

3 PRIMROSE STREET
NEWTOWN, CT 06470
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www.newtown-ct.gov



TOWN OF NEWTOWN

TOWN OF NEWTOWN LEGISLATIVE COUNCIL MEETING MINUTES

AUGUST 1, 2018

NEWTOWN MUNICIPAL CENTER, NEWTOWN, CT

PRESENT: Chris Eide, Jordana Bloom, Robert Pickard, Judit DeStefano, Dan Wiedemann, Paul Lundquist, Kelley Johnson, Dan Honan.

ABSENT: Chris Smith, Ryan Knapp, Phil Carroll, Jay Mattegat.

ALSO PRESENT: First Selectman Dan Rosenthal, Newtown Town Attorney David Grogins, 2 Press.

CALL TO ORDER: Mr. Lundquist called the meeting to order with the Pledge of Allegiance at 7:31 pm.

VOTER COMMENT: None

MINUTES: MR. EIDE MOVED TO APPROVE THE MINUTES OF THE JULY 18, 2018 REGULAR MEETING. SECOND BY MS. DESTEFANO. ALL IN FAVOR. (8-0)

COMMUNICATIONS: None.

COMMITTEE REPORTS: None.

FIRST SELECTMAN'S REPORT:

Mr. Rosenthal said that the assisted living facility is going in on Church Hill Road, ground breaking last week, will provide support for the central business district.

Mr. Rosenthal said the storm clean-up effort, pick-up is finished, crews left the Lakeview Terrace area yesterday, additional information will be shared. The Governor has requested FEMA aid from Washington, anticipate process of releasing funds, expect more information in August and September. In order to get the Police Station project on the November ballot, as part of the agreement with property owners, aspects of the public process needs to be finished by September 6. In the interest of time, key dates include, the Selectmen will meet this coming Monday, will do the referral to P & Z that is something by Charter that has to be done before the project goes to Legislative Council. Then the August 20 Selectmen's meeting will be a joint meeting with Legislative Council, Board of Finance, and Board of Selectmen which will include a full presentation by Kaestle Boos of the 191 South Main site. Selectmen's agenda that night will include amend the CIP and appropriation language. The Board of Finance meets on August 23, at which follow-up questions can be addressed with Kaestle Boos, the Legislative Council will need to have a special meeting the week of August 27th to be held on August 29, to allow for discussion and questions. Mr. Lundquist agreed with the special meeting date of August 29, which gives time instead of waiting to the regular meeting of September 5 due to the September 6 deadline. Mr. Lundquist will cancel the August 15 Legislative Council meeting and for Council members to attend the joint meeting on August 20.

LEGISLATIVE COUNCIL

Mr. Wiedemann asked about damage to roads in the Lakeview Terrace area and impact on current road plan, Mr. Rosenthal said there is some road damage that will need to be addressed, he has not heard that this will affect the existing road plan.

NEW BUSINESS:

Mr. Lundquist invited David Grogins, Town Attorney to speak to the agenda item, resolution having to do with parcels of land to make way for the sidewalk work in Newtown. Mr. Grogins thanked Council for inviting him to speak and provided background on the sidewalk program. The Town, with financial assistance with the state of Connecticut, is installing sidewalks from Queen Street, South Main Street down to Mile Hill Road, up to Reed School, working for quite some time trying to acquire the rights of way that are necessary, most of the sidewalk is in the state right of way. There are a few areas, 11 parcels involved, where the sidewalk moves slightly onto abutting private property, where some grading would be required on private property, have acquired all but 3 rights of way. They are small parcels, one is a grading easement, two are small areas where the sidewalk will go on private property. The acquisition prices for the three parcels are \$78.00, \$175.00, and approximately \$230.00. There is some pressure from the State of Connecticut to at least certify to them that we have either acquired all the rights of ways or have taken the necessary steps to acquire them. In the case of the properties where we have not been able to negotiate an easement, requires that we file action in superior court to do an eminent domain. In order to do that by statute, Mr. Grogins needs a vote by a legislative body to initiate those actions. Ready to move on them and are waiting for a second appraisal which is due mid-week, need to report to the DOT on or before August 10 that he has acquired or filed statement of compensation for eminent domain actions. If approved by Council to go forward with those actions, he will be able to satisfy the state's requirements.

Mr. Pickard asked if any information could be shared about the 3 properties that were not able to negotiate with property owners and why. Mr. Grogins replied that there is not really an objection with the sidewalk but with other aspects, with one of the properties, the owner is unhappy about the curb cut that the state provided, another objected to shoveling the sidewalk, and the other is involved with a family dispute and there is no information is available. There is no cost to the Town and he is trying to complete the project so it can be installed as anticipated.

Ms. DeStefano asked to speak about how the value is placed on these. Mr. Grogins replied that the value is based on appraisal by a Connecticut state licensed appraiser, who went in and valued an easement, a small amount of feet.

Mr. Eide asked, regarding the owner who doesn't want to shovel, would there still be sidewalks in front of their property. Mr. Grogins said yes.

Mr. Grogins is concerned that he is to acquire the easements or take steps to acquire it, the grant could be in jeopardy. Mr. Rosenthal said that it may halt this construction season. Mr. Lundquist said under a deadline, would 6 months make a difference. Mr. Grogins said that attempts have been made to meet with each of the three owners, one person would not communicate with them, he is concerned about timing to continue to move project forward as intended.

MR. WIEDEMANN MOVE A RESOLUTION PROVIDING FOR THE TOWN OF NEWTOWN TO ACQUIRE BY THE PROCESS OF EMINENT DOMAIN (CONDEMNATION) THREE PARCELS OF PROPERTY MORE PARTICULARLY DESCRIBED BELOW FOR THE PURPOSES OF CONSTRUCTING A SIDEWALK ALONG SOUTH MAIN STREET. 1 - 25 SOUTH MAIN STREET OWNED BY MARILYN MARTINEZ EASEMENT TO MAINTAIN A SIDEWALK AND GRADE PROPERTY. VALUE IS \$173.00. 2 - 27 SOUTH MAIN STREET OWNED BY JANET LEVITT EASEMENT TO CONSTRUCT SIDEWALK AND GRADE. VALUE IS \$84.00. 3 - 45 SOUTH MAIN

LEGISLATIVE COUNCIL

STREET OWNED BY DASILVA HOLDINGS LLC. EASEMENT FOR SLOPE AND SEDIMENTATION CONTROL. VALUE IS \$238.00. FURTHER, REOLVED THAT THE TOWN TAKE SUCH ACTIONS AS ARE REQUIRED TO ACQUIRE SAID RIGHTS INCLUDING FILING PROCEEDINGS IN THE SUPERIOR COURT OF THE STATE OF CONNECTICUT TO ACCOMPLISH SAME. SECOND BY MR. EIDE. (Attached)

Ms. Bloom asked if eminent domain is common in Newtown, Mr. Grogins said, no, not often, last he remembers was for Sandy Hook School. Ms. Johnson asked if shoveling sidewalks is enforced. Mr. Rosenthal replied that he will find out, not sure how the Borough enforces. Ms. Johnson added that in some towns, plows pushing snow onto sidewalks after shoveling could be a concern for resident. Mr. Honan said that plows are generally not a problem because sidewalks are far away from the road.

Ms. DeStefano said that she will support this motion, a walkable town is a great asset to Newtown.

Mr. Eide clarified if this process didn't happen would funds go away, Mr. Grogins said that the contact person at the DOT is concerned that the Town may be jeopardy of losing funding/furthering the project if not acted on in a timely manner. Mr. Rosenthal has also been contacted by DOT, with the same concern.

As a legal concept, Mr. Lundquist generally objects to the idea of eminent domain, but this is a case where it makes sense, and is in the best interest of the Town, he is in support of eminent domain for the good of the Town. ALL IN FAVOR. MOTION PASSES. (8-0)

VOTER COMMENT: None.

ANNOUNCEMENTS: Mr. Lundquist reminded Council of the upcoming meetings and change in schedule, the next Legislative Council meeting on 8/15 will be canceled; attend the 8/20 joint meeting with Board of Selectmen, Board of Finance, and Legislative Council; 8/29 Legislative Council special meeting.

ADJOURNMENT: There being no further business the meeting adjourned at 7:59 pm.

Respectfully Submitted,

June Sgobbo
Clerk

Attachments: Resolution, 25 South Main Street Easement & Map, 27 South Main Street Easement & Map, 45 South Main Street Easement & Map.

These are draft minutes and as such are subject to correction by the Legislative Council at the next regular meeting. All corrections will be determined in minutes of the meeting at which they were corrected.

RESOLVED, that the Town of Newtown acquire by the process of Eminent Domain (Condemnation) three parcels of property more particularly described below for the purposes of constructing a sidewalk along South Main Street:

1. 25 South Main Street, owned by Marilyn Martinez. Easement to maintain a sidewalk and grade property. Value is \$173.00 (see attached Easement and Map).
2. 27 South Main Street, owned by Janet Levitt. Easement to construct sidewalk and grade. Value \$84.00 (see Map attached).
3. 45 South Main Street, owned by DaSilva Holdings, LLC. Easement for slope and sedimentation control. Value \$238.00 (see Map attached).

FURTHER, RESOLVED that the Town take such actions as are required to acquire said rights including filing proceedings in the Superior Court of the State of Connecticut to accomplish same.

SIDEWALK EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, Marilyn T. Martinez, of Newtown, Connecticut ("Grantor"), for One Dollar (\$1.00) and other valuable consideration, received to her full satisfaction of the **TOWN OF NEWTOWN**, a municipal corporation of the State of Connecticut, located in Fairfield County ("Grantee"), does give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns and the public forever, the full and perpetual right, privilege, authority and easement to:

To construct, maintain, repair and replace sidewalks ("Pedestrian Walkways") and all associated structures and necessary appurtenances thereto including the right to grade and excavate on the Easement Area more particularly described on a Map entitled "RIGHT OF WAY SURVEY TOWN OF NEWTOWN MAP SHOWING EASEMENT ACQUIRED FROM MARILYN T. MARTINEZ BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION NEWTOWN SIDE WALK IMPROVEMENT PROJECT' Scale 1" = 10' dated September 7, 2017 Mark D. Rolfe, P.E. Chief Engineer-Bureau of Engineering and Construction" recorded herewith and made a part hereof and to the extent necessary to enjoy the rights therein granted, to pass and repass over and across, enter upon and utilize the Easement Area for all of the foregoing purposes.

TOGETHER WITH a temporary easement to pass and repass over and across, enter upon and otherwise utilize the property of the Grantor for the purpose of installing and constructing the aforesaid sidewalks and all other associated structures and necessary appurtenances thereto, which temporary easement shall automatically terminate upon completion of said installation and construction and the restoration of the Easement Area, as more particularly hereinafter provided.

THE GRANTOR HEREBY RESERVES to herself, and her heirs and assigns, the right to use the Easement Area in any manner which does not impair the strength or interfere with the use thereof by the Grantee, its successors, assigns, and the public, in fulfilling the purpose for which this easement is granted.

BY ITS ACCEPTANCE HEREOF, the Grantee agrees for itself, its successors and assigns, that, as soon as practicable after construction of said sidewalks and all associated structures and necessary appurtenances thereto, and all subsequent repairs, replacements or maintenance thereof, it shall restore the Easement Area, or any portion thereof which has been disturbed thereby, to substantially their original condition.

NOTWITHSTANDING any statutes or local ordinances to the contrary, the Grantee shall be responsible for snow and ice removal from the sidewalk, and for the future maintenance thereof. The Town shall indemnify and hold the Grantor, her successors and assigns, harmless from any claims, lawsuits, or damages relating to the failure to remove snow and ice, or relative

SURVEY NOTES

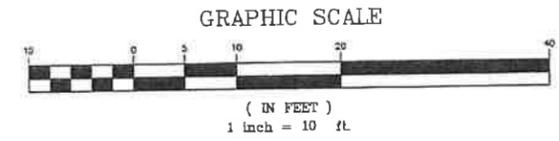
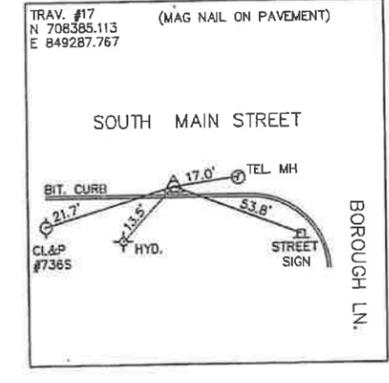
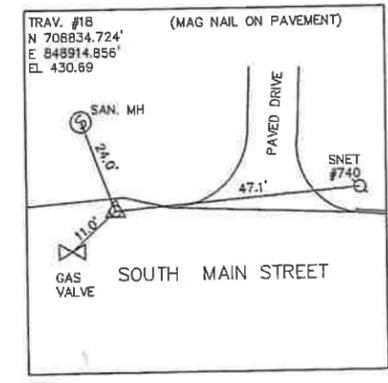
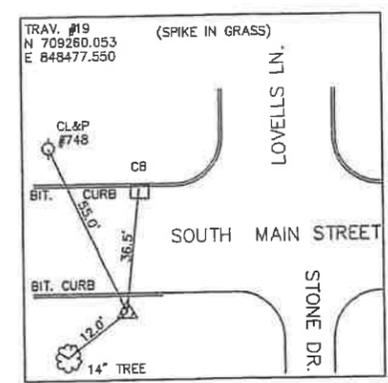
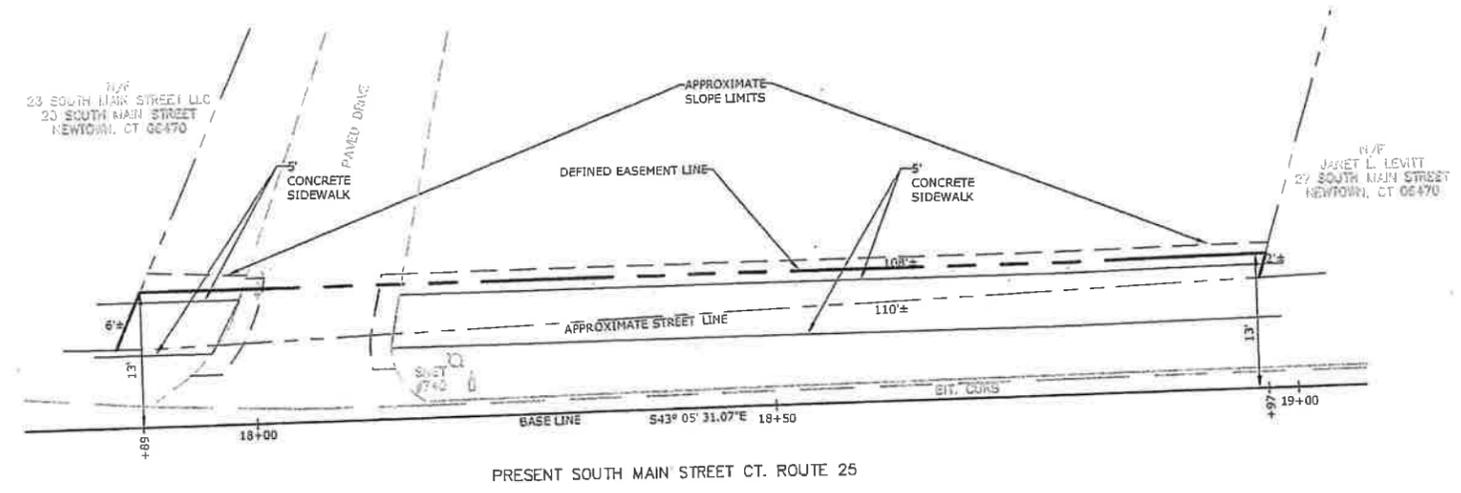
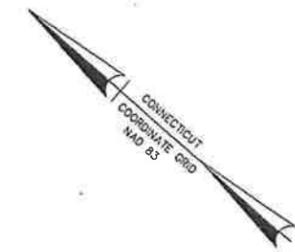
1. THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300B-1 THRU 20-300B-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPT. 26, 1996. IT IS A RIGHT OF WAY SURVEY BASED ON AN ESTABLISHED BASELINE CONFORMING TO HORIZONTAL ACCURACY CLASS A-2 AND IS INTENDED TO BE USED TO MAP THE LIMITS OF EXISTING OR PROPOSED HIGHWAYS OR PUBLIC UTILITY TRANSMISSION EASEMENT, INCLUDING THE MAPPING OF PARCELS TO BE ACQUIRED FOR SUCH PURPOSES, AS REFERENCED TO AN ESTABLISHED BASELINE.
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4. THIS SURVEY IS NOT VALID WITHOUT A LIVE SIGNATURE AND EMBOSSED SEAL.

MARILYN T. MARTINEZ

DEFINED EASEMENT FOR PEDESTRIAN WALKWAY AREA = 410± Sq. Ft.

EASEMENT FOR PEDESTRIAN WALKWAY AND APPURTENANCES THERETO ACQUIRED

EASEMENT TO SLOPE FOR THE SUPPORT OF THE PEDESTRIAN WALKWAY ACQUIRED AREA=99± Sq. Ft.



RIGHT OF WAY SURVEY
 TOWN OF NEWTOWN
 MAP SHOWING EASEMENT ACQUIRED FROM
 MARILYN T. MARTINEZ
 BY
THE STATE OF CONNECTICUT
 DEPARTMENT OF TRANSPORTATION
 NEWTOWN SIDE WALK IMPROVEMENT
 PROJECT

SCALE 1" = 10'
 MARK D. ROLFE, P.E.
 CHIEF ENGINEER-BUREAU OF ENGINEERING AND CONSTRUCTION

SEPTEMBER 7, 2017

DRAWN BY AM DATE 9-7-17
 CHECKED BY ARM DATE 9-7-17
 APPR. BY _____
 FILE:

I hereby declare that this map is substantially correct as noted hereon

 A. RAFAEL MARTINEZ CT. L.S. #18883 DATE _____
 MARTINEZ COUCH AND ASSOCIATES, LLC

DATE	REVISION	REQ. BY

TOWN NO. 96
 PROJECT NO. 96-202
 SERIAL NO. 6
 SHEET 1 OF 1

SIDEWALK EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, Janet A. Levitt, of Newtown, Connecticut ("Grantor"), for One Dollar (\$1.00) and other valuable consideration, received to her full satisfaction of the **TOWN OF NEWTOWN**, a municipal corporation of the State of Connecticut, located in Fairfield County ("Grantee"), does give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns and the public forever, the full and perpetual right, privilege, authority and easement to:

To construct, maintain, repair and replace sidewalks ("Pedestrian Walkways") and all associated structures and necessary appurtenances thereto including the right to grade on the Easement Area more particularly described on a Map entitled "RIGHT OF WAY SURVEY TOWN OF NEWTOWN MAP SHOWING EASEMENT ACQUIRED FROM JANET L. LEVITT BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION NEWTOWN SIDE WALK IMPROVEMENT PROJECT' Scale 1" = 10' dated September 7, 2017 Mark D. Rolfe, P.E. Chief Engineer-Bureau of Engineering and Construction" recorded herewith and to the extent necessary to enjoy the rights therein granted, to pass and repass over and across, enter upon and utilize the Easement Area for all of the foregoing purposes.

TOGETHER WITH a temporary easement to pass and repass over and across, enter upon and otherwise utilize the property of the Grantor for the purpose of installing and constructing the aforesaid sidewalks and all other associated structures and necessary appurtenances thereto, which temporary easement shall automatically terminate upon completion of said installation and construction and the restoration of the Easement Area, as more particularly hereinafter provided.

THE GRANTOR HEREBY RESERVES to herself, and her heirs and assigns, the right to use the Easement Area in any manner which does not impair the strength or interfere with the use thereof by the Grantee, its successors, assigns, and the public, in fulfilling the purpose for which this easement is granted.

BY ITS ACCEPTANCE HEREOF, the Grantee agrees for itself, its successors and assigns, that, as soon as practicable after construction of said sidewalks and all associated structures and necessary appurtenances thereto, and all subsequent repairs, replacements or maintenance thereof, it shall restore the Easement Area, or any portion thereof which has been disturbed thereby, to substantially their original condition.

NOTWITHSTANDING any statutes or local ordinances to the contrary, the Grantee shall be responsible for snow and ice removal from the sidewalk, and for the future maintenance thereof. The Town shall indemnify and hold the Grantor, her successors and assigns, harmless from any claims, lawsuits, or damages relating to the failure to remove snow and ice, or relative to the maintenance of the sidewalk, except as to damages or claims or lawsuits due to Grantor's negligence.

SURVEY NOTES

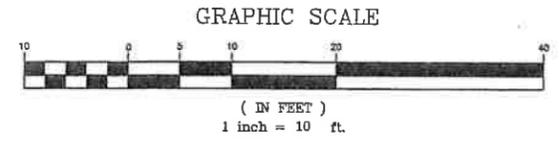
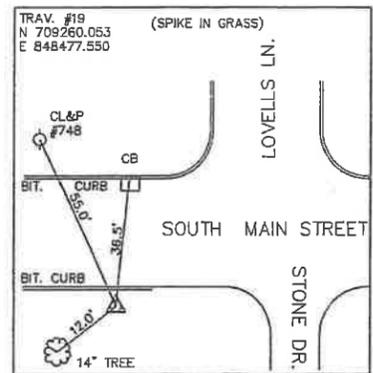
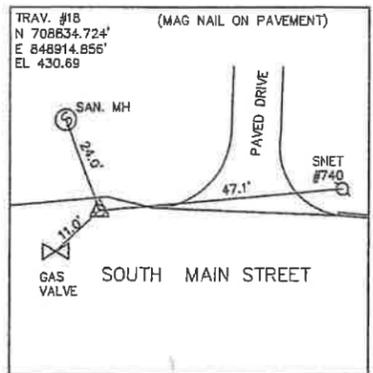
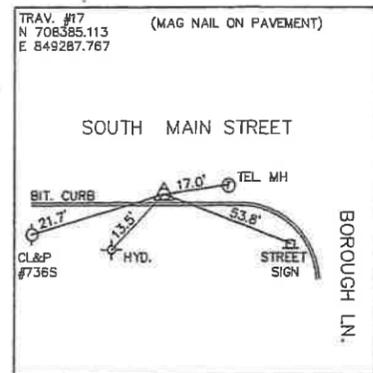
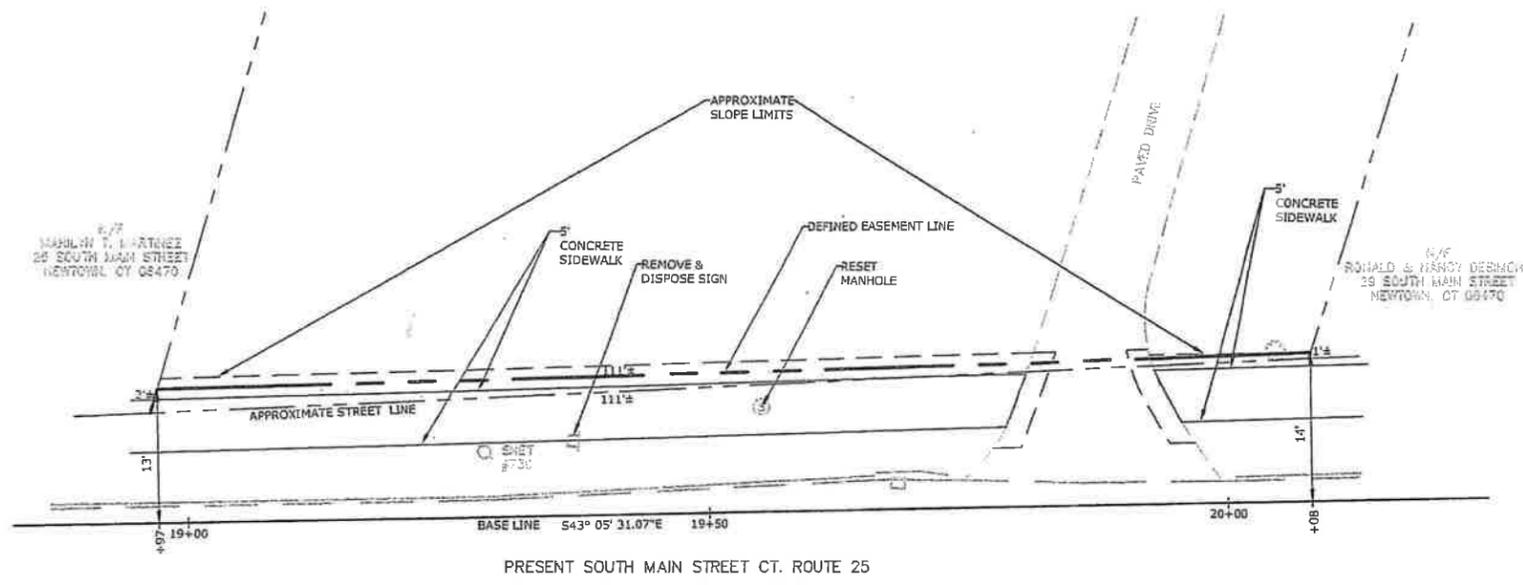
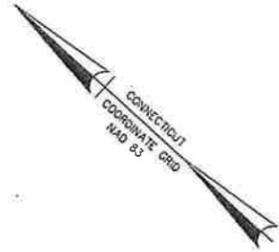
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JANET L. LEVITT

DEFINED EASEMENT FOR
PEDESTRIAN WALKWAY
AREA = 146± Sq. Ft.

EASEMENT FOR PEDESTRIAN
WALKWAY AND APPURTENANCES
THERETO ACQUIRED

EASEMENT TO SLOPE FOR THE SUPPORT
OF THE PEDESTRIAN WALKWAY ACQUIRED
AREA=87± Sq. Ft.



RIGHT OF WAY SURVEY
TOWN OF NEWTOWN
MAP SHOWING EASEMENT ACQUIRED FROM
JANET L. LEVITT
BY
THE STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
NEWTOWN SIDE WALK IMPROVEMENT
PROJECT

SCALE 1" = 10'
MARK D. ROLFE, P.E.
CHIEF ENGINEER-BUREAU OF ENGINEERING AND CONSTRUCTION

SEPTEMBER 7, 2017

DRAWN BY AM DATE 9-7-17
CHECKED BY ARM DATE 9-7-17
APPR. BY _____

I hereby declare that this map is substantially correct as noted hereon

A. RAFAEL MARTINEZ CT. L.S. #18883 DATE _____
MARTINEZ COUCH AND ASSOCIATES, LLC

DATE	REVISION	REQ. BY

TOWN NO. 96
PROJECT NO. 96-203
SERIAL NO. 7
SHEET 1 OF 1

FILE:

SLOPE AND SEDIMENTATION CONTROL EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, Da Silva Holdings LLC, a Connecticut limited liability company located in Newtown, Connecticut ("Grantor"), for One Dollar (\$1.00) and other valuable consideration, received to its full satisfaction of the **TOWN OF NEWTOWN**, a municipal corporation of the State of Connecticut, located in Fairfield County ("Grantee"), does give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns and the public forever, the full and perpetual right, privilege, authority and easement to:

To construct, maintain, repair and replace sedimentation control system and to maintain a slope easement on the Easement Area more particularly described on a Map entitled "RIGHT OF WAY SURVEY TOWN OF NEWTOWN MAP SHOWING EASEMENT ACQUIRED FROM DASILVA HOLDINGS LLC BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION NEWTOWN SIDE WALK IMPROVEMENT PROJECT' Scale 1" = 10' dated September 7, 2017 Mark D. Rolfe, P.E. Chief Engineer-Bureau of Engineering and Construction" recorded herewith and recorded herewith and made a part hereof and to the extent necessary to enjoy the rights therein granted, to pass and repass over and across, enter upon and utilize the Easement Area for all of the foregoing purposes.

TOGETHER WITH a temporary easement to pass and repass over and across, enter upon and otherwise utilize the property of the Grantor for the purpose of installing and constructing the aforesaid sidewalks and all other associated structures and necessary appurtenances thereto, which temporary easement shall automatically terminate upon completion of said installation and construction and the restoration of the Easement Area, as more particularly hereinafter provided.

THE GRANTOR HEREBY RESERVES to itself, and its heirs and assigns, the right to use the Easement Area in any manner which does not impair the strength or interfere with the use thereof by the Grantee, its successors, assigns, and the public, in fulfilling the purpose for which this easement is granted.

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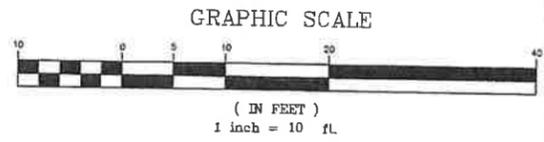
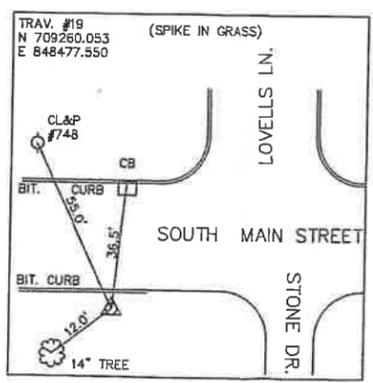
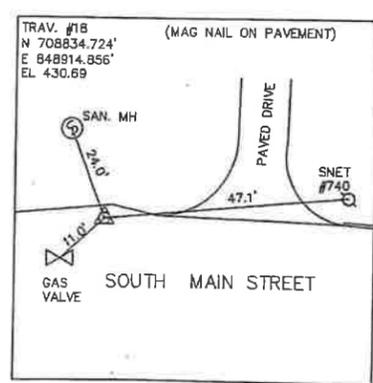
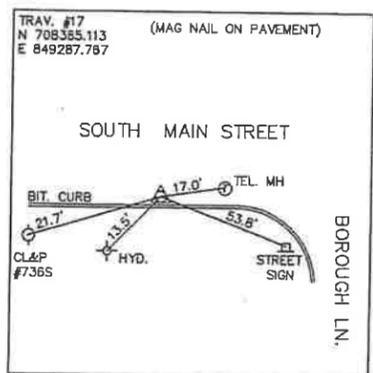
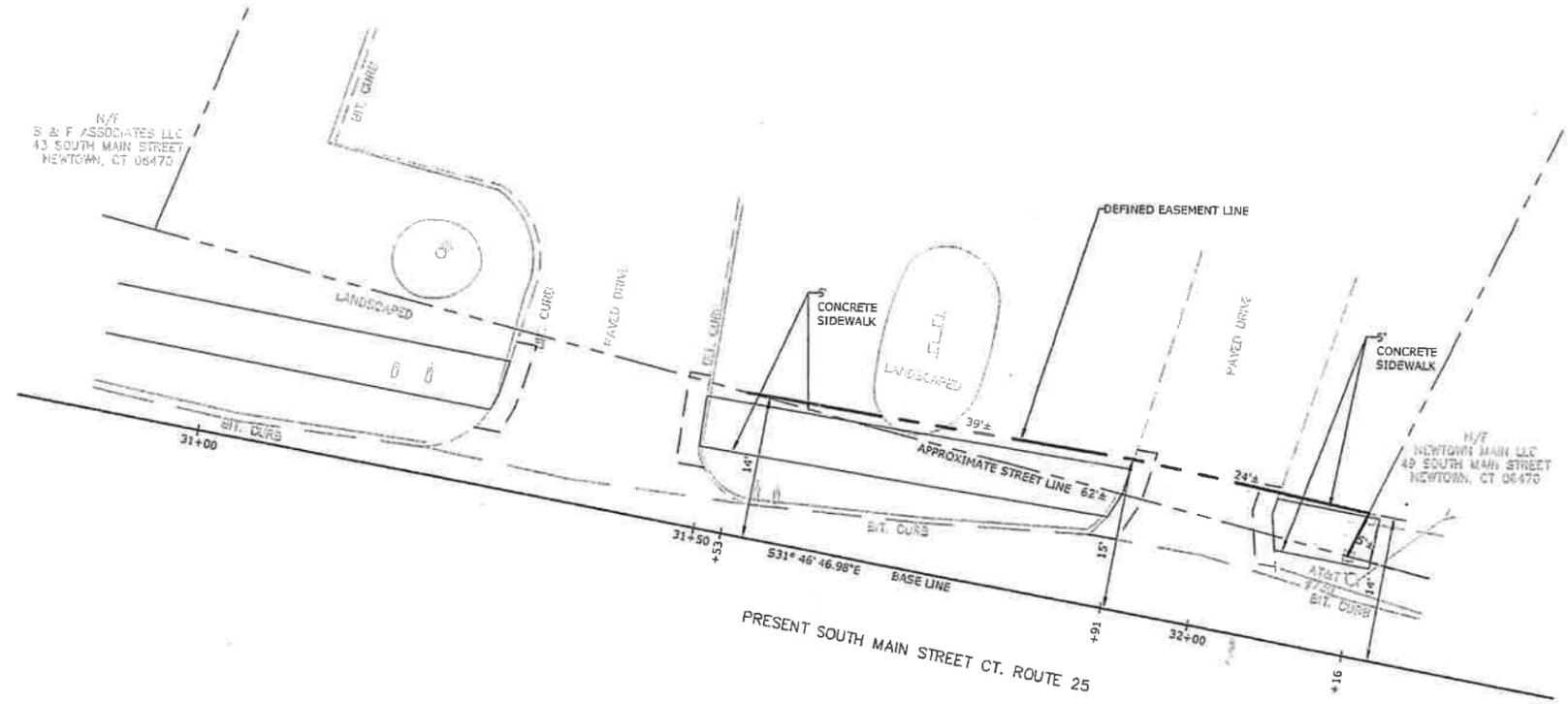
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DASILVA HOLDINGS LLC

DASILVA HOLDINGS LLC
DEFINED EASEMENT FOR
PEDESTRIAN WALKWAY
AREA = 166± Sq. Ft.

EASEMENT FOR PEDESTRIAN
WALKWAY AND APPURTENANCES
THERE TO ACQUIRED



DRAWN BY AM DATE 9-7-17
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 PROJECT NO. 96-202
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