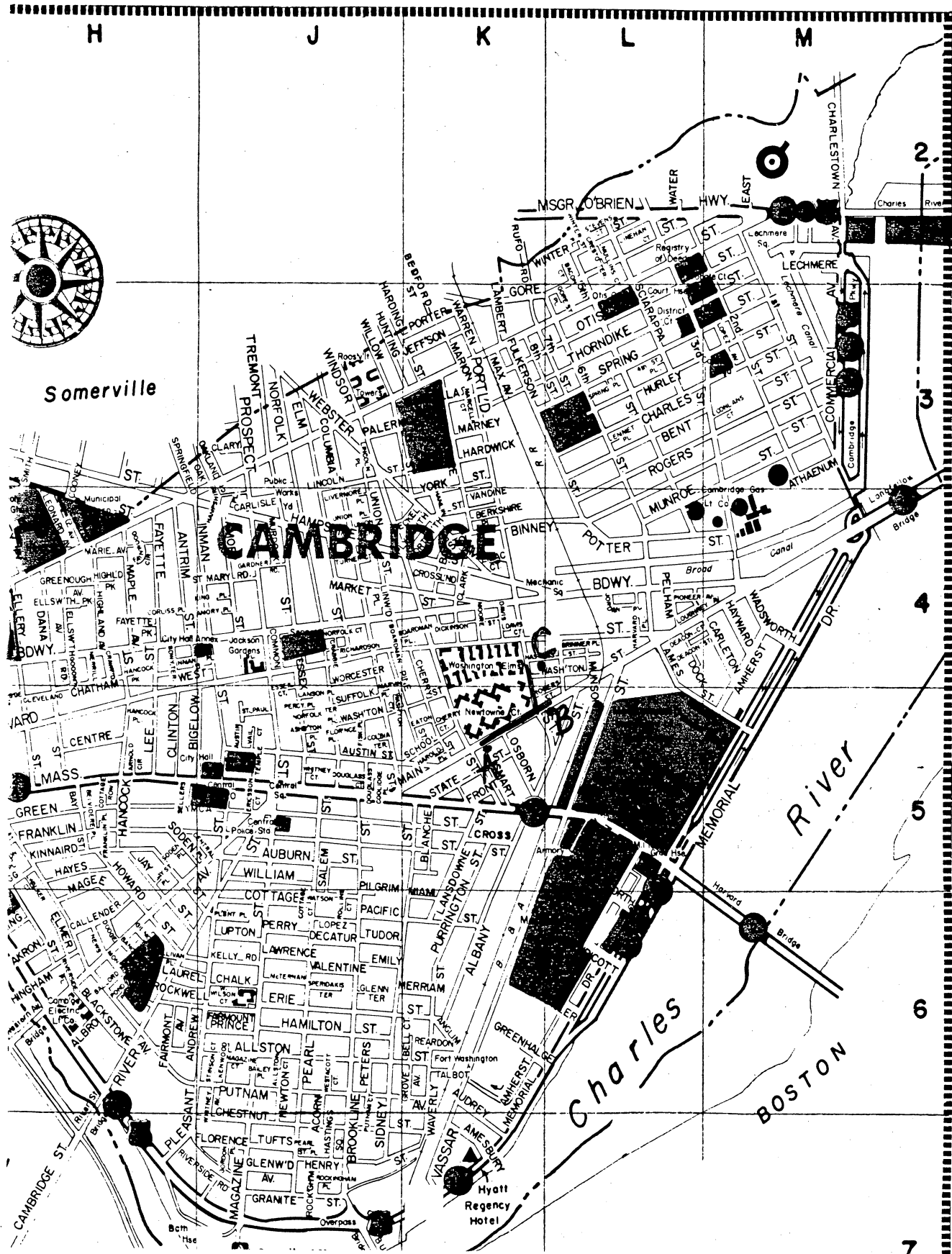
C. BRENDON NOONAN & CO.
Real Estate

Commercial • Industrial • Residential
 Appraisers • Auctioneers

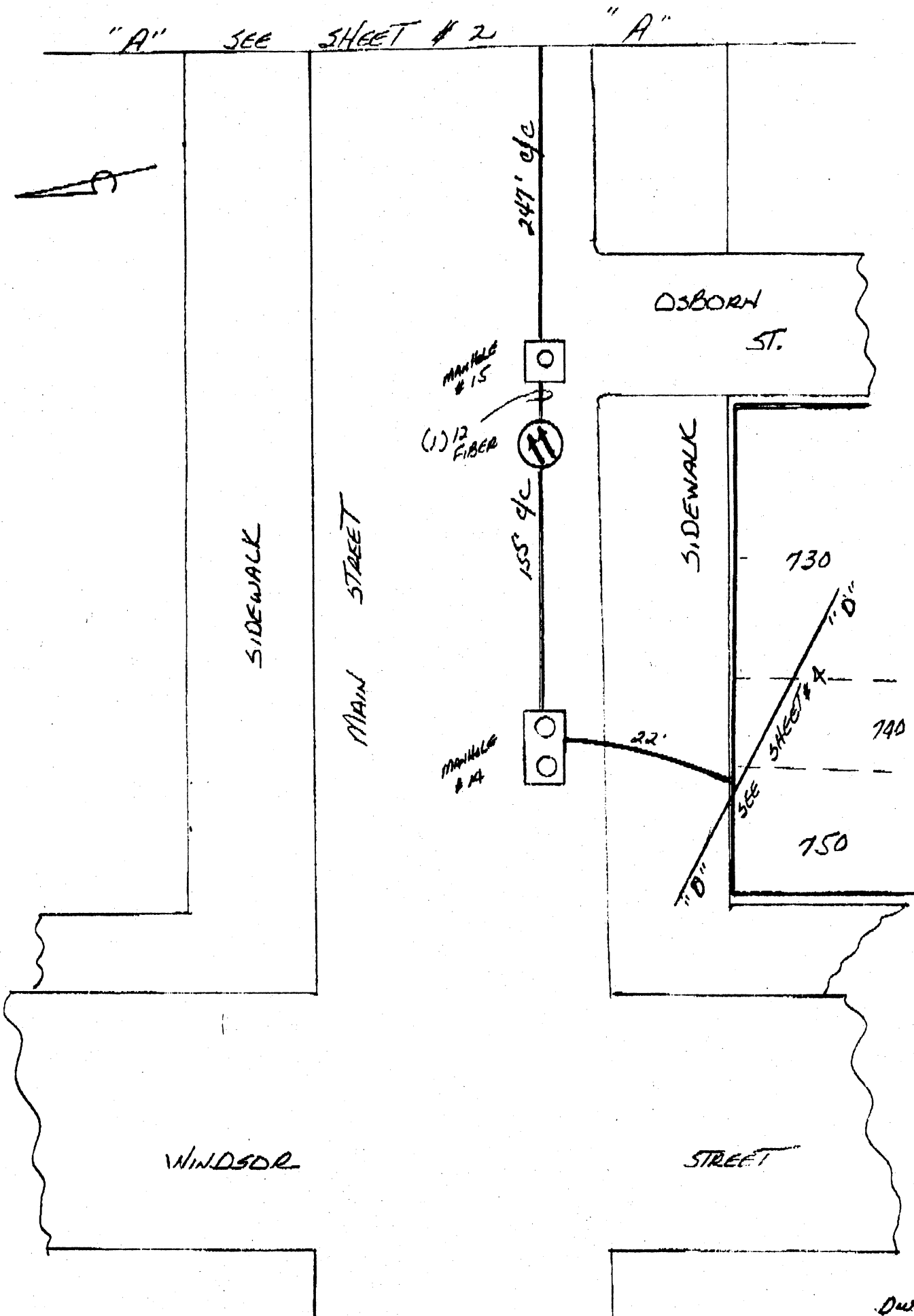
323 Broadway
 CAMBRIDGE, MA. 02139 (617) 876-3500

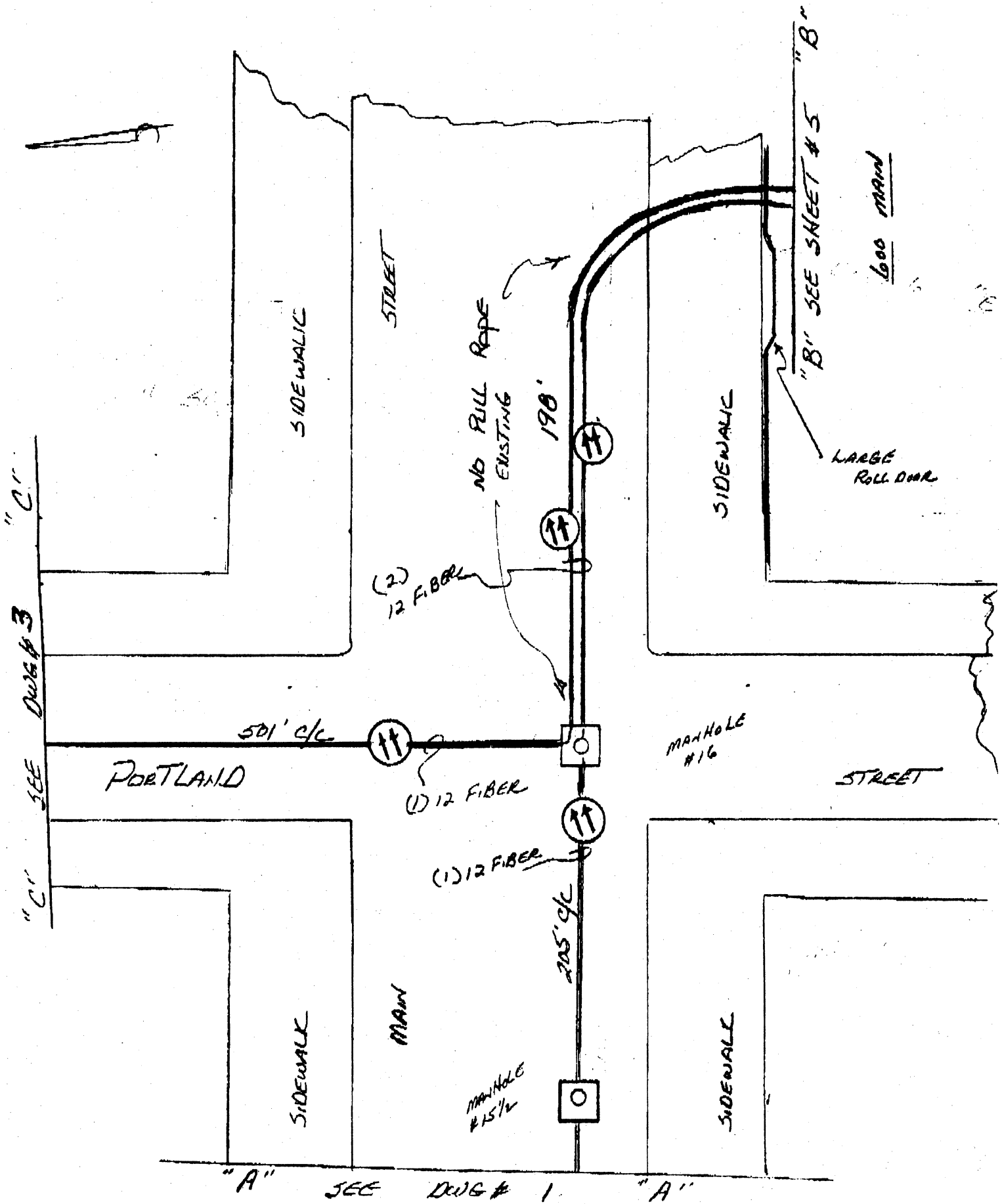
"A" 750 Main Street
 "B" 600 Main Street
 "C" 565 Tech Square

LOCATION OF EXISTING UNDERGROUND
 CONDUIT FACILITIES CONNECTING
 THREE POLAROID CORPORATION
 FACILITIES ("A", "B" and "C")
 IN CAMBRIDGE, MA



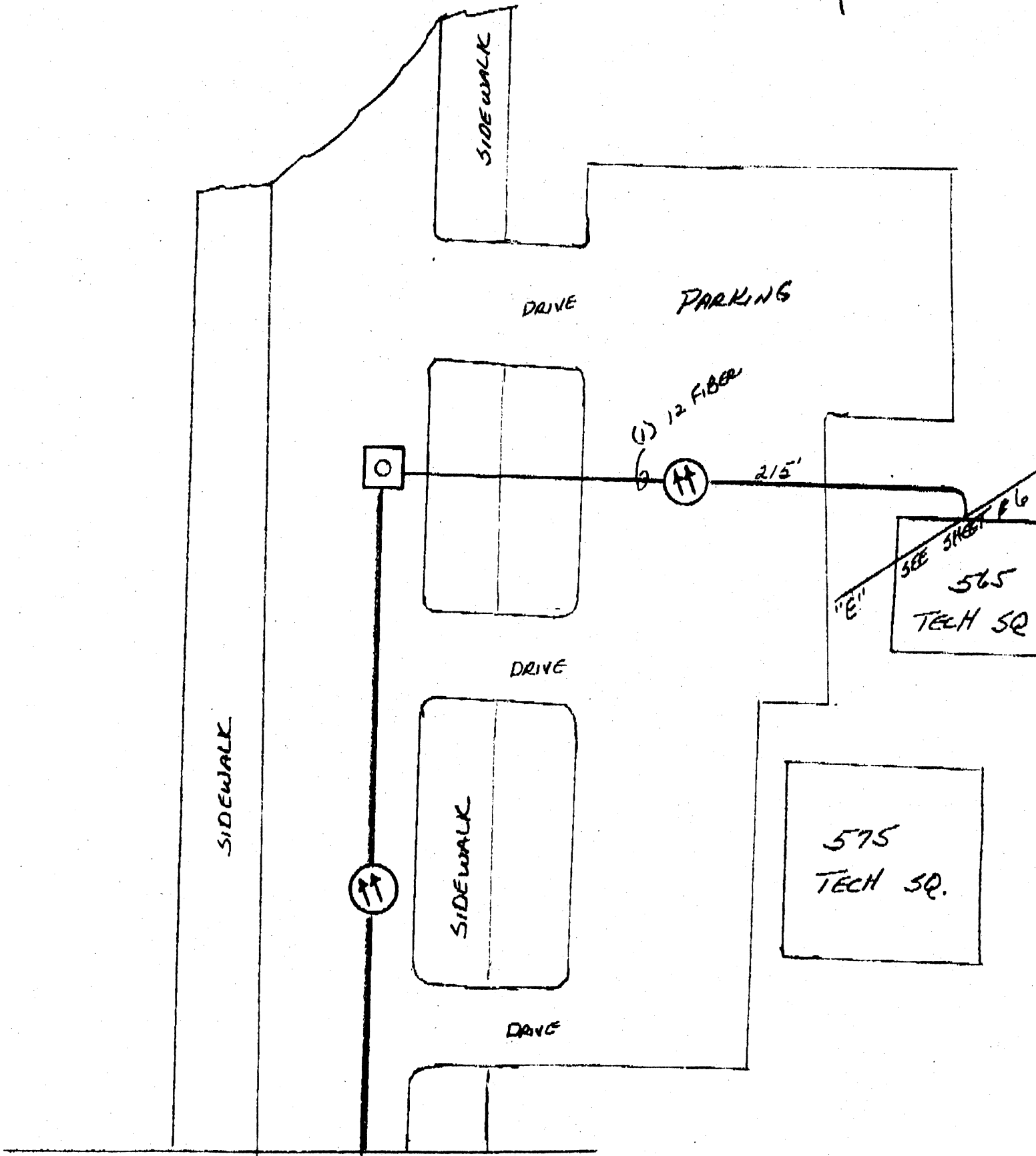
POLAROID CORP. - CAMBRIDGE





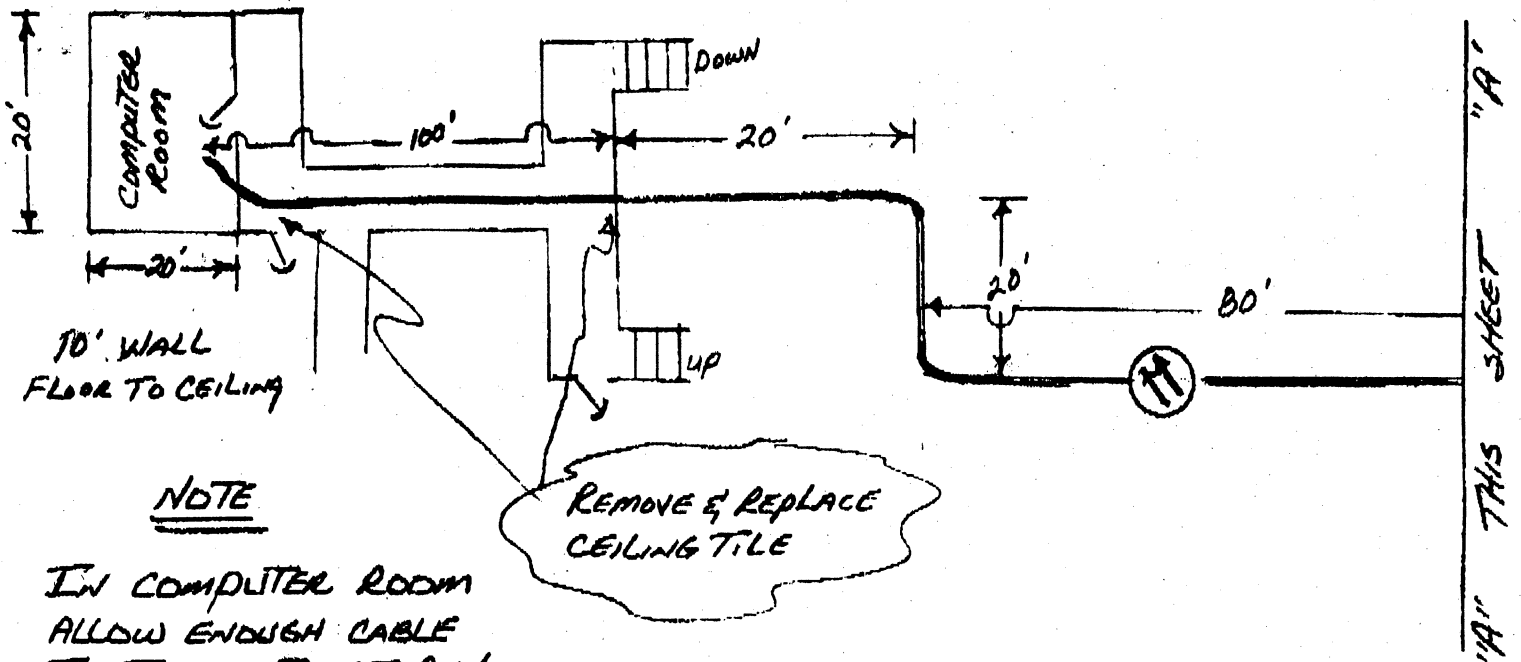
NO SCALE

DWG. 00



"C" SEE SHEET # 2 "C"

No SCALE
SHEET # 3



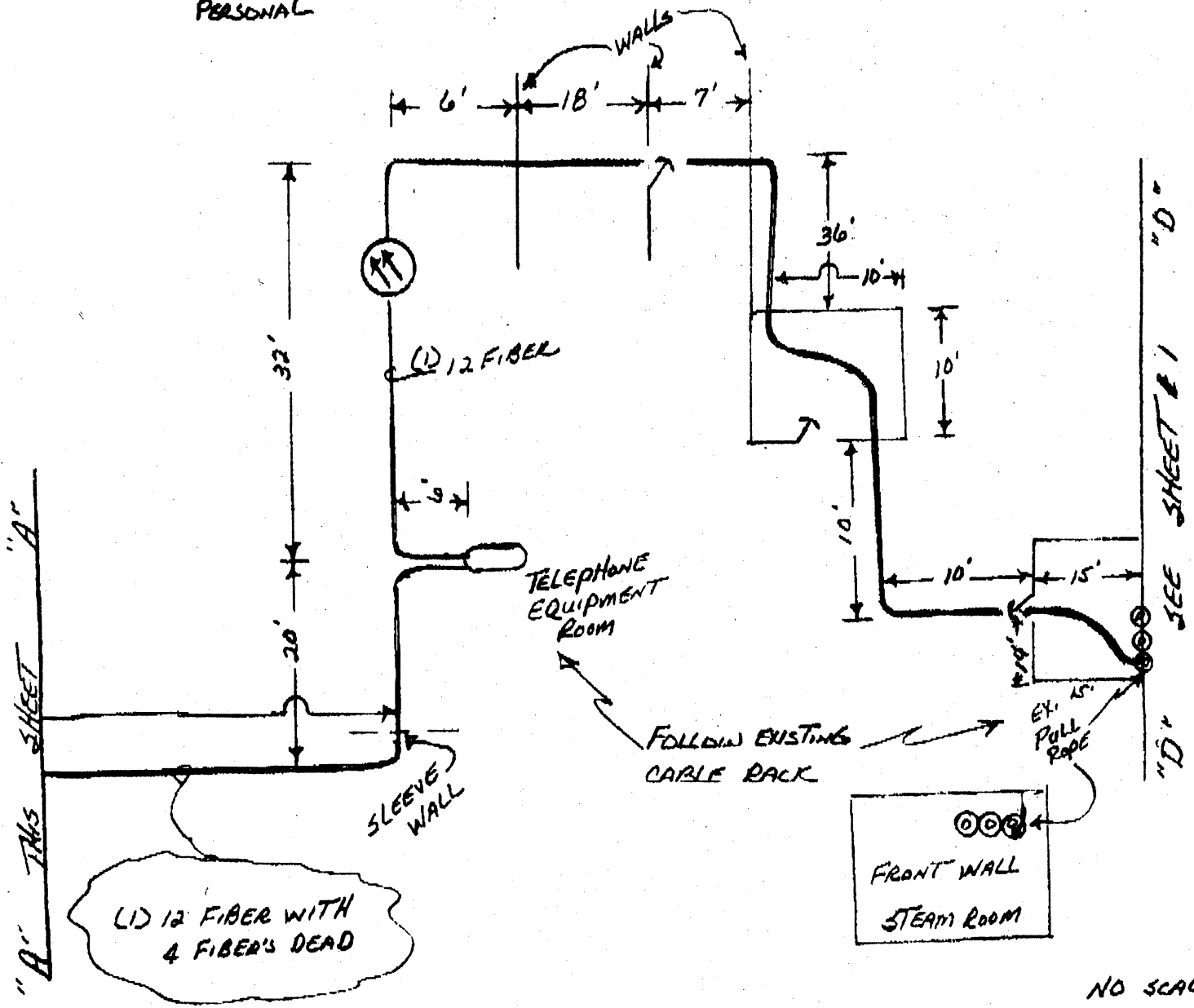
NOTE

IN COMPUTER ROOM
ALLOW ENOUGH CABLE
TO TERMINATE AT ANY
LOCATION

REMOVE & REPLACE
CEILING TILE

750 MAIN STREET

PER POLAROID
PERSONAL

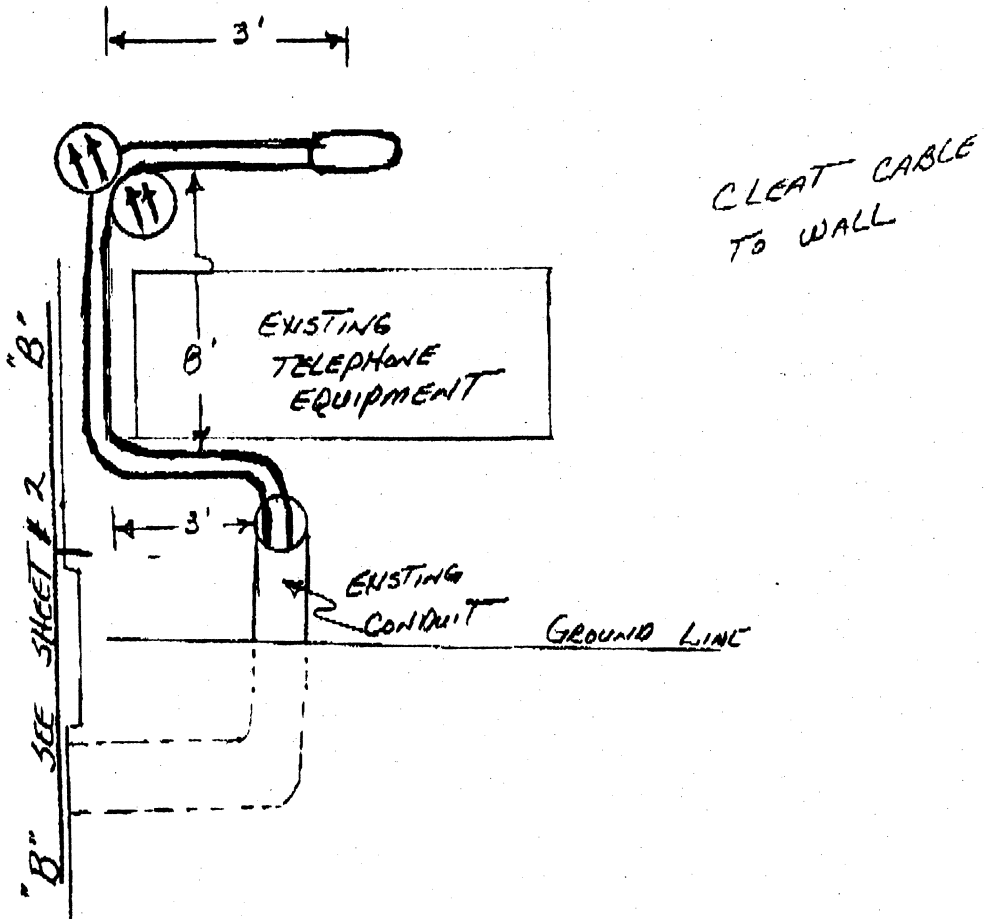


LD 12 FIBER WITH
4 FIBER'S DEAD

FRONT WALL
STEAM ROOM

NO SCALE
SHEET # 4

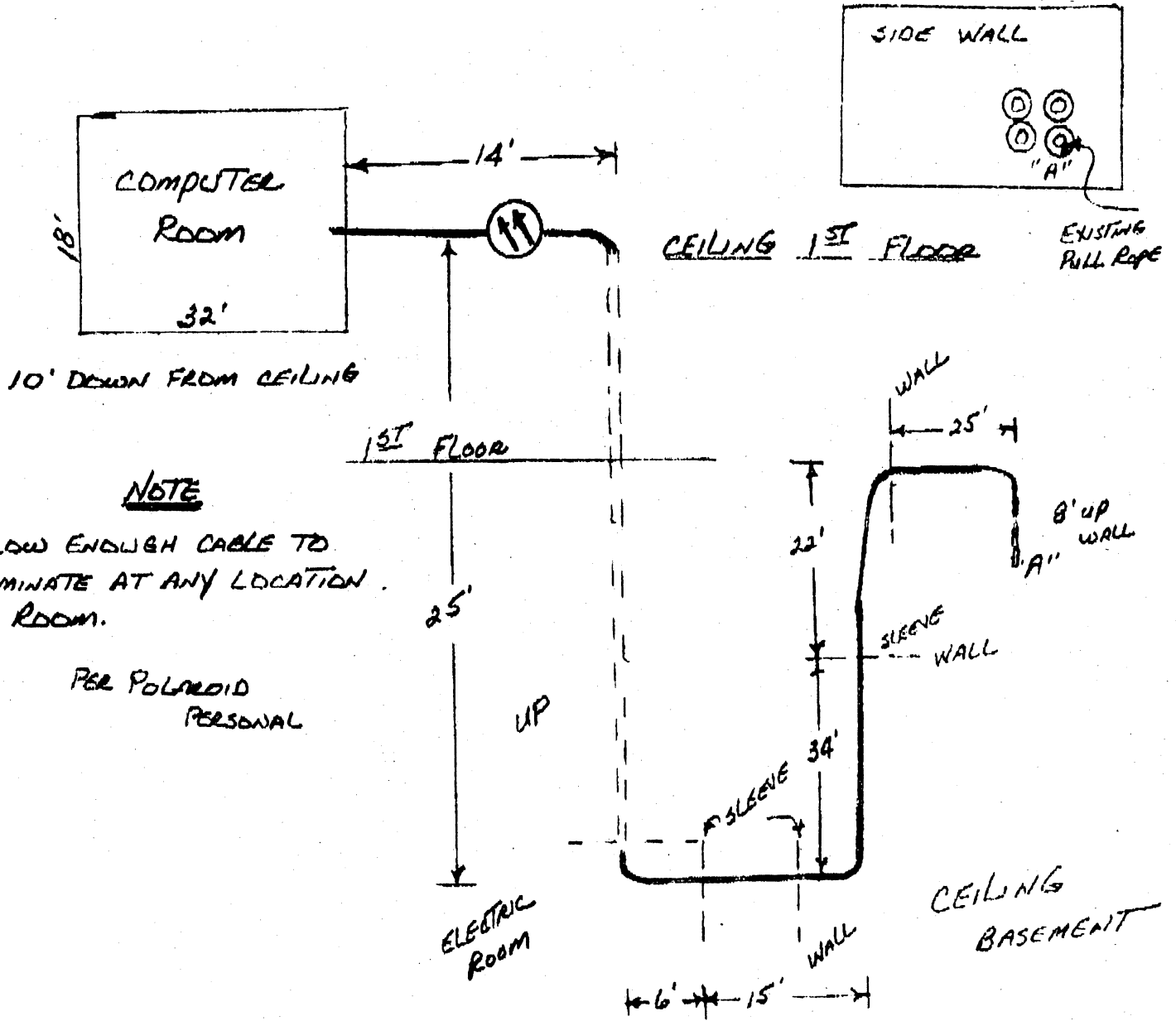
600 MAIN STREET



NO SCALE

NO. 5

565 TECH SQUARE



STRAP CABLE TO EXISTING CONDUITS

NO SCALE

SHEET # 6

PETITION FOR OCCUPANCY OF
EXISTING UNDERGROUND CONDUIT FACILITIES

TO: City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

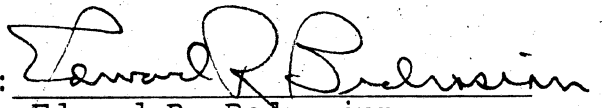
Attention: Mayor Francis H. Duehay

Polaroid Corporation ("Polaroid") respectfully requests permission to install a fiber optic communication cable within existing underground conduit facilities owned by New England Telephone and Telegraph Company located in the following public way or ways:

Main Street
Portland Street

A plan showing the location of the existing underground conduit facilities within which said cables shall be installed is attached hereto.

POLAROID CORPORATION

By: 
Edward R. Bedrosian,
Vice President and
Treasurer

Dated this 18th day of September, 1985.



C. BRENDON NOONAN & CO. Real Estate

Commercial • Industrial • Residential
Appraisers • Auctioneers

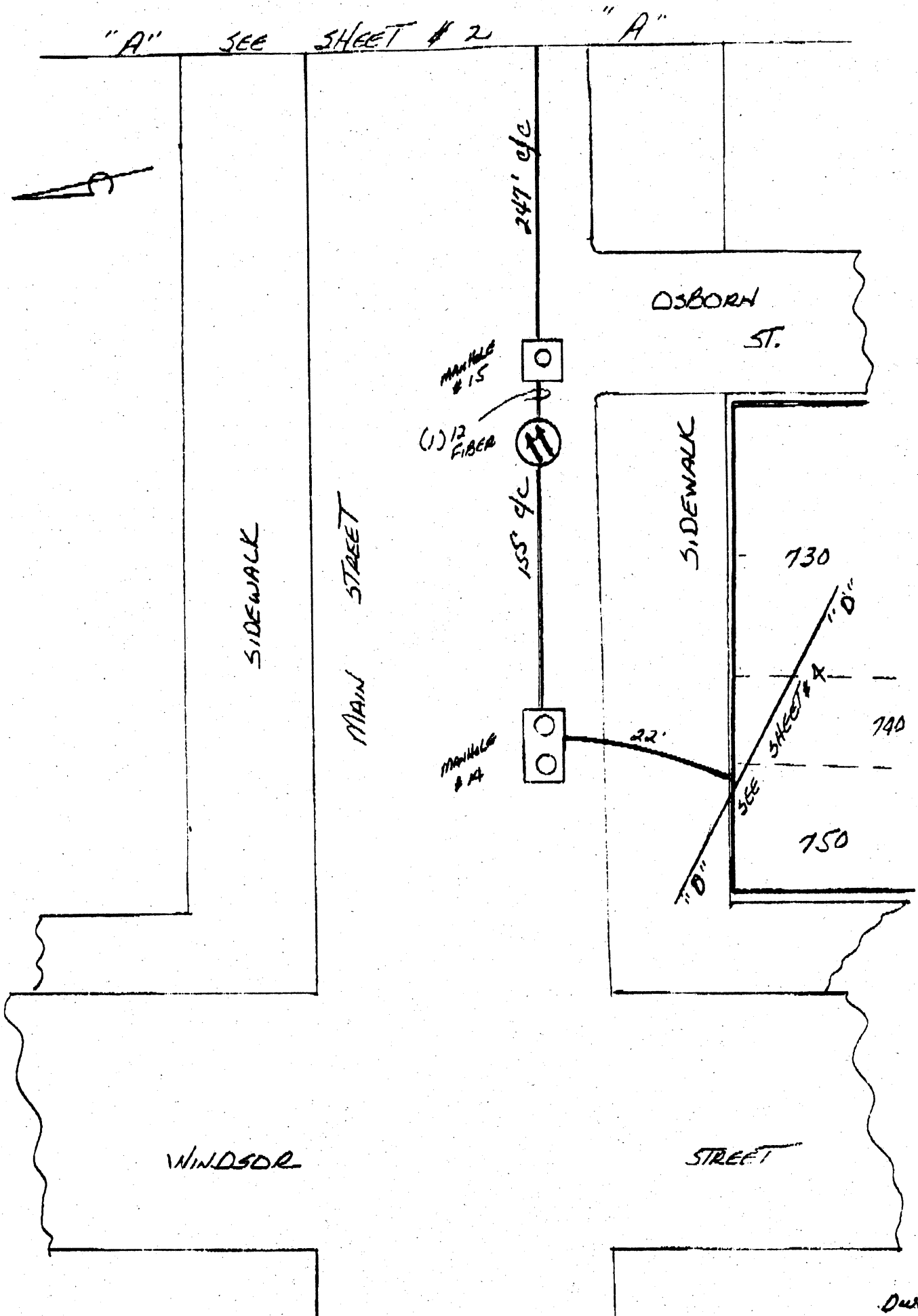
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CAMBRIDGE, MA. 02139 (617) 876-3500

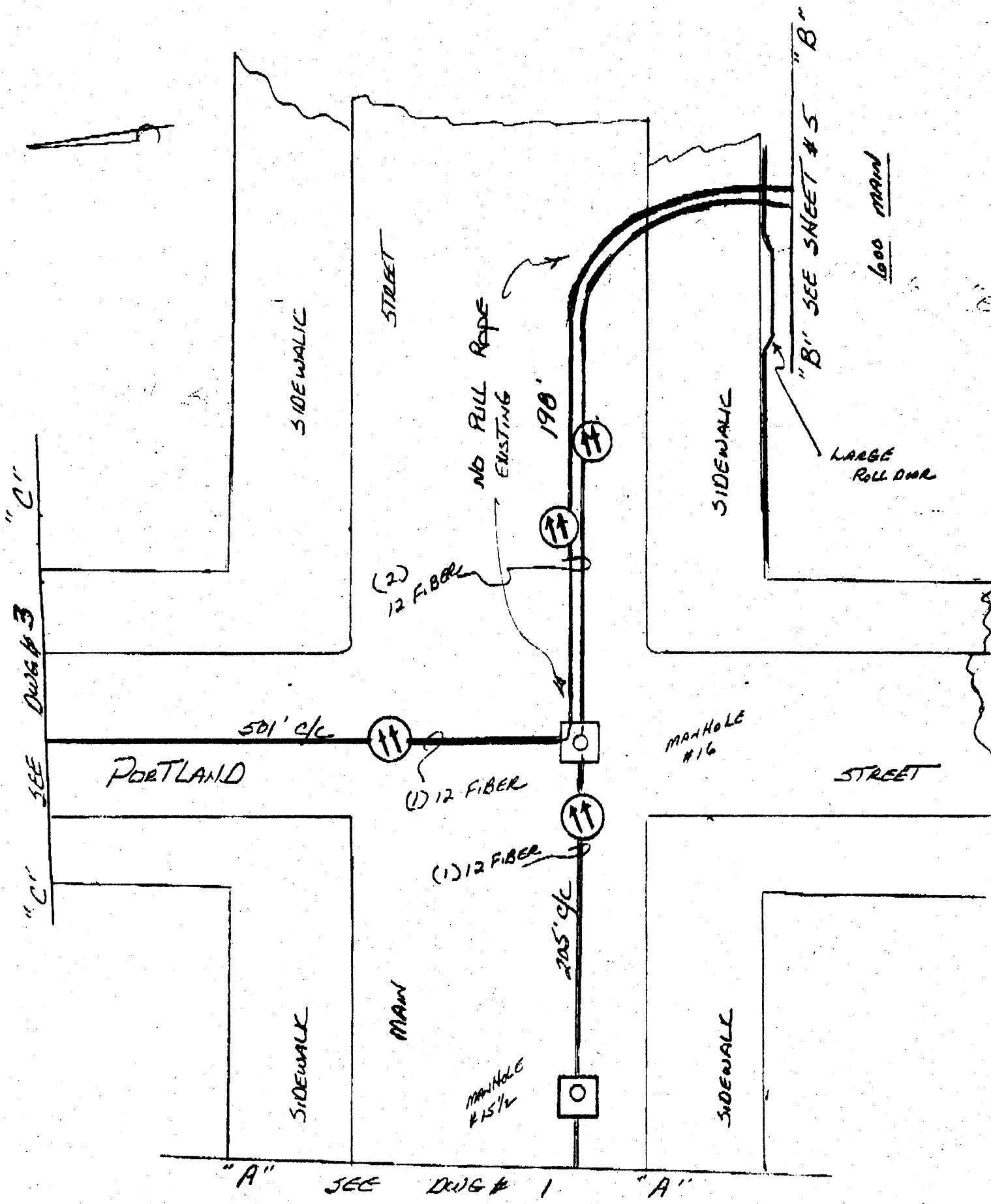
"A" 750 Main Street
"B" 600 Main Street
"C" 565 Tech Square

LOCATION OF EXISTING UNDERGROUND
CONDUIT FACILITIES CONNECTING
THREE POLAROID CORPORATION
FACILITIES ("A", "B" and "C")
IN CAMBRIDGE, MA



POLAROID CORP. - CAMBRIDGE





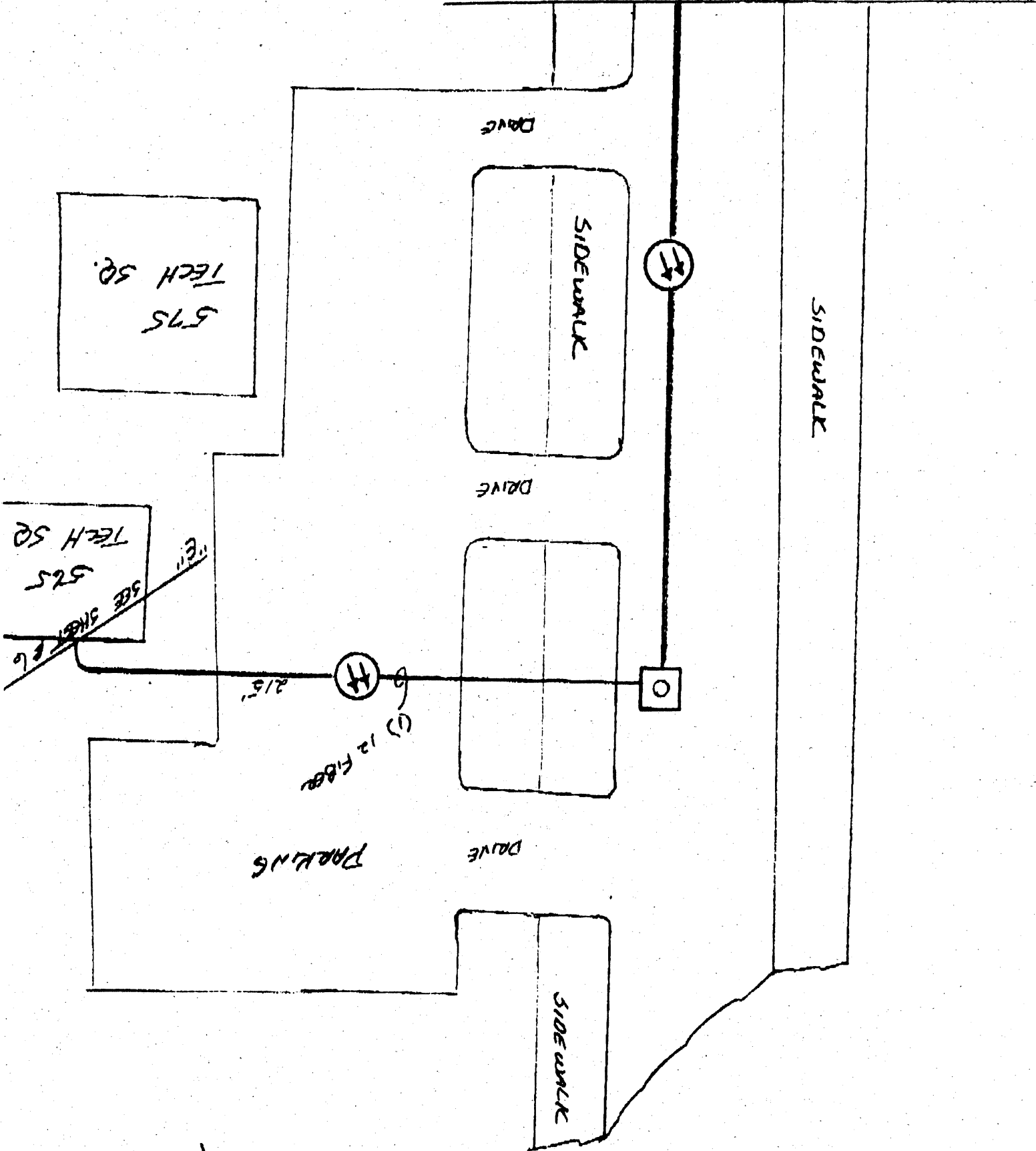
NO SCALE

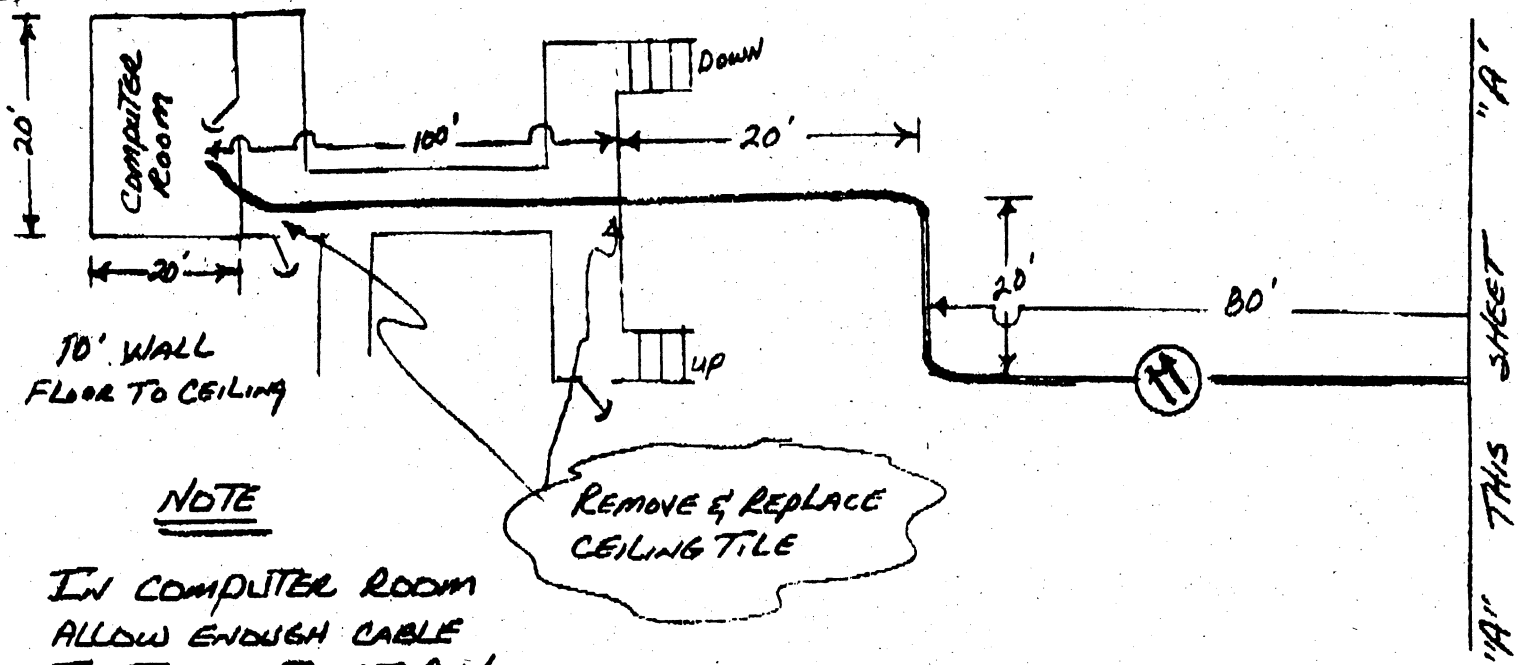
DWG # 3

SHEET # 3

No SCALE

"C" SEE SHEET # 2 "C"





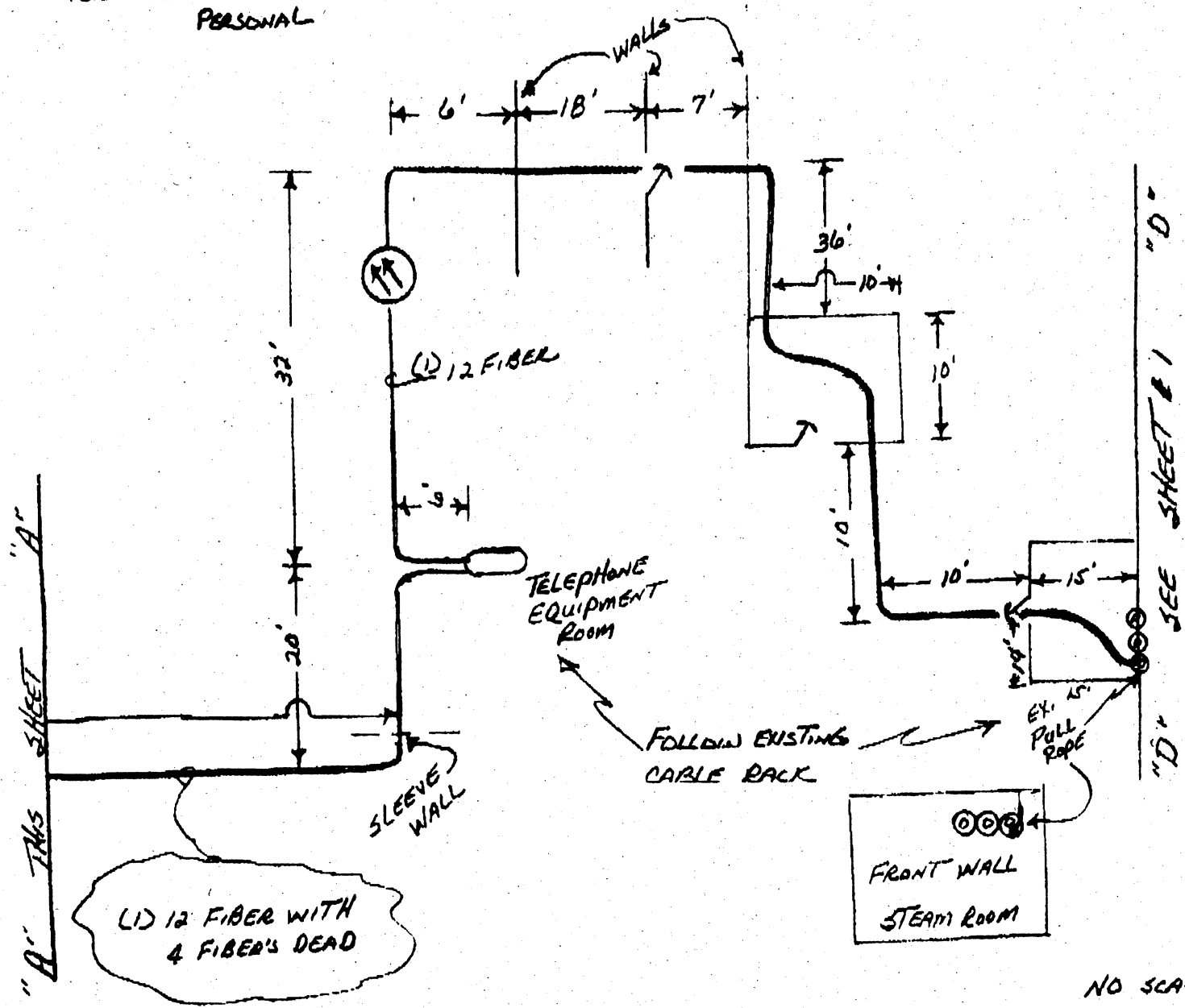
REMOVE & REPLACE
CEILING TILE

NOTE

IN COMPUTER ROOM
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PER POLAROID
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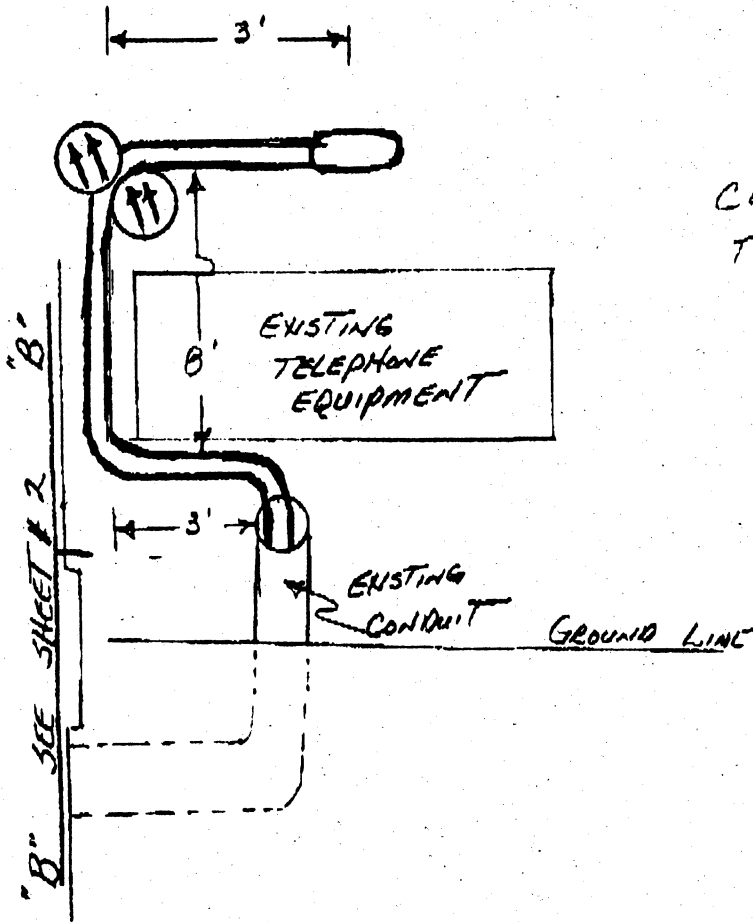
750 MAIN STREET



(1) 12 FIBER WITH
4 FIBER'S DEAD

NO SCALE
SHEET # 4

600 MAIN STREET



CLEAT CABLE
TO WALL

No 504.6
NICK 5

RICHARD H. LOVELL
WILLIAM B. TYLER
DAVID S. COLT
GEORGE V. ANASTAS
PETER W. KILBORN
HENRY H. THAYER
BRIAN S. MEYER
JOSEPH L. SERAFINI
STEPHEN CARR ANDERSON
LAWRENCE E. KAPLAN
ALBERT M. FORTIER, JR.
MICHAEL F. O'CONNELL
JOHN J. GRIFFIN, JR.
STUART T. FREELAND
RAYMOND J. BRASSARD
ALAN B. RUBENSTEIN
BARBARA KIND PERRY
MARTIN R. HEALY
RICHARD TELLER

OF COUNSEL
ROGER B. TYLER
ALBERT B. WOLFE
AUGUST R. MEYER

COUNSEL
HAROLD J. CARROLL

RACKEMANN, SAWYER & BREWSTER

PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

ONE FINANCIAL CENTER
BOSTON, MASSACHUSETTS 02111

AREA CODE 617-542-2300

TELECOPIER 617-542-7437

RECEIVED BY
CITY OF CAMBRIDGE
SEP 19 3 31 PM '85
CAMBRIDGE, MASS.

JAMES R. SHEA, JR.
KEVIN J. TOOMEY
BRIAN M. HURLEY
MALCOLM PITTMAN
JANET M. SMITH
JOHN T. CARROLL
PETER FRIEDENBERG
RICHARD S. NOVAK
CHRISTINE DONELAN HUBBARD
JOHN J. O'BRIEN
STEVEN J. MASTROVICH
JAMES A. MORAN
JANE H. PITT
DANIEL J. OSSOFF
ANN CLAFFEY
BARBARA E. HUNT
JOHN E. McELHINNEY
JUDITH R. PIKE
WILLIAM F. BRADY
A. JAMES CASNER III
NICOLE LACCETTI RIVES
SANFORD M. MATATHIA
RUTH R. ARONSON

September 18, 1985

City of Cambridge
Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attention: Mr. Paul Healy

RE: NYNEX Business Information Systems Company/Polaroid Corporation-Petition for Occupancy of Underground Conduit Facilities in Cambridge, Massachusetts

Dear Mr. Healy:

In reference to the above-captioned project, enclosed herewith please find (1) Polaroid's Petition for Occupancy of Existing Underground Conduit Facilities; (2) an informational cover letter to the City Council from NYNEX; (3) a proposed form of Order; (4) the form of Notice to be posted on the municipal bulletin board; (5) a pre-addressed envelope with enclosed Notice and informational material to be sent to New England Telephone and Telegraph Company ("NET"); and (6) a form of Certification.

I would appreciate your bringing this matter to the attention of the City Council so that it can be placed on the City Council's agenda as soon as possible. As stated in the informational cover letter to the City Council, it would be best if Polaroid's petition could be entertained at the meeting on the evening of September 30, 1985. Once a date has been selected would you please insert that date on the form of Notice, and notify me of the date.

Massachusetts General Laws ("M.G.L.") Chapter 166, Section 22 requires that notice of the meeting be given to the owner of the conduit facilities, in this case NET. Once this matter has been placed on the City Council's agenda, I would appreciate it

City of Cambridge
Cambridge City Council
September 18, 1985
Page 2

if you would send the Notice and informational material out to NET in order to give NET a reasonable opportunity to prepare for the meeting. M.G.L. Chapter 39, Section 23B also requires that notice of the meeting be posted on the municipal bulletin board at least 48 hours, including Saturdays, but not Sundays and legal holidays, prior to the public meeting. After notice has been mailed and posted, I would appreciate it if you would fill out and sign the enclosed form of Certification and return it to me so that I will have a record for my files.

If you have any questions regarding this project, please do not hesitate to call. Thank you very much for your assistance.

Cordially,


Ruth R. Aronson

cc: Russell B. Higley, Esquire, City Solicitor
Joseph Connarton, Deputy City Clerk
RRA:me
2382A

1.

S-711

Petition of Frederick B. Peirce, Project Mgr.,
NYNEX Business Information Systems Co. on
behalf of Polaroid Corp. for permission to
place fiber optic cable in existing under-
ground conduit facilities owned by New Eng-
land Telephone located in the public way & re-
questing the scheduling of a public hearing
to discuss this matter.

In City Council,

September 30, 1985

9/30/1985

Hearing Request

Hearing set for
10/7/85 at 6 PM