



ENTERED
Office of Proceedings
December 7, 2022
Part of
Public Record

ATTORNEYS AT LAW
THE FOUNDRY ♦ 1055 THOMAS JEFFERSON STREET, NW ♦ SUITE 620 ♦ WASHINGTON, DC 20007-4492
TELEPHONE: 202-342-5200
FACSIMILE: 202-342-5299

PRINCIPALS:
RICHARD B. BAR
BRENDAN COLLINS
DANIEL R. ELLIOTT
OLIVER M. KRISCHIK
DAVID K. MONROE
TROY A. ROLF
KEITH G. SWIRSKY

ASSOCIATES:
RYAN SWIRSKY
JOHN H. KESTER

OF COUNSEL:
EDWARD D. GREENBERG

WRITER'S DIRECT E-MAIL ADDRESS
BCOLLINS@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-6793

December 7, 2022

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

**Re: Docket No. AB-290 (Sub-No. 404X) Norfolk Southern Railway Company – Abandonment
Exemption – In the City of Greensboro, North Carolina**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the Petition of City of Greensboro, NC for Clarification of Notice of Interim Trail Use, dated December 7, 2022. While it does not appear that a fee is required for this filing, any fee for this filing is waived pursuant to 49 C.F.R. § 1002.2(e)(1). If there is any fee, the City of Greensboro respectfully requests a waiver of any such fee as a local government entity in accordance with this regulation.

Please note that a decision on the attached Petition is requested by January 2, 2023. Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

/s/ Daniel R. Elliott

Daniel R. Elliott
Attorney for City of Greensboro, NC

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-290 (Sub-No. 404X)

NORFOLK SOUTHERN RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN THE CITY OF GREENSBORO, NORTH CAROLINA

**PETITION OF THE CITY OF GREENSBORO, NORTH CAROLINA FOR
CLARIFICATION OF NOTICE OF INTERIM TRAIL USE**

The City of Greensboro, North Carolina (“Greensboro”) respectfully seeks clarification from the Surface Transportation Board (“STB” or “Board”) that approximately 264’ of railroad right-of-way subject to the Notice of Interim Trail Use (“NITU”) in this proceeding may be narrowed from a width of 100 feet from center line to at most 50 feet in connection with a land sale to Kotis Properties (“Kotis”) to develop an important grocery store that could not proceed without this transaction. As is demonstrated further below and in the attached Verified Statement of James R. Blaze (“Blaze V.S.”), the proposed remaining right-of-way that would continue to be subject to the NITU is sufficient to permit the future reestablishment of rail service.

BACKGROUND

On August 26, 2019, Norfolk Southern Railway Company (“NSR”) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 3.1-mile rail line in Greensboro, extending between milepost CF-65.6 and milepost CF-68.7 (the “Line”). Notice of the exemption was served and published in the Federal Register on September 13, 2019 (84 Fed. Reg. 48,383).

The Board’s Office of Environmental Analysis (“OEA”) served an Environmental Assessment (“EA”) on September 20, 2019, recommending that three conditions be imposed on

any decision granting abandonment authority. OEA noted that the North Carolina Department of Environmental Quality (“NCDEQ”) commented that salvage activities resulting from the proposed abandonment could be subject to an erosion control plan review. NCDEQ indicated that NSR should consult with Guilford County, N.C., the county responsible for enforcing erosion control for the proposed abandonment. Accordingly, OEA recommended that a condition be imposed on any decision granting abandonment authority requiring NSR to consult with Guilford County prior to beginning any salvage activities to determine whether an erosion control plan review is required and, if so, to comply with the plan’s reasonable requirements.

OEA also stated that the National Geodetic Survey (“NGS”) indicated that ten geodetic survey markers are present in the right-of-way and could be disturbed by the proposed abandonment. Therefore, OEA recommended that a condition be imposed on any decision granting abandonment authority requiring NSR to notify NGS at least 90 days prior to beginning salvage activities to allow time for the geodetic survey markers to be preserved.

The EA stated that NSR served a historic report on the North Carolina State Historic Preservation Officer (“SHPO”), pursuant to 49 C.F.R. § 1105.8(c). NSR indicated that there are four bridges located along the Line but asserted that neither the bridges, nor the Line itself, meet the criteria for listing in the National Register of Historic Places (“National Register”). OEA stated that the SHPO had not yet commented and, therefore, OEA had not been able to consider the SHPO’s opinion in determining the impact of the proposed abandonment on historic resources. Accordingly, OEA recommended a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way eligible for listing or listed in

the National Register until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed and the Board had removed the condition.

OEA issued its final EA on October 7, 2019, noting that it received one comment after issuance of the EA. The SHPO commented that no historic resources would be affected by the proposed abandonment, and OEA therefore no longer recommended that a Section 106 condition be imposed. Accordingly, based on OEA's analysis and recommendations, the Section 106 condition recommended in the EA was not imposed, and the two conditions recommended in the final EA were imposed.

In the EA, OEA also stated that the right-of-way may be suitable for other public use following abandonment and salvage of the Line. On September 13, 2019, Greensboro filed a request for issuance of a NITU to negotiate with NSR to establish interim trail use and rail banking on the Line under the National Trails Systems Act ("Trails Act"), 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29.¹ Pursuant to 49 C.F.R. § 1152.29, Greensboro submitted a statement of willingness to assume financial responsibility for the right-of-way and acknowledged that the use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service. In a response filed on September 20, 2019, NSR notified the Board that it was willing to negotiate an agreement for interim trail use with Greensboro.

Because the City's request complied with the requirements of 49 C.F.R. § 1152.29 and NSR was willing to negotiate for trail use, a NITU was issued by the STB on October 10, 2019,

¹ Greensboro initially also sought a public use condition, but it withdrew that request on September 19, 2019.

thereby permitting the parties to negotiate an interim trail use/rail banking agreement for the right-of-way during the 180-day period prescribed by the Board.

On November 8, 2019, Greensboro and NSR submitted to the Board a jointly filed notice pursuant to 49 CFR § 1152.29(h), confirming that the parties had entered an interim trail use and railbanking agreement for the entire 3.1-mile-rail line.²

The rail line at issue is called the Atlantic & Yadkin (“A&Y”) rail right-of-way. Existing encroachments were surveyed by Greensboro in 2019 (E/I Survey G-1316 A-BB) ahead of the transfer from NSR. (A detailed map of the A&Y Greenway Survey Plat is attached hereto as Exhibit 1 in the Non-Warranty Deed, Exhibit B.) The claimed corridor width is 100 feet from center line based on documented rail easements rather than real property ownership and varies throughout the corridor.

Existing encroachments when Greensboro obtained the A&Y consisted of structures, utility easements, public streets and bridges, private drives, and private parking areas. Documented vertical encroachments were located as close as 30 feet to the center line of the rail right-of-way. Some encroachments are documented by lease, easement, or letter of agreement while others have no known documentation. (See Exhibit 1, Exhibit B.)

On November 9, 2019, NSR conveyed the A&Y to Greensboro by non-warranty deed subject to rail reactivation in accordance with Section 8(d) of the Trails Act, all applicable STB implementing regulations, and the above-captioned STB abandonment proceeding. (See Exhibit 1.) Greensboro has been asked by Kotis to encroach on the A&Y right-of-way purchased by

² Design of the rail trail by Greensboro is underway, and a portion of the funding for construction has been secured. The remaining funding is being sought through a variety of local, state, and federal sources.

Greensboro to use for the development of a grocery store in a three-level building which would include two underground levels of parking and one level for the store in Greensboro. (Detailed plans for the proposed development and encroachment are attached hereto as Exhibit 2.)³ The area of encroachment extends 56' into the A&Y right-of-way and extends 264' parallel to the center of the right-of-way. (See Exhibit 2 highlighted in red.) Also, the encroachment will leave at least 50' of the right-of-way in place at every point along the affected area.

In connection with the proposed grocery store project, Greensboro retained the independent consultant/engineer James R. Blaze to analyze whether the narrowed 50 feet of railbanked right-of-way that Greensboro will retain under its NITU at the above-described development site would be adequate for the potential future reinstitution of rail service.⁴ As is explained in depth in the verified statement and Engineering Analysis Report of James R. Blaze, attached hereto as Exhibit 3, Mr. Blaze performed an evaluation of the right-of-way and conducted an independent analysis in accordance with the rail design standards of the Manual for Railway Engineering of the American Railway Engineering and Maintenance-of-Way Association ("AREMA") and NSR's own Track Engineering Standards. Mr. Blaze considered horizontal and vertical alignments and structure condition. Mr. Blaze concludes that rail service in the remaining narrowed 50 feet of the ROW extending 264 feet along the railbanked corridor

³ The Parcel on which the grocery store development will take place is at 1500 Mill Street, 1310 A Westover Tier, and 1300 Westover Tier. The parcel IDs are 12261, 12262, and 12266. The total lot acreage is 6.02 acres. The deed reference is DB, 7492, pg. 2961, 2964. The existing use is a retail shopping center, and 4.163 acres of the parcel will be disturbed by the development.

⁴ Based on the detailed plans in Exhibit 2, the Kotis encroachment will only amount to 56', thereby leaving 44' of the 100' right-of-way from center line intact along this 264' section along with the remaining 100' on the other side of the right-of-way. However, out of an abundance of caution due to the older property rights involved here, Greensboro asked Mr. Blaze to assume that there was only 50' remaining of the right-of-way at this location to ensure the accuracy of his report in the event of unforeseen circumstances.

could be reestablished for a rail facility meeting commonly used design criteria without the use of exotic or unusual construction techniques. (Exhibit 3, James R. Blaze V.S., Attachment 1, Engineering Analysis Report at 13.)

Greensboro has provided Mr. Blaze's statement, the Engineering Analysis Report, and this Petition to NSR for its support of this Petition. NSR surprisingly said it would oppose this Petition on various grounds addressed herein.⁵

DISCUSSION

"The reuse of a right-of-way for a public purpose concurrently with a trail use has previously been found consistent with the Trails Act." *The Baltimore and Ohio Railroad Company, et al. – Abandonment and Discontinuance of Service – In Montgomery County, MD and the District of Columbia*, AB-19 (Sub-No. 112) (ICC decided Feb.22, 1990) (citing *Missouri Pac.R.Co.—Exempt.—Aband.in Shawnee and Osage Counties, KS*, AB-3 (Sub-No. 60X) (not printed) (ICC served May 24, 1989) (where tourist train operations and trail use were to share the right-of-way)). Where a trail use sponsor proposes to narrow the right-of-way held under the Trails Act and a certificate or notice of interim trail use, the sponsor must demonstrate "with

⁵ Greensboro cannot understand why NSR would oppose this Petition for numerous reasons. First, it sought to abandon this Line in 2019. It then sold the Line to Greensboro. No traffic had moved over the Line for at least two years. Also, as noted, when Greensboro obtained the Line, there were existing encroachments, including on the parcel at issue, which consisted of structures, utility easements, public streets and bridges, private drives, and private parking areas. Documented vertical encroachments were located as close as 30 feet to the center line of the rail right-of-way. Some encroachments are documented by lease, easement, or letter of agreement while others have no known documentation. (See Exhibit 1 at Exhibit B.) In addition, Greensboro has demonstrated that the sale of the parcel would not impact reactivation of rail service on the Line. Greensboro can only surmise that NSR is seeking to double dip by getting paid again for the same piece of property.

adequate specificity that the remaining width of the right-of-way would be sufficient to support the reactivation of rail service.” *Missouri Pac. R.R. Co. – Abandonment Exemption – In Red River and Bowie Counties, Tex.*, AB-3 (Sub-No. 137X), slip op. at 4 (STB served July 29, 2021). “In such cases, the Board will instead issue a decision clarifying that the width of the right-of-way that the trail sponsor has demonstrated is not needed to reactivate rail service is no longer part of the NITU/CITU.” *Id.*

Here, Greensboro has demonstrated with adequate specificity that if the parcel is conveyed to Kotis, the remaining 50’ of right-of-way is sufficient to support the reactivation of rail service on the Line. The Board has found a remaining 50’ of right-of-way in similar circumstances to be sufficient to support reactivation of rail service on a rail line. *Id.* See also *Union Pac. R.R. Co. – Abandonment – In Harris, Fort Bend, Austin, Wharton and Colorado Counties, TX*, AB-33 (Sub-No. 156) (STB served Dec. 1, 2006). Greensboro provided an engineering report from James R. Blaze, that rail service could be reestablished within the remaining 50’-wide right-of-way.

Assumedly, NSR will oppose this Petition on various grounds which all should be rejected. NSR, in all likelihood, will first argue that it, not Greensboro, holds the underlying common carrier obligation and that obligation covers the entire right-of-way. As such, NSR will argue that Greensboro cannot sell this small piece of right-of-way. However, based on the STB’s decision in *Missouri Pac. R.R. Co. – Abandonment Exemption – In Red River and Bowie Counties, Tex.*, AB-3 (Sub-No. 137X)⁶, cited herein, Greensboro is properly seeking from the

⁶ In all the similar cases cited by the Board in this decision (*Missouri Pac. R.R. Co. – Abandonment Exemption – In Red River and Bowie Counties, Tex.*), the rail carrier supported the petition to clarify the NITU. However, opposition here by NSR should not change the outcome as it still will clearly be able to reactivate rail service if the need does arise at any point in the future.

Board authority to remove this small parcel of the NITU issued on October 10, 2019. While NSR certainly maintains the right to reactivate rail service on the Line, this sale as demonstrated in this Petition will not affect the ability of NSR to do so.

NSR assumedly will also claim that in the sale document to Greensboro, it has the right to repurchase the entire right-of-way at the same price that Greensboro paid if rail service needs to be reactivated.⁷ As a result, NSR will argue that any attempt by Greensboro to sell this small parcel is contrary to NS's contractual rights to buy back the entire right-of-way if NS so desires. However, this argument solely involves a state law contract and property question which should be brought in state court for resolution. As the STB has often stated in similar situations, it does not weigh in on such state law matters which should be left to the appropriate decision maker in state court. *See, e.g., City of Alameda – Acquisition Exemption – Alameda Beltline R.R.*, FD 34798 (STB served Apr. 3, 2006); *Reading, Blue Mountain & Northern R.R. Co. – Pet. for Dec. Order*, FD 35956 (STB served June 6, 2016); *Pinelawn Cemetery – Pet. for Dec. Order*, FD 35468 (STB served Apr. 21, 2015).

Preliminary engineering, environmental approval, and right-of-way mapping for the Kotis grocery store project are planned to be completed by the end of 2022. Those steps will allow final design and right-of-way acquisition to proceed in preparation for construction, which is tentatively scheduled to begin in early 2023. Confirmation that the narrow strip of land to be conveyed to Kotis may be removed from railbanked status under the NITU is necessary for the

⁷ Greensboro does not dispute that the purchase and sale agreement provides NSR the right to repurchase the Line if it decides to reactivate rail service. However, Greensboro strongly disputes that this agreement places any restrictions on its ability to convey portions of the right-of-way as long as NSR is able to reactivate rail service, which it clearly can here.

completion of preliminary design work. Therefore, the Board should clarify that that the parcel is no longer part of the NITU issued on October 10, 2019.

WHEREFORE, Greensboro respectfully requests that the Board, through clarification of the NITU in this proceeding, determine that the conveyance to Kotis of the railbanked right-of-way described herein will not adversely affect the potential reestablishment of rail service in the railbanked corridor and will result in the conveyed property being no longer part of the NITU. Greensboro further respectfully requests that the Board issue a decision regarding this matter by the end of December 2022.

Respectfully submitted,

/s/ Daniel R. Elliott

Daniel R. Elliott
GKG Law, P.C.
1055 Thomas Jefferson St., NW
Suite 620
Washington, DC 20007
(202) 342-5248
delliott@gkglaw.com

Attorney for City of Greensboro, NC

Dated: December 7, 2022

Certificate of Service

I certify that I have, on this 7th day of December 2022, served by email copies of the foregoing document on all parties of record in this proceeding.

/s/ Daniel R Elliott
Daniel R. Elliott

EXHIBIT 1

BK: R 8215

PG: 1612-1653

RECORDED:
11-08-2019

11:34:17 AM
BY: W STEVEN PARRISH
DEPUTY-GB



2019081399

GUILFORD COUNTY, NC

JEFF L. THIGPEN
REGISTER OF DEEDS

NC FEE \$134.00
STATE OF NC
REAL ESTATE
EXTX \$17000.00

Image Reproduced to the
Best Possible Quality

This instrument prepared by:

Ryan M. Hankins
General Attorney
Norfolk Southern Corporation
1200 Peachtree Street, NE
Atlanta, Georgia 30309

Return to:

City of Greensboro
Office of the City Attorney
Attn: Andrew Kelly
300 W. Washington Street
Greensboro, North Carolina 27401

p/v Mary Lynn Anderson

42P

STATE OF NORTH CAROLINA

NON WARRANTY DEED

COUNTY OF GUILFORD

Excise Tax: 17,000⁰⁰

THIS NON-WARRANTY DEED, made this 08th day of November, 2019, between
NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, Grantor, party of the
first part, having an address of Three Commercial Place, Norfolk, VA 23510; and CITY OF
GREENSBORO, a North Carolina municipality, Grantee, with a tax mailing address of P. O.
Box 3136, Greensboro, NC 27402, party of the second part:

WITNESSETH:

THAT the said Grantor, for and in consideration of the sum of ONE AND NO/100
DOLLARS (\$1.00) and other good and valuable consideration in hand paid at and before the
sealing and delivery of these presents, the receipt of which is hereby acknowledged, by these
presents does release, remise and quitclaim unto the said Grantee, its successors and assigns,
pursuant to Section 8(d) of the National Trails Act, 16 U.S.C. §1247(d), all applicable
implementing regulations, and Surface Transportation Board proceeding Docket No. AB 290
(Sub-No. 404X) proceeding the following described property:

ALL THAT piece or parcel of land situate, lying and being in the City of Greensboro, County of Guilford, State of North Carolina, and being more particularly described as follows, to wit:

See Legal Description at Exhibit A and corresponding maps at Exhibit B, attached hereto and made a part hereof.

SUBJECT to all conditions, restrictions, reservations, easements, licenses and leases, whether or not of record, including, without limitation, that certain Non-Warranty Deed, dated July 31, 2002, from Norfolk Southern Railway Company to Havcom Enterprises, LLC, as previously conveyed but only to the extent that any portion of said quitclaim and release should affect the property conveyed herein.

Grantor hereby excepts and reserves all rail, ties, fixtures, equipment, and any material specific to railroad uses to remain the personal property of Grantor, excluding any bridges or ballasts, provided that any such rail, ties, fixtures, equipment, or other material specific to railroad uses that is not removed by Grantor within 180 days from the date of recordation of this instrument, shall be deemed abandoned in place after such 180 day period with Grantee having the right to address in any manner Grantee deems necessary.

And the Grantor makes no warranty or representation, express or implied, as to the extent or quality of Grantor's title to the property hereinabove described.

All or a portion of the property herein conveyed ____ includes or X does not include the primary residence of Grantor.

TO HAVE AND TO HOLD said property, with all and singular the rights, members and appurtenances thereof, the same being, belonging, or in anywise appertaining, to the only proper

use, benefit and behoof of the said Grantee, its successors and assigns, forever.

[SIGNATURE PAGE TO FOLLOW]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Grantor has caused these presents to be executed, and its seal to be hereunto affixed and attested by its corporate officers, thereunto duly authorized, the day and year first above written.

NORFOLK SOUTHERN RAILWAY
COMPANY

(Initials)

BY: Malcolm G. Roop
Real Estate Manager

STATE OF GEORGIA)
COUNTY OF GWINNETT)

Before me, a Notary Public in and for the said County, personally appeared Malcolm G. Roop, known to me to be the person who, as Real Estate Manager of Norfolk Southern Railway Company, the corporation which executed the foregoing instrument, signed the same, and acknowledged to me that he/she did so sign said instrument in the name and upon behalf of said corporation as such officer; that the same is his/her free act and deed as such officer and the free and corporate act and deed of said corporation; and that he/she was duly authorized thereunto by its Board of Directors.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my official seal, at Atlanta, Georgia, this 7th day of November, 2019.

[Signature]

Notary Public

My Commission Expires: June 12, 2022

This instrument prepared by:
Ryan M. Hankins
General Attorney
Norfolk Southern Corporation
1200 Peachtree Street, NE
Atlanta, Georgia 30309

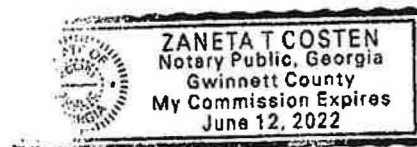


EXHIBIT A

**NORFOLK SOUTHERN RAILWAYS
TO
CITY OF GREENSBORO**

GUILFORD COUNTY PARCEL NUMBER

Beginning at the northern monument (new) of herein described boundary (NAD 83 NC-Grid (NSRS 2007)N:857,933.94 US.FT. E:1,756,845.52 US.FT.) , said point being located North 54°10'52" East 64.90 feet from a point in the centerline of Norfolk Southern Railways, stationed at 3493+99 as shown on a map referenced as G-1316 on file with the City of Greensboro Engineering and Inspections Department, and Station Map for the Atlantic and Yadkin Railway Company, dated December 31st 1927, Station 3484+80 to 3537+60, from said point of beginning, along the northeastern line of said herein described boundary labeled; the following courses and distances: South 35°49'08" East 116.65 feet to a point; thence South 01°16'07" West 12.28 feet to an existing ½" iron pipe, said pipe being located North 01°11'30" East 95.68 feet from a point in said centerline being stationed at 3495+25 on said map, said pipe also being the southwestern corner of Dayton Hudson Corporation Target as described and recorded in Deed Book 4839 Page 2189 in the Office of the Register of Deeds of Guilford County NC; thence continuing along said northeastern line South 01°11'30" West 36.97 feet to a point; thence South 35°57'20" East 213.63 feet to a point; thence South 35°55'16" East 191.07 feet to a point; thence South 34°39'29" East 101.46 feet to an existing nail in curb; thence South 35°51'00" East 672.49 feet to a point; thence South 21°55'11" East 12.88 feet to a point in the northwestern margin of Markland Drive, said point being located North 38°20'14" East 32.40 feet from a nail in said centerline being stationed at 3507+55 on said map; thence continuing along herein described northeastern line, North 39°10'41" East 34.78 feet to a point; thence crossing Markland Drive, South 35°49'08" East 58.58 feet to a point; thence South 39°31'29" West 21.74 feet to a point; thence South 24°50'08" West 21.17 feet to a point, said point being located North 24°50'08" East 29.28 feet to a point in said centerline, stationed at 3508+25, said pipe being the northern corner of Sam Commercial Properties, LLC as described and recorded in Deed Book 8058 Page 181 in said Guilford County Registry; thence continuing along herein described northeastern line, South 35°46'02" East 123.14 feet to a point, said point being located North 03°10'24" West 47.10 feet from a new monument in said centerline marked Station 3509+74 PC; thence along a curve to the right with a radius of 1892.77 feet, an arc distance of 309.55 feet with a with a chord bearing and distance of South 31°32'25" East 309.21 feet, to a point, said point being located North 39°25'56" East 27.51 feet from a new monument in said centerline Stationed 3512+51 PT; thence continuing along said northeastern line, South 33°19'14" East 128.97 feet to a point in the northwestern margin of Fernwood Drive, said point located North 77°35'20" East 39.07 feet from an existing ½" iron pipe in said centerline stationed at 3513+58; thence continuing along said northeastern line, North 77°35'20" East 28.05 feet to an existing ½" iron pipe, said pipe being the southern corner of Guilford County as described and recorded in Deed Book 4058 Page 2036 in said Guilford County Register; thence crossing Fernwood Drive, South 27°24'01" East 51.60 feet to a point in the southeastern margin of Fernwood Dr, said point being located North 77°46'03" East 67.81 feet from an existing ¾" iron pipe in said centerline stationed at 3514+10 on said map, said pipe being the northwestern corner of Robert S. Tury as described and recorded in Deed Book 3197 Page 746 in said Guilford County Registry; thence continuing along said northeastern line, South 27°24'01" East 155.15 feet to a point, said point being located North 77°46'03" East 67.85 feet from an existing ½" iron pipe,

said pipe being the southwestern corner of Wayne H. Mohen and wife as described and recorded in Deed Book 6085 Page 1418 in said Guilford County Registry; thence continuing along said herein described northeastern line South 27°24'01" East 103.54 feet to a point, said point being located North 77°46'03" East 67.83 feet from an existing ¾" iron rod in said centerline stationed at 3515+65 on said map, said rod being the southwestern corner of Joyce Longmire as described and recorded in Deed Book 7246 Page 2291 in said Guilford County Registry; thence South 27°24'01" East 51.83 feet to a point; thence South 27°24'01" East 51.80 feet to a point, said point being located North 77°46'03" East 67.81 feet to and existing iron rod in said centerline, stationed at 3517+72 on said map, said rod being the southwestern corner of Darlene R. Stanley as described and recorded in Deed Book 7686 Page 136 in said Guilford County Registry; thence continuing along said northeastern line, South 27°24'01" East 113.70 feet to a point, said point being located North 77°46'03" East 67.79 feet from an existing iron rod in said centerline stationed at 3518+86 on said map, said rod being the western corner of Aaron Holmes as described and recorded in Deed Book 7060 Page 2659 in said Guilford County Registry; thence continuing along said northeastern line South 27°24'01" East 61.94 feet to a point, said point being located North 77°46'03" East from an existing ¾" iron pipe in said centerline stationed at 3519+48 on said map, said pipe being the western corner of Andrew Morris and wife Rebekah Morris as described and recorded in Deed Book 8126 Page 2337 in said Guilford County Registry; thence continuing along said northeastern line South 27°24'01" East 67.66 feet to a point, said point being located North 77°46'03" East 67.77 feet from an existing nail in said centerline stationed at 3520+15 on said map, said nail also being the western corner of Signature 31 LLC in said Guilford County Registry; thence continuing along said northeastern line South 27°24'01" East 67.19 feet to a point, said point being located North 77°46'03" East 67.75 from and existing ½" iron pipe in said centerline stationed at 3520+82 on said map; thence continuing along said northeastern line South 27°24'01" East 465.85 feet to a point; thence North 71°00'56" East 37.82 feet to a point; thence South 18°59'04" East 255.65 feet to a point; thence South 27°24'01" East 1300.00 feet to a point, said point being located North 61°58'51" East 65.00 feet from a new monument in said centerline, stationed at 3541+24 on said map; thence continuing along herein described northeastern line along a curve to the left with a radius of 5643.93 feet, an arc distance of 214.12 feet, a chord bearing and distance of South 29°07'14" East 214.11 feet to a point; thence South 81°01'41" East 45.27 feet to a point; thence crossing Pembroke Road along a curve to the left with a radius of 5608.93 feet, an arc distance of 152.34 feet, with a chord bearing and distance of South 31°16'53" East 152.34 feet, said point being located North 58°34'09" East 100.00 feet from a new monument in said centerline, stationed at 3545+25 on said map; thence continuing along said northeastern line, South 31°25'51" East 386.66 feet to a point in the southwestern margin of Battleground Avenue, said point being located North 51°04'29" West 114.57 feet from an existing ¾" iron pipe, said pipe being the southeastern corner of Kotis Associates LLC as described and recorded in Deed Book 7395 Page 1207 in said Guilford County Registry; thence continuing along said northeastern line, South 31°25'51" East 185.47 feet to a point, said point being located North 37°37'02" East 107.09 feet from an existing 1" iron pipe in said centerline stationed at 3551+35, said pipe being the southwestern corner of Mary H. Anton as described and recorded in Deed Book 6844 Page 911 in said Guilford County Registry; thence continuing along said northeastern line South 31°25'51" East 195.35 feet to a point, said point being located North 38°12'18" East 50.34 feet from an existing 1" iron pipe, said pipe being the southwestern corner of Thompson Property Company LLC as described and recorded in Deed Book 4471 Page 1748 in said Guilford County Registry; thence continuing along said northeastern line South 31°25'51" East 422.76 feet to a point, said point being located North 38°27'18" East 106.50 feet from an existing ¾" iron pipe in said centerline, stationed at 3557+52 on said map, said pipe being the

southwestern corner of Mill Street Commons LLC as described and recorded in Deed Book 7641 Page 917; thence continuing along said northeastern line South 31°25'51" East 363.81 feet to a point, said point being located North 58°11'44" East 100.00 feet from a new monument in said centerline stationed at 3560+80 on said map; thence, continuing along said northeastern line, along a curve to the left, with a radius of 2786.17 feet, an arc distance of 60.80 feet with a chord bearing and distance of South 32°48'36" East 60.80 feet to a point in the northwestern margin of Mills Street; thence continuing along said northeastern line, crossing Mill Street, along a curve to the left, with a radius of 2786.17 feet, an arc distance of 40.59 feet with a chord bearing and distance of South 33°51'09" East 40.59 feet to a point in the southeastern margin of Mills Street, said point being located South 65°24'17" West 258.05 feet from an existing nail marking the northeastern corner of Hayes and Associates LLC as described and recorded in Deed Book 7303 Page 1940 in said Guilford County Register of Deeds; thence continuing along said northeastern line, along a curve to the left, with a radius of 2786.17 feet, an arc distance of 154.80 feet with a chord bearing and distance of South 35°51'41" East 154.78 feet to a point, said point being located South 88°12'32" East 194.80 feet from an existing ½" iron pipe, said pipe being the southeastern corner of said Hayes and Associates as referenced above; thence continuing along said northeastern line, along a curve to the left, with a radius of 2786.17 feet, an arc distance of 656.38 feet with a chord bearing and distance of South 44°12'08" East 654.86 feet to a point, said point being located North 39°24'38" East 100.00 feet from a new monument in said centerline stationed at 3570+25 on said map; thence continuing along said northeastern line South 50°14'09" East 42.78 feet to a point, said point being located North 81°24'37" West 38.65 feet from and existing ½" iron pipe, said pipe being the northeastern corner of Westover Terrace II, LLC as described and recorded in Deed Book 7635 Page 2814 in said Guilford County Registry; thence continuing along said northeastern line, South 50°14'09" East 637.94 feet to a point, said point being located North 39°52'05" East 100.00 feet from an existing railroad spike in said centerline stationed at 3577+05 on said map, said spike being the western corner of Westover Terrace II, LLC as referenced above; thence continuing along said northeastern line South 50°14'09" East 266.98 feet to a point, said point being located North 39°51'08" East 100.00 feet from an existing ½" iron pipe in said centerline stationed at 3579+72 on said map, said pipe also being the western corner of Westover Terrace II, LLC as described and recorded in Deed Book 7739 Page 2907 in said Guilford County Registry; thence continuing along said northeastern line South 50°14'09" East 36.45 feet to a point; thence South 01°06'09" West 64.04 feet to a point; thence South 50°14'09" East 677.44 feet to a point, said point being located South 68°57'10" West 19.09 feet from an existing ½" iron pipe, said pipe being the western corner of the City of Greensboro as described and recorded in Deed Book 2254 Page 652 in said Guilford County Registry; thence continuing along said northeastern line, South 50°14'09" East 37.07 feet to a point, said point being located North 40°02'05" East 50.00 feet from a new monument in said centerline stationed at 3587+63 on said map; thence along a curve to the right with a radius of 2903.86', an arc distance of 445.01 feet with a chord bearing and distance of South 45°18'24" East 444.58 feet to a point, said point being located North 48°49'06" East 50.00 feet from a new monument in said centerline stationed at 3592+00 on said map; thence continuing along said northeastern line South 41°26'58" East 171.85 feet to a point; thence North 57°21'23" East 50.60 feet to a point; thence South 41°27'16" East 56.70 feet to a point; thence South 48°32'44" West 50.00 feet to a point; thence South 41°26'58" East 621.44 feet to a point, said point being located South 14°55'05" East 25.42 feet from an existing 5/8" iron pipe, said pipe also being the northwestern corner of Davenport Energy Inc. as described and recorded in Deed Book 7953 Page 2171 in said Guilford County Registry; thence continuing on said northeastern line South 41°26'58" East 66.71 feet to a point; thence North 26°44'39" East 53.85 feet to a point;

thence South 41°26'58" East 370.31 feet to a point, said point being located North 49°07'03" East 100.00 feet from a new monument in said centerline; thence along a curve to the right with a radius of 1220.75 feet, an arc distance of 16.74 feet with a chord bearing and distance of South 39°56'46" East 16.74 feet to a point in the northwestern margin of Hill Street; thence continuing along said northeastern line, along a curve to the right with a radius of 1220.75', an arc distance of 82.07 feet with a chord bearing and distance of South 37°37'38" East 82.06 feet to a point; thence continuing along said northeastern line, along a curve to the right with a radius of 1220.75', an arc distance of 147.68 feet with a chord bearing and distance of South 32°14'08" East 147.59 feet to a point, said point being located North 86°41'05" East 40.86 feet to an existing ½" iron pipe, said pipe being the northern corner of Larose Properties Inc. as described and recorded in Deed Book 5577 Page 1413 in said Guilford County Registry; thence continuing on said northeastern line, along a curve to the right with a radius of 1220.75 feet, an arc distance of 111.13 feet with a chord bearing and distance of South 26°09'43" East 111.09 feet to a point, said point being located South 86°32'59" East 101.63 from an existing ½" iron pipe, said pipe being the southwestern corner of said Larose Properties Inc. as referenced above; thence continuing on said northeastern line along a curve to the right with a radius of 1220.75 feet, an arc distance of 189.15 feet with a chord bearing and distance of South 19°06'55" East 188.96 feet to a point in the northern margin of West Smith Street, said point being located North 64°19'20" West 27.71 feet to an existing 5/8" iron pipe, said pipe being the southwestern corner of SC Mid Town LLC as described and recorded in Deed Book 8033 Page 2087 in said Guilford County Registry; thence continuing along said northeastern line, crossing West Smith Street, along a curve to the right with a radius of 1220.75 feet, an arc distance of 277.90 feet with a chord bearing and distance of South 08°09'17" East 277.30 feet to a point, said point being located North 87°40'11" East 100.00 feet from a new monument in said centerline stationed at 3612+31 on said map; thence continuing along said northeastern line, South 03°03'28" East 0.47 feet to a point; thence South 03°03'28" East 1011.12 feet to a point, said point being located North 86°41'10" East 100.00 feet to a new monument in said centerline stationed at 3622+44 on said map; thence continuing along said northeastern line; along a curve to the left, with a radius of 2815.25 feet, an arc distance of 16.46 feet with a chord bearing and distance of South 03°44'32" East 16.46 feet to a point; thence continuing along said northeastern line North 85°29'23" West 50.54 feet to a point; thence crossing Guilford Avenue along a curve to the left with a radius of 2865.25 feet, with an arc distance of 60.27 feet with a chord bearing and distance of South 04°21'51" East 60.27 feet to a point; thence continuing along said northeastern line along a curve turning to the left with a radius of 2865.25 feet, with an arc distance of 330.42 feet with a chord bearing and distance of South 08°16'14" East 330.24 feet to a point, said point being located North 78°40'50" East 50.00 feet from an existing monument in said centerline stationed at 3626+52 on said map; thence continuing along said northeastern line South 11°04'00" East 84.58 feet to a point; thence South 86°50'45" East 15.61 feet to a point; thence continuing along said northeastern line South 11°03'04" East 109.61 feet to a point in the northern margin of West Friendly Avenue, said point being located North 84°24'23" West 113.81 feet from an existing ¾" iron pipe, said pipe being the southeastern corner of the City of Greensboro as described and recorded in Deed Book 824 Page 50 in said Guilford County Registry of Deed; thence continuing on said northeastern line, crossing West Friendly Avenue, South 11°03'04" East 65.90 feet, to a point in the southern margin of West Friendly Avenue, said point being located North 85°08'30" West 46.06 feet from an existing ½" iron pipe marking the northeastern corner of the City Greensboro Board of Alcoholic Control as described and recorded in Deed Book 3729 Page 1609 in said Guilford County Registry; thence continuing along said northeastern line, South 11°03'04" East 308.99 feet to a point; thence continuing along said

northeastern line South 78°56'01" West 15.00 feet to a point; thence crossing West Market Street South 11°04'00" East 450.20 feet to a point, said point being located North 79°01'57" East 50.00 feet from a new monument in said centerline, stationed at 3636+74 on said map; thence along a curve to the right with a radius of 2014.05 feet, with an arc distance of 315.00 feet with a chord bearing and distance of South 06°23'21" East 314.68 feet to a point, said point being located North 87°59'33" East 50.00 feet from a new monument in said centerline, stationed at 3639+82 on said map; thence South 02°06'56" East 472.77 feet to a point, said point being located North 88°51'10" East 50.00 feet from a new monument in said centerline, stationed at 3644+54 on said map; thence continuing along said northeastern line; along a curve to the left with a radius of 686.43 feet, with an arc distance of 107.02 feet with a chord bearing and distance of South 08°44'36" East 106.91 feet to a point; thence North 50°11'27" East 56.48 feet to a point; thence along a curve to the left, with a radius of 636.43 feet, with an arc distance of 363.36 feet with a chord bearing and distance of South 27°17'17" East 358.44 feet to a point, said point being located North 47°12'16" East 100.00 feet from a new monument in said centerline; thence continuing along said northeastern line South 42°00'25" East 136.64 feet to a new monument, (NAD 83 NC-Grid (NSRS 2007) N:844,700.60 US.FT. E:1,764,290.89 US.FT.), said monument being the southeastern corner of said herein described boundary; thence, along a Tie Line South 47°59'35" West 200.00 feet to a nail, said tie line being the southeastern line of said herein described boundary, said nail being the southernmost point of said described boundary (NAD 83 NC-Grid (NSRS 2007) N:844,566.75 US.FT. E:1,764,142.28 US.FT.); thence along the southwestern line of said here in described boundary the following courses and distances: North 42°00'25" West 133.98 feet to a point; thence with a curve to the right with an arc distance of 87.59 feet, with a radius of 836.43 feet, with a chord bearing and distance of North 40°26'06" West, 87.55 feet, to a point, said point being located North 87°50'17" West 80.06 from an existing railroad spike marking the southeastern corner of College Hill Development Company as described and recorded in Deed Book 3175 Page 407 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the right with an arc distance of 34.98 feet, with a radius of 836.43 feet, with a chord bearing and distance of North 36°14'13" West 34.97 feet; thence continuing along said southwestern line, with a curve to the right with an arc distance of 81.36 feet, with a radius of 836.43 feet, with a chord bearing and distance of North 32°15'09" West, 81.32 feet to point; thence continuing along said southwestern line, with a curve to the right with an arc distance of 163.73 feet, with a radius of 836.43 feet, with a chord bearing and distance of North 23°51'30" West, 163.47 feet to a point; thence continuing along said southwestern line, North 50°11'27" East 54.03 feet to a point; thence crossing West McGee Street with a curve to the right with an arc distance of 175.73 feet, with a radius of 786.43 feet, with a chord bearing and distance of North 10°24'09" West, 175.36 feet to a point, said point being located South 86°55'44" West 50.00 feet from a new monument in said centerline, stationed at 3644+54 on said map; thence continuing along said southwestern line, North 02°06'29" West 472.85 feet to a point, said point being located South 87°53'31" West 50.00 feet from a new monument in said centerline, stationed at 3639+82 on said map; thence continuing along said southwestern line, with a curve to the left with an arc distance of 299.06 feet, with a radius of 1914.05 feet, with a chord bearing and distance of North 06°22'02" West, 299.06 feet to a point, said point being located South 79°02'01" West 50.00 feet from a new monument in said centerline, stationed at 3636+74 on said map; continuing along said southwestern line, North 11°04'00" West 450.03 feet to a point in West Market Street; thence South 78°56'01" West 15.00 feet to a point; thence crossing West Market Street and West Friendly Avenue, North 11°04'00" West 517.47 feet to a point; thence South 86°50'45" East 41.26 feet to a point; thence North 11°04'00" West 65.24 feet to a point, said point being located South 78°40'56" West 25.00 feet from a new monument

in said centerline, stationed at 3626+52 on said map, thence continuing along said southwestern line; with a curve to the right with an arc distance of 350.67 feet, with a radius of 2940.25 feet, with a chord bearing and distance of North 08°09'04" West, 350.46 feet to a point; thence crossing Guilford Avenue with a compound curve to the right with an arc distance of 60.81 feet, with a radius of 2940.25 feet, with a chord bearing and distance of North 04°08'31" West, 60.81 feet to a point, said point being located South 88°21'37" West 25.00 feet from a new monument in said centerline, stationed at 3622+44 on said map; thence continuing along said southwestern line, North 85°29'23" West 75.65 feet to a point; thence North 03°03'28" West 2.31 feet to a point in the northern margin of Guilford Avenue, said point being located North 85°54'16" West 22.65 feet from an existing 5/8" iron pipe marking the southwestern corner of Chaney-Frye 4 LLC as described and recorded in Deed Book 7388 Page 2893 in said Guilford County Registry, thence continuing along said southwestern line, North 03°03'28" West 221.63 feet to a point said point being located North 85°49'28" West 104.91 feet from an existing 5/8" rod in said centerline, stationed at 3620+23 on said map; thence continuing along said southwestern line, North 03°03'28" West 151.11 feet to a point, said point being located South 86°43'10" East 5.58 feet from an existing nail marking the southern corner of Martha J. Delaney as described and recorded in Deed Book 4262 Page 346 in said Guilford County Registry; thence continuing along said southwestern line, North 03°03'28" West 113.31 feet to a point, said point being located North 86°15'46" West 88.32 feet from an existing 1" iron pipe, said pipe marking the northwestern corner of Branson Mill Road as described and recorded in Deed Book 8060 Page 364 in said Guilford County Registry; thence continuing along said southwestern line North 03°03'28" West 114.85 feet to a point, said point being located North 85°43'36" West 75.67 feet from an existing iron pipe marking the northeastern corner of Daniel S. Nicholson and Wife Patricia E. Midgett as described and recorded in Deed Book 3886 Page 1691 in said Guilford County Registry, thence continuing along said southwestern line, North 03°03'28" West 193.89 feet to a point, said point being located North 75°01'01" East 81.41 feet from an existing 1/2" rod marking the northwestern corner of Thomas Mayer, Jr. and Wife Cassandra D. Mayer as described and recorded in Deed Book 7851 Page 2987 in said Guilford County Registry; thence continuing along said southwestern line North 03°03'28" West 183.81 feet to a point, said point being located North 75°01'01" East 126.01 feet from an existing 1/2" iron pipe marking the Northwestern corner of Suzanne V. Fray as described and recorded in Deed Book 6907 Page 308 in said Guilford County Registry; thence continuing along said southwestern line North 03°03'28" West 23.12 feet to a point, said point being located South 87°40'11" West 100.00 feet from a new monument in said centerline, stationed at 3612+31 on said map; thence continuing along said southwestern line, with a curve to the left with an arc distance of 38.16 feet, with a radius of 1020.75', with a chord bearing and distance of North 02°34'14" West, 38.15 feet to a point, said point being located North 75°01'01" West 142.17 feet from an existing 1/2" pipe marking the southwestern corner of Valerie A. Coll as described and recorded in Deed Book 7748 Page 500 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the left with an arc distance of 48.20 feet, with a radius of 1020.75', with a chord bearing and distance of North 04°59'39" West, 48.19 feet to a point; thence continuing along said southwestern line, crossing an apparent gap as shown on said map with a curve to the left with an arc distance of 5.66 feet, with a radius of 1020.75', with a chord bearing and distance of North 06°30'21" West, 5.66 feet to a point; thence with a curve to the left with an arc distance of 25.46 feet, with a radius of 1020.75', with a chord bearing and distance of North 07°22'47" West, 25.46 feet to a point; thence continuing along said southwestern line, with a curve to the left with an arc distance of 37.43 feet, with a radius of 1020.75', with a chord bearing and distance of North 09°08'41" West, 37.43 feet to a point, said point being located South 89°26'00" East 150.55 feet from an existing 1/2" iron pipe marking the

Southwestern corner of Floyd L. Woods , Mattie Florence, Terri Anderson, and Tina M. Gilmore as described and recorded in Deed Book 5323 Page 367 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the left with an arc distance of 51.69 feet, with a radius of 1020.75', with a chord bearing and distance of North 11°38'46" West, 51.69 feet to a point; thence with a curve to the left with an arc distance of 57.91 feet, with a radius of 1020.75', with a chord bearing and distance of North 14°43'20" West, 57.90 feet to a point; thence with a curve to the left with an arc distance of 66.48 feet, with a radius of 1020.75', with a chord bearing and distance of North 18°12'47" West, 66.47 feet to a point, said point being located South 87°22'52" East 94.96 feet to from an existing 1" iron pipe marking the northwestern corner of Jason R. Wiggers and Patricia P. Washburn as described and recorded in Deed Book 5670 Page 916 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the left with an arc distance of 62.90 feet, with a radius of 1020.75', with a chord bearing and distance of North 21°50'39" West, 62.89 feet to a point, said point being located North 88°59'38" West 8.17 feet from an existing 1" iron pipe marking the northeastern corner of John S. Wilkins as described and recorded in Deed Book 3754 Page 412 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the left with an arc distance of 176.57 feet, with a radius of 1020.75', with a chord bearing and distance of North 28°33'53" West, 176.35 feet to a point said point being located South 09°28'46" East 7.62 feet from an existing 5/8" iron pipe marking the northernmost corner of said John S. Wilkins as described and recorded in Deed Book 3754 Page 414 in said Guilford County Registry; thence continuing along said southwestern line, with a curve to the left with an arc distance of 119.63 feet, with a radius of 1020.75', with a chord bearing and distance of North 36°52'39" West, 119.56 feet to a point, said point being located South 49°08'37" West 100.00 feet from a new monument in said centerline, stationed at 3604+74 on said map thence continuing along said southwestern line, North 41°26'58" West 288.27 feet to a point; thence North 26°44'39" East 53.85 feet to a point; thence crossing Benjamin Parkway, North 41°26'58" West 728.15 feet to a point; thence South 48°32'44" West 49.99 feet to a point; thence North 41°27'16" West 87.70 feet to a point; thence North 57°21'23" East 50.60 feet to a point; thence North 41°26'58" West 156.83 feet to a point, said point being located South 48°49'14" West 50.00 feet from a new monument in said centerline, stationed at 3592+00 on said map; thence continuing along said southwestern line, with a curve to the left with an arc distance of 429.68 feet, with a radius of 2803.86 feet, with a chord bearing and distance of North 45°17'50" West, 429.26 feet; thence North 50°14'09" West 634.03 feet to a point; thence South 01°06'09" West 64.03 feet to a point; thence North 50°14'09" West 68.19 feet to a point, said point being located North 39°52'14" East 149.95 feet from an existing 1/2" iron pipe marking the Northwestern corner of Walter W. Hendrix, Jr. as described and recorded in Deed Book 6032 Page 2719 in said Guilford County Registry, thence continuing along said southwestern line, North 50°14'09" West 500.30 feet to a point, said point being located North 39°44'34" East 150.16 feet from an existing 1/2" iron pipe marking the southwestern corner of 2nd Avenue Management LLC, as described and recorded in Deed Book 7315 Page 2542 in said Guilford County Registry; thence continuing along said southwestern line, North 50°14'09" West 162.30 feet to a point, said point being located North 39°44'34" East 150.15 feet from an existing 1/2" iron pipe marking the southwestern corner of Daniel H. Caldwell as described and recorded in Deed Book 7016 Page 1544 in said Guilford County Registry; thence continuing along said southwestern line, North 50°14'09" West 82.19 feet to a point, said point being located South 39°42'40" West 100.00 feet from an existing iron pipe in said centerline stationed at 3573+55 on said map, said iron also being the northernmost corner of Benton E. Miles as described and recorded in Deed Book 6454 Page 1104 in said Guilford County Registry; thence continuing along said southwestern line, North 50°14'09" West 329.95 feet to a point, said point being located South 39°24'52" West 100.00

feet from a new monument in said centerline stationed at 3570+25 on said map; thence continuing along said southwestern line crossing Wendover Avenue, with a curve to the right with an arc distance of 978.15 feet, with a radius of 2986.17 feet, with a chord bearing and distance of North 41°32'35" West, 973.78 feet to a point, said point being located South 58°12'07" East 100.00 feet from a new monument in said centerline, stationed at 3660+80 on said map, thence continuing along said southwestern line North 31°25'51" West 284.67 feet to a point, said point being located South 57°33'44" West 99.22 feet from an existing $\frac{3}{4}$ " iron pipe marking the northernmost corner of Westover Terrace II, LLC as described and recorded in Deed Book 7492 Page 2964 in said Guilford County Registry; thence continuing along said southwestern line North 31°25'51" West 912.91 feet to a point, said point being located South 58°40'02" West 100.00 feet from an existing $\frac{3}{4}$ " iron pipe marking the southeastern corner of Westover Terrace II, LLC as described and recorded in Deed Book 7492 Page 2964 in said Guilford County Registry; thence continuing along said southwestern line, North 31°25'51" West 137.12 feet to a point, said point being located North 58°39'11" East 100.22 feet from an existing $\frac{1}{2}$ " iron pipe marking the southern corner of Westover Terrace II, LLC as described and recorded in Deed Book 7492 Page 2964 in said Guilford County Registry; thence continuing along said southwestern line, crossing Green Valley Road, North 31°25'51" West 543.55 feet to a point; thence South 81°01'41" East 51.42 feet to a point; thence with a curve to the right with an arc distance of 114.61 feet, with a radius of 5773.93 feet, with a chord bearing and distance of North 28°35'43" West, 114.60 feet, to a point, said point being located South 62°35'19" West 65.00 feet from a new monument in said centerline stationed at 3541+24 on said map; thence continuing along said southwestern line, North 27°24'01" West 2490.85 feet to a point; thence South 21°59'50" East 371.71 feet; thence North 27°24'01" West 714.68 feet to a point, said point being located North 79°27'05" West 94.39 feet from an existing $\frac{1}{2}$ " iron pipe marking the southeastern corner of Sam Commercial Properties, LLC as described and recorded in Deed Book 8058 Page 181 in said Guilford County Registry, thence continuing along said southwestern line, North 27°24'01" West 26.48 feet to a point; thence North 61°02'14" East 74.64 feet to a point; thence North 27°36'41" West 49.71 feet to a point; thence North 28°46'31" West 55.81 feet to a point; thence North 30°13'44" West 53.98 feet to a point; thence North 31°44'30" West 33.64 feet to a point; thence North 34°24'25" West 150.58 feet to a point; thence North 35°29'04" West 30.55 feet to a point; thence South 38°40'44" West 77.96 feet to a point; thence North 35°51'20" West 55.77 feet to a point in the southeastern margin of Markland Drive, said point being located North 36°29'11" East 96.64 feet from an existing nail marking the western corner of said Sam Commercial Properties LLC. as referenced above; thence continuing along said southwestern line crossing Markland Drive, North 35°51'20" West 56.98 feet to a point in the northwestern margin of Markland Drive, said point being located South 34°09'14" West 106.32 feet from an existing nail in said centerline, stationed at 3507+55 on said map; thence continuing along said southwestern line, North 35°51'20" West 173.73 feet to a point; thence North 29°48'52" East 82.69 feet to a point, said point being located South 29°48'52" West 27.08 feet from an existing $\frac{1}{2}$ " iron pipe in said centerline, stationed at 3505+72 on said map; thence continuing along said southwestern line, North 35°51'00" West 256.52 feet to a point, said point being located South 67°54'30" West 25.53 feet from an existing nail in said centerline stationed at 3503+33 on said map; thence continuing along said southwestern line, South 67°54'58" West 77.40 feet to a point; thence North 35°49'08" West 852.83 feet to a new monument; thence North 62°41'55" East 101.26 feet to a new monument in said centerline, stationed at 3494+71; thence continuing along said southwestern line, being said centerline, North 35°50'59" West 71.95 feet to a new monument, said monument being the northwestern corner of said herein described boundary, (NAD 83 NC-Grid (NSRS 2007) N:857,895.96 US.FT. E:1,756,792.89 US.FT.); thence along a tie line North 54°10'52" East 64.90 feet to a new monument being the principle point of

beginning, containing an area of 53.961 acres±.

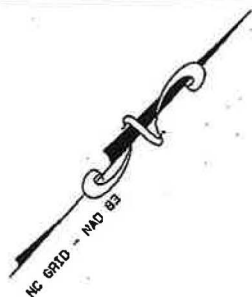
For further reference, see Drawing G-1316 on file with the City of Greensboro's Engineering and Inspections Department, Records Section.

filename: P05644 A&Y Greenway.docx Initials: DRM Date: 09/05/2019

EXHIBIT B

(SURVEY PLAT TO FOLLOW – 28 PAGES)

[Rest of Page Intentionally Left Blank]



TYPE: PHASE 1 SITE ASSESSMENT
PROJECT: CONDOMINIUM (REDEVELOP PHASE 4)
PREPARED FOR: CITY OF WASHINGTON
C/O KIDALEY-MORRIS AND ASSOCIATES, INC.
430 PARKVIEW BLVD. STE. 600
ALEXANDRIA, VA 22304
PREPARED BY: FALCON ENGINEERING, INC.
1810 TRINITY RD. STE 110
CARY, NC 27513
PROJECT #: 917047-00
DATE: JUL 31, 2018

[illegible]

PRD - RECOGNIZED ENVIRONMENTAL CONDITION
CRD - CONTROLLED RECOGNIZED ENVIRONMENTAL CONDITION
HMS - HISTORIC RECOGNIZED ENVIRONMENTAL CONDITION
N/A - LETTER OF NO FURTHER ACTION ISSUED
NRP - NOTICE OF REMEDIAL PETROLEUM ISSUED

[illegible]

"I certify that this map was drawn under my supervision from an actual survey made under my supervision. Most descriptions recorded in Book 266, 268, Page 266 and 268 of other registered sources. Also the measurements that surveyed were taken from the original survey. Book 266, 268 of other registered sources. I certify that this map is a true and correct copy of the original survey. I am a Licensed Surveyor and the title of the Standards of Practice for Land Surveying in North Carolina." 01/26/2004

Page 2 of 11



1. All distances are horizontal ground distances unless noted "air"
2. Contour grid factor: 0.00000000
3. All areas determined by computer calculation
4. This map has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed

- | | | | | | |
|---|--------------|---|--------------|---|-------------|
| Q | Qare 21000 | Q | Qanting 1200 | Q | Qare 21000 |
| H | Hailing 1000 | H | Hainan 1000 | H | Hainan 1000 |
| D | Daka 1000 | D | Daka 1000 | D | Daka 1000 |
| L | Ling 1000 | L | Ling 1000 | L | Ling 1000 |
| P | Pear 1000 | P | Pear 1000 | P | Pear 1000 |
- Back of Card BCO
 Edge of Payment
 French Line
 Building Structure

Property Line
Property Line (Not Surveyed)
Division
Continuation of Railroad
Railroad
Existing Easement
SEE SHEET(S)
Railroad Relocation Line (Y)

SURVEYOR INFORMATION

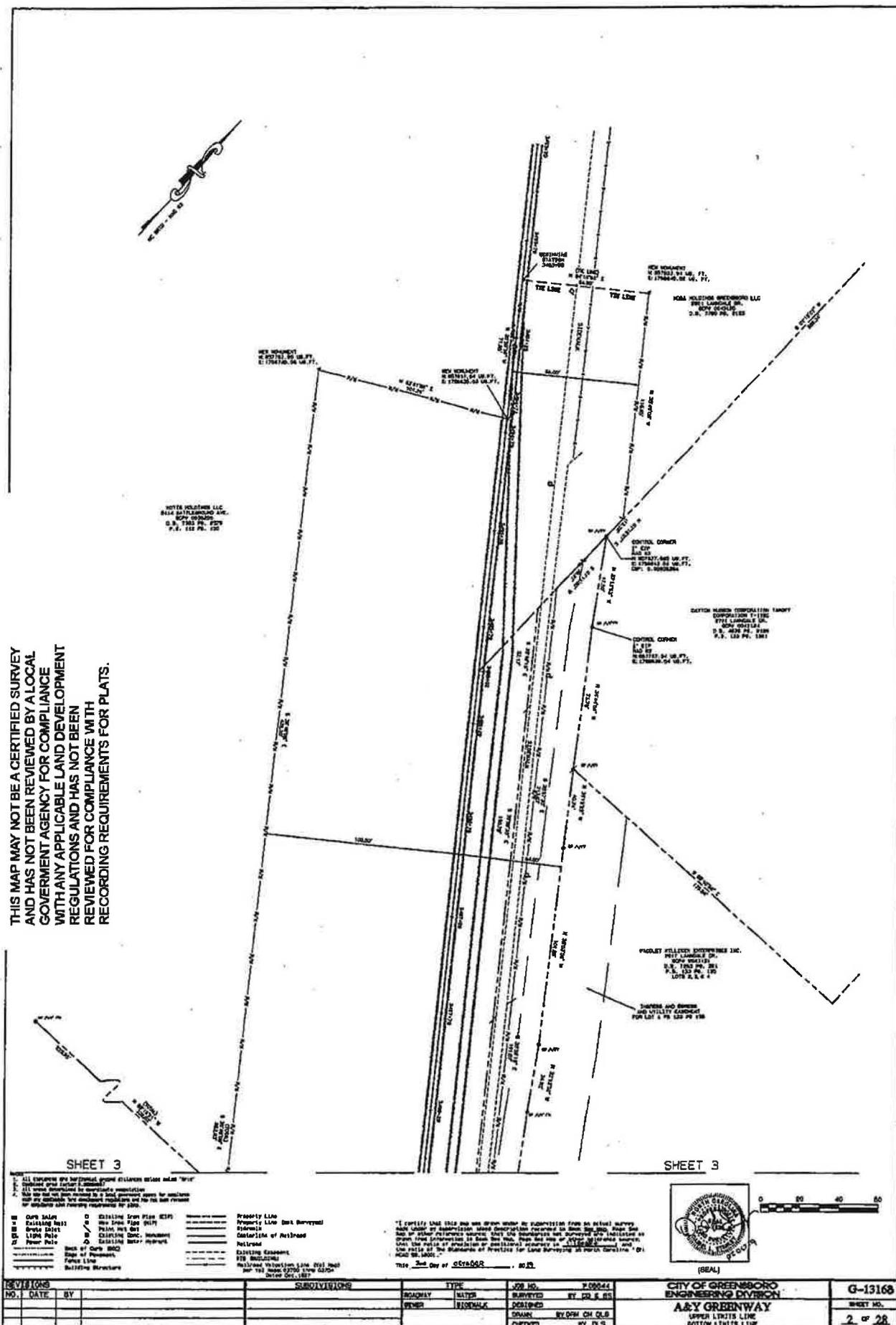
DANIEL L. STANLEY
LICENSE # 4863
401 PATTON AVE.
GREENSBORO, NC 27406
(336) 373-2919

Essents shall be utilized and maintained in accordance with the provisions of and disclaimer contained in Section 30-12-9, 1 (3) and (4) of the City of Greensboro Land Development Ordinance.

REVISIONS			B-90 DIVISION	TYPE	JOB NO.	CITY OF GREENSBORO ENGINEERING DIVISION ALY GREENWAY	G-1316A
NO.	DATE	BY		ROADWAY	P 22844		
				WATER	RAINFALL BY CD & HS		
				FURROW	BT		
					DRAIN BY DPH CH 15L		
						KEY ROUTES CROSSING @ NORTH ST. 100' NORTH OF BENCHMARK POINT. ALSO ROUTES SOUTHERN RAIL LINE, BENCHMARK POINT TO DEER VALLEY RD. CROWN	SHEET NO. 1 of 28

SHEET 2	3493+29	-	3493+54
SHEET 3	3499+79	-	3504+54
SHEET 4	3504+79	-	3510+54
SHEET 5	3510+79	-	3516+54
SHEET 6	3516+79	-	3522+54
SHEET 7	3523+04	-	3529+04
SHEET 8	3529+29	-	3535+04
SHEET 9	3535+29	-	3541+29
SHEET 10	3541+54	-	3547+29
SHEET 11	3547+54	-	3553+54
SHEET 12	3553+79	-	3559+54
SHEET 13	3559+79	-	3565+54
SHEET 14	3565+79	-	3571+54
SHEET 15	3571+79	-	3577+54
SHEET 16	3577+79	-	3583+54
SHEET 17	3583+79	-	3589+79
SHEET 18	3589+79	-	3595+54
SHEET 19	3595+79	-	3601+54
SHEET 20	3601+79	-	3607+54
SHEET 21	3607+79	-	3612+79
SHEET 22	3613+04	-	3618+79
SHEET 23	3619+29	-	3624+79
SHEET 24	3625+04	-	3630+79
SHEET 25	3631+04	-	3636+79
SHEET 26	3637+04	-	3642+79
SHEET 27	3643+04	-	3649+29
SHEET 28	3643+29	-	3650+04

THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.



SHEET 2

KATHY BURTON JOHN DENTON
AND
PHILIP BURTON
AND WIFE
SARAH BURTON
AND
PETER BURTON
AND WIFE
CLARENCE BURTON
2324 BATTLEGROUND AVE.
PORT COCHRANE
O.R. 9026 P.O. 1756

1 STORY BUILDING DETAIL
(1984/85)

SUNNYVALE THEATRICALS
END BAYLENDING AVE.
RICHMOND
D.B. 7707 ME. 1946

KUHTA HOLDINGS LLC
2434 BATHINGWOMES AVE
SCARSDALE, NY 11575
O.B. 7303 40. 1375
P.B. 112 02. 150

FACULTY HALLWAY OVERPASS INC.
 2417 LEXWOLD DR.
 BOX 9 BOX 321
 D.C. 20002 PH. 291
 P.O. 133 PH. 135
 LITR 2.2 6 4

THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.

THOMSON AND COMPANY
NO QUALITY COMPROMISE

CALLISTO / HOME BATTLEGROUND
8310 BATTLEGROUND AVE.
BOM OYSTERS
D.B. 2200 PG. 613
P.B. 10 PG. 11
LOT 2

SHEET 4

SHEET 4

[illegible]

CITY OF GREENSBORO
ENGINEERING DIVISION
A&Y GREENWAY

G-1316C

3 of 28

[illegible]

Property Line 2005 Surveyed
Property Line 2005 Surveyed
2005 Surveyed
2005 Surveyed

Center for
Railroad
Existing Expenses

918 BUILDINGS
Children's Volunteer Line 0
Rm 161 Room 10700 000
1964-1965

6.00

--	--

ONE

ROADWAY

WATER
BUTTERFLY

STATION

NY
DINA CM J

SEE PAGE 100
ALONG WITH
THE

OWN JAIL W/
IN CHAINS

EXHIBIT 10

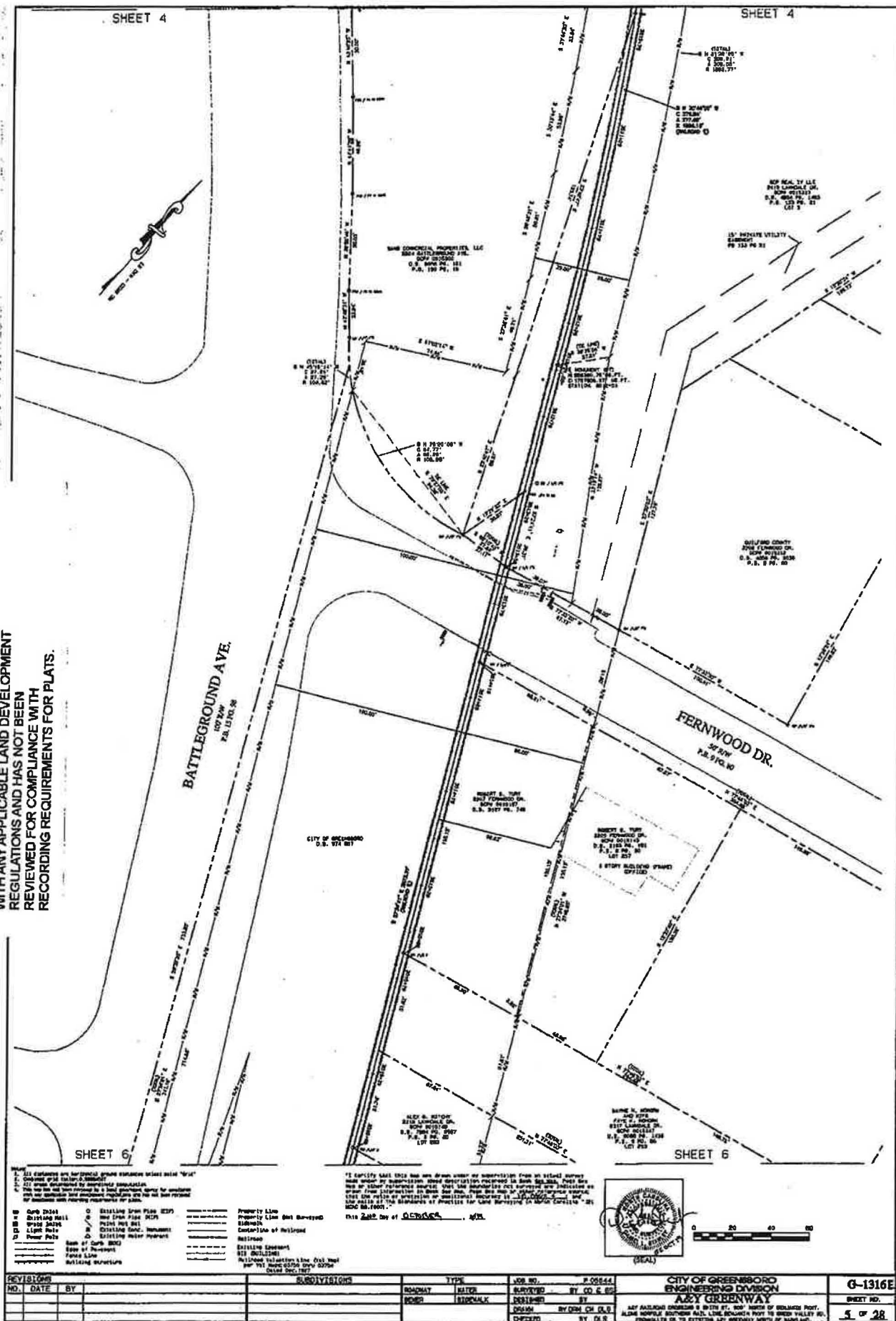
100

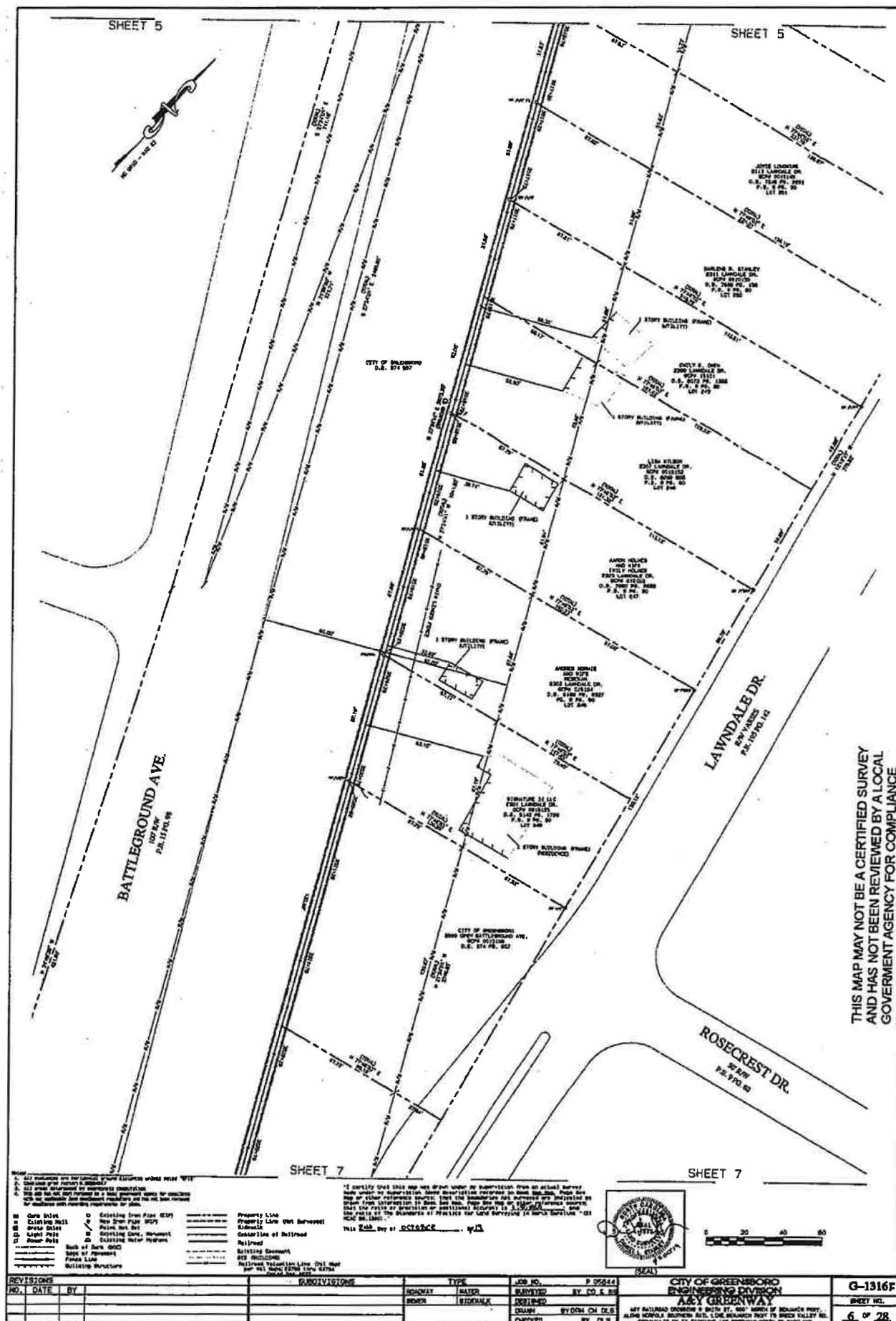
1

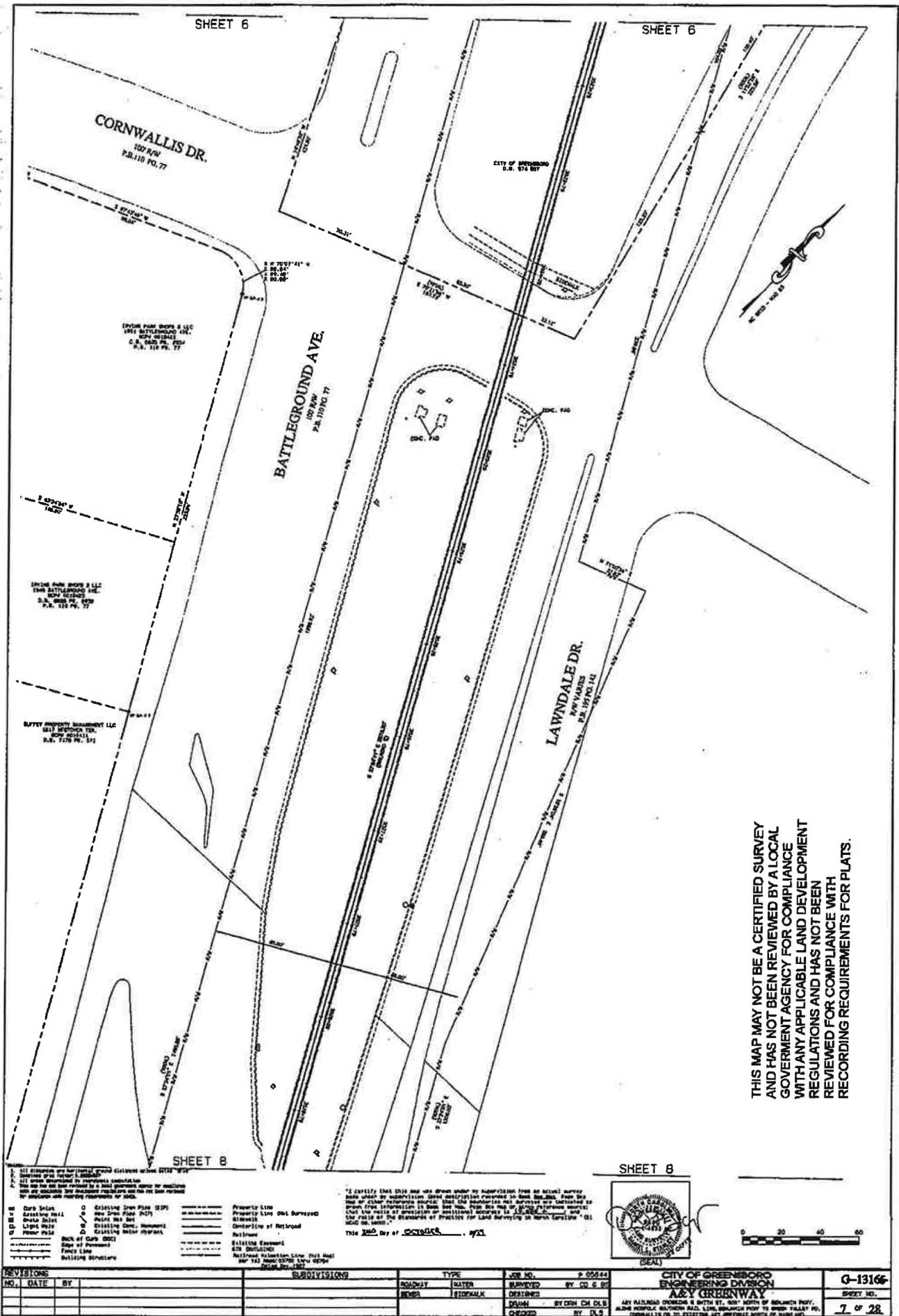
1-800-678-6789

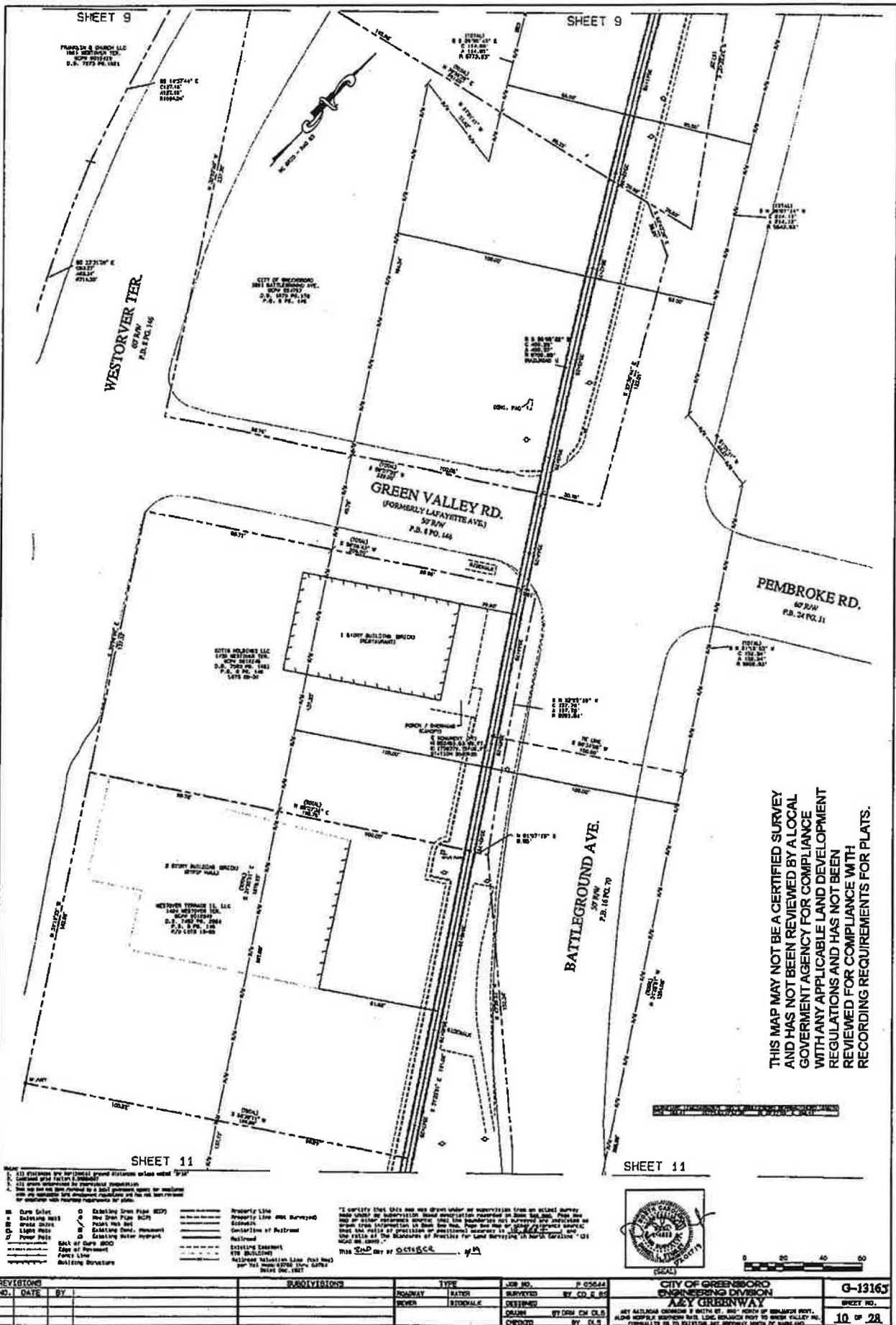
NO.	DATE

1



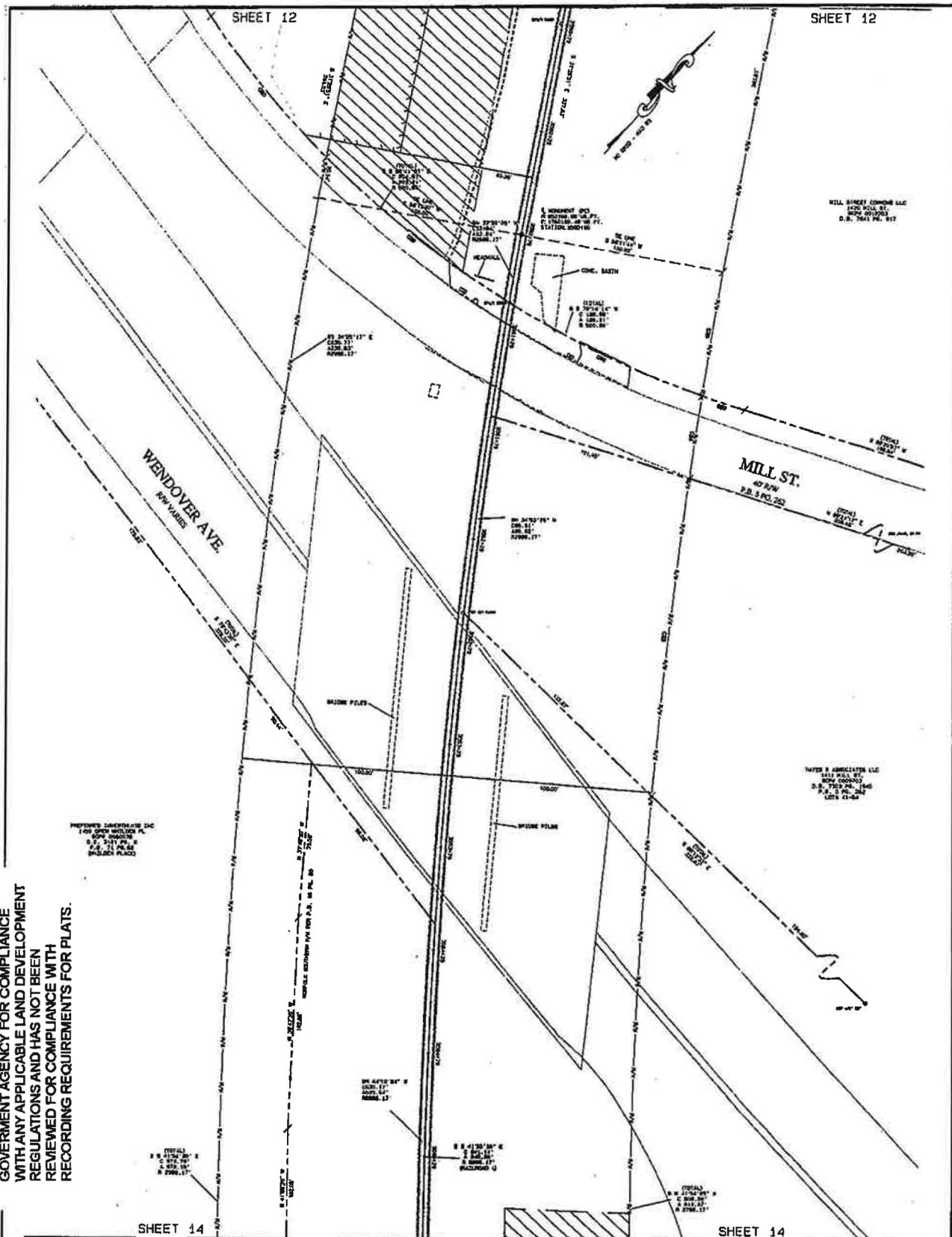








THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.

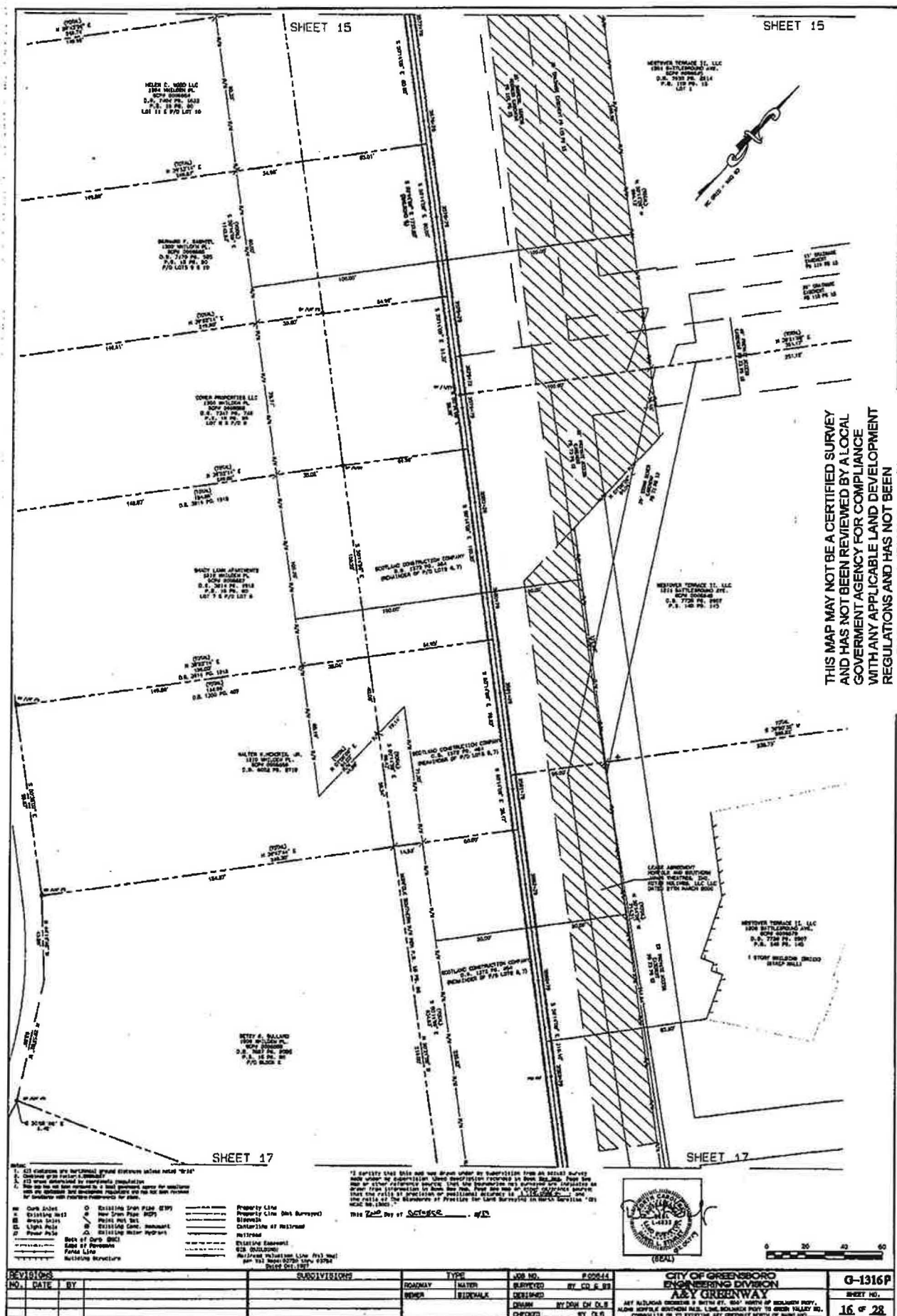


1. All distances are horizontal ground distances unless noted "AS SHOWN".
2. All areas shown are approximate and for informational purposes only.
3. The plat is subject to the provisions of the North Carolina Surveying and Mapping Act of 1995, as amended.

THIS SURVEY WAS MADE BY THE CITY OF GREENSBORO ENGINEERING DIVISION ON OCTOBER 1, 2013.

NO.	DATE	BY	REVISIONS	TYPE	DATE	BY	REVISIONS
1				ROADWAY	10/1/13		
2				RAILROAD	10/1/13		

CITY OF GREENSBORO
ENGINEERING DIVISION
A&Y GREENWAY
13 OF 28



THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.

DATE _____

3. All distances are horizontal ground distances unless noted. @ 100 ft.
4. Chained grid factor: 1.0000077
5. All areas determined by meridian computation.
6. Nothing has yet been reviewed by a state government agency for compliance
with any applicable state disclosure regulations and has not been reviewed
for compliance with recording requirements for deed.

☒ Core Sales	☒ Existing Crn Pipe Vitr	
☒ Existing MLI	☒ New Iron Pipe RCP	
☒ Waste Tslt	☒ Plastic Mat Sat	
☒ Light Pole	☒ Existing Conc. Manhole	
☒ Power Pole	☒ Existing Water Hydrant	
Book of Core RCD		
Sops of Permit		
Fence Line		
Building Structure		

REVISIONS

NO.	DATE	BY	

--	--	--	--

--	--	--	--

[illegible]

Property Line	Property Line	Out Drive
---------------	---------------	-----------

— **Director**
— **Director of Railroad**

Full-time	Full-time
Part-time	Part-time

615 ENCLURE
Enclure Visitation Line
and 615 Enclure 61500 Line

DATE	10/15/1971
TIME	10:00
LOCATION	SP

[illegible]

--	--

© 2000 Blackwell Science Ltd *Journal of Internal Medicine* 247: 399–405

"I certify that SA [redacted] was given written authorization from an actual supervising SA to conduct the above described investigation. I am not aware of any other persons being given such authorization nor am I aware of any indication given from information in this case file that SA [redacted] was given such authorization or indication of approval or disapproval to conduct the investigation. I am not aware of the policies or the standards of practice for SA's conducting a search of the NCAC file. 8/20/60."

WFO 200 of on October 1, 1960. n/15

1

ATTACH	TYPE	DATE
--------	------	------

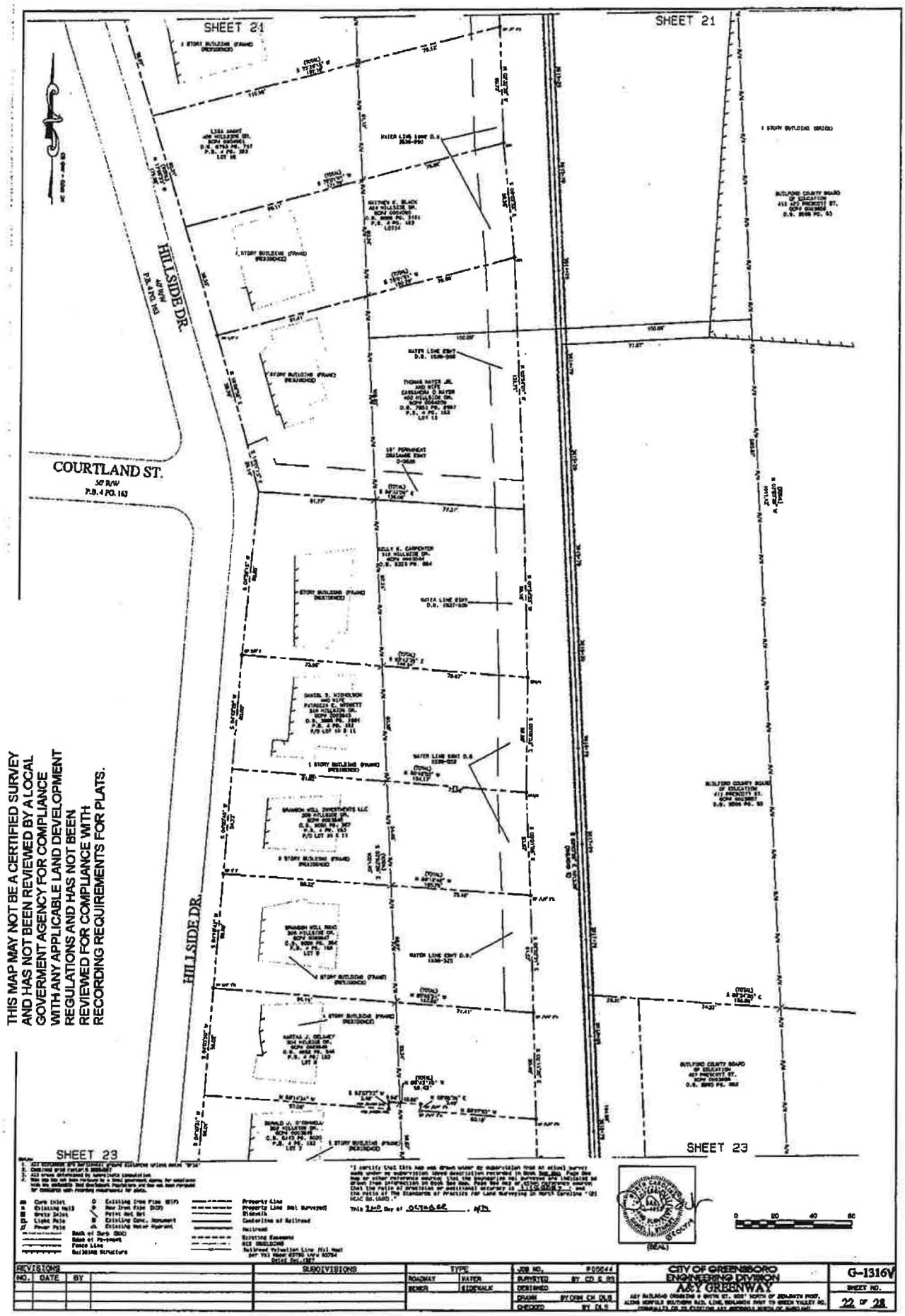
ROADWAY	WATER	REMOVED	BY
---------	-------	---------	----

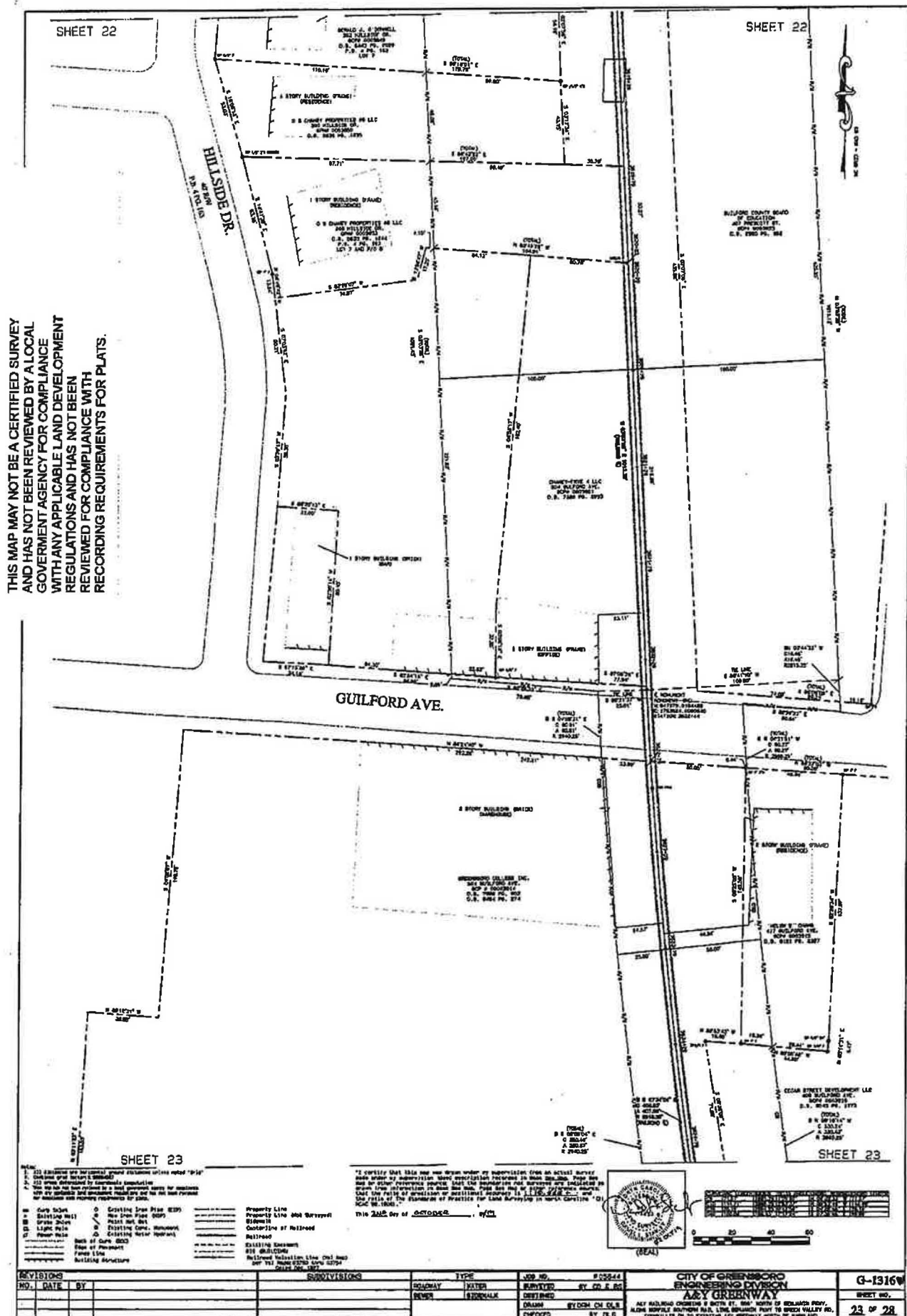
	SEVEN	STOCKALK	DIS/USHD
			CRASH BY CASH

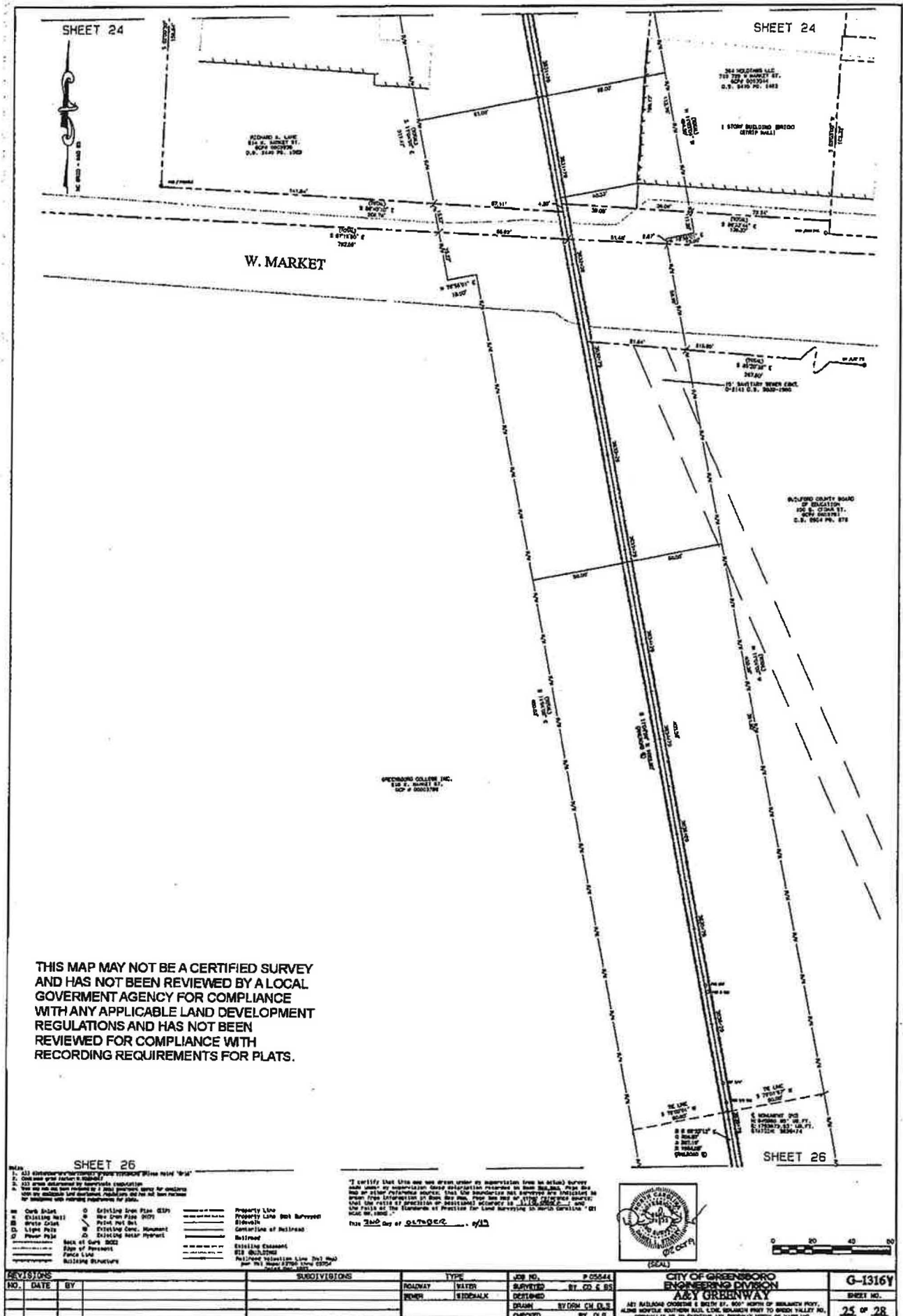
		02-02-00
--	--	----------

1000

[illegible]







THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.

SHEET 27

SHEET 27

1. All distances are horizontal ground distances unless noted "as-bird"
 2. Distances are from center of building
 3. All areas described by boundary coordinates
 4. The use of the term "as-bird" is a best estimate of the distance as the bird flies and is not intended to be used for legal purposes.

[illegible]

1997

REVISIONS			SUBDIVISION			TYPE		JOB NO.		P. 05844		CITY OF GREENSBORO		G-13162	
NO.	DATE	BY				ROADWAY	WATER	SURVEYED	BY	CH. & S.			ENGINEERING DIVISION		
						SEWER	SUPPLY	CONVEYED					A.E.Y. GREENWAY		SHEET NO.
													RPT. RAILROAD CROSSING & INTER. ST. 600' NORTH OF BRANCHAIR HWY., ALONG RAILROAD BRANCHAIR AVE. LINE BRANCHAIR HWY. TO GREEN VALLEY RD.		26 OF 28



REVISED			RADIOVISIONS		TYPE	JOB NO.	CITY OF GREENSBORO ENGINEERING DIVISION JAY GREENWAY		G-1316A
NO.	DATE	BY				JOB NO.	JAY GREENWAY		SHEET NO.
						JOB NO.	JAY GREENWAY		27 OF 28

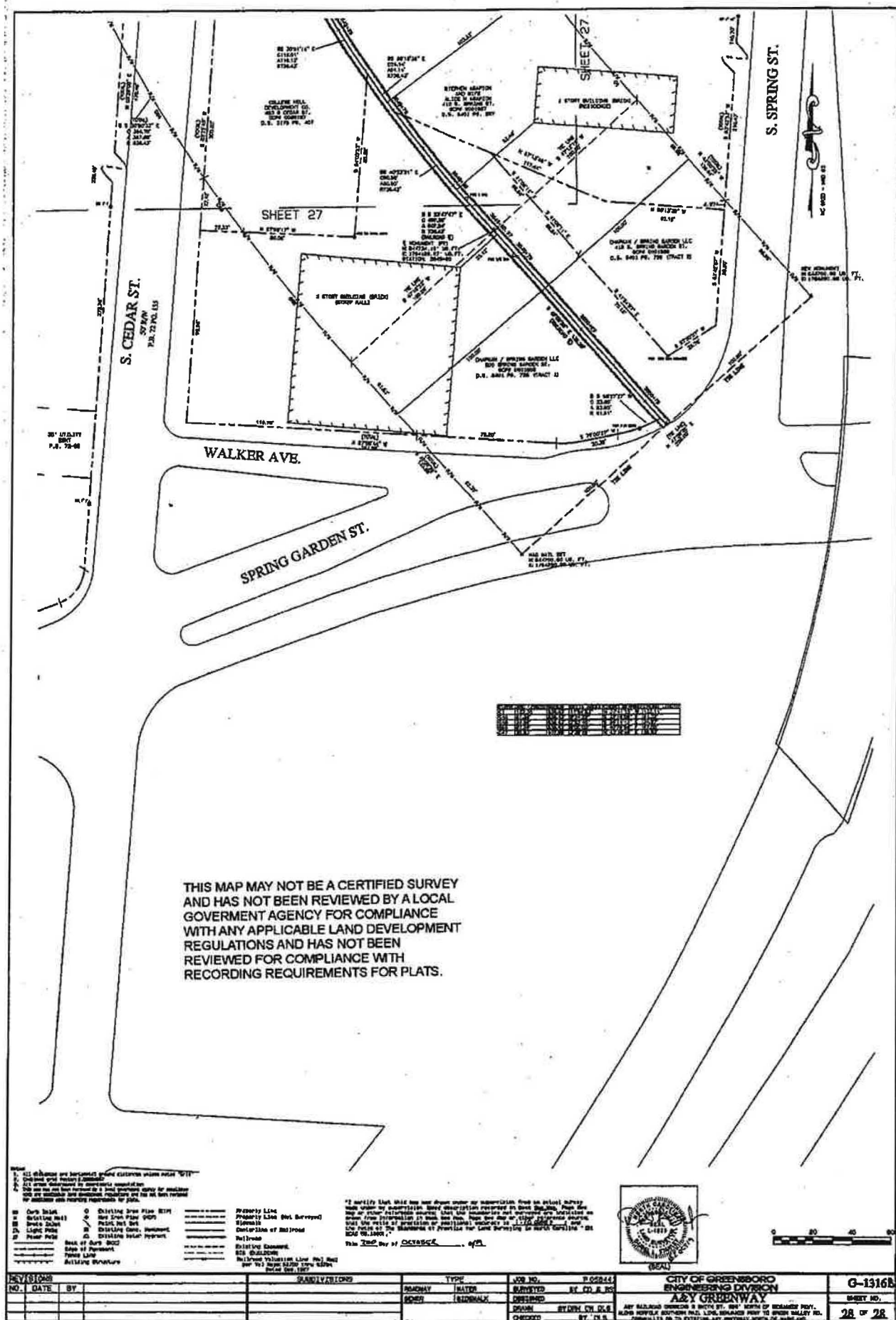


EXHIBIT 2

EXHIBIT 3

EXHIBIT 3

**VERIFIED STATEMENT
OF
JAMES R. BLAZE**

VERIFIED STATEMENT

OF

JAMES R. BLAZE

My name is James R. Blaze. I am an independent rail engineering consultant. I have undertaken numerous rail projects for multiple organizations regarding financial, economic, operational, marketing, and capital and maintenance costs for both main line railways and branch line railways.

I have performed similar corridor-use clearance work as a federal employee for the United States Railroad Association (USRA) involving branch lines and main lines of the seven bankrupt Northeastern railroads during 1974-75, including branch line costing and viability assessment as USRA staff.

I also did similar work for Conrail during 1975-1996. For a three-year period, I served as the manager of the Conrail-operated branch line subsidy and reconstruction services team under the 3-R Act and 4-R Act. I managed track renewal and operational services for 13 states with contracted branch line train operations under Federal Railroad Administration (FRA) audit oversight on more than 150 different lines not conveyed to Conrail but eligible for subsidy continuation.

I also served as Director of Conrail's in house, initial branch line economics versus abandonment program for three years which included filing of Conrail's first abandonment application with the Interstate Commerce Commission.

Moreover, I worked on numerous similar line assessment and clearance analysis projects for both domestic and international railroads as an employee project manager for the railroad civil engineering company Zeta-Tech Associates, Inc. during 1998-2015.

I worked under Dr. Alan M. Zarembski and Donald Holfeld in the tools of integrating engineering and economics as for railroad safety and project design and execution assignments for multiple clients. I was responsible for assessing market requirements of various target rail lines, the type of rail right-of-way and train sets, and operational components required (and permitted).

My work required the ability to assess high-wide dimensional traffic as well as heavy-axle traffic changes (equal or additional capacity improvements) required in corridors. Other work normally required my independent assessment of the commodity and market potentials and a comprehensive understanding of the physical properties of the tracks, bridges, culverts, sidetrack widths, overhead clearances, and best practices (versus FRA or State-required minimum dimensions).

States in which I worked on various main and branch line characteristics included:

PA, NJ, MA, NY, DEL, MD, VA, NC, GA, FL, IL, IN, MI, WI, CA

International assignments occurred in:

UK, Canada, Mongolia, Nigeria, Mali, Senegal, Brazil, Mexico

Recently, I was engaged by the City of Greensboro, NC (Greensboro) to perform an independent evaluation of an approximately 3.1-mile railbanked right-of-way that on August 26, 2019, Norfolk Southern Railway Company ("NSR") filed a verified notice of exemption under

49 C.F.R. part 1152 subpart F--Exempt Abandonments to abandon in Greensboro, extending between milepost CF-65.6 and milepost CF-68.7 (the "Line"). The Line is called the Atlantic & Yadkin rail right-of-way. On November 8, 2019, Greensboro and NSR submitted to the Board a jointly filed notice pursuant to 49 CFR § 1152.29(h), confirming that the parties had entered an interim trail use and railbanking agreement for the entire 3.1-mile Line.

On November 9, 2019, NSR conveyed the Line to Greensboro by non-warranty deed subject to rail reactivation in accordance with Section 8(d) of the Trails Act, all applicable STB implementing regulations, and the above-captioned STB abandonment proceeding. (See Exhibit 1 to Petition.)

Greensboro has been asked by Kotis Properties ("Kotis") to encroach on the Line right-of-way purchased by Greensboro to use for the development of a grocery store in a three-level building which would include two underground levels of parking and one level for the store in Greensboro. (Detailed plans for the proposed development and encroachment are attached to Petition as Exhibit 2.)¹ The area of encroachment extends 56' into the Line right-of-way and extends 264' parallel to the center of the right-of-way. (See Exhibit 2.) Also, the encroachment will leave at least 50' of the right-of-way in place at every point along the affected portion of the Line.²

¹ The Parcel on which the grocery store development will take place is at 1500 Mill Street, 1310 A Westover Tier, and 1300 Westover Tier. The parcel IDs are 12261, 12262, and 12266. The total lot acreage is 6.02 acres. The deed reference is DB, 7492, pg. 2961, 2964. The existing use is a retail shopping center, and 4.163 acres of the parcel will be disturbed by the development.

² Based on the detailed plans in Exhibit 2, the Kotis encroachment will only amount to 56', thereby leaving 44' of the 100' right-of-way from the center line intact along this 264' section along with the remaining 100' on the other side of the right-of-way. However, out of an abundance of caution due to the older property rights involved here, I was asked by Greensboro to assume that there was only 50' remaining of the right-of-way at this location to ensure the accuracy of my report in the event of unforeseen circumstances.

I have performed the evaluation and analysis of the subject railbanked Line and the preparation of the Engineering Analysis Report, attached hereto as Attachment 1. As detailed in that Report, it is my conclusion that rail service could be reestablished for a rail facility within the proposed remaining 50-foot railbanked right-of-way applying commonly used design criteria, including specifically, those of NSR. I encourage the STB to grant Greensboro's petition to clarify the NITU and thus accommodate the significant public benefits that will result from the development of this grocery store.

ATTACHMENT 1

Permission for a Section of Rail-Banked Right of
Way Release

**ROUTE ECONOMIC / OPERATIONAL /
ENGINEERING / BUSINESS STANDARDS
ANALYSIS**

Prepared by:

James R. Blaze

Independent Consultant

PROBLEM STATEMENT

Determine if releasing 50 ft of the 100 ft minimum width of a portion of the rail-banked right-of-way (“ROW”)³ in Greensboro, North Carolina to be purchased by Kotis Properties (Kotis) from Greensboro to use for the development of a grocery store would be sufficient to permit trail use and the reestablishment of rail service on the remaining 50 ft minimum width of this portion of the rail-banked ROW. The area of encroachment extends 56’ into the A&Y 100’ ROW from the center line and extends 264’ parallel to the center of the right-of-way. The remaining 100’ of ROW from the center line on the other side will not be impacted. See Exhibit 2. The Parcel on which the grocery store development will take place is at 1500 Mill Street, 1310 A Westover Tier, and 1300 Westover Tier. The parcel IDs are 12261, 12262, and 12266. The total lot acreage is 6.02 acres. The deed reference is DB, 7492, pg. 2961, 2964. The existing use is a retail shopping center, and 4.163 acres of the parcel will be disturbed by the development. Also, the encroachment will leave at least 50’ of the ROW in place at every point along this affected area.⁴ The ROW has less than .05 grade with little to no curvature in this affected area.

PURPOSE AND NEED

³ The entire ROW at issue extends between milepost CF-65.6 and milepost CF-68.7 in Greensboro, NC, and is called the Atlantic & Yadkin (“A&Y”).

⁴ Based on the detailed plans in Exhibit 2, as noted in my verified statement, the Kotis encroachment will only amount to 56’, thereby leaving 44’ of the 100’ right-of-way intact along this 264’ section plus the remaining 100’ from the center line on the other side of the ROW. However, out of an abundance of caution due to the older property rights involved here, I was asked by Greensboro to assume that there was only 50’ remaining of the right-of-way at this location to ensure the accuracy of my report in the event of unforeseen circumstances.

The northern 56 ft portion of the existing rail-banked ROW is desired for the development of a grocery store. This purchase of this portion of the ROW would permit the grocery store to be built in accordance with local regulation and current plans.

STUDY STRATEGY

The remaining 50 ft minimum width of rail-banked ROW was studied to determine the ability to meet rail design standards (the controlling design requirements considering trail and rail use) using the AREMA “Manual for Railway Engineering” and Norfolk Southern Engineering Standards for a future rail facility.

While establishing the design criteria, it was concluded that if a rail facility were to be implemented, it can facilitate freight and passenger rail up to 65 mph. The focus of this study included development of a preliminary horizontal and vertical alignment for the future railroad using a conceptual typical section based on Norfolk Southern Engineering Standards.

EVALUATION

An evaluation of existing conditions of the rail banked ROW was made by review of various documents related to the proposed grocery store development project and the ROW. Rails, ties, and most of the ballast have been removed by NSR. The proposed trail has not been constructed at this time and is still in the planning and funding stages. There are no bridges or railroad crossings on the portion of the ROW at issue. There are no culverts on the portion of the rail-banked ROW at issue. Also, the ROW has less than .05 grade with little to no curvature in this affected area.

Pictures of the existing rail banked ROW at this location are as follows:

Google map search:
Triangle shaped parcels. RR r-o-w to the right

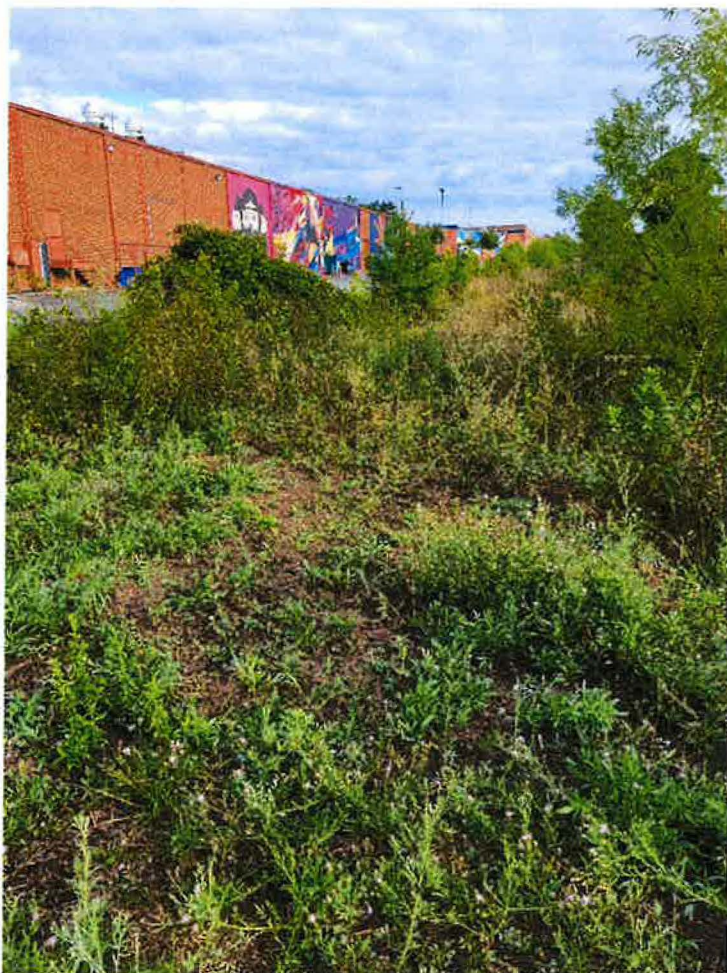


Closer view. RR track route visible to the right of the large white roof structure



Below. Different compass overhead angle of the location





Ground Level ROW View

AFFECTED SECTION EVALUATION

A typical industrial track profile would have a 24-ft wide sub-ballast roadbed section that allows for proper drainage. The highest width standard at ground (surface) level is ~ 30-ft. The 24-ft to 30-ft allowance allows for a safety margin (for persons or structures) outside of the envelope of a passing train. That nominal industrial track width 24-ft to 30-ft section would fit within the standard 50-ft limitation that is necessary near the 264 ft linear section of the grocery store site.

The proposed section was derived based on the Norfolk Southern Engineering Standard typical section. A minimum 24-ft wide sub ballast roadbed section was used for the proposed rail facility typical section. The following information below comes from the Norfolk Southern Engineering Standards:

NORFOLK SOUTHERN CORP RAILROAD INDUSTRIAL TRACK SPECIFICATIONS July 2020

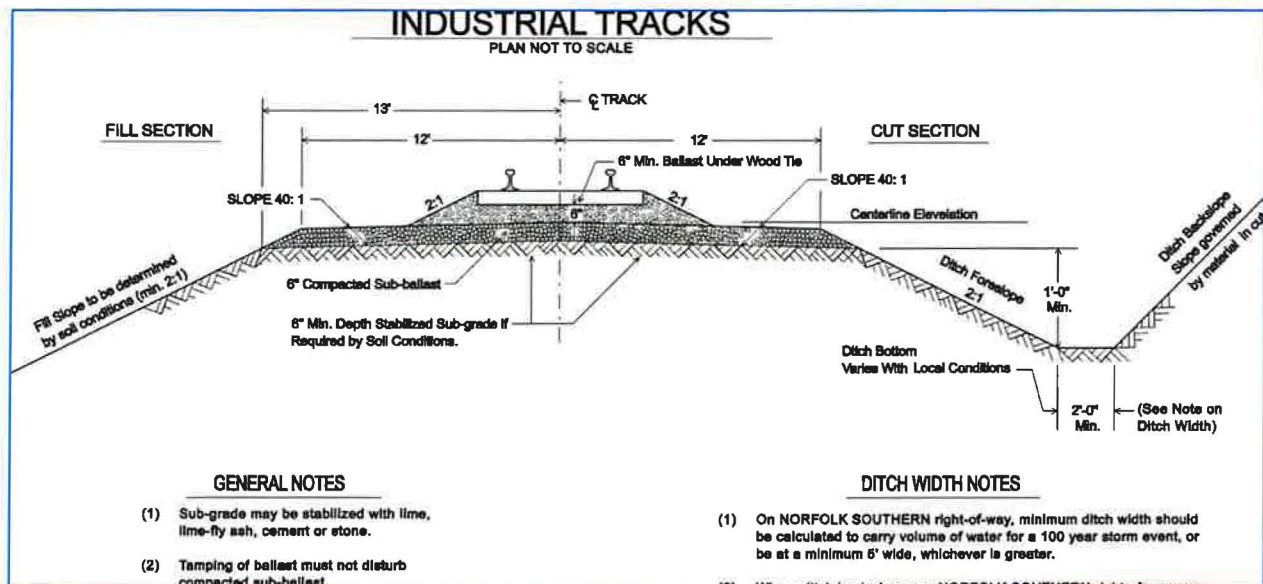
Track centers for Industry track located on Company right-of-way and parallel to main

line or siding shall be no closer than 15 feet, centerline of track to centerline of track...

... and shall be, to adjusted (increased) 1" per degree of curve on curved tracks.

Track profile from NS standards – used for new track

Note: the drainage run-off provisions of their standard agreement might not apply to a restoration of older NS abandoned track under the Trails Act restoration requirements.



It is the Class I railroad carriers that set their individual best practices standards. All of the Class I railroad companies issue such rules. For this assignment, I reviewed the sets of individual rules for four such Class I carriers, including NSR rules. In each case, the carriers typically would allow for a 50-foot width unless there was some unusual near property clearance restriction which are not an issue in this instance at the grocery store site.

STRUCTURE EVALUATION

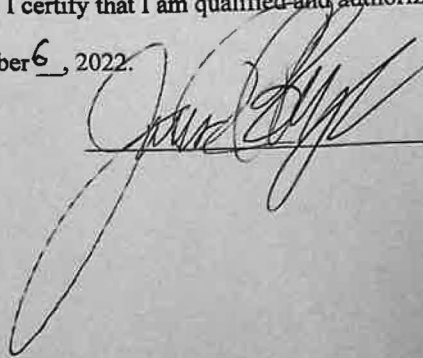
As noted in the field evaluation, there are no structures or culverts in this portion of the ROW.

CONCLUSIONS AND RECOMMENDATIONS

Based upon the results of this study, my engineering opinion is that rail service could be reestablished for a rail facility meeting commonly used design criteria without the use of exotic or unusual construction techniques after release of 56-ft of the rail-banked ROW on the 264' long strip of land at the Kotis development site.

VERIFICATION

I, James R. Blaze, declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed on December 6, 2022.

A handwritten signature in black ink, appearing to read "James R. Blaze", is written over a horizontal line.