



Board of Supervisors

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County Administrator

November 30, 2023

CERTIFIED AND REGULAR MAIL

Noland C. Donahue
Sullivan, Donahue and Ingalls, PC
P.O. Box 614
Fredericksburg, VA 22404
Certified Mail Number: 9589 0710 5270 0864 1407 58

CERTIFIED AND REGULAR MAIL

Chatham Square Shopping Center LLC
572 2nd Avenue S.
St. Petersburg, FL 33701-4102
Certified Mail Number: 9589 0710 5270 0864 1407 65

SUBJECT: *Application #23155242; Vesting Determination Request Letter 2023-08-28; Tax Map Parcel 54F-3H-17A ("Property"), which was previously a part of former Tax Map Parcel No. 54F-3H*

Dear Mr. Donahue:

This letter is in response to your enclosed request for a Vesting Determination dated August 28, 2023 ("Letter"), wherein you request "a vesting determination to allow the owner to rebuild the portion of the building that burned down utilizing the requirements of the previously approved site plan [dated October 21, 1983]" (hereinafter, "Request"). My response to the Letter and Request is as follows.

The Request provides no information regarding the legal basis for nor does it provide any grounds for or facts in support of a vested rights determination. No State code provision is cited nor are any facts listed to support a determination of vested rights. Instead, the Letter simply asks the Zoning Administrator to grant the Request. I cannot grant the Request and as explained below, the Property must be developed in accordance with current applicable County regulations and ordinances and cannot be developed "utilizing the requirements of the previously approved site plan."

Pursuant to the Letter, the Property was developed pursuant to the site plan dated October 21, 1983 ("Site Plan"), a copy of which is enclosed. Thereafter, a fire occurred in January 1994 and burned down a portion of what had been developed pursuant to the site plan. The portion of the Property that burned down has not been rebuilt as of the date of this letter.

Virginia Code § 15.2-2307.E provides that:

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. ***Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality.*** However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section. (Emphasis added).

Additionally, Stafford County Code Sec. 28-273(b) provides that:

[t]he owner of any building or structure, except for off-premises signs which are subject to Code of Virginia, § 33.2-1219, as amended, damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building or structure to eliminate or reduce the nonconforming features to the extent

possible, without the need to obtain a variance from the BZA. If such building or structure is damaged greater than fifty (50) percent and cannot be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features, the owner may restore it to its original nonconforming condition as long as the building or structure is not repaired, rebuilt, or replaced in a manner which increases its nonconforming characteristic. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building or structure shall be in compliance with the provisions of the Virginia Uniform Statewide Building Code, and any work done to repair, rebuild or replace such building or structure shall be in compliance with the provisions of the flood overlay district. ***Unless such building or structure is repaired, rebuilt or replaced within two (2) years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning district in which it is located.*** (Emphasis added)

Since the portion of the building subject to your Request was destroyed in January 1994, and the repair, rebuilding, or replacement of that portion of the building was not pursued within two years of the fire, it cannot be rebuilt unless in accordance with the provisions of the Stafford County Zoning Ordinance and other regulations, as applicable, as required by Virginia § 15.2-2307 and Stafford County Code Sec. 28-273.

This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, in accordance with Virginia Code § 15.2-2311, or this decision shall be final and unappealable. You may obtain the BZA appeal application at <https://staffordcountyva.gov/AppealofZoningDecisions>. The fee for such an application is \$1,952.25.

Sincerely,



Brian V. Geouge
Acting Zoning Administrator

Enclosure (1)

cc: Kathy Baker, Acting Director of Planning and Zoning
Paul Santay, Chief Director of Community Development Services
Michael Morris, Deputy County Administrator
Rysheda McClendon, County Attorney



ENGINEERING
SURVEYING
LAND PLANNING
RIGHT-OF-WAY

SULLIVAN, DONAHOE & INGALLS
A PROFESSIONAL CORPORATION

ERIC V. SULLIVAN, L.S.
NOLAND C. DONAHOE
RICHARD H. FURNIVAL, P.E.
KEITH L. OSTER, P.E.

August 28, 2023

James Staranowicz
Acting Zoning Administrator
1300 Courthouse Rd.
2nd Floor
Stafford County, Virginia 22554

RE: Chatham Square Shopping Center

Dear Mr. Staranowicz:

This letter is to request a Vesting Determination on the above referenced project, located on Tax Map 54F 3H. This shopping center is existing, and was constructed based on an approved site plan, dated October 21, 1983. In January of 1994, a portion of this center burned down and was never re-built.

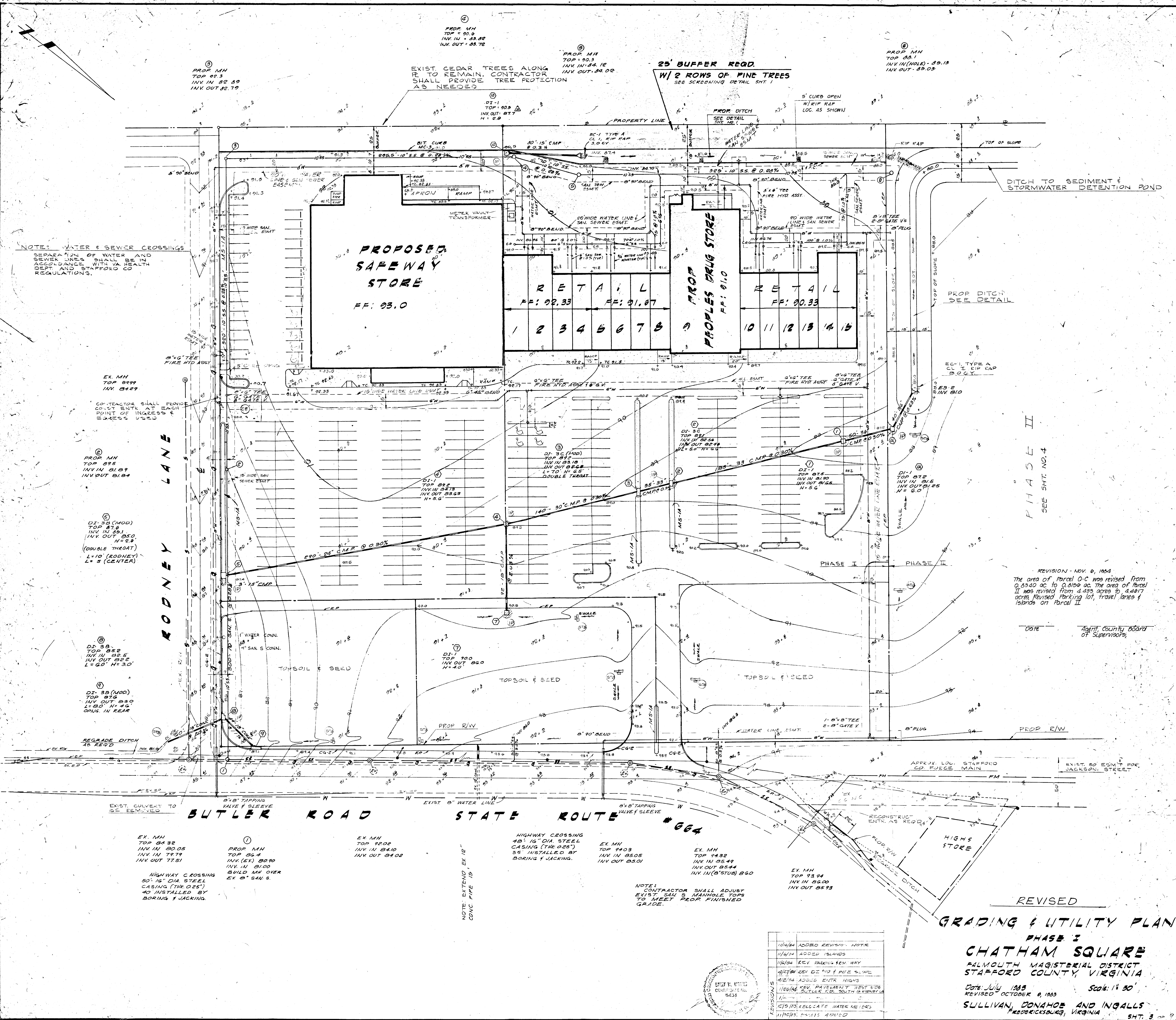
The owners of the shopping center would now like to re-build the area that previously burned down. No additional building outside of the previously approved footprint is proposed. The intent is to replace the building square footage that burned down and was removed.

As such, we are requesting a vesting determination to allow the owner to rebuild the portion of the building that burned down utilizing the requirements of the previously approved site plan.

Sincerely,

Noland C. Donahoe
Sullivan, Donahoe & Ingalls, PC

C.



PHASE II
SEE SHT. NO. 4

REVISION - NOV. 6, 1964
The area of Parcel D-C was revised from 0.6340 ac to 0.6196 ac. The area of Parcel II was revised from 4.433 acres to 4.4617 acres. Revised Parking lot, travel lanes & islands on Parcel II.

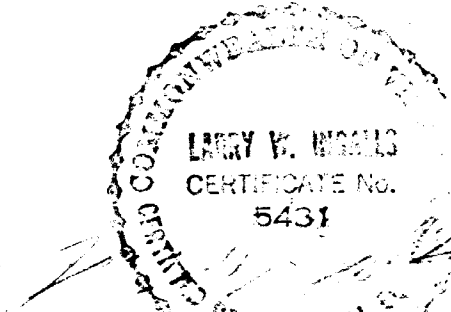
Date: _____
Agent: County Board of Supervisors

REVISED
GRADING & UTILITY PLAN
PHASE I

CHATHAM SQUARE
FALMOUTH MAGISTERIAL DISTRICT
STAFFORD COUNTY, VIRGINIA

Date: July 1963
Revised: October 6, 1963
SULLIVAN, DONAHOE AND INGALLS
FREDERICKSBURG, VIRGINIA
SHT. 3 OF 2

REVISIONS	DATE	DESCRIPTION
11/6/64	ADDED REVISION NOTE	
11/6/64	ADDED ISLANDS	
11/6/64	REV. PARKING STRIP WAY	
11/6/64	REV. SIDE DITCH & PILE SLOPE	
11/6/64	ADDED ENTR. HIGHS	
11/6/64	REV. PAVEMENT WEST SIDE	
11/6/64	REV. SUTTER RD. SOUTH OF HIGHWAY	
11/6/64	REV. CULVERT WATER MEAS.	
11/6/64	REV. SUTTER RD. SOUTH OF HIGHWAY	

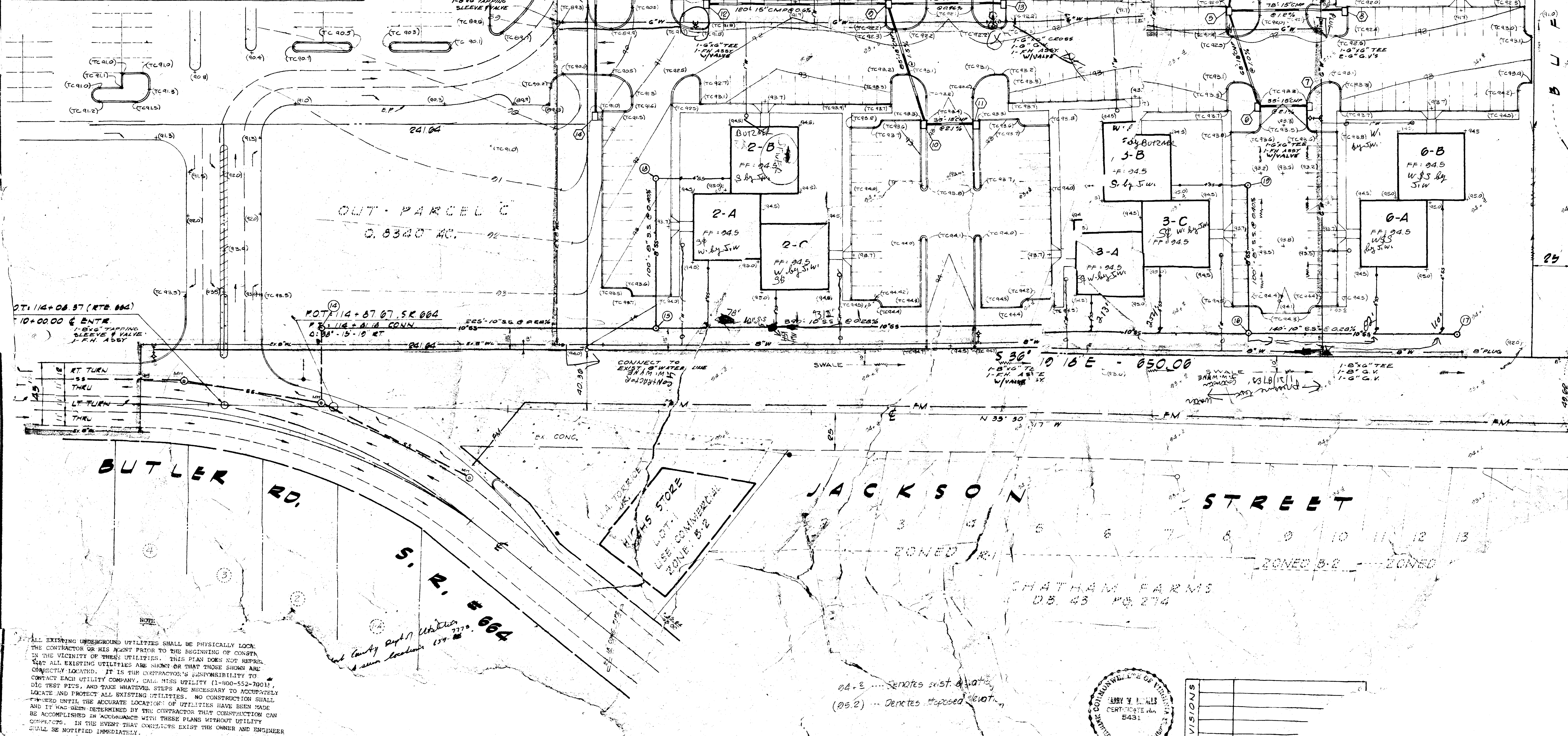


SANITARY SEWER STRUCTURE SCHEDULE

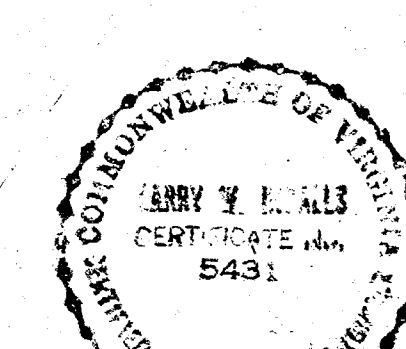
NO.	TOP	INVERT IN	INVERT OUT	REMARKS
0	88.1	85.13 (10')	85.03 (10')	EX. MH - START SAN. SEWER
7	90.0	85.28 (10')	85.21 (10')	
8	90.0	85.48 (10')	85.43 (10')	
9	90.0	86.11 (10')	86.06 (10')	
10	91.5	86.57 (10')	86.52 (10')	
11	91.3	-	87.33 (10')	
12	90.2	-	86.17 (10')	
13	90.2	-	86.93 (8')	
14	93.5	86.40 (10')	86.30 (8')	BUILD OVER EXIST. S. LINE
15	94.5	87.08 (10')	87.03 (10')	
16	94.5	88.23 (10')	88.18 (10')	
17	94.5	-	88.62 (10')	
18	98.5	-	87.60 (8')	
19	93.4	-	88.75 (8')	

STORM SEWER STRUCTURE SCHEDULE

NO.	TYPE	INVERT IN	INVERT OUT	TOP	REMARKS
14	DI-60	81.5 (EX. 36')	81.25 (EX. 36')	88.5	EX. DI-1 W/ NEW DI-8 TOP
1	DI-44A	79.35 (42')	79.35 (46')	91.0	
2	DI-44A	79.90 (42')	79.90 (42')	90.0	
3	DI-44A	80.03 (42')	80.03 (42')	90.9	
4	MH-1	81.00 (36')	80.50 (42')	90.0	
5	DI-3B	86.30 (18')	86.30 (18')	92.0	L=4'
6	DI-3B	86.25 (18')	87.00 (18')	93.3	L=4'
7	DI-3B	-	86.0 (15')	93.3	L=4'
8	DI-3B	-	87.50 (15')	92.0	L=4'
9	DI-3B	86.00 (18')	86.00 (18')	91.7	L=4'
10	DI-3B (MOD)	87.75 (15')	87.50 (18')	93.3	DOUBLE SLOT L=4'
11	DI-3B (MOD)	-	86.50 (15')	93.3	DOUBLE SLOT L=4'
12	DI-3B	-	87.00 (15')	91.4	L=4'
13	DI-3B	-	87.00 (15')	91.7	L=4'
14	DI-60	-	86.40 (18')	90.8	



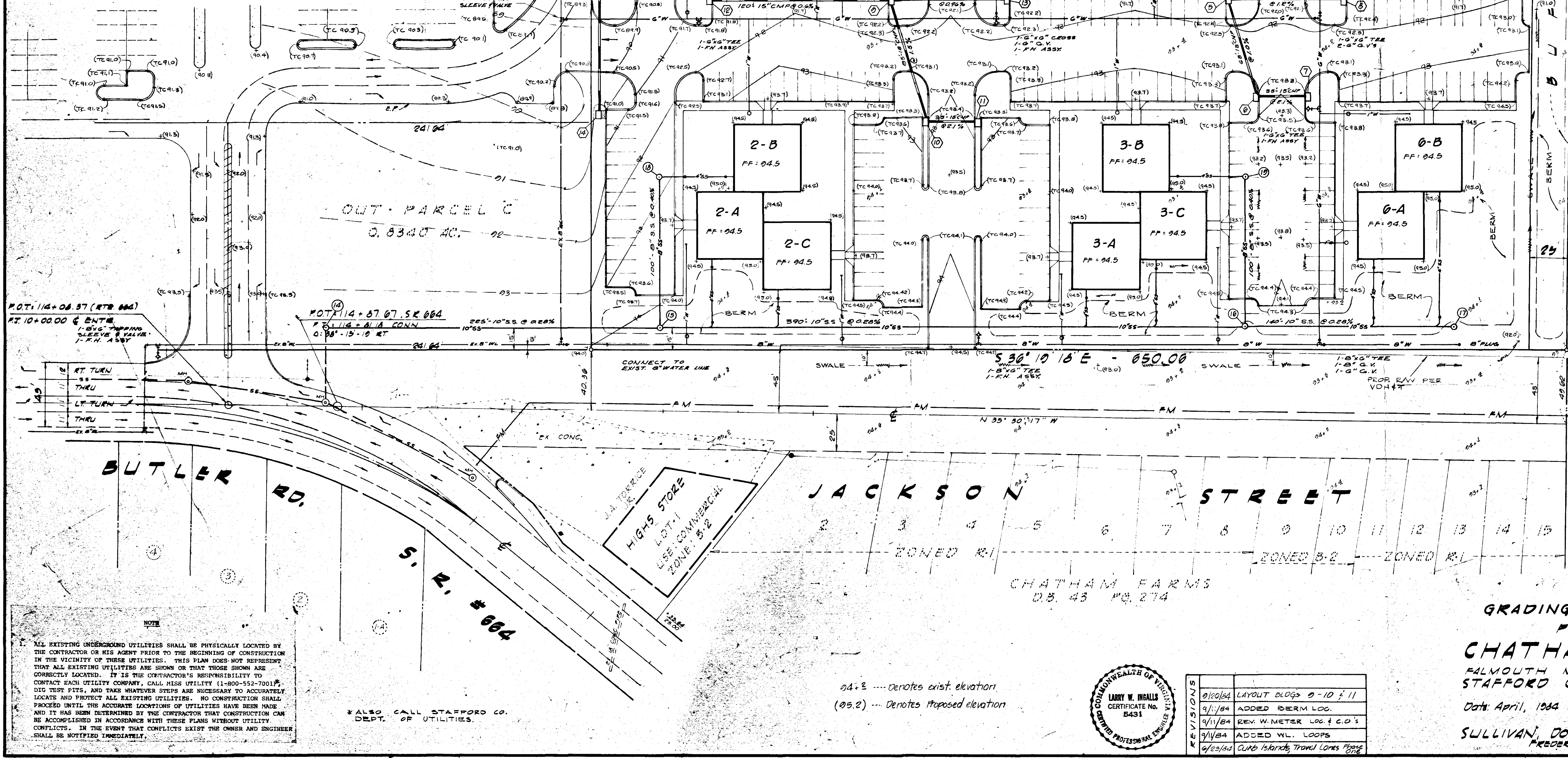
ALL EXISTING UNDERGROUND UTILITIES SHALL BE PHYSICALLY LOCATED BY THE CONTRACTOR OR HIS AGENT PRIOR TO THE BEGINNING OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES. IF IT IS THE CONTRACTOR'S RESPONSIBILITY TO LOCATE AND PROTECT ALL EXISTING UTILITIES, NO CONSTRUCTION SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THESE PLANS WITHOUT THE CONTRACTOR'S NOTIFICATION. IN THE EVENT THAT THE CONTRACTOR IS NOTIFIED IMMEDIATELY.



REVISIONS	DATE	DESCRIPTION
1	10/25/84	Final

SANITARY SEWER STRUCTURE SCHEDULE				
NO.	TOP	INVERT IN	INVERT OUT	REMARKS
6	86.1	85.15 (10')	85.05 (10')	EX. MH - START SAN. SEWER
7	90.0	85.28 (10')	85.21 (10')	
8	90.0	85.45 (10')	85.43 (10')	
9	90.0	86.11 (10')	86.06 (10')	
10	91.5	86.57 (10')	86.52 (10')	
11	91.3	-	87.35 (10')	
12	90.2	-	86.17 (10')	
13	90.2	-	86.93 (8')	
14	93.5	86.40 (10')	86.30 (8')	BUILD OVER EXIST. S' LINE
15	94.5	87.06 (10')	87.03 (10')	
16	94.5	86.23 (10')	86.15 (10')	
17	94.5	-	86.62 (10')	
18	92.5	-	87.60 (8')	
19	93.4	-	86.75 (8')	

STORM SEWER STRUCTURE SCHEDULE				
NO.	TYPE	INVERT IN	INVERT OUT	REMARKS
14	DI-6B	81.5 (EX. 36')	81.25 (EX. 36')	EX. DI-1 W/ NEW DI-6 TOP
1	DI-4AA	79.35 (42')	79.35 (42')	91.0
2	DI-4AA	79.90 (42')	79.90 (42')	90.9
3	DI-4AA	80.03 (42')	80.03 (42')	90.9
4	MH-1	81.00 (36')	80.50 (42')	90.0
5	DI-3B	80.30 (15')	80.30 (15')	L: 4'
6	DI-3B	80.25 (15')	80.25 (15')	L: 4'
7	DI-3B	80.25 (15')	80.25 (15')	L: 4'
8	DI-3B	80.25 (15')	80.25 (15')	L: 4'
9	DI-3B	80.25 (15')	80.25 (15')	L: 4'
10	DI-3B (MOD)	87.75 (15')	87.50 (15')	DOUBLE SLOT L: 4'
11	DI-3B (MOD)	-	86.50 (15')	DOUBLE SLOT L: 4'
12	DI-3B	-	87.00 (15')	L: 4'
13	DI-3B	-	87.00 (15')	L: 4'
14	DI-6B	-	86.40 (8')	90.8



NATIONAL PARK FOUNDATION
 D.B. 365 PG. 237 ZONED R-1
 USE: AGRIC.

RAPPAHANNOCK AREA Y.M.C.A. INC.
 D.B. 365 PG. 237

EMERGENCY
 SPILLWAY
 SEE SHT
 PHASE II

RAPPAHANNOCK AREA Y.M.C.A. INC.
 D.B. 365 PG. 237
 ZONED R-1
 USE: RECREATION

FALMOUTH FIRE &
 RESCUE ASSN. INC.
 D.B. 363 PG. 274
 ZONED R-1
 USE: PUBLIC SERVICE

GRADING & UTILITY PLAN
 PHASE II
CHATHAM SQUARE
 FALMOUTH MAGISTERIAL DISTRICT
 STAFFORD COUNTY, VIRGINIA

Date: April, 1984
 SULLIVAN, DONAHOE AND INGALLS
 FREDERICKSBURG, VIRGINIA
 SHT. 3 OF 6



REVISIONS	DATE	DESCRIPTION
1	2/10/84	LAYOUT BLOKS 0-10 & 11
2	3/1/84	ADDED BERM LOG.
3	3/1/84	REV. W. METER LOC. & C.D.'S
4	4/1/84	ADDED WL. LOOPS
5	4/25/84	CURB ISLANDS, TRAIL LINES, PAVING

84.2 --- Denotes exist. elevation
 (85.2) --- Denotes proposed elevation

OWNER'S CONSENT AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT CONTAINING 2.6116 ACRES OF LAND, MORE OR LESS, AND DESIGNATED AS SECTION FOUR CHATHAM SQUARE OFFICE PARK, SITUATED IN GEORGE WASHINGTON DISTRICT, STAFFORD COUNTY, VIRGINIA, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS THEREOF. THAT ALL PRIVATE ACCESS ESM'TS. SHALL BE PRIVATELY OWNED & MAINTAINED. THAT THE R/W DEDICATION OF JACKSON ST. (0.6711 AC) IS HEREBY DEDICATED TO PUBLIC USE. THAT ALL SAN. SEW. & WATER LINE ESM'TS. ARE HEREBY DEDICATED TO STAF. CO. FOR PUBLIC USE. THE SAID 2.6116 AC. OF LAND BEING HEREBY SUBDIVIDED IS A PART OF THE SAME LAND CONVEYED TO CHATHAM SQUARE OFFICE PARK PARTNERSHIP BY MELL MEADOWS & OTHERS BY DEED DATED 5-9-84 AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF STAFFORD COUNTY, VIRGINIA, IN DEED BOOK 457 AT PAGE 577.

GIVEN UNDER MY HAND THIS 1ST DAY OF JULY 1988.

CHATHAM SQUARE OFFICE PARK
PARTNERSHIP
P.O. BOX 5453
FREDERICKSBURG, VA.
22401

Steph R. Noel
PARTNER

COUNTY OF Stafford
COMMONWEALTH OF VIRGINIA

I, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE COMMONWEALTH OF VIRGINIA, WHOSE COMMISSION WILL EXPIRE ON May 21, 1991 DO CERTIFY THAT THE PERSON OR PERSONS WHOSE NAMES ARE SIGNED TO THE FOREGOING OWNER'S CONSENT AND DEDICATION, ACKNOWLEDGED THE SAME BEFORE ME IN MY COMMONWEALTH AND COUNTY AFORESAID.

GIVEN UNDER MY HAND THIS 1st DAY OF July 1988.

Elaine D. Hawker
NOTARY PUBLIC

CERTIFICATE OF APPROVAL

THIS SUBDIVISION KNOWN AS SECTION FOUR, CHATHAM SQ. OFFICE PK. IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH EXISTING SUBDIVISION REGULATIONS AND MAY BE COMMITTED TO RECORD.

7-1-88
DATE

R. Mumma
HIGHWAY ENGINEER

7/1/88
DATE

[Signature]
COUNTY BOARD OF
SUPERVISORS, AGENT

NOTE
WATER SERVICE AND SANITARY SEWER SERVICE TO BE PROVIDED BY STAFFORD COUNTY, VIRGINIA

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL THE REQUIREMENTS OF THE BOARD OF SUPERVISORS AND ORDINANCES OF THE COUNTY OF STAFFORD VIRGINIA REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE COUNTY HAVE BEEN COMPLIED WITH.

GIVEN UNDER MY HAND THIS 6TH DAY OF MAY, 1988

[Signature]
EDISON L. SULLIVAN
C. L. S.

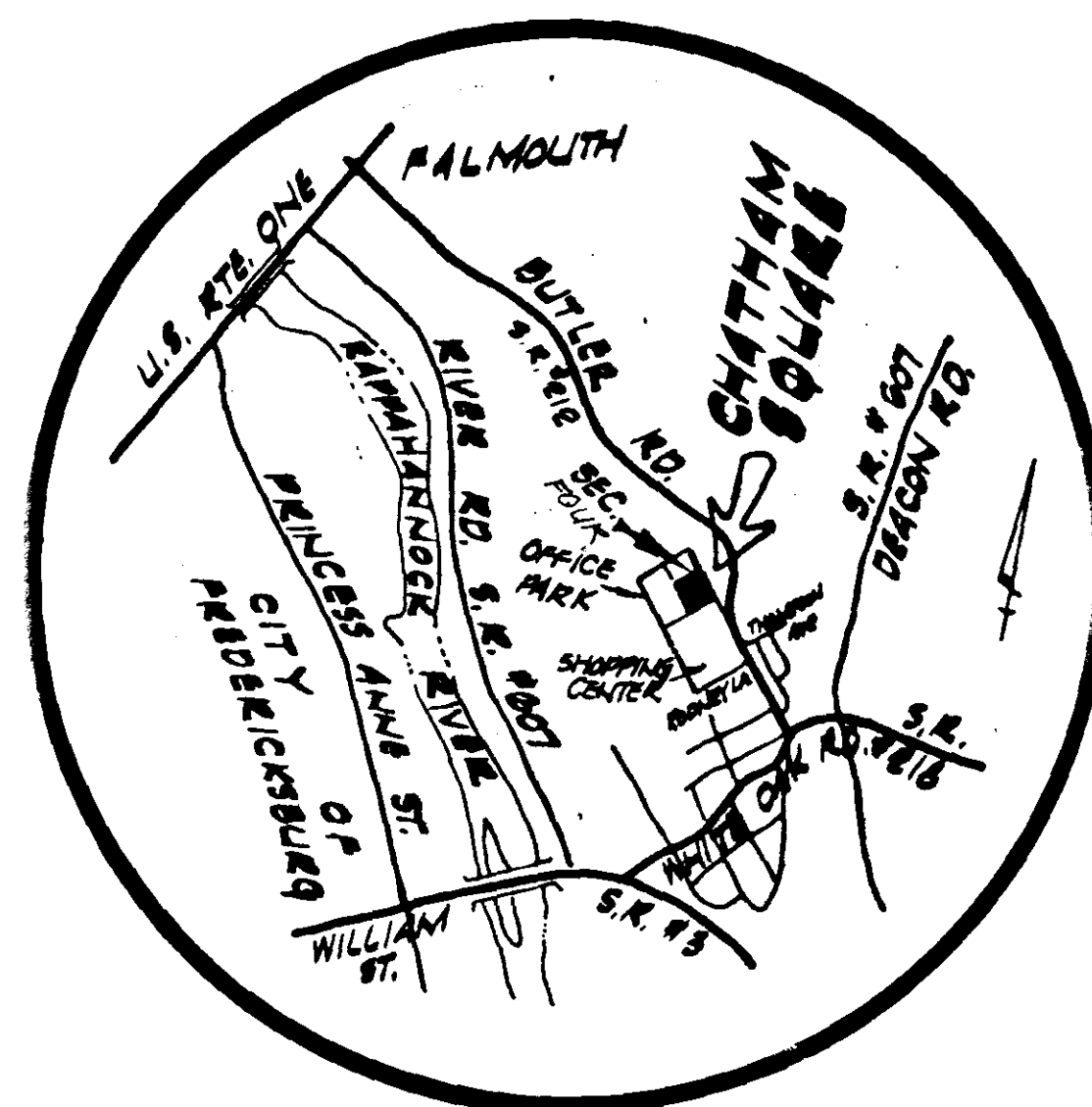
DRAINAGE ESM'T. DATA



DRAINAGE EASEMENT FOR THE CONVENIENCE OF THE DEVELOPER AND / OR FUTURE PROPERTY OWNERS. V.D.O.T. ASSUMES NO MAINTENANCE RESPONSIBILITIES



DRAINAGE EASEMENT MAINTAINED BY V.D.O.T. ONLY TO THE EXTENT NECESSARY TO SERVE ROADWAY PURPOSES



VICINITY MAP

SCALE: 1" = 2000'

AREAS

AREA IN LOTS ----- 1.7356 AC.
COMMON AREA ----- 0.2049 AC.
R/W DEDICATION ----- 0.6711 AC.
TOTAL AREA ----- 2.6116 AC.

SUBD. DATA

TAX MAP 54 F (131) PARCEL PART OF 17-A

PROPOSED USE: OFFICE PARK

ZONED: B-2

SETBACKS: (PER STAFFORD CO.)

FRONT: 40'

REAR: 25'

SIDE: 10'

PLAT OF SUBDIVISION

SECTION FOUR

LOTS 2A, 2B, 2C, 3A, 3B & 3C

CHATHAM SQUARE OFFICE PARK

GEORGE WASHINGTON DISTRICT
STAFFORD COUNTY, VIRGINIA

DATE: MAY 6, 1988

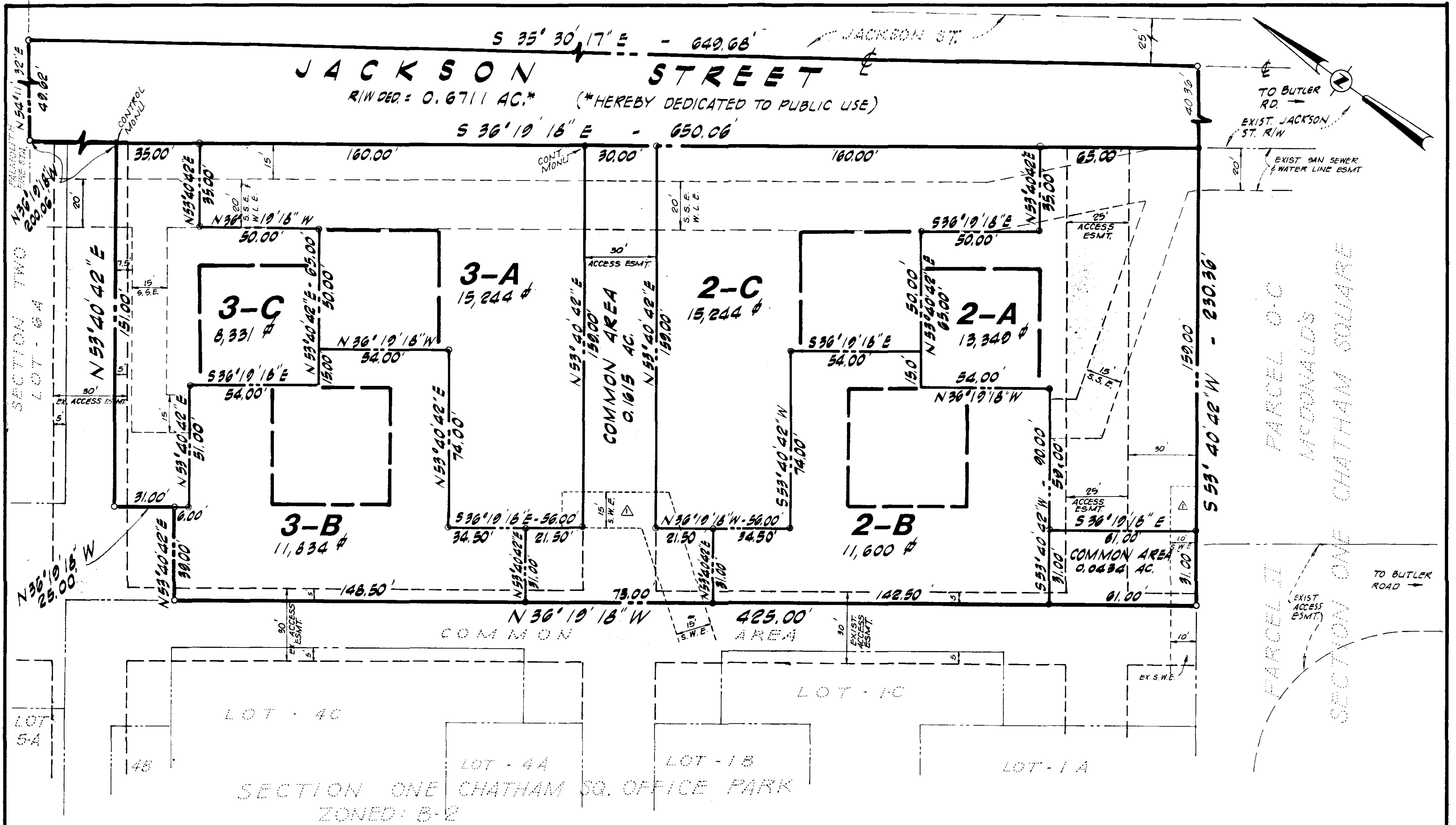
NO SCALE

SULLIVAN DONAHOE AND INGALLS

P. O. BOX 614
FREDERICKSBURG, VIRGINIA

SHT. 1 OF 2

REVISIONS		
1	6-9-88	REV. LOT LAYOUT & BOUNDARY



o Denotes Iron Rod To Be Set

NOTE:
Lots 3-A, 3-B, 3-C, 2A, 2B, & 2C
are not located in the F.H. & F.M.
100 yr. Flood Zone.

LEGEND

W.L.E. Water Line Easement
S.S.E. San Sewer Easement
S.W.E. Stormwater Easement

----- private Access Esmt.
approved by the Stafford
Co. Planning Commission
on 10-3-84.

REVISIONS		
1	6-9-88	REV. LOT LAYOUT & BOUNDARY

PLAT OF SUBDIVISION SECTION FOUR LOTS 2A, 2B, 2C, 3A, 3B & 3C CHATHAM SQUARE OFFICE PARK GEORGE WASHINGTON DISTRICT STAFFORD COUNTY, VIRGINIA

Date: May 9, 1988



SULLIVAN, DONAHUE AND INGALLS
FREDERICKSBURG, VIRGINIA

SHT. 2 OF 2

ST-416-A