



P4.00 BK11013 PG209
#4
City of Cambridge

IN CITY COUNCIL

December 13, 1965.

WHEREAS:-

Public convenience and necessity require that a portion of Kirkland Street bounded northerly by land of President and Fellows of Harvard College, 391 feet more or less; northwesterly by same by an arc with radius of 20 feet, 31.46 feet more or less; easterly by the westerly sideline of Oxford Street extended across Kirkland Street, 80 feet; southerly by land of President and Fellows of Harvard, 306 feet more or less; and southwesterly by the proposed new sideline of Cambridge Street, 122 feet more or less, be discontinued as a public way of the City of Cambridge.

WHEREAS:-

That due notice has been given to the owners of land abutting on said public way, and all other persons interested, in the manner prescribed by law; and that a public hearing has been held thereon on November 29, 1965 at 4:30 o'clock P. M. in the Council Chamber, City Hall which date was assigned as the time and place for hearing any objections which may be had thereon. And that

WHEREAS:-

The City Clerk did cause copies of this order of notice to be posted in two places and to be published in the Cambridge-Chronicle-Sun, the posting and the last publication having been at least seven days before the date of said hearing.

ORDERED:-

That a portion of Kirkland Street containing approximately 22,120 square feet, bounded northerly by land of the President and Fellows of Harvard College, 391 feet more or less; northwesterly by same by an arc with radius of 20 feet, 31.46 feet more or less; easterly by the westerly sideline of Oxford Street extended across Kirkland Street, 80 feet; southerly by land of President and Fellows of Harvard, 306 feet more or less; and southwesterly by the proposed new sideline of Cambridge Street, 122 feet more or less, be discontinued as a public way of the City of Cambridge; all in accordance with "Land Use Plan" of Proposed Cambridge Street Underpass, and designated "C1" and "A2" thereon, prepared by Charles A. Maguire & Associates, Engineers, dated November 22, 1965.

In City Council December 13, 1965.

Adopted by a yeas and nays vote -

Yeas 7; Nays 2; Absent 0.

Attest:- Thomas M. McNamara, City Clerk.

A true copy,

Attest:-

Thomas M. McNamara
City Clerk.

16224
RE PLAY IN H. OF C. NOV 10/12 PAGE 209

WLP:E 12/8/65

DEC 22-65 PM 1:53 202HE ***6.00

P4-
2-
6-

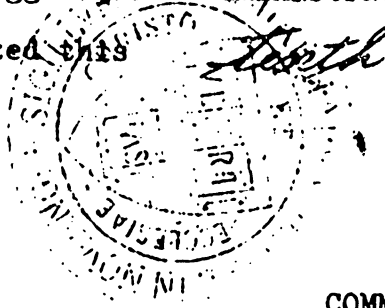
President and Fellows of Harvard College, a Massachusetts Corporation, for consideration paid, hereby GRANT unto the City of Cambridge, with QUITCLAIM COVENANTS, the following permanent rights and easements:-

1. The right and easement to use as a part of Cambridge Street in Cambridge, Middlesex County, Massachusetts, the area shown as Lot B1 on Plan entitled "Proposed Cambridge Street Underpass Land Use Plan" prepared by Charles A. Maguire & Associates, Engineers, dated November 22, 1965, to use as part of Cambridge and Quincy Streets the area shown as Lot B2 on said Plan, to use as part of Peabody Street the area shown as Lot B3 on said Plan and to use as part of Broadway and Quincy Street the area shown as Lot B4 on said Plan.
2. The right and easement to use for the underground construction and maintenance of utilities the areas North-erly of said Cambridge Street shown as Lots A1, A2 and A3 on said Plan of Charles A. Maguire & Associates.
3. The temporary right to use for street purposes during the construction of said Cambridge Street Underpass the areas enclosed by broken lines on Plan entitled "Proposed Cambridge Street Underpass Temporary Construction Roads" prepared by Charles A. Maguire & Associates, Engineers, dated November 22, 1965, and the further right to use the discontinued portion of Kirkland Street between Oxford and Cambridge Streets until the construction of said Temporary Construction Roads is completed and Quincy Street is widened.

SEE PLAN IN RECORD BOOK 11013 PAGE 209

1622

IN WITNESS WHEREOF said President and Fellows of Harvard College has caused its corporate seal to be hereunto affixed and these presents to be executed in its name and behalf by L. Gard Wiggins, its Administrative Vice President hereunto duly authorized this _____ day of December, 1965,



PRESIDENT AND FELLOWS OF HARVARD COLLEGE
By L. Gard Wiggins
Administrative Vice President

COMMONWEALTH OF MASSACHUSETTS

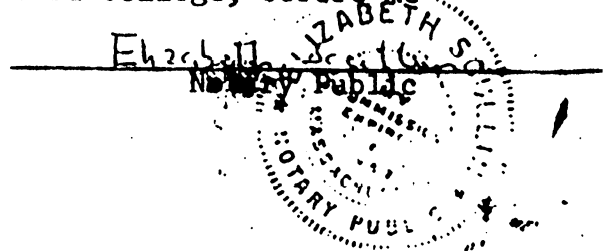
Middlesex, ss.

December 10, 1965

Then personally appeared the above named L. Gard Wiggins and acknowledged the foregoing instrument to be the free act and deed of President and Fellows of Harvard College, before me

My commission expires

10 November 1967



At a Meeting of the President and Fellows of Harvard College
duly called and held on Monday, December 6, 1965, at which meeting
a quorum was present and acting throughout, it was unanimously

VOTED: That L. Gard Wiggins, the Administrative Vice
President of this corporation, be and he hereby
is authorized in its name and behalf to sign,
seal with the corporate seal, acknowledge and
deliver to the City of Cambridge a grant of the
following rights and easements:-

1. To use as part of Cambridge Street, Cambridge,
Middlesex County, Massachusetts, the area shown
as Lot B1 on Plan entitled "Proposed Cambridge
Street Underpass Land Use Plan" prepared by
Charles A. Maguire & Associates, Engineers,
dated November 22, 1965, to use as part of
Cambridge Street and Quincy Street the area
shown as Lot B2 on said Plan, to use as part
of Peabody Street the area shown as Lot B3 on
said Plan and to use as part of Broadway and
Quincy Street the area shown as Lot B4 on said
Plan.
2. To use for the underground construction and
maintenance of utilities the areas Northerly
of said Cambridge Street shown as Lots A1, A2
and A3 on said Plan prepared by Charles A.
Maguire & Associates, Engineers.
3. The temporary right to use for street purposes
during the construction of said Cambridge
Street Underpass the areas enclosed by broken
lines on Plan entitled "Proposed Cambridge
Street Underpass Temporary Construction Roads"
prepared by Charles A. Maguire & Associates,
Engineers, dated November 22, 1965.

To take such other action and to execute such other
instruments with respect to the above streets and
easement areas as said Administrative Vice President
shall consider best, the execution of any instrument
by him in connection with said streets and easement
areas or the underpass to be constructed in Cambridge
Street to be a sufficient determination.

A true copy.

ATTEST:

James L. Kennedy
Secretary to the Corporation

December 6, 1965

DEC 22 65 PM 1:53 203RE 4.80

74.80

City of Cambridge

In City Council,
December 13, 1965.

WHEREAS:-

The City Council of Cambridge by order adopted this date has discontinued a portion of Kirkland Street as a public way of the City of Cambridge, and

WHEREAS:-

In conjunction with the aforesaid order of discontinuance the President and Fellows of Harvard College, a Massachusetts corporation, agrees to grant unto the City of Cambridge certain permanent rights and easements as hereinafter set forth, therefore be it

ORDERED:-

That the City Council does hereby accept the following grants and easements from the President and Fellows of Harvard College -

1. The right and easement to use as a part of Kirkland Street that area shown as Lot B-1 on a plan entitled "Proposed Cambridge Street Underpass Land Use Plan" Sheet 2 of 2, prepared by Charles A. Maguire & Associates, Engineers, dated November 22, 1965.
2. The right and easement to use as a part of Cambridge and Quincy Streets the area shown as Lot B-2 on said plan.
3. The right and easement to use as a part of Peabody Street the area shown as Lot B-3 on said plan.
4. The right and easement to use as a part of Broadway and Quincy Streets the area shown as Lot B-4 on said plan.
5. The right and easement to use for the underground construction and maintenance of utilities the areas northerly of said Cambridge Street shown as Lots A-1, A-2 and A-3 on said plan of Charles A. Maguire & Associates.
6. The temporary right to use for street purposes during the construction of said Cambridge Street Underpass the areas enclosed by broken lines on said plan hereinbefore referred to and the further right to use the discontinued portion of Kirkland Street, between Oxford and Cambridge Streets, until the construction of said construction roads is completed and Quincy Street is widened.

1672
SEE PLAN IN RECORD BOOK 11013 PAGE 209

City of Cambridge

-2-

In City Council,
December 13, 1965.

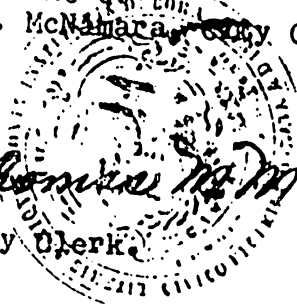
It being understood and agreed between the President and Fellows of Harvard College and the City of Cambridge as a concomitant with the discontinuance of Kirkland Street and the granting of easements as outlined above, that notwithstanding the order of discontinuance of Kirkland Street as aforesaid, the President and Fellows of Harvard College would not utilize the discontinuance until after the temporary roads which the College proposes to lay out in accordance with the plan referred to above are completed; and also it is further agreed and understood between the President and Fellows of Harvard College and the City of Cambridge that the University would widen Quincy Street in accordance with said plans as the initial step of the proposed undertaking.

It is further agreed that the President and Fellows of Harvard College would bear the expense for the special police details required to control traffic over said temporary roads until the vehicular tunnel on Cambridge Street is completed.

In City Council December 13, 1965.
Adopted by a yea and nay vote -
Yeas 7; Nays 2; Absent 0
Attest:- Thomas M. McNamara, City Clerk.

A true copy,

Attest:-


City Clerk.



City of Cambridge

11.

IN CITY COUNCIL

December 29, 1986

MAYOR WALTER J. SULLIVAN

ORDERED: That all matters presently listed on the City Council Calendar which have not been acted upon be placed on file, without prejudice, subject to the condition that they may be resubmitted for consideration to the next legislative session of the City Council by notice to the City Clerk.

In City Council December 29, 1986.
Adopted by the affirmative vote of 8 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy

A handwritten signature in cursive script, reading "Joseph E. Connarton".

ATTEST:-

Joseph E. Connarton, City Clerk.

JUL 01 1986

HARVARD UNIVERSITY
OFFICE OF THE GENERAL COUNSEL

2.124

M E M O R A N D U M

HOLYOKE CENTER 980
1350 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02138
(617) 495-1280

TO: Jacqueline O'Neill
FROM: Robert E. McGaw, Jr. 
DATE: June 24, 1986
RE: Cambridge Street Underpass
OGC File G30/86C4388

You have asked for advice regarding the status of the Cambridge Street underpass. The discussion below is based on my review of the various documents which created the underpass.

Cambridge Street was accepted as a public way in 1809 according to the 1981 List of Streets and Ways, published by the City of Cambridge. Harvard, as the abutter on both sides of Cambridge Street at the underpass location, owns the fee, and the City of Cambridge has an easement to use Cambridge Street as a public way.

At a meeting of the President and Fellows of Harvard College held on December 6, 1965, it was voted that L. Gard Wiggins, Administrative Vice President, was authorized to deliver to the City of Cambridge an agreement to construct a vehicular tunnel under Cambridge Street . . . and to agree to maintain the exterior of the roof of the tunnel and the area immediately above the tunnel as a pedestrian walkway, . . ."

The Cambridge City Council voted on December 13, 1965, to accept various grants and easements from Harvard and voted to grant to Harvard "the right to construct a vehicular tunnel under Cambridge Street . . . on condition that the President and Fellows of Harvard College will maintain the exterior roof of the tunnel and the area immediately above the tunnel for a pedestrian walkway as long as said City of Cambridge desires."

In December 1965, Harvard entered into an agreement with the City of Cambridge whereby Harvard agreed to construct at Harvard's expense, and the City granted it the right to construct, a vehicular underpass under that part of Cambridge Street between the Harvard College Yard and the Memorial Hall Delta. Harvard agreed further "to maintain the exterior of the roof of the tunnel and the area immediately above the tunnel as a pedestrian walkway for so long as the City desired." At the same time Harvard granted to the City certain permanent rights and easements, including the right and easement to use as a part of Cambridge and Quincy Streets a sliver of the Memorial Hall Delta rounding off the corner at the intersection of Cambridge and Quincy Streets.

The tunnel under Cambridge Street was completed in 1968 and a landscaped area with pedestrian walkways over the underpass, was established, connecting

the College Yard with the Memorial Hall Delta and Harvard's North Yard. In 1970, Harvard and the City conveyed to each other easements and various slivers of land to align the street and the underpass tunnel.

The agreements and votes contemplated that although Harvard would create and maintain at its expense the surface over the underpass, the surface would be available to all pedestrians. The purpose of the entire project was to lower and cover Cambridge Street to permit all pedestrians to pass safely from Harvard Yard to and from North Yard without having to cross a very busy street.

In effect, at Harvard's behest and cost, the City agreed to a vertical division of the public traffic in a public way, with vehicular traffic below grade and pedestrian traffic at grade.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

OFFICE OF THE
CITY ENGINEER

Joan Lastovica P.E.
City Engineer

March 21, 1986

TO: Faith D. McDonald, Chairman

FROM: Joan Lastovica, City Engineer JL

SUBJECT: Council Order No. 13 - 3/3/86 - Re: Ownership of
Land Above Tunnel on Cambridge Street.

In response to your request for information concerning the above referenced Council Order, please be advised of the following:

On December 13, 1965 the Cambridge City Council discontinued a portion of Kirkland Street as part of a larger agreement that resulted in the construction of the Cambridge Street Underpass. As part of this agreement between the City and Harvard University, certain rights and easements were granted by Harvard University to the City concerning the land abutting the right-of-way in Cambridge Street. These rights and easements are described in the Council Order discontinuing Kirkland Street, dated 12/13/65; also recorded at the South Middlesex Registry of Deeds in book 11013, page 210; identified on plan entitled, "Proposed Cambridge Street Underpass Land Use Plan, prepared by Charles A. Maguire & Associates, Engineers, dated November 22, 1965; and plan entitled, "Plan of Land in Cambridge", prepared by William S. Crocker, Civil Engineers and Surveyors, dated March 18, 1969.

While the above referenced documents identify the ownership of land and easement rights that abutt the underpass, there is no stated ownership to the land directly above the right-of-way in Cambridge Street, that being the roof of the underpass structure. The question remains, and is perhaps subject to interpretation, as to whom has rights of ownership to the land directly above the right-of-way in Cambridge Street.

The above referenced documents, with the exception of the Land Use Plan, are on file with the Engineering Office and available upon request.

Please call this Office if you require additional information concerning this matter.

cc: Maura Smith, City Managers' Office



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
TEL. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

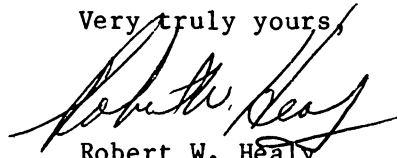
RICHARD C. ROSSI
Deputy City Manager

August 4, 1986

To the Honorable, the City Council:

In response to Awaiting Report No. 4 regarding ownership of the land above the vehicular tunnel located on Cambridge Street, I submit the attached correspondence from Joan Lastovica, City Engineer, and from Robert McGraw, Jr. of Harvard University which outlines the history of the construction of the underpass.

Very truly yours,



Robert W. Healy
City Manager

8/4/86 - TABLED ON MOTION OF VICE-MAYOR VELLUCCI.
12/29/86 - PLACED ON FILE. SEE ORDER #11 OF THIS DATE.

Agenda Item No. 4 #MS-705

Re: response to Awaiting Report Item No.
4 on ownership of the land above the vehicu-
lar tunnel located on Cambridge St. near
Harvard Sq.

In City Council,

August 4, 1986

VMU
Gabled

VMU
MS
RF