

ORDINANCE NO. 3370

AN ORDINANCE authorizing the Oliver T. Carr Company and its successors in interest to establish and maintain an encroachment into the public right-of-way at the northeast corner of the intersection of Duke Street and Diagonal Road, in the City of Alexandria, Virginia.

WHEREAS, the Oliver T. Carr Company and others are the owners and developers of the property known as King Street Station Phase IV in the City of Alexandria, Virginia; and

WHEREAS, the Oliver T. Carr Company desires to establish and maintain a brick sidewalk and landscaping at the northeast corner of the intersection of Duke Street and Diagonal Road adjacent to said property; and

WHEREAS, the public right-of-way at that place will not be significantly impaired by an encroachment permitting this sidewalk and landscaping; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Oliver T. Carr Company and its successors in interest (hereafter collectively "Applicant") be, and the same hereby are, authorized to establish and maintain an encroachment into the public right-of-way at the northeast corner of the intersection of Duke Street and Diagonal Road in the City of Alexandria, said encroachment consisting of a brick sidewalk and landscaping, as shown more particularly on the plat attached hereto as Exhibit A and incorporated herein fully by reference, until the encroachment is removed or destroyed or the authorization to maintain same is terminated as herein provided; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Applicant of liability for any negligence on its part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain the encroachment shall at all times be subject to the Applicant maintaining the area within the encroachment in a litter-free fashion, removing snow, ice and other hazardous conditions accumulating thereon, and landscaping

the area within the encroachment and maintaining same with live plantings as indicated on the plat, so long as the encroachment shall exist in the public right-of-way.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Applicant maintaining, at all times and at its own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence
	\$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence
	\$1,000,000 aggregate

This liability insurance policy shall identify the Commonwealth of Virginia, the City of Alexandria and Applicant as named insureds and shall provide for the indemnification of the Commonwealth of Virginia, the City of Alexandria and Applicant against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city terminate. In that event, Applicant shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Applicant. Nothing in this section shall relieve Applicant of its obligations and undertakings required under this ordinance.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Applicant shall be deemed to have promised and agreed to save harmless the Commonwealth of Virginia and the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the Commonwealth of Virginia or the City of Alexandria.

Section 6. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the Commonwealth of Virginia or the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Applicant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Applicant without cost to the Commonwealth or the city. If Applicant cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the Commonwealth or the city shall have the right to remove the encroachment, at the expense of Applicant, and shall not be liable to Applicant for any loss or damage to the structure of the encroachment caused by the removal.

Section 7. That this ordinance shall be effective upon the date and at the time of its final passage.

JAMES P. MORAN, JR.  
Mayor

Final Passage: April 15, 1989

# ENCROACHMENT AREA

DEVELOPER TO UNIFORMS AND VARIATIONS  
STATE OF VIRGINIA PROPERTY PER PLAN  
APPROVED BY CITY ALPHABET  
(DATE - 4 OCT 1985)

(14) GREYTESIA TRIACANTHOS INHERBS  
'SHAVE MASTED' ALONG  
DIAGONAL ROAD

REMOVE EXISTING SALIX  
PLANT WITH (147) JUMPED  
HORIZONTAL TREES A PLUM  
EXISTING TREE TO REMAIN

EXISTING LAND TO REMAIN

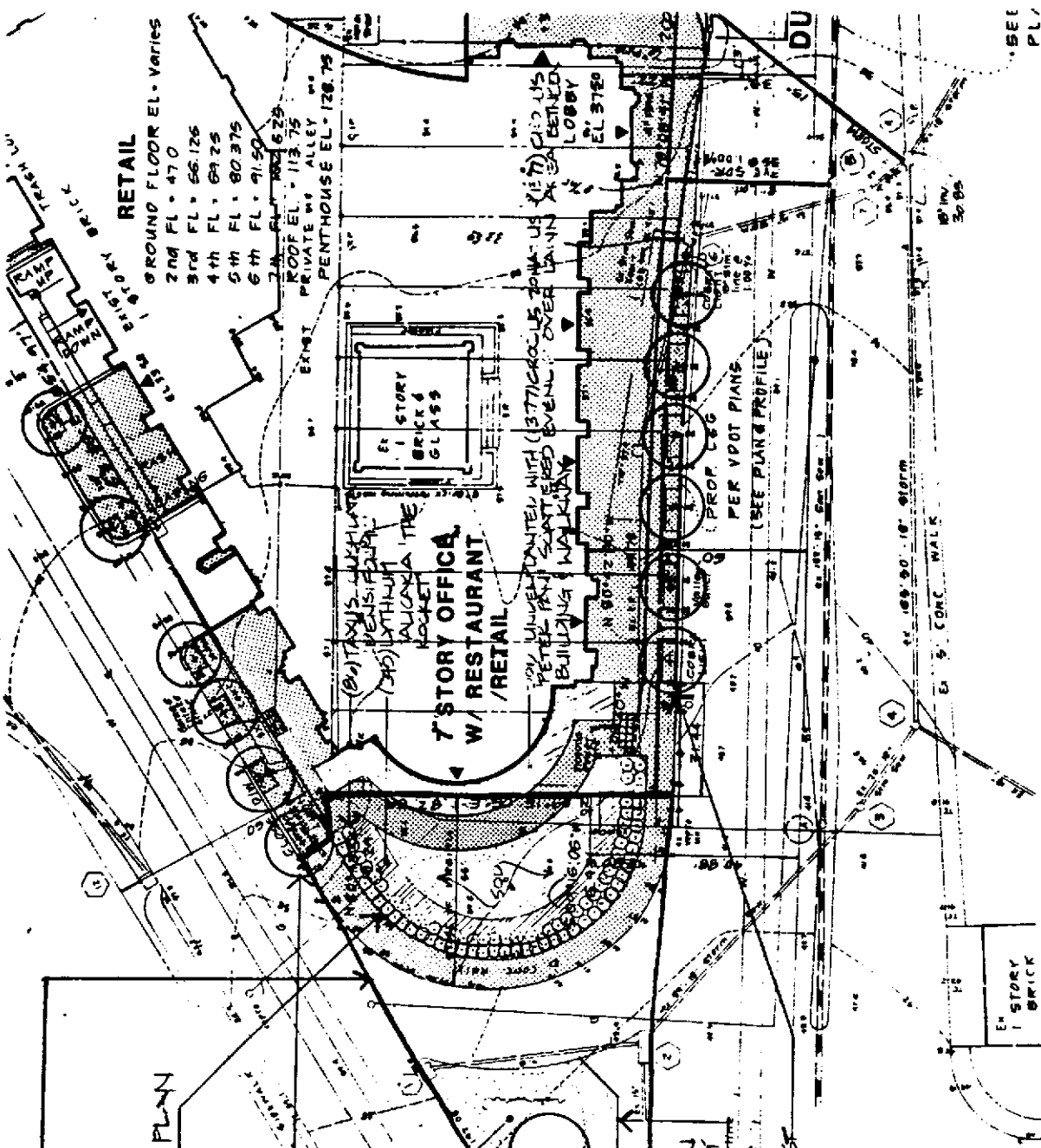
MULTI-PED - REMOVE EXISTING  
LAND - PREPARE PL. FOR  
ANNUAL PLANTING BY  
CITY

DEVELOPER TO UNIFORMS "TRIANGLE" PER PLAN  
(DATE - 4 OCT 1985) APPROVED BY CITY  
ALPHABET - CITY TO MAINTAIN

(15) ASH 1-12-14M RED SUNSET ALONG DUKE ST



VALLEY GUTTER SECTION



**RETAIL**  
GROUND FLOOR EL. - VARIES  
2ND FL. - 47.0  
3RD FL. - 66.126  
4TH FL. - 69.25  
5TH FL. - 80.375  
6TH FL. - 91.50

ROOF EL. - 113.75  
PRIVATE WY ALLEY  
PENTHOUSE EL. - 128.75

SEE  
PL/  
NEV  
L.O.C

**Holland Engineering**  
Phone: 548-2188  
110 N. Royal St. Alexandria, Virginia  
ENGINEERS - SURVEYORS - PLANNERS

**EDAW**  
EDAW Inc.  
110 N. Royal St.  
Alexandria, VA 22304

**KING ST**

## FINAL LANDSCAPE PLAN