File # 26083

Walgreens Big Pine Key

Am/Major

From:
DOAH Case No. 03-4721

Additional Information added to File # 26083

Florida Keys Citizens Coalition
10,800 Overseas Highway
Marathon, FL 33050

0900am 28 September 2006

scanned, signed copy e-mailed to parties

To: Ms. Nicole Petrick, Monroe County Planning Commission Coordinator.

Re: October 11, 2006: Monroe County Planning Commission: Marathon, Florida.

Agenda Item: (Unknown- not yet posted on the County Website).
AKA "Big Pine Key Walgreens Development Order."

Dear Ms. Petrick:

We, the Florida Keys Citizens Coalition, request this matter be delayed to a later Planning Commission in Marathon.

The reason for our request is based on the fact that the currently scheduled hearing date of October 11, 2006, is less than two weeks away and **copies of the back-up documentation are still not available including, but not limited to, the proposed development order as required by Judge Payne's ruling in circuit court case CA K 05-266.** [Walgreens & Gadinsky v. Monroe County and Florida Keys Citizens Coalition (Intervenors)]. There is no way we can adequately prepare for an October 11 hearing without this required material being made available in a timely manner in advance, which as of the close of business yesterday it had not been.

Please call/fax our attorney, Lee Robert Rohe, to confirm the outcome of this request, and if you have any questions, or if further information is needed.

Sincerely,

Capt Ed Davidson, Chairman

Captain Ed Davidson, President/Chairman
Florida Keys Citizen's Coalition
Voice: 305-743-6054

Lee Robert Rohe, Esq.
Voice: 745-2254
Fax: 745-4075

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MONROE CO. PLANNING DEPT.

Cc: Mr. Ty Symroski, Director of Growth Management, Monroe County, Florida. <Symroski-Ty@MonroeCounty-FL.Gov>
Mr. Aref Joulani, Director of Planning, Monroe County, Florida. <Joulani-Aref@MonroeCounty-FL.Gov>
Mr. Lee Robert Rohe, Esq., Summerland Key, Florida. <LRRLAW@BELLSOUTH.NET>
Mr. Richard Grosso, Esq., Everglades Law Center (NOVA), Ft. Lauderdale, Florida. <Richard@evergladeslaw.org>

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RESOLUTION NO. P4-98

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION DENYING THE REQUEST OF McDONALDS CORPORATION, FOR A MAJOR CONDITIONAL USE TO CONSTRUCT A 3991 SQUARE FOOT COMBINED FAST FOOD RESTAURANT WITH DRIVE THROUGH AND CONVENIENCE STORE WITH GAS PUMPS ON PROPERTY DESCRIBED AS LOTS 23, 24, & 25, BLOCK 8, STRATTON SUBDIVISION, ISLAMORADA, MONROE COUNTY, FLORIDA, MILE MARKER 82.2. THE LAND USE DESIGNATION IS SUBURBAN COMMERCIAL (SC) AND THE REAL ESTATE NUMBERS ARE 00400330, 00400340, 00400350.

WHEREAS, during a regular meeting held on December 4, 1997, the Monroe County Planning Commission conducted a public hearing on the request filed by McDonalds Corporation for a major conditional use to construct a combination fast food restaurant with drive through and convenience store with gas pumps; and

WHEREAS, the proposed development is located on property legally described as lots 23, 24, & 25, Block 8, Stratton's Subdivision, Islamorada; and

WHEREAS, the above-described property is located in the Suburban Commercial (SC) land use district; and

WHEREAS, the Planning Commission was presented with the following evidence, which by reference is hereby incorporated as a part of the record of said hearing:

1. The Major Conditional Use Permit Application received by Monroe County Planning Department on October 2, 1996 including a Site Plan dated 6/18/97, Grading and Drainage dated 9/17/97, Floor Plan dated 6/18/97, Elevations A-3 dated 5/19/97, Elevations A-3.1 dated 6/18/97, Elevations A-4 dated 5/19/97, Elevations A 4.1 dated 6/18/97, Schematic and Landscape Requirements dated 6/15/97, Site Details SD-2 6/18/97, and Boundary and Topographic Survey dated 10/2/96; and

2. The staff report prepared by Donny Lang, Planner, and Ralph Gouldy, Environmental Planner, dated November 21, 1997, and DRC Resolution No. D12-97; and

3. The sworn testimony of the Growth Management Staff; and

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Submitted by Lee Rohe

4. Presentations by Carlos Rivera, George Ganem, Nicholas Mulick, Frank Greenman, Christopher Squires, Raj Shanmugam, Richard Hopkins, Amy Knowles, Sue Miller, Jerry Schecter, Anita Scialli, Rebecca Wood, Jessie Wood, Dr. Campbell, Cynthia Carley, Tony Damian, and Mr.Fraysher; and

WHEREAS, the Planning Commission has made the following Findings of Facts and Conclusions of Law based on the evidence presented:

1. Based on the traffic study, we find that no trips enter from Old Highway 4A which serves the immediate planning area and the local residential community. Therefore, we conclude that the proposed project is not in compliance with Section 9.5-206 of the Monroe County Code which states that the purpose of the Suburban Commercial land use district is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located; and

2. Based on testimony of Don Craig, we find that other combination McDonald's/convenience stores in Monroe County are only located in Urban Commercial land use districts. Therefore, we conclude that the Suburban Commercial land use district is not appropriate for this combined restaurant/convenience store project; and

3. Based on testimony of Don Craig, we find there already exist numerous gas stations within two miles of the proposed site. Therefore, we conclude the community already has sufficient gas stations in the immediate area to serve the needs of the community; and

4. Based on the Traffic Study and the 1997 Monroe County Public Facilities Capacity Assessment, we find that that the Level of Service on U.S. 1 is marginally adequate. Therefore, we conclude that County Policy 301.2.2 addressing the degrading of Level of Service will be compromised, and

5. Based on the testimony of concerned citizens, we find that areas are proposed on the site plan that are screened by vegetation along Old Highway 4A. Therefore, we conclude personal safety of surrounding residents could be compromised after dark; and

6. Based on the testimony of the traffic consultants, we find that truck traffic on Old Highway 4A will increase as a result of this project. Therefore, we conclude that pedestrians and cyclists will be endangered by the increased traffic; and

7. Based on the site plan, the project is oriented primarily on U.S. 1 to attract transient customers. Therefore, we conclude

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this project does not comply with the purpose of the Suburban Commercial land use district which is intended to serve the needs of the immediate planning area in which it is located; and

8. Based on testimony of concerned citizens, the character of the community would be drastically altered by this project. Therefore, we conclude a combination fast-food restaurant/convenience store of this proportion is inappropriate at this location; NOW THEREFORE,

BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding Findings of Fact and Conclusions of Law, support their decision to DENY the Major Conditional Use request of McDonalds Corporation for construction of a combined fast food restaurant/convenience store.

PASSED AND ADOPTED by the Planning Commission of Monroe County, Florida, at a regular meeting held on the 4th day of December, 1997.

Chair Hansley	Yes
Vice-Chair Gorsuch	Yes
Commissioner Stuart	No
Commissioner Mapes	Yes
Commissioner Aultman	Yes

PLANNING COMMISSION OF
MONROE COUNTY, FLORIDA

BY Mary Hansley
Mary Hansley, Chair

Signed this 21st day of January, 1997.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY
Attorney's Office

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Submitted by Lee Rohe

Memo

To: Aref Joulani, Planning Director

From: Bob Shillinger, Chief Asst. County Attorney RBS

Date: August 1, 2006

Re: Big Pine Walgreens Major conditional use application

Cc: Jerry Sanders, Asst. County Attorney
Clarence Feagin, Ph.D.
Nicholas Mulick, Esq.

As you may recall, Seth Gadinsky and Walgreens filed a major conditional use application to redevelop the Big Pine Scotty's building. That application was denied by the Planning Commission in resolution P36-03 on June 11, 2003, a copy of which is attached as Exhibit 1. As you will read, that denial was based on seven (7) findings of fact. After the applicants' appeal to the Division of Administrative Hearings (DOAH), six of the seven factual findings were overturned in the decision of the ALJ, a copy of which is attached as Exhibit 2.

The applicant appealed that remaining finding of fact to the Circuit Court. That remaining issue was resolved by a settlement agreement that has received the approval of the BOCC and the Circuit Court. Copies of the settlement agreement (Exhibit 3) and the Court's multiple orders approving the settlement agreement (Composite Exhibit 4) are attached.

As noted in paragraph 5 of Exhibit 4-A, this matter has been "remanded to the Planning Commission for further proceedings consistent with this order and the Settlement Agreement." In essence, the Court has returned jurisdiction to the Planning Commission with instructions to adopt a resolution that is consistent with the Settlement Agreement and the Court's order.

Accordingly, you are hereby advised to schedule this application for a rehearing on the Planning Commission's agenda. Your staff should coordinate the scheduling of this hearing with the applicant's attorney Nick Mulick. Please contact me should you have questions.

As a result of the above-described disposition, I am closing my litigation file on this matter. It will be destroyed in 2011 unless further court proceedings result in this matter. This office has spent 49.8 hours ($9,980.00) and incurred costs of $425.85 in defending this matter.

PLANNING COMMISSION RESOLUTION NO. P36-03

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION DENYING OF AN AMENDMENT TO A MAJOR CONDITIONAL USE APPLICATION FILED BY SCOTTY'S INC. TO DEMOLISH THE EXISTING SCOTTY'S HARDWARE STORE AND BUILD A 16,510 SQ. FT. WALGREEN'S DRUG STORE WITH A DRIVE-THROUGH PHARMACY WINDOW AND A 2,000 SQ. FT. LIQUOR STORE ON A PROPERTY LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 66 SOUTH, RANGE 29 EAST, BIG PINE KEY, MONROE COUNTY, FLORIDA. THE REAL ESTATE NUMBER IS 00111690.000900.

WHEREAS, Scotty's Inc. is the owner of the real property described as a tract of land in a part of the southeast quarter of the northeast quarter of Section 26, Township 66 South, Range 29 East, in Big Pine Key, Monroe County, Florida; and

WHEREAS, Scotty's Inc. proposed to redevelop the Scotty's hardware store in Big Pine Key by removing the existing 161 by 161 Ft. building and replacing it with a 127 by 130 Ft. (16,510 Sq. Ft.) structure consisting of a Walgreen's drug store, a drive-through window for the pharmacy, and a 2,000 Sq. Ft. liquor store; and

WHEREAS, the site is approximately 131,447 Sq. Ft. or 3.01 acres and is located in the Suburban Commercial (SC) Land Use District; and

WHEREAS, the proposed Walgreen's drug store would not be a 24 hour/day business operation; and

WHEREAS, during a regular meeting held on June 11, 2003, the Monroe County Planning Commission conducted a public hearing on the proposed redevelopment project; and

WHEREAS, the Planning Commission was presented with the following evidence, which is hereby incorporated as part of the record of said hearing:

1. The application for an Amendment to Major Conditional Use dated April 14, 2003; and

2. Traffic Study prepared by Transport Analysis Professional, Inc., dated April 8, 2003; and

3. Site Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

EXHIBIT 6/11

APPENDIX 5-19

4. General Floor Plan & Schedules by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

5. Exterior Elevations, Details, and Sign data, by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

6. Drainage Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

7. Landscaping Plan by Dave Bodker, Landscape Architecture/Planning Inc. dated 04/22/2003; and

8. AS-Built Survey by Taylor-McVay Inc. and signed and sealed by Stephen J. Peterson, P.L.S., dated 04/07/2003; and

9. A staff report prepared by Aref Joulani, Senior Administrator of Development Review, and Ralph Gouldy, Senior Administrator of Environmental Resources, dated 05/29/2003; and

10. Comments made by Nicholas Mulick, Esq., for the Applicant; and

11. Expert testimony provided by Donald Craig, AICP, of the Craig Company on behalf of the Applicant; and

12. Comments made by Lee Rohe, Esq., for Big Pine Key resident, Susan Eanes, and Composite Exhibits; and

13. Testimony provided by members of the general public, and Exhibits; and

14. Expert testimony provided by Sheryl Bower, AICP of Planning Solutions Unlimited, on behalf of Big Pine Key resident Susan Eanes; and

15. Expert testimony provided by Miles Moss, Miles and Moss Consulting Traffic Engineers, on behalf of Big Pine Key resident Susan Eanes; and

16. Comments made by Monroe County Planning and Environmental Resources Department staff; and

17. Comments by members of the Planning Commission; and

18. Advice from John Wolfe, Esq., Counsel for the Planning Commission.

WHEREAS, the Planning Commission has made the following Findings of Fact and Conclusion of Law, based on the sworn testimony of the Monroe County Planning Department staff and the record:

APPENDIX 5-20

1. Based on the fact that Big Pine Key is within the boundaries of the National Key Deer Refuge and in an area of significant environmental constraints there is an extremely limited amount of development potential on Big Pine Key. Therefore, we find that Big Pine Key has a unique community character.

2. Based on the 1986 Comprehensive Land Use Plan, the 1996 (Year 2010) Comprehensive Land Use Plan and subsequent planning processes, including the Big Pine Key HCP (Big Pine/No Name Key Habitat Conservation Plan) and Big Pine Key LCP (Livable CommuniKeys Program) planning process; the character of Big Pine Key has been defined. Therefore, we find that the community character of Big Pine Key is rural.

3. Based on Section 9.5-65, "when considering applications for conditional uses, the Director of Planning and the Planning Commission shall consider to the extent which the conditional use is consistent with purposes, goals and objectives, and standards of the Comprehensive Plan and this Chapter." Therefore, we find that the project will not meet the general standards set forth in Section 9.5-65 including but not limited to: the project is not consistent with the surrounding community character, and the project does not minimize adverse effects on the surrounding properties.

4. Based on Section 9.5-206, the purpose of Suburban Commercial (SC) district is to establish areas for commercial uses designed and intended primarily to serve the needs of immediate planning area in which they are located. Therefore, we find that the proposed use of the property does not meet the purpose of the SC land use district.

5. Based on the expert testimony and exhibits, we find that the existing Scotty's hardware store is not a medium intensity use and the applicant failed to demonstrate that the proposed Walgreen's is not a change of use to a higher intensity and that the intensity is within the same category as the existing use.

6. Based on staff and expert's testimony recognizing the level of service concurrency moratorium, the level of service is substandard in Big Pine Key. The state statues and local comprehensive plan policies and Land Development Regulations prohibit the issuance of building permits where there is a degradation of an inadequate level of service. Therefore, we find that the evidence submitted demonstrates an adverse impact on the US 1 Highway level of traffic, and that the project is in conflict with Florida State Statutes and the Monroe County Year 2010 Comprehensive Plan.

7. Based on expert and public testimony, we find the project is not consistent with the purposes, goals, objectives, policies and standards of the Year 2010 Comprehensive Land Use Plan, including but not limited to: protecting and enhancing the quality of life of the residents, and the planned future development of Big Pine Key, Livable Communikeys Program, initiated on Big Pine Key in April, 2000.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding Findings of

Fact and Conclusions of Law, support its decision to DENY the request for an Amendment to a Major Conditional Use by Scotty's Inc. to demolish the existing 25,921 Sq. Ft. Scotty's hardware store and build a 16,510 Sq. Ft. of medium intensity Walgreen's drug store consisting of a drive-through window for the pharmacy and a 2,000 Sq. Ft. liquor store in Big Pine Key.

PASSED AND ADOPTED by the Planning Commissioners of Monroe County, Florida, at a regular meeting held on the 11th day of June 2003.

Chair David C. Ritz	YES
Vice Chair Denise Werling	YES
Commissioner Jerry Coleman	YES
Commissioner Alicia Putney	YES
Commissioner Julio Margalli	YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY _____
David C. Ritz, Chair

Signed this 10th day of September 2003

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

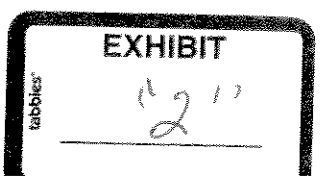
BY _____
Attorney's Office

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SCOTTY'S, INC.; WALGREENS COMPANY; and GADINSKY REAL ESTATE, LLC,	)	
Appellants,	)	
vs.	)	Case No. 03-4721
MONROE COUNTY PLANNING COMMISSION,	)	
Appellee,	)	
and	)	
FLORIDA KEYS CITIZENS COALITION,	)	
Intervenor.	)	

FINAL ORDER

Appellants, Scotty's, Inc. (Scotty's), Walgreens Company (Walgreen), and Gadinsky Real Estate, LLC (Gadinsky), seek review of Monroe County Planning Commission (Commission) Resolution No. P36-03 (Resolution) dated September 10, 2003. The Division of Administrative Hearings (DOAH), by contract, and pursuant to Article XIV, Section 9.5-535, Monroe County Code (M.C.C.), has jurisdiction to consider this appeal. Appellants submitted an Initial Brief. The Commission submitted an Answer Brief. Intervenor, Florida Keys Citizens Coalition, submitted an Answer Brief, as amended, in support of the Resolution.



Finally, Appellants submitted a Reply Brief. Oral argument was presented during a telephone hearing held on January 31, 2005.

I. Issues

Appellants raise three issues on appeal: (1) whether the findings in the Resolution are supported by competent substantial evidence; (2) whether the Commission departed from the essential requirements of the law by not applying the correct law; and (3) whether the matter should be remanded to the Commission for further action because the Resolution failed to set forth in writing any changes in the proposed project that would make it eligible for approval, as required by Section 380.08(3), Florida Statutes (2004).

II. Background

The property in question is located at 30351 Overseas Highway (U.S. Highway 1) in Big Pine Key (near mile marker 30) between Marathon and Key West, Florida. The Big Pine Key community (including the entire island) has approximately 5,000 residents.

A Scotty's hardware and garden store presently occupies the property. On the eastern side of the site is an Eckerd's drug store while a commercial trucking company sits next to the western boundary. The rear (north side) of the property is bordered by Slash Pineland habitat. A mixture of commercial retail facilities are found across the street (U.S. Highway 1).

Scotty's property lies within the Suburban Commercial (SC) land use district, whose purpose is "to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located."

Since 1983, the subject property (consisting of 3.01 acres) has been owned and occupied by Scotty's, which has a contract with Walgreen for the sale of the property, conditioned on the approval of the application. The transaction is being handled by Gadinsky, a Miami Beach real estate firm.

On April 14, 2003, Gadinsky, on behalf of Appellants, filed an application with the County Planning Department seeking to amend a Major Conditional Use approval to redevelop the existing Scotty's hardware and garden store by removing an existing 25,921-square foot structure on the property and replacing it with a 16,510-square foot structure consisting of a Walgreen drug store, a drive-through window for the pharmacy, and a 2,000-square foot liquor store. (If Walgreen simply intended to remodel the present structure, rather than demolish it, no application, except for minor building permits, would be required since the site enjoys non-conforming use status. Apparently, however, because Walgreen is removing the existing structure and redeveloping the site, it loses the non-conforming status enjoyed by Scotty's and becomes subject to all M.C.C. and Plan requirements, including one that it obtain a new major

conditional use permit.) The appropriate criteria for evaluating an application for a conditional use are set forth in Section 9.5-65, M.C.C.

Based upon a review of the application and supporting documents, on May 29, 2003, a County planner and biologist submitted a joint memorandum to the Commission recommending that the application be approved, subject to six conditions. The memorandum noted, among other things, that the conditional use is consistent with the purposes, goals, objectives, and standards of the Comprehensive Plan (Plan) and applicable land development regulations, including Section 9.5-65, M.C.C.

On June 10, 2003, the staff report was considered (at a hastily convened meeting) by the Development Review Committee (consisting of six County staffers), which recommended that the application be approved. See Development Review Committee Resolution No. D16-03, dated June 11, 2003. The Resolution adopted verbatim as its own the findings and conditions set forth in the staff report.

On June 11, 2003, the Commission conducted a public hearing on the application. Appellants presented the testimony of four witnesses in support of the application: Donald Craig, a planner accepted as an expert; Richard P. Eichinger, a traffic engineer accepted as an expert; Patty Philcox, manager of the Walgreen's store in Marathon; and Roy Ripak, district manager

for Walgreen. Intervenor presented the testimony of Susan Eanes, who owns a liquor store near the project; Sherry Phillips, a resident of the area; Cheryl Bower, a land use consultant accepted as an expert; and Miles Elliot Moss, a traffic engineer accepted as an expert. In addition, the following members of the public testified in opposition to the application: Larry Sullivan, president of the Big Pine Key Civic Association; Chris Smith, Katie Lang, Bill Lowey, Dennis Henize, and Katherine Wheeler, all Big Pine Key residents; George Neugent, a County Commissioner with offices in Big Pine Key; Barry Patterson, a Key Largo resident; Edith Sweeney, the owner of a Hallmark card shop in Big Pine Key; and Meri-Lynn Britz, the owner of a Big Pine Key bar and package store. Finally, K. Marlene Conaway, director of the County Department of Planning and Environmental Resources, and Aref Joulani, a County senior administrator for planning and policy, testified for the County staff.

At the Commission hearing, Appellants' two experts, Eichinger and Craig, focused primarily on traffic impacts of the project and whether the application satisfied the criteria in Section 9.5-65, M.C.C., respectively. Witness Craig also noted that the application was consistent with the proposed Livable CommuniKeys Planning Program (Program), which when completed, will create master plans for each community in the County,

including Big Pine Key. The two Walgreen representatives testified generally concerning the type and frequency of truck deliveries that would occur on the site. The Walgreen district manager also orally agreed to withdraw the request to sell liquor on the premises and to redesign the architecture on the site if that would resolve the objections raised by Intervenor and residents of Big Pine Key who appeared in opposition to the application. (Apparently, these proposed concessions did not satisfy the concerns of the opponents.)

At the hearing, at least three witnesses (Neugent, Sullivan, and Wheeler) testified that Big Pine Key was an environmentally sensitive area and that it was the most unique area in the Florida Keys. There was also testimony by witness Bower that due to environmental and space constraints, Big Pine Key has a limited amount of remaining development potential.

In addition, numerous witnesses (Eanes, Bower, Smith, Lang, Wheeler, Neugent, and Britz) testified that the community character of Big Pine Key is rural. This testimony was consistent with the same determination (that the character of the community is rural) made during the planning process begun in 2000 for the Program. (Under the Program, a master plan for each community, including Big Pine Key, will be adopted. According to witness Wheeler, the Program and Plan envisioned Big Pine Key as "a rural community with a small town

atmosphere." Just before it considered Appellants' application at its meeting on June 11, 2003, the Commission formally recommended that the proposed master plan for Big Pine Key be adopted by the County. The final disposition of that recommendation is not of record.) Similarly, Appellants' witness Eichinger described the proposed new store as a "rural store," which differentiated it from typical Walgreen stores found in urban areas, such as Key Largo and Marathon.

All parties at the hearing agreed that the criteria in Section 9.5-65, M.C.C. should be used in evaluating the merits of the application. Paragraph (a) of that section provides that in considering applications for a conditional use permit, the Commission shall consider the extent to which the use "is consistent with the purposes, goals, objectives and standards of the [comprehensive] plan and this chapter." The conditional use must also be consistent with "the community character of the immediate vicinity of the parcel proposed for development," and it must "minimize adverse effects . . . on adjacent properties." See § 9.5-65(b) and (c), M.C.C.

In interpreting the terms "immediate vicinity" and "adjacent properties," the Commission implicitly rejected Appellants' view that only the immediate commercial neighborhood around Scotty's should be considered in determining whether the use was consistent with the community character and minimized

adverse impacts on adjacent properties. Instead, it accepted the testimony of witness Bower that it should consider a "planning area in the context of surrounding properties or neighborhoods," as provided for in Section 9.5-63(c), M.C.C., and therefore consistency with, and impacts on, a larger geographic area is required. Because Section 9.5-63(c), M.C.C., is not cited in the Resolution, and the record is silent on this point, it is unknown whether the Commission read the two provisions in pari materia, used Section 9.5-63(c), M.C.C., as the basis for broadly interpreting the terms of Section 9.5-65(b) and (c), M.C.C., or without specifically saying so simply relied on Section 9.5-63(c), M.C.C., to the exclusion of the other provision. It is fair to say, however, that the Commission interpreted the provisions in Section 9.5-65(b) and (c), M.C.C., broadly and considered the impacts of the project on the entire island, and not just the immediate area around the store.

Witness Bower also testified that the conditional use was inconsistent with Plan Objective 105.1, which directs the County to implement growth initiatives that, among other things, "preserve the natural environment, [and] maintain and enhance the community character and quality of life." This is because the proposal, if approved, would not maintain the rural character of the community. Numerous other witnesses (Eanes,

Wheeler, Lang, Smith, Sullivan, Loewy, Henize, Britz, and Neugent) reached the same conclusion. (Objective 105.1 is not mentioned in the Resolution, however, as a basis for denying the application.)

As noted above, the property is located within the SC district. The purpose of the SC district "is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located." In commenting on this provision, witness Bower testified that in a community of only 5,000 persons, and with a finite amount of commercial space still available, it was contrary to good planning practices to establish a new drugstore next door to an existing drug store (Eckerd's). There was testimony by other witnesses (Eanes, Sullivan, Henize, and Wheeler) that the needs of the community were already represented by the existing Eckerd's and liquor stores on Big Pine Key.

Although Appellants' witness Eichinger testified that the intensity of use, and associated net daily trips generated by the site, would actually be decreased by replacing Scotty's with a Walgreen store, testimony by witness Eanes indicated that at the present time, there are very few customers in Scotty's parking lot. In the same vein, witness Phillips pointed out that on Monday, June 10, 2003, or the day before the Commission hearing, she observed only three vehicles in the Scotty's

parking lot at 1:30 p.m. Witness Smith added that the existing store "does not generate any kind of traffic," while a staff member (Conaway) indicated that Scotty's business has declined in recent years (presumably leading to its decision to sell the property). This conclusion was echoed by witness Lowey who said that Scotty's "is a place that has been looking for a way out for quite a long time."

At the same time, witness Bower testified that the proposed Walgreen store is more akin to a convenience store than a traditional drug store, which is one of the highest-intensity uses, and that more traffic would be generated by that type of business. Also, witness Loewy observed that the Walgreen store will operate from 8:00 a.m. until 10:00 p.m., seven days per week, or 35 hours more per week than Scotty's is now open. This was confirmed by Appellants' witness Philcox. (The application indicates that the store reserves the right to operate 24 hours per day, seven days per week, at some point in the future.) Finally, witness Moss noted that the existing Scotty's hardware store is a "very low generation" store in terms of traffic, and that in comparison, a Walgreen store would be a "very high-generation store." His conclusion was bolstered by the observations of the witnesses noted above. This testimony formed in part the basis for the Commission's finding that the

intensity on the property will increase if a Walgreen store is constructed.

In calculating the traffic impacts of the new store, Appellants' expert Eichinger used the Sixth Edition of the Institute of Transportation Engineers Trip Generation Manual (Manual) for trip generation data and the Trip Generation Handbook for pass-by data. He also indicated that the Manual was used as an authoritative source more than 95 percent of the time in determining trip generation.[1] At the same time, however, Intervenor's expert Moss testified that the Manual and Handbook have a number of limitations (such as non-current data on pass-by trips, no data for a liquor store, no land use category for a drug/convenience store, and no trip generation rate for a store like Scotty's); that Appellants assumed the wrong square footage for the existing Scotty's store, which caused an overstatement of existing traffic at Scotty's; and that pass-by trips are more accurately derived by personal interviews of drivers stopping at Scotty's, rather than relying on Handbook numbers which are taken from other locations throughout the United States.

In terms of safety, Mr. Moss testified that there are serious traffic safety hazards associated with truck deliveries to the site, due to the configuration of the parking lot and the requirement that off-loading trucks use Key Deer Boulevard (State Road 940) when exiting the property. That road, which

intersects with U.S. Highway 1 east of Scotty's parcel, may be accessed from the northeastern corner of the property. As to this concern, even witness Eichinger acknowledged that due to the property's configuration and the limited turning and access space, the site presents an inherent challenge to truck drivers who will off-load supplies at the new store. (Again, however, this concern was not addressed in the Resolution.)

At the conclusion of the hearing, the Commission denied the application by a 5-0 vote. On September 10, 2003, the Commission entered its Resolution No. P36-03, which memorialized its earlier decision. The Resolution made the following Findings of Fact and Conclusions of Law:

> 1. Based on the fact that Big Pine Key is within the boundaries of the National Key Deer Refugee and in an area of significant environmental constraints there is an extremely limited amount of development potential on Big Pine Key. Therefore, we find that Big Pine Key has a unique community character.
>
> 2. Based on the 1986 Comprehensive Land Use Plan, the 1996 (Year 2010) Comprehensive Land Use Plan and subsequent planning processes, including the Big Pine Key HCP (Big Pine/No Name Key Habitat Conservation Plan) and Big Pine Key LCP (Livable CommuniKeys Program) planning process; the character of Big Pine Key has been defined. Therefore, we find that the community character of Big Pine Key is rural.
>
> 3. Based on Section 9.5-65, "when considering applications for conditional uses, the Director of Planning and the

Planning Commission shall consider to the extent which the conditional use is consistent with purposes, goals and objectives, and standards of the Comprehensive Plan and this Chapter." Therefore, we find that the project will not meet the general standards set forth in Section 9.5-65 including but not limited to: the project is not consistent with the surrounding community character, and the project does not minimize adverse effects on the surrounding properties.

4. Based on Section 9.5-206, the purpose of Suburban Commercial (SC) district is to establish areas for commercial uses designed and intended primarily to serve the needs of immediate planning area in which they are located. Therefore, we find that the proposed use of the property does not meet the purpose of the SC land use district.

5. Based on the expert testimony and exhibits, we find that the existing Scotty's hardware store is not a medium intensity use and the applicant failed to demonstrate that the proposed Walgreen's is not a change of use to a higher intensity and that the intensity is within the same category as the existing use.

6. Based on staff and expert's testimony recognizing the level of service concurrency moratorium, the level of service is substandard in Big Pine Key. The state statutes and local comprehensive plan policies and Land Development Regulations prohibit the issuance of building permits where there is degradation of an inadequate level of service. Therefore, we find that the evidence submitted demonstrates an adverse impact on the US 1 Highway level of traffic, and that the project is in conflict with Florida State Statutes and the Monroe County Year 2010 Comprehensive Plan.

> 7. Based on expert and public testimony, we find that the project is not consistent with the purposes, goals, objectives, policies and standards of the Year 2010 Comprehensive Land Use Plan, including but not limited to: protecting and enhancing the quality of life of the residents, and the planned future development of Big Pine Key, Livable CommuniKeys Program, initiated on Big Pine Key in April, 2000.

On October 10, 2003, Appellants filed their Application for An Appeal to the Hearing Officer (Appeal) challenging the Resolution, which denied their application. As noted above, and as clarified in Appellants' Initial Brief and by counsel during oral argument, the bases for the Appeal are that the Resolution is not supported by competent substantial evidence, that the Commission departed from the essential requirements of the law by misconstruing certain provisions in the M.C.C., and that the Resolution did not identify the changes that would be necessary in order for the Commission to approve the application.

III. Legal Discussion

The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and of the parties pursuant to Article XIV, Section 9.5-535, M.C.C. The hearing officer [administrative law judge] "may affirm, reverse or modify the order of the planning commission." Art. XIV, § 9.5.540(b), M.C.C. The scope of the hearing officer's review under Article XIV is as follows:

> The hearing officer's order may reject or modify any conclusion of law or interpretation of the Monroe County land development regulations or comprehensive plan in the planning commission's order, whether stated in the order or necessarily implicit in the planning commission's determination, but he may not reject or modify any findings of fact unless he first determines from a review of the complete record, and states with particularity in his order, that the findings of fact were not based upon competent substantial evidence or that the proceeding before the planning commission on which the findings were based did not comply with the essential requirements of the law.

Id. "The hearing officer's final order shall be the final administrative action of Monroe County." Art. XIV, § 9.5-540(c), M.C.C.

Section 9.5-47(b), M.C.C., requires in part that all decisions be in writing and adopted by resolution and that they include at least the following elements:

> (3) A clear statement of specific findings of fact and a statement of the basis upon which such facts were determined, with specific reference to the relevant standards set forth in this chapter, including but not limited to the standards in section 9.5-65.

In DeGroot v. Sheffield, 95 So. 2d 912, 915 (Fla. 1957), the court discussed the meaning of "competent substantial evidence" and stated:

> We have used the term "competent substantial evidence" advisedly. Substantial evidence has been described as such evidence as will establish a substantial basis of fact from

> which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. . . . In employing the adjective "competent" to modify the word "substantial" we are aware of the familiar rule that in administrative proceedings the formalities and the introduction of testimony common to the courts of justice are not strictly employed. . . . We are of the view, however, that the evidence relied upon to sustain the ultimate findings should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent, the "substantial" evidence should also be "competent."

A hearing officer acting in his or her appellate review capacity is without authority to reweigh conflicting testimony presented to the Commission or to substitute his or her judgment for that of the Commission on the issue of credibility of witnesses. See Haines City Community Development v. Heggs, 658 So. 2d 523, 530 (Fla. 1995).

The question on appeal is not whether the record contains competent substantial evidence supporting the view of Appellant; rather, the question is whether competent substantial evidence supports the findings made by the Commission. Collier Medical Center, Inc. v. Department of Health and Rehabilitative Services, 462 So. 2d 83, 85 (Fla. 1st DCA 1985).

The issue of whether the Commission "complied with the essential requirements of law" is synonymous with whether the

Commission "applied the correct law." Haines City Community Development, 658 So. 2d at 530.

Finally, while Appellants seek to discount (and not have considered) the testimony of the members of the public who testified at the hearing, their testimony should be accepted as competent substantial evidence, as long as it is based on facts. Marion County v. Priest, 786 So. 2d 623, 626 (Fla. 5th DCA 2001). See also Metropolitan Dade County v. Section 11 Property Corporation, 719 So. 2d 1204, 1205 (Fla. 3d DCA 1998)(fact-based testimony of neighbors regarding the aesthetic incompatibility of a project with surrounding neighborhood constituted competent substantial evidence). Observations or comments by Commissioners, however, are not made under oath and do not constitute competent substantial evidence. See Stoky v. Monroe County, DOAH Case No. 00-0377DRI (Final Order Oct. 12, 2001).

The Resolution appears to deny the application on four grounds. First, the Resolution finds that the project will be contrary to Section 9.5-65(b) and (c), M.C.C., because the community (comprising the entire island) is rural in character. In this context, the Resolution finds that the project will adversely affect "the community character of the immediate vicinity" and fails to minimize adverse impacts on "adjacent properties." See Findings of Fact 1, 2, and 3. Second, the Resolution finds that the proposed use of the property does not

meet the purpose of the SC land category, as described in Section 9.5-206, M.C.C. See Finding of Fact 4. Third, although the Resolution does not identify a particular standard that applies to its finding, it finds that Appellants failed to show that they were not increasing the intensity of use on the property. See Finding of Fact 5. Finally, the Resolution finds that the increased traffic impacts associated with a new store will violate concurrency standards and other provisions in the land development regulations, Plan, and Florida Statutes. See Finding of Fact 6.

To resolve the first ground, it is necessary to determine the manner in which the land development regulations should be construed. The case of Mandelstam v. City Commission of the City of South Miami, 539 So. 2d 1139 (Fla. 3d DCA 1988) is instructive and provides that land development regulations which impose restrictions on the use of real property must be strictly construed in favor of the landowner. In other words, permitted uses must be interpreted broadly, while prohibited uses should be strictly construed. Mandelstam at 1140. When applying this standard to the regulations in issue, the terms "immediate vicinity of the parcel" and "adjacent properties" found in Section 9.5-65(b) and (c), M.C.C., should be strictly construed, so that only the impacts on the area immediately surrounding the project should be considered, rather than the entire island. In

the same vein, while not cited in the Resolution but apparently relied upon by the Commission, the term "surrounding properties and neighborhood" found in Section 9.5-63(c), M.C.C., should be construed in the same manner. Because the Commission misconstrued these provisions by requiring that the impacts of the project on the entire island be considered, it departed from the essential requirements of the law. (Rather than considering the project's compatibility with, and impacts on, the existing commercial area immediately surrounding the site, as the M.C.C. requires, the Commission measured the project's compatibility and impacts against the rural character of the entire island, and not just the commercial core where the property lies.) Findings of Fact 1-3 must accordingly be rejected.

Next, Section 9.5-206, M.C.C., provides that the purpose of the SC land use district, in which Scotty's property is located, is to "establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located." In relying on this provision as a ground for denying the application, the Commission made the following findings in paragraph 4 of the Resolution:

> Based on Section 9.5-206, the purpose of Suburban Commercial (SC) district is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located. Therefore, we find that the

> proposed use of the property does not meet the purpose of the SC land use district.

Appellants argue that not only is there is no evidence to support the finding, "common sense would dictate that a pharmacy, by its very nature, is a paradigm [model] of a use intended to serve the needs of the local area." They further contend that if the Commission's interpretation of the provision is accepted, it would give the Commission unfettered discretion to pick and choose which projects meet "the needs of the immediate planning area."

In making this finding, the Commission accepted the testimony of expert witness Bower that with only a finite amount of commercial space available on Big Pine Key, it makes no sense from a planning perspective to place two drug stores side by side. In addition, numerous witnesses testified that "the needs of the immediate planning area" are already served by the existing Eckerd's drug store and several existing liquor stores on Big Pine Key. There is, then, competent substantial evidence to support the finding. Likewise, the Commission's interpretation of the provision (that placing two drug stores side by side would not meet the needs of the immediate planning area) is a reasonable one, is in harmony with the plain language in the regulation, and does not constitute a departure from the essential requirements of the law.

In Finding of Fact 5, the Resolution denies the application essentially on the ground that the intensity of use will increase. However, the Resolution does not identify a relevant standard to which this finding applies. See § 9.5-47(b)(3), M.C.C. This is probably because intensity of use is not a part of the evaluation standards for determining whether a major conditional use should be approved, but rather appears to be relevant only to the level of conditional use review. (A minor conditional use application is reviewed and approved by the Planning Director while a major conditional use application is reviewed by the Planning Staff and is subject to approval by the Planning Commission. See §§ 9.5-68 and 9.5-69, M.C.C.) Whether a particular commercial retail use in the SC land use category falls into the low, medium, or high intensity use is a function of the vehicular trips generated by the use. See § 9.5-4(C-14), M.C.C. Because the Commission improperly considered intensity as a standard for evaluating the merits of a major conditional use application, it departed from the essential requirements of the law. Finding of Fact 5 is hereby rejected.

In Finding of Fact 6, the Resolution states that Appellants failed to conform with a "level of service concurrency moratorium" and that there is an "inadequate level of service" in Big Pine Key. It also finds that the project will have "an adverse impact on U.S. Highway 1 level of traffic," and (without

any greater specificity) that it conflicts with "Florida State Statutes and the Monroe County Year 2010 Comprehensive Plan." As clarified in Appellee's Answer Brief, the Commission "was not concerned with the mere generation of traffic," but rather "the concern was with the attendant hazards of traffic generation to public safety [that is, the inherent difficulty in trucks exiting on Key Deer Boulevard] and the federally endangered Key Deer." Neither concern, however, is identified in the finding.

Except for testimony regarding an increase in traffic due to an increase of intensity of use on the property, there is no competent substantial evidence to support any aspect of this finding. No witness testified concerning an existing concurrency moratorium, what the adopted Level of Service standards in the area are, or how the application conflicts with "Florida State Law and the . . . Comprehensive Plan." A belated contention that Finding of Fact 6 relates to Section 9.5-65(e), M.C.C., has been rejected. That standard requires that the Commission take into account the "adequacy of . . . roadways" when considering major conditional uses. But no witness mentioned this provision during the hearing, and it is not referred to in the Resolution. Lacking competent substantial evidence, Finding of Fact 6 is rejected.

Appellants also complain that Finding of Fact 7 is generalized, conclusory, and unsubstantiated, and that it does

not support the Commission's action. While Appellants' characterization of the paragraph as generalized is correct, the paragraph is more in the nature of a conclusion of law, which simply summarizes the findings in paragraphs 1 through 6. Because of this, it cannot be used as a basis to deny the application.

Finally, Appellants contend that the matter should be remanded to the Commission for the purpose of allowing the Commission to "set forth in writing any changes in Scotty's project that would make it eligible for approval." (Appellants' suggestion that the failure to include findings mandates reversal of the Resolution is rejected. Assuming that such findings are required, only a remand would be warranted, so that the Commission could make appropriate findings on this issue.) In support of this contention, Appellants cite to Section 380.08(3), Florida Statutes (2004), which reads as follows:

> (3) If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.

Other than citing the statute, Appellants have cited no authority for this proposition.

Compliance with Chapter 380, Florida Statutes, is beyond the scope of review in this type of proceeding. See § 9.5-

540(b), M.C.C. Therefore, the review process does not encompass the issue of determining whether a Resolution specifies "any changes in the development proposal that would make it eligible to receive the permit," or whether the specified changes (if identified) are adequate within the meaning of the statute.

Although some changes are no longer relevant, the Resolution implicitly states (through its findings) that without a reduction in traffic impacts, changes which minimize the impacts on the rural character of the neighborhood, and a proposed use other than a major chain drug store/convenience store that complies with Section 9.5-206, M.C.C., there are no modifications to the application that would allow the requested development. Assuming arguendo that the cited statute applies here, the implicit reasons arguably satisfy the statute. See Coscan Florida, Inc. v. Metropolitan Dade County, 586 So. 2d 80, 83 (Fla. 1st DCA 1991)(a governmental agency need not specify changes that would make the proposal eligible for a permit if none are available).

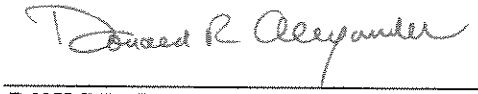
In summary, Findings of Fact 1-3 and 5 are not relevant to the evaluation standards in the M.C.C. and are hereby rejected. Reliance on those findings as a basis to deny the application constitutes a departure from the essential requirements of the law. Because it lacks competent substantial evidence, Finding of Fact 6 must also be rejected. The remaining finding (Finding

of Fact 4) is supported by competent substantial evidence, is hereby sustained, and by itself can serve as a basis for denial of the application. See Dorian v. Davis, 874 So. 2d 661, 663 (Fla. 5th DCA 2004)(a local government's quasi-judicial decision should be upheld if there is any competent substantial evidence to support it). Finally, there is no requirement that the matter be remanded to the Commission to make further findings on what changes, if any, would make the project eligible for approval.

DECISION

Based upon the foregoing, Findings of Fact 1-3, 5, and 6 in Resolution No. P36-03 are rejected. In all other respects, Resolution No. P36-03, which denied Appellants' application for a major conditional use, is AFFIRMED.

DONE AND ORDERED this 9th day of February, 2005, in Tallahassee, Leon County, Florida.



DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of February, 2005.

ENDNOTE

1/ Nothing in the Plan or the M.C.C. requires that the Commission determine traffic generation based strictly on the Manual or Handbook. Section 9.5-69(a)(2)b.(v)1., M.C.C., simply requires in part, and with no greater specificity, that an applicant provide "a projection of expected vehicle trip generation at the completion of each development phase . . . ." Therefore, even though the County Planning Staff routinely uses the Manual and Handbook and requires that all applicants present their traffic studies based upon these documents, the Commission is not required to accept the evidence as conclusive.

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Summerland Key, Florida 33042-0259

Nicole Petrick, Planning Commission Coordinator
Monroe County Growth Management Division
2798 Overseas Highway, Suite 410
Marathon, Florida 33050-4277

NOTICE OF RIGHT TO JUDICIAL REVIEW

According to Article XIV, Section 9.5-540(c), M.C.C., this Final Order is "the final administrative action of Monroe County." It is subject to judicial review by common law petition for writ of certiorari to the circuit court in the appropriate judicial circuit.

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR MONROE COUNTY, FLORIDA

WALGREEN'S COMPANY and
GADINSKY REAL ESTATE, LLC,

Petitioners,

vs.

MONROE COUNTY,

Respondent,

and

FLORIDA KEYS CITIZENS COALITION,

Intervenor.

_____/

CASE NO. 44-2005-CA-266-K
JUDGE RICHARD G. PAYNE

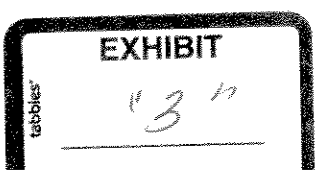
SETTLEMENT AGREEMENT

THIS AGREEMENT has been entered into between Petitioners, Walgreen's Company and Gadinsky Real Estate, LLC, and Respondent, County of Monroe, a governmental entity.

WHEREAS, the parties desire to amicably resolve all issues between them relating to this litigation, and

WHEREAS, the parties further agree that it is in their best interest to terminate the litigation so as to avoid further expense and delay by entering into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:



1. The Monroe County Growth Management Department shall issue to Walgreen's Company a Conditional Use Development Order approving the Major Conditional Use Application filed by Scotty's, Inc., to demolish an existing Scotty's hardware store on Big Pine Key and construct in its place a 16,510 square foot Walgreen's pharmacy with drive-through pharmacy window, with the following conditions:

   A. Prior to the issuance of the Certificate of Occupancy, signs shall be posted on the access driveways from Key Deer Boulevard and US Highway 1 that limit the access of delivery vehicles only through the Key Deer Boulevard driveway.

   B. Prior to issuance of a building permit, the transplantation plan must be revised to delete the removal of two threatened Paurotis Palms.

   C. Prior to issuance of a building permit, the surface water management plan shall be approved by the South Florida Water Management District.

   D. Prior to issuance of a building permit, the Florida Department of Health or Florida Department of Environmental Protection, as appropriate, shall approve the Wastewater Treatment System.

   E. Prior to issuance of a building permit, a Fire Protection Plan shall be approved by the Monroe County Fire Marshal.

   F. The Keys Energy Services (KEYS) shall determine load requirement based on the review of a complete set of plans and approval shall be received prior to the issuance of a building permit.

   G. The architectural standards adopted for Big Pine Key shall be incorporated into the building design in collaboration with and subject to the approval of the Monroe County Director of Planning.

   H. The onsite traffic patterns, including the addition of a perimeter road and integrated bike path, shall be reconfigured as depicted on the site plan attached hereto and made a part hereof. To the extent Monroe County deems it appropriate to do so, all or part of the perimeter road and/or integrated bike path may be eliminated in order to accommodate placement of the waste water treatment facility referred to in subparagraph M below.

I. The property owner shall be prohibited from applying for an alcoholic beverage permit for a period of two (2) years commencing from the date of issuance of the Conditional Use Development Order.

J. The freestanding sign shall be reduced in size so as to be no larger than the CVS pharmacy freestanding sign.

K. Only native vegetation, as approved by the County Biologist, shall be utilized in the landscape buffers.

L. Only cutoff lighting shall be utilized and located so as to prevent spillover on to neighboring residential uses.

M. If desired by Monroe County, the area to the rear of the pharmacy between the designated employee parking and Northerly property line may be utilized by Monroe County or its designee to construct a sewage treatment facility, the construction, operation and maintenance of which shall be at no cost to Walgreen's. In the event Monroe County does not elect to construct a sewage treatment facility on this site, Walgreen's shall plant a buffer, 30-foot deep, of native vegetation between the Northerly boundary and the designated employee parking.

2. Upon issuance of the Conditional Use approval, Walgreen's Company shall be permitted to apply for all necessary building permits for construction of the Walgreen's pharmacy, consistent with the terms of the Conditional Use approval. Monroe County Growth Management Department shall process the application[s] in the normal course and issue the requisite building permits upon a determination that the application[s] are consistent with the Conditional Use approval.

3. Upon issuance of the Conditional Use approval, Walgreen's Company shall file with the Court a Notice of Voluntary Dismissal of this action with prejudice.

4. The parties shall exchange mutual General Releases in the form customarily utilized by attorneys in connection with litigation in this County.

5. Each party shall bear its own attorneys fees and costs in connection with

this litigation. In the event it becomes necessary for either party to commence legal proceedings to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs in connection with such action.

By entering into this Agreement, the parties are not acknowledging the merits or lack of merits of these proceedings. Rather, the parties are entering into this Agreement for the purpose of avoiding further expense and delay inherent in litigation of this nature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the 16th day of May 2006.

WALGREEN'S COMPANY

By: Keith Miller

Keith Miller, ~~Agent~~ Real Estate Manager

GADINSKY REAL ESTATE, LLC,
a Florida limited liability company

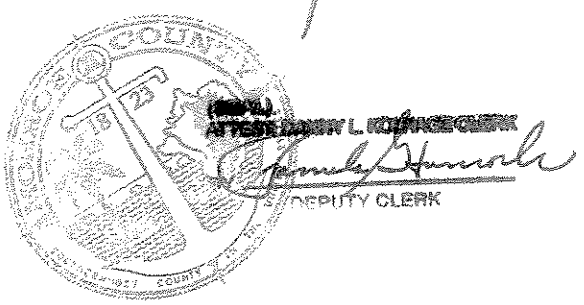
By:

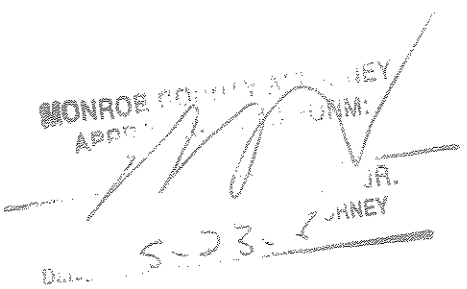
Seth Gadinsky, Managing Member

COUNTY OF MONROE, a political subdivision of the State of Florida

By:

Charles "Sonny" McCoy, Mayor





this litigation. In the event it becomes necessary for either party to commence legal proceedings to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs in connection with such action.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement the 16th day of May 2006.

WALGREEN'S COMPANY

By: _____
Keith Miller, ~~Agent~~
Real Estate Manager

GADINSKY REAL ESTATE, LLC,
a Florida limited liability company

By: _____
Seth Gadinsky, Managing Member

COUNTY OF MONROE, a political
subdivision of the State of Florida

By: _____
Charles "Sonny" McCoy, Mayor

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By: _____
DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

ROBERT B. SHILLINGER
ASSISTANT COUNTY ATTORNEY

Date_____

IN THE CIRCUIT COURT OF THE 16TH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

WALGREENS COMPANY AND
GADINSKY REAL ESTATE, LLC,

Petitioner,

v. Case No.: 44-2005-CA-266-K

MONROE COUNTY,

Respondent,

AND FLORIDA KEYS CITIZENS COALITION, INC.,

Intervenor.
_____/

AMENDED ORDER RATIFYING SETTLEMENT AGREEMENT AND DENYING INTERVENOR'S MOTION TO VACATE SETTLEMENT AGREEMENT

This matter, having come before the Court on a Petition for Writ of *Certiorari* filed herein by the Petitioner Walgreens Company and Gadinsky Real Estate, LLC, ("Walgreens"), and the Court, having been presented with a Motion to Ratify Settlement Agreement filed herein by Walgreens and a Motion to Vacate Settlement Agreement filed herein by the Intervenor Florida Keys Citizen's Coalition, and the Court, having read the motions and heard argument by counsel for all parties, it is hereby:

ORDERED and ADJUDGED as follows:

1. The Court's previous order Ratifying Settlement Agreement, which was entered at the conclusion of the hearing held on June 19, 2006 is hereby vacated and this Amended Order is substituted in its place;

2. The Settlement Agreement, a copy of which is attached hereto and incorporated herein, is hereby ratified and approved and the parties are ordered to abide by its terms;

3. Pursuant to the terms set forth in the Settlement Agreement,

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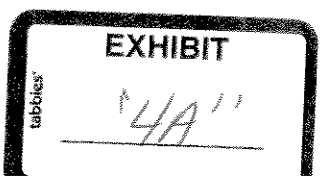
MONROE COUNTY ATTORNEY



construction shall not begin until the County issues a separate development order to Walgreens per the requirements of Chapter 163, Florida Statutes.

4. This *Certiorari* appeal is dismissed though jurisdiction is reserved to enter such orders as are necessary to enforce the Settlement Agreement;

5. This matter is remanded to the Monroe County Planning Commission for further proceedings consistent with this order and the Settlement Agreement;

6. The Intervenor's Motion to Vacate Settlement Agreement is denied with regard to vacating the Settlement Agreement but granted with regard to Chapter 163 compliance.

DONE AND ORDERED this 25th day of July, 2006, *nunc pro tunc* to June 19, 2006.

RICHARD G. PAYNE

Richard Payne, Circuit Judge

cc: Nicholas Mulick, Esq.
Lee R. Rohe, Esq.
Robert B. Shillinger, Esq.

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR MONROE COUNTY, FLORIDA

WALGREENS COMPANY and
GADINSKY REAL ESTATE, LLC,

CASE NO. 44-2005-CA-266-K

Petitioners,

vs.

MONROE COUNTY,

Respondent,

and

FLORIDA KEYS CITIZENS COALITION,

Intervenor.

RECEIVED
JUL 26 2006
MONROE COUNTY ATTORNEY

ORDER DENYING MOTION TO VACATE SETTLEMENT AGREEMENT

THIS CAUSE came on to be heard on Intervenor's Motion to Vacate Settlement Agreement, and the Court having heard argument of counsel, reviewed the Court file and being otherwise duly advised in the premises, it is hereby

ORDERED AND ADJUDGED, as follows:

1. Intervenor's Motion to Vacate Settlement Agreement be and is hereby denied.

2. The Court reserves jurisdiction to enforce the terms of the Settlement Agreement or to provide such other and further relief as may be necessary and appropriate.

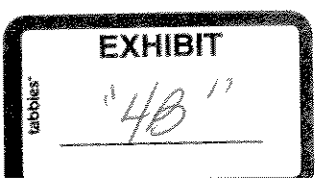
DONE AND ORDERED in Chambers at the Monroe County Courthouse, Key West, Florida, this 21st day of July 2006.

Richard G. Payne

Richard G. Payne, Chief Judge

Copies furnished to:

Nicholas W. Mulick, Esq.
Robert B. Shillinger, Jr., Esq.
Lee R. Rohe, Esq.



End of Additional Information
File # 26083

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END

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MONROE COUNTY PLANNING COMMISSION MEETING
RE: AMENDMENT TO MAJOR CONDITIONAL USE

Marathon Government Center
2798 Overseas Highway
Marathon, Florida 33050
June 11, 2003
2:40 - 7:01 p.m.

ORIGINAL

COMMISSIONERS:

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COMMISSIONER DAVID C. RITZ, CHAIRMAN
COMMISSIONER DENISE WERLING, VICE CHAIR
COMMISSIONER JERRY COLEMAN
COMMISSIONER ALICIA PUTNEY
COMMISSIONER JIULIO MARGALLI

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STAFF:

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JOHN WOLFE, PLANNING COMMISSION COUNSEL
MARLENE CONAWAY DIRECTOR OF OF PLANNING & ENV. RESOURCES
AREF JOULANI, SR. PLANNER
NICOLE PETRICK, PLANNING COMMISSION COORDINATOR

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FOR APPLICANT:

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NICHOLAS MULICK, ESQ.
DONALD L. CRAIG, AICP

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(The proceeding commenced at 2:40 p.m.)

CHAIRMAN RITZ: We are now on the Scotty's, Inc., issue, Amendment to Major Conditional Use. Counselor, could you read the item.

MR. WOLFE: Scotty's, Inc., is requesting an amendment to a major conditional use approval to demolish the existing 25,600 square foot building and to develop the 16,510 square foot Walgreen's Pharmacy with a drive-through window. Property is located at 30351 Overseas Highway and is legally described as a tract of land in a part of the southeast quarter of the northwest quarter of Section 26, Township 66 South, Range 29 East, Big Pine Key, Monroe County, Florida, approximate mile marker 30.

CHAIRMAN RITZ: Thank you very much. Staff report, please.

MR. JOULANI: Aref Joulani. Am I on? Staff has reviewed the project and finds it to be in compliance with the applicable land development regulations except the following sections for which compliance needs the variance.

Community impact statement of Section 9.5-69 regarding approval of the project by the fire marshal and Keys Energy Services. Also, surface water management of Section 9.5-293 regarding approval by

South Florida Water Management District. And, wastewater treatment criteria, Section 9.5-294 concerning approval of the health department of the wastewater treatment.

The project is generally consistent with the goals and objectives and policies of the Monroe County Year 2010 Comprehensive Plan. I have also sat and worked closely with the applicant, his architect and design contractor in refining the site plan, architectural character and signage, and it coordinates with the community character and the guidelines set in the draft Corridor Enhancement Plan.

Based on the findings of facts and conclusions of law established with this applicant, staff recommends approval of the project with the following conditions.

1. Prior to the issuance of the Certificate of Occupancy, signs shall be posted on the access driveways from Key Deer Boulevard and US-1 Highway that limits the access of delivery vehicles only to the Key Deer Boulevard driveway.

2. Prior to the issuance of a building permit, the transplantation plan must be revised to delete the removal of two threatened Paurotis Palms.

3. Prior to the issuance of a building permit, the surface water management plan shall be revised and

1 approved -- shall be approved by the South Florida
2 Water Management District.
3 4. Prior to the issuance of a building permit,
4 the Florida Department of Health shall approve the
5 wastewater treatment plan.
6 5. Prior to the issuance of a building permit, a
7 fire protection plan shall be approved by the Monroe
8 County Fire Marshal.
9 6. The Keys Energy Services shall determine the
10 load requirement based on the review of a complete set
11 of plans and approval shall be received prior to the
12 issuance of a building permit.
13 CHAIRMAN RITZ: Thank you very much. All right.
14 We'll begin this item with a presentation by the
15 applicant, if they wish.
16 Then we'll have public comments. And remember,
17 you'll have three minutes if you're representing
18 yourself and five minutes if you're representing an
19 association. So please think about what you're about
20 to say. If someone has already said what you wish,
21 there's really no need to speak. We can probably get
22 a feel for which way the audience is headed on this
23 thing. The idea is to hear testimony, particularly
24 new testimony, on the issue.
25 Counselor?

1 MR. MULICK: Good afternoon, Chairman Ritz and
2 members of the Planning Commission. For the record,
3 my name is Nicholas Mulick. I'm an attorney and I
4 represent the applicant.
5 Just to give you an overview of our presentation,
6 we'll have testimony through Mr. Don Craig who is a
7 planner, from Mr. Richard Eichinger who is a traffic
8 consultant. We have also a representative of the, of
9 Walgreen's, the local facility in Marathon, the
10 manager, Patty Philcox, if there are any questions
11 about operational issues.
12 I'd also like to introduce Mr. Roy Ripak. He is
13 the regional manager for Walgreen's and he can talk
14 about issues, as well.
15 By way of an introduction, we reviewed the staff
16 report, as have you. We believe it thoroughly
17 addresses the issues that are pertinent to a major
18 conditional use application.
19 I did want to make mention of the fact that this
20 is, as we all know, a redevelopment. This is not a
21 new site. It's not a new facility. It's essentially
22 taking an occupied parcel, reducing the size of the
23 structure. Ironically, this application rises to the
24 level of a conditional use because the applicant is
25 proposing to upgrade the site.

Under the code, if the site were merely being re-used in its present configuration, it would not require any approval. So the irony, I think, is that -- is the mic still on? The irony is that because we're reducing the size of it and we are reconfiguring the parking, essentially, we're here before you.

So with that in mind, I'd like to have Mr. Don Craig come on up first. He has a couple of renderings that will give us some perspective on the project itself and then some brief testimony regarding its compliance with the comprehensive plan.

MR. CRAIG: Seems like I've been here before.

COMMISSIONER WERLING: I think there's a hotel room downstairs with your name on it.

MR. CRAIG: If you'll give me two minutes to set this up. Remember, these are not renderings, these are site plans. I'm going to put that here so that the TV can see it.

MR. WOLFE: I think we're going to need to swear Don in. I don't think he's been sworn in yet today. Would you go ahead and state your name for the record.

MR. CRAIG: Yes. Donald Craig, Craig Company, 600 White Street, City of Key West.

MR. WOLFE: Do you swear the testimony you give today will be the truth, the whole truth and nothing

1 but the truth?

2 MR. CRAIG: Yes, I do.

3 MR. WOLFE: Thank you.

4 MR. MULICK: We're going to be very close at the

5 podium here because we don't have another microphone,

6 so we're certainly going to try to share this one and

7 hopefully it will work.

8 CHAIRMAN RITZ: And just for -- it is portable.

9 You can take it out if you need to walk around.

10 MR. MULICK: What we can do is we can sort of

11 exchange it like that and try that.

12 MR. MULICK: Mr. Craig, could you please give us

13 the benefit of your credentials, specifically your

14 education and training in the area of land use

15 planning?

16 MR. CRAIG: I'm a graduate of the University of

17 California, Los Angeles, in history and biology. I

18 have a master's degree from Michigan State University,

19 advanced work in community planning at the University

20 of California at Berkley, and I'm a charter member of

21 the American Institute of Certified Planners since

22 1978. I'm one of the founding members of the Resort

23 and Tourism Division of the American Planning

24 Association. I've been a practicing planner since

25 1973.

1 CHAIRMAN RITZ: And just to cut this short, the
2 Commission is familiar with Mr. Craig and we will
3 acknowledge he's an expert, if that was the intent of
4 the questioning.
5 MR. MULICK: That was the intention of it. Thank
6 you, Mr. Chairman.
7 Mr. Craig, have you, at my request, reviewed the
8 project that is the subject of the hearing today?
9 MR. CRAIG: Yes.
10 MR. MULICK: Specifically, did you inspect the
11 property itself?
12 MR. CRAIG: Yes, I did.
13 MR. MULICK: Did you review the application and
14 the materials that were submitted in connection with
15 that application?
16 MR. CRAIG: Yes, I did.
17 MR. MULICK: Did you also review the staff report
18 submitted?
19 MR. CRAIG: Yes, I reviewed the staff report.
20 MR. MULICK: Relative to the criteria set forth
21 in the code for the approval of the major conditional
22 use, are you familiar with those standards?
23 MR. CRAIG: Yes, I am.
24 MR. MULICK: I'm going to ask you then, if you
25 don't mind, we'll go down through those standards. I

1 think they're at 9.5-65, specifically the first one --
2 actually, it's 66 -- oh, it is 65. Whether the
3 conditional use is consistent with the purposes,
4 goals, objectives and standards of the plan and this
5 particular chapter?
6 MR. CRAIG: Yes. I reviewed the staff report. I
7 also reviewed the application and the supporting
8 documents and, like staff, I believe that it is
9 consistent with those provisions, as well as the
10 comprehensive plan policies which back up these
11 standards.
12 MR. MULICK: Now, specifically with regard to
13 those standards such as open space, floor area,
14 setbacks, buffers, et cetera, did you review the plan
15 to determine its compliance?
16 MR. CRAIG: Yes, I did, and determined that in
17 each and every category, the standards were either met
18 or exceeded. For instance, in open space, it exceeds
19 the open space.
20 MR. MULICK: The next criteria is the conditional
21 use consistency with community character in the
22 immediate vicinity of the parcel proposed for
23 development. Did you review it for compliance with
24 that section?
25 MR. CRAIG: Yes. I did that in two ways,

1 referring to the code itself and by a site inspection
2 and from my history of or personal knowledge of the
3 amount, timing, location of development on Big Pine
4 Key.
5 MR. MULICK: Could you tell us a little bit about
6 the surrounding area, what it's use and development
7 characteristics are?
8 MR. CRAIG: The staff report correctly identified
9 the surrounding use as a mixture of commercial and
10 light industrial, as well as open space uses.
11 As you know, to the east you have an Eckerd's.
12 To the west is another commercial retail trucking
13 facility. You have the, across the street, a mixture
14 of commercial retail facilities. That's just to the
15 south of Highway One. Further past Key Deer
16 Boulevard, you have another mixture of commercial
17 retail facilities.
18 So in the surrounding area, generally you have a,
19 what one would call the commercial core of Big Pine
20 Key immediately adjacent to this parcel.
21 MR. MULICK: The next criteria is the design of
22 the proposed development minimizes adverse effects
23 including visual impacts of the proposed use on
24 adjacent properties. Did you review the project to
25 determine compliance with that particular standard?

1 MR. CRAIG: Yes. As did staff, I noted that
2 because of the reduction of the size of the building
3 and the provision of additional landscaping and
4 buffering that was not there before, and the reduction
5 in size and mass of the building, and together with
6 the parking lot landscaping, that the overall effect
7 on the surrounding properties would be enhanced.
8 MR. MULICK: Did you review it to determine
9 whether the use would have an adverse effect on the
10 value of surrounding properties?
11 MR. CRAIG: Yes. I looked at that from a
12 planner's perspective and determined that with the
13 upgrading of the facility from a retail lumber
14 facility built under the previous code, and because of
15 its size, again, the landscaping, the buffering,
16 provision of adequate parking, the limitation of
17 access to the site, that this would enhance the
18 property and therefore not have a negative effect on
19 the surrounding properties.
20 MR. MULICK: Did you also determine whether or
21 not there were adequate public facilities and services
22 to accommodate the proposed project?
23 MR. CRAIG: Yes. From a planner's perspective,
24 looking at all those issues that were identified by
25 the staff in terms of the letters of coordination

received, i.e. from the fire marshal, FKAA, FKEC, as well as the reviewing the determination by the county's traffic consultant, there are adequate facilities to serve this project in its reduced form.

MR. MULICK: Did you determine whether the development would adversely effect a known archeological, historical or cultural resource?

MR. CRAIG: I reviewed the maps that are available in the comprehensive plan and I could not identify an archeological resource at this site. However, I didn't dig up the site.

MR. MULICK: And you don't plan to do so, I hope?

MR. CRAIG: No, I do not.

MR. MULICK: And finally, did you determine whether or not the proposed use complies with all additional standards imposed on it by the particular provisions of Chapter 9.5 and all other applicable requirements to the Monroe County Code?

MR. CRAIG: Yes, I did. And in that regard, I reviewed the proposed CommuniKeys Plan and made a determination that this project is consistent with the principles and the standards of that proposed development community, Livable CommuniKeys.

MR. MULICK: Mr. Craig, I wonder if you could go to the site plan that we have on the easel and just go

through the project site itself, tell us about the primary features of it.

MR. CRAIG: Well, as you see, for orientation, this is Key Deer Boulevard, Highway One, the existing Eckerd's drugstore at this location, the present location of Scotty's which will be transformed into the Walgreen's.

Access is by two means; Highway One with a deceleration lane at this point, and Key Deer Boulevard for entrance for both vehicles coming from north Big Pine Key and the delivery vehicles as shown in this diagram.

Some notable points is that parking required is 50 spaces. Provide are 65, plus three handicap spaces. The required open space is 20,000 square feet. With a reduction in the size of the project it is now 51,807 feet, which is almost 40 percent of the site.

The gross site area is 3.01 acres, which was previously the Scotty's. And in that regard, what we have basically is a facility that's much smaller than was there before and fits into the basic surrounding retail character of this center of Big Pine Key.

MR. MULICK: Based upon your observations of the site itself and your understanding of the nature of

1 the project, do you have an opinion as to whether or
2 not the intensity of the use is the same, higher or
3 lower than the existing use as a Scotty's?
4 MR. CRAIG: There are two answers to that
5 question.
6 One, in terms of actual gross floor area, the
7 building has been reduced by approximately 10,000
8 square feet. Both uses, according to those standards
9 that are contained within the comprehensive plan and
10 in the land development regulations are medium-
11 intensity uses. So if you take a medium-intensity
12 use, based upon the number of trips generated per
13 thousand square feet, which is our standard in the
14 land development regulations, they are equal, and they
15 are equal in my opinion. Then a reduction of 10,000
16 square feet would reduce the intensity of the use of
17 the site.
18 MR. MULICK: Based upon the matters that you've
19 testified to, your review of the site, your
20 familiarity with the land development regulations and
21 from a general planning perspective, do you have an
22 opinion as to whether or not this project is in
23 compliance with applicable land development
24 regulations and comprehensive plan goals and
25 objectives?

1 MR. CRAIG: Yes, I do. And for a couple of very
2 pertinent reasons.
3 Our comprehensive plan and land development
4 regulations, both up and down the Keys in the
5 unincorporated area, as well as on Big Pine Key and
6 other small communities, encourages the redevelopment
7 of existing commercial square footage so long as it's
8 appropriate to the community, rather than the
9 acquisition of new commercial development.
10 When this is located at the heart of the
11 community, adequately served by existing roads with
12 adequate traffic capacity, reduces the amount of an
13 existing medium-intensity use to one of the same
14 character and class, then that is consistent with the
15 intent of the comprehensive plan to redevelop within
16 your existing footprint, within your existing
17 classifications, and within your existing
18 determination that this is an appropriate use at this
19 location.
20 MR. MULICK: I have no further questions of Mr.
21 Craig.
22 CHAIRMAN RITZ: Do you have anyone else you wish
23 to address at this time?
24 MR. MULICK: I'd like to call at this time,
25 Richard Eichinger.

1 MR. WOLFE: Please state your name for the
2 record.
3 MR. EICHINGER: Richard Eichenger.
4 MR. WOLFE: Do you swear the testimony you give
5 today will be the truth, the whole truth and nothing
6 but the truth?
7 MR. EICHINGER: I do.
8 MR. WOLFE: Thank you.
9 MR. MULICK: Mr. Eichinger, would you please
10 state your full name and spell your last name for the
11 record, please.
12 MR. EICHINGER: Yes. It's Richard P. Eichinger.
13 E-I-C-H-I-N-G-E-R. Address? 8701 Southwest 137th
14 Avenue, Suite 210, Miami, Florida.
15 MR. MULICK: What is your business or
16 professional affiliation?
17 MR. EICHINGER: I'm a member of the Institute of
18 Transportation Engineers, have been for over 20 years.
19 Previously, I was a Dade County engineer for five
20 years. After that, I worked for, as vice president in
21 charge of traffic engineering for Miles, Moss and
22 Associates. And from that point, I went on to
23 Transport Analysis Professionals where I've been there
24 for almost 16 years.
25 MR. MULICK: As part of your professional duties,

do you have occasion to either prepare or review traffic reports in connection with development projects in Monroe County?

MR. EICHINGER: Yes, I do.

MR. MULICK: Have you done that on more than one occasion?

MR. EICHINGER: Yes. I would say that I would have probably generated, over the last 17, 18 years in Monroe County, close to over 200 reports, traffic reports.

MR. MULICK: Are you familiar with the land development regulations regarding traffic studies as they apply to major conditional use development approvals?

MR. EICHINGER: Most of them, yes.

MR. MULICK: I'm going to offer Mr. Eichinger as an expert witness in the area of traffic engineering.

CHAIRMAN RITZ: Any objection?

MR. COLEMAN: (Shakes head.)

CHAIRMAN RITZ: Hearing none.

MR. MULICK: Thank you, Mr. Chairman.

MR. MULICK: Mr. Eichinger, did you, at my request, review this project that is the subject of the hearing today?

MR. EICHINGER: Yes, I have.

1 MR. MULICK: Did you have occasion to visit the
2 site?
3 MR. EICHINGER: Yes, I've been to the site.
4 MR. MULICK: Did you prepare a report regarding
5 the traffic impact of this project?
6 MR. EICHINGER: Yes, I did. When we do traffic
7 engineering reports, the first thing we do is contact
8 the Monroe County Traffic Engineering Consultant,
9 which is Raj Shanmugam, who is with URS, as you well
10 know, and what we do is explain the situation and then
11 he and I discuss the best way to address traffic and
12 its impacts. And from that, then I produce a report
13 and that's usually how they go.
14 MR. MULICK: Could you briefly describe for us
15 what you did in connection with the preparation of
16 your report and then tell us what your findings were.
17 MR. EICHINGER: Well, first I review the site
18 plan and then from there, we found out what the square
19 footage was, how access was going to be both off of
20 Key Deer and US-1, and using the Institute of
21 Transportation Engineers ITE rates for both the land
22 use for Scotty's and the land use for Walgreen's, we
23 compared what ITE says the trip generation is for
24 Scotty's to how much Walgreen's will have using those
25 rates. And that's -- and basically, it's summarized

at that point.

MR. MULICK: Did you arrive at a determination concerning the traffic impact from the redevelopment of the site?

In other words was there an increase in the level of traffic, did it remain the same, or was there a decrease in traffic?

MR. EICHINGER: There was a net loss of 206 trips, related daily trips, and less p.m. peak-hour trips. Although the Walgreen's generates more driveway trips during the p.m. peak, they're a pass-by rate which is the people that are already on the road for other reasons, stop in to your drugstore and pick up a bottle of aspirin or whatever and they go on their way. They're usually on the way home, off to work or to some other source. And that is a 49 percent pass-by rate.

So that's a -- we lose 51 percent of the peak-hour trips to be primary trips, and that way there is less traffic being generated by the site.

MR. MULICK: In connection with the preparation of your report, did you rely on any resources, specifically referring to what we colloquially call the ITE?

MR. EICHINGER: Yes, I did use the Sixth Edition

of that, of the Trip Generation Manual.

MR. MULICK: Could you briefly describe what that is and what its purpose is?

MR. EICHINGER: Well, the Institute of Transportation Engineers has been around for many years, probably over 75 years. And over the years they've collected empirical data throughout the United States, Canada, and studied various land uses to find out what their trip generations are. Some land uses have a wide variety of trip generations. Low, some are low, some are high. But typically what we use is the averages of those land use, land uses around the United States.

We have used those quite a bit successfully here in Monroe County. Monroe County does have some differences when it comes to trip generation, but I think, as Marlene Conaway had said earlier today, that when you shake it all down and you take a little less traffic from one side over here, less than what ITE says it's going to generate, but a little more on over here on this other side than ITE says it's going to generate, it all sort of filters down to about the even, an even playing ground.

MR. MULICK: Referring to the ITE again, is that considered, is that considered by your profession the

1 authoritative source?

2 MR. EICHINGER: Yes, we use it quite a bit. I

3 would say that a high percentage of the nineties, the

4 97, 98 percentage, I would say that we use ITE rates

5 exclusively for trip generation.

6 MR. MULICK: Why don't we go over -- I'm sorry.

7 Did I interrupt you?

8 MR. EICHINGER: No, not at all.

9 MS. CONAWAY: Why don't we go over to the site

10 plan, Mr. Eichinger.

11 MR. EICHINGER: Okay.

12 MR. MULICK: If you could please review with us

13 the site itself as far as the traffic, on-site traffic

14 circulation?

15 MR. EICHINGER: Certainly. I think, as Don Craig

16 had pointed out before, the roadway down here is US-1.

17 This angled roadway is Key Deer Boulevard and there's

18 an access right into the -- can you see this by the

19 way?

20 CHAIRMAN RITZ: Yes.

21 MR. EICHINGER: Or do you want me to turn it more

22 your way? Okay.

23 In this driveway right here off of US-1, and also

24 this driveway off of Key Deer Boulevard. The driveway

25 off of US-1 is somewhat narrower than the one off of

1 Key Deer Boulevard, so access -- if you lived north of
2 this site and you wanted to go to Walgreen's, you
3 would not have to use US-1 to get there. You could go
4 directly off of Key Deer Boulevard into the site and
5 return home. If you're using US-1 to travel between
6 Point A and Point B and you happen to be passing by
7 the Walgreen's, then you can use -- it has a right
8 turn decel. lane here, deceleration lane that goes
9 into the driveway. And you can access Walgreen's that
10 way, come around, it has a drive-through here at the
11 north side of the building, continue on around and
12 leave via US-1.
13 Parking has been laid out fairly normally for a
14 Walgreen's site and a site with those kind of land
15 uses. Up here at the top of the site, you might see
16 employee parking so that those vehicles there at the
17 top of the site will probably get very little use
18 throughout the day other than just being used once in
19 the morning, once in the evening. And as you can see,
20 there's a shared access roadway between that and the
21 existing Eckerd's. The parking that's just on the
22 west side of Eckerd's here could also be used
23 basically by both sites if needed.
24 Truck access. As you can see, there's a note
25 here on the plan over here that says that the delivery

1 schedules will be once a week. Do you want me to go
2 into the time of deliveries?
3 MR. MULICK: That's fine. You could do that,
4 sure.
5 MR. EICHINGER: Okay. Apparently, the store is
6 going to be open from eight a.m. to ten p.m. and the
7 deliveries can be set up to be, especially the semi-
8 truck deliveries, will be done before the store opens
9 around six or seven o'clock in the morning. So any
10 conflicts with big trucks would basically be
11 eliminated by retail shoppers to the site.
12 Let me explain to you how that works. The
13 average semi-truck comes in off of US-1, goes up Key
14 Deer Boulevard and turns into the site at this
15 northern entrance, and then moves around the site to
16 the west side of the site, pulls straight forward and
17 backs up into the loading zone. This whole maneuver
18 just takes probably less than a minute when he starts
19 his backup into the loading zone.
20 Now, remember, there's not any retail here yet,
21 it's not open. So when he's done there, he leaves and
22 comes up this driving aisle right here, which is a
23 two-lane driving aisle, exits out onto Key Deer
24 Boulevard. And if you'll notice, for him to be able
25 to get out here cleanly and into the southeast-bound

1 Key Deer Boulevard Roadway, he needs to use all the
2 pavement that he can find out there, and this is a
3 very common thing with truck drivers, they do it all
4 the time.
5 For instance, through Marathon here, you've got a
6 four-lane facility and a lot of semi-trucks have to
7 make right turns into the driveways that are along
8 there to deliver to various businesses. Well, what a
9 truck driver will usually do is hug the left lane next
10 to the centerline and has the right lane on his right
11 side, and he'll wait for that lane to come clear
12 because he needs all the pavement that he can to get
13 in there without running over curbs and fire hydrants,
14 lamp poles, whatever is there.
15 Just to the south here, this is heavily -- this
16 is a heavy vegetated area right here so increasing the
17 radius might help a little bit, but we'd have to take
18 out some trees.
19 Over here on this side of the driveway is a
20 retention pond. Again, if we needed to increase the
21 radius here, which wouldn't really help him making a
22 right turn out of this site, then, then we'd have to
23 relocate this retention pond.
24 So for this once a week delivery and the ability
25 for the truck to have to get into the northwest-bound

1 lane temporarily -- this is all, this all happens
2 within seconds. And then he gets back into this lane
3 that he can make his move either to go, continue on
4 towards Key West or continue on towards Miami.
5 MR. MULICK: Mr. Eichinger, regarding the traffic
6 configurations, specifically the entry and egress
7 points, are they existing or are they proposed?
8 MR. EICHINGER: Those are existing locations,
9 driveways.
10 MR. MULICK: Are you satisfied, based upon your
11 review of the site plan and the applicable land
12 development regulations, as well as the traffic
13 engineering standards, that the on-site configuration
14 of the property is appropriate?
15 MR. EICHINGER: I believe it is. I think it's
16 adequate and I think it's done as well as they could.
17 The layout of the building put it more in place. I
18 think they've shown circulation through this site very
19 well. They've lessened the conflicts as few, as many
20 as possible.
21 The drive-through is laid out real nice here at
22 the north side of the Walgreen's. When things get
23 real busy, they can open up another lane. Now, if
24 you're in the drive-through, you can only get
25 prescriptive drugs, nothing else, okay. So there's --

1 that's the only time that they'll get used there for
2 the drive-through.
3 MR. MULICK: I have nothing further of Mr.
4 Eichinger.
5 MR. EICHINGER: Okay. Thank you.
6 MR. MULICK: Patty Philcox.
7 MR. ROHE: Mr. Chairman, I have a point of order.
8 CHAIRMAN RITZ: Sure.
9 MR. ROHE: Yes. For the record, Lee Rohe. I'm
10 here on behalf of Susan Eanes. We do have a
11 presentation in opposition to Walgreen's and, at some
12 point, I'm not clear on whether we're going to have an
13 opportunity to cross-examine or not because just
14 before lunch I was approached by Mr. Wolfe, your
15 attorney, who advised me that we won't be able to
16 cross-examine. I believe Mr. Wolfe could, maybe he
17 should speak for himself, but -- so I'm not clear as
18 to what we can do and what we can't do here in terms
19 of our presentation.
20 CHAIRMAN RITZ: Well, as I stated earlier, the
21 applicant will make a presentation and then after the
22 applicant makes his presentation, there will be a
23 public hearing and anyone from the public who wishes
24 to speak will be given an opportunity to speak. They
25 may speak three minutes for themselves or five minutes

1 if they represent an association. Our rules do
2 require that written evidence of your authority to
3 speak on behalf of an association is required and
4 we'll waive that as long as you --
5 MR. ROHE: My client's right there. She could
6 handwrite a note for you if you'd like saying that --
7 CHAIRMAN RITZ: I'm not sure if she's an
8 association or not, but regardless, that's -- that's
9 the procedure we've laid out.
10 MR. ROHE: So what you're saying is, in terms of
11 cross-exam, we begin to make a presentation for three
12 or five minutes and that's it. In other words, Mr.
13 Eichinger has just testified and Mr. Craig has just
14 testified, I have questions for Mr. Eichinger, but I
15 can't ask them. Is that what you're saying?
16 CHAIRMAN RITZ: Correct. You don't -- we're here
17 to hear from you, you're not here to question the --
18 this is not a trial. This is a quasi-judicial hearing
19 and if you have information you wish to present to the
20 Board, you're more than welcome to do so. If you have
21 any questions, you're more than welcome to ask the
22 Board and the Board can decide whether to answer them
23 or not.
24 MR. ROHE: Could you tell me what the authority
25 is? I think I was faxed late yesterday afternoon a

1 copy of 9.5-46. Is that the authority upon which you
2 rely?
3 MR. WOLFE: That's correct.
4 MR. ROHE: Okay. I'd like for the record then to
5 cite into the record the case of Jennings vs. Dade
6 County, 589 So. 2d 1337, a Third District Court of
7 Appeal decision wherein the pertinent part, it says,
8 "In quasi-judicial zoning proceedings, the parties
9 must be able to present evidence, cross-examine
10 witnesses and be informed of all facts upon which the
11 Commission acts," unquote.
12 So we do all acknowledge this is quasi-judicial,
13 it's not a legislative hearing. So I would submit to
14 you that if indeed you're interpreting 9.5-46 to
15 eliminate our cross-exam, case law would supercede
16 that ordinance, if indeed it even said that. I think
17 it's an interpretation that's being made here. It
18 doesn't say no one has a right of cross-exam, as I
19 recall the ordinance 9.5-46. But, if the Commission
20 decides that it doesn't want cross-exam from us, then,
21 of course, all we can do is just abide by that and
22 make our record accordingly.
23 I do have witnesses to present. I don't know,
24 does Mr. Mulick get an opportunity to cross-examine my
25 witnesses?

1 CHAIRMAN RITZ: If the -- I'll let the attorney.
2 MR. WOLFE: Let me clarify. No, this is not a
3 trial. What we're doing is following the procedure in
4 the Monroe County Code. You do have a right to ask
5 questions. You do not have a right to cross-examine.
6 They can be asked through the chairman. The chairman
7 -- the applicant can address them or not address them
8 at their peril if they choose.
9 This is, this is a development review proceeding,
10 this is not a zoning hearing, and the procedures are
11 set out by 9.5-46. Historically these have always
12 been followed. In the recent couple months, there's
13 been some deviation from them and we're trying to get
14 back on track as to what this is. I've consulted with
15 the county attorney, outside counsel for the county,
16 and these are the rules, the procedures set forth for
17 the conduct of the Planning Commission.
18 Anybody can testify. There's no provision -- if
19 anyone wants to testify, your people can testify and
20 absolutely, can testify. You're invited to ask
21 questions. The applicants do not have to be cross-
22 examined, nor do they have the right to cross-examine
23 your people.
24 MR. ROHE: To save me a trip back to my chair, do
25 you have a copy of 46 in front of you?

1 MR. WOLFE: Yes.

2 MR. ROHE: Okay. Let's just get that into the

3 record then.

4 This is 9.5-46. Hearing procedures for

5 applications for development approval. This is a

6 Monroe County Ordinance. Let's see if I can -- I want

7 to make sure I have the part that Mr. Wolfe is

8 referring to. That would be under subsection --

9 MR. WOLFE: (b)(3).

10 MR. ROHE: (b)(3). "Order of proceedings. The

11 body conducting the hearing may exclude testimony or

12 evidence that it finds to be irrelevant, immaterial or

13 unduly repetitious. Any person may ask relevant

14 questions of other persons appearing as witnesses, but

15 shall do so only through the chairman at the

16 chairman's discretion. The order of proceeding shall

17 be as follows:" And then it goes on from there.

18 That's the critical language right there that I

19 take issue with, that my right to cross-exam is not

20 conditioned or qualified by asking questions only

21 through the chairman at the chairman's discretion. So

22 I want to make that clear on the record. Thank you.

23 MR. WOLFE: Thank you.

24 COMMISSIONER PUTNEY: I want to make a comment.

25 In 1990 -- I want to say 1998, I came before the

1 Planning Commission as the representative of the No
2 Name Key Solar Community, or the No Name Key, at that
3 time it was called, Homeowners Against Commercial
4 Power. And Garth Coller was the attorney, and just to
5 be safe, because those of you that know me know that I
6 can get paranoid over anything or worried about not
7 crossing I's or dotting the T [sic], I asked for
8 standing. But Garth Coller made it clear to the
9 Commission that it was not necessary under the code
10 that -- and I put witnesses on and cross-examined.
11 So I'm suggesting there's some latitude here and
12 I know that historically, groups, individual owner
13 groups have brought forward an attorney and expert
14 witnesses. The only case that I'm familiar with that
15 I participated in, I asked officially for standing and
16 the Commission granted it, but Mr. Coller said that
17 was not necessary. Just to share that with you, Mr.
18 Wolfe.
19 COMMISSIONER MARGALLI: Mr. Rohe could proffer
20 the cross-examination questions that he would have
21 made under the rule, is that correct?
22 MR. WOLFE: Absolutely.
23 COMMISSIONER MARGALLI: Okay. So I think that
24 would preserve -- I mean, it's kind of silly because
25 we don't have -- you know, it just kind of defeats the

1 purpose of cross-examination. But according to the
2 way I read the rule, I guess he could proffer the
3 cross questions.
4 CHAIRMAN RITZ: Sure.
5 MR. WOLFE: Well, and you could ask questions
6 through the chairman, that's pretty clear. And,
7 again, --
8 COMMISSIONER MARGALLI: And if the chairman says
9 they're irrelevant, you could still proffer them for
10 the record.
11 MR. WOLFE: Absolutely.
12 COMMISSIONER MARGALLI: According to the rule.
13 That's what I'm saying.
14 MR. WOLFE: Right, right.
15 MR. ROHE: My next question would be, I have some
16 witnesses to put on, but if I'm limited to a three or
17 five-minute presentation, obviously I can't put on
18 witnesses.
19 CHAIRMAN RITZ: They can speak for themselves.
20 Just ask them to come up and address the Commission.
21 MR. ROHE: Well, we'll try that, but I want to
22 make it clear we are not waiving our rights by going
23 forward with this type of proceeding. We want to
24 preserve our rights for the record so we can raise
25 these arguments later about lack of cross-exam, as

1 well as being able to present witnesses in the normal
2 fashion.
3 MR. WOLFE: Mr. Chairman, I think we have given
4 latitude in allowing him to ask people questions. In
5 other words, if the person can get up and speak for
6 three minutes, I don't see any problem with him asking
7 questions of those people and his, kind of, witnesses.
8 This is not required, however, under the section.
9 COMMISSIONER MARGALLI: Can I ask a question? I
10 mean, wouldn't -- I'm just posing a question to
11 counsel. If the applicant can ask questions and lead
12 his own witness into answers, I just don't understand
13 how an opposition or somebody else, a member of the
14 public, can't do the same thing vis-a-vis the same
15 rule that we're dealing with. To me, it would be
16 fundamentally unfair.
17 MR. WOLFE: You mean, for his witnesses?
18 COMMISSIONER MARGALLI: Yes.
19 MR. WOLFE: That's what I was just saying.
20 COMMISSIONER MARGALLI: So you're saying it's
21 okay?
22 MR. WOLFE: I think it's fine, yes.
23 COMMISSIONER MARGALLI: Because I think if you
24 excluded that, then I think certainly we have a big
25 problem.

1 MR. WOLFE: I agree. I think that this reads
2 that way, but I think in fairness that effectively,
3 he's putting on his case in opposition and I agree.
4 COMMISSIONER MARGALLI: Right. I understand the
5 cross-examination issue.
6 MR. WOLFE: Right.
7 COMMISSIONER MARGALLI: But vis-a-vis his own
8 witness, I think --
9 MR. WOLFE: I agree. That's what I was trying to
10 say.
11 CHAIRMAN RITZ: Are we all square with that?
12 COMMISSIONER COLEMAN: (Nods head.)
13 MR. ROHE: Well, should I proffer my questions
14 that I was going to ask Mr. Eichinger?
15 CHAIRMAN RITZ: Why don't we hear -- why don't we
16 let the applicant present his case.
17 MR. ROHE: Okay.
18 CHAIRMAN RITZ: And then we'll --
19 MR. ROHE: Come back?
20 CHAIRMAN RITZ: -- come back to that.
21 MR. ROHE: Thank you.
22 MR. MULICK: Mr. Chairman, I'm going to call one
23 more witness, Patty Philcox. Here she comes. She
24 hasn't been sworn in. While she's making her way up,
25 since, since you've had some colloquy on the record,

1 let me add my comment for the sake of the record.
2 I don't believe that this is an adversarial
3 proceeding as it would be in a court. You don't, by
4 way of hiring a lawyer, bootstrap yourself up to some
5 status that nobody else has. It's a public hearing.
6 It is not a trial. So you don't hire a lawyer and
7 then all of a sudden, it becomes now cross-
8 examination, closing arguments, write your briefs, et
9 cetera.
10 The code anticipates that the applicant has the
11 right to present evidence. You have to have that in.
12 Otherwise, how do you prove your entitlement. Our
13 obligation is to prove entitlement to the development
14 request. That does not, part and parcel, now entitle
15 everyone in the public to hire a lawyer and then
16 engage in, we'll have -- maybe we can -- how do we
17 decide how many parties there are to it?
18 Because now what's happened is because of the way
19 this Commission has allowed these proceedings to be
20 conducted, when parties have been created, now they're
21 calling themselves parties to the proceedings and
22 there are no parties to the proceeding. It's the
23 applicant and the public. But they rise to a higher
24 level now and what's happening is, I can tell you from
25 a practical standpoint, we're changing the rules of

1 standing. Because now, because you have a lawyer and
2 because you've been allowed to cross-examine at length
3 and present witnesses, et cetera, you just convert
4 this into a trial.
5 So I think your attorney is giving you good
6 advice because you're going to get on a slippery slope
7 and you're never going to be able to get back off of
8 it because, I guarantee you, somebody is going to be
9 enterprising and they're going to have their own
10 lawyer. So if eight people from the public have a
11 lawyer, you have eight parties -- nine parties,
12 because you have the applicant to the proceedings. I
13 think it is not, and I'll say this for the record, is
14 not a quid pro quo. It is not the case where somebody
15 has the right the same as the applicant.
16 The applicant has the burden of proof. It is
17 not, if you hire a lawyer, you have now just become
18 elevated to some other status other than a member of
19 the public.
20 With that having been said, I don't think Ms.
21 Philcox has yet been sworn in.
22 MR. WOLFE: Please state your name for the
23 record.
24 MS. PHILCOX: Patty Philcox.
25 MR. WOLFE: Do you swear the testimony you give

1 today will be the truth, the whole truth and nothing
2 but the truth?
3 MS. PHILCOX: I do.
4 MR. WOLFE: Thank you.
5 MR. MULICK: Would you spell your last name,
6 please, Ms. Philcox.
7 MS. PHILCOX: It's P-H-I-L-C-O-X.
8 MR. MULICK: Ms. Philcox, are you affiliated with
9 Walgreen's in any way?
10 MS. PHILCOX: Yeah. I manage the Walgreen's
11 store here in Marathon.
12 MR. MULICK: And how long have you been doing
13 that?
14 MS. PHILCOX: Managing this store?
15 MR. MULICK: Yes.
16 MS. PHILCOX: About seven years.
17 MR. MULICK: How long have you been with
18 Walgreen's?
19 MS. PHILCOX: Sixteen.
20 MR. MULICK: As part of your duties, do you,
21 among other things, determine hours of operation?
22 MS. PHILCOX: Yeah.
23 MR. MULICK: By the way, are you proposed or is
24 there some reason to believe you might become the
25 manager of this site if this is approved?

1 MS. PHILCOX: Yes.
2 MR. MULICK: If that is the case, could you tell
3 us a little bit about how your deliveries function and
4 how your deliveries at this proposed site would be
5 handled?
6 MS. PHILCOX: Okay. We get our deliveries here
7 at this store twice a week, but I believe in Big Pine
8 it would be once a week. And we do get, we can get
9 our deliveries before we open. You know, as long as I
10 don't have a problem with it, then there's no problem
11 with that. So there, you know, there shouldn't be any
12 traffic problem with our trucks.
13 MR. MULICK: What about your -- oh, I'm sorry.
14 What about your hours of operation?
15 MS. PHILCOX: Our hours are going to be eight to
16 ten, seven days a week.
17 MR. MULICK: Nothing further. Thank you, Ms.
18 Philcox.
19 COMMISSIONER PUTNEY: Did we have a question over
20 there?
21 CHAIRMAN RITZ: Sure. Well, you want to -- well,
22 we're actually into public comment, so we can do it
23 either way, if it's a relevant question.
24 COMMISSIONER WERLING: Well, I didn't know about
25 if we can make her come back. With the deliveries,

1 you're only getting deliveries from that store, from
2 one delivery company?
3 MS. PHILCOX: With the tractor-trailer, yes. Is
4 that what you're asking me?
5 COMMISSIONER WERLING: That's the only delivery
6 you're counting is the tractor-trailer delivery?
7 MS. PHILCOX: We have one, we have one warehouse
8 delivery, yes.
9 COMMISSIONER WERLING: Okay. So other deliveries
10 come at different times in different size vehicles?
11 MS. PHILCOX: Well, your like, Coca-Cola and
12 things like that will come. They come from a
13 different company. And I, we can specify when they
14 should come, yes.
15 COMMISSIONER WERLING: So other than the tractor-
16 trailer delivery, about how many other truck
17 deliveries of varying sizes?
18 MS. PHILCOX: Probably six.
19 COMMISSIONER WERLING: A week? A day?
20 MS. PHILCOX: A week.
21 COMMISSIONER WERLING: A week. Yeah, six. Okay.
22 Thanks.
23 COMMISSIONER PUTNEY: I'm just curious, what are
24 the store hours in Marathon?
25 MS. PHILCOX: Our store hours are 24 hours.

1 MR. MULICK: Just to follow up on that question
2 maybe by way of clarification.
3 You said there would be one truck. Is that an
4 outside purveyor or is that a Walgreen's truck?
5 MS. PHILCOX: That is Walgreen's. That is our
6 Walgreen's trailer truck.
7 MR. MULICK: And these others would be what?
8 MS. PHILCOX: Coca-Cola, Pepsi, Frito-Lay, things
9 like that.
10 COMMISSIONER PUTNEY: And does that number of
11 deliveries, the outside deliveries, the non-Walgreen
12 deliveries, does that number include the number of
13 deliveries to the liquor store part of the Walgreen's
14 in Marathon?
15 MS. PHILCOX: There would be -- no, there are
16 three, three liquor trucks that come to Marathon.
17 COMMISSIONER PUTNEY: A day? A week? A month?
18 MS. PHILCOX: They come twice a week.
19 CHAIRMAN RITZ: That's in addition to the six
20 that you mentioned earlier?
21 MS. PHILCOX: Right. I was speaking companies, I
22 wasn't speaking days.
23 CHAIRMAN RITZ: That's fine. Thank you.
24 MR. MULICK: Thank you, Ms. Philcox. Nothing
25 further.

1 CHAIRMAN RITZ: So now would be appropriate for
2 Mr. Rohe to --
3 MR. WOLFE: That would be fine. Again, I want to
4 clear, clarify for the record. What we're trying to
5 do here is conduct this as the code provides as a
6 development review hearing. It's not a trial. I
7 think that the applicant here, we can give the
8 applicant wide stretch in putting on their case and I
9 think we've typically afforded people opposing it a
10 fair amount of discretion, as well. And I think
11 that's what we're trying to do here and I think that
12 when opposition comes prepared to put on their
13 witnesses and examine them, I think that's
14 appropriate, and I think that provides the Commission
15 with the full basis of, the full ability to come up
16 with findings of fact.
17 COMMISSIONER PUTNEY: I think we should clarify
18 what the rules are and make a decision what they are
19 exactly and give some kind of lag time. Because two
20 weeks ago, we did -- it was partly the fairness issue
21 where they come, they bring expert witnesses, they sit
22 here all day paying them, paying the attorneys. And
23 if we had had this discussion two weeks ago and
24 clarified the rules that we were going to follow two
25 weeks from now or a month from now or whatever, I

1 probably would have researched some of my comments.
2 COMMISSIONER MARGALLI: I don't have any problem
3 with following the code, but I do have a problem with
4 somebody getting a fax the day before -- as an
5 attorney, I wouldn't want to get a fax the day before
6 by the court telling me how to present my case. I
7 would have wanted a little bit more notice. However,
8 the rule is a rule.
9 MR. WOLFE: Well, and I think the authority --
10 COMMISSIONER PUTNEY: Yes, but there is case law,
11 Snider (ph) and after Snider that --
12 COMMISSIONER MARGALLI: Well, that is -- I mean,
13 I'd like to see the case. I mean, I haven't seen that
14 case. I know Mr. Rohe cited to a holding, but I
15 haven't read it.
16 COMMISSIONER PUTNEY: We've passed it around.
17 We've got copies. I'll bring you copies next time.
18 COMMISSIONER MARGALLI: Well, I haven't read it.
19 I don't know what it --
20 MR. WOLFE: And historically, up until the last
21 couple months, there has not been this cross-
22 examination. The only exception has been on appeals.
23 COMMISSIONER MARGALLI: Well, John, I can tell
24 you, when I appear before a commission, I cross-
25 examine witnesses and historically, I did it on the

1 other side in Mr. Rohe's position, so --
2 COMMISSIONER PUTNEY: That was my experience,
3 also.
4 COMMISSIONER MARGALLI: -- so this is new to me,
5 because I wasn't taken aback when there was cross-
6 examination last time. I see the rationale now for
7 not having it, but I was never under the impression
8 that that's not the way it always occurred. That's --
9 because I did it myself when I fought before. You
10 know, actually, I cross-examined staff --
11 COMMISSIONER PUTNEY: It's always been that --
12 COMMISSIONER MARGALLI: -- I think, last time
13 when I had an administrative appeal, which was quasi-
14 judicial, and there was no opposition from the people
15 that were up her when I did it.
16 MR. WOLFE: Well, as I just mentioned, appeals
17 have always been subject to cross-examination.
18 Appeals are handled differently.
19 COMMISSIONER MARGALLI: Well, it's quasi-judicial
20 and is this considered quasi-judicial, too?
21 MR. WOLFE: It is, but it's -- but the rules of
22 procedure are governed under the procedures for
23 development approval as opposed to an appeal, which
24 are handled in a different section.
25 COMMISSIONER MARGALLI: But there's nothing in

1 the code that says that you can cross-examine if it's
2 quasi-judicial and it's an appellate area, right?
3 MR. WOLFE: No, but there's no restriction
4 against it. There is a restriction on it in here.
5 COMMISSIONER MARGALLI: Well, I, that's still,
6 therein lies the problem. I mean, I think that is a
7 problem.
8 COMMISSIONER PUTNEY: Well, I think we should
9 move forward today with what we've decided, but in
10 deference to you, the technical -- it was an
11 administrative appeal, the No Name Key electricity.
12 It was a -- the applicant was appealing and we were an
13 interested party.
14 MR. WOLFE: And I have in the past advised the
15 Commission that I think cross-examination is
16 appropriate in appeals. I've fully supported
17 counsel's request for that because I think it is
18 appropriate and may be required.
19 COMMISSIONER MARGALLI: Mr. Rohe's case that he
20 cited, John, is that dealing with -- is that dealing
21 with an appeal or is that dealing with the same type
22 issue we're dealing with today, do you know?
23 MR. WOLFE: The last time I read that case was
24 about five years ago for a different reason, so I
25 don't -- I don't know.

1 COMMISSIONER MARGALLI: Okay.
2 MR. WOLFE: He said it was for zoning, but I
3 don't know.
4 MS. CONAWAY: And let me just jump in a minute.
5 Up until the last few months, we didn't have cross-
6 examination, since I've been here anyway, as far as in
7 these type of cases. Yet it didn't come up. I think
8 the fact that we have had, you know, an attorney come
9 on is helping some of these other cases, as well.
10 COMMISSIONER MARGALLI: I don't think it's a good
11 idea to have cross-examination. However, I don't --
12 I'd like to know what the law is before we do
13 something improper and don't allow cross-examination.
14 That's all. That's my only point.
15 MR. WOLFE: Right. And I did check with the
16 county attorney on this and we'll, I'll get back with
17 the county attorney and --
18 COMMISSIONER COLEMAN: Well, right now, you gave
19 us this 9-46, right, 9.5-46, and it marches right on
20 through the proceeding.
21 COMMISSIONER MARGALLI: Yeah, but that's not the
22 case law. I mean, the code is superceded by --
23 COMMISSIONER COLEMAN: The only case law will be
24 decided on those particular codes, right? You can
25 provide due process and a fair hearing in a million

1 different administrative ways and every county can
2 have a different rule, okay. They will look at it and
3 see what that particular county does, what needs to be
4 done. So Hillsborough County can have a procedure
5 that differs from ours and yet both of them are
6 constitutionally adequate.
7 MR. WOLFE: Right. But I want to make clear that
8 I want any opposition, Mr. Rohe and any other
9 opponents to be able to fully put on, you know, what
10 their relevant opposition is. I do not want to breach
11 their rights in any way on that.
12 CHAIRMAN RITZ: Why don't we do that right now.
13 Mr. Rohe.
14 MR. ROHE: Lee Rohe again. You know, I thought
15 that by having an adversarial proceeding that it
16 helped the decision maker because presumably, in our
17 legal system, that's how we get at the truth. That's
18 how we test whether somebody makes a statement that is
19 false or true, through cross-examination. It's part
20 of our procedural due process. It is so embedded in
21 our law that it's, it's -- in all the US Supreme Court
22 decisions, all the federal court decisions, procedural
23 due process includes notice, opportunity to be heard
24 by cross-exam. At any rate, I'll stop making my
25 speech.

1 But the case that I cited for Commissioner
2 Margalli's information was Jennings v. Dade County and
3 that's 589 So. 2d 1337. If somebody can get on line
4 with the computer library here in the building, they
5 could pop it out. I didn't bring it with me because I
6 didn't anticipate this coming up. I had to phone in
7 and get the citation. But it says, "In quasi-judicial
8 zoning proceedings, the parties must be able to
9 present evidence, cross-examine witnesses, and be
10 informed of all facts upon which the Commission has,"
11 unquote.
12 By the way, the attorney that brought that case
13 is now in the Third District Court of Appeals, a
14 judge.
15 COMMISSIONER COLEMAN: What was the cite again,
16 Lee?
17 MR. ROHE: It is 589 So. 2d 1337, Third District
18 Court of Appeals decision. We're in the Third
19 District Court of Appeal here, for the layman.
20 But, as far as getting to our proffered cross-
21 exam questions, the ones that I wanted to ask of Mr.
22 Eichinger had to do with the trip generations for
23 Scotty's, the ITE trip generation rates for Scotty's,
24 and how many studies have been done on that, the dates
25 of those studies and the locations of those studies.

1 Same questions for ITE trip generation for
2 Walgreen's, how many studies have been done for that,
3 the dates and location of those studies.
4 And then also, the passerby studies. Passerby
5 studies are extremely difficult. What studies have
6 been done on passerby, people that drop into a store
7 while they're going by. They just suddenly by impulse
8 think, oh, I've got to go in to Walgreen's and buy
9 some aspirin. How many situations are like that.
10 Again, we're using a 49 percent, a very specific
11 figure to give Walgreen's a break on traffic
12 generation. The only way that you can determine
13 passerby vehicles is you have to go and interview the
14 people that actually were driving by and then went to
15 the store on an impulse. There are very few of those
16 studies done and I'd like Mr. Eichinger to tell us
17 about those studies, if he can.
18 Have there been any localized counts done on
19 Walgreen's? In other words, have they gone to the
20 Walgreen's in Marathon or Key West or somewhere else
21 and put out the rubber hose and done a count on
22 vehicles to see whether Walgreen's knows how many cars
23 it actually generates. Because remember, here again,
24 these figures that you're getting are generic.
25 They're coming out of the ITE manual which is derived

1 from many different types of sources. I'll let our
2 expert tell you. But they deal with metropolitan
3 areas on the west coast of the United States.
4 For example, the business of the other questions
5 I had, had to do with the, why they didn't do a local
6 study. And the business of trucks, Mr. Eichinger
7 testified about the trucks coming in through the
8 driveway off of Key Deer Boulevard here and how they
9 would have to come along and swing out towards the
10 center of Key Deer Boulevard -- I'm sorry, swing out
11 towards the center of Key Deer Boulevard and come into
12 the driveway that way because it's a tractor trailer,
13 so he's got to maneuver this long trailer behind
14 himself. There is no middle lane for doing that on
15 Key Deer Boulevard the last time we checked, so we had
16 some questions about that.
17 We had some questions about how many other
18 deliveries were going to be made besides just the
19 truck that says Walgreen's on the side, and I think
20 the Commissioners have touched upon that when they
21 found out, uh-oh, there's a Coca-Cola truck coming,
22 there's a liquor truck coming, God knows how many
23 other trucks are coming.
24 I can tell you from Internet research that the
25 average Walgreen's store, and maybe your Walgreen's

1 witness will confirm this, that the average Walgreen's
2 store carries about 20,000 different items of
3 merchandise. So that's a lot of deliveries or a lot
4 of trucks bringing a lot of stuff.
5 Any other questions for Mr. Eichinger, I wanted
6 to know the site plan that he was using because the
7 date on this one is 5/29/03, and I guess if I'm wrong
8 I'll be corrected at some point, but the one that we
9 had was dated 5/28/03. And if you look up on here on
10 the site plan there's a note that says, "Scheduled
11 deliveries by Walgreen's trucks shall be once a week.
12 Deliveries shall enter and exit the side via Key Deer
13 Boulevard and provide minimal conflict with vehicular
14 traffic to the site. Other deliveries shall be by
15 local vans and will not conflict with on-site
16 circulation for drive-through traffic access around
17 the building."
18 Well, that's not very specific, other deliveries
19 by local vans. We've already heard there's Coca-Cola
20 trucks and liquor trucks coming. So we would submit
21 that there's going to be a lot of conflict on the
22 property between delivery trucks and traffic.
23 There was a, if you recall, a URS letter from Raj
24 dated May 7th, page two, made reference to -- the
25 second paragraph. He talks about, "According to the

1 vehicle turning path shown on the site plan," this is
2 URS's letter, "the curbe radii of both driveways will
3 have to be increased. Further, the design vehicle
4 maneuverability only shows delivery vehicles entering
5 from Key Deer and exiting on US-1. If the intent is
6 to restrict trucks from taking other travel paths, how
7 is it going to be enforced?" Good question. Et
8 cetera. So he talks about the ASHCO (ph) standards.
9 This letter then, I understand, prompted or was
10 supposed to prompt a revision in the site plan, but I
11 don't know whether Mr. Eichinger revised his site plan
12 on the basis of this May 17 URS letter or not. So
13 those are my questions for that purpose.
14 For Ms. Philcox, the Marathon Walgreen's manager,
15 I was merely going to ask her about the size of the
16 inventory for the store in Marathon and ask her more
17 about the deliveries that occur there. Whether a
18 local traffic study was ever done for that Walgreen's
19 or whether she knows of one. And to ask her a little
20 bit more about -- I think she said three liquor trucks
21 twice per week, I believe that was. I'm not clear. I
22 don't know if I wrote it down correctly, but those
23 were my questions for cross-exam. Thank you.
24 CHAIRMAN RITZ: Do you have any witnesses you
25 wish to call?

1 MR. ROHE: I do. I'd like to call Ms. Eanes.
2 CHAIRMAN RITZ: All right. Lee, while you're
3 getting ready, Mr. Mulick? Mr. Mulick?
4 MR. MULICK: Yes.
5 CHAIRMAN RITZ: If -- there has been a number of
6 questions that have been presented to the Commission.
7 If your witnesses are ready to answer them now, we'd
8 be willing to hear from that now or --
9 MR. MULICK: It will probably be easy to do that.
10 COMMISSIONER PUTNEY: It would be easier for us
11 to remember.
12 MR. ROHE: There's another microphone.
13 MR. MULICK: Why don't we have Mr. Eichinger come
14 up. I know we had another microphone.
15 MR. ROHE: We had another microphone up here
16 since.
17 MR. MULICK: I think the first -- well, one of
18 the questions had to do with the trucks that were
19 coming in and the fact that there would be no way of
20 controlling how many or why there was a distinction
21 between the large truck, the tractor-trailer and other
22 trucks.
23 Let me just give you a perspective on it and
24 that's why that note was there. And Mr. Eichinger
25 can, I think, can show us here.

The way it's configured is the trucks come in, they go around the drive-through. They come down, the tractor-trailer comes down and then backs in. The smaller trucks don't have to do that. They come around, they pull over here and then back in out of the travel way. That's why the significance was the tractor-trailers. They're too large to do that.

The other trucks, there's enough space here. They simply come around, pull here out of the travel way and just back in. We thought that was self evident. That's why we talked about these other trucks coming in being vans and other vehicles. I apologize that we didn't make that clear. And I should, perhaps, on our initial presentation have asked Mr. Eichinger to elaborate on that.

COMMISSIONER PUTNEY: Mr. Mulick? Am I on?

CHAIRMAN RITZ: Yes.

COMMISSIONER PUTNEY: All right. Walk me through the truck that's backed up, the semi truck.

MR. EICHINGER: Let's bring the site plan up there.

COMMISSIONER PUTNEY: Bring it out. We can see it.

CHAIRMAN RITZ: No, you're just going to block TV.

MR. EICHINGER: Okay. They're coming off US-1, turning left into this driveway. Could you see these dotted lines here? Okay. This is -- follow the dotted lines, they're coming down here, now they're headed south. They're going to have to go down to this point. Here's your loading zone right here next to the building and on your site plans you have in your kit, you might see a square box there that's dashed, a dashed line. That's showing the position of a truck unloading in the loading zone.

So when a semi comes around this way, he has to stop, of course, a southern movement, and then he gets ready to back up into here.

COMMISSIONER PUTNEY: We've got that part very clear. You've gone over that three times.

MR. EICHINGER: Okay.

COMMISSIONER PUTNEY: Now he's backed up. Pull him out.

MR. EICHINGER: Well, then he pulls out, makes a left turn around the south side of the building, comes up through this driving aisle, up through here, back out to the driveway that he came. This driveway is nice and wide. Then he has to wait for traffic to clear both northbound and southbound on Key Deer Boulevard, and then he's going to have to swing over

here into the northbound lane a little ways. And this whole maneuver is just seconds. And then he's back in the southbound lane again.

Not very uncommon at all for semi-trucks to do those kinds of maneuvers. For example, the Walgreen's in Marathon here, their loading zone is right off of US-1 and for a truck to back into their loading zone, a big semi-truck, they actually have to use part of the lane on US-1, it appears, and also go across the sidewalk and before they can get access to their loading zone. So it's not unusual for commercial businesses to, for truck drivers and large articulated vehicles to have to move outside the regular limits of the travel lanes to get done what they need to get done.

COMMISSIONER PUTNEY: Thank you.

MR. MULICK: So that it's clear, that happens once a week with the large tractor-trailer. The others, as I said, will not become an obstruction. We designed the loading area large enough to accommodate all of the other vehicles.

Were there some other issues or questions that specifically you'd like us to respond to?

CHAIRMAN RITZ: There was a series of questions related to specific traffic studies in the Keys or on

1 this site or on the other site, the other Walgreen's
2 site.
3 MR. EICHINGER: As it has to do with rates, you
4 mean?
5 CHAIRMAN RITZ: Trip rate, right, as opposed to
6 pulling them out of the ITE. Is there anything
7 locally that's been done?
8 MR. EICHINGER: Not for -- not for drugstores.
9 What's different about the Walgreen's site in Marathon
10 and Key West, they're both in an urban environment.
11 This is a rural store. So even using a surrogate
12 store that's close by, the rates are going to be a
13 little bit different.
14 What I'm saying about the ITE rates is that they
15 -- and I don't, to answer the question about how many
16 studies were done, I don't know. I didn't bring that
17 material with me. It's all printed in the Trip
18 Generation Manual. I know they started doing,
19 gathering this data back in the late seventies all
20 across the US. Possibly the majority of these studies
21 have been done on the west coast of the US. We don't
22 know what condition the stores are in, whether they're
23 in an urban environment or rural environment. And
24 unless we go out and do a surrogate study, which are
25 quite pricey, we've been using the ITE rates and have

1 been for years and years and years.

2 There was also a comment about pass-by rates.

3 Pass-by rates are not only just rates on the road and

4 you just all of a sudden see a store and just turn in

5 there. That's not what I mean by a pass-by rate.

6 A pass-by rate is a, this is a stop you make on

7 your trip from home to work or from work to home.

8 This is just a stop along the way that you plan to do,

9 like going to the bank. How many people just leave

10 their house, go to the bank, make a deposit and go

11 home again? It's usually done while we're out doing

12 other things.

13 It's the same way with, say you call in a

14 prescription and you want to drive by the window on

15 your way home and you just run up here, you go by the

16 -- into the drive-through, pick up your prescription

17 and you can head on home. Those are pass-by rates.

18 COMMISSIONER PUTNEY: Would pass-by rates be the

19 same for all of the things in the ITE manual, in the

20 same category?

21 MR. EICHINGER: It is for pharmacies, and that is

22 a printed document in the ITE journal.

23 COMMISSIONER PUTNEY: So would it be, would it be

24 the same pass-by rate for a liquor store, same pass-by

25 rate for a --

1 MR. EICHINGER: No, they're all different.
2 COMMISSIONER PUTNEY: -- a convenience store?
3 MR. EICHINGER: Yeah, they're all different.
4 Convenience stores have a little higher pass-by rate.
5 They're up around 55 percent, as I recall. Gas
6 stations are around 70-some percent. Very few people
7 get in their car and go to the gas station, gas up and
8 go home. It's usually done when you're en route to
9 somewhere else.
10 There are no pass-by rates for Scotty's. Your
11 own traffic consultant and I knew it wasn't, knew it
12 wasn't zero, and knew it wasn't anywhere near 49
13 percent. Usually, this is the people that have
14 projects to do or they're having projects to do. They
15 run up to the drugstore -- or, up to the Scotty's buy
16 a two-by-four and they go home and finish their
17 project. So there's a lot more primary trips there.
18 So we used and agreed to a number of 10 percent, but
19 that was just an assumption.
20 COMMISSIONER COLEMAN: Just to -- kind of think
21 about, was there any existing data that you had on the
22 current, any trip transportation studies on the
23 current study's usage? Do we know if they use semi-
24 trucks now?
25 MR. EICHINGER: They do use, they do use semi-

trucks now, and they use a lot more of them than what Walgreen's would use because they're handling big materials, four-by-eight sheets of plywood, you know, concrete, heavy-duty stuff that needs to be hauled around by big trucks.

COMMISSIONER COLEMAN: How do they enter and exit the property now?

MR. EICHINGER: They have the same driveway and I'm not sure where they're loading zone is.

COMMISSIONER WERLING: It doesn't go around --

MR. EICHINGER: So they come in either here or there. We did not study where their trucks come in.

CHAIRMAN RITZ: When you stated there would be fewer trips for the Walgreen's than the Scotty's, that was the Walgreen's with a liquor store, or without a liquor store?

MR. EICHINGER: Well, the ITE rates are not specific as to whether the drugstores do have liquor within them. I know Walgreen's typically does, so if any Walgreen's stores were studied, it's very possible that liquor was part of the, the use.

COMMISSIONER MARGALLI: Isn't Walgreen's more of a convenience store than a drugstore?

MR. EICHINGER: I wouldn't say that.

COMMISSIONER WERLING: Well, they sell milk and

1 bread and peanut butter.
2 MR. EICHINGER: Yeah.
3 COMMISSIONER MARGALLI: Budweiser.
4 COMMISSIONER WERLING: I mean, they're not --
5 they're not the old drugstore as we, us old people
6 think of a drugstore.
7 COMMISSIONER MARGALLI: It's, you could do your
8 full shopping.
9 COMMISSIONER WERLING: Right.
10 COMMISSIONER PUTNEY: You're saying that since
11 1972, drugstores have evolved to be convenience
12 stores?
13 COMMISSIONER WERLING: If I'm not mistaken, they
14 sell fishing lures and have an, you know, hour photo-
15 mat. I would think that they would be a combination
16 of a liquor store, pharmacy, --
17 COMMISSIONER MARGALLI: It's a hybrid.
18 COMMISSIONER WERLING: -- convenience store,
19 combo trip.
20 COMMISSIONER MARGALLI: The prices are too high
21 for drugs.
22 MR. EICHINGER: I know the Eckerd's next to where
23 I work in Miami, they have milk and bread and all
24 those things.
25 COMMISSIONER PUTNEY: And chips and wine and --

1 COMMISSIONER COLEMAN: So do the Walgreen's here,
2 okay.
3 COMMISSIONER WERLING: Right.
4 COMMISSIONER PUTNEY: Yeah, right.
5 COMMISSIONER COLEMAN: But, if we look -- I mean,
6 this one's going to have Coca-Cola, the Coca-Cola
7 truck's coming. It's not -- some people might think
8 it's a drug.
9 COMMISSIONER WERLING: The bait guy.
10 MR. EICHINGER: Wouldn't the opposite occur if
11 you could get all the things that you needed in one
12 stop?
13 COMMISSIONER COLEMAN: Well, but --
14 MR. EICHINGER: Stop here for drugs and --
15 COMMISSIONER COLEMAN: Well, but on the other
16 hand, wouldn't it increase that trip above just this
17 straight pharmacy figure?
18 COMMISSIONER MARGALLI: Sure.
19 MR. EICHINGER: I don't know. I do know that if
20 you could get a quart of milk and a loaf of bread and
21 then pick up your prescription, you've only made one
22 stop and you're not going out on US-1 anymore. So
23 with that scenario, you're probably reducing trips.
24 COMMISSIONER MARGALLI: That's at that particular
25 store. I mean, that wouldn't make any sense. I mean,

1 you know, it would probably increase --
2 COMMISSIONER COLEMAN: I mean, you've got to use
3 laws of common sense.
4 COMMISSIONER MARGALLI: Yeah, common sense.
5 COMMISSIONER COLEMAN: If you've got more things,
6 you're going to get more trips.
7 COMMISSIONER MARGALLI: Common sense, it's going
8 to increase it over what I guess we would typically
9 think as to be a pharmacy. But I'm not saying it's a
10 bad thing, I mean, obviously. I mean, but I --
11 COMMISSIONER WERLING: But it's more trips.
12 COMMISSIONER COLEMAN: I mean, I've been to the
13 Walgreen's and I bet 90 percent of my trips have been
14 for not a prescription.
15 CHAIRMAN RITZ: For not a prescription, right.
16 COMMISSIONER COLEMAN: And I know what they've
17 got in there and what they have in there and it's not
18 just, not just drugs. It's Cokes or whatever else.
19 CHAIRMAN RITZ: Do they have drugstores anymore?
20 COMMISSIONER WERLING: No.
21 CHAIRMAN RITZ: So if they don't, then the
22 drugstore category is exactly what we're talking
23 about.
24 COMMISSIONER MARGALLI: I don't know. I mean, in
25 Key West, we have real drugstores. There's small ones

1 in small towns that are not as --
2 COMMISSIONER PUTNEY: Dennis' Pharmacy.
3 COMMISSIONER MARGALLI: Dennis' Pharmacy.
4 COMMISSIONER COLEMAN: The Eckerd's and the
5 Walgreen's are group kind of things --
6 COMMISSIONER WERLING: Right. And Cobo's used to
7 be.
8 COMMISSIONER COLEMAN: -- and I would surmise
9 that --
10 COMMISSIONER WERLING: Actually --
11 COMMISSIONER COLEMAN: -- more than half the
12 people who walk in there aren't filling a
13 prescription.
14 COMMISSIONER WERLING: Actually, the Medicine
15 Shoppe that used to be a pure drugstore, went out of
16 business in Big Pine recently.
17 COMMISSIONER PUTNEY: Not because of that,
18 though.
19 CHAIRMAN RITZ: All right. Are there any other
20 questions for the traffic engineer?
21 MR. MULICK: I just wanted to, for the record,
22 perhaps try to clarify the issue.
23 Regarding the types of trips that you see from a
24 Walgreen's or a typical pharmacy of this nature as
25 compared to a Scotty's, would you see most of these

being primary trips or would they be pass-by trips, one relative to the other?

MR. EICHINGER: Well, yes. Scotty's is more of a primary trip kind of a place. Like I said before, it's, you know, if you have a project, you go up and get a board and come home and finish your project. Walgreen's is more of a trip, about 49 percent of actually all of their daily trips, peak-hour trips are pass-by trips, a stop along the way.

MR. MULICK: Nothing further. Though you may have other questions.

CHAIRMAN RITZ: I think we're done with our questions.

COMMISSIONER PUTNEY: I didn't write down the questions, but it seems to me that we got them.

CHAIRMAN RITZ: Okay.

MR. EICHINGER: Thank you. I'll be here.

CHAIRMAN RITZ: Thank you.

MR. MULICK: I don't know. Was there any question directed to Ms. Philcox? Do you want me to get her?

COMMISSIONER PUTNEY: You answered her questions.

CHAIRMAN RITZ: Yes. All right. Mr. Rohe, did you want to present any witnesses?

MR. ROHE: Somebody left their folder up here.

1 The one with the military secrets in it. Maybe we can
2 see if we can get you -- is there another microphone?
3 There it is. Okay.
4 If you would -- I'm Lee Rohe again. If you would
5 just state your name and address for the record.
6 MS. EANES: My name is Susan Eanes. I'm at Big
7 Pine Liquors, 30964 Overseas Highway in Big Pine Key.
8 MR. ROHE: How long have you --
9 MR. WOLFE: Lee, let me swear her in. Do you
10 swear the testimony you give will be the truth, whole
11 truth an nothing but the truth?
12 MS. EANES: I do.
13 MR. WOLFE: Thank you.
14 MR. ROHE: How long have you had that business?
15 MS. EANES: Almost 16 years.
16 MR. ROHE: Okay. And where is it located?
17 MS. EANES: Mile Marker 31, in case anybody
18 doesn't know where 30964 is.
19 MR. ROHE: Okay. And would you just briefly
20 describe your business, what type of inventory you
21 have?
22 MS. EANES: Okay. We are a package liquor store.
23 We sell fine wine, all kinds of spirits, beer,
24 cigarettes, the usual things that you would find in a
25 package store. We sell very little in the way of

1 sundries other than cup holders or potato chips or
2 those kinds of things, but primarily we are a liquor
3 store. That's what we do.
4 MR. ROHE: Okay. And why are you concerned about
5 the agenda item that we're here about today?
6 MS. EANES: Well, other than the obvious, when
7 this thing first came up, when I first saw this in the
8 newspaper, sure, I wasn't thrilled. Who would be?
9 The more I thought about it, however, the more I
10 realized that it was a lot more than just about me,
11 that it was about the community that I live in, that
12 I've lived in for 16 years, that I love my little
13 town. I like the rural quality of it. You heard that
14 today -- man, I had this nice speech prepared, but,
15 you know.
16 You heard that today from the planners discussed
17 earlier, what is it that people want from their town?
18 What is their vision for this town? And their vision
19 was to keep that small, rural atmosphere. They didn't
20 want a series of strip malls, of big box stores on the
21 way to Key West or Miami, depending upon what
22 direction that they're driving. That they wanted to
23 retain the mom-and-pop kind of status that exists,
24 that they like going around to their stores because
25 they know the people who own them and they know -- I

1 mean, I know my customers. I know their children.
2 I've watched them grow up, et cetera. So it becomes a
3 much more personal basis. It makes it very pleasant
4 for shopping, as well.
5 I also looked at the fact that I have employees,
6 they have families, and they are mostly homeowners by
7 the way, which is kind of rare, I think sometimes down
8 here. I also have, and I don't know if they're still
9 here or not, but I have salesmen who service my
10 account and I have a pretty good size account for some
11 of these folks. They're also local people. They also
12 live here and have families. Walgreen's does not get
13 serviced locally in that respect.
14 So what I realized is this thing had more of a
15 domino effect than just me. And the more I read about
16 it, I've always had -- before I moved here, I always
17 had this thing about the homogenization of America,
18 where I went -- I drove across country and I couldn't
19 tell where I was anymore. I couldn't tell if I was in
20 Texas or Arizona or California, which is where I came
21 from. And the thing I've always loved about the Keys
22 is you knew where you were. I know when I'm in
23 Islamorada. I know when I'm in Marathon, I know when
24 I'm in Key West. So it got a lot broader than that.
25 And the further I got into it, the more I realized

that I needed to come here today and to speak and to tell you how I felt. Please don't spoil our big town. We love little Big Time Key, as they call it.

There's one other thing that I will say. Some years ago, as you well know, there were certain corporation efforts that took place in the Lower Keys as well as some other areas. It was defeated in the Lower Keys for a variety of reasons. One of which, I think, was that people looked at the folks leading this as perhaps very pro development. I think they gave a very clear message that this is not the way they wanted to go. I think they were trying to say that they've trusted the county to do right by them and I think that the habitat plan that you've been looking at expresses a lot of those feelings.

And so I hope today I can ask you to do the same, is to continue that trust level for us and hear us out and hear what we have to say about our town.

COMMISSIONER MARGALLI: Can I ask you a question? I mean, the Scotty's that's there right now, I mean, isn't that a problem, too?

MS. EANES: No.

COMMISSIONER MARGALLI: I mean, what's the difference between a Scotty's and --

MS. EANES: Have you ever been in Scotty's

1 parking lot?

2 COMMISSIONER MARGALLI: Well, I try not to go to

3 Scotty's, but I --

4 MS. EANES: I rest my case. I mean, if they were

5 to do -- if I could have afforded to do a real traffic

6 study, I would loved to have done one, because you can

7 go by Scotty's parking lot and there are not a lot of

8 people in it.

9 COMMISSIONER MARGALLI: How about the existing

10 Eckerd's that's there right now?

11 MS. EANES: Well, that was the other thing. Why

12 do we need a redundancy? We have a drugstore next to

13 something that we already have. I guess we kind of

14 hoped maybe the space would be better utilized for

15 something else.

16 Eckerd's is -- you know, everybody complains in

17 town about there's not enough business, so I can't --

18 I can't answer for them. It's just a small, quiet

19 town.

20 COMMISSIONER MARGALLI: I don't live on Big Pine.

21 That's why I was just asking.

22 MS. EANES: I know. It's a small, quiet town.

23 MR. ROHE: Let me see if I can ask, you're

24 involved with other local business owners in Big Pine?

25 MS. EANES: In a variety of places.

1 MR. ROHE: Different organizations?
2 MS. EANES: Yeah. I'm an active member of the
3 Lower Keys Rotary Club, Big Pine Lower Keys Rotary
4 Club and the Chamber of Commerce. I have other
5 activities involving Habitat for Humanity and pretty
6 much anything else anybody asks me to do.
7 MR. ROHE: Do you see a store, a mega-store like
8 Walgreen's coming into Big Pine Key as a threat at all
9 to your business, but other businesses in the
10 community?
11 MS. EANES: Yes. Walgreen's carries, as you said
12 earlier, fishing equipment, they carry pet supplies,
13 they carry milk, butter, eggs, et cetera. They carry
14 just about everything. Patio furniture, et cetera.
15 And one of the things that I've always liked about the
16 small business community is the money we make in this
17 community stays in this community. There's not a day
18 that goes by that somebody does not walk in my door
19 and say, we're having a benefit for, you can fill in
20 the blank. Some days it's four and five people.
21 We never say no, and that's why those things
22 happen and that's why it's a caring community. We
23 have not found quite the same level of cooperation
24 with the big chain stores. They say, well, you could
25 write to our corporate headquarters. How many people

1 actually have the ability or the time to do that?
2 When there's a golf tournament for the school or
3 the chamber or the rotary scholarship program, we just
4 had that two weeks ago, that's where the money comes
5 from, folks. It comes from us locally. And so when I
6 looked at what a large store does to a town our size,
7 5,000 people, what you find is that there's an
8 overlap. You wind up with a lot of redundancies and
9 who do you think is going to lose in that? Probably
10 the little guys who don't have big semis, necessarily,
11 pulling up to their businesses once a week full of
12 maybe 15 or 20,000 different items.
13 MR. ROHE: Have you had -- have you heard other
14 business owners express concern about --
15 MS. EANES: Oh, yes. I've spoken -- I spoke at
16 the Chamber and I spoke at Rotary. In fact, Rotary
17 canceled a meeting that they had scheduled for today
18 so that some of the members from Rotary could come or
19 just watch on television. And I did not get a lot of
20 support for a Walgreen's here. I really didn't. But,
21 you know, maybe they're just telling me what they
22 think I want to hear, too. I'm not naive when it
23 comes to that sort of thing.
24 What happens is big companies have a tendency to
25 be very centralized. Their accounting is elsewhere,

1 their printing is elsewhere, their advertising is
2 elsewhere, other than what's inserted in the little
3 paper. So this is money that goes out of the
4 community and, yeah, I have a concern about that.
5 MR. ROHE: Do the Commissioners have any
6 questions that -- I don't have any more.
7 COMMISSIONER PUTNEY: What hours are your store
8 open?
9 MS. EANES: We're open from eight a.m. to ten
10 p.m., funny, Monday through Saturday. Sunday we close
11 early, at nine o'clock, and we're closed only
12 Christmas.
13 CHAIRMAN RITZ: Thank you.
14 MR. ROHE: I'd like to -- is Sherry Phillips
15 here? My last witness had an afterthought. Do you
16 want her -- do you want to come back to the
17 microphone?
18 MS. EANES: If I may. There was one subject that
19 I may shed a little bit of light on, because I do have
20 some experience with it, and that was the number of
21 trucks per week.
22 When they were talking about that, I'm sitting
23 back there counting on my fingers, let's see, I have
24 this and -- I have a minimum of 15 trucks a week, and
25 they are not vans, for the most part. The beer trucks

and the soda trucks are semis. They're big trucks. You've seen the Coca-Cola truck and the Budweiser trucks. They're difficult to maneuver. The liquor trucks are big box trucks, but they're also good sized and I have a minimum of like soda trucks, the -- what else is there, oh, Frito-Lay, all of the other people, so there's a least, I would say I average between 15 and 20 deliveries a week, if that helps.

MR. ROHE: Okay. If you would, state your name and address for the record, please.

MS. PHILLIPS: Sherry Phillips, 29942 Harbor Lights Road, Big Pine Key.

MR. ROHE: Do you have a concern about --

MR. WOLFE: Lee, let me swear her in. Do you swear the testimony you give today will be the truth, the whole truth and nothing but the truth?

MS. PHILLIPS: I do.

MR. WOLFE: Thank you.

MR. ROHE: Do you have a concern about the Walgreen's proposed for Big Pine Key?

MS. PHILLIPS: I do. I think that the homogenization of the United States should stop at the Monroe County line.

MR. ROHE: I'm going to hand you a set of photos and ask you if you recognize these.

1 MS. PHILLIPS: This is the intersection of US-1
2 and Key Deer Boulevard.
3 MR. ROHE: Okay. And when were these taken?
4 MS. PHILLIPS: This morning.
5 COMMISSIONER PUTNEY: Who took them?
6 MS. PHILLIPS: George Wheeler, this particular
7 one.
8 MR. ROHE: Why were they taken, to depict what?
9 MS. PHILLIPS: That there is only two lanes on
10 Key Deer Boulevard, other than the turn lane at the
11 traffic light.
12 MR. ROHE: Okay. We have a copy for each
13 Commissioner if you'd like. I mean, some of you drive
14 this every day, maybe, but there's copies. And we'd
15 like that to be marked as Exhibit 1 for us.
16 COMMISSIONER MARGALLI: You have notes on the
17 back of this. Is that --
18 MR. ROHE: Oh, yeah. Maybe we could take out
19 that copy.
20 COMMISSIONER MARGALLI: Is that confidential?
21 MR. WOLFE: Lee, Lee, would you grab one for the
22 clerk, get one for the clerk for the exhibit.
23 MR. ROHE: Give one to the clerk?
24 MR. WOLFE: The clerk for the exhibit, right.
25 MR. ROHE: This one's got the writing on it.

1 MS. PHILLIPS: There should be enough for the
2 council and Nicole.
3 MR. ROHE: We'll have to get one back for you.
4 COMMISSIONER PUTNEY: They're all the same, so we
5 could just --
6 MR. ROHE: Yeah, we --
7 COMMISSIONER PUTNEY: -- pass them out and make
8 sure the clerk has one.
9 MR. ROHE: We did that so you could all look at
10 one time without passing it around. If we could have
11 one back.
12 MR. MULICK: Mr. Chairman, may I just address the
13 -- since we're sort of discussing procedure today,
14 there was a time when there was a strict rule about
15 introducing new evidence at these hearings. The
16 requirement is for the applicant to have their
17 materials submitted at a certain time and, you know,
18 we're getting materials the day of the event, unable
19 to respond to them.
20 Obviously, I'm going to look at this the best I
21 can, but, you know, I think we need to consider the
22 fairness. If the applicant is required to submit
23 their materials, there ought to be some way of having
24 a minimal period of time within which other materials
25 are submitted. People submit letters in advance, et

cetera. I just want to make that comment.

CHAIRMAN RITZ: Thank you.

MR. ROHE: Ms. Phillips, let me hand you another set of photos. Let's see.

MS. PHILLIPS: There is a picture here of US-1 looking east with the right-turn lane into the present Scotty's. There is a picture looking east, standing in the parking lot of the Scotty's showing the driveway that is up here that they're talking about. We've got copies for everybody, too. That's what this one is.

COMMISSIONER PUTNEY: Do you have one for Mr. Mulick?

MS. PHILLIPS: Yes. Yeah, we have them all. And then there's also a picture here of the loading zone for Eckerd's in the parking lot because it's looking south. And another picture, a bigger, wider view of looking east towards the Scotty's store on that north driveway. And then this is a picture of the Scotty's parking lot Monday afternoon at 1:30 in the middle of the day, there's three vehicles parked there.

This is a picture of Key Deer looking south with the right-turn lane into the Scotty's store. And again, the entrance into the Scotty's.

MR. ROHE: For what purpose did you take these

photos?

MS. PHILLIPS: Well, because of the -- I read the staff report on this change and they said that the traffic generated was going to be less than the present Scotty's store and I had to laugh because you can see, they might have a dozen people a day that go into that Scotty's store.

And also, I was concerned about the trucks when they said there was only going to be one truck every day. I was a little concerned where that was going to be. Or one truck a week, I guess.

MR. ROHE: I hand you another photo and ask you if that is covered by one of the photos you've already introduced.

MS. PHILLIPS: This is the intersection just showing this northbound lane on Key Deer from the highway that the marine, at Marine Bank.

MR. ROHE: Okay. What I'd like to do then is just have these admitted as Composite Exhibit Number 2. All of these photos were taken within the last day or two?

MS. PHILLIPS: Yes.

MR. ROHE: Thank you. I have no further questions for this witness.

CHAIRMAN RITZ: Thank you. Mr. Mulick, did you

1 have any questions you wished to offer to us?
2 MR. MULICK: I'll address those later. Thanks
3 anyway.
4 CHAIRMAN RITZ: All right. We are open for
5 anyone from the general public that wishes to speak.
6 Yes, sir?
7 MR. ROHE: I had, I did have some --
8 CHAIRMAN RITZ: I'm sorry.
9 MR. ROHE: I had an expert witness, two expert
10 witnesses.
11 CHAIRMAN RITZ: Oh, please. I'm sorry. I
12 misunderstood you.
13 MR. ROHE: If we could have Cheryl Bower. Wait a
14 minute. Get sworn in first.
15 MR. WOLFE: Please state your name for the
16 record.
17 MS. BOWER: My name is Cheryl Bower.
18 MR. WOLFE: Do you swear the testimony you give
19 today will be the truth, the whole truth and nothing
20 but the truth?
21 MS. BOWER: Yes.
22 MR. WOLFE: Thank you.
23 MR. ROHE: What is your address, please?
24 MS. BOWER: 115 West Plaza Del Lago. That's
25 Islamorada.

1 MR. ROHE: And what is your occupation?
2 MS. BOWER: I'm a land use consultant.
3 MR. ROHE: And how long have you been a land use
4 consultant?
5 MS. BOWER: I've been a land use consultant for
6 two years. I've been in the planning profession for
7 17.
8 MR. ROHE: And what type of degrees do you have?
9 MS. BOWER: I have --
10 CHAIRMAN RITZ: Mr. Rohe, if the questions are
11 relating to her being an expert, we acknowledge she's
12 an expert witness.
13 MR. ROHE: Okay. Thank you. Have you had an
14 opportunity to review the file pertaining to the
15 Scotty's application for Walgreen's on Big Pine Key?
16 MS. BOWER: Yes, I have.
17 MR. ROHE: And what have you reviewed that for,
18 against what criteria?
19 MS. BOWER: I reviewed it against the
20 comprehensive plan and land development regulations.
21 MR. ROHE: And have you found any, any particular
22 items or issues with regard to that review?
23 MS. BOWER: Yes. I found a number of them. If
24 you'd like, I'll go through them all.
25 MR. ROHE: Okay.

1 MS. BOWER: Okay. The first thing I had a big
2 concern about was the process of this, because this
3 reached the Planning Commission -- the time. The
4 completed file was only available one week before it
5 came in front of you. New plans were only submitted
6 and available to the public on June 3rd. And I didn't
7 understand why a staff report dated 5/29 could be
8 reviewing plans that were revised and submitted to the
9 county on June 2nd.
10 The DRC. The planning department only decided
11 within the last week that this project was subject to
12 a DRC review and I'm questioning how they could
13 schedule a DRC, get the plans to the appropriate
14 people that review it, and have this meeting the day
15 of the actual Planning Commission meeting. That's not
16 typical of a review, especially for such a high-impact
17 project.
18 Then I questioned whether or not this is really
19 an amendment to a conditional use. 9.5-72 effective
20 issuance of conditional use approval, "Approval for a
21 conditional use shall be deemed to authorize only the
22 particular use for which it was issued." I think
23 there's some -- you can bring up some concerns that if
24 you take out a low-intensity hardware store and you
25 turn it into what we've all decided almost is a

1 convenience store, one of the highest-intensity uses
2 you can get, is the exact same particular use that the
3 original conditional use is based on.
4 This is a new development and to approach it as
5 an amendment to an existing development really assumes
6 that there was something on the property. They're
7 taking everything down and rebuilding from scratch
8 and, you know, what's the difference. While
9 amendments are typically looked at and then they're
10 scrutinized at a lot lower level than when you're
11 coming in with a totally new project.
12 I also looked at the conditional use process,
13 9.5-61. Conditional uses are those uses which are
14 generally compatible with other land uses permitted in
15 the land use district but which require individual
16 review of their location, design configuration, and
17 the imposition of conditions, or to ensure the
18 appropriateness of a use at a particular location."
19 Is the development of a major drugstore intended
20 to serve the local residents, and that's what the
21 purpose of the suburban commercial district is, right
22 next door to an existing drugstore an appropriate use?
23 Especially if you consider that there is only a finite
24 amount of commercial space available on Big Pine Key,
25 should we be regulating or utilizing that space for a

1 use that's already well represented within the
2 community of 5,000? I mean, it doesn't make sense
3 from a planning standpoint or even a logical
4 standpoint to approve this project in this location.
5 I looked at it from 9.5-63, authorized
6 conditional uses, and I just want to remind the
7 Planning Commission, as a planner, I would look at
8 this and remember that conditional uses do not
9 constitute an authorization or an assurance that such
10 a use will be approved. You do not have to approve a
11 conditional use.
12 And further, (c) under 9.5-63, "The Planning
13 Commission is empowered within its review of
14 conditional uses to deny any applications which may
15 not be appropriate with any particular planning area
16 in the context of surrounding properties and
17 neighborhoods."
18 I also looked at the standards applicable to all
19 conditional uses. It's not consistent with the
20 comprehensive plan. And I've gone through this before
21 in past similar projects where objective 9.5 or what
22 it requires is that the conditional use is consistent
23 with purposes, goals, objectives and standards of the
24 chapter. Objective 105.1, "Monroe County shall permit
25 small growth initiatives and in connection with its

1 Livable CommuniKeys and land acquisition programs
2 which are more innovative and flexible development
3 processes to preserve the natural environment and
4 maintain and enhance the community character and
5 quality of life."
6 I don't know how approving a Walgreen's right
7 next door to the Eckerd's is going to maintain or
8 enhance the community character and preserve the
9 quality of life.
10 MR. ROHE: Let me ask you a question. If there's
11 a community with 5,000 people like Big Pine Key, would
12 two large drugstores be serving the needs of the
13 community?
14 MS. BOWER: I'm not qualified to answer that
15 question, but common sense would have it, if you have
16 40,000 square feet of drugstore or convenience store,
17 whatever it is, that's more than what a population of
18 5,000 people would be required to have. Especially
19 when, again, the purpose of the suburban commercial is
20 to provide location for development that services the
21 immediate planning area and, in addition to that, it's
22 supposed to be accessible from, not from US-1.
23 I went through the Livable CommuniKeys and I
24 don't think it is consistent with the Livable
25 CommuniKeys. As I mentioned before in the previous

1 discussion, I went through the Livable CommuniKeys,
2 over and over again, maintain the rural character,
3 maintain small businesses. I don't think this project
4 does that.
5 We also have the Corridor Enhancement Plan and
6 it's really too bad that this project is coming before
7 you before the Corridor Enhancement Plan and the
8 Livable CommuniKeys. Because if you reviewed the
9 Corridor Enhancement Plan, you would see that this
10 project is clearly not one that is consistent with
11 this plan.
12 I looked at the elevations, I didn't see any
13 difference between the elevations that were provided
14 in this, in the file, with the elevations that I've
15 seen for Walgreen's all over South Florida. So, you
16 know, the planner, the staff planner did say that they
17 sat down and they tried to make it consistent. I
18 don't see where it happened. I don't see any of the
19 recommendations that were in this enhancement plan
20 being utilized in the elevations of the proposed
21 developments.
22 And, as a matter of fact, in that Corridor
23 Enhancement Plan, they show a photo of the Eckerd's
24 under non-contributing conditions and that is one that
25 doesn't make the community any better. And it says,

1 "Generic strip mall architecture is the enemy of
2 places desiring to have a unique community character."
3 So I would say that the project is the enemy of Big
4 Pine, desiring to have and maintain its rural
5 character.
6 MR. ROHE: Does this Commission have the
7 authority to, in a conditional use approval, to add
8 conditions regarding size of the structure, the look
9 of it, the design of it?
10 MS. BOWER: Yes, they do. And it's typical in
11 conditional uses to require -- many chains will work
12 with communities and they will totally change the look
13 of their, the style of their building to suit the
14 community character.
15 MR. ROHE: Did you see a community impact
16 statement?
17 MS. BOWER: I didn't, I didn't see a community
18 impact statement in the file. The staff report did
19 refer to a community impact statement, but there
20 wasn't one in the file. And the staff report did say
21 that they had addressed all the issues, but I don't
22 know how they could address the issues if there wasn't
23 a community impact statement done. And there was
24 nothing in the files that said that the requirements
25 of the community impact statement were relieved, that

they didn't have to do them.

MR. ROHE: Did you look at the site plan at all in terms of vehicular maneuverability on site?

MS. BOWER: Yes, I did. And I saw some concerns that maybe the other people didn't look at.

The problem is, is that right now, Eckerd's --

MR. MULICK: Mr. Chairman, she's testifying as an expert. She wasn't qualified as a traffic, --

MS. BOWER: I'm not talking about --

MR. MULICK: -- an on-site traffic engineer.

MR. ROHE: She's not -- I'm not trying to ask her about traffic engineering now. I'm asking her from a planning standpoint whether the site looks --

MR. MULICK: From a traffic standpoint, was the question.

CHAIRMAN RITZ: We understand that she's been qualified as a planner and anything she talks about with traffic or any other area, she's not, she's not qualified as an expert. I think we'll have to weigh that.

MR. MULICK: What purpose would be served by having the expert testimony on the record?

CHAIRMAN RITZ: She's an expert in planning, not in traffic.

MR. MULICK: Why would she be testifying about

traffic then?

COMMISSIONER COLEMAN: We've got three experts, right? Two planners, Craig and then Bower, and then we have Mr. Eichinger as the traffic --

COMMISSIONER PUTNEY: Let me ask the Chair a question. To meet the distinction, is she commenting on it from the site plan review as a planner review or from a traffic --

COMMISSIONER COLEMAN: Engineer.

COMMISSIONER PUTNEY: -- engineer? And that, to me, is the distinction. So --

MR. WOLFE: That was my gist of the question, was more of a, is the site plan or the access to it and so forth.

MS. BOWER: That's what I wanted to address.

CHAIRMAN RITZ: Please.

MS. BOWER: I've been reviewing development review for a lot of years and one of the things we do look at, because not every community can afford to hire a traffic engineer, is, is the site maneuverable.

And I was out on the site last week and I noticed that Eckerd's uses this area right here for their deliveries. Their large trucks, there was a semi there when I came in. The way this is configured now, Eckerd's, right now, there isn't a median here with

1 parking. There is parking, but it's not being
2 utilized. So the semi-trucks park across here.
3 With this median here now, they're going to block
4 the existing cross-access easement driveway and the
5 maneuverability of trucks trying to unload into
6 Eckerd's is totally -- is totally -- it doesn't work
7 anymore. So that's something that wasn't looked at.
8 I mean, you always look at what's going on on the
9 site that we're reviewing for approval, but we have to
10 look at the impacts on the site that's directly
11 adjacent. And in this case, I don't know how Eckerd's
12 is going to unload and load.
13 COMMISSIONER MARGALLI: Well, how do you know
14 it's going to be a problem?
15 I mean, if they just come around where they said
16 they were going to come around, I don't see that being
17 a problem to Eckerd's.
18 MS. BOWER: There's no way for them to back in.
19 COMMISSIONER MARGALLI: Why?
20 MS. BOWER: Because you've got -- you've got
21 trucks that are how many feet long and you've got an
22 access drive -- this is, this is how Eckerd, this is
23 how the people from Eckerd's get in and get out.
24 COMMISSIONER MARGALLI: Yeah, but they're not
25 stationary right there from where you pointed your

finger.

MS. BOWER: They come in right here.

COMMISSIONER MARGALLI: Yeah, they come in, but they're not --

MS. BOWER: No. This is where they back up. This is where they unload and load. So when I came in, there was a truck unloading and it's parked this way across the easement and actually, probably -- well, definitely encroaching onto the Scotty's property.

COMMISSIONER MARGALLI: Well, it still doesn't show me how the trailer or whatever, truck that's delivering to the Walgreen's is not going to be able to get to the Walgreen's.

MS. BOWER: No, I'm not talking about the Walgreen's. I'm talking about what this design is going to do to the availability of Eckerd's to function. And one of the questions is, how does -- or one of their requirements in looking at conditional uses, how does it impact the surrounding plans.

COMMISSIONER MARGALLI: Yeah, but you can't say how it's going to affect Eckerd's. You have no idea.

MS. BOWER: I know that Eckerd's unloads and loads right here now.

COMMISSIONER MARGALLI: Yeah. But you don't know

1 whether or not it's going to affect Eckerd's.
2 MS. BOWER: Well, shouldn't this be -- I'm posing
3 the question, this is something that should have been
4 looked at.
5 COMMISSIONER MARGALLI: Okay. All right. That's
6 -- okay. I misunderstood. I thought you said it was
7 going to affect Eckerd's.
8 MR. ROHE: Is there a drive-through at Walgreen's
9 that may conflict with the loading dock for Eckerd's
10 or is the drive-through not the issue?
11 MS. BOWER: No, it's not the drive-through. It's
12 the fact that they're putting a curbed median here
13 where trucks are parking right now.
14 COMMISSIONER COLEMAN: Well, but whose property
15 -- now, whose property are they going to put the
16 curbed median on?
17 MS. BOWER: The curbing is going on Walgreen's.
18 COMMISSIONER COLEMAN: Oh, okay, okay. And
19 that's going to interfere with Eckerd's use of
20 Walgreen's property?
21 MS. BOWER: That's going to -- that's going to
22 impact Eckerd's ability to do loading and unloading.
23 COMMISSIONER COLEMAN: To use Walgreen's
24 property?
25 MS. BOWER: Well, they must have had some kind of

agreement with Scotty's.

COMMISSIONER COLEMAN: Now, but my question is just --

COMMISSIONER PUTNEY: I think Scotty's owns Walgreen's property, if I'm not mistaken. I'm not sure who owns what.

COMMISSIONER COLEMAN: I'm just saying, I mean, that doesn't weigh a lot for me that -- I understand the impact on neighbors, but not that the neighbors right now gets to use the Walgreen's property and now -- Walgreen's property or Scotty's property --

MS. BOWER: Well, then make it then -- okay. Now we're reducing the loading zone for Eckerd's. So I think they should be cited and brought in because they don't have loading anymore.

COMMISSIONER MARGALLI: Well, that's their problem.

MS. BOWER: Well, you know, it's something the Planning Commission has to consider, what are you doing to the surrounding properties. You're creating, you're creating a conflict.

MR. ROHE: Page four of the master plan, draft two for Big Pine Key, refers to commercial development limited to 2,400 square feet a year. That means that if this were in effect, this master plan were in

effect and you were going to open a business, you would have to limit your business to 2,400 square feet?

MS. BOWER: Yes, that's what it says.

MR. ROHE: With regard to Goal 103 in the comp plan, Monroe County Comp Plan, it talks about circulation needs of Big Pine Key with traffic, and then it goes on to talk about attracting trips from off of Big Pine Key.

Do you see anything in the file that addresses that, whether there's going to be a certain number of cars brought into Big Pine Key as a result of the Walgreen's being established?

MS. BOWER: I looked at the traffic study, but I was not looking for that kind of information.

MR. ROHE: Does the comp plan have any provisions, the existing comp plan have any provisions to protect local business and local economy?

MS. BOWER: Oh, there's a number of places in the comp plan where it says retain local businesses and also in the Liveable CommuniKeys it says, look at how we can, how we can retain them, and this project is definitely in conflict with that.

MR. ROHE: What's the planning idea behind protecting the local business, local economy?

MS. BOWER: Because that's where the people, that's where your people live, that's where they make their money, that's how they get to stay in the community, and that's how you keep your community unique or that's how you have a sense of place.

And especially in a tourist-oriented area, you want to maintain that sense of place. You don't want to look like everybody else. People are coming here because they want to get away from Kendall. They want to get away from, you know, everyday, the everyday homogenia of the United States.

MR. ROHE: Did you have anything else you wanted to bring to their attention?

MS. BOWER: I don't believe so. Thank you.

MR. ROHE: Do you have any questions?

COMMISSIONER MARGALLI: I just have a question. You mentioned that we have the authority to change what, as far as the conditional use?

MS. BOWER: You can add conditions to reduce impacts, to make it more, to make it more consistent with the community character.

COMMISSIONER MARGALLI: Do you have any suggestions?

MS. BOWER: I would look at a total redesign of the property. I would look at the total redesign of

1 the building, and then I would look at whether or not
2 the building is even, the use of it is even
3 appropriate.
4 COMMISSIONER MARGALLI: I know, but do you have
5 any suggestions as to putting a Walgreen's there and
6 imposing what type of conditions?
7 MS. BOWER: I haven't looked at it for that, but
8 I'm sure that we could come up with a lot of
9 conditions.
10 What I would do is look at the Livable
11 CommuniKeys and look at the Corridor Enhancement
12 Study. I mean, that area is slated for a major
13 redevelopment as the town center and the Walgreen's
14 really doesn't fit in with that.
15 COMMISSIONER MARGALLI: But, it would be
16 difficult for me to know from a planning standpoint
17 what those conditions would be, I mean, what you
18 suggest. Suggest a condition to me that would be
19 appropriate.
20 MS. BOWER: Off the top of my head, I would look
21 at the architectural and the architectural standards
22 or guidelines that are in this plan would be a place
23 to start. You know, have staff --
24 MR. ROHE: Would you look at the square footage?
25 MS. BOWER: I would look at square footage,

1 definitely. This is a very large convenience store.
2 Is it needed? I would probably limit the size of the
3 building.
4 MR. ROHE: Would you look at location?
5 MS. BOWER: I would look at location on the site.
6 How does, how do the two drugstores next to each other
7 service the immediate needs of the planning, planning
8 area.
9 MR. ROHE: Would that be -- it would be 9.5-67
10 that gives the Planning Commission authority to attach
11 conditions and, you know, redesign projects to fit
12 with the comp plan?
13 MS. BOWER: I mean, typically, conditions aren't
14 there just to put up approvals from other agencies.
15 They're there so that you make a better project. So
16 it's elevated beyond just being looked at as an as-of-
17 right permit.
18 COMMISSIONER COLEMAN: Ms. Bower, would the fact
19 that this is suburban commercial -- over here. The
20 fact that this is suburban commercial zoning and the
21 proximity next to the Eckerd's and the size of the
22 large store that you've just talked about, would it
23 make a difference to you if this were urban commercial
24 versus suburban commercial?
25 MS. BOWER: Commissioner Coleman, off the top of

1 my head, I don't know. I don't know the purpose of
2 the urban commercial, but I do know the purpose of the
3 suburban commercial. And it is very specific that it
4 is to serve the immediate needs of the planning or the
5 planning area that it's located in and access is to be
6 taken not off of US-1.
7 COMMISSIONER COLEMAN: What planning area is this
8 located in?
9 MS. BOWER: I'm not sure what the number is, but,
10 I mean, I don't think that's -- that's not, doesn't,
11 doesn't -- the planning area right now isn't critical
12 to the discussion. It's to serve the planning area,
13 is to serve the residents of the area.
14 COMMISSIONER COLEMAN: And you don't think that
15 would make any difference, suburban commercial versus
16 the urban commercial? What's the difference?
17 MS. BOWER: I don't know the difference. That's
18 what I'm saying. I don't know off the top of my head
19 what the, what the purpose in the code is of the urban
20 commercial.
21 MR. ROHE: No further questions. Thank you.
22 CHAIRMAN RITZ: Do you have another witness?
23 MR. ROHE: We have Miles Moss.
24 MR. WOLFE: Please state your name for the
25 record.

1 MR. MOSS: Miles Elliot Moss
2 MR. WOLFE: Do you swear the testimony you give
3 today will be the truth, the whole truth and nothing
4 but the truth?
5 MR. MOSS: I do.
6 MR. WOLFE: Thank you.
7 MR. ROHE: All right. I need your address, sir,
8 and your occupation.
9 MR. MOSS: My name is Miles Moss. I'm president
10 of Miles Moss and Associates Consulting Engineers. My
11 address is 12900 Southwest 84th Street in Miami. And
12 Robert Weiman who is an engineer, an expert in
13 engineering, is with me here today and will be
14 assisting me with this --
15 MR. ROHE: Are you a traffic engineer?
16 MR. MOSS: Yes, I am. I'm a traffic engineer and
17 a forensic engineer. My background started in --
18 well, I have a bachelor's of science degree in
19 engineering, a master's of science degree in civil
20 engineering. I worked for over 11 years with
21 Metropolitan Dade County, Department of Traffic and
22 Transportation. I was involved as a safety engineer
23 and a surveying engineer. I supervised other
24 engineers and technicians in conducting traffic
25 engineering and safety studies and in reviewing

1 consultant studies regarding new developments. I
2 performed that between 1970 and 1982.
3 After that, I have been a private consulting
4 engineer since then conducting traffic engineering and
5 safety studies. Also, as a forensic engineer, I've
6 been involved in analyzing, reconstructing traffic
7 accidents. I've testified in over 500 trials, civil
8 trials, criminal trials, involving traffic accidents,
9 analyzing and reconstructing traffic accidents,
10 determining what was the cause of the accident. And
11 some of my comments are going to be relevant to that.
12 MR. ROHE: If you want to hear more, I'll be glad
13 to take you through more of his credentials, but we
14 would offer him as an expert in traffic engineering
15 and in forensic engineering or accident
16 reconstruction.
17 MR. MOSS: I have a CV.
18 MR. ROHE: Okay. We have a curriculum vitae if
19 you'd like to see that, Mr. Chairman.
20 CHAIRMAN RITZ: Thank you. We'll acknowledge
21 he's an expert.
22 MR. ROHE: Okay. Thank you.
23 Mr. Moss, have you had a chance to review the
24 material regarding traffic on this particular
25 application for Walgreen's on Big Pine Key?

1 MR. MOSS: Yes. I've reviewed the transport
2 analysis professional's report, the URS report, the
3 site plan, and the county staff reports on this.
4 MR. ROHE: Did you, were you able to make any
5 observations or come to any conclusions about your
6 review?
7 MR. MOSS: Yes, I was.
8 MR. ROHE: What sort of conclusions did you
9 reach?
10 MR. MOSS: My overall conclusion is that the
11 amount of traffic is really not properly demonstrated
12 by the Institute of Transportation Engineers
13 publication.
14 I think everybody has been familiar with this
15 publication, it's several thousand pages long. It's
16 published by the Institute of Transportation Engineers
17 and it's called the Trip Generation. The Institute is
18 a professional organization and one of the committees
19 of the Institute has been responsible for putting the
20 book together.
21 Understanding how the book is put together and
22 what's the basis, I think, is very important for your
23 consideration of this. The Institute doesn't do any
24 traffic studies. The Institute doesn't do any traffic
25 counting. They're a professional organization. They

1 rely very heavily, in fact solely, on traffic
2 consultants in local governments to be kind enough to
3 provide to them input regarding traffic studies.
4 So when I was with Dade County, for example, in
5 the 1970s, in fact, in most governments in the
6 seventies and eighties, the governments had a pretty
7 good staff of people, so when we found the suitable
8 development that you could put traffic hoses on and
9 completely count all of the traffic specifically from
10 that development, a development that has, for example,
11 one type of land use, where it has one, two or three
12 driveways, you put a hose on that and if you count how
13 much traffic is coming and going, you could get a
14 pretty good idea for your local area what that is.
15 And on those occasions, that information was submitted
16 to the Institute for their use.
17 Traffic consultants do this sometimes, also.
18 Very commonly, the use of this book, and there's no
19 question that this is the most widely utilized book,
20 but is it appropriate to use for a specific situation?
21 It depends. Like anything else, it depends on what
22 data is contained in the book.
23 For example, the land use categories that we've
24 been talking about, Land Use 816 for a hardware paint
25 store is what we've been talking about for Scotty's.

1 The publication indicates there were three studies
2 conducted. One of those studies was in San Francisco,
3 one of those is in Seattle, Washington, and one was in
4 Rapid City, South Dakota. These studies were done in
5 the 1970s to the 1990s. Of the three studies, we're
6 talking about Scotty's which has a square footage of
7 25,000. Two other studies were at 11 to 12,000 square
8 footage.
9 So these studies really don't give you a good
10 indication of what's happening. The local area is a
11 much better type of study to get exactly what's
12 happening. And, of course, a store that's not
13 generating the appropriate amount is not going to be
14 anywhere near like these studies indicated.
15 For the Category 881, the pharmacy and drugstore
16 which is what's being used by Walgreen's, also had
17 only three studies done. They were in Florida, New
18 York and California. So only one of these actually
19 took place in Florida. There's no indication that any
20 of these are a superstore such as an Eckerd's or a
21 Walgreen's that have multiple use.
22 The importance is, as you, I think, have all
23 commented on, very little use of this store is for
24 drugs. Most of it is a convenience store. A
25 convenience store of this nature hasn't been studied

1 and the reason it hasn't been studied, in fact most of
2 these haven't been studied for a long time, is because
3 it's very difficult to gather this type of information
4 and it's not being submitted to the Institute.
5 So the resources are very limited, the data is
6 very limited, and the accuracy is going to be very
7 limited.
8 CHAIRMAN RITZ: Excuse me. So do you know the
9 name of the store in Florida?
10 MR. MOSS: No, there was no information to that.
11 CHAIRMAN RITZ: So it could have been a
12 Walgreen's, could have been an Eckerd's?
13 MR. MOSS: It certainly could have been.
14 CHAIRMAN RITZ: Could have been a Joe's --
15 MR. MOSS: But if it was, you're limiting this on
16 one store somewhere which no -- I mean, that's just
17 one piece of data. If you're going to make a good
18 estimate of something, you're required to see
19 repeatability of that data. It could be just one
20 store that happens to be in a good location, it could
21 be one store in a bad location. That's not the way to
22 do a study. You need to get a better handle on what
23 an average situation is, not what one store is.
24 For the drugstore category, I think you found
25 some comments that the square footage of the drugstore

1 was just lumped into the square footage of the
2 Walgreen's. Well, there's a good reason for that.
3 The Institute has no studies, none whatsoever, for the
4 liquor store. So the liquor store square footage and
5 it's generation, it might be similar to what the rest
6 of the Walgreen's is. It may not be. There is no
7 studies done anywhere for a liquor store.
8 From the standpoint of number of trips, and I --
9 we've prepared some graphs that very simply relate to
10 how much, how many trips on the, the studies would
11 generate as it would relate to the Walgreen's, and I
12 think you've all seen the traffic numbers. The number
13 of gross trips caused going in and out of the driveway
14 is going to be greater with the Walgreen's.
15 The only way that Walgreen's becomes a lower
16 generation is by this concept of passerby trips. I
17 think you've all heard of the pass-by trips. Those
18 are trips already on the roadway that make a stop.
19 That's the most difficult thing to try to get a handle
20 on. How do you know how many cars are making this
21 trip to come to a conclusion that 10 percent or 45
22 percent of the trips are passerby trips? Again, that
23 comes from traffic studies. The government doesn't do
24 those studies. They're much too expensive.
25 COMMISSIONER MARGALLI: But wouldn't it lower

1 trips to other convenience stores by having a
2 Walgreen's?
3 MR. MOSS: It certainly could. You put in any
4 store that's competition, you're going to lower the
5 trips to another store. But we're talking about how
6 many trips are going to be generated on this
7 particular section of the roadway.
8 COMMISSIONER MARGALLI: Well, I mean, I think
9 it's going to increase. I mean, obviously. But for
10 the community as a whole, won't it decrease because
11 less people are going to 7-11 or what other -- you
12 know, other stores in the area, they just go to
13 Walgreen's?
14 MR. MOSS: If these were not new trips that were
15 not previously generated. But the idea that we're
16 talking about is these are trips on the roadway where
17 you're always going someplace and while you're going
18 someplace, you make a stop. How do you determine that
19 to come to a number of 45 percent? That number is
20 determined by somebody going out there and
21 interviewing the people, asking them what was the
22 purpose of their trip, was this a primary trip or was
23 this a secondary trip.
24 Those types of studies are very expensive and,
25 again, that type of information was submitted to the

1 Institute and the number of studies behind that, of
2 course, is much more limited because they're much more
3 expensive, and those used to be published in the
4 Institute publications. That is not published
5 anymore. Those studies are so old that you'll find no
6 place in the Sixth Edition that gives you data on
7 pass-by trips.
8 You can go to some of the older editions that
9 will give you the transportation figures and find some
10 estimates of pass-by trips based upon prior studies.
11 They're so old now that they don't even publish it
12 anymore.
13 So my overall conclusion is the comparison of
14 trip generation with the very low number of studies,
15 the very old studies, studies that are probably not of
16 the same nature, is not going to give you an accurate
17 comparison.
18 I think if anybody has visited a Walgreen's or an
19 Eckerd's, you see that those are very high-generation
20 stores. If you look at what Scotty's is doing on an
21 average day, it's a very low generation. So you might
22 find on an average in the nation, different stores
23 that generate different values, but on a local level,
24 the comparison, I think, is going to be a tremendous
25 difference.

From a safety perspective I looked at the driveway and the actual drawing, it's a little hard to see the site plan unless you have it in front of you, but you can see in the site plan, and Mr. Eichinger has described that a vehicle exiting, a tractor-trailer exiting the driveway after they stop as they're required to at the edge of the drive, has to make a turn, and the turning radius with the geometrics provided requires the truck to enter into the opposing lane of traffic and then try to get back out.

I looked at what that situation might look like. I'll try to be rather brief in this, but let me try to sketch this out quickly. We're talking about a tractor-trailer that's stopped in this driveway that makes its turn, goes into the opposing lane of travel, and then has to get out and back into the proper lane of travel. And all I've simply done is taken the site plan drawing where you see where the truck is in the opposing lane of travel, and I've tried to highlight it. That's about, the distance for travel shown on this drawing, is about 195 feet for a 55-foot truck to come out and reach this point. For that type of distance of travel, it's going to take somewhere around 15.6 seconds to travel that distance.

1 And what I'm really doing now is reconstructing
2 an accident. I do this all the time. And whether or
3 not this situation is safe, you can go back and put,
4 from a forensic standpoint, all the pieces together,
5 assuming the truck did the proper thing, he stops, he
6 looks to his left, he looks to his right, these truck
7 drivers are up eight or nine feet high in the truck so
8 he has good visibility. He sees it's clear, he makes
9 the turn, he makes the turn as rapidly as he can.
10 There's going to be a desire to do this acceleration
11 as rapidly as you can to get out of the path of the
12 opposing vehicles so you don't have a head-on
13 collision.
14 So let's look at it from the standpoint of a car.
15 A car comes off of US-1 and makes the turn. Distance,
16 distance about 360 feet for a car to travel. The
17 amount of time, somewhere between 8.1 and 12.2
18 seconds. If it's an 8.1, it's a higher-speed impact.
19 If it's 12.2, it's a lower-speed impact.
20 The problem is, this truck driver that looks to
21 his right has to have a 15-second gap, not to get out
22 of the way, just to reach this point that he's totally
23 head on in the opposing lane of travel. This car
24 hasn't even entered the road yet. So unless he has a
25 premonition that somebody's going to be coming down

1 the road or unless he has radio controls with somebody
2 standing out here and saying nobody's coming, he will
3 never know if he has a safe gap to pull out. All he
4 can do is pray that the person coming around the side
5 street entering the roadway sees him and sees him with
6 enough time to avoid him.
7 That is not a safe condition. This is a
8 condition that you're designing to have a hazard. And
9 every time a truck pulls out there, you have an
10 exposure time of probably 20 seconds or so until he
11 gets out of the way. Until that happens, anybody
12 that's coming, you're depending and totally relying
13 upon the other driver to avoid the crash. There's
14 nothing the truck can do. He can't get out of the
15 way. So you're totally relying upon this person
16 that's coming down the road, making the turn, to take
17 and have enough time to see this and respond to it.
18 In my opinion, that is a hazardous condition.
19 So the overall conclusion I'm reaching is from a
20 traffic standpoint, I think people know Eckerd's -- I
21 mean, Walgreen's. I myself shop in Walgreen's, it's a
22 fine store, and I think that's one of the problems.
23 Everybody shops there. And because of that it's a
24 high-generation type store. It's the type of a store
25 that will generate substantially more traffic than you

1 would have with the existing Scotty's. And if you use
2 the ITE rates that have very few studies done a very
3 long time ago and done in other areas of the country
4 and say that those are going to be what you're going
5 to have here, is just a guessing game.
6 The proper way to do this, as in any area, you go
7 out, you take a traffic count of similar conditions in
8 the community and you see what's happening. You have
9 an Eckerd's, you have a Walgreen's. Easily, you could
10 count how much traffic is taking place there.
11 Scotty's is out there today. What better way of
12 determining how much traffic it's going to generate?
13 Opening up a book and trying to see maybe that's going
14 to be it? You go out and you count it. It's a very
15 simple procedure, it's a very simple comparison.
16 COMMISSIONER COLEMAN: But, but and I have a
17 question. You said, you said earlier that the last of
18 these kind of studies, things were done, particularly
19 in passerby studies, back in the seventies, they
20 stopped using the manual?
21 MR. MOSS: No, I'm not saying that they're not
22 done anymore. I'm just saying that they're so old,
23 the ones that are published, that they're not
24 published in the manuals anymore.
25 COMMISSIONER COLEMAN: Okay. And I thought you

1 said that they were expensive and --
2 MR. MOSS: They're expensive.
3 COMMISSIONER COLEMAN: -- they're extensive and
4 that they don't use them anymore.
5 MR. MOSS: No.
6 COMMISSIONER COLEMAN: And now you're saying, but
7 that's exactly what everybody should do.
8 MR. MOSS: I'm saying that that is the proper
9 procedure to determine really what -- the impact. The
10 Institute has tried to make it easier for the traffic
11 engineer by telling them on a national basis what is
12 the most current information available.
13 COMMISSIONER COLEMAN: Have you ever relied in
14 your professional capacity on the figures out of the
15 ITE book?
16 MR. MOSS: Absolutely, if --
17 COMMISSIONER COLEMAN: Okay. No, that --
18 MR. MOSS: If -- but, if I can qualify that. If
19 the data that's presented is data that comes from a
20 number of studies, if it's recent data, and if it's
21 data that's comparable for your particular area. If
22 it's not, I would certainly look at that and go out
23 and do this study. So it would depend upon -- it's
24 like saying, let's open up a book and say you're going
25 to use everything that's in there. It depends upon

1 the quality of the data. If the data is old, you're
2 not relying on --
3 COMMISSIONER COLEMAN: Of course it is. Okay.
4 Fine, fine, fine. Thank you.
5 Now, trucks swinging out, I mean, that's
6 everywhere. I mean, they're always going to cross the
7 lane. That is a fact of life when they come out. So
8 what's unusual about this situation? Unusual than
9 what they're doing right now as far as these semi-
10 trucks, what's different?
11 MR. MOSS: I think that what you're looking at is
12 the exposure. How many trucks are doing it today, how
13 many trucks would be doing it here. It's not a safe
14 situation if they're doing that today. If you add
15 more of those to it, the chances of an accident are
16 increased. The chances of an accident, it's just a
17 coincidence of two vehicles being there at the same
18 time. The more you put there, the higher probability.
19 CHAIRMAN RITZ: Obviously, we're going to have to
20 use some common sense. We've got -- we have almost
21 everything you've said, it's easy to refute, and
22 almost everything the other side has said is easy to
23 refute.
24 We have a Scotty's that is not very well visited
25 now, so it doesn't have much traffic. If this is

1 successful, it seems logical it would have more
2 traffic. Mr. Rohe has at least two witnesses who said
3 it won't be successful, that it's right next to an
4 existing drugstore, that there's only 5,000 people
5 there and they're not going to be using it. So --
6 COMMISSIONER WERLING: A lot of people --
7 CHAIRMAN RITZ: -- so it's almost, I think each
8 of us is going to have to use our own, our own
9 judgment. Obviously, a traffic study in Key Largo is
10 going to be different than what's going on in
11 Marathon. So it's very difficult.
12 MR. MOSS: True. But California is substantially
13 different than either of those towns.
14 MR. ROHE: When you consider that Walgreen's, for
15 example, makes billions in one month, a traffic study
16 the cost of what, 10,000, Mr. Moss, it seems like
17 nothing.
18 MR. MOSS: That would be probably the high side.
19 MR. ROHE: Do you, did you find any discrepancies
20 in the trip numbers used by the applicant?
21 MR. MOSS: Yes. The number of square footage has
22 -- the trip generation would actually be lower using
23 the Scotty's numbers if you used the correct square
24 footage. I think the traffic study used 28,000, where
25 the actual square footage is 25,000. So that would

1 generate lower trips by Scotty's if you used the ITE
2 numbers.
3 COMMISSIONER MARGALLI: So Scotty's would be
4 using the same tractor or has been using the same
5 trailer to go into the other lane. You were just
6 saying that --
7 COMMISSIONER PUTNEY: We don't know that.
8 MR. MOSS: Well, we don't --
9 COMMISSIONER PUTNEY: I mean, I live there and I
10 can't tell you which way Scotty's pulls out.
11 MR. MOSS: I would presume Scotty's, the safer
12 way would be to come in off of US-1.
13 COMMISSIONER WERLING: Yeah, that's --
14 MR. ROHE: Have you seen cases, Mr. Moss, where
15 there's design liability on the part of local
16 government for allowing that to, knowingly, to occur.
17 MR. MOSS: Certainly, it's --
18 MR. MULICK: Objection, Your Honor.
19 MR. ROHE: Whoa.
20 MR. MULICK: At some point, it gets -- it gets,
21 that gets ridiculous.
22 MR. ROHE: I'm asking -- I would like to let him
23 finish the question.
24 MR. MULICK: I'd like to raise an objection.
25 MR. ROHE: I think he just made it.

1 CHAIRMAN RITZ: But we allowed him to -- we
2 allowed you to make your entire case and we'll allow
3 him --
4 MR. MULICK: Just, but I have to make an
5 objection on the record. I don't want to comment.
6 CHAIRMAN RITZ: Well, we can talk to our
7 attorney, but I'm not sure we -- once again, we're
8 quasi-judicial. I can't stress that enough.
9 MR. WOLFE: Let's let Mr. Mulick make his
10 objection so we have it on the record.
11 MR. ROHE: I'd like to have the witness answer.
12 MR. WOLFE: Absolutely. I'm just saying, make
13 his objection for the record and then the witness can
14 answer.
15 MR. ROHE: Thank you.
16 MR. WOLFE: Okay.
17 MR. MULICK: He's asking the witness to now
18 testify about liability on the part of local
19 government. He's not qualified to testify about that.
20 And at some point, I think we have the right to at
21 least have competent testimony on the record.
22 MR. ROHE: Well, he is a forensic engineer, he's
23 done a lot of accident reconstructions, he's testified
24 in a lot of accident reconstructions. I asked him if
25 he had seen situations where local governments have

1 been held responsible for a design, knowingly allowing
2 a design like that to occur.
3 MR. WOLFE: Mr. Rohe, we allowed the objection
4 and we're allowing him to answer, so he can go ahead
5 and answer.
6 MR. MOSS: May I answer? The question happens to
7 be one of the most common questions asked of me as an
8 engineer because an attorney doesn't usually know the
9 standards and he doesn't know the responsible parties.
10 For the accident we just talked about, the
11 attorney would usually ask me who are the responsible
12 parties. Did the truck contribute to the accident?
13 Did the car contribute to the accident? Did the
14 property owner or the government allowing this,
15 contribute to the accident? And that's what my job
16 is, is to determine what are the contributing causes
17 of the accident.
18 Well, the truck didn't. He couldn't tell if he
19 had a safe gap. The car didn't, if he's not speeding.
20 When the car approached here, the truck was already in
21 his lane so all he could do is try to respond to it.
22 This was a design problem that was set up from
23 the beginning. One of the responsible parties would
24 be the shopping center, the owner of the property, and
25 the government that allowed this to take place. These

are questions asked of me all the time.

COMMISSIONER COLEMAN: I'm going to reject that outright, okay. This county is not responsible for that, all right. You can give your testimony, but this is not a liability proceeding for Monroe County. All right? And I've heard enough on that issue. I mean, that's up to the Chairman, but I have. This is not about liability for Monroe County based on our decision. We will not be coerced up here and I think it's inappropriate to say, if you pass this, you're going to beheld liable for some accident. That is wrong and I want it on the record, put it on the record and take it forward. We are not responsible for accidents.

MR. ROHE: Well, go stick your head in the sand.

CHAIRMAN RITZ: Okay. And Mr. Rohe, one more comment like that and you'll be seated for the rest of the proceedings. We are going to have proper decorum here and this Board will be treated with respect or --

MR. ROHE: I apologize.

CHAIRMAN RITZ: -- the witnesses will not be allowed to testify. Is there anything else?

MR. ROHE: I don't think so. I believe we've covered the traffic generation numbers.

MR. MOSS: Yes, sir.

1 MR. ROHE: You had a chart up there that would
2 show that. We'd like to make these exhibits, and we
3 can reduce them, take photos of his drawing and enter
4 that in lieu of the actual drawing, if you'd like.
5 MR. MOSS: These are the two land uses that
6 actually show the studies and the dates of the
7 studies.
8 COMMISSIONER MARGALLI: Can I ask a question?
9 CHAIRMAN RITZ: Please.
10 COMMISSIONER MARGALLI: What if they left from
11 US-1? I mean, is there any way they can redesign --
12 from what you're looking at, the design, what if the
13 tractor-trailers or the trucks came in and exited
14 through US-1? Because you just mentioned earlier that
15 that would be a safer route.
16 MR. MOSS: Certainly. You have a right turning
17 lane, you have a deceleration lane, that would
18 certainly solve -- I mean, I would assume you'd need
19 to watch the turning radius. But if somebody coming
20 off of US-1 turns into the opposing lane of the
21 driveway, that's not a big deal because you're dealing
22 with low speeds, you're dealing with good visibility.
23 I think the answer is yes, that would probably go a
24 long way to resolving it. You may have to improve --
25 COMMISSIONER MARGALLI: What would you have to

do?

MR. MOSS: -- the radius to?

COMMISSIONER MARGALLI: Yes, exactly. Tell me what you'd have to do.

MR. MOSS: Well, you see the turning radius. You lay it out there and make sure it works.

COMMISSIONER MARGALLI: So the existing turning radius right now is inadequate?

MR. MOSS: I didn't lay it out. I mean, you just take this radius and put it over here.

COMMISSIONER MARGALLI: No, I mean, you looking at it right now, is it inadequate?

MR. MOSS: It looks pretty close. I think it's, again, I think you may have to turn into the opposing driveway lane, but that's nothing like turning into the opposing public road lane. This is higher speeds, that's lower speeds, better visibility.

COMMISSIONER MARGALLI: So if they changed their plan to just go in and out through US-1, then it would be safe?

MR. MOSS: I think that that part, yes.

COMMISSIONER MARGALLI: Okay.

COMMISSIONER PUTNEY: I have a couple questions of Mr. Moss. You said something but I didn't quite get it on the numbers.

1 You said that, because I had noticed a slight
2 discrepancy, but the discrepancy I noticed was that
3 the, the Walgreen's, instead of being 16,560 square
4 feet was 16,510. So I did the math on that and it
5 changed the trips by four. So it was no big deal.
6 MR. MOSS: But there was bigger discrepancies on
7 Scotty's.
8 COMMISSIONER PUTNEY: Let me hear about the
9 Scotty's, please.
10 MR. MOSS: The Scotty's, the trip generation was
11 based upon a size of 28,608 square feet.
12 COMMISSIONER PUTNEY: So what are the correct
13 numbers?
14 MR. MOSS: The actual size of the Scotty's is
15 25,600 square feet.
16 COMMISSIONER PUTNEY: Did you work out the math
17 to get the --
18 MR. MOSS: Yes. It's 138 trips less for
19 Scotty's.
20 COMMISSIONER PUTNEY: It's how much?
21 MR. MOSS: 138 trips less for Scotty's if you use
22 the ITE rates. Which, again, I would use with
23 caution.
24 COMMISSIONER PUTNEY: So that would give Scotty's
25 total number of trips to be what, 1,666.

CHAIRMAN RITZ: While, you're looking at it, let's hear from staff.

MS. CONAWAY: Right. The difference in the figures are the garden store. The garden store was also considered as the square footage in the garden store. That had traffic generation. So that's why you see a different number there.

MR. MOSS: And the bottom line is it brings it down to 1,329.

COMMISSIONER PUTNEY: 1,320 --

MR. MOSS: Nine.

CHAIRMAN RITZ: And you have to add it back in again because of the garden store.

MR. MOSS: Using a different rate now.

COMMISSIONER WERLING: Right.

COMMISSIONER PUTNEY: And do you know what the rate is for a garden store that's attached to a hardware tore?

MR. MOSS: No. I think that's one of the problems. These things haven't been studied very much as to all the additional things you put onto an existing facility or a type of land use.

COMMISSIONER PUTNEY: But that would give a surplus.

MR. MOSS: That would give you additional trips.

1 COMMISSIONER PUTNEY: And that's a key question
2 here because we're dealing with Big Pine Key.
3 MR. MOSS: I think that this is the primary --
4 what I'm telling you is that we don't know how much
5 traffic Walgreen's is going to generate based upon
6 just opening this book with old traffic studies and
7 locations throughout the United States, not localized.
8 And we certainly don't know how much traffic Scotty's
9 is generating.
10 So the answer is, I think, you don't know. You
11 don't know that this is going to generate --
12 COMMISSIONER PUTNEY: But going by the ITE
13 Manual, we now have increased trips.
14 MR. MOSS: If you went by the ITE Manual and then
15 you have to consider, do you want to apply passerby
16 trips when they're not in the manual or do you want to
17 apply them and make guesses at them? Yes, if you made
18 all of the assumptions that Mr. Eichinger had made,
19 the answer is yes, Walgreen's would generate less
20 traffic. If you left the pass-by trips out and only
21 use what's in the book, then you have Walgreen's
22 generating more traffic.
23 COMMISSIONER PUTNEY: So where did the passerby
24 -- I thought from this letter the passerby trips came
25 from the ITE Manual.

1 MR. MOSS: The old books, yes. The older
2 publications. The ones that preceded this book.
3 MS. CONAWAY: Excuse me a second. Now I'm
4 getting uncomfortable about what's happening here.
5 The fact that we did not, were not aware that another
6 person was going to be called as an expert, I don't
7 have my expert here who reviewed the study and has
8 been reviewing studies since 1990 on Big Pine Key.
9 Also, there needs to be an understanding that all
10 our traffic reports are done following the traffic
11 guidelines as required by Monroe County that were put
12 together for us in 1996 by the consulting firms which
13 requires that the ITE Manuals are what is used for
14 traffic generation.
15 It permits someone, if they want to, to try to
16 bring their own traffic things in and take it to our
17 consultants to review, but my discomfort here is that
18 we were in agreement with this traffic study so I
19 didn't feel it was necessary to hire someone to come
20 down here to explain how the county's traffic manual
21 was put together and what the traffic consultant that
22 was working with the applicants did.
23 So I just have to now give you my discomfort of
24 not being told ahead of time what was going to happen
25 here.

1 CHAIRMAN RITZ: Thank you. And I think we're
2 running into the unduly repetitious part, the rest of
3 this discussion anyway. So if you could wrap up this
4 part of our presentation, we'd appreciate it.
5 MR. ROHE: We don't have any further, anything
6 further. Thank you.
7 CHAIRMAN RITZ: Why don't we take a break and
8 we'll come back with the next step.
9 (Brief recess.)
10 CHAIRMAN RITZ: So, I believe Mr. Rohe was
11 finished with his witnesses. Thank you very much.
12 And Mr. Mulick, I believe, said he was going to wait
13 until the end before he asked any questions.
14 MR. MULICK: Yes, sir.
15 CHAIRMAN RITZ: That's the way we're going. So
16 now, we're open to the general public. Yes, sir.
17 That's right, you're up.
18 MR. SULLIVAN: Hi, I'm Larry Sullivan. I'm
19 president of Big Pine Key Civic Association.
20 MR. WOLFE: Do you swear the testimony you give
21 today will be the truth, the whole truth and nothing
22 but the truth?
23 MR. SULLIVAN: Yes, I do.
24 MR. WOLFE: Thank you.
25 MR. SULLIVAN: Thank you, Mr. Chairman. There's

1 lot of people here that know I'm president of the Big
2 Pine Key Civic Association. Half of them don't agree
3 with what I say.
4 I was wondering about the applicant and whether
5 they had really submitted, shall we say, definite
6 facts and figures. And then when the wonderful lady
7 from the Marathon Walgreen's said that Coca-Cola
8 trucks are not delivery trucks, Frito-Lay trucks are
9 not delivery trucks, Pepsi trucks are not delivery
10 trucks, liquor store trucks are not delivery trucks, I
11 really didn't have to worry about the voracity of her
12 testimony after that.
13 Big Pine Key is one of the most environmentally
14 sensitive pieces of real estate in the United States.
15 It's inappropriate for anything to be a regional
16 attraction, whether it's a park, a community facility
17 or a commercial enterprise. This is obviously
18 completely a regional attraction, not to serve simply
19 Big Pine, but it's to serve the entire surrounding
20 area.
21 There's only two places in the Middle or Lower
22 Keys where you would receive a prescription at three
23 o'clock in the morning. Anybody receiving a
24 prescription at three a.m., needs it. Those places
25 would be Fishermen's Hospital here in Marathon where

there is a site of a 24-hour drugstore, and the Lower Keys Medical Center in Key West, where there is a 24-hour Walgreen's. Again, a person that's issued a prescription at that hour, needs it. Big Pine, there is no such facility. There's no need for something like that.

This facility should -- I've started out by saying the Big Pine Key Civic Association is against granting the conditional use applied for by this applicant. We believe it is against the comp plan. We believe it's against the master plan. Again, we've heard the varying descriptions of what constitutes an automobile trip and I think the engineer for the applicant did a real good job and I believe everything he said, because when he was questioned he said, well, these situations cover 97 or 98 percent of all traffic situations in America, and I believe the gentleman. But I would submit that Big Pine Key comes under those two or three percent that are not covered by the normal logistical things that so many of the expert witnesses have testified to today.

One of the things that we have talked about here, this applicant would be given a credit for pass-by. Well, my understanding is that KD's Steakhouse on Big Pine Key has been denied a similar credit when they

applied for expansion of their business, so it really doesn't seem right that we would deny an existing business that credit, and yet we would grant that to an applicant that's walking in the door. I don't think this fits the community character. I think this project would hurt existing businesses.

And I would also point out, as a Big Pine resident, year round for a number of years, we had a second drugstore on Big Pine. It was called the Medicine Shoppe. Now, as far as I know, the owner of the Medicine Shoppe was the pharmacist that worked behind the counter most of the time. They sold primarily medical supplies and pharmaceuticals of various types. The person didn't have a bad business plan, they simply wee outnumbered by the Eckerd's.

My understanding is that part of the policy of Walgreen's and Eckerd's being co-located near each other is some kind of corporate turf war. I think a corporate turf war on Big Pine is totally inappropriate.

What we need on Big Pine is a fire station. What we need is a sheriff substation. We need a new commissioner's office, one that's not leased but that the commissioner exists in all the time. We need a community center and we need a decent library. This

1 applicant is not providing anything that Big Pine does
2 not already have.
3 We've been told that the hours would be from
4 eight to ten, and yet the application contains the
5 information that they can then boost it to 24 hours.
6 They don't have to come back through you all, I don't
7 think. All they have to do is say, well, you know,
8 we've just got too much business and we need to stay
9 open all the time.
10 And, as we all know, Big Pine has got a couple
11 hardware stores and we've got Scotty's, and the last I
12 looked, there were three cars in Scotty's parking lot
13 and two of them were vehicles that didn't work, and
14 one of them, you know, I don't know whether it was a
15 customer or somebody just wandering in mistakenly.
16 The last thing I'd like to show is that I work
17 out a lot. If anybody on Big Pine has been there very
18 long, they've seen me and they've seen my beautiful
19 red Doberman. She runs along with me. She doesn't
20 skate, I do. I go through that parking lot a lot. I
21 use this a lot. At seven or eight a.m. when we were
22 told the applicant is going to -- anyway, this is
23 really dangerous and the Commissioner Coleman may be
24 right, you all may be indemnified, but when I get run
25 over here with me and my doggie, we're suing

everybody. Thank you.

CHAIRMAN RITZ: Anyone else wish to speak? Yes, ma'am.

MS. SMITH: Hello. My name is Chris Smith. I live on Kill Deer Lane on Big Pine Key.

CHAIRMAN RITZ: He might have turned it off.

MS. SMITH: He turned it off?

MR. SULLIVAN: I turned it off?

MS. SMITH: I'm Chris Smith. I live on Kill Deer Lane on Big Pine Key.

MR. WOLFE: Do you swear the testimony you give today will be the truth, the whole truth and nothing but the truth?

MS. SMITH: I do.

MR. WOLFE: Thank you.

MS. SMITH: Okay. I don't really have any facts or figures, I just have feelings to let you all know.

Mr. Craig came up here and said that redevelopment of an existing property was acceptable if it was appropriate for the community. The community has spoken any number of times and said that it does not want a lot of big businesses here, that it does want to support the business community that is here now who supports Big Pine Key by giving out benefits, by just being there and helping whenever a

need arises.

I do not see a Walgreen's doing that. I don't think we need two drugstores. We already had two drugstores once. Rite-Aid was here when I first moved in. It went out of business when Eckerd's came in. We're now going to have Walgreen's and Eckerd's, there's no doubt who will survive. We all know it will be Walgreen's. With Walgreen's coming in with liquor stores, with card stores, with all the sundry things, they're going to put out a lot of local businesses who have supported Big Pine Key for a number of years.

I ask that the Commission please take that into consideration. Don't give in and let another big conglomerate come on a key that wants to remain rural.

And I also have questions about where they say that this Walgreen's is not going to generate more traffic, it's only going to decrease the traffic. I think anybody who has ever been on Big Pine who has gone through the Scotty's can say without a doubt that Scotty's does not generate any kind of traffic. Walgreen's is going to generate a considerable amount of traffic that we're not getting right now. And that's all I have to say.

CHAIRMAN RITZ: Thank you. Anyone else, please?

1 Is there anyone else?
2 MS. LANG: I am Katie Lang, Big Pine Key. This
3 is a --
4 MR. WOLFE: Ma'am, ma'am, let me swear you in.
5 MS. LANG: Oh.
6 MR. WOLFE: Do you swear the testimony you give
7 today will be the truth, the whole truth and nothing
8 but the truth?
9 MS. LANG: I swear.
10 MR. WOLFE: Thank you.
11 MS. LANG: This is a traffic study, April 17th,
12 2001, that was done in Key Largo and it was in
13 reference to a Walgreen's that was trying to go into
14 Key Largo.
15 On this traffic study, and the reason I bring
16 this to your attention, it was a URS study and it
17 generated, based on the ITE Trip Generation Manual, 28
18 percent of trips are estimated to be daily pass-by
19 trips resulting in, and then it goes on to tell you
20 how many cars and all.
21 The Big Pine study, traffic study, showed a 49
22 percent pass-by trips. There's a big inconsistency
23 there. That's almost twice as much for Big Pine
24 compared to Key Largo, and I question that because
25 they're both Keys. If anything, Key Largo has more

traffic than Big Pine. So why is Big Pine at 49 percent? Why is it 49 percent compared to a 28 percent study in Key Largo. And this was also for a Walgreen's.

I love Big Pine, it's a rural community, and that's why I moved here and that's what I love about it. And it's, it's a magical place and I think we really, really ought to protect it and keep it that way. And bringing a Walgreen's in there is totally against everything the whole town kind of stands for. Thank you.

CHAIRMAN RITZ: Thank you. If anyone wants to speak, just raise your hand and we'll be able to -- there you go. Yes, ma'am.

MS. PHILLIPS: I've outlined these points in yellow. Nicole, I'd like those entered into the record. I also have a petition here. We've only had a few weeks to gather signatures, but there's over 500 signatures here. I didn't make copies, but I'm giving you the originals.

MR. WOLFE: Will you state your name again? You've already been sworn. Would you state your name again for the record?

MS. PHILLIPS: Sherry Phillips, Big Pine Key. When Big Pine Key and No Name Key turned down

1 incorporation, I felt that the county was given a
2 second chance to more accurately reflect the needs of
3 our community by that vote. And with the Livable
4 CommuniKeys process, we were led to believe that we
5 would have a voice in how our community was to be
6 developed in the future.
7 And Commissioner Coleman, at the March 28th, 2001
8 Planning Commission meeting in Key Largo on
9 Walgreen's, you posed a question to Marlene Conaway.
10 You wanted to know within the LCP process, what we had
11 in mind as a vision for our communities. Her reply
12 was, "What I'm hearing from the communities in the
13 meetings that we have had is a desire for future
14 development to be on a small scale, pretty much what
15 I'm hearing now. A desire for the character of the
16 Keys to be maintained the same with smaller-type
17 stores."
18 But what we on Big Pine Key actually said was we
19 didn't want any chain stores, any additional chain
20 stores than we already have, and all of those chain
21 stores were pretty much done years ago before we ever
22 really had any kind of a say.
23 Now Scotty's is asking for a major conditional
24 use change for this site so that means, of course,
25 that it may not be appropriate. Well, I think that

1 this one is majorly not appropriate.

2 In the 2010 Comprehensive Plan, Objective 101.4

3 states, "Monroe County shall regulate future

4 development and redevelopment to maintain the

5 character of the community."

6 If Walgreen's gets approved it will not maintain

7 the character of our community, we'll have stores

8 closing and empty buildings which will definitely

9 affect the economic viability of our community. We

10 all know what happens when these large stores come to

11 town. They force everyone out of business and then

12 they raise their prices. So that's really not any

13 competition for those people that might think, well,

14 what about the competition. It then becomes a

15 monopoly.

16 Our comp plan then goes on to state under

17 Objective 101.7, "Monroe County shall conduct a needs

18 assessment in potential redevelopment areas. This

19 assessment shall analyze land use changes, property

20 values, structural conditions, business climate." If

21 this had been done, it would have found that the

22 business climate is not conducive to a major drugstore

23 chain directly adjacent to another major drugstore

24 chain. It would have also found that it was in direct

25 conflict with a number of small locally owned

1 businesses.

2 These corporate retail stores have been proven to

3 have a negative impact on the local community and if

4 the Planning Commission needs a defensible reason to

5 turn this down, all one needs to do is look at these

6 court cases that I've highlighted for you here across

7 the country where planning departments have or

8 planning boards have stated or denied permits on the

9 grounds that the granting of such a permit would

10 devastate or otherwise adversely affect existing

11 commercial business in the community.

12 We already have sufficient retail establishments

13 of this type that service our small community.

14 Approval of this development will push that limit

15 beyond what our community can absorb which will lead

16 to negative and economic impacts on public revenue

17 when the small businesses are destroyed.

18 There's no need for this type of business to be

19 produced with a population of 5,000.

20 MS. PETRICK: Time.

21 MS. PHILLIPS: And I just would like to have you

22 look at those pages that I copied out of the book Slam

23 Dunking Wal-Mart, because it does prove that the

24 Planning Commission can make decisions based on the

25 community character and economic viability of those

1 businesses that are looking to come into the town.
2 Thank you.
3 CHAIRMAN RITZ: Yes, sir.
4 MR. LOEWY: Good evening. For the record, my
5 name is Bill Loewy. Bill Loewy, L-O-E-W-Y.
6 MR. WOLFE: Let me swear you in, Bill. Do you
7 swear the testimony you give today will be the truth,
8 the whole truth and nothing but the truth?
9 MR. LOEWY: I do.
10 MR. WOLFE: Thank you.
11 MR. LOEWY: Thank you, Commissioners, for
12 allowing me to speak.
13 As I sit here, I realize that everybody in front
14 of me is stealing my thunder. They're telling you
15 just what needs to be said. I think the community has
16 said loud and clear, they're suspicious of this
17 conversion from Scotty's to Walgreen's. We're
18 suspicious for many reasons, one of which is no one
19 has elaborated the hours of operation for Walgreen's
20 is going to be from eight in the morning until ten at
21 night, opposed to Scotty's which is eight to five, 35
22 hours more a week of operation.
23 Scotty's, of course, is a place that's been
24 looking for a way out for quite a long time.
25 Walgreen's has got five or six million dollars to

advertise with and I'm sure they're going to draw more traffic than you ever dreamed of to Big Pine.

Big Pine is a community that most of us are proud of. We went through a hurricane and we learned to know and respect each other. We really don't need this corporate giant. We're doing just fine as it is. But over the years, and I've been here a lot of them, over the years there's been two or three different drugstores and only one ever -- only one survives.

Think carefully of what you're doing. We don't want to lose our island. We think that what we've got is worth preserving. And I appreciate the opportunity to speak to you on this matter. I am sure you're going to find the right thing to do. The people in this audience have told you they don't want you to be acting in haste. Thank you.

There is a bright side to this, too. Larry, I never thought we'd be on the same side.

MR. HENIZE: My name is Dennis Henize.

MR. WOLFE: Do you swear the testimony you give today will be the truth, the whole truth and nothing but the truth?

MR. HENIZE: It will be. It will be my opinion.

MR. WOLFE: Thank you.

MR. HENIZE: A Walgreen's superstore is not just

a drugstore, as it's been pointed out. It's a general merchandise store and there's no way it will not adversely effect any number of locally owned business people, many of whom are sitting here today.

Also, there's no way that this store will generate less traffic than Scotty's. Perhaps a -- perhaps a Home Depot super-superstore in Fort Lauderdale might create more traffic than a Walgreen's, but you know better than that.

As Larry said, and I fully agree, Big Pine Key is no place to play out a turf war between two giant, two corporate giants in this industry.

And the last thing, and the last thing that Big Pine Key needs is another liquor store. The last thing that anybody anywhere in the Keys needs is another liquor store. We've got quite -- we've got quite a few liquor stores. I'm not crusading against drinking, but we have enough liquor stores.

The public would be served much better if that property were acquired by the county and used for county facilities, libraries, county offices and a community center. Thank you very much.

MS. WHEELER: Katherine Wheeler, Big Pine Key. I swear to tell the truth.

MR. WOLFE: Do you swear the testimony you give

1 today will be the truth, the whole truth and nothing
2 but the truth?
3 MS. WHEELER: I do.
4 MR. WOLFE: Thank you.
5 CHAIRMAN RITZ: The microphone is sitting on the
6 table.
7 MS. WHEELER: Thank you. I have been to the
8 Livable CommuniKeys program. Thank you, Marlene, for
9 three years of meetings. I have no hobbies now.
10 I brought with me the agenda from April of 2000.
11 The vision of Big Pine Key and No Name. We vision a
12 rural community with a small town atmosphere, a way of
13 life where people feel connected with their friends
14 and neighbors, blah, blah, blah. A unique community
15 in the Florida Keys.
16 You've heard this all before, but I want to
17 stress, small town atmosphere does not mean two mega-
18 drugstores side by side. We don't have a customer
19 base for that and we don't want it, even if it were
20 viable. It's not viable. The Medicine Shoppe went
21 out of business.
22 Plan objectives. Rural community, address the
23 needs of the community, encourage community-oriented
24 commercial, retaining existing businesses. If we
25 address the needs of the community, it would be a

1 community center. I'll repeat what Dennis said about
2 liquor stores. Yes, I do patronize them, but we don't
3 need that many.
4 Coconut's sells liquor and that's within 500
5 feet. Why would we need a third liquor store. 500
6 feet. They've got a drive-through liquor store going
7 almost 24 hours a day, I think. What, three hours a
8 night it shuts down? This is not serving the needs of
9 the community. It's not in character.
10 We did spend plenty of time, I was at the
11 charrette two full days and then an evening giving
12 input. Many people in the community showed up for
13 this. It was an excellent exercise. This is the
14 village center area. This is where Scotty's is and it
15 would be such a centerpiece to have our fire station,
16 library, meeting room, commissioner's office,
17 substation, anything that the county is leasing now
18 would be much better served by being in one county-
19 owned building with access for the community of Big
20 Pine.
21 I truly believe that putting a Walgreen's there
22 will violate the comp plan and I really hope that you
23 do justice to Big Pine Key today by encouraging
24 Walgreen's to look elsewhere. Thank you very much.
25 MR. PATTERSON: Barry Patterson.

1 MR. WOLFE: Do you swear the testimony you give
2 today will be the truth, the whole truth and nothing
3 but the truth?
4 MR. PATTERSON: I certainly do.
5 MR. WOLFE: Thank you.
6 MR. PATTERSON: Good evening, Commissioners. I'm
7 Barry Patterson from Key Largo. I actually wasn't
8 going to get up and speak up on this issue, but I
9 wanted to bring up an old Key Largo wound that three
10 of you Commissioners sat on, and I believe that was
11 Commissioner Ritz and Commissioner Coleman and
12 Commissioner Werling, and that is the Eckerd's
13 drugstore in Key Largo. And when I --
14 CHAIRMAN RITZ: I think that's before my time.
15 MR. PATTERSON: Well, if it was before your time,
16 then I apologize. And that's what this site reminds
17 me of, very much. Particularly the maneuverability of
18 the site. And I've picked out several flaws in the
19 site.
20 As I said, Eckerd's has become a driver's
21 nightmare, as I'm sure Commissioner Ritz will testify
22 to, and in fact they are unable to get a liquor
23 license because of their fiascos, the problems with
24 driving. But when I looked at this, I just want to
25 point this out to you, I notice that their drive-

through has 10 feet on -- has 10 feet on one side and nine feet on the other side. I think that could be real confusing for driver's. I think that should be addressed.

Certainly, the maneuverability of semi-trucks has been somewhat addressed by your traffic engineers and I don't want to touch that. But I did notice that the dumpster area, which has a masonry or concrete wall around it, is going to be very hard to back into. And then this has the same configuration as the Eckerd's is in Key Largo, with the semis that go by, the dock unloading area, and then back into it.

Then I noticed that the lockup for early morning deliveries, the doors are out-swing. The doors are out-swing and if you look at your plans, you'll see that when the semis are up against the door, I don't know how they're planning on opening these doors. And this is a lockup for early morning deliveries without doors going inwards into the store so, I assume, that the semi-truck drivers don't rob the store when the store isn't open.

And then, of course, we've got the Eckerd's problem of the maneuverability going around and encroaching into the parking areas, and then of course going and swinging out into the other areas.

I don't know what's going to happen when there's two truck deliveries or more. The Eckerd's in Key Largo, as we all know, they park across the highway for access, waiting for one another to unload. The clear-sight triangle, if you look on your plans, the clear-sight triangle is indicated through heavy vegetation. Now, I'm totally opposed to cutting down native vegetation, but this is -- this is supposed to be a professional drawing here. Now, how can you possibly have a clear-sight triangle through what they classify heavy vegetation?

I'd also like to mention that the Eckerd's in Key Largo has an unauthorized use, an unauthorized agreement with NAPA to use it as an unloading dock during NAPA's --

MS. PETRICK: Time.

MR. PATTERSON: -- non-use store hours. So I don't think it's a good idea. And I don't know what the deal is here with the Eckerd's here, but I --

COMMISSIONER COLEMAN: Barry, when was the Eckerd's plan approved, the Key Largo Eckerd's?

MR. PATTERSON: I can't remember the year. It was several years ago.

COMMISSIONER PUTNEY: I do recall that staff recommended denial.

1 COMMISSIONER COLEMAN: Yeah, I wasn't on the
2 Commission then.
3 CHAIRMAN RITZ: But anyway, thank you very much.
4 MR. PATTERSON: Thank you. I'm not saying you
5 did.
6 COMMISSIONER COLEMAN: Just, I wasn't on the
7 Commission.
8 CHAIRMAN RITZ: Anyone else that wishes to speak?
9 MS. SWEENEY: Just real brief.
10 CHAIRMAN RITZ: Oh, yeah, we decided that you
11 get a bite at the apple. Yes, ma'am.
12 MS. SWEENEY: I'm Edith Sweeney and, yes, I do
13 swear to tell the truth.
14 MR. WOLFE: Do you swear the testimony you give
15 will be the truth, the whole truth and nothing but the
16 truth?
17 MS. SWEENEY: Yes.
18 MR. WOLFE: Thank you.
19 MS. SWEENEY: I'm Edith Sweeney. I'm the owner
20 of Eddie's Hallmark Shop on Big Pine Key, Florida.
21 I've had it almost 20 years. Is this on? Owned it
22 almost 20 years, and at the time I took it over from,
23 brand new, opened the same time Winn Dixie did,
24 Hallmark had planned on if the community ever grew
25 large enough for two stores, the second store would be

mine if I wanted it. Now we've got Walgreen's trying to come in which is big on Hallmark. You know Hallmark is not going to tell Walgreen's, sorry, you can't sell, we've already got Eddie's there.

So I echo everything that everybody else has ever said about the community and add one thing. We don't need another card shop.

CHAIRMAN RITZ: Thank you very much. Any other speakers?

MR. WOLFE: Please state your name for the record.

MR. NUGENT: George Nugent.

MR. WOLFE: Do you swear the testimony you give today will be the truth, the whole truth and nothing but the truth?

MR. NUGENT: I swear.

MR. WOLFE: Thank you.

MR. NUGENT: Commissioners, Mr. Chairman, nice to see you, and I don't know how you guys do it. I would never involve myself in this kind of practice.

Five years ago, after I opened my office on Big Pine Key, I drive at least 300 days of the year down to Big Pine Key. And I just want to let you know just how magical Big Pine Key is. I enjoy my drive there, I enjoy the people that live and work there, and it's

a very unique place. It's just as magical as Ocean Reef. It's just as beautiful as Key West. And it's special. And I think that if you ask 100 people in Monroe County about what's the most unique place in Monroe County, most would say Big Pine Key.

I have grown to have a great affection for the people that live and work there. You cannot compare a Walgreen's in Marathon or Key Largo to a Walgreen's in Big Pine Key. Big Pine Key has a population of approximately 5,000 people. It will be allowed to expand if the HCP goes through at less than one and a half percent increase in population a year. It does not have a market that will support a business that will come in and cut prices and put the businesses in place, just as Eddie said, just as Susan Eanes has said, and just as Coconut Liquors representative has said, that they can't compete with that kind of market based upon a non-expanding market in the Big Pine Key area.

I ask of you to think long and hard. You guys do a great job. Our staff does a great job under difficult circumstances in bringing things before you. But this is a serious situation that will impact probably the most unique place in Monroe County. I know you'll do the right thing.

1 I know you've got a difficult task before you.
2 But certainly, the request by the people that you've
3 heard speak before you today, as their elected
4 commissioner, I can tell you they are speaking exactly
5 what is being talked about in Big Pine Key. There is
6 serious concerns about the impacts of Walgreen's.
7 I would also say, one of the things that compel
8 me to get up before you and speak today is on the
9 community character issue and the fairness issue. It
10 was brought to you today that we have businesses that
11 have been trying to expand in very, very minor ways.
12 They have been disallowed to expand because of traffic
13 studies, because of concurrency, because of the
14 endangered species act.
15 It always seems that the big guy gets what he
16 wants and we never let the little guy have what he
17 wants, especially on Big Pine Key. I think we have an
18 opportunity before us to correct some mistakes of the
19 past, and I think we have an opportunity before us to
20 address the needs of the people within Big Pine Key.
21 Community character of Big Pine Key is most
22 important here. We have been working very diligently
23 and hard on the Livable CommuniKeys plan. I think
24 that that needs to be put in place and I think that we
25 need to, again, address the mistakes of the past and

1 not reaffirm them. Tough decision. Thank you for
2 letting me speak. And you guys do a great job. Thank
3 you very much.
4 COMMISSIONER PUTNEY: That's a hard act to
5 follow.
6 MS. BRITZ: My name is Meri-Lynn Britz and I'm
7 from Big Pine Key.
8 MR. WOLFE: Do you swear the testimony you give
9 today will be the truth, the whole truth and nothing
10 but the truth?
11 MS. BRITZ: I swear.
12 MR. WOLFE: Thank you.
13 MS. BRITZ: I wasn't going to speak -- that's an
14 echo. I wasn't going to speak because I was going to
15 go with the issue of the next thing that's coming up,
16 because I have the other liquor store. My husband and
17 I own Coconut's on Big Pine Key.
18 But, you know, I was thinking there's so many --
19 I've been there for 20 years. We built that 20 years
20 ago. And in the 20 years, we have had lots of
21 benefits and earned lots of money towards community
22 projects and Susan Eanes and I work together. She has
23 the other liquor store, but we go together to do
24 things together for the community, and as well as
25 Eddie. I don't sell cards so my business will not be

effected by that. And I have a bar. So the liquor store will be effected, but not as bad as it will for Susan because most of my liquor goes through my bar.

The point I wanted to make is that -- I'm nervous, obviously. The point I wanted to make is that I don't want to see my little community change. We all work together as a community to do these things together, and by having a big organization like Walgreen's come in there, it's definitely going to change.

And I also agree with that land use area there. I mean, I had children. My children are now grown, but it would have been nice to have had the parks, the library, the firehouse, everything in one area right there. And that is just down the street from me so I will definitely be impacted. And, I guess I'll get up and speak again when we go through the next thing. Thank you.

CHAIRMAN RITZ: Thank you.

MR. RIPAK: My name is -- my name is Roy Ripak. I'm the district manager for Walgreen's.

MR. WOLFE: Do you swear the testimony you give today will be the truth, the whole truth and nothing but the truth?

MR. RIPAK: I do.

1 MR. WOLFE: Thank you.
2 MR. RIPAK: I'm going to talk without this.
3 CHAIRMAN RITZ: No, you have to use it. We have
4 a TV audience. And you're to address the Commission.
5 MS. CONAWAY: And hold it away from your mouth.
6 COMMISSIONER PUTNEY: I think there's something
7 wrong with it.
8 MR. RIPAK: I come from a small town in Fort
9 Lauderdale of 3,600 people called Lighthouse Point.
10 And I've been here since quarter to ten this morning
11 and I feel what you people feel. If the liquor store
12 is the issue, we won't build a liquor store.
13 MS. SWEENEY: How about the card shop?
14 MR. RIPAK: If architecture is the issue, we'll
15 get together with staff, with the Commission, we'll
16 build it with the Key West feel. Sometimes -- we are
17 not Walmart. Patty in the back started as a part-time
18 cosmetician after school. She became a full-time
19 cashier, full-time cosmetician, assistant manager.
20 She's been manager at Marathon for seven years. She's
21 a member of the community. She holds car washes on
22 Saturdays with the crew that raised, I want to say
23 $5,550 for the Marathon Fire Department so they could
24 buy a laser thing so to find if there's heat in
25 buildings to find people. And that's Walgreen's.

1 Walgreen's is the cans at the register where we
2 raised $12,000 this year for diabetes research in our
3 district, not across the country. And I don't think
4 you see those things and I don't think you appreciate
5 those things, but we're not, we're not Walmart trying
6 to put small-town people out of business.
7 And my question to you would be, is anyone from
8 Eckerd's here today?
9 CHAIRMAN RITZ: Once again, you're addressing the
10 Commission.
11 MR. RUPECK: I'm sorry. There's no one here from
12 Eckerd's here today and there's no one from Winn Dixie
13 here today, and those are our two primary competitors.
14 If liquor is the issue, we'll take it off the
15 plan. I respect you. And, you know, we compete on
16 service, on cleanliness, on pride, and those are the
17 things we cherish and we're proud of them. And we hav
18 a pharmacist, 40 years with Walgreen's, Larry, who was
19 here today who lives in Big Pine. He is in your
20 community. 40 years with our company. Go call him
21 and ask about Walgreen's. Okay. Thank you.
22 CHAIRMAN RITZ: Thank you. Any other speakers?
23 Any other speakers? Anyone who wishes to address this
24 issue? Last call. The comment period is closed.
25 We'll hear from the applicant next.

1 MR. MULICK: Thank you, Chairman Ritz. Rather
2 than go through a cross-examination of the other
3 witnesses that spoke, I'd rather do it through
4 rebuttal by our witnesses and I think we're going to
5 address it that way. Hopefully, it will be a little
6 more expeditious that way.
7 CHAIRMAN RITZ: Anything to have mercy on our
8 souls.
9 MR. MULICK: Well, I'm hoping that we will
10 accomplish that. For that reason, I would like to
11 get, actually, come on back up, Roy. I think, is this
12 better?
13 CHAIRMAN RITZ: That might even be dead. Are we
14 getting any of that?
15 COMMISSIONER PUTNEY: I think they're both dead.
16 MR. MULICK: Well, it does have some. We'll try
17 that. Is that better?
18 CHAIRMAN RITZ: Yes, we can definitely hear.
19 MR. MULICK: Okay. This is on but -- no?
20 CHAIRMAN RITZ: I can't see if he's picking
21 anything up or not. You are picking up? Yeah, he's
22 picking up both. You can, your choice.
23 MR. MULICK: Let me just go ahead and try it this
24 way. Roy, there was an issue raised earlier about
25 tractor-trailers.

1 CHAIRMAN RITZ: There's an echo. There's an echo
2 you're hearing.
3 MR. MULICK: Is that what it is, I'm hearing
4 myself? About tractor-trailers coming out of the Big
5 Pine Key site of the property, and I think the
6 testimony was that they were 55-foot long trailers.
7 What's the trailer length you're using there.
8 MR. RIPAK: We typically use 48 to 52-foot
9 trailers. If you need a 40-foot trailer to make the
10 turn, we'll put in a 40-foot trailer. We just put in
11 a store on Duval. The City requested -- the back side
12 of the street is very tight. They requested 18-foot
13 trailers. We agreed on 18-foot trailers. So we will
14 do what we need to be a success in the community.
15 Most of the deliveries are vans such as Frito-
16 Lay. We can tell -- oh. If the Coca-Cola trucks are
17 too large, the Pepsi trucks, they'll get smaller
18 trucks.
19 MR. MULICK: The exiting of the vehicles on Big
20 Pine, is that a design by Walgreen's or is that
21 something suggested by the county planning department,
22 do you know?
23 MR. RIPAK: No, I don't know.
24 MR. MULICK: Okay. We'll get someone else to
25 address that. I have no further questions. Thank

1 you, Roy.

2 I'd like to get Mr. Eichinger back up just for a

3 couple of questions by way of clarification. That's

4 working. Maybe this will work.

5 MR. EICHINGER: Is this working?

6 MR. MULICK: Mr. Eichinger, there was testimony

7 earlier by another traffic engineer. One of the

8 issues raised was the lack of any data on pass-by

9 trips, that there was no source of that information,

10 it was no longer available. Is that your

11 understanding?

12 MR. EICHINGER: No, it's not. The Fifth Edition,

13 which was the edition before the Sixth Edition, of

14 course, it had a lot of the pass-by data in it. What

15 they've done now is the book has gotten so large we're

16 down to three books for the Sixth Edition, but there's

17 yet a fourth book that I don't think that Mr. Moss was

18 referring to, is called the ITE Trip Generation

19 Handbook, and not the Manual. The handbook is current

20 and it shows all the pass-by trip information in

21 there.

22 MR. MULICK: Did you rely on that when you

23 arrived at your statistics concerning the pass-by

24 trips?

25 MR. EICHINGER: Yes, I did. As well as the

1 county's consultant.
2 MR. MULICK: And I was going to ask you, did you
3 talk to the county's consultant regarding the use of
4 that and the numbers you arrived at?
5 MR. EICHINGER: I did.
6 MR. MULICK: And did he approve those?
7 MR. EICHINGER: He did.
8 MR. MULICK: Regarding the exit for the delivery
9 vehicles, is that something that was dictated by
10 Walgreen's or did it come from the county?
11 MR. EICHINGER: I believe it was from the county,
12 but Aref is here and he might be able to address that.
13 MR. MULICK: Okay. Perhaps we'll hear from him
14 later.
15 Regarding the turning, apparently there's a major
16 issue here now because one vehicle, one truck a week
17 is going to make a turn out of that site of the
18 property. Can a 40-foot or shorter tractor-trailer
19 make that turn?
20 MR. EICHINGER: Well, I'm not sure that they
21 could make the turn. I do know that it's -- it would
22 be better. They would have to use less space to make
23 that turn. This is a very long truck here. So, yeah,
24 the smaller the truck, of course, the better.
25 MR. MULICK: Now, I say, make that turn, staying

in one lane.

MR. EICHINGER: Well, I'm not sure, because I would have to lay it out. There's software that does that.

MR. MULICK: Okay. Making -- oh, by the way, is there any reason why the trucks can't come out on US-1?

MR. EICHINGER: I can't think of any. I mean, this is probably a store that's along around for a lot of the trucks and they can come in from US-1. They have a right turn lane there. They can come in on -- get in and go to the back of the site and turn around on the north side of the site and do the same thing, come back out and continue on towards Key West. I don't see that as a problem.

MR. MULICK: I just want to make sure that we have something clear regarding the use of the ITE Trip Generation Manual. Is that something that is routinely used by traffic engineers in determining the anticipated traffic to be generated by a particular project?

MR. EICHINGER: Absolutely. It's the number one used by all traffic engineers.

MR. MULICK: Okay. Now, there was some testimony earlier about the fact that this may not anticipate

1 the use of a Walgreen's in the calculations, that it
2 might be just a pure pharmacy.
3 Are there, I mean, to your knowledge, are there
4 pure pharmacies typical or are we looking at the trend
5 towards more like Walgreen's or Eckerd's?
6 MR. EICHINGER: The trend, I believe, is more
7 like Walgreen's or Eckerd's. Actually, I can't
8 remember ever going into just a pharmacy alone. I
9 don't even know where there is one.
10 COMMISSIONER WERLING: Key West.
11 MR. EICHINGER: Is there just, is there one in
12 Key West?
13 COMMISSIONER WERLING: Two.
14 MR. EICHINGER: Well, when I was a kid, and that
15 was a long time ago, I mean, we had fountains and we
16 had all kinds of things in the drugstores back then.
17 You could sit at a counter and get milkshakes in your
18 drugstore, your pharmacy. So there really haven't
19 been pure drugstores for the last 50 years that I know
20 of.
21 MR. MULICK: Thank you very much, Mr. Eichinger.
22 Does anyone have any questions for Mr. Eichinger?
23 Nothing further by way of witnesses. I -- rather
24 than ask questions of the staff or cross-examine them,
25 I was hoping that the staff would simply address an

1 issue and that has to do with, among other things, the
2 assertion that there's some sort of a limit on the
3 size of development, on commercial development
4 proposed in the CommuniKeys plan. I think there was a
5 record that said 2,400 square feet as being the
6 maximum size. I don't think that's what it says and
7 perhaps they can more adequately address that.
8 Otherwise, we'd simply like to close at some
9 point when you feel to be appropriate.
10 MR. ROHE: All I want to do is just make sure
11 that I understand. There were two witnesses called in
12 rebuttal and that I don't have the cross-exam of those
13 rebuttal witnesses. Is that correct, Mr. Chairman?
14 That's -- the rule stands?
15 CHAIRMAN RITZ: Unless, do you have some
16 questions for them? Offer them, if you do.
17 MR. ROHE: I beg your pardon?
18 CHAIRMAN RITZ: I said, did you have any
19 questions for them?
20 MR. ROHE: Yes, if -- if I'm --
21 CHAIRMAN RITZ: Offer your questions.
22 MR. ROHE: Okay. Let's bring Mr. Eichinger up.
23 CHAIRMAN RITZ: No. Just offer your questions
24 and we'll see if they wish to answer them.
25 MR. ROHE: Oh, present them to you?

CHAIRMAN RITZ: Yes.

MR. ROHE: Okay. I'm going to object to that and move on then.

The other thing I want to do is make sure that we have the exhibits that were used by Mr. Moss, I think we had three exhibits there. And whatever other exhibits we had, we want to make sure that we present them to the clerk. Thank you.

CHAIRMAN RITZ: Thank you. Okay. I guess we are back to staff at this point.

MS. CONAWAY: Yes. I have a couple things I need to say and then Aref needs to answer some of these questions that have been brought up.

I guess I'm just going to go back and frame it for us. Remember, this is redevelopment of an existing site. The redevelopment is smaller than the existing square footage. It is not new square footage aAnd the limitation is on new square footage. So this is not new. This already exists on the site.

If they were coming in and using the same store and the same size, they could come -- they're both a medium-intensity use, by the way. Scotty's is a medium-intensity use. The proposed use is medium intensity. So if they were coming in and going to use the exact same store, they could come down to our

building permit office and they would get a building permit. They would not --

COMMISSIONER PUTNEY: What section of the code are you referring to?

MS. CONAWAY: What I'm saying is that when someone replaces an existing use with the same use, just like if it was a clothing store and they were going in with a shoe store, it would not amend the conditional use because it would be the same use.

If we brought every use in here that was of the same type intensity use, you would have to work five days a week.

COMMISSIONER COLEMAN: I want a raise then.

MS. CONAWAY: And you want a raise. Yeah, I've heard that.

So what happens is if, for instance, if this was a tee shirt shop and it was going to be reopened as a shoe store, same intensity use, it would not come back to you. The reason it has come back -- and we would not get any additional things. Like in the Lower Keys we have a pizza store that is being redone to sell boats, right, it does not come back to you.

The fact that this comes back is because they're going to tear down the existing store, is the proposal, and they're going to build another store

which has less square footage. There are what, 10,000 square feet lying, hanging out there somewhere that I suppose when they do the demolition, they could come back as a minor conditional use and have some square footage to transfer off site.

So I just wanted to clear up the difference in that and new square footage. New square footage, we have a limit on. And we don't have that same type of limit here. Also, we have --

CHAIRMAN RITZ: Just so I'm -- I might have dozed during part of that.

MS. CONAWAY: I understand that. I'm dozing here.

CHAIRMAN RITZ: Nothing personal. Nothing personal at all.

MS. CONAWAY: I know. I'm ready to go home.

CHAIRMAN RITZ: But if they had, if Walgreen's had opened in the existing Scotty's store, would they be before us?

MS. CONAWAY: No.

CHAIRMAN RITZ: The only -- they're before us because they're tearing it down and making it smaller?

MS. CONAWAY: Right. They're redeveloping the site.

CHAIRMAN RITZ: Redeveloping the site.

MS. CONAWAY: So therefore, when they do a redevelopment, we say you come into compliance. So they're coming in not only with the redevelopment plan, but we have additional landscaping and things like that, that's required for them to do, also.

I think that's all I wanted to make you understand, but I think Aref was going to respond to the traffic patterns and the design because he's my architect.

MR. JOULANI: I'm going to address the issue of traffic first. I have the copy of the original site plan that was submitted to us.

That site plan shows the delivery trucks coming from Key Deer Boulevard into the site and exiting to US-1. It shows that it exits US-1 pointing to the direction of Key West. It didn't show the trucks that go towards Marathon. So when we looked at this site and I contacted our traffic consultant, explained to him that we have a concern. If the traffic goes back towards Marathon, the truck traffic, delivery traffic, there's a traffic light in that intersection and there's always a lineup of cars before the traffic light and then this is going to interfere.

Also, for the traffic coming from Key West, if that's -- if the traffic is coming from Key West, if

there is a lineup of cars before the traffic light, going into this site through the access through US-1 would create some kind of interference to the flow of traffic.

So we requested that the applicant revise the site plan to use the same access and exit from Key Deer Boulevard to, in order not to interfere with the traffic in US-1. So the issue that was raised by the other gentleman, the forensic traffic consultant, it was experimented here before we discussed the issues and the risks and all of that and we realized that this is a far more dangerous place for trailer trucks to enter and exit than the Key Deer Boulevard. And then the applicant was requested to revise the site plan to show the changes.

And therefore, then the applicant came with that idea, but it was us, after some indication that this was going to create interference with the flow of traffic on US-1.

The other issue that was raised, and I have a copy of the old site plan if you would like to take a look at it, is the issue of traffic -- is the issue of architectural character. We, when they submitted their design, we looked at it and the first thing I looked at was basically the community character, the

existing buildings, the Eckerd building, the buildings in front and in the back and all of that, and we realized that in that corridor, there's not actually a unique architectural character. But we realize that this is the Walgreen's in the Keys, so therefore there were certain things that we discussed with the applicant and the architect and we went over that.

And then after that, we went over the issue or the guidelines that were set in the corridor study, the advanced corridor study, and these guidelines actually are broad guidelines. They are not very specific. And we looked at those guidelines and we worked with the issue of the architectural design, and the design that is in front of you actually meets at least 85 percent or 95 percent of those guidelines.

We also worked with the signage, the sign consultant, and actually sent a copy of the guidelines with regards to signage. And they sent us a variation of the design for the signage for us to choose from and based on the guidelines according to the corridor study.

So as far as the planning department is concerned, and based on the time frame that we had, we tried to do as much as possible, the design guidelines that were, that was available. And the applicant

1 wrote from the beginning, stated that they are ready
2 and willing to work with us to refine the
3 architectural character of the Walgreen's based on our
4 needs and based on the needs of the community.
5 So they are always available and they accepted
6 the specific requirements of the community and the
7 planning department when it comes to design of the
8 building. And the design that's in front of you looks
9 like Walgreen's, but had implemented most of the
10 guidelines that were in that book in the corridor
11 study. So that's the only thing I would mention.
12 CHAIRMAN RITZ: So the corridor study doesn't
13 address barrel tile roofs versus metal roofs, it
14 doesn't address broad porches versus no porches.
15 MR. JOULANI: The corridor study is not that
16 specific. It's in front of me. The --
17 CHAIRMAN RITZ: That's all right. You don't need
18 -- I just -- if the answer is no, I'll -- we'll move
19 on.
20 MR. JOULANI: No, no.
21 CHAIRMAN RITZ: Thanks a lot. Appreciate it. I
22 guess that's something else we can look at then. If
23 you can build the same store you can build anywhere in
24 the world, I would say our design guidelines aren't
25 very tight. Who wants to go first?

1 MR. MULICK: I think I just need to close.
2 CHAIRMAN RITZ: I thought you did close. Are you
3 serious? You have a closing statement or something?
4 MR. MULICK: Yes. Very briefly. Just to address
5 some issues that were raised. Just to make sure we
6 have this in perspective, and I think Ms. Conaway sort
7 of stole my thunder. I was going to mention this.
8 If we were to go in and occupy the same building
9 the way it is, we would not have to be here. We can
10 put a Walgreen's in that building. It does not
11 require development review. It would have the same
12 configuration of parking. It would have the same
13 loading issues.
14 What we've done is we've reduced the size of it.
15 We've come to you to ask to put in that site a project
16 that is more suitable to the location.
17 Regarding the issue of the truck traffic, it will
18 be there whether we are there or not. Someone will
19 occupy that space. Economically, it is too valuable
20 to allow it to go foul. Someone will be operating it
21 and it won't be Scotty's. There will be someone in
22 there using it that may have more square footage than
23 we have. They're entitled to more square footage than
24 we have, another 10,000 square feet, but we've decided
25 to reduce the size of it.

1 The issues regarding the traffic, as I said, are
2 there. Those trucks will be coming in one way or
3 another. If you think one approach is better than
4 another, that's fine. But remember, we utilized the
5 demands of your traffic engineer who said that's the
6 way we should do it. We think it is safe. There's no
7 indication that it's unsafe.
8 Regarding the issue of why it shouldn't be there,
9 probably the most candid two witnesses you had today
10 were the two liquor store owners, and they said it the
11 way it was. We don't want competition. We don't want
12 somebody new coming in town competing with us. I'm
13 sure that they said many other things because that
14 wouldn't be enough to just come to you and say that.
15 They had revelations about other issues, but those are
16 the reasons they were here.
17 And virtually all of the other folks that came
18 here said they didn't want to change the character of
19 the community by having, I think one person called it
20 a big box, I think. Somebody called it corporate,
21 called it corporate involvement. The question is,
22 what are we building here? We're putting in a
23 commercial use that can go there, that's allowed to be
24 there. What we're asking you for is permission to
25 revise the site to make it work better than it would

1 be if we simply went in, in the facility the way it is
2 today.
3 To show good faith, and I'm authorized to tell
4 you now, that Walgreen's will not pursue an alcohol
5 beverage license. We'll withdraw that part of the
6 application. They will also use smaller tractor-
7 trailers if that is an issue. If you want to put that
8 in as a condition, fine, not a problem. We don't have
9 a problem with that.
10 But I suggest to you, ladies and gentlemen, that
11 somebody's going to be in there, it's going to happen,
12 and if you're talking about community character, if
13 you're talking about what's appropriate there, I find
14 it a little ironic that we're asking you to put a
15 Walgreen's next to an Eckerd's and then we're being
16 told that somehow that's inappropriate, that the
17 community character there is different.
18 Well, what have we been doing here since the 17
19 years I've been before this planning commission?
20 We've been talking about the community character in
21 the immediate vicinity. What's more immediate than
22 another similar facility, what surrounds it,
23 commercial uses. There's going to be a commercial use
24 there. There's no question about it. That's going to
25 happen. You're not going to avoid -- no one's going

1 to give that property away. No one's going to shut it
2 down. If you think so, you're just kidding yourselves.
3 So the question is, does this meet the criteria
4 of the code? Or, are we going to say that because the
5 community doesn't like it, we're not going to do it?
6 I don't know if the community likes it or not.
7 One of the dangers is that when you have a few
8 people in the audience saying that's the community,
9 you're not sure what it is. That's why we use
10 criteria. That's why we use clear guidelines. And
11 the guidelines in your code are very clear. We went
12 down through each and every one of those. No one came
13 up here and said that this was not the level of
14 intensity that it was represented to be. They said
15 many other things. They talked about all other kinds
16 of things. They never said what the level of
17 intensity of it was, any different than the medium
18 intensity we said it was.
19 And I suggest to you, ladies and gentlemen, that
20 if you don't believe it meets the criteria, that's one
21 issue. But if you're going to say, we don't want a
22 Walgreen's in here because it will compete with other
23 businesses, you can't do that. You can't make that
24 decision. Just for the same reason that you can't
25 say, we don't want a Walgreen's in here because it's

1 going to compete with our business.
2 I understand they don't want it here, and that's
3 okay, but you can't make your decision based upon
4 economic competition. It's fundamentally
5 inappropriate and certainly beyond the scope of your
6 authority.
7 The question is land use. Does it meet the
8 criteria? Is it in the proper zoning? Does it meet
9 all the setbacks? Is it surrounded by similar uses or
10 at least compatible uses? And you've heard the
11 testimony today.
12 I believe that whether you -- you know,
13 sometimes, in fact, Commissioner Nugent, I don't know
14 if he's still here, I think he said it best. He said,
15 it's a tough job up here. It is very tough. But one
16 thing you have going for you, and that is rules and
17 regulations. You get to follow those. In fact, you
18 have to follow those. It's quasi-judicial. You make
19 your decision based upon the facts and nothing more
20 than that, and I believe that based upon the evidence
21 that's been adduced today, the evidence that you can
22 rely on, the decision is an easy one. It meets the
23 criteria.
24 I hope you will find that is the case. And we
25 thank you very much for spending the long hours you've

1 been here with us. Thank you very much.

2 CHAIRMAN RITZ: Thank you.

3 MR. ROHE: I won't take as long. I just want to

4 reiterate that, yes, you do, under conditional use

5 approval, it is not as of right. They have no right

6 to come in with a particular concept in mind. They

7 have other uses of the property. If they want to make

8 those uses, come back with some other type of

9 application. You're under no duty here to grant them

10 a Walgreen's as they presented to you.

11 That's clear in the LDRs that you, under

12 conditional use approval, that you can also have the

13 authority to redesign their project, to make them go

14 down smaller, to make them change their architectural

15 look, et cetera. So you have that authority and don't

16 be intimidated by what Mr. Mulick has just told you,

17 that when it comes to competition, I would submit and

18 I think it's well known that mega-stores are anti-

19 competition because they sell at a loss for a long

20 period of time until they drive out local competition.

21 That's how they've been able to proliferate all over

22 the country.

23 Florida has 588 Walgreen's stores. They hope to

24 have 7,000 by the year 2010. They make 8.4 billion

25 dollars in the last quarter. Enough is enough. We

1 don't need another Walgreen's, especially in Big Pine
2 Key. We don't need Eckerd's and Walgreen's having
3 some kind of corporate duel with each other with us as
4 the chessboard. You need to protect the community and
5 follow your comp plan which says protect local
6 business.
7 The traffic counts are clearly not reliable.
8 We've shown that. They've -- more or less, you could
9 do better by pulling figures out of the air on the
10 traffic. Thank you.
11 CHAIRMAN RITZ: Commission comments.
12 COMMISSIONER PUTNEY: I tell you, it's an awful
13 lot to keep track of. I don't even know exactly where
14 to start. I've got little scraps of notes all over,
15 and I'm tired.
16 The standards applicable to all conditional uses.
17 When considering applications for a conditional use
18 permit, the Director of Planning and the Planning
19 Commission shall consider the extent to which the
20 conditional is consistent with the purposes, goals,
21 objectives and standards of the comp plan in this
22 chapter.
23 The conditional use is consistent with the
24 community character of the immediate vicinity of the
25 parcel proposed. The design of the proposed

development minimizes adverse effects including visual impacts on the proposed use of adjacent properties. The proposed use will have an adverse effect on the value of surrounding properties.

The comp plan's Goal 101 says to protect the public safety, the residents and the community character.

Now, we've been told that community character is the elusive concept and that it cannot be defined, but I think in this particular instance we can distinctly define it.

Big Pine Key is within the jurisdictional boundaries of the National Key Deer Refuge. It has extremely limited development potential, if any. That's dependent on the HCP being defined. We've had three years of the input from the community. The community character was defined on Big Pine Key and No Name Key in the 1986 comp plan with the Area of Critical County Concern. I certainly think that this is inconsistent with the community character.

The public safety issue, that bothers me, and maybe we can work around that on design. Protecting -- and the plan calls for -- and I've got scraps of paper here.

CHAIRMAN RITZ: Let me interrupt you. And I know

you've got a roll going, but maybe we should take these one at a time because I think maybe we all have the same type of topics.

So let's just stop on community character because that's a -- and I guess I need staff or a legal interpretation. I agree with everything Commissioner Putney just said. On the other hand, I understand exactly what Mr. Mulick just said. How can you argue community character when it's right next door to a drugstore and beside another commercial establishment and it's likely to be the nicest thing on -- the nicest looking thing on the block?

Granted, it's not where the community wants to go, but it seems to be consistent with the community character of the surrounding --

COMMISSIONER WERLING: So it defines the community character.

CHAIRMAN RITZ: -- of the surrounding thing. But obviously it's -- like I said, I agree with Commissioner Putney. If you look at Big Pine Key, you don't picture a Walgreen's there. And more importantly, I think we were discussing in an earlier meeting how community character is even permitted to fit into this entire equation. Could we have some clarification on any or all of those points?

1 MS. CONAWAY: We did have one conditional use
2 that the Planning Commission denied on a community
3 character basis and the decision of the hearing judge
4 was that we did not have criteria for what community
5 character -- although I know I gave Karen all sorts of
6 information that I thought I could use to do it.
7 I don't know if this is the same issue. I mean,
8 we have spent a lot of time, as everyone mentions,
9 defining the community character of Big Pine Key, but
10 we still don't have criteria and so I don't know. I'm
11 going to hand it to --
12 COMMISSIONER COLEMAN: I'm not so sure we don't
13 have historical and factual criteria, okay. We might
14 not have enumerated criteria, but we may have factual
15 and historical. I don't want to be on the record here
16 saying we don't have criteria because I would disagree
17 with that.
18 MS. CONAWAY: Well, the concern from the hearing
19 judge --
20 COMMISSIONER COLEMAN: I understand.
21 MS. CONAWAY: -- is it was not defined.
22 COMMISSIONER COLEMAN: I remember.
23 MS. CONAWAY: Where I think what we had been
24 doing, once we adopt our master plan, I have no doubt
25 that we have defined community character.

COMMISSIONER PUTNEY: I think that we have defined the criteria in the '86 plan. I think it's defined with numerous policies in the 2010 plan. I don't think you have to adopt the community master plan to benefit from the process. It's been defined. This has been part of the comprehensive planning process and adopted under Florida statute since 1992. I am not going to put my weight in one hearing officer's interpretation.

COMMISSIONER COLEMAN: Also, on a separate project, on a separate evaluation of criteria, okay. One could say that side-by-side convenience drugstores are out of character with the traditional historical use of those properties. Commercial or not. Commercial or not.

COMMISSIONER PUTNEY: You have to realize when that Eckerd's was permitted.

COMMISSIONER WERLING: Right.

COMMISSIONER PUTNEY: That was a long time ago.

COMMISSIONER COLEMAN: And my problem, and I'm sorry to cut in, is I feel fundamentally that an approval of this project, even with a, I think, very, I don't know, generous and progressive concessions offered by the applicant here today. This is down the road to a fundamental change to the character of Big

1 Pine Key.

2 COMMISSIONER WERLING: Yeah.

3 COMMISSIONER COLEMAN: And so I can honestly find

4 how it is that we don't do that, and I'm -- and I'm --

5 COMMISSIONER WERLING: Do you not feel, too, that

6 based on the residents, the number of residents in

7 that area would not support two of the same --

8 COMMISSIONER COLEMAN: I do feel that way.

9 COMMISSIONER WERLING: I mean, that would be a

10 conscious --

11 COMMISSIONER COLEMAN: I think it's the, also,

12 the economic community character of the island.

13 COMMISSIONER PUTNEY: Let's talk about that

14 because --

15 COMMISSIONER COLEMAN: Okay? I mean, because

16 community character has many elements. And I want to

17 first start out by saying that I think staff did an

18 excellent and an appropriate job.

19 COMMISSIONER PUTNEY: Yes.

20 COMMISSIONER COLEMAN: And I think their

21 recommended approval was not inappropriate.

22 COMMISSIONER PUTNEY: Uh-huh.

23 COMMISSIONER COLEMAN: Okay? Because I don't

24 think staff should be making the decisions on what

25 community character is. They should go by the code

book as Mr. Mulick says and it comes to us and if we have disagreements about community character, I mean, in my own view, I really don't think that it should be made by staff.

CHAIRMAN RITZ: Well, and that's really the point I guess I'm making. The staff report addresses community character the way Mr. Mulick addresses it.

COMMISSIONER COLEMAN: That's right.

CHAIRMAN RITZ: Not the way Commissioner Putney addresses it. And that's really the question, is --

COMMISSIONER PUTNEY: With all due respect, I think staff's approach was limited.

COMMISSIONER WERLING: Uh-huh.

COMMISSIONER MARGALLI: Why was that? Why was staff's report limited?

CHAIRMAN RITZ: Why don't you read what you, how you described community character --

COMMISSIONER COLEMAN: I think it was limited, but I think it was appropriately limited, because I think that staff --

CHAIRMAN RITZ: It was limited to the immediate vicinity.

COMMISSIONER WERLING: Right.

CHAIRMAN RITZ: Limited to that.

COMMISSIONER MARGALLI: Okay. Yeah, okay.

1 That's what I wanted.

2 CHAIRMAN RITZ: It was limited to the immediate

3 vicinity as opposed to the character that Big Pine Key

4 is --

5 COMMISSIONER PUTNEY: I'm saying that Big Pine

6 Key, if any place in the Florida Keys, has had the

7 detailed analysis historically going back to the

8 eighties defining it.

9 COMMISSIONER MARGALLI: Well, I know what you're

10 saying. I was wondering if the county is going to

11 appeal our decision if we deny it again.

12 COMMISSIONER COLEMAN: I think it's a big

13 difference. As Commissioner --

14 COMMISSIONER PUTNEY: Well, --

15 COMMISSIONER COLEMAN: As Commissioner Nugent

16 said, he felt that there was a difference between a

17 Walgreen's in Marathon and Key Largo, in the center of

18 Key Largo, and one in Big Pine. And anyone who has

19 driven and knows the Keys and knows that one of them

20 is urban commercial --

21 COMMISSIONER MARGALLI: I see a difference, but I

22 don't see --

23 COMMISSIONER COLEMAN: -- and one is suburban

24 commercial, will understand that there is a big

25 difference between Big Pine.

1 COMMISSIONER PUTNEY: Actually, it was one of --
2 COMMISSIONER MARGALLI: I don't see much of a
3 difference.
4 COMMISSIONER PUTNEY: -- the applicant's
5 witnesses --
6 COMMISSIONER COLEMAN: There's a big difference.
7 COMMISSIONER PUTNEY: -- that Walgreen's in Key
8 West and Marathon were different because they were
9 urban.
10 COMMISSIONER COLEMAN: Urban versus --
11 COMMISSIONER PUTNEY: It was the traffic
12 consultant. Let's talk about the plan saying to
13 protect the local economy. That's also carried on in
14 the HCP, in the basic goals of the Livable
15 CommuniKeys.
16 As I'm sitting here thinking of the stores in
17 that immediate vicinity, the pet store, the health
18 food store, all of the different stores, if you added
19 them up, you're talking about an enormous number of
20 items that are now individually run in little tiny
21 mom-and-pop stores that are going to be sold at one
22 location.
23 COMMISSIONER COLEMAN: But I want us to be
24 careful, and I wanted to -- if we go to where we deny,
25 if that's what we do, I want to make it clear it is

1 not about preventing competition.
2 COMMISSIONER PUTNEY: No, it is not about that.
3 It is not about -- let me get the plan.
4 COMMISSIONER COLEMAN: With all due respect to
5 the owners, okay, of the property, it's not about
6 reducing competition. It's not about, you know, we
7 don't like change. As much as you, we might not like
8 change, it's not about that. It's about a more
9 fundamental and a harder to find community character
10 type of change.
11 COMMISSIONER PUTNEY: No, it's even more specific
12 than that. The comp plan specifically has qualities
13 to say that development approval will protect the
14 local economy.
15 COMMISSIONER COLEMAN: And I'm not sure how, how
16 supportable that is. And maybe this is where we go to
17 the --
18 COMMISSIONER MARGALLI: I think -- I think
19 Jerry's got a good point. Do we have enough evidence
20 in the record for that decision? I mean, if we're
21 equating community character with local businesses and
22 the impact on local businesses, I don't think there's
23 a factual basis for that.
24 COMMISSIONER COLEMAN: Not for reducing -- well,
25 first of all, I don't think it's legal.

1 COMMISSIONER PUTNEY: Jerry is the only one that
2 is taking the community character concept, which has
3 nothing directly to do with the economy, and
4 transferring it over.
5 COMMISSIONER MARGALLI: Well, that's what I
6 wanted to make clear. What are we talking about?
7 COMMISSIONER PUTNEY: The plan, the plan has
8 distinct policies that have --
9 COMMISSIONER MARGALLI: Okay. Let's go, let's go
10 over the distinct policies.
11 CHAIRMAN RITZ: Okay. The plan, if I could ask
12 this question, the plan, in there it states the plan
13 is to protect the local economy. One of the documents
14 we received today is a California case of VanSiclin
15 (ph) vs. Brown, it may not apply here, but it says,
16 "There is no demonstrated need for an additional
17 service station in this neighborhood at this time."
18 Do we have, does that apply to us? Do they have
19 to demonstrate a need for an additional drugstore? Is
20 that even an burden that they have to achieve?
21 MS. CONAWAY: I don't think that's a burden
22 unless we had required it in the LDRs. I've had
23 before that type of a regulation that says you have to
24 show a need for a quarry (ph). But --
25 CHAIRMAN RITZ: Okay. We don't have that. So

they don't have to jump that hurdle.

Now, the hurdle that you're referring to is this plan to protect the local economy. That's a different burden.

COMMISSIONER PUTNEY: And keep in mind, let's get this on the record, that the LDRs are superceded by the Comprehensive Land Use Plan by state statute. So just because it's not specifically stated in an LDR or written out in an LDR as a bad thing or an approvable thing, that doesn't mean that that's the final word. Because by Chapter 163, the comp plan supercedes the LDRs.

COMMISSIONER COLEMAN: Hang your hat on it.

COMMISSIONER PUTNEY: Going on to the purpose, going back to the LDR, the purpose of suburban commercial district is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located. All right. Not that that's an LDR. So --

COMMISSIONER MARGALLI: Well, can I just say something? I mean, before we go item by item and knock down this project, which looks like that's the path we're going down, is there any way in which they, the applicant, since they've offered to correct these

issues --

COMMISSIONER PUTNEY: They can't correct the community character.

COMMISSIONER MARGALLI: Well, I --

COMMISSIONER PUTNEY: How could they? Tell me. I'm open minded. Tell me how they could --

COMMISSIONER MARGALLI: No, but I'm just saying, they came up here and they said, you know, we'll deal with the truck issue, we'll deal with the architectural issue. And the problem I see from the applicant's standpoint is they never actually presented an architectural, something that we could latch onto and say, well, that looks good.

CHAIRMAN RITZ: We have it in our packet.

COMMISSIONER MARGALLI: Well, no. I mean, from what we have in our packets, I think it's insufficient.

COMMISSIONER PUTNEY: We have plenty to latch onto.

COMMISSIONER COLEMAN: The only problem is we don't have the --

COMMISSIONER MARGALLI: Right. We don't have the compromise.

COMMISSIONER PUTNEY: I'm not nearly done.

COMMISSIONER MARGALLI: We don't have the

compromise in our packet. We have something that we're not ready to accept, it looks like, and --

COMMISSIONER PUTNEY: Let's go through the issues and then you can see if you --

CHAIRMAN RITZ: Just before, I think our attorney was jumping on the last one about the plan to protect the local economy.

MR. WOLFE: I just have a couple thoughts. Am I live?

CHAIRMAN RITZ: You may be live, but your voice is dead.

MR. WOLFE: Careful what you ask for. I want to go back to the community character a little bit. The hearing officer case that Marlene was referring to was, I think, quite specific to its facts. I don't think that that is going to deter you in defining community character.

I also think that this case is very distinguishable from that and community character is something that, while maybe not in plain certainty, has been developed more in the Big Pine area than maybe others. It's still somewhat elusive, but it's there and it's a criteria to be dealt with. And there's been a lot of testimony today about community character.

1 With respect to, I'm going to call it the
2 economic aspects of this, clearly we cannot deny
3 anybody because we think it's going to put somebody
4 else out of business. That is different than a
5 criteria of basically is it supportive of the local
6 economy. I'm not sure totally what that means, but
7 they're two dramatically different standards.
8 So clearly, to the extent that nobody seems to be
9 thinking about turning it down, and I don't think
10 anybody is out there based on driving somebody else
11 out of business.
12 On the need for a second drugstore, I think as
13 Marlene said accurately, I think that there are places
14 in this country where you do have the needs-based
15 analysis and a need has to be proven. I don't think
16 we have that here in this one. If some places have,
17 show you have a need to have this service provided. I
18 don't think that --
19 COMMISSIONER PUTNEY: What's this environmental
20 impact analysis that's supposed to have been done?
21 Isn't that the same or similar or would generally
22 under theoretical conditions address some of the same
23 issues as the needs analysis?
24 MR. WOLFE: Well, there are a couple different
25 types of needs analyses. I was thinking more of the

needs in the community where you're actually looking at, for example, does a small community have five types of businesses which are identical and therefore you don't need it, so it doesn't add to the community. It's a different issue then. Competition, I think, is also different than environmental.

COMMISSIONER COLEMAN: And Mr. Wolfe, while you're on this, and for Commissioner Putney, just so we're clear, if the comp plan says prefer local businesses, then this goes down. You can prefer to protect the local economy and an outside company can come in and service that part of the economy. But to prefer, the term, if it says preference for local businesses, if what that means in the comp plan is local businesses over an interstate business, then we lose.

MR. WOLFE: Right. I think you're looking at it on a macroeconomic level of the base of the community.

COMMISSIONER PUTNEY: That's not what it says.

CHAIRMAN RITZ: All right. So we're square there.

Then the next issue Commissioner Putney raised is suburban commercial and we heard testimony that suburban commercial is designed to serve the local community. We were presented a document of a

1 California case Ensign Bigford (Ph) vs. City Council
2 of Livermore, 1977 California case that says, "The
3 population base to support a neighborhood commercial
4 area is not adequate at this time, nor is it
5 anticipated that the neighborhood population will
6 become large enough in the immediate future to justify
7 th re-zoning at this time." It was a re-zoning case.
8 So what weight do we have that the 5,000
9 population of the community is not -- the store isn't
10 designed to serve that population?
11 MS. CONAWAY: I think our problem, and I'm trying
12 to think of a way you can write it, I think our
13 problem is you have a 15,000 or 20-odd thousand square
14 foot building there right now that is a commercial
15 building, and a commercial medium-intensity use. And
16 it's hard to take away that they're -- that use no
17 longer has a value on this property.
18 I mean, you know, that's where I'm having trouble
19 finding a way for you to give me finding of facts.
20 I'm looking for it in my mind and my problem is, you
21 already have a large chain store on this property.
22 COMMISSIONER COLEMAN: Yeah, it is. Scotty's is
23 a chain, okay.
24 MS. CONAWAY: Yes.
25 COMMISSIONER COLEMAN: I mean, so you can't --

1 you can't hang it on the chain.
2 MS. CONAWAY: And it's a large chain.
3 COMMISSIONER WERLING: Right, right, right.
4 MS. CONAWAY: So how could we --
5 COMMISSIONER PUTNEY: Let me see if I can give
6 you at least my perspective on it.
7 First of all, you don't -- you know, I've got a
8 lot of different points and I don't know how long
9 we're going to take, but we need to do this right.
10 CHAIRMAN RITZ: We're not coming back.
11 COMMISSIONER PUTNEY: The application, we have
12 two applications. One application was for the store
13 and it was said, lumberyard to drugstore. We've had
14 numerous testimony about the intensity of use, the
15 current intensity of use at that lumberyard and the
16 intensity of use at a drugstore.
17 We've had testimony saying that the Walgreen's is
18 more than a drugstore, and if you look at the
19 alcoholic beverage application it says, lumberyard and
20 hardware and plant nursery to pharmacy, liquor store,
21 health and beauty, health and beauty aids, convenient,
22 convenience food items. To me, that clearly
23 demonstrates that the use is -- I mean, you may look
24 up somewhere and say, oh, this is a moderate and this
25 is a moderate, but we have had lots of testimony that

we're going from an underused in the code moderate use to, and expert testimony on both aides, to a much more intense use.

There is no question in my mind there is going to be more traffic generated by Walgreen's than Scotty's which, you know, I can let -- we could respond to each, but that segways into the whole traffic thing.

COMMISSIONER WERLING: Scotty's was so underused for so long it was like overflow parking for the flea market for years. I mean, years.

COMMISSIONER COLEMAN: The trouble with pinning too much on that, I think, however, though, is we do it by category, okay. And it's not about --

COMMISSIONER PUTNEY: Well, I can pull this out of the category, too.

COMMISSIONER COLEMAN: Now, well, we could say that the -- hold on. We could say that the data supporting, that they're in the correct category and will remain in the category was insufficient --

COMMISSIONER WERLING: Yes.

COMMISSIONER COLEMAN: -- and unsatisfactory and we could not find that the burden was met on that point. And that would be more defendable than sitting here and trying to throw them out of the --

COMMISSIONER PUTNEY: Are you writing all this

1 down?

2 COMMISSIONER COLEMAN: -- out of the category.

3 MS. CONAWAY: We're waiting until you actually

4 have a finding of facts. Because right now, what we

5 have is a discussion. You know, everyone admits and

6 agrees that Scotty's obviously wasn't doing a good job

7 or they wouldn't be closing their stores down.

8 Whether they did a good job and had lots of customers

9 before Home Depot went in back here, I don't know.

10 But obviously, recently, Scotty's has not been getting

11 their share or they would still be wanting to be

12 there. So --

13 CHAIRMAN RITZ: So, I mean, if we want to have --

14 the issue once again was suburban commercial. You

15 started off the conversation saying it wasn't a change

16 of use in your opinion. You've heard what some of the

17 Commissioners have said, they believe it is a change

18 of use going from a --

19 COMMISSIONER COLEMAN: We don't believe that the

20 burden has been met that they justify remaining within

21 that categorization of use. If it were the same kind

22 of use, but it -- it doesn't sound to us by the

23 application, by what's in the application, that we are

24 going to be staying in that moderate intensity that we

25 are in and we believe the burden has not been met.

1 MS. CONAWAY: Yeah. Maybe what you're saying is
2 one of your findings of facts is that Scotty's is not
3 a medium-intensity use, --
4 COMMISSIONER WERLING: That's it.
5 MS. CONAWAY: -- it's a low-intensity use, and by
6 putting --
7 COMMISSIONER WERLING: In this location.
8 MS. CONAWAY: In this location. And by putting a
9 different use there, that that is.
10 COMMISSIONER WERLING: Yes.
11 MS. CONAWAY: Now, the problem is, if you use
12 these ITEs, which is what is -- our ordinances tell us
13 to use to determine that, but I -- I feel that you can
14 say that the testimony has convinced you that it
15 isn't, and we can use that.
16 COMMISSIONER MARGALLI: But, Marlene, the use is
17 not the intensity, right? They're mutually exclusive,
18 aren't they?
19 MS. CONAWAY: Well, it is that the way our
20 ordinance is structured, the intensity of use makes a
21 difference. It is a change in use. If it stays --
22 COMMISSIONER MARGALLI: Well, we don't have a
23 change, but you're saying there is not a change in
24 use?
25 COMMISSIONER PUTNEY: We're saying that we, we

1 could --

2 MS. CONAWAY: If the intensity has increased to

3 become a high intensity or if it started out a low and

4 became a medium intensity under our LDRs, that is then

5 a change in use --

6 COMMISSIONER MARGALLI: Okay. That's what I need

7 to be aware of.

8 MS. CONAWAY: -- because the intensity is the

9 basis of the use.

10 COMMISSIONER MARGALLI: Okay. Well, that makes

11 sense.

12 COMMISSIONER COLEMAN: But what I'm getting at is

13 that the factual finding will be such that on the

14 evidence presented at the hearing today, this

15 Commission was unable to determine that it would be a

16 continuation of use, of the current use. And on that

17 point, the burden would not have been met.

18 COMMISSIONER PUTNEY: The --

19 COMMISSIONER MARGALLI: Now, but -- I'm sorry.

20 COMMISSIONER PUTNEY: I'm so sorry.

21 COMMISSIONER MARGALLI: Go ahead. The only thing

22 I feel bad about with the applicant is they said they

23 would actually modify that issue and they, you know,

24 here we go, we're not -- they said they would modify

25 it.

1 COMMISSIONER PUTNEY: They can't modify it down
2 to the traffic generated by Scotty's.
3 COMMISSIONER MARGALLI: No, that's true.
4 COMMISSIONER PUTNEY: Right.
5 COMMISSIONER MARGALLI: And I agree with you.
6 That, they cannot do.
7 COMMISSIONER PUTNEY: One of the things that
8 troubled me the most was the -- Marlene is saying that
9 the, I know what you're talking about, the facilities
10 plan which has got the, based on the Monroe County
11 Code, says we're to use the ITE. It is a method that
12 is like adopted by ordinance, I mean, okay.
13 There is conflicting testimony on the square
14 footage of Scotty's, but that did change the numbers
15 considerably, but we would have to get an ITE -- we
16 would have had to have a statement on the record of
17 the ITE trip generation for an outdoor plant nursery.
18 We have that to create doubt. It creates doubt in my
19 mind.
20 But this, there is testimony by the applicant's
21 expert witness that these drive pass-by trips were
22 taken from the ITE Handbook and that he ran the
23 numbers, the 49 percent past our consultants. But we
24 have our consultant's traffic report for the same
25 exact Walgreen's in Key Largo with a 28 percent, and I

1 did the numbers and, in fact, just based on that
2 little discrepancy, there's a net gain in trips. And
3 I believe that because of that gain in trips, we have
4 the issue of the moratorium and the level of service
5 and the Florida statute concurrency.
6 This segways into the, I've got some things to
7 read from Monroe County Code Section 9.5-291, 292 and
8 9J-5, but this goes into another issue, and I don't
9 know that we can have a finding of fact on this but
10 I'm going to state it anyway, but we have turned down,
11 I have the letter that Timothy McGarry wrote Donald
12 Craig about the Monte's. I mean, it's clear, it's
13 absolutely clear in our code, it's absolutely clear
14 that concurrency is the backbone of growth management
15 in Florida. That if they failed to meet their burden
16 of proof to me, in fact, there is compelling evidence
17 that we are generating new trips. And just on that
18 alone, I cannot support the project.
19 I just want you to know that's where I stand. I
20 ran the numbers and I guess I'll read them into the
21 record. It wasn't a big difference because I didn't
22 have the ITE Trip Manual thing for the plant store.
23 COMMISSIONER COLEMAN: Well, I just want to say
24 this. I want us to be a little careful about using
25 this April 17, 2001 report of up in Key Largo.

1 COMMISSIONER PUTNEY: Yes, but the testimony was
2 that the ITE Handbook --
3 MS. CONAWAY: I need to respond to that.
4 COMMISSIONER PUTNEY: -- that was used by the
5 expert witness was taken out of the Fifth Edition
6 which was the last edition.
7 COMMISSIONER COLEMAN: Right, I understand.
8 MS. CONAWAY: I need to respond to that, though.
9 The difference is the number of drugstores within the
10 Upper Keys as opposed to the number of drugstores
11 between the bridge and Key West. That's --
12 COMMISSIONER PUTNEY: Oh, okay.
13 MS. CONAWAY: That's what makes it the
14 difference.
15 COMMISSIONER PUTNEY: All right. I
16 misunderstood. So it's the proximity of another
17 drugstore.
18 MS. CONAWAY: Yes. Or another hundred
19 drugstores.
20 COMMISSIONER PUTNEY: What happens if there's one
21 right next door?
22 MS. CONAWAY: There is, every place I've seen an
23 Eckerd's, there's a Walgreen's next door.
24 COMMISSIONER PUTNEY: Okay. I stand corrected.
25 I just thought that was very -- I should have asked

before I shot off my mouth.

CHAIRMAN RITZ: Is your point still that they have demonstrated that --

COMMISSIONER PUTNEY: They have failed to demonstrate -- that there will be an increase in traffic and we are in a level of service concurrency moratorium under Florida statute.

CHAIRMAN RITZ: And do you have anything else?

COMMISSIONER PUTNEY: Well, I guess everybody is just in agreement that, that there's no, that we know that you cannot issue any approval for development or redevelopment given that level of service concurrency moratorium. That's an accepted fact.

COMMISSIONER COLEMAN: But, you're shaking your head, Marlene.

MS. CONAWAY: Well, I just have a lot of problems not accepting the traffic study when it's been done according to our regulations and reviewed by our traffic engineer who reviews everyone who comes through here. It's, it's just a --

COMMISSIONER MARGALLI: Well, we have a discrepancy in the evidence. I mean, we don't have to accept the traffic study by the --

MR. WOLFE: That's true, yeah, right.

COMMISSIONER MARGALLI: Exactly.

COMMISSIONER COLEMAN: That's the methodology our county has to use, but it is just a piece of evidence that comes up before us today.

MR. WOLFE: Right. You have different experts and you can weigh the evidence and make your decision.

COMMISSIONER WERLING: We don't think he did it.

COMMISSIONER PUTNEY: He failed to prove to me there will be less trips with the proposed development as opposed to the existing development.

CHAIRMAN RITZ: Anything else?

COMMISSIONER COLEMAN: I still believe that there's something there about the rural, which is to me kind of like half rural. I know part of Big Pine is rural but it's not my idea of like, oh, you can step out on the farm. There's a certain kind of sophistication here that we don't have out in the rural North Dakota where I was, okay. That's like rural.

COMMISSIONER WERLING: It is a very different experience.

COMMISSIONER COLEMAN: You know, right within the immediate vicinity, okay, in this small area of Big Pine Key, you have a Tom Thumb's, a Dion's, you have the Eckerd's, you have the Winn Dixie, all of them serving in many cases the exact same items.

COMMISSIONER WERLING: The same stuff.

COMMISSIONER COLEMAN: And I believe there is a certain amount. And then right next door, Eckerd's and, okay, and there is a certain amount of saturation. I mean, yes, there are the chains, and we're not basing things on chains, okay, and we're not really basing things on reducing or hampering or preventing competition, okay. But a lumber hardware store is a different thing than a convenience, drug, sundry, healthcare. I think that is exactly what, if Eckerd's had to describe what they are, that would be the same exact definition.

COMMISSIONER PUTNEY: Let me remind you, I don't know if this would help or not, but the policy and the three basic tenants of the tech document for all future land use planning did not say to protect the community character. It says to enhance the community character. And then further down it says, and to get away from strip mall design criteria. I'm sure Marlene can find it. I can find it, too.

COMMISSIONER MARGALLI: But, you know, this is -- this could just get worse. I mean, if we deny this, what makes -- you know, what change are we looking for?

CHAIRMAN RITZ: Well, let's -- well, that brings

1 up the weight. We heard testimony that the community
2 is -- that the community agrees that these services
3 are all being met. However, there's a number of needs
4 that aren't being met. I think she listed the fire
5 station, the park, the community center, the library,
6 obviously George's office. So how do we -- are we
7 permitted to weigh the unmet needs versus the fact
8 there's redundant services already provided?
9 MS. CONAWAY: Are they unmet or was really
10 they're not all on one property? I mean, the library
11 is expanding right now, as is the fire station. You
12 know, it's -- there is no community building. We
13 don't have one of those.
14 COMMISSIONER MARGALLI: I don't think that's what
15 he's saying. He's saying something different. He's
16 saying we're weighing the, another convenience store
17 versus one of those things he just enumerated.
18 COMMISSIONER WERLING: Right.
19 COMMISSIONER MARGALLI: Not whether or not we
20 already have those --
21 COMMISSIONER WERLING: Right.
22 COMMISSIONER MARGALLI: -- or it's sufficient,
23 but, you know, can we use another library? Can we use
24 something else that fits in the community that would
25 make it more --

1 CHAIRMAN RITZ: Where are we allowed, or are we
2 allowed to weigh that?
3 COMMISSIONER WERLING: The need of the community
4 for --
5 CHAIRMAN RITZ: Well, we want to, and should.
6 MR. WOLFE: I don't think you can put -- I mean,
7 because what you have here is someone who owns
8 property looking to redevelop on the property. And
9 everyone says, it would be nice to have a fire
10 station, it would be nice to have Commissioner Nugent
11 and so forth. The county hasn't stepped up and
12 offered Scotty's whatever it would take to do that.
13 So that's what's -- it's development approval.
14 There are many times we would prefer to see vastly
15 different things on almost every parcel, but no one
16 has stepped up to pay them the money to do that.
17 COMMISSIONER MARGALLI: John, that's not what
18 he's saying. He's saying, can you weigh those issues.
19 Do we have the legal authority to weigh that specific
20 issue?
21 MR. WOLFE: Well, I don't see that that's --
22 COMMISSIONER MARGALLI: We're not saying the
23 county is going to -- you know, they're not coming and
24 running over here giving him ten million dollars for
25 that piece of property, but can he weigh that issue or

1 can we weigh that issue in determinations as to the
2 comparison? Can we do that?
3 MR. WOLFE: I don't -- well --
4 COMMISSIONER COLEMAN: I think we've got to be
5 really careful.
6 MR. WOLFE: I can see -- I can see --
7 COMMISSIONER MARGALLI: It's a good question. I
8 mean, I need to know the answer to it.
9 COMMISSIONER COLEMAN: Yeah, but the trouble is,
10 what you do is -- what you do is you don't let them
11 redevelop the property for a commercial use, and then
12 they've got to sell it to you for a fire station and a
13 library because you can't use it for anything else.
14 COMMISSIONER MARGALLI: He's not saying that.
15 He's saying it's one factor --
16 COMMISSIONER COLEMAN: You've got to be careful
17 that's not what he's doing.
18 COMMISSIONER MARGALLI: Jerry, he's using that as
19 one factor as of many, that's all. Not the
20 determinative factor, one factor. That's what I think
21 he's --
22 COMMISSIONER COLEMAN: Well, I do, I do. I don't
23 see why we -- we certainly can look at the economic
24 mix in the location and distribution of economic uses
25 along this 126-mile corridor. I believe that is --

1 CHAIRMAN RITZ: That's what I'm asking.
2 COMMISSIONER MARGALLI: That's what he's asking,
3 can you do it.
4 MR. WOLFE: I don't see any real strong basis for
5 doing that. Again, I think that's a very supportable
6 basis if it were in, in our comp plan, and it's kind
7 of generally touched upon. But again, it's -- you're
8 basically then shifting to what would be the most
9 desirable use for that particular property in that
10 community and I don't see that in here as a criteria.
11 CHAIRMAN RITZ: Well, no, actually I was asking
12 the reverse, and I believe your answer is going to be
13 the same. But, can we say the applicant has to jump
14 this hurdle, and this hurdle is we've got too many
15 drugstores, convenience stores in the area already, we
16 don't need another one? And then does he, he's got to
17 demonstrate that either we do need another one or we
18 don't have too many or something?
19 MR. WOLFE: I don't see that in our comp plan.
20 Again, I think that's a very defensible thing, but I
21 don't see it in there.
22 CHAIRMAN RITZ: It would be nice, but I wouldn't
23 use that as a finding of fact.
24 COMMISSIONER COLEMAN: Right, no. Nothing that's
25 -- because in those kind of areas where they are

1 regulated on need, like take a hospital bed, you have
2 to get a certificate of need. You know, there's a
3 sophisticated system of administrative to determine
4 where you're going go be denied, because they won't
5 let you get the hospital bed if you don't get the
6 certificate of need. So we don't have that type of
7 apparatus here to determine certificates of need for
8 sundry stores.
9 CHAIRMAN RITZ: Commissioner Putney, how are we
10 doing on this?
11 COMMISSIONER PUTNEY: Well, I've got the -- a
12 couple comp plan sections. I'm reading from Objective
13 101.2, Monroe County shall protect local communities
14 while balancing the needs of all Monroe County
15 communities. The effort shall focus on the unique
16 character of the environment and shall be undertaken
17 through Livable CommuniKeys. Each community master
18 plan will contain a framework. Do you know where I
19 am, Marlene?
20 CHAIRMAN RITZ: Is there a point that you
21 haven't, you haven't --
22 COMMISSIONER PUTNEY: No, I don't think you have
23 to -- that's in the plan. I mean, that's directing
24 future development. It doesn't mean that a specific
25 master plan has to be complete, but in this particular

case we have one clearly defined.

CHAIRMAN RITZ: We have a letter from Marlene saying that we shouldn't wait on the master plans in making decisions.

COMMISSIONER WERLING: Right.

COMMISSIONER COLEMAN: We have an application before us today.

COMMISSIONER PUTNEY: No, I don't think we should. I'm just saying that to me, that's another aspect of the comp plan that we should be in compliance with based on the code and based on state statute.

CHAIRMAN RITZ: Well, right now, we have to see if we can wrap this up and see if anyone has anything else you want to add. We have the comp plan which discusses community character and we're going to have -- going, I guess, have a finding of fact saying that the application has not met the burden of enhancing or maintaining the community character.

COMMISSIONER PUTNEY: Right. And I'd like to put in a couple other findings. One that we recognize that Big Pine Key is unique based on the fact that it's within the boundaries of the National Key Deer Refuge, a very low amount of development because of environmental constraints. We recognize through the

1986 plan and subsequent planning processes, including the HCP and the Livable CommuniKeys that the community character is rural, sparsely settled, et cetera, you know.

CHAIRMAN RITZ: And this is all --

COMMISSIONER WERLING: With a population not likely to --

COMMISSIONER PUTNEY: Well, yes, and given the HCP, not much future development over the next 20 years is anticipated.

CHAIRMAN RITZ: This is in the form of a motion, I presume, since -- a number of findings.

COMMISSIONER PUTNEY: Well, we're going to outline the findings?

CHAIRMAN RITZ: Yeah. That's what you just did.

COMMISSIONER PUTNEY: Okay. Well, that's just the first --

CHAIRMAN RITZ: That's number one then.

COMMISSIONER PUTNEY: Yeah. That's the first one. Inconsistency with the Monroe County Code, Section 9.5-65.

COMMISSIONER COLEMAN: Says what?

COMMISSIONER PUTNEY: That when considering applications for conditional use permits, the Director of Planning and the Planning Commission shall consider

1 to the extent which the conditional use is consistent
2 with the purposes, goals and objectives and standards
3 of the comprehensive plan.
4 CHAIRMAN RITZ: And I assume you want to discuss
5 suburban commercial is designed to serve the local
6 community.
7 COMMISSIONER PUTNEY: Right. That we felt it did
8 not meet the purpose of suburban commercial.
9 CHAIRMAN RITZ: And that Scotty's is a low-
10 intensity use and Walgreen's is a higher --
11 COMMISSIONER PUTNEY: Well, that's -- that we
12 found that Scotty's, we're finding that Scotty's is
13 less than a medium intensity based on testimony and
14 experts. Therefore, the -- there would be a change in
15 use. We find that the application would create a
16 change in use. And I don't know what, I can't
17 remember now. I'm getting pretty tired.
18 COMMISSIONER COLEMAN: Also, that we found, and
19 I'm just trying to make it like defensible with what's
20 in the record, --
21 COMMISSIONER WERLING: Right.
22 COMMISSIONER COLEMAN: -- that we were unable and
23 I don't believe the applicant proved it would not be a
24 change in use.
25 COMMISSIONER PUTNEY: Failed to demonstrate.

1 CHAIRMAN RITZ: That's the same thing as --
2 COMMISSIONER COLEMAN: And it's their burden to
3 prove that it would stay in the same category.
4 COMMISSIONER PUTNEY: That we recognize that the
5 applicant has a burden to make -- based on substantial
6 and competent evidence, we failed to, failed to find
7 that Scotty's is a medium-intensity use. I don't know
8 how to word it.
9 CHAIRMAN RITZ: That's fine. Then you had
10 traffic, that they have not --
11 COMMISSIONER PUTNEY: That based on experts
12 recognizing, you know, the level of concurrency
13 moratorium on Big Pine Key, the fact that the levels
14 there are substandard, that there's a state statute
15 that is statute number --
16 CHAIRMAN RITZ: A state statute.
17 COMMISSIONER PUTNEY: -- 163.3180 and local
18 comprehensive plan Policy 101.12, and 101, 401.4.5
19 that prohibits the issuance of any permits in which
20 there's a degraded level of service. Recognizing
21 that, we fail to, based on the testimony and the
22 evidence presented at the hearing, however you want to
23 do it, that we failed to -- we failed to accept. That
24 the traffic report did not meet the burden of proof.
25 CHAIRMAN RITZ: That they have not demonstrated

there will be --

COMMISSIONER COLEMAN: They were not -- remain within the parameters of the existing use.

COMMISSIONER PUTNEY: We're talking about traffic.

CHAIRMAN RITZ: Yeah.

COMMISSIONER PUTNEY: Demonstrate. They have not demonstrated that there's not going to be a zero --

COMMISSIONER MARGALLI: You could even, you could also throw in that the evidence demonstrated that there will be a change.

COMMISSIONER PUTNEY: I felt that the evidence demonstrated that there will be.

COMMISSIONER COLEMAN: On the increase in traffic?

COMMISSIONER MARGALLI: Yeah.

COMMISSIONER PUTNEY: Yes.

COMMISSIONER MARGALLI: I think the evidence demonstrated an increase in traffic.

COMMISSIONER PUTNEY: All right. The evidence demonstrated an increase in traffic.

COMMISSIONER MARGALLI: I don't think there was any doubt about that.

COMMISSIONER COLEMAN: I think maybe they admit that, they just attributed that to some of it was

passerby.

CHAIRMAN RITZ: Try to get this into the frame of a motion.

COMMISSIONER PUTNEY: I'm trying to get this in the record.

CHAIRMAN RITZ: Those were the three that I had. So now we're --

COMMISSIONER PUTNEY: That it violates the overall intent of the Comprehensive Land Use Plan. We did the part about the community character being clearly defined and I stated why. The fairness issue is irrelevant. I so move.

CHAIRMAN RITZ: All right. So there was a very, probably the longest motion we've had on record. Is there a second?

COMMISSIONER MARGALLI: I'll second the motion.

CHAIRMAN RITZ: So those were the findings. Just so that we're perfectly clear. And so, I think we missed a conclusion to the motion. So there's --

COMMISSIONER PUTNEY: Do we have -- is the Livable CommuniKeys reporter, is there anything else that staff would like to enter in the record?

MS. CONAWAY: I think you've got four findings of fact. We'll see how they go.

CHAIRMAN RITZ: And there was a conclusion that

1 therefore, the application is denied.
2 COMMISSIONER PUTNEY: Therefore, we, I recommend
3 that the application be denied.
4 CHAIRMAN RITZ: There's a motion. Do we have a
5 second?
6 COMMISSIONER MARGALLI: I second the motion.
7 COMMISSIONER PUTNEY: Don't say for discussion.
8 CHAIRMAN RITZ: So we have a motion to deny the
9 application based on at least four findings of fact.
10 COMMISSIONER PUTNEY: Four or five, yeah.
11 Whatever the record reflects.
12 CHAIRMAN RITZ: Are there any further --
13 MS. CONAWAY: I have six.
14 CHAIRMAN RITZ: Is there any further discussion?
15 COMMISSIONER MARGALLI: None.
16 CHAIRMAN RITZ: Are there any negative votes?
17 Hearing none, the motion is carried. Commissioners,
18 we can go ahead and take a break.
19 (Concluded at 7:01 p.m.)
20
21
22
23
24
25

CERTIFICATE

STATE OF FLORIDA,)

COUNTY OF MONROE,)

I, SUZANNE F. EX, CVR, Court Reporter and Notary Public in and for the State of Florida, do hereby certify that I reported the foregoing hearing; and that the foregoing pages numbered from 1 to 211 constitute a true and complete record of the proceeding.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 10th day of October, 2003.

Suzanne F. Ex, CVR

Notary Public, State of Florida

SUZANNE F. EX
MY COMMISSION # DD 042907
EXPIRES: July 27, 2005
Bonded Thru Notary Public Underwriters

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MONROE COUNTY PLANNING DEPARTMENT
APPLICATION FOR AN APPEAL TO THE HEARING OFFICER*

Application Fee: $1000.00

THIS APPEAL IS PURSUANT TO THE HEARING OFFICER APPELLATE ARTICLE XIV, MONORE COUNTY CODE, SECTION 9.5-535. PLEASE COMPLETE *ALL* OF THE FOLLOWING INFORMATION:

1) APPELLANT

Name: Scotty's INC, Walgreens Co. and Gadinsky Real Estate, LLC

Address: 1111 Lincoln Road, Suite 400

City/State: Miami Beach, Florida 33139

Phone: (Home) _____ (Work) (786)- 276-2387

2) ATTORNEY

Name: Nicholas W. Mulick, PA

Address: 91645 Overseas Highway

City/State: Tavernier, Florida 33070

Phone: (305)-852-9292

3) APPELLEE

Name: None

Address: _____

City/State: _____

Phone: _____

4) DATE OF DECISION BEING APPEALED: September 10, 2003

5) DECISION BEING APPEALED: Resolution No. P36-03 denying amendment to a major conditional use application filed by Scotty's Inc. (see copy of resolution attached)

RECEIVED
OCT 10 2003
w/transcript

*Appeals exclude ROGO Decisions, FEMA Variances and Development of Regional Impact (DRI) decisions.

6) BASIS FOR APPEAL: State the applicable section of the code which applies to the appeal, and describe the basis of your appeal:

The planning commissions denial of Appellants application for a conditional use development order did not comply with the essential requierements of law because , inter alia, the planning commission improperly determined that the project is not consistant with community character and fails to minimize adverse effects on surrounding properties. Additionally, the Planning commission erroneously concluded that the proposed use does not meet the purpose of the SC land use district. There was no evidence to support the Planning commission's determination that the Scotty's harware store is not a medium intensity use or that the proposed project is a change to a higher intesity. There was no evidence to support the conclusion that appoval of this project would have an adverse impact on US Highway 1 level of traffic.

7) LEGAL DESCRIPTION OF PROPERTY:

Street: Key Deer Boulevard and US Highway 1

Lot: _____ Block: _____ Subdivision: _____

Key: _____ M.M. _____ RE Number: 00 111690000900

If in metes and bounds, attach separate sheet (see attached)

STREET ADDRESS: _____

LAND USE DESIGNATION: Suburban Commercial

MONROE COUNTY CODE SECTION 9.5 - 46 PROVIDES THAT "ANY PERSON DESIRING TO APPEAL A DECISION UNDER THE HEAING OFFICER APPELLATE ARTICLE SHALL PROVIDE A TRANSCRIPT OF THE PLANNING COMMISSION HEARING" PREPARED BY A COURT REPORTER WITHIN THE TIME PROVIDED IN SECTION 9.5 - 521(f), MONROE COUNTY CODE. FOR AN APPEAL TO BE PROCESSED, A VERBATIM TRANSCRIPT PREPARED BY A COURT REPORTER MUST ACCOMPANY THIS APPLICATION.

APPEAL OF PLANNING COMMISSION DECISIONS MUST BE FILED WITH THE PLANNING COMMISSION COORDINATOR WITHIN TIIIRTY (30) DAYS OF THE DATE OF THE WRITTEN DECISION.

PURSUANT TO SECTION 9.5-539, INITAL BRIEFS MUST BE FILED WITHIN FIFTY (50) DAYS OF SUBMITTING THE NOTICE OF APPEAL. ALL BRIEFS SHOULD BE FILED WITH THE HEARING OFFICER AND SERVED ON THE PARTIES IN ORDER FOR THE APPEAL TO BE SCHEDULED FOR ORAL ARGUMENTS. A HEARING OFFICER WILL BE APPOINTED BY THE DIVISION OF ADMINISTRATIVE HEARINGS. ALL ININITIAL BRIEFS SHOULD BE SENT TO:

DIVISION OF ADMINISTRATIVE HEARINGS
THE DESOTO BUILDING
1230 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-1550
(904) 488-9675

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

Signature of Applicant or Agent

10/09/03
Date

Sworn before me this 9th day of October 20 03 A.D.

Anna Izquierdo
MY COMMISSION # DD177325 EXPIRES
January 14, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

Notary Public
My Commission Expires

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LEGAL DESCRIPTION

A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 66 SOUTH, RANGE 29 EAST ON BIG PINE KEY, MONROE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26 AND THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, BEAR SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, 676.13 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED TRACT OF LAND; FROM SAID POINT OF BEGINNING BEAR SOUTH 89 DEGREES, 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S HIGHWAY NO.1, 598.47 FEET MORE OR LESS TO THE WESTERLY BOUNDARY OF THE STATE ROAD 940 RIGHT-OF-WAY; THENCE BEAR NORTH 31 DEGREES 38 MINUTES WEST ALONG SAID WESTERLY BOUNDARY OF STATE ROAD 940, 490.88 FEET MORE OR LESS, THENCE BEAR NORTH 89 DEGREES 51 MINUTES WEST, 328.65 FEET MORE OR LESS TO THE NORTHEAST CORNER OF ACREAGE RECENTLY PURCHASED BY RUSSELL SWARTZ, THENCE BEAR SOUTH 417.42 FEET BACK TO THE POINT OF BEGINNING OF THE SAID TRACT OF LAND AND SAID TRACT CONTAINING 4.44 ACRES MORE OR LESS.

LESS AND EXCEPT PROPERTY CONVEYED IN WARRANTY DEED FILED MAY 21, 1984 IN OFFICIAL RECORDS BOOK 909, PAGE 2193, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

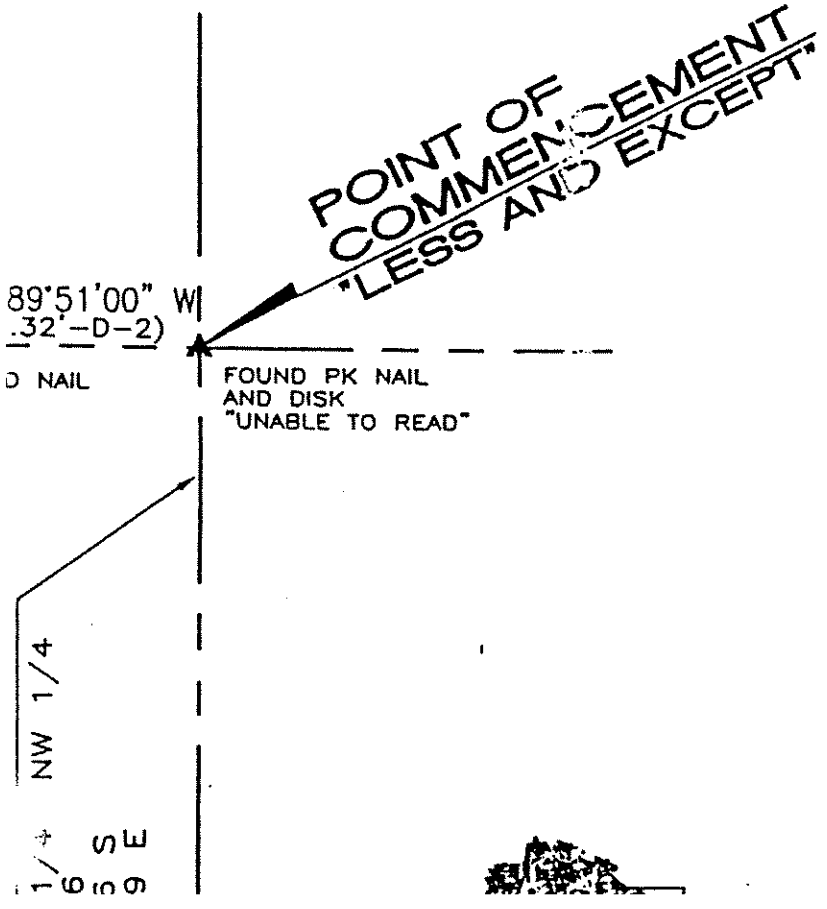
CONTAINING 3.0 ACRES (AFTER LESS & EXCEPT)

SURVEYORS REPORT

1) BEARINGS BASED ON WESTERLY BOUNDARY LINE AS S 00°00'00" W PER DEED (O.R. BOOK 1179 PAGES 1560 & 1561).

2) CERTIFICATE OF TITLE INSURANCE BY FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER 05624.0275 COMMITMENT NUMBER FA-CC-98-019E.. 000 MAY 2, 1998.

3) MONUMENTATION FOUND IN FIELD APPEARS TO BE OCCUPATION LINE OF EXISTING IMPROVEMENTS ON PARCELS.



SCO
BIG PINE K
STO

AS-BUILT SURVEY

95

PLANNING COMMISSION RESOLUTION NO. P36-03

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION **DENYING** OF AN AMENDMENT TO A MAJOR CONDITIONAL USE APPLICATION FILED BY SCOTTY'S INC. TO DEMOLISH THE EXISTING SCOTTY'S HARDWARE STORE AND BUILD A 16,510 SQ. FT. WALGREEN'S DRUG STORE WITH A DRIVE-THROUGH PHARMACY WINDOW AND A 2,000 SQ. FT. LIQUOR STORE ON A PROPERTY LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 66 SOUTH, RANGE 29 EAST, BIG PINE KEY, MONROE COUNTY, FLORIDA. THE REAL ESTATE NUMBER IS 00111690.000900.

WHEREAS, Scotty's Inc. is the owner of the real property described as a tract of land in a part of the southeast quarter of the northeast quarter of Section 26, Township 66 South, Range 29 East, in Big Pine Key, Monroe County, Florida; and

WHEREAS, Scotty's Inc. proposed to redevelop the Scotty's hardware store in Big Pine Key by removing the existing 161 by 161 Ft. building and replacing it with a 127 by 130 Ft. (16,510 Sq. Ft.) structure consisting of a Walgreen's drug store, a drive-through window for the pharmacy, and a 2,000 Sq. Ft. liquor store; and

WHEREAS, the site is approximately 131,447 Sq. Ft. or 3.01 acres and is located in the Suburban Commercial (SC) Land Use District; and

WHEREAS, the proposed Walgreen's drug store would not be a 24 hour/day business operation; and

WHEREAS, during a regular meeting held on June 11, 2003, the Monroe County Planning Commission conducted a public hearing on the proposed redevelopment project; and

WHEREAS, the Planning Commission was presented with the following evidence, which is hereby incorporated as part of the record of said hearing:

1. The application for an Amendment to Major Conditional Use dated April 14, 2003; and

2. Traffic Study prepared by Transport Analysis Professional, Inc., dated April 8, 2003; and

3. Site Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

DCK

4. General Floor Plan & Schedules by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

5. Exterior Elevations, Details, and Sign data, by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

6. Drainage Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

7. Landscaping Plan by Dave Bodker, Landscape Architecture/Planning Inc. dated 04/22/2003; and

8. AS-Built Survey by Taylor-McVay Inc. and signed and sealed by Stephen J. Peterson, P.L.S., dated 04/07/2003; and

9. A staff report prepared by Aref Joulani, Senior Administrator of Development Review, and Ralph Gouldy, Senior Administrator of Environmental Resources, dated 05/29/2003; and

10. Comments made by Nicholas Mulick, Esq., for the Applicant; and

11. Expert testimony provided by Donald Craig, AICP, of the Craig Company on behalf of the Applicant; and

12. Comments made by Lee Rohe, Esq., for Big Pine Key resident, Susan Eanes, and Composite Exhibits; and

13. Testimony provided by members of the general public, and Exhibits; and

14. Expert testimony provided by Sheryl Bower, AICP of Planning Solutions Unlimited, on behalf of Big Pine Key resident Susan Eanes; and

15. Expert testimony provided by Miles Moss, Miles and Moss Consulting Traffic Engineers, on behalf of Big Pine Key resident Susan Eanes; and

16. Comments made by Monroe County Planning and Environmental Resources Department staff; and

17. Comments by members of the Planning Commission; and

18. Advice from John Wolfe, Esq., Counsel for the Planning Commission.

WHEREAS, the Planning Commission has made the following Findings of Fact and Conclusion of Law, based on the sworn testimony of the Monroe County Planning Department staff and the record:

DCR

1. Based on the fact that Big Pine Key is within the boundaries of the National Key Deer Refuge and in an area of significant environmental constraints there is an extremely limited amount of development potential on Big Pine Key. Therefore, we find that Big Pine Key has a unique community character.

2. Based on the 1986 Comprehensive Land Use Plan, the 1996 (Year 2010) Comprehensive Land Use Plan and subsequent planning processes, including the Big Pine Key HCP (Big Pine/No Name Key Habitat Conservation Plan) and Big Pine Key LCP (Livable CommuniKeys Program) planning process; the character of Big Pine Key has been defined. Therefore, we find that the community character of Big Pine Key is rural.

3. Based on Section 9.5-65, "when considering applications for conditional uses, the Director of Planning and the Planning Commission shall consider to the extent which the conditional use is consistent with purposes, goals and objectives, and standards of the Comprehensive Plan and this Chapter." Therefore, we find that the project will not meet the general standards set forth in Section 9.5-65 including but not limited to: the project is not consistent with the surrounding community character, and the project does not minimize adverse effects on the surrounding properties.

4. Based on Section 9.5-206, the purpose of Suburban Commercial (SC) district is to establish areas for commercial uses designed and intended primarily to serve the needs of immediate planning area in which they are located. Therefore, we find that the proposed use of the property does not meet the purpose of the SC land use district.

5. Based on the expert testimony and exhibits, we find that the existing Scotty's hardware store is not a medium intensity use and the applicant failed to demonstrate that the proposed Walgreen's is not a change of use to a higher intensity and that the intensity is within the same category as the existing use.

6. Based on staff and expert's testimony recognizing the level of service concurrency moratorium, the level of service is substandard in Big Pine Key. The state statues and local comprehensive plan policies and Land Development Regulations prohibit the issuance of building permits where there is a degradation of an inadequate level of service. Therefore, we find that the evidence submitted demonstrates an adverse impact on the US 1 Highway level of traffic, and that the project is in conflict with Florida State Statutes and the Monroe County Year 2010 Comprehensive Plan.

7. Based on expert and public testimony, we find the project is not consistent with the purposes, goals, objectives, policies and standards of the Year 2010 Comprehensive Land Use Plan, including but not limited to: protecting and enhancing the quality of life of the residents, and the planned future development of Big Pine Key, Livable Communikeys Program, initiated on Big Pine Key in April, 2000.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding Findings of

DCR

Fact and Conclusions of Law, support its decision to DENY the request for an Amendment to a Major Conditional Use by Scotty's Inc. to demolish the existing 25,921 Sq. Ft. Scotty's hardware store and build a 16,510 Sq. Ft. of medium intensity Walgreen's drug store consisting of a drive-through window for the pharmacy and a 2,000 Sq. Ft. liquor store in Big Pine Key.

PASSED AND ADOPTED by the Planning Commissioners of Monroe County, Florida, at a regular meeting held on the 11th day of June 2003.

Chair David C. Ritz	YES
Vice Chair Denise Werling	YES
Commissioner Jerry Coleman	YES
Commissioner Alicia Putney	YES
Commissioner Julio Margalli	YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY _____
David C. Ritz, Chair

Signed this 10th day of September, 2003

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY _____
Attorney's Office

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MONROE COUNTY PLANNING DEPARTMENT

APPLICATION FOR AN AMENDMENT TO A CONDITIONAL USE APPROVAL

Application Fee: $1,850.00 + $50.00 Fire Marshall Fee = **$1,900.00**

All information must be completed in full before the application can be processed by the Planning Department. If you have any questions, please contact the Planning Department office closest to you.

1) PROPERTY OWNER(S): Scotty's Inc

Mailing Address: 5300 Recker Hwy Winter Haven FL 33880

Phone Number: (Home) _____ (Work) 863 297 6139 (Fax) 863 291 4838

2) AGENT NAME/TITLE: Seth Gadinsky, Manager

Firm: Gadinsky Real Estate LLC

Address: 1111 Lincoln Road Suite 400 Miami Beach FL 33139

Phone Number: (Home) _____ (Work) 786 276 2387 (Fax) 305 531 1017

3) Development Order or Resolution being Amended: # None

Date Recorded: _____ (please attach copy)

4) LEGAL DESCRIPTION OF THE PROPERTY: See attached

Lot: _____ Block: _____ Subdivision: _____

Key: _____ Mile Marker: _____

If in metes and bounds, attach a legal description on separate sheet.

5) Land Use Designation: Mixed use / Commercial

6) Real Estate Number(s): 00111690.000900

7) Street address of property if applicable, and general location description: 30351 Overseas Highway

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8) PROPOSED CHANGE: Lumber Yard to Drug Store

A) Is a time extension being requested? (Yes)_____ (No) ✓

If Yes, from _____ to _____

B) Is the Site Plan being revised? (Yes) ✓ (No)_____

If yes, attach the approved site plan, a revised site plan, and list below all proposed changes. Please give a reason for each change:

the existing building will be demolished and replaced with a new Walgreen drug store

C) Other: *(Describe)*_____

9) Please attach the necessary documents per **Attachment "A".**

10) If the supporting data such as blueprints or surveys are larger than 8 1/2 x 14 inches, the applicant shall submit sixteen (16) copies of each.

11) Photograph of subject property.

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

Signature of Applicant or Agent

4/14/03
Date

Sworn before me this 14th day of April, 2003 A.D.

CARMEN A. ESTRELLA
MY COMMISSION # CC 839571
EXPIRES: September 20, 2003
Bonded Thru Notary Public Underwriters

Carmen A. Estrella
Notary Public
My Commission Expires

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ATTACHMENT A

The following documents may be required to be submitted with your application; please consult with a Planner. Photographs of the site will be necessary in all cases.

I. GENERAL

a) Photographs of site; looking N, E, S & W from perimeters of property and from road;
b) A copy of the official plat, if the proposed development is in a platted subdivision;
c) A survey prepared by an engineer or surveyor currently registered in Florida, containing his/her seal and signature. Indicate all existing structures, paved areas, location of all utility structures, bodies of water, docks, piers, existing grade and mean high water line;
d) A vegetation survey or habitat analysis, if applicable;
e) A landscape plan:
   1. A scale of 1 inch = 20 feet, one acre or more 1" = 40 feet;
   2. Property lines;
   3. Dimensions;
   4. Structures;
   5. Existing natural features;
f) Drainage plan showing final site grading with existing proposed topography prepared by a registered engineer, currently licensed in Florida, in accordance with the drainage ordinance;
g) Elevation drawings of all structures (existing and proposed) with elevation referenced to USGS datum of the following features: existing ground surfaces finished grades, top of foundation, floor elevation, roofline and highest point of the structure;
→ h) Traffic study (if applicable) in accordance with the Traffic Study Handbook;
i) Phasing schedule (if applicable).

II. SITE PLAN

a) A scaled site plan (at a minimum scale of 1" = 20 feet for projects of less than one acre; 1" = 40 feet for projects of one acre or more) including, but not limited to, the following requirements:
   1. Dimensions of the property and of all existing and proposed structures. Include all adjacent property and roadways on site plan and outside dimensions of entire parcel;
   2. Setbacks;
   3. Parking and loading zone locations and dimensions;
   4. Landscape plan and any open space preservation areas;
   5. Improvements for the handicapped according to the state requirements;
   6. Calculations for open space ratios, floor area ratios, density and parking;
   7. Outdoor lighting location and type;
   8. Mean high-water line and shoreline;
   9. Square footage and location of wetlands, including mangroves;
   10. Provisions for solid waste separation, storage and removal.

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III. Conceptual Floor Plans - scale 1/4" = 1'.

IV. Section Drawing of the Building from N, S, E & W.

V. TYPED NAME AND ADDRESS **MAILING LABELS** of property owners within a 300 feet radius of the subject property. This list should be compiled from the current tax rolls located in the Property Appraiser's Office. **Also**, please provide the listing of the names, subdivision name, lot and block # and the RE #'s for each address and note those that are adjoining the property. Adjoining lots are not disrupted by a canal or street. When a condominium is adjoining the property within the three hundred (300) feet, each unit owner must be included.

VI. Letters of Coordination with local, regional, state and federal agencies may be required for development; some or all of the agencies listed below may be included in the development review. *(A list of contact people, phone numbers and addresses is available on request at each Planning Department office.)* Please consult with a Planner to determine which coordination is needed for your proposal.

a) Florida Keys Aqueduct Authority (FKAA)
b) Florida Department of Health and Rehabilitative Services (HRS)
c) Florida Keys Electric Cooperative (FKEC)
d) Fire Marshall
e) Florida Department of Transportation (FDOT)
f) South Florida Water Management District (SFWMD)
g) Florida Department of Environmental Protection (FDEP)
h) Florida Game and Freshwater Fish Commission (FGFWC)
i) U.S. Army Corps of Engineers (ACOE)
j) U.S. Fish and Wildlife Services (USFW)

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LEGAL DESCRIPTION

A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 66 SOUTH, RANGE 29 EAST ON BIG PINE KEY, MONROE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26 AND THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, BEAR SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, 676.13 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED TRACT OF LAND; FROM SAID POINT OF BEGINNING BEAR SOUTH 89 DEGREES, 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S HIGHWAY NO.1, 598.47 FEET MORE OR LESS TO THE WESTERLY BOUNDARY OF THE STATE ROAD 940 RIGHT-OF-WAY; THENCE BEAR NORTH 31 DEGREES 38 MINUTES WEST ALONG SAID WESTERLY BOUNDARY OF STATE ROAD 940, 490.88 FEET MORE OR LESS, THENCE BEAR NORTH 89 DEGREES 51 MINUTES WEST, 328.65 FEET MORE OR LESS TO THE NORTHEAST CORNER OF ACREAGE RECENTLY PURCHASED BY RUSSELL SWARTZ, THENCE BEAR SOUTH 417.42 FEET BACK TO THE POINT OF BEGINNING OF THE SAID TRACT OF LAND AND SAID TRACT CONTAINING 4.44 ACRES MORE OR LESS.

LESS AND EXCEPT PROPERTY CONVEYED IN WARRANTY DEED FILED MAY 21, 1984 IN OFFICIAL RECORDS BOOK 909, PAGE 2193, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

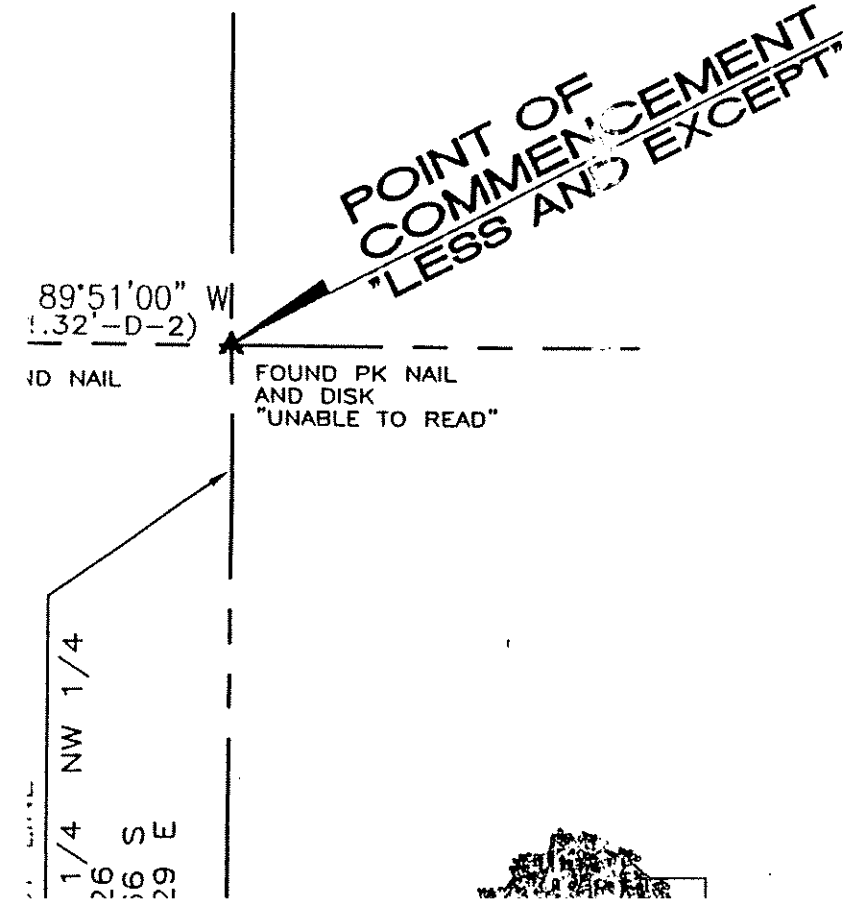
CONTAINING 3.0 ACRES (AFTER LESS & EXCEPT)

SURVEYORS REPORT

1) BEARINGS BASED ON WESTERLY BOUNDARY LINE AS S 00°00'00" W PER DEED (O.R. BOOK 79 PAGES 1560 & 1561).

2) CERTIFICATE OF TITLE INSURANCE BY FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER 05624.0275 COMMITMENT NUMBER FA-CC-98-0198 000 MAY 2, 1998.

3) MONUMENTATION FOUND IN FIELD APPEARS TO BE OCCUPATION LINE OF EXISTING IMPROVEMENTS ON PARCELS.



SCO
BIG PINE K
STOF

AS-BUILT SURVEY

95

225

Gadinsky Real Estate, LLC

Development and Brokerage

Tuesday, April 08, 2003

Aref Joulani
Monroe County Planning Department
Growth Management Division
2798 Overseas Highway
Suite 400
Marathon, FL 33050

Dear Aref: Via FedEx

Enclosed please find an application for a Conditional Use Approval for Walgreens in Big Pine Key along with an application to allow them to sell liquor in the store. It is imperative that these be heard no later than June 11, 2003. Please note that Walgreens increased their store by 2,000 sq. ft.

Please let me know if anything is missing so I can submit it on time. Thank you for your help.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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Scotty's Do it Best Hardware

Phone (863) 297-6022
Fax (863) 299-4196
5300 Recker Highway
Winter Haven, FL 33880

Tom Morris
President and CEO

April 7, 2003

Monroe County Planning Department
2798 Overseas Highway
Suite 410
Marathon, FL 33050

Via Express U.S. Mail

RE: Conditional Use Approval and Alcoholic Beverage Permit

Dear Sir or Madam:

This letter is to serve as authorization for Seth Gadinsky to apply for the Conditional Use Approval and Alcoholic Beverage Permit per the attached application.

If you have any questions or need anything further please do not hesitate to contact us.

Sincerely,

Doug Bowne
Vice President/Controller

Attachment

DB/jf

MONROE COUNTY ***LIVE***

MISCELLANEOUS RECEIPT

227

RECEIPT # : 45766
RECEIPT DATE : 04/22/2003

PRINT DATE : 04/22/2003
PRINT TIME : 11:31:49
OPERATOR : petrickn
COPY # : 1

RECEIVED BY : petrickn
REC'D. FROM : GADINSKY REAL ESTATE
UDF 106.1 :
UDF 106.2 :

CASH DRAWER: 2

NOTES : WALGREENS(SCOTTY'S) BIG PINE AM/MAJOR COND USE APP FEE

FEE ID	AMOUNT	THIS RCPT	BALANCE
ZONING-011	1900.00	1900.00	0.00
TOTALS:	1900.00	1900.00	0.00

METHOD OF PAYMENT	AMOUNT	NUMBER
CHECK	1900.00	1581
TOTAL RECEIPT :	1900.00	

1581

Gadinsky Real Estate, LLC
1111 Lincoln Road Suite 400
Miami Beach, FL 33139

SunTrust Bank, Miami, N.A.
1111 LINCOLN ROAD MALL
MIAMI BEACH, FL 33139
63-60/660

4/7/2003

PAY TO THE ORDER OF Monroe County Planning Department $ **1,900.00

One Thousand Nine Hundred and 00/100********** **DOLLAR**

Monroe County Planning Department

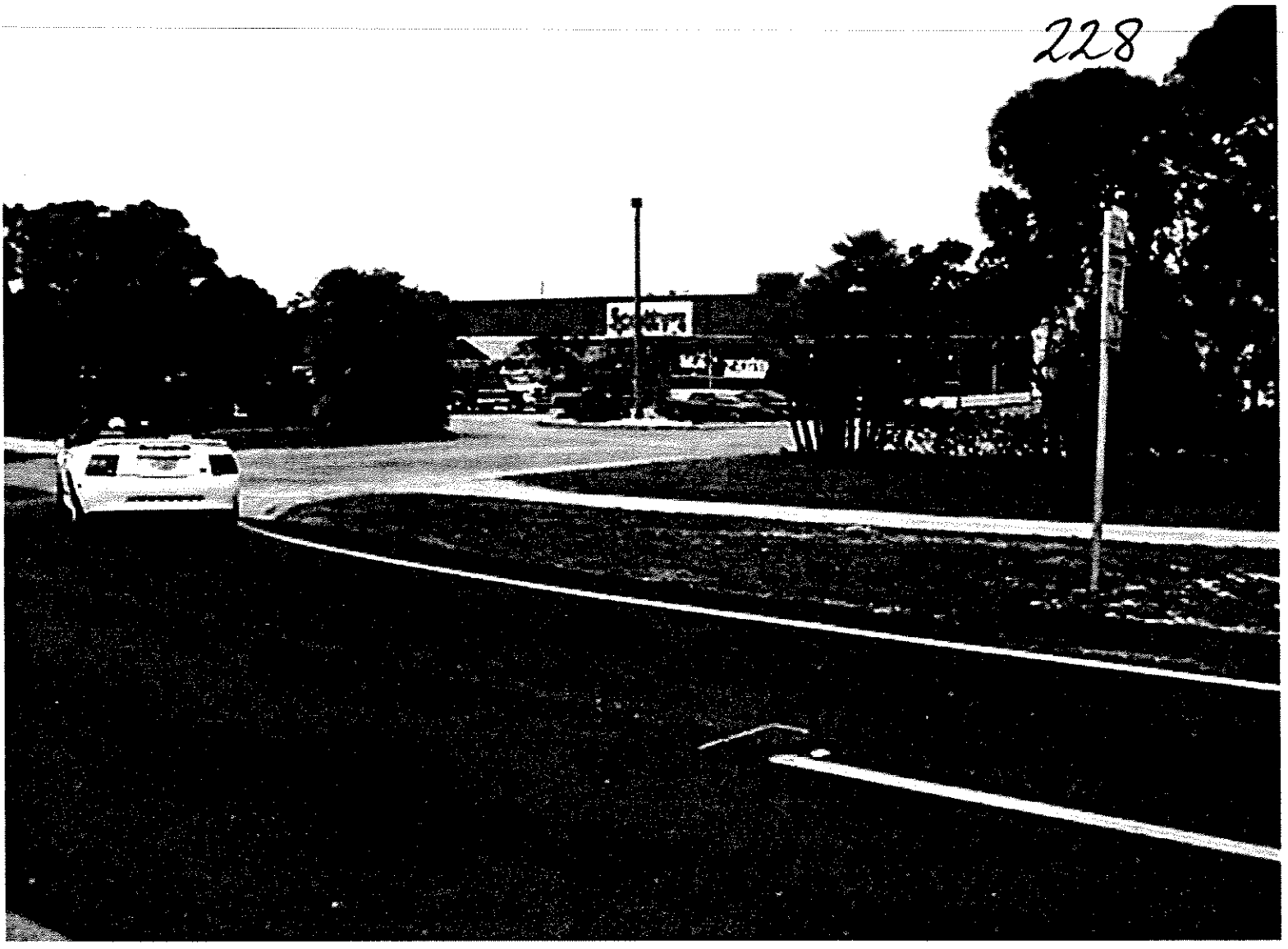
FOR Conditional Use Application

MP

⑈001581⑈ ⑆066000604⑆ 1000000844661⑈

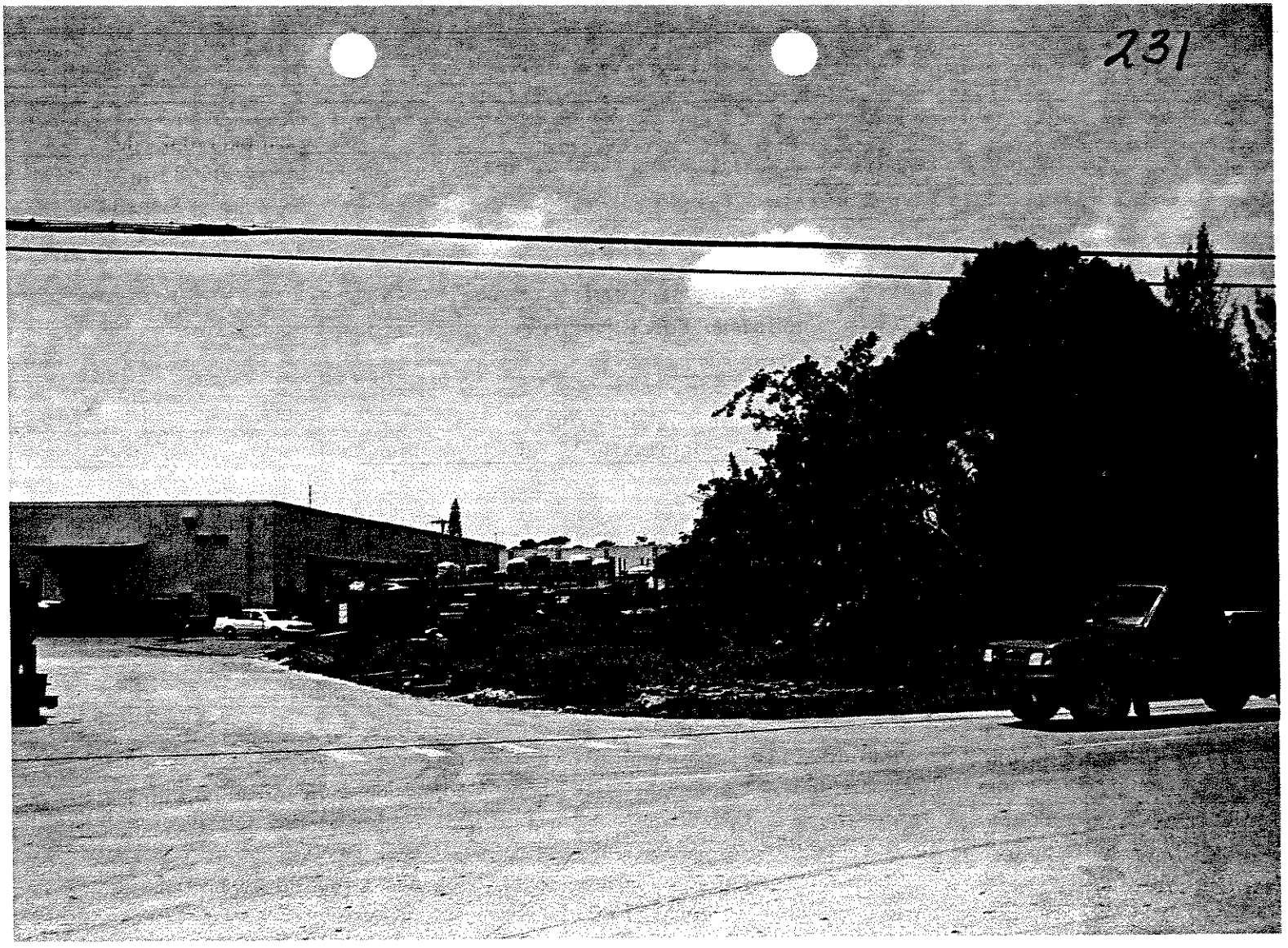
THIS DOCUMENT CONTAINS A COLORED BACKGROUND ON WHITE PAPER. MICROPRINT IS LOCATED BELOW THIS WARNING BAND.

228

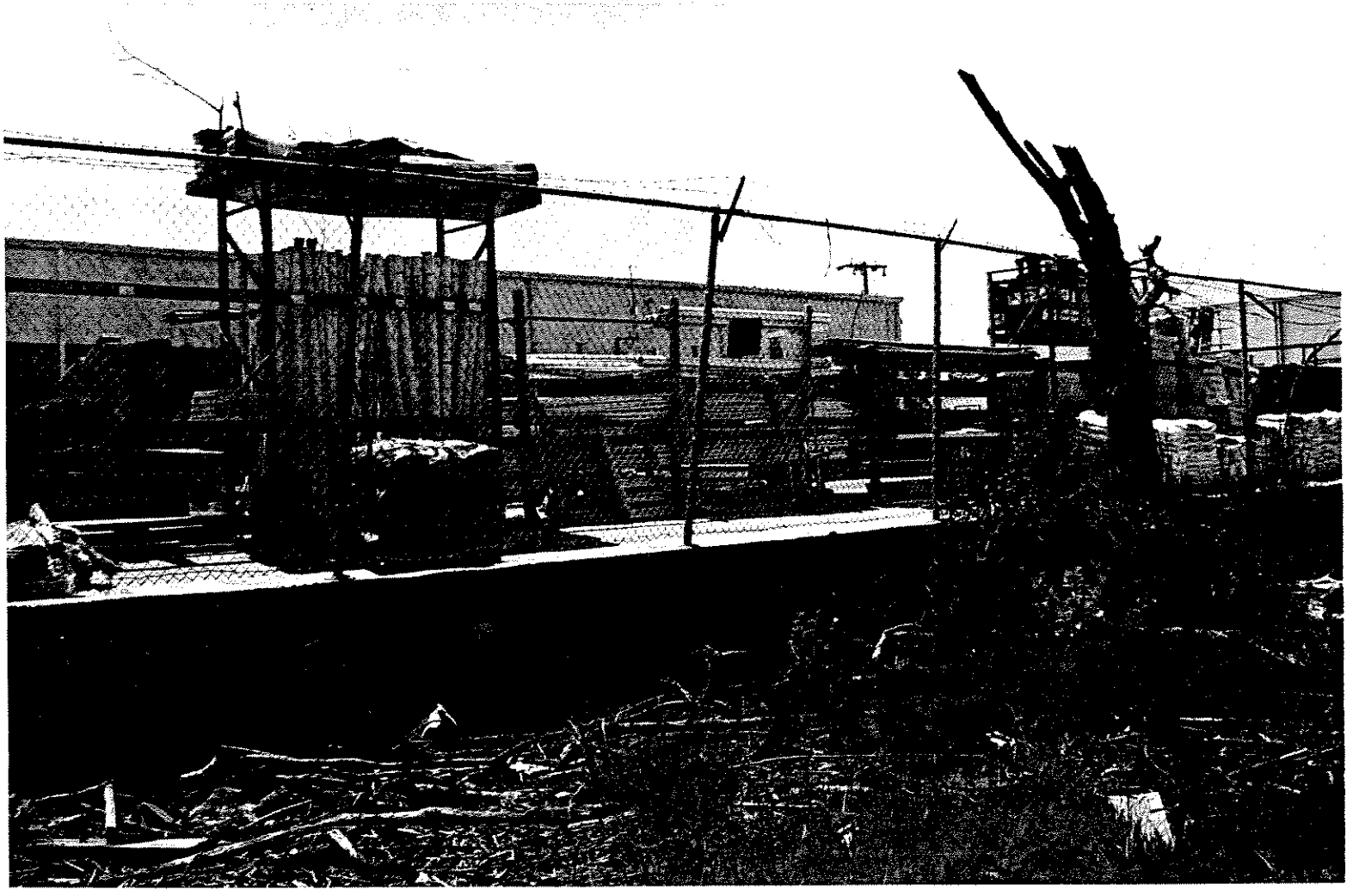


229

Cocky's

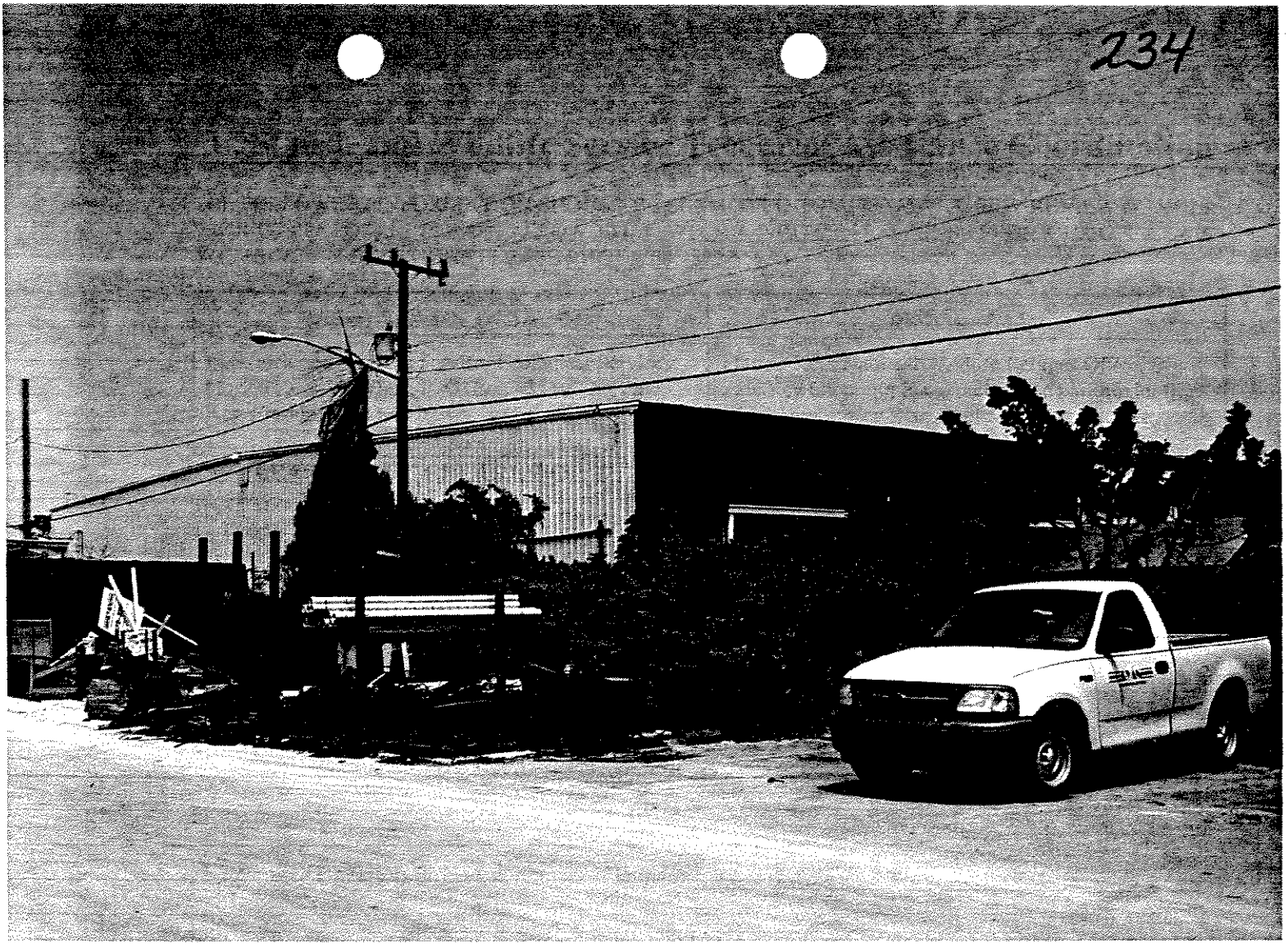


Entrance off Key Deer Blvd



Rear of building

Rear of building



west side

TRANSPORT ANALYSIS PROFESSIONALS, INC.
8701 S.W. 137th AVENUE • SUITE 210 • MIAMI, FL 33183-4498 • TEL 305/385-0777 • FAX 305/385-9997

FEDEX

April 8, 2003

Mr. Seth Gadinsky
Gadinsky Real Estate, LLC
1111 Lincoln Road, Suite 400
Miami Beach, Florida 33139

RE: Walgreens - Big Pine Key
Traffic Generation and Distribution Report

Dear Mr. Gadinsky:

Per your request, we have completed our review of traffic generation differences between a hardware/lumber/paint store and a pharmacy with a drive-through window. As we understand it, you are planning to raze an existing Scotty's hardware/lumber and paint store and replace it with a Walgreens pharmacy, which will have a drive-through window. The subject property is situated on US 1 west of its intersection with Key Deer Boulevard, near Mile Marker 30 on Big Pine Key in the Florida Keys.

According to the information you provided us, the existing Scotty's has a floor area of 28,608 sf. The proposed pharmacy will have an area of 16,560 sf. Using information from the sixth edition of *Trip Generation* published by the Institute of Transportation Engineers (ITE), we have estimated the net difference of daily and PM peak hour trips for both the existing and proposed uses as follows:

Daily and PM Peak Hour
Gross Trip Generation

Land Use	Weighted Daily Trips	PM Peak Hour In	Out	Total
Scotty's	1,666	<61>	<66>	<127>
Walgreens	<1,460>	84	88	172
Totals	< 206>	23	22	55

Contact was made with the county's traffic consultant regarding pass-by trip reductions for both the existing and proposed uses. It was agreed that 10% of the Scotty's trips are pass-by trips. The pharmacy pass-by rate is 49%, which is obtained from ITE sources. The following table depicts the estimated primary PM peak hour trips generated by the existing and proposed uses:

PM Peak Hour
Primary Trip Generation

	Gross Daily			Pass-by	Primary Trips		
Land Use	In	Out	Total	Rate	In	Out	Total
Scotty's	61	66	127	10%	55	59	114
Walgreens	84	88	172	49%	43	45	98
				Net Trips	<12>	<14>	<26>

The proposed Walgreens will have access to both Key Deer Boulevard, which is east of the site and US 1 (Overseas Highway), which is south of the site.

Since the proposed site generates less traffic (primary trips) in both the daily and PM peak periods, no formal traffic study should be needed. This letter/report should be submitted along with your application to county staff for their review.

If additional information is needed, please contact us at your convenience.

Sincerely,

Transport Analysis Professionals, Inc.
EB No. 3766

Richard P. Eichinger
Senior Traffic Engineer

RPE/mp/3715
Enclosures

Summary of Trip Generation Calculation
For 28.608 Th.Gr.Sq.Ft. of Hardware / Paint Store
April 02, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	51.29	14.43	1.00	1467
7-9 AM Peak Hour Enter	0.00	0.00	1.00	0
7-9 AM Peak Hour Exit	0.00	0.00	1.00	0
7-9 AM Peak Hour Total	1.08	1.53	1.00	31
4-6 PM Peak Hour Enter	2.12	0.00	1.00	61
4-6 PM Peak Hour Exit	2.30	0.00	1.00	66
4-6 PM Peak Hour Total	4.42	2.70	1.00	126
AM Pk Hr, Generator, Enter	2.55	0.00	1.00	73
AM Pk Hr, Generator, Exit	2.36	0.00	1.00	68
AM Pk Hr, Generator, Total	4.91	2.37	1.00	140
PM Pk Hr, Generator, Enter	2.56	0.00	1.00	73
PM Pk Hr, Generator, Exit	2.18	0.00	1.00	62
PM Pk Hr, Generator, Total	4.74	2.55	1.00	136
Saturday 2-Way Volume	82.52	15.27	1.00	2361
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	11.18	3.61	1.00	320
Sunday 2-Way Volume	68.65	11.63	1.00	1964
Sunday Peak Hour Enter	0.00	0.00	1.00	0
Sunday Peak Hour Exit	0.00	0.00	1.00	0
Sunday Peak Hour Total	9.81	3.54	1.00	281

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

WEIGHTED DAILY VOLUME =
(1467(5)+2361+1964)/7 = 1666 VPD

Summary of Trip Generation Calculation
For 16.560 Th.Gr.Sq.Ft. of Pharmacy / Drugstore with Drive-Thru
April 04, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	88.16	14.37	1.00	1460
7-9 AM Peak Hour Enter	1.52	0.00	1.00	25
7-9 AM Peak Hour Exit	1.14	0.00	1.00	19
7-9 AM Peak Hour Total	2.66	1.80	1.00	44
4-6 PM Peak Hour Enter	5.10	0.00	1.00	84
4-6 PM Peak Hour Exit	5.30	0.00	1.00	88
4-6 PM Peak Hour Total	10.40	5.41	1.00	172
AM Pk Hr, Generator, Enter	3.22	0.00	1.00	53
AM Pk Hr, Generator, Exit	3.49	0.00	1.00	58
AM Pk Hr, Generator, Total	6.71	2.63	1.00	111
PM Pk Hr, Generator, Enter	4.50	0.00	1.00	75
PM Pk Hr, Generator, Exit	4.68	0.00	1.00	78
PM Pk Hr, Generator, Total	9.18	4.09	1.00	152
Saturday 2-Way Volume	0.00	0.00	1.00	0
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.00	0.00	1.00	0
Sunday 2-Way Volume	0.00	0.00	1.00	0
Sunday Peak Hour Enter	0.00	0.00	1.00	0
Sunday Peak Hour Exit	0.00	0.00	1.00	0
Sunday Peak Hour Total	0.00	0.00	1.00	0

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

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U. S. Fish and Wildlife Service Technical Assistance Coordination

THE FOLLOWING INFORMATION SHOULD BE SUBMITTED TO ALLOW A TIMELY REVIEW OF YOUR PROJECT PROPOSAL. PLEASE ALLOW **30 DAYS** FOR A WRITTEN RESPONSE FROM OUR OFFICE. IF YOU HAVE AN QUESTIONS PLEASE **PHONE 305-872-5563**.

MAIL or FAX TO: (305) 872-3469	DROP-OFF AT:
U. S. Fish and Wildlife Service, Ecological Services Florida Keys Suboffice, P. O. Box 43510, Big Pine Key, Florida 33043-0510.	Florida Keys National Wildlife Refuges Office, Big Pine Key Shopping Plaza (across the parking lot from Winn-Dixie), Key Deer Boulevard, Big Pine Key, Florida.

PLEASE PRINT CLEARLY OR TYPE; USE ADDITIONAL SHEETS IF NECESSARY.

1. **Property Owner Name:** Scotty's Inc.

Address: 5300 Recker Hwy Winter Haven FL 33880

Phone Number: 863 297 6139 Fax Number: 863 291 4838

2. **Agent Name (if applicable):** Seth Gadinsky

Address: 1111 Lincoln Rd #400 Miami Beach FL 33139

Phone Number: ~~305~~ 786 276 2387 Fax Number: 305 531 1017

3. **Property Location** Street (w/ number if known): 30351 Overseas Hwy Big Pine Key

Lot: _____ Block: _____ Subdivision: _____

Key: _____ Mile Marker: _____ RE Number (*Required*): 00111690.000900

4. **Detailed directions to the site.** Submit map, if needed.

5. **Description of project:** Demolition of existing Scotty's replaced with a smaller Walgreen Drug store

6. **Description of site conditions** (including vegetation communities, past land clearing or other disturbances; include biological assessment if one has been performed): The site is presently a Scotty's hardware + lumber store. There is limited vegetation at the property lines and a retention Pond. The rest is asphalt + building.

7. **Submit a site plan that accurately depicts the final design of the project.** Plans can be engineered or clearly/accurately hand-drawn. Information submitted will not be returned.

8. Submit other information, such as photographs and vegetation surveys, if available.

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Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

US Army Corps of Engineers
Mr. Chuck Schnepel
11420 N Kendall Drive
Suite 104
Miami, FL 33176

Dear Mr. Schnepel:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

Gadinsky Real Estate, LLC

Development and Brokerage

241

Wednesday, March 26, 2003

Florida Department of Health
Environmental Health Services
3333 Overseas Highway
Marathon, FL 33050

Dear Environmental Health Services:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

Gadinsky Real Estate, LLC

Development and Brokerage

242

Wednesday, March 26, 2003

Florida Keys Aqueduct Authority
Mr. Edgar Nicolle
Senior Engineering Technician
1100 Kennedy Drive
Key West, FL 33041

Dear Mr. Nicolle:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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Florida Keys Aqueduct Authority

Post Office Box 1239
1100 Kennedy Drive
Key West, Florida 33041-1239
Telephone (305) 296-2454

April 10, 2003

Seth Gadinsky
Gadinsky Real Estate, LLC
1111 Lincoln Road Suite 400
Miami Beach, FL 33129

RE: Proposed Walgreens Store (Existing Scotty's)
Big Pine Key

Dear Mr. Gadinsky:

In regard to your recent inquiry and submittal of information for the proposed development of the property referenced above.

The authority has determined that there is an existing 12" water main in front of the subject property on US -1 and it appears adequate to provide water service to the subject property. The existing Scotty's store has an existing 6" fire line Account # 032503 and a 5/8" domestic meter Account # 032365. A complete set of plans for the development will be required for review by the Authority.

Prior to demolishing any structures please contact Ms. Kip Waite at 305-296-2454 ext.106 in order to receive credit for the existing fixtures.

Should you have any questions or require any further information please feel free to contact this office.

Sincerely Yours,

FLORIDA KEYS AQUEDUCT AUTHORITY

Edgar F. Nicolle, Jr.
Distribution Design Manager

EFN/cma

cc: Margaret Gil, Customer Service Manager KW
Kip Waite, Administrative Assistant/Policy

Gadinsky Real Estate, LLC

Development and Brokerage

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Wednesday, March 26, 2003

Utility Board of Key West
Customer Account Representative
Post Office Drawer 6100
Key West, FL 33041

Dear Utility Board of Key West:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

(305) 295-1000
1001 James Street
PO Box 6100
Key West, FL 33041-6100
www.KeysEnergy.com

UTILITY BOARD OF THE CITY OF KEY WEST

April 3, 2003

Mr. Seth Gadinsky
Gadinsky Real Estate, LLC
1111 Lincoln Road
Suite 400
Miami Beach, FL 33139

RE: Redeveloping Scotty's Lumber (New Walgreens)
30351 Overseas Highway

Dear Mr. Gadinsky:

This is to acknowledge that the above mentioned party has begun a coordination process with Keys Energy Services (Keys).

KEYS' Engineering Section requests that they be provided with a ***full set of plans and a Project Review Form*** for the referenced project.

These *plans* are necessary in order for us to ensure that there is adequate service for your project, as well as our existing, surrounding customers.

Please return the *full set of plans and the Project Review Form* to one of our Customer Accounts Representatives.

Should you have any questions, please contact me at 295-1078.

Sincerely,

UTILITY BOARD-CITY OF KEY WEST
"Keys Energy Services"
Carl R. Jansen, General Manager

Mark Garcia
Customer Accounts Representative

MG/sh

c:
D. Price, Engineering Supervisor
File: CUS-200

Utility Board Members
Robert R. Padron, Chairman Dr. Otha P. Cox, Vice-Chairman
Leonard H. Knowles, Member Gayle Swofford, Member Lou Hernandez, Member

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Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

Florida Keys Electric Cooperative
Customer Account Representative
3421 Overseas Highway
Marathon, FL 33050

Dear Florida Keys Electric Cooperative:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

Monroe County Fire Marshal
Wally Romero
490 63rd St
Suite 160
Marathon, FL 33050

Dear Mr. Romero:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

South Florida Water Management District
Ms. Anita R. Bain
Natural Resource Management Division
3301 Gun Club Road
West Palm Beach, FL 33416

Dear Ms. Bain:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

249

Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

Florida Department of Environmental Protection
Mr. Gus Rios
Submerged Lands and Environmental Resource Program
2796 Overseas Highway
Suite 221
Marathon, FL 33050

Dear Mr. Rios:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

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Email: gadinsky@ieausa.com

250

Gadinsky Real Estate, LLC

Development and Brokerage

Wednesday, March 26, 2003

United States Fish and Wildlife Service
Ms. Jeanette Gallihugh
Ecological Services
PO Box 430510
Big Pine Key, FL 33043

Dear Ms. Gallihugh:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

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Email: gadinsky@ieausa.com

Gadinsky Real Estate, LLC

Development and Brokerage

251

Wednesday, March 26, 2003

Florida Fish and Wildlife Conservation Commission
Ms. Rowena Garcia
Florida Keys Biologist
620 S Meridian St
Tallahassee, FL 32399-1600

Dear Ms. Garcia:

I am redeveloping the existing Scotty's lumber at 30351 Overseas Highway in Big Pine Key. The 25,600 sq. ft. building will be demolished and replaced with a 16,560 sq. ft. Walgreens store. Enclosed is a site plan of the new development.

I am applying for a Conditional Use Approval with Monroe County for this project. Please let me know if there is any coordinating I need to do with your office as part of gaining this approval.

Sincerely,

Seth Gadinsky
Managing Partner

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Email: gadinsky@ieausa.com

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AK_Query - Owners in 300'

AK	RECHAR	NAME	ADD1
1132535	00111070-096000	UNITED STATES OF AMERICA	
1132900	00111071-034000	WEISSER MICHAEL H	
1139076	00111078-000100	BARAGAR GIBSON REAL ESTATE INC	
1139084	00111078-000101	BRITZ & RONDEAU HOLDING CO	COCONUTS
1140228	00111670-000000	CAHILL W D JR & JOHNSON E D & JORIO M	& CAHILL J C & PITERA E K % JOHN C CAHILL
1140236	00111670-000100	MARSHALL ELSIE S TRUSTEE	(ELSIE S MARSHALL REV TRUST)
1140244	00111670-000101	O J Y INC	
1140252	00111670-000102	MARSHALL MELVIN W TRUSTEE	(MELVIN MARSHALL REVO TRUST)
1140261	00111670-000103	RAYMOND ALMA N	
1140279	00111670-000104	SEIGAL BRUCE H & LEDA G TRS	(BRUCE H & LEDA G SEIGAL TR)
8739656	00111670-000200	RAYMOND ALMA L	
8554478	00111671-000102	MARSHALL ELSIE S TRUSTEE	(THE ELSIE S MARSHALL REV TR)
1140287	00111680-000000	TIITF/DOT BIG PINE PRISON CAMP	(DEPT OF TRANSPORTAITION)
1140325	00111690-000300	BD OF TR'S OF THE INT IMP TR FUND OF THE ST	OF FL - %FL DEPT OF ENV PROT-DIV OF ST LANDS
1140333	00111690-000400	RYAN THOMAS D & CARRIE S	
1140341	00111690-000500	MARINE BANK OF THE FLORIDA KEYS	
1140376	00111690-000800	BOARD OF TRUSTEES OF THE INTNL IMP TRUST FUND OF	THE ST OF FL %FL DEPT OF ENV PR DIV OF ST LANDS
1140384	00111690-000900	SCOTTY'S INC	
8658966	00111690-000901	JEC FUNDING INC	% JACK ECKERD CORPORATION
1140414	00111710-000000	DOT/ST. OF FL	(STATE ROAD DEPT)

453

AK_Query

ADD2	CS	ZIP	LEGAL1
	WASHINGTON, DC	20240	26 66 29 BIG PINE KEY PINE KEY ACRES TRACT CR OR528-1045 OR1
801 NE 167TH STREET 2ND FLOOR	NORTH MIAMI BEACH, FL	33162	23 66 29 BIG PINE KEY PINE KEY ACRES PT TR CS & ALL CT-CU-EB
2116 ORCHARD PARK DRIVE	SPRING HILL, FL	34608	26 66 29 T66926-05.2 BIG PINE KEY PT W1/2 OF NE1/4 OR524-547
30535 OVERSEAS HIGHWAY	BIG PINE KEY, FL	33043	26 66 29 BIG PINE KEY PT W1/2 OF NE1/4 OR546-659
59 RIVER ROAD	PERU, NY	12972	26-66-29 BIG PINE KEY PT SE1/4 OF NW1/4 LYING SOUTH US NO 1(
571 CROTON LANE	BIG PINE KEY, FL	33043	T66926-57.1.1 BIG PINE KEY PT SE1/4 OF NW1/4 LYING SOUTH OF
P O BOX 631	BIG PINE KEY, FL	33043	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 S OF US #1 OR534-106
30360 OVERSEAS HIGHWAY	BIG PINE KEY, FL	33043	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 S OF US #1 OR646-855
29346 SARATOGA AVE	BIG PINE KEY, FL	33043	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 S OF US #1 OR528-857
29111 WATSON BLVD	BIG PINE KEY, FL	33043	BIG PINE KEY PT SE1/4 OF NW1/4 LYING S OF US #1 OR615-550/51
P O BOX 430913	BIG PINE KEY, FL	33043	26-66-29 BIG PINE KEY PT SE1/4 OF NW1/4 LYING SOUTH US 1 (50
571 CROTON LANE	BIG PINE KEY, FL	33043	26-66-29 BIG PINE KEY PT SE1/4 OF NW1/4 SOUTH OF US #1 OR646
%DNR DOUGLAS BLDG	TALLAHASSEE, FL	32399	26 66 29 T66926-57.2 BIG PINE KEY PT SE1/4 OF NW1/4 ROAD RIG
3900 COMMONWEALTH BLVD-MAIL STATION 115	TALLAHASSEE, FL	32399	BIG PINE KEY PT SE1/4 OF NW1/4 OR482-404 OR808-1917 SWD OR8
P O BOX 555	BIG PINE KEY, FL	33043	T66926-58.4 BIG PINE KEY PT SE1/4 OF NW1/4 OR489-79-80-E OR5
11290 OVERSEAS HIGHWAY	MARATHON, FL	33050	T66926-58.5 BIG PINE KEY PT SE1/4 OF NW1/4 OR481-387 OR768-1
3900 COMMONWEALTH BLVD MAIL STATION 115	TALLAHASSEE, FL	32399	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 OR533-1010/1011 OR83
5300 RECKER HWY	WINTER HAVEN, FL	33880	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 (3.03AC) OR583-426 O
P O BOX 4689	CLEARWATER, FL	34618	26 66 29 BIG PINE KEY PT SE1/4 OF NW1/4 (1.52AC) OR909-2193-
	TALLAHASSEE, FL	32399	T66926-60 BIG PINE KEY PT SE1/4 OF NW1/4 G12-418

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LEGAL2
156-632/33(CSP)
-EC-ED & EE OR630-22 OR798-199 OR808-2392 OR821-296 OR872-21
OR754-1699 OR820-991 OR820-985 OR831-1705/06(JMH) OR838-190

280 X 164) OR403-897/898 PROBATE 8-105 AGNES M CAHILL
US #1 OR528-865/66 OR615-551 OR729-295 OR904-2211 OR904-2212
0 OR766-1383 OR766-1384D/C OR967-1528
-856 OR1133-155(FG) OR1233-1444/45C/T(JMH)
-858 OR678-211/212 OR680-310/330 OR734-204/208 PROBATE #76-1
OR823-2440 OR1055-2249/50(VE) OR1142-1544/49CW OR1517-455/5
X 164) OR1047-462/63 OR1047-464/65 OR1047-466/67
-855/856 OR1206-2385/86(CW)
HT OF WAY AKA WILDER ROAD OR349-60 OR346-540
48-538/539 OR1542-2142/44(JMH) OR1542-2145/46Q/C(JMH)
55-195-D/C OR480-879 OR1040-2183(LD)
968 OR892-2207/2208 OR1167-2398/99(VC) OR1543-1751/54(JMH)
1-2058/2059Q/C OR1286-760/61(JMH) OR1607-335/38Q/C(JMH) OR16
R879-1559Q/C OR879-1560/1561 OR909-2195/2201E OR1607-332/34Q
2194 OR909-2195/2201E OR918-2338E OR1003-1205SWD(LD)

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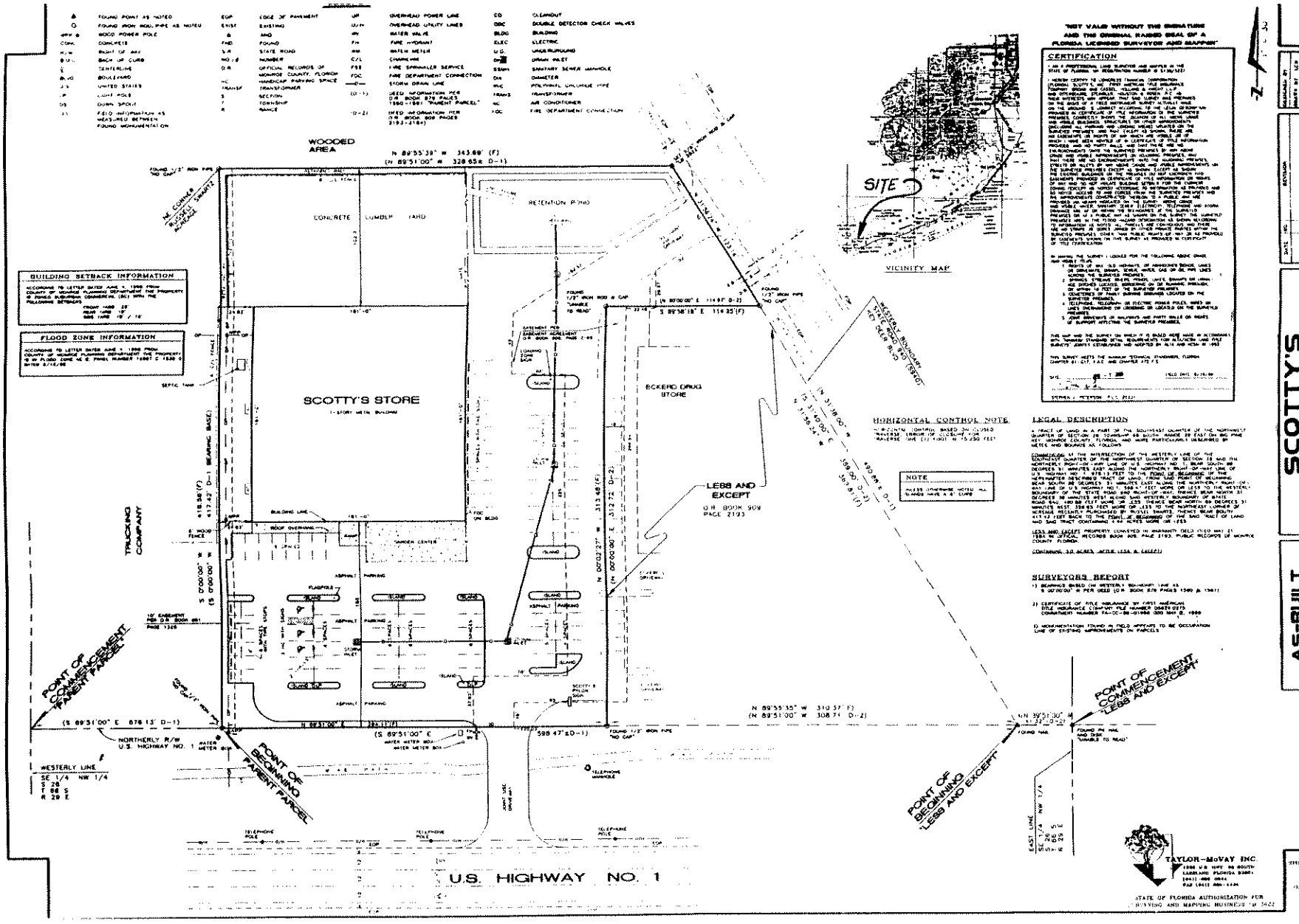
▲	FOUND POINT AS NOTED	EOP	EDGE OF PAVEMENT	UP	OVERHEAD POWER LINE	CO	CLEANOUT
O	FOUND IRON ROD/PIPE AS NOTED	EXIST	EXISTING	U/H	OVERHEAD UTILITY LINES	DDC	DOUBLE DETECTOR CHECK VALVES
WPP ●	WOOD POWER POLE	▲	AND	WV	WATER VALVE	BLDG	BUILDING
CONC.	CONCRETE	FND	FOUND	FH	FIRE HYDRANT	ELEC	ELECTRIC
R/W	RIGHT OF WAY	S.R.	STATE ROAD	WM	WATER METER	U.G.	UNDERGROUND
B.O.C.	BACK OF CURB	NO / #	NUMBER	C/L	CHAINLINK	DW	DRAIN WATER
℄	CENTERLINE	O.R.	OFFICIAL RECORDS OF MONROE COUNTY, FLORIDA	FSS	FIRE SPRINKLER SERVICE	SSMH	SANITARY SEWER MANHOLE
BLVD	BOULEVARD			FDC	FIRE DEPARTMENT CONNECTION	DIA	DIAMETER
U.S.	UNITED STATES	HC	HANDICAP PARKING SPACE	—D—	STORM DRAIN LINE	PVC	POLYVINYL CHLORIDE PIPE
LP	LIGHT POLE	TRANSF	TRANSFORMER	(D-1)	DEED INFORMATION PER O.R. BOOK 876 PAGES 1580-1581 "PARENT PARCEL"	TRANS	TRANSFORMER
DS	DOWN SPOUT	S	SECTION			AC	AIR CONDITIONER
	FIELD INFORMATION AS MEASURED BETWEEN FOUND MONUMENTATION	T	TOWNSHIP	(D-2)	DEED INFORMATION PER O.R. BOOK 909 PAGES 2193-2196	FDC	FIRE DEPARTMENT CONNECTION
		R	RANGE				



BUILDING SETBACK INFORMATION

ACCORDING TO LETTER DATED JUNE 4, 1998 FROM COUNTY OF MONROE PLANNING DEPARTMENT THE PROPERTY IS ZONED SUBURBAN COMMERCIAL (SC) WITH THE FOLLOWING SETBACKS:

FRONT YARD 25'
REAR YARD 15'
SIDE YARD 10' / 15'

FLOOD ZONE INFORMATION

ACCORDING TO LETTER DATED JUNE 4, 1998 FROM COUNTY OF MONROE PLANNING DEPARTMENT THE PROPERTY IS IN FLOOD ZONE "C" PANEL NUMBER 1005 C 1530 G DATED 8/16/88

"NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER"

CERTIFICATION

I AM A PROFESSIONAL LAND SURVEYOR AND MAPPER IN THE STATE OF FLORIDA, MY REGISTRATION NUMBER IS LS 3427.

I HEREBY CERTIFY TO LONGFELLOW TRANSCAR CORPORATION, FLORIDA SCOTTY'S, INC., FIRST AMERICAN TITLE INSURANCE COMPANY, BRIAN AND CASSEL, HOLLAND & KNIGHT LLP AND STEWBOUGH, STRUBLE, HOUSTON & WREN AS OF THIS DATE, THAT THIS SURVEY WAS MADE UNDER MY DIRECTION ON THE BASIS OF A FIELD WATERMARK SURVEY IN FULL MEET ON THE GROUND, I CORRECT ACCORDING TO THE LEGAL DESCRIPTION PROVIDED IN CERTIFICATE OF TITLE INFORMATION ON THE SURVEYED PREMISES CONSISTS PRIMARILY OF A SINGLE STORY BLOCK BUILDING WITH ASSOCIATED PARKING AREAS, LANDSCAPING, AND UTILITIES. THE SURVEYED PREMISES ARE NOT LOCATED IN THE 100 YEAR FLOOD ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP (FIRM) MONROE COUNTY, FLORIDA, AND HAS NO EASEMENTS OR RIGHTS OF WAY WHICH WERE VISIBLE OR OF WHICH I WAS NOTIFIED OF A CERTIFICATE OF TITLE INFORMATION PROVIDED AND NO PARTY WALLS HAVE THAT THERE ARE NO ENCROACHMENTS OVER THE SURVEYED PREMISES BY ANY ABOVE GRADE AND VISIBLE IMPROVEMENTS ON ADJOINING PROPERTY, AND THAT THERE ARE NO ENCROACHMENTS INTO THE SURVEYED PREMISES, STREETS OR ALLEYS BY ANY ABOVE GRADE AND VISIBLE IMPROVEMENTS ON THE SURVEYED PREMISES EXCEPT AS SHOWN. I HEREBY ACKNOWLEDGE THAT THE SURVEYED PREMISES ARE LOCATED IN THE JURISDICTION OF THE MONROE COUNTY PLANNING COMMISSION, THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS, THE CITY OF KEY WEST, THE CITY OF MARATHON, THE CITY OF ISLAMORADA, THE CITY OF KEY COLONY BEACH, THE CITY OF LAYTON, THE CITY OF BIG PINE KEY, THE CITY OF NORTH KOHLER, ACCORDING TO INFORMATION AS PROVIDED AND AS VISIBLE ABOVE GRADE AND VISIBLE FROM THE SURVEYED PREMISES ARE ALL IMPROVEMENTS CONSTRUCTED THEREON TO A PUBLIC AND ARE PROVIDED WITH WATER, SANITARY SEWER, ELECTRICITY, TELEPHONE AND STORM DRAINAGE AS OF THE DATE OF THE SURVEY. I HEREBY ACKNOWLEDGE THAT THE SURVEYED PREMISES ARE NOT LOCATED IN THE JURISDICTION OF THE MONROE COUNTY PLANNING COMMISSION, THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS, THE CITY OF KEY WEST, THE CITY OF MARATHON, THE CITY OF ISLAMORADA, THE CITY OF KEY COLONY BEACH, THE CITY OF LAYTON, THE CITY OF BIG PINE KEY, THE CITY OF NORTH KOHLER, ACCORDING TO INFORMATION AS PROVIDED AND AS VISIBLE ABOVE GRADE BY OTHER PRIVATE PARTIES WITHIN THE SURVEYED PREMISES, OTHER THAN PUBLIC RIGHTS OF WAY OR AS PROVIDED BY EASEMENTS SHOWN ON THE SURVEY AS PROVIDED IN CERTIFICATE OF TITLE INFORMATION.

IN MAKING THE SURVEY I LOOKED FOR THE FOLLOWING ABOVE GRADE AND VISIBLE ITEMS:

1. RIGHTS OF WAY, OLD HIGHWAYS, OR ABANDONED ROADS, LINES OR DRAINAGE, GRADE, SEWER, WATER, GAS OR OIL PIPE LINES CROSSING THE SURVEYED PREMISES.
2. BUILDINGS, STREAMS, RIVERS, POND, LAKES, BRANCHES OR OTHER ABOVE GROUND LOCATED, BORDERING OR THE SURVEYED PREMISES, OR WITHIN 10 FEET OF THE SURVEYED PREMISES.
3. CEMETERIES OR FAMILY BURIAL GROUNDS LOCATED ON THE SURVEYED PREMISES.
4. TELEPHONE, TELEGRAPH OR ELECTRIC POWER POLES, WIRES OR UNDERGROUND OR OVERHEAD OR LOCATED ON THE SURVEYED PREMISES.
5. FOUR BENCHMARKS OF HIGHWAYS AND PARTS BUILT OR RIGHTS OF SUPPORT AFFECTING THE SURVEYED PREMISES.

THIS MAP AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH "MINIMUM TECHNICAL STANDARDS REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS" JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 1992.

THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS, FLORIDA CHAPTER 61G17-6, F.A.C. AND CHAPTER 472 F.S.

DATE: 8-1-99 FIELD DATE: 8/26/99

STEPHEN J. PETERSON P.L.S. #3241

HORIZONTAL CONTROL NOTE

HORIZONTAL CONTROL BASED ON CLOSED TRAVERSE ERROR OF CLOSURE FOR TRAVERSE ONE (1) FOOT IN 75,230 FEET

LEGAL DESCRIPTION

A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28 TOWNSHIP 66 SOUTH, RANGE 29 EAST ON BIG PINE KEY, MONROE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28 AND THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, BEAR SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 FOR 678.13 FEET TO THE POINT OF BEGINNING OF THE PARENT PARCEL DESCRIBED IN THE OFFICIAL RECORDS BOOK 876 PAGES 1580 & 1581 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; THENCE BEGINNING BEAR SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 598.47 FEET MORE OR LESS TO THE WESTERLY BOUNDARY OF THE STATE ROAD 940 RIGHT-OF-WAY; THENCE BEAR NORTH 31 DEGREES 38 MINUTES WEST ALONG SAID WESTERLY BOUNDARY OF STATE ROAD 940, 490.88 FEET MORE OR LESS THENCE BEAR NORTH 89 DEGREES 31 MINUTES WEST, 338.93 FEET MORE OR LESS TO THE NORTHEAST CORNER OF NORCAGE RECENTLY PURCHASED BY NUVIL SHARPE; THENCE BEAR SOUTH 413.42 FEET BACK TO THE POINT OF BEGINNING OF THE SAID TRACT OF LAND AND SAID TRACT CONTAINING 5.04 ACRES MORE OR LESS.

LESS AND EXCEPT PROPERTY CONVEYED IN WARRANTY DEED FILED MAY 21, 1998 IN OFFICIAL RECORDS BOOK 909, PAGE 2193, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

CONTAINING 3.0 ACRES, MORE OR LESS (LESS & EXCEPT)

SURVEYORS REPORT

1) BEARINGS BASED ON WESTERLY BOUNDARY LINE AS S 00°00'00" W PER DEED (O.R. BOOK 876 PAGES 1580 & 1581)

2) CERTIFICATE OF TITLE INSURANCE BY FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER 3005-0170 COMMITMENT NUMBER 7-2100-99-0100 DATED MAY 10, 1999

3) MONUMENTATION FOUND IN FIELD APPEARS TO BE OCCUPATION LINE OF EXISTING IMPROVEMENTS ON PARCELS

TAYLOR-McVAY INC.
1888 U.S. HWY. 1N SOUTH
LAKELAND, FLORIDA 33801
(863) 686-0844
FAX (863) 686-4434

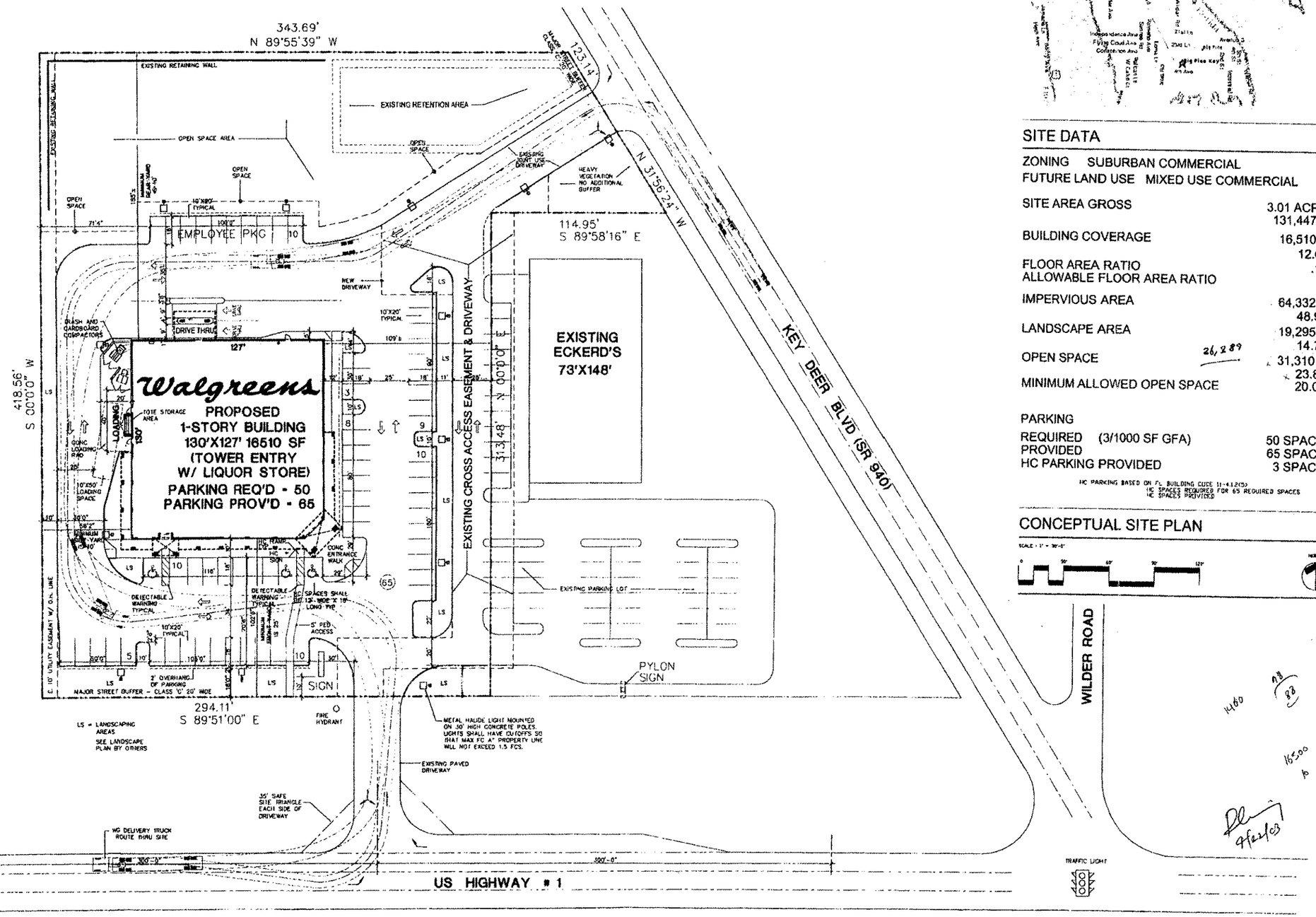
STATE OF FLORIDA AUTHORIZATION FOR SURVEYING AND MAPPING BUSINESS # 3422

SCOTTY'S
BIG PINE KEY, FLORIDA
STORE #95

AS-BUILT SURVEY

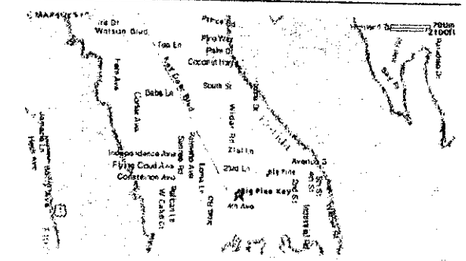
SHEET 1 OF 1

256



LOCATION SKETCH

NTS



SITE DATA

ZONING	SUBURBAN COMMERCIAL	SC
FUTURE LAND USE	MIXED USE COMMERCIAL	MC
SITE AREA GROSS		3.01 ACRES 131,447 SF
BUILDING COVERAGE		16,510 SF 12.6 %
FLOOR AREA RATIO ALLOWABLE FLOOR AREA RATIO		.126 .25
IMPERVIOUS AREA		64,332 SF 48.9 %
LANDSCAPE AREA		19,295 SF 14.7 %
OPEN SPACE	26,289	31,310 SF 23.8 %
MINIMUM ALLOWED OPEN SPACE		20.0 %

PARKING

REQUIRED	(3/1000 SF GFA)	50 SPACES
PROVIDED		65 SPACES
HC PARKING PROVIDED		3 SPACES

HC PARKING BASED ON FL BUILDING CODE 11-4.1.2(5)
HC SPACES REQUIRED FOR 65 REQUIRED SPACES 3
HC SPACES PROVIDED 3

CONCEPTUAL SITE PLAN

SCALE: 1" = 30'-0"

0 30' 60' 90' 120'

NORTH

RICHARD WENSING
ARCHITECTS & PLANNERS, PA
WEST PALM BEACH, FLORIDA
561-684-1988 AA-C000161

Walgreens
BIG PINE KEY, FLORIDA
US HIGHWAY #1

23005, SP1F
SITE DEVELOPMENT PLAN

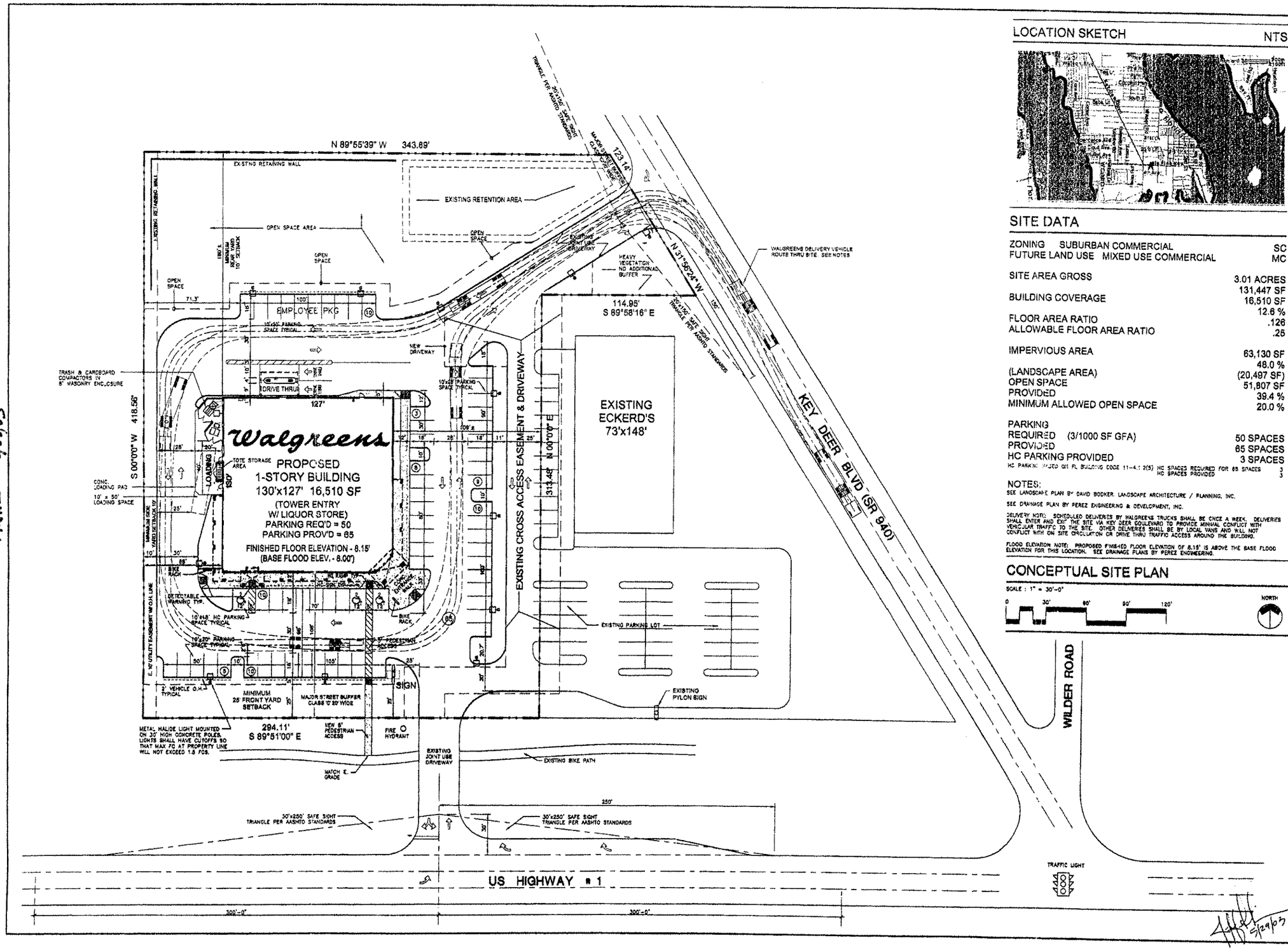
REVISIONS
REVISED 4-16-03

DRAWN RW
DATE 4-4-03

SHEET
SP-1

CONTR. NO.
23005

REVISED FINAL 06/05/03



LOCATION SKETCH

NTS

SITE DATA

ZONING SUBURBAN COMMERCIAL	SC
FUTURE LAND USE MIXED USE COMMERCIAL	MC
SITE AREA GROSS	3.01 ACRES 131,447 SF
BUILDING COVERAGE	16,510 SF 12.6 %
FLOOR AREA RATIO	.126
ALLOWABLE FLOOR AREA RATIO	.25
IMPERVIOUS AREA	63,130 SF 48.0 %
(LANDSCAPE AREA)	(20,497 SF)
OPEN SPACE	51,807 SF
PROVIDED	39.4 %
MINIMUM ALLOWED OPEN SPACE	20.0 %
PARKING	
REQUIRED (3/1000 SF GFA)	50 SPACES
PROVIDED	65 SPACES
HC PARKING PROVIDED	3 SPACES

HC PARKING PAGED ON FL BUILDING CODE 11-4.1.2(5) HC SPACES REQUIRED FOR 65 SPACES 3
HC SPACES PROVIDED 3

NOTES:

SEE LANDSCAPE PLAN BY DAVID BODKER, LANDSCAPE ARCHITECTURE / PLANNING, INC.

SEE DRAINAGE PLAN BY PEREZ ENGINEERING & DEVELOPMENT, INC.

DELIVERY NOTE: SCHEDULED DELIVERIES BY WALGREENS TRUCKS SHALL BE ONCE A WEEK. DELIVERIES SHALL ENTER AND EXIT THE SITE VIA KEY DEER BOULEVARD TO PROVIDE MINIMAL CONFLICT WITH VEHICULAR TRAFFIC TO THE SITE. OTHER DELIVERIES SHALL BE BY LOCAL VANS AND WILL NOT CONFLICT WITH ON SITE CIRCULATION OR DRIVE THRU TRAFFIC ACCESS AROUND THE BUILDING.

FLOOD ELEVATION NOTE: PROPOSED FINISHED FLOOR ELEVATION OF 8.15' IS ABOVE THE BASE FLOOD ELEVATION FOR THIS LOCATION. SEE DRAINAGE PLANS BY PEREZ ENGINEERING.

CONCEPTUAL SITE PLAN

SCALE : 1" = 30'-0"

0 30' 60' 90' 120'

NORTH

RICHARD WENSING
ARCHITECTS & PLANNERS, PA
WEST PALM BEACH, FLORIDA
561-684-1988 AA-C002181

AIA

REVISED PLANS

Walgreens

BIG PINE KEY, FLORIDA

US HIGHWAY #1

23005_SPIF_R1
SITE DEVELOPMENT PLAN

DRAWN RW
DATE 4-9-03

REVISIONS
1 REVISED 4-18-03
2 5-28-03 COUNTY COMMENTS

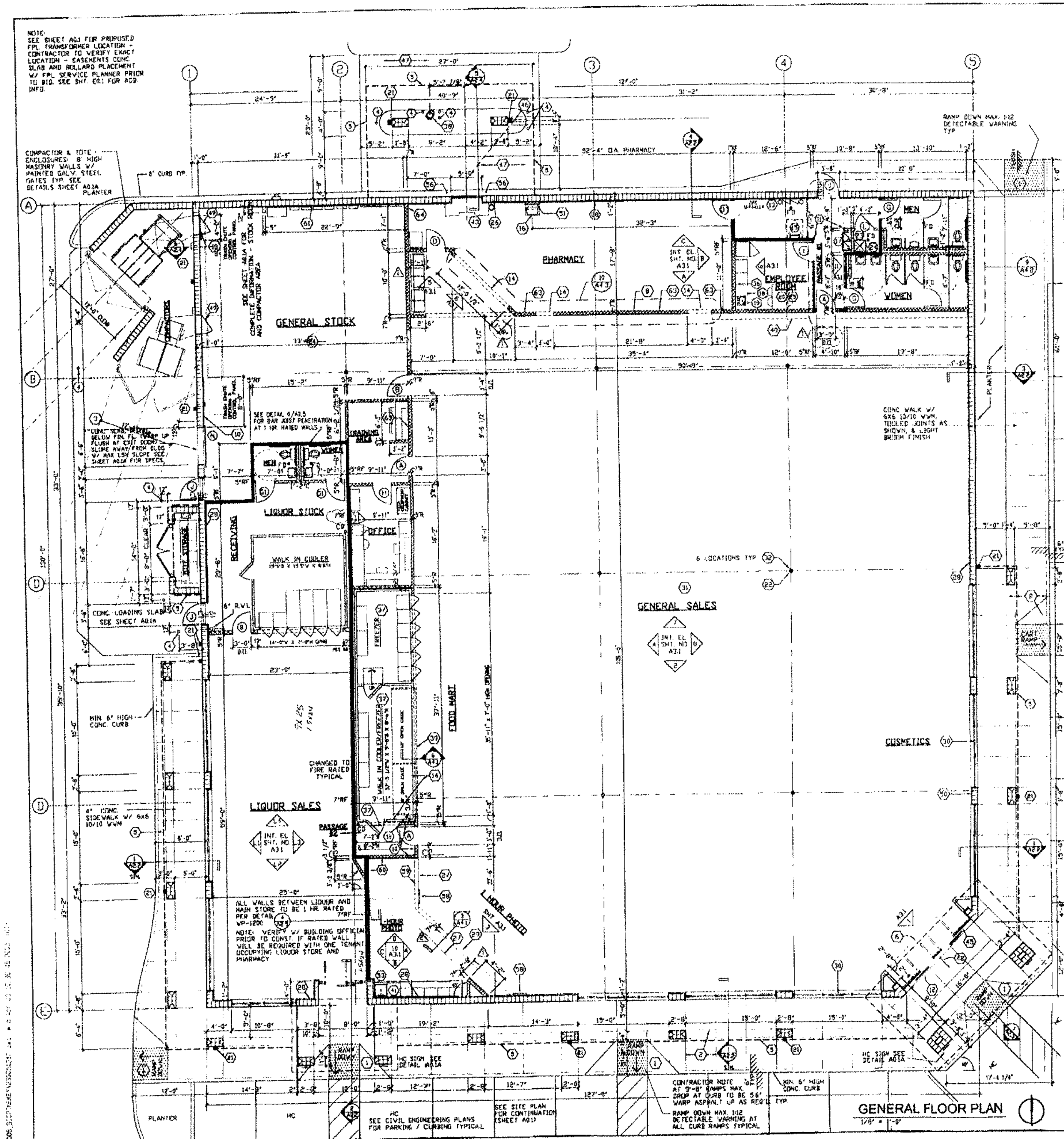
SHEET SP-1

COMM. NO. 23005

5/29/03

05/29/03

258



GENERAL FLOOR PLAN
1/8" = 1'-0"

GENERAL FLOOR PLAN KEYED NOTES

	DESCRIPTION	DET'L
1	ACCESSIBLE RAMP (TOWARD ALL PARKING)	A0.1A
2	CONCRETE WALK WITH TOOLED CONTROL JOINTS AND BROOM FINISH	A0.1A
3	RECEIVING SLAB	A0.1A
4	PIPE BUMPER GUARDS.	A0.1A
5	LINE OF CANOPY ABOVE. SEE EXTERIOR ELEVATIONS ON SHEETS A2.1	
6	GWB CEILING AT ENTRANCE	2/A1.2
7	N/A	
8	PHARMACY WALL DETAILS SEE SHT. A4.1	
9	N/A	
10	1/4" THICK x 48" HIGH MASONITE WAINSCOT WITH J-BEAD TOP	14/A4.2
11	CORNER GUARD AT ALL OUTSIDE CORNERS	16/A4.2
12	ENTRANCE AREA WALKWAY SLAB.	1/A2.3
13	SPRINKLER RISER AREA	
14	CARRY TILE PAST DOOR OPENING 4" MIN.	
15	LADDER WITH FRP ON WALL; ROOF SCUTTLE.	4,5/A4.5
16	PHARMACY SINK AND CABINET FURNISHED BY WALGREENS. (SEE ENGINEERING DRAWING)	
17	HIGH/LOW ELECTRIC WATER COOLER. SEE MECHANICAL AND ELECTRICAL DRAWINGS	
18	PLASTIC LAMINATE COUNTER AND CABINETS. CONTRACTOR TO PURCHASE FROM MYERS INDUSTRIES (217-735-1241). SEE SHT. D1 FOR LENGTH. SUPPORT COUNTER ON CABINETS BELOW AND WITH CLEATS ALONG WALL. LEAVE 32" CLEAR FOR REFRIGERATOR.	
19	STAINLESS STEEL SINK. (SEE PLUMBING DRAWINGS)	
20	SEE FIXTURE PLAN (SHEET D1) FOR ROOM FURNISHINGS IN EMPLOYEE ROOM.	
21	DOWNSPOUT TO STORM SEWER (WHEN USED). LOCATE INTERIOR ROOF DRAIN LEADER IN LIQUOR RECEIVING AREA (SEE PLAN)	
22	SAND STEEL COLUMNS EXPOSED IN SALES AREA TO REMOVE BLEMISHES IN FACTORY APPLIED PRIMER. REPRIME AND PAINT. COLUMNS SHALL BE SMOOTH AND UNIFORM FOLLOWING FINAL PAINTING.	
23	MOP SINK BASIN. (SEE MECH. DRWGS).	
24	WATER HEATER. (SEE MECH. DRAWINGS).	
25	PANELING WITH VINYL COVERING ABOVE ON ALL WALLS.	15/A4.2
26	OPENING FOR 2ND LANE CARRIER ABOVE COORDINATE LINTEL.	1/A4.4
27	LINE OF FLOOR MATERIAL CHANGE.	
28	FROM FLOOR TO ABOVE CEILING. PROVIDE 5/8" GWB OVER 1 1/2" METAL "Z" FURRING CHANNELS ANCHORED TO MASONRY WALL (VERTICALLY). (NO RIGID INSULATION REQUIRED BETWEEN FURRING WHEN FOAM INSUALATION IN BLOCKS. SEE SPECS FOR MINIMUM "R" VALUES OF MASONRY WALLS.	
29	7'-6" HIGH SOFFIT	1/A4.1
30	STOREFRONT. SEE INTERIOR AND EXTERIOR ELEVATION.	
31	FIRE EXTINGUISHERS TO COMPLY W/ NFPA-10 TO BE PROVIDED THRU-OUT MOUNTED MAX. 5 FT. ABOVE FIN. FLOOR	
32	5'-0" HIGH, 1 PIECE, STAINLESS STEEL. WRAP AROUND ALL SALES AREA COLUMNS (SEAM TOWARDS GONDOLAS)	
33	PROVIDE FLATTENED STEEL EXPANDED MESH, 3/4"x16 ga. MIN. OVER PLYWOOD EQUIPMENT CLOSURE, ON INSIDE FACE OF BLOCK WALL.	1/A2.5
34	ALL STORAGE SHELVING, ETC. BY WALGREENS. SEE SHT. D1 FOR LAYOUT. SEE CRITERIA SPECIFICATIONS, SECTION 1010 REGARDING LANDLORD RESPONSIBILITIES FOR STORES IN SEISMICALLY SENSITIVE STATICS.	
35	LEAVE OUT PORTION OF GWB AND DOOR IN 7'-0"W. x 7'-3"H. HEADERED OPENING (VERIFY EXACT OPENING WITH WALGREENS) FOR PALLET DELIVERY OF FIXTURES. INFILL WALL & DOOR AFTER DELIVERY.	
36	1/4" PLATE GLASS MIRROR, 48" HIGH BY LENGTH OF COUNTERTOP LESS 12" (TO ALLOW FOR ELECTRICAL OUTLET SPACE).	9/A3.1
37	WALK-IN COOLER FURNISHED AND INSTALLED BY WALGREENS. ALL "ROUGH-IN" BY GENERAL CONTRACTOR. SEE MECHANICAL DRAWINGS FOR LOCATION. PROVIDE 24"x30" HINGED ACCESS PANEL ABOVE COOLER WITH SILL HEIGHT AT 9' A.F.F. (ACCESS REQUIRED WHEN SURROUNDED BY WALLS).	6/A4.2
38	CUSTOMER STATION AT DRIVE-THRU.	A4.4
39	WALK-IN COOLER WALL OPENING.	
40	MIRRORS.	
41	SILVER RECOVERY UNIT (BY WALGREENS)	6/A4.1
42	GUIDE RAIL BY AUTOMATIC DOOR MANUF.	15,16/A4.1
43	PHARMACY DRIVE-THRU. SEE DETAILS ON SHEET A4.4 AND A4.4D.	
44	N/A	
45	AUTOMATIC SLIDING DOOR ENTRANCE	
46	2" DIAMETER x 30' LONG P.V.C. PIPE WITH CLEAN-OUT COVER IN FACE OF CURB. 3/4" CONDUIT BACK TO WINDOW FOR CAR SENSOR.	
47	CONCRETE PAVEMENT 6" BELOW FINISHED FLOOR. SLOPE ADJACENT PAVEMENT TO MEET CONCRETE.	
48	N/A	
49	SECURITY DOOR AND FRAME.	A0.1A
50	N/A	
51	PIPE CHASE - 28" WIDE. USE 5/8" GWB ON 2 1/2" METAL STUDS FROM FLOOR TO CEILING. PROVIDE 3 PIECES OF 3/4" X 12" PLYWOOD BLOCKING, 28"W, CENTERED AT 36", 59", AND 80" A.F.F. UNDER GWB FOR MOUNTING OF SINK CABINETS.	
52	N/A	
53	PHOTO SINK. SEE PLUMBING DRAWINGS.	
54	N/A	
55	N/A	
56	YELLOW DELINEATION POSTS AT DRIVE-UP WINDOW	
57	N/A	1/A4.4
58	LEXAN FACED LIGHTED BOX SIGN.	
59	7'-6" HIGH WALL OPENING	
60	SLAT WALL, WITH BLACK INSERTS BY WALGREENS.	
61	PROVIDE 3/4" EXT'R GRADE PLYWOOD BACKING FOR MOUNTING ELECTRICAL EQUIPMENT	
62	N/A	
63	PROVIDE 3/4" x 24"W. PLYWD. BLKG. BEHIND GWB BETWEEN METAL STUDS.	12,13/A3.1
64	13 DRAWER FILE CABINET REQUIRES 3 PIECES OF 3/4"x12" PLYWOOD BLOCKING, 3'-0" WIDE MIN., BEHIND GWB, BETWEEN STUDS, CENTERED @ 31", 58", AND 83" A.F.F.	12/A3.1
65	CLEAN JOINTS AT EXPOSED BLOCK WALLS, AND PAINT FROM SLAB TO ROOF DECK (SEE INSULATION NOTE)	

ROOM FINISH SCHEDULE

* FLOORING SHALL MEET RECOMMENDATIONS OF THE ADA AND FLORIDA ACCESSIBILITY CODE FOR SLIP RESISTANCE.

** VINYL WALL COVERING TO BE INSTALLED IN STRICT ACCORDANCE W/ MFG'S RECOMMENDATIONS BY LIC. INSTALLER. CONTRACTOR TO CERTIFY ALL MOISTURE CONTENTS W/ MOISTURE METER READINGS AS REQUIRED TO MEET MFG'S RECOMMENDATIONS PRIOR TO BEGINNING INSTALLATION OF WALL COVERING. COPIES OF THESE TEST RESULTS SHALL BE FORWARDED TO THE ARCH'T AND OWNER. CONTRACTOR SHALL PROVIDE 1 YR. WARRANTY AGAINST ALL DEFECTS AND DAMAGES RESULTING FROM IMPROPER INSTALLATION OR INSTALLATION NOT IN KEEPING WITH MFG'S RECOMMENDATIONS.

ROOM & SPACES	FLOOR: VINYL COMPOSITION TILE ■ * REMARK 6 (VINYL REDUCER TO CONCRETE)	FLOOR: CERAMIC TILE *	FLOOR: CONCRETE HARDENER/SEALER	FLOOR: CARPETING (BY VALGREENS)	FLOOR: EXPOSED CONCRETE	FLOOR: SEE 3A-5/A11	FLOOR: RUBBER	BASE: VINYL BASE (ON GYP. WALL 90) SEE REMARK 5	BASE: CERAMIC TILE	BASE: NONE	WALLS: WATER RESISTANT GYPSUM WALLBOARD	WALLS: GYPSUM WALLBOARD	WALLS: CONCRETE BLOCK	WALLS: BRICK	WALLS: SLAT WALL (BY VALGREENS)	WALLS: 4'-0" HIGH MASONITE WAINSCOT (WHERE NOTED)	WALLS: CERAMIC TILE	WALLS: FIBERGLASS POLYESTER PANELS	WALLS: VINYL WALL COVERING **	WALLS: 4'-0" HIGH PANELING + WALL COVERING ABOVE	CEILING: ACOUSTICAL TILE	CEILING: GYPSUM BOARD	CEILING: NONE - EXPOSED STRUCTURE	CEILING:	PAINT: SEE INTERIOR ELEVATIONS	PAINT: PHARMACY; BM HC-173 "EDGECOMB GRAY"	PAINT: BACK-UP AREAS: BONE WHITE	PAINT: SALES AREA COLUMNS: WHITE DOVE	PAINT: DOORS & FRAMES: SW-2112-36 "STONE BROWN"	PAINT: CEILING: DECORATOR WHITE	PAINT: SOFFIT UNDERSIDE: WHITE DOVE	REMARKS
GENERAL SALES	●							●				●							●		●				●			●	●			
GENERAL STOCK			●		●			●				●	3			●							●				●		●			3
PHARMACY				●				●				●			●						●				●	●			●			
PATIENT SEATING	●							●				●							●		●				●				●		●	
PASSAGE #1	●							●				●											●		●		●		●			
EMPLOYEE ROOM	●							●				●								●		●			●				●	●		
PORTER	●							●			●							●				●					●		●	●		1
WOMENS TOILET		●							●		●							●				●							●	●		
MENS TOILET		●							●		●							●				●							●	●		
ELECT. RM./SPACE			●		●			●				●											●				●		●			
OFFICE	●							●				●							●		●								●			
PASSAGE #2	●							●				●				4					●						●		●			
ONE-HOUR PHOTO	●						●	●				●			●				●		●				●						●	
TRAINING ROOM	●							●				●							●		●				●				●			
LIQUOR SALES	●							●				●							●		●				●			●	●			
LIQUOR STOCK			●		●			●				●				●							●				●		●			3
LIQUOR TOILETS		●							●		●							●				●							●	●		

REMARKS:
1) FIBERGLASS POLYESTER PANEL IN PORTER AREA FROM FLOOR TO 8'-0" A.F.F.
2) NOT USED.
3) CONCRETE HARDENER/SEALER UNDER WALK-IN COOLER/FREEZER
4) BEHIND DOOR AND 1-HOUR PHOTO WALL.
5) FURNISH AND INSTALL VINYL BASE ON COSMETICS, PHOTO, AND FRONT CHECK-OUT CASEWORK. SEE SHEET D1.
6) VINYL REDUCER TO CONCRETE.

RICHARD WENSING AIA

ARCHITECTS & PLANNERS, PA

WEST PALM BEACH, FLORIDA
561-684-1988 AA-C000161

PROJECT TYPE

DRAWINGS/SPECIFICATIONS BY:
- ☐ WALGREENS' CONSULTANT
- ■ LANDLORD'S CONSULTANT

ALL CONSTRUCTION WORK, UNLESS NOTED OTHERWISE, BY:
- ☐ WALGREENS' CONTRACTOR
- ■ LANDLORD'S CONTRACTOR (TURNKEY CONSTRUCTION)

STORE		BUILDING	
NEW	■	NEW	■
REMODELING	☐	EXISTING	☐
RELOCATION	☐	NEW SHELL ONLY	☐
OTHER	☐		

1G-10A PARTITION SCHEDULE, LEGEND & CEILING DATA

ABBREVIATIONS

C: TO MIN. 3" ABOVE CLG. RF: TO ROOF DECK (OR FLOOR ABOVE). AIR TIGHT FIRECODE GWB. GWB: GYPSUM WALLBOARD VR: WATER RESISTANT (PLUMBING WALLS).
R: TO ROOF DECK (OR FLOOR ABOVE).

LEGEND

SYMBOL	DESCRIPTION
7"R	6"x 25GA. MTL. STUDS, 24" O.C. TO ROOF DECK (SECURED TO ROOF FRAMING) WITH 5/8" GWB ON GENERAL SALES AREA SIDE TO TOP OF SOFFIT OR CEILING, ON OTHER SIDE TO ROOF DECK. IN FLORIDA LOCATIONS, BETWEEN GENERAL AND LIQUOR SALES AREA, PROVIDE GWB UP TO ROOF DECK ON BOTH SIDES.
7"RF	6"x25GA. MTL. STUDS, 24" O.C. TO ROOF DECK (SECURED TO ROOF FRAMING) WITH 5/8" FIRECODE GWB EACH SIDE TIGHT UP TO ROOF DECK. (MINIMUM 1 HOUR AS REQUIRED BY CODE).
5"R	3-5/8"x 25GA. MTL. STUDS, 24" O.C. TO ROOF DECK (SECURE TO ROOF FRAMING) WITH 5/8" GWB ON EACH SIDE TO ROOF DECK.
5"RF	3-5/8"x 25GA. MTL. STUDS, 24" O.C. TO ROOF DECK (SECURED TO ROOF FRAMING) WITH 5/8" FIRECODE GWB EACH SIDE TIGHT UP TO ROOF DECK. (MINIMUM 1 HOUR AS REQUIRED BY CODE).
5"C	3-5/8"x 25GA. MTL. STUDS, 24" O.C. WITH ALTERNATE STUDS SECURED TO ROOF FRAMING AND OTHERS TO STOP AT CEILING. PROVIDE 5/8" GWB EACH SIDE UP TO CEILING ONLY.
9"C	TWO ROWS 3-5/8"x 25GA. MTL. STUDS 24" O.C. WITH ALTERNATE STUDS SECURED TO ROOF FRAMING AND OTHERS TO STOP AT CEILING. PROVIDE 5/8" VR GWB BOTH SIDES UP TO CEILING ONLY.

NOTE NO. 1: 1 HR. RATED DES. GYPSUM ASSOC. GA-WP-1200 SEE DETAILS

ANY PENETRATIONS IN FIRE WALLS SHALL BE COMPLETELY SEALED USING 3M FIRE BARRIERS WITH UL RATED ASSEMBLIES

WALL TO DECK	SYSTEM NO. HWS0002
STEEL PIPE OR CONDUIT	SYSTEM NO. WL1001
PLASTIC PIPE	SYSTEM NO. WL2003, & WL2088
SHEET METAL DUCTS	SYSTEM NO. WL7008

SYSTEM SUBSTITUTIONS ONLY ACCEPTED W/ COMPLETE SUBMITTAL AND ACCEPTANCE BY ARCHITECT AND RESUBMITTED TO LOCAL MUNICIPALITY FOR APPROVAL BY CONTRACTOR.

METAL STUDS - GENERAL NOTE:

25 GA. STUDS ARE THE MINIMUM PER CRITERIA. FRAMING CONTRACTOR TO VERIFY LIMITING HEIGHT OF STUD PER MFG. (L/240) AND COMPLY WITH ALL MANUFACTURERS RECOMMENDATIONS FOR INCREASING GAUGE AS HEIGHTS EXCEED LIMITING HEIGHTS.
NOTE: 18 GA. STUDS ARE REQUIRED IN WALLS ADJACENT TO EMPLOYEE LOUNGE AND MEN'S & WOMEN'S TOILET ROOMS TO SUPPORT THE LOADS AT THE FRAMED CEILINGS IN THESE ROOMS.

NO.	DATE	BY	DESCRIPTION	CONST.

REVISIONS

CERTIFICATION AND SEAL

I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF FLORIDA AS SIGNIFIED BY MY HAND AND SEAL.

4/22/03

C.P. 2003 PROJECT NAME COMM. NO. 23005

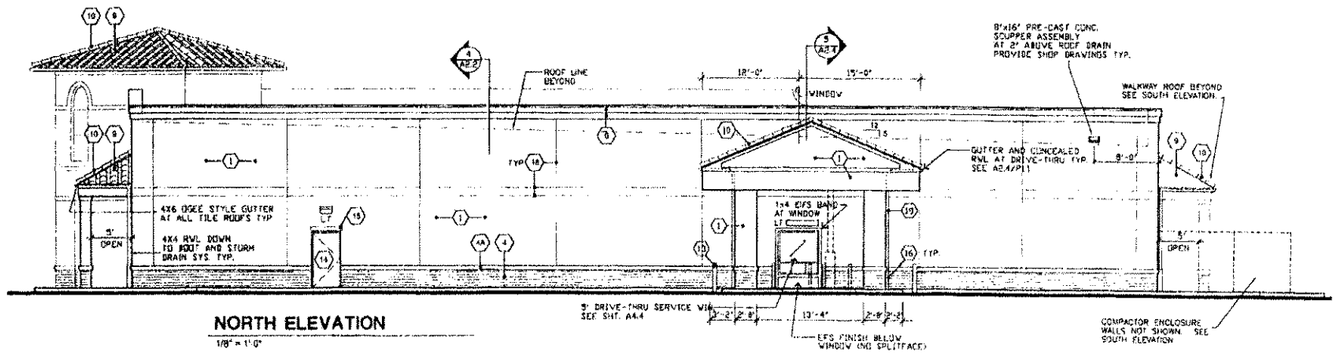
WALGREENS STORE

NWC KEY DEER BLVD & US#1
BIG PINE KEY
MONROE COUNTY, FLORIDA

DRAWING TITLE

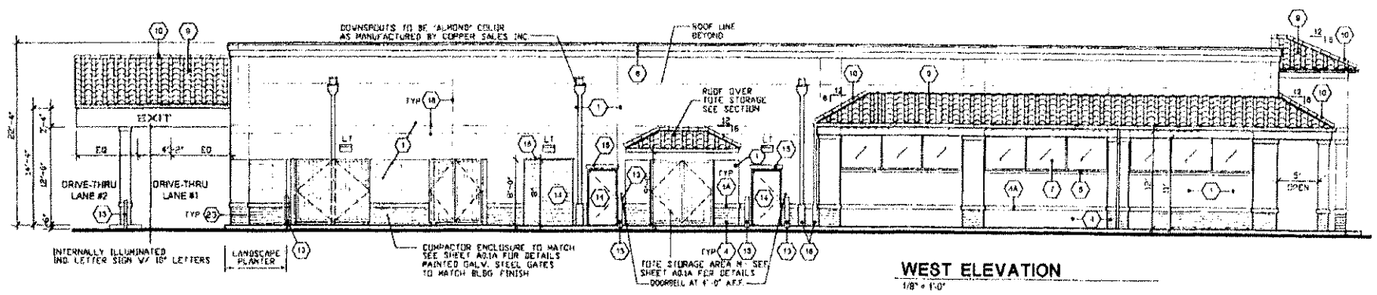
GENERAL FLOOR PLAN & SCHEDULES

DATE: 4-9-03	STORE NO. 00000	DRAWING NO.	A1.1
DRAWN BY: RV	SCALE: 1/8"=1'-0"		
REVIEWED BY:	RELEASED TO CONSTRUCTION		



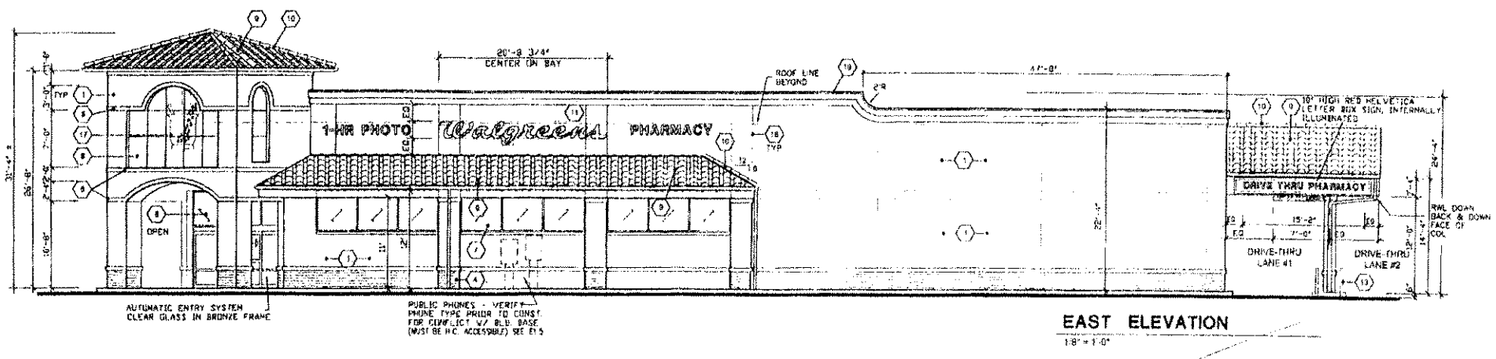
NORTH ELEVATION

1/8" = 1'-0"



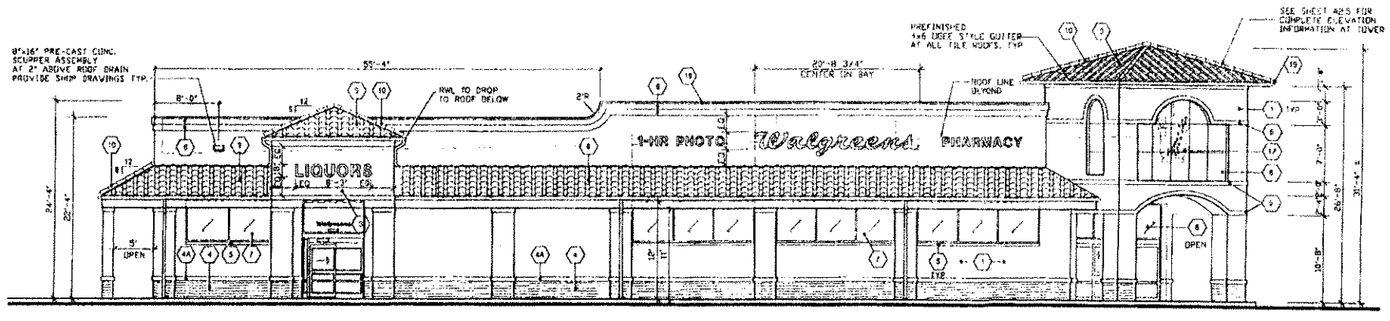
WEST ELEVATION

1/8" = 1'-0"



EAST ELEVATION

1/8" = 1'-0"



SOUTH ELEVATION

1/8" = 1'-0"

EXTERIOR ELEVATIONS KEYED NOTES

	DESCRIPTION
1, 2	E.F.S. LIGHT TEXTURED FINISH STUCCO - COLOR BONE WHITE
3	FASCIA & PRE-FINISHED GUTTER TO MATCH SM ADOBE BEIGE
3A	E.F.S. MEDALION - SM ADOBE BEIGE
4	SPLIT FACE BLOCK TO MATCH 188 TAN TANXAC AMERICA INC. SARASOTA, FL. 941-927-1492 PROVIDE INTEGRAL WATER REPELLENT IN BLOCK AND MORTAR (DRY BLOCK)
4A	4" MASONRY BULLNOSE TRANSITION SEE DTL. TYP. F/A2.2 NOTE: MASONRY TO MATCH SPLIT FACE - NOT PAINTED
5	1" RAISED E.F.S. BANDS - COLOR SM BONE WHITE
6	MOLDED RAISED E.F.S. BANDS - COLOR SM BONE WHITE SECTIONS AND DETAILS TYPICAL
7	IMPACT GLAZING TINTED "EVERGREEN" IN CLEAR ANODIZED ALUM. FRAMES
8	CLEAR IMPACT GLAZING AT ENTRY, AUTOMATIC DOORS AND TOWER IN CLEAR ANODIZED ALUM. FRAMES
9	MONIER CONCRETE ROOF TILE - PROFILE "VISIGOTH 3" COLOR #16070 "PINTO BLEND"
10	PROVIDE 1/2 TILE AT ALL RIDGES TYP
11	36 & 1/2" WALGREENS INDIVIDUAL LETTER SCRIPT SIGN (A5.2)
12	UNDER CANOPY SIGN SEE SHEET (A5.2)
13	BUMPER GUARD (TYPICAL (SEE A0.1A)
14	METAL DOORS AND FRAMES PAINT SM BONE WHITE
15	PRE-FINISHED RAIN SHIELD TYPICAL
16	1/8" BENT STEEL PLATE (TO PROTECT DOWNSPOUT) SEE DETAIL SHEET A2.5
17	WALGREENS LOGO GRAPHIC - SEE DTL A5.2
18	VINYL STUCCO CONTROL JOINTS
19	PRE-FINISHED SHEET METAL COPING, GUTTERS AND DOWNSPOUTS. COLOR TO MATCH ADJACENT BANDS / FASCIA. SUBMIT COLOR SAMPLE FOR APPROVAL. SEE SPEC. SECTION 07600 FOR ADDITIONAL INFORMATION COLOR TO MATCH TO MATCH 'ALMOND'
20	BOX SIGN - SEE SHT. A5.2
21	EXTERIOR LIGHTS - SEE ELECTRICAL PLANS

CAST CONC. SUPPLIER TO SUPPLY SHOP DRAWS AND SAMPLES FOR ARCHITECTS APPROVAL PRIOR TO FABRICATION.

SEE SHOP DRAWING NOTES AND SPECIFICATIONS FOR ADDITIONAL INFORMATION REGARDING SUBMITTALS TYPICAL

EXTERIOR FINISH SYSTEM

BASE COAT

LEVELING "SCRATCH COAT" OF PORTLAND CEMENT PLASTER OVER MASONRY OR PAPER BACKED GALVANIZED MTL. LATH. BASE COAT SHALL BE LEVEL, PREPARED FOR PRIMER / FINISH COAT

EFS (SEE SPECS. FOR COMPLETE INFORMATION)

MANUFACTURERS
A. Sto Corp. (Manufacturer contact: Tim Solerno - 407-466-5371 or 800-828-2738 ext. 5302)
B. Provide textured wall finish and primer materials from single source manufacturer to meet performance requirements of Sto specified finish

PRIMER
A. Sto Primer-acrylic based tinted primer (tinted to same color as finish coat)
(Note: priming is recommended to provide uniform substrate absorption and finish color, to improve adhesion and water resistance, and to retard efflorescence)

FINISH
A. Sto silicone-enhanced textured elastomeric wall finish with graded marble aggregate "Stoceflex 1.5m" color as selected by architect.
(Note: see appropriate Sto Stoceflex Product Bulletin for detailed information on finish. Elastomeric textured wall finishes are recommended to provide best performance over hairline cracks that may occur in stucco)
Elongation - 300% (ASTM D-412)
Water Vapor Permeability - 16 Perms (ASTM D-1653)
Water Absorption - 27 (DIN 52-617)
Dirt Pick-up Resistance - 78 % reflectance retained (Lab Method)

CONTRACTOR NOTE: EXTERIOR FINISHES SHALL BE INSTALLED BY ONE CONTRACTOR

CONTRACTOR TO PREPARE 1'x1' SAMPLES OF SYSTEM / FINISHES FOR APPROVAL

ALTERNATE MANUFACTURER NOTE:

ALTERNATE MFG. DRYVIT SYSTEMS, INC
WEATHERMASTIC-S1
FLEXIBLE, ELASTOMERIC, EXTERIOR FINISH
SILICON ENHANCED, TEXTURES TO MATCH ABOVE

ALTERNATE MFG. TO PROVIDE COMPLETE INSTALLATION PROPOSAL FOR REVIEW PRIOR TO START OF CONSTRUCTION

NO OTHER PRODUCTS OR MANUFACTURERS WILL BE CONSIDERED UNLESS EXTREME CONDITIONS EXIST. IF SUBSTITUTION IS REQUIRED THROUGH NO FAULT OF CONTRACTOR SEE SPEC. SECTION 01010, 106 SUBSTITUTIONS

RICHARD WENSING
ARCHITECTS & PLANNERS, PA
WEST PALM BEACH, FLORIDA
561-684-1026 AA-0002161

PROJECT TYPE

DRAWINGS/SPECIFICATIONS BY:
☐ WALGREENS' CONSULTANT
■ LANDLORD'S CONSULTANT

ALL CONSTRUCTION WORK, UNLESS NOTED OTHERWISE, BY:
☐ WALGREENS' CONTRACTOR
■ LANDLORD'S CONTRACTOR (TURNKEY CONSTRUCTION)

STORE		BUILDING	
NEW	☐	NEW	■
REMODELING	☐	EXISTING	☐
RELOCATION	■	NEW SHELL ONLY	☐
OTHER	☐		

SIGN AREA SUMMARY

NOTE: SEPARATE PERMIT AND PRODUCT CONTROL APPROVAL, WHEN APPLICABLE, IS REQUIRED FOR ALL SIGNAGE TYPICAL.

SOUTH ELEVATION

26'-8.5" WALGREENS SCRIPT SIGN	35.70 SF
18" PHARMACY SIGN	19.0 SF
18" 1-HR PHOTO IND. LETTER	21.0 SF
18" COLOR IND. LETTER	18.4 SF
SUB TOTAL	94.30 SF

EAST ELEVATION

26'-8.75" WALGREENS SCRIPT SIGN	35.70 SF
18" PHARMACY SIGN	19.0 SF
18" 1-HR PHOTO IND. LETTER	21.0 SF
18" DRIVE THRU PHARMACY BOX SIGN	34.0 SF
SUB TOTAL	109.9 SF

WEST ELEVATION

18" EXIT IND. LETTER	2.1 SF
SUB TOTAL	2.1 SF

NORTH ELEVATION

NO SIGNAGE	0.0 SF
SUB TOTAL	0.0 SF
TOTAL BUILDING SIGNAGE	206.30 SF

FREESTANDING SIGN #1 (SEE SHT. S1.1)
NE CORNER OF SITE

126 SF LED READER BOARD PYLON	126.00 SF
TOTAL SITE SIGNAGE	236.3 SF

NO	DATE	BY	DESCRIPTION	CONST

REVISIONS

CERTIFICATION AND SEAL

I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF FLORIDA AS VERIFIED BY MY HAND AND SEAL.

4/12/03

CP 2003 PROJECT NAME COMM NO 23005

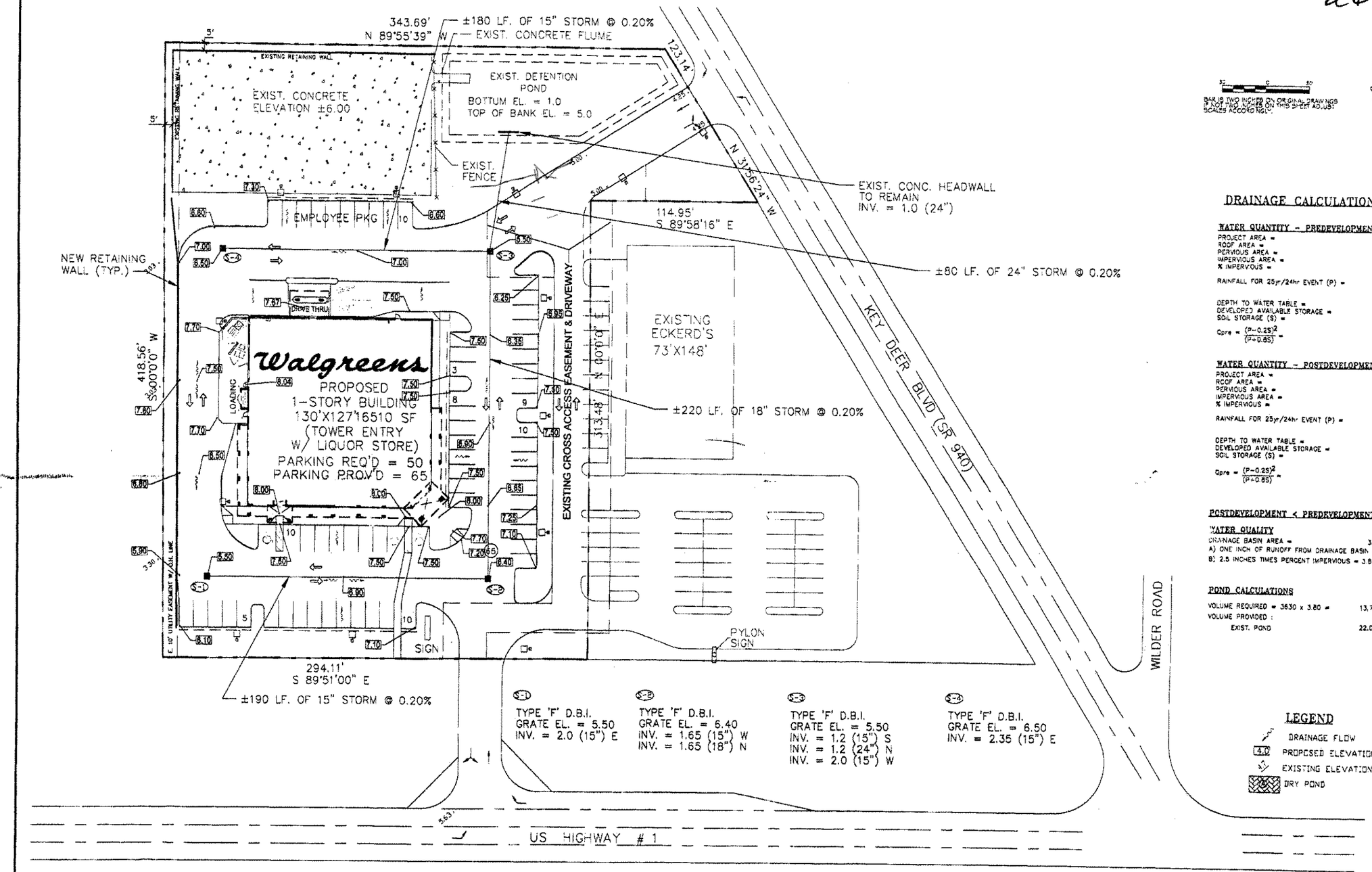
WALGREENS STORE
NWC KEY DEER BLVD & US#1
BIG PINE KEY
MONROE COUNTY, FLORIDA

DRAWING TITLE
EXTERIOR ELEVATIONS, DETAILS, AND SIGN DATA

DATE 3-25-03	STORE NO. 06000	DRAWING NO.
DRAWN BY:	SCALE 1/8"=1'-0"	A2.1
REVIEWED BY: RV	RELEASED TO CONSTRUCTION	

APR 2 2 2003

260



BAR IS TWO INCHES ON ORIGINAL DRAWINGS IF NOT TWO INCHES ON THIS SHEET ADJUST SCALES ACCORDINGLY.

DRAINAGE CALCULATIONS

WATER QUANTITY - PREDEVELOPMENT

PROJECT AREA =	3.05 Ac.
ROOF AREA =	0.61 Ac.
PERVIOUS AREA =	1.00 Ac.
IMPERVIOUS AREA =	1.44 Ac.
% IMPERVIOUS =	47%
RAINFALL FOR 25yr/24hr EVENT (P) =	9.0 in.
DEPTH TO WATER TABLE =	>3 FT
DEVELOPED AVAILABLE STORAGE =	4.95 in.
SOIL STORAGE (S) =	2.62 in.
$Qpre = \frac{(P-0.25)^2}{(P+0.85)} =$	6.47 in.

WATER QUANTITY - POSTDEVELOPMENT

PROJECT AREA =	3.05 Ac.
ROOF AREA =	0.38 Ac.
PERVIOUS AREA =	1.13 Ac.
IMPERVIOUS AREA =	1.54 Ac.
% IMPERVIOUS =	50%
RAINFALL FOR 25yr/24hr EVENT (P) =	9 in.
DEPTH TO WATER TABLE =	>3 FT
DEVELOPED AVAILABLE STORAGE =	4.95 in.
SOIL STORAGE (S) =	2.46 in.
$Qpre = \frac{(P-0.25)^2}{(P+0.85)} =$	6.58 in.

POSTDEVELOPMENT < PREDEVELOPMENT

WATER QUALITY

DRAINAGE BASIN AREA = 3.05 AC

A) ONE INCH OF RUNOFF FROM DRAINAGE BASIN = 3.05 Ac-in

B) 2.5 INCHES TIMES PERCENT IMPERVIOUS = 3.80 Ac-in

POND CALCULATIONS

VOLUME REQUIRED = 3630 x 3.80 = 13,794 CF

VOLUME PROVIDED :

EXIST. POND 22,000 CF

LEGEND

- DRAINAGE FLOW
- 4.0 PROPOSED ELEVATION
- 5.7 EXISTING ELEVATION
- DRY POND

APR 28

48 HOURS BEFORE DIGGING
CALL TOLL FREE
1-800-432-4770
SUNSHINE STATE UNDERGROUND UTILITIES NOTIFICATION CENTER

P E & D, Inc.
AUTHORIZATION # 8579
Perez Engineering & Development, Inc.
Certificate of Authorization # 8579
3210 FLAGLER AVENUE
Key West, FL 33040
ph: (305) 293-8440 • fax: (305) 296-8245

No.	Revision/Issue	Date

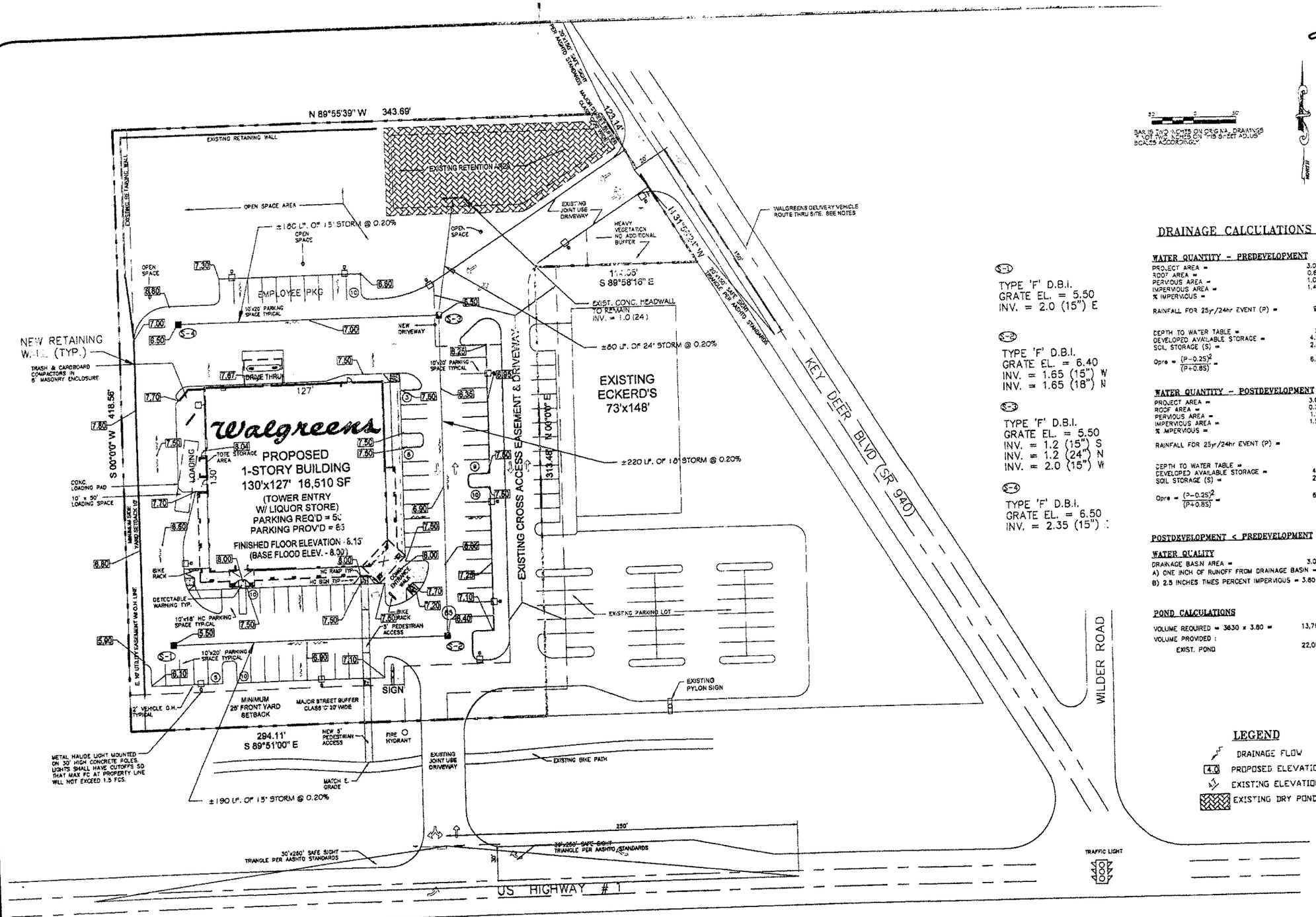
Designed By: AEP	Project: DRAINAGE.dwg	WALLGREENS	
Checked By: GWB	Date: 4/25/03	BIG PINE, FL	
Drawn By: GKG	Scale: AS NOTED	CONCEPTUAL DRAINAGE PLAN	

ALLEN E. PEREZ P.E.#51468

NOT VALID FOR CONSTRUCTION UNLESS SIGNED AND SEALED IN THIS BLOCK

Sheet 1

261



BARS TWO INCHES ON ORIGINAL DRAWINGS IF NOT TWO INCHES ON THIS SHEET ADJUST SCALES ACCORDINGLY

S-1
TYPE 'F' D.B.I.
GRATE EL. = 5.50
INV. = 2.0 (15") E

S-2
TYPE 'F' D.B.I.
GRATE EL. = 6.40
INV. = 1.65 (15") W
INV. = 1.65 (18") N

S-3
TYPE 'F' D.B.I.
GRATE EL. = 5.50
INV. = 1.2 (15") S
INV. = 1.2 (24") N
INV. = 2.0 (15") W

S-4
TYPE 'F' D.B.I.
GRATE EL. = 6.50
INV. = 2.35 (15") E

DRAINAGE CALCULATIONS

WATER QUANTITY - PREDEVELOPMENT

PROJECT AREA =	3.05 Ac.
ROOF AREA =	0.61 Ac.
PERVIOUS AREA =	1.00 Ac.
IMPERVIOUS AREA =	1.44 Ac.
% IMPERVIOUS =	47%
RAINFALL FOR 25yr/24hr EVENT (P) =	9.0 in.
DEPTH TO WATER TABLE =	>3 FT
DEVELOPED AVAILABLE STORAGE =	4.95 in.
SOIL STORAGE (S) =	2.62 in.
$Qpre = \frac{(P-0.2S)^2}{(P+0.8S)} =$	6.47 in.

WATER QUANTITY - POSTDEVELOPMENT

PROJECT AREA =	3.05 Ac.
ROOF AREA =	0.38 Ac.
PERVIOUS AREA =	1.13 Ac.
IMPERVIOUS AREA =	1.54 Ac.
% IMPERVIOUS =	50%
RAINFALL FOR 25yr/24hr EVENT (P) =	9 in.
DEPTH TO WATER TABLE =	>3 FT
DEVELOPED AVAILABLE STORAGE =	4.95 in.
SOIL STORAGE (S) =	2.48 in.
$Qpre = \frac{(P-0.2S)^2}{(P+0.8S)} =$	6.58 in.

POSTDEVELOPMENT < PREDEVELOPMENT

WATER QUALITY

DRAINAGE BASIN AREA = 3.05 AC

A) ONE INCH OF RUNOFF FROM DRAINAGE BASIN = 3.05 Ac-in

B) 2.5 INCHES TIMES PERCENT IMPERVIOUS = 3.80 Ac-in

POND CALCULATIONS

VOLUME REQUIRED = 3630 x 3.80 =	13,794 CF
VOLUME PROVIDED :	
EXIST. POND	22,000 CF

LEGEND

- DRAINAGE FLOW
- 4.0 PROPOSED ELEVATION
- EXISTING ELEVATION
- EXISTING DRY POND

48 HOURS BEFORE DIGGING CALL TOLL FREE 1-800-432-4770 SUNSHINE STATE UNDERGROUND UTILITIES NOTIFICATION CENTER

P E&D, Inc.
AUTHORIZATION # 8579
Perez Engineering & Development, Inc.
Certificate of Authorization # 8579
2210 FLAGLER AVENUE
Key West, FL 33040
ph: (305) 296-8446 • fax: (305) 296-0343

No.	Revision/Issue	Date
1	REVISED PER COUNTY PLANNING DEPT.	5/29/03

Designed By: AEP	Project: DRAINAGE.dwg
Checked By: GWB	Date: 4/25/03
Drawn By: GKG	Scale: AS NOTED

WALGREEN
BIG PINE, FL

RECEIVED 30 5/30/03

CONCEPTUAL DRAINAGE PLAN

ALLEN E. PEREZ 5/29/03 P.E.#51468

NOT VALID FOR CONSTRUCTION UNLESS SIGNED AND SEALED IN THIS BLOCK

Sheet 1

EXISTING TREE LIST

SYM	TREE NAME	DESCRIPTION	STATUS
A	Thrinax	8' ht.	relocate
B	Thrinax	8' ht.	relocate
C	Thrinax	6' ht.	relocate
D	Thrinax	5' ht.	relocate
E	Thrinax	8' ht.	relocate
F	Gumbo limbo	16' ht. x 12' spr. 8" cal.	relocate
G	Gumbo limbo	16' ht. x 12' spr. 8" cal.	relocate
H	Pigeon plum	6' ht. x 6' spr., poor	remove
I	Gumbo limbo	8' ht. x 8' spr., poor	remove
J	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
K	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
L	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
M	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
N	Gumbo limbo	8' ht.	remain
O	Gumbo limbo	12' ht. x 12' spr., 4" cal.	remain
P	Gumbo limbo	12' ht. x 12' spr., 3" cal.	remain
Q	Gumbo limbo	12' ht. x 12' spr., 4" cal.	remain
R	Gumbo limbo	12' ht. x 12' spr.	remain
S	Gumbo limbo	12' ht. x 12' spr.	remain
T	Gumbo limbo	12' ht. x 12' spr.	remain
U	Gumbo limbo	12' ht. x 12' spr.	remain
V	Gumbo limbo	10' ht. x 8' spr., 2" cal.	remain
W	Gumbo limbo	cluster, 8 trunks, 8' ht. x 14' spr. 2" cal.	remain
X	Gumbo limbo	10' ht. x 10' spr. 4" cal.	relocate
Y	Gumbo limbo	10' ht. x 10' spr. 4" cal.	relocate
Z	Gumbo limbo	10' ht. x 10' spr. 4" cal.	relocate
AA	Gumbo limbo	10' ht. x 10' spr. 4" cal.	relocate
AB	Gumbo limbo	10' ht. x 10' spr. 4" cal.	relocate
AC	Pigeon plum	8' ht. x 8' spr.	remove
AD	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
AE	Gumbo limbo	16' ht. x 16' spr. 8" cal.	relocate
AF	Paradise tree	28' ht. x 18' spr. 8" cal.	remain
AG	Gumbo limbo	28' ht. x 16' spr. 8" cal.	remain
AH	Gumbo limbo	28' ht. x 16' spr. 8" cal.	remain
AI	Gumbo limbo	28' ht. x 16' spr. 8" cal.	remain
AJ	Slash pine	8" cal.	remain
AK	Slash pine	6" cal.	remain
AL	Slash pine	2" cal.	remain
AM	Slash pine	4" cal.	remain
AN	Slash pine	4" cal.	remain
AO	Slash pine	8" cal.	remain
AP	Slash pine	6" cal.	remain
AQ	Slash pine	2" cal.	remain
AR	Gumbo limbo	28' ht. x 28' spr. 12" cal.	relocate
AS	Paurotis	20' ht. x 10' spr.	relocate
AT	Paurotis	20' ht. x 10' spr.	relocate
AU	Dahoon holly	16' ht. x 16' spr. multi	remain
AV	Thrinax	cluster, 8' ht. x 6' spr.	remain
AW	Thrinax	8' ht.	remain
AX	Slash pine	14' ht., 2" cal.	remain
AY	Slash pine	20' ht., 4" cal.	remain
AZ	Slash pine	14' ht., 2" cal.	remain
BA	Slash pine	25' ht., 6" cal.	remain
BB	Slash pine	25' ht., 6" cal.	remain
BC	Slash pine	20' ht., 4" cal.	remain
BD	Slash pine	20' ht., 4" cal.	remain
BE	Slash pine	25' ht., 6" cal.	remain
BF	Slash pine	25' ht., 6" cal.	remain
BG	Slash pine	20' ht., 4" cal.	remain
BH	Slash pine	25' ht., 6" cal.	remain
BI	Slash pine	20' ht., 4" cal.	remain
BJ	Slash pine	20' ht., 4" cal.	remain
BK	Slash pine	20' ht., 4" cal.	remain
BL	Slash pine	20' ht., 4" cal.	remain
BM	Slash pine	25' ht., 6" cal.	remain
BN	Slash pine	20' ht., 4" cal.	remain
BO	Slash pine	20' ht., 4" cal.	remain
BP	Slash pine	20' ht., 4" cal.	remain
BQ	Slash pine	14' ht., 3" cal.	remain
BR	Slash pine	14' ht., 2" cal.	remain
BS	Thrinax	10' ht.	remain
BT	Thrinax	10' ht.	remain
BU	Thrinax	6' ht.	remain
BV	Slash pine	28' ht. x 18' spr., 6" cal.	remain
BW	Slash pine	20' ht., 4" cal.	remain
BX	Slash pine	20' ht., 4" cal.	remain
BY	Green buttonwood	10' ht.	remain
BZ	Green buttonwood	10' ht.	remain
CA	Slash pine	14' ht., 2" cal.	remain
CB	Slash pine	20' ht., 4" cal.	remain
CC	Slash pine	14' ht., 2" cal.	remain
CD	Slash pine	25' ht., 6" cal.	remain
CE	Slash pine	25' ht., 6" cal.	remain
CF	Slash pine	20' ht., 4" cal.	remain
CG	Slash pine	25' ht., 6" cal.	remain
CH	Slash pine	20' ht., 4" cal.	remain
CI	Slash pine	14' ht., 2" cal.	remain
CJ	Saw palmetto	6' ht.	remain
CK	Thrinax	8' ht.	remain
CL	Mahogany	30' ht. x 25' spr., 10" cal.	remain
CM	Slash pine	25' ht., 6" cal.	remain
CN	Slash pine	20' ht., 4" cal.	remain
CO	Slash pine	25' ht., 6" cal.	remain
CP	Slash pine	20' ht., 4" cal.	remain
CQ	Slash pine	25' ht., 6" cal.	remain
CR	Slash pine	20' ht., 4" cal.	remain
CS	Slash pine	14' ht., 2" cal.	remain
CT	Slash pine	25' ht., 6" cal.	remain
CU	Slash pine	20' ht., 4" cal.	remain
CV	Slash pine	14' ht., 2" cal.	remain
CW	Slash pine	25' ht., 6" cal.	remain
CX	Slash pine	20' ht., 4" cal.	remain
CY	Thrinax	8' ht.	remain
DA	Salt bush	8' ht. x 8' spr.	remain

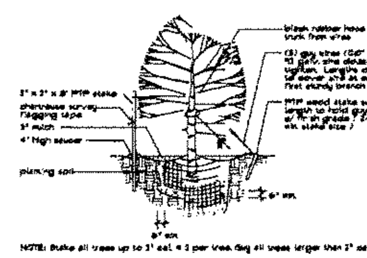
PLANT LIST

SYM	BOTANICAL/COMMON NAME	SPECIFICATIONS	QTY
CD	Coccoloba diversifolia Pigeon Plum	12' ht. x 6' spr., 3' cal. d.b.h.	4
CO	Cordia sebestena Orange Geiger Tree	12' ht. x 6' spr., 3' cal. d.b.h.	6
CS	Conocarpus e. sericeus Silver Buttonwood	12' ht. x 6' spr., 3" cal. d.b.h.	7
CU	Cordia sebestena White Geiger Tree	12' ht. x 8' spr., 3" cal. d.b.h.	3
MG	Myrsine guianensis Myrsine	5' ht. x 3' spr.	4
SP	Sabal palmetto Sabal Palm	14' o.a. ht., booted	6
CHR	Chrysobalanus icaco Cocoplum Hedge	3 gal. 24" ht. x 24" spr., 24" o.c.	225
COD	Codiaeum variegatum Mammey Croton	3 gal. 24" ht. x 24" spr., 24" o.c.	72
HAM	Hamelia patens Fire bush	3 gal. 24" ht. x 24" spr., 24" o.c.	140
HYM	Hymenocallis latifolia Spider Lily	1 gal. 12" spr., 12" o.c.	546
ILE	Ilex vomitoria Dahoon Holly	3 gal. 12" ht. x 12" spr., 18" o.c.	222
JUC	Juniperus conferta Shore Juniper	1 gal. 10" spr., 12" o.c.	632
RAP	Raphiolepsis indica Indian Hawthorn	3 gal. 24" ht. x 24" spr., 24" o.c.	86
SOD	Paspalum notatum Bahia sod	full, fresh sod	as req'd

PLANTING DETAILS

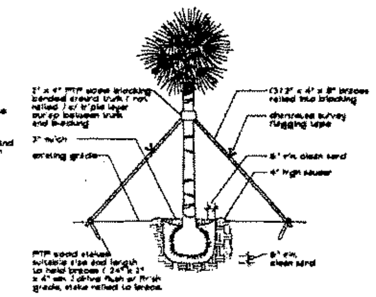
Shrubs

Groundcovers



NOTE: Stake all trees up to 3" cal. & 3 per tree. Guy all trees larger than 3" cal.

Trees



Straight Trunk Palms

PLANTING NOTES

1. ALL PLANTS TO BE FLORIDA NO. 1 OR BETTER.
2. NO SUBSTITUTIONS WILL BE ACCEPTED WITHOUT PRIOR WRITTEN APPROVAL BY THE LANDSCAPE ARCHITECT.
3. ALL LANDSCAPED AREAS TO RECEIVE 100% IRRIGATION COVERAGE BY AN AUTOMATIC SPRINKLER SYSTEM.
4. QUANTITIES ON PLANT MATERIALS ARE FOR CONVENIENCE ONLY. LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR ALL PLANTS SHOWN ON PLANTING PLANS. WHEN DISCREPANCIES OCCUR BETWEEN PLANT LIST AND PLANTING PLANS, THE PLANS ARE TO OVERRIDE THE PLANT LIST IN ALL CASES. SOD QUANTITY IS TO BE DETERMINED BY CONTRACTOR PRIOR TO BIDDING.
5. CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UNDERGROUND UTILITIES TO AVOID DAMAGE.
6. CONTRACTOR IS RESPONSIBLE FOR FURNISHING ALL MATERIALS, TOOLS, EQUIPMENT, LABOR, AND PLANTS NECESSARY FOR THE PROPER PLANTING OF ALL TREES, SHRUBS, GROUNDCOVERS, AND GRASS AS SHOWN ON LANDSCAPE ARCHITECT'S PLANTING PLANS.
7. ALL GROUNDCOVER BEDS TO ABUT PARKING, BUILDING, SIDEWALKS, ETC. IN A PERPENDICULAR LINE.
8. ALL TREES AND PALMS TO BE STAKED AND GUYED.
9. ALL PLANTED AREAS ARE TO BE MULCHED WITH MELALEUCA MULCH, GRADE B OR BETTER, TO A DEPTH OF 3".
10. ALL PLANT MATERIAL TO BE BACKFILLED WITH 50% CLEAN MUCK AND 50% SAND AND BE FERTILE AND FRIABLE.
11. GROUNDCOVER AND SHRUBS TO BE LAID OUT IN A UNIFORM AND CONSISTENT PATTERN.
12. THE CONTRACTOR SHALL LAY OUT ON THE GROUND THE LOCATIONS FOR THE PLANTS AND OUTLINES OF AREAS TO BE PLANTED. THE CONTRACTOR SHALL OBTAIN APPROVAL FROM THE LANDSCAPE ARCHITECT BEFORE EXCAVATION BEGINS. THE LANDSCAPE ARCHITECT MAY ADJUST THE LOCATION OF SPECIFIED PLANT MATERIALS PRIOR TO PLANTING.
13. TREES AND PALMS TO BE GUARANTEED FOR ONE (1) YEAR. SHRUBS AND GROUNDCOVERS TO BE GUARANTEED FOR NINETY (90) DAYS AFTER FINAL WRITTEN ACCEPTANCE IS GIVEN BY OWNER OR LANDSCAPE ARCHITECT. CONTRACTOR IS RESPONSIBLE FOR PLANT MAINTENANCE UNTIL THE TIME OF WRITTEN ACCEPTANCE.
14. LANDSCAPING IN SAFE DISTANCE TRIANGLES SHALL BE MAINTAINED TO PROVIDE UNOBSTRUCTED VISIBILITY AT A LEVEL BETWEEN 3' AND 6' ABOVE FINISHED GRADE.
15. ALL PROHIBITED PLANT SPECIES (AS IDENTIFIED BY THE CITY, COUNTY, STATE) SHALL BE ERADICATED FROM THE SITE. THIS INCLUDES BUT IS NOT LIMITED TO MELALEUCA, BRAZILIAN PEPPER AND AUSTRALIAN PINE.
16. ALL TREE REMOVAL TO BE PERMITTED AS REQUIRED BY THE APPROPRIATE GOVERNING AGENCIES.
17. ALL EXISTING AND NEWLY CREATED PLANTING BEDS TO BE CLEANED AND FREE OF WEEDS AND DEBRIS AND EXCAVATED AS REQUIRED TO FULFILL PLANTING SOIL REQUIREMENTS OF THE PLANTING DETAILS.
18. FILL HOLES WHERE EXISTING TREES OR PLANT MATERIAL HAVE BEEN REMOVED TO PROVIDE LEVEL SURFACE WITH SURROUNDING AREA AND SOD OVER IF NEW PLANT BEDS ARE NOT TO BE INSTALLED.
19. ALL PLANTING BEDS THAT ARE ADJACENT TO PAVING ARE TO BE LOWER THAN THE ADJACENT PAVING, SO THAT RUNOFF (MULCH, SOIL) FROM THE BED DOES NOT RUN ONTO THE ADJACENT PAVING.

CODE DATA

SUB-URBAN COMMERCIAL ZONING
LANDSCAPE STANDARD - "A" REQUIRED

SEC. 9.5-362 LANDSCAPING STANDARDS

- 1500 sq. ft. of planting area required for each 24 parking spaces

65 spaces / 24 = 2.71
2.71 x 1500 = 4,065 sq. ft. parking lot area required
in excess of 5,800 sq. ft. parking lot area required

- 5 Canopy trees, 1 understory tree & 12 shrubs required for each 24 parking spaces

2.71 x 5 = 14 canopy trees required
11 canopy trees provided + relocated trees

2.71 x 1 = 3 understory trees required
4 understory trees provided

2.71 x 12 = 33 shrubs required
in excess of 300 shrubs provided

SEC. 9.5-376 REQUIRED SCENIC CORRIDOR AND MAJOR STREET BUFFERS

Suburban Commercial - Major Street Buffer "C" Requirement

U.S. Highway #1
20' wide buffer provided
264' / 100 = 3 x 4 = 12 canopy trees required
10 canopy trees provided
2 canopy trees exist

3 x 3 = 9 understory trees required
1 understory tree provided
4 understory trees exist

3 x 16 = 48 shrubs required
200 shrubs provided
40 shrubs exist

Key Deer Blvd.
25' buffer provided
additional planting not required - existing native hammock to remain

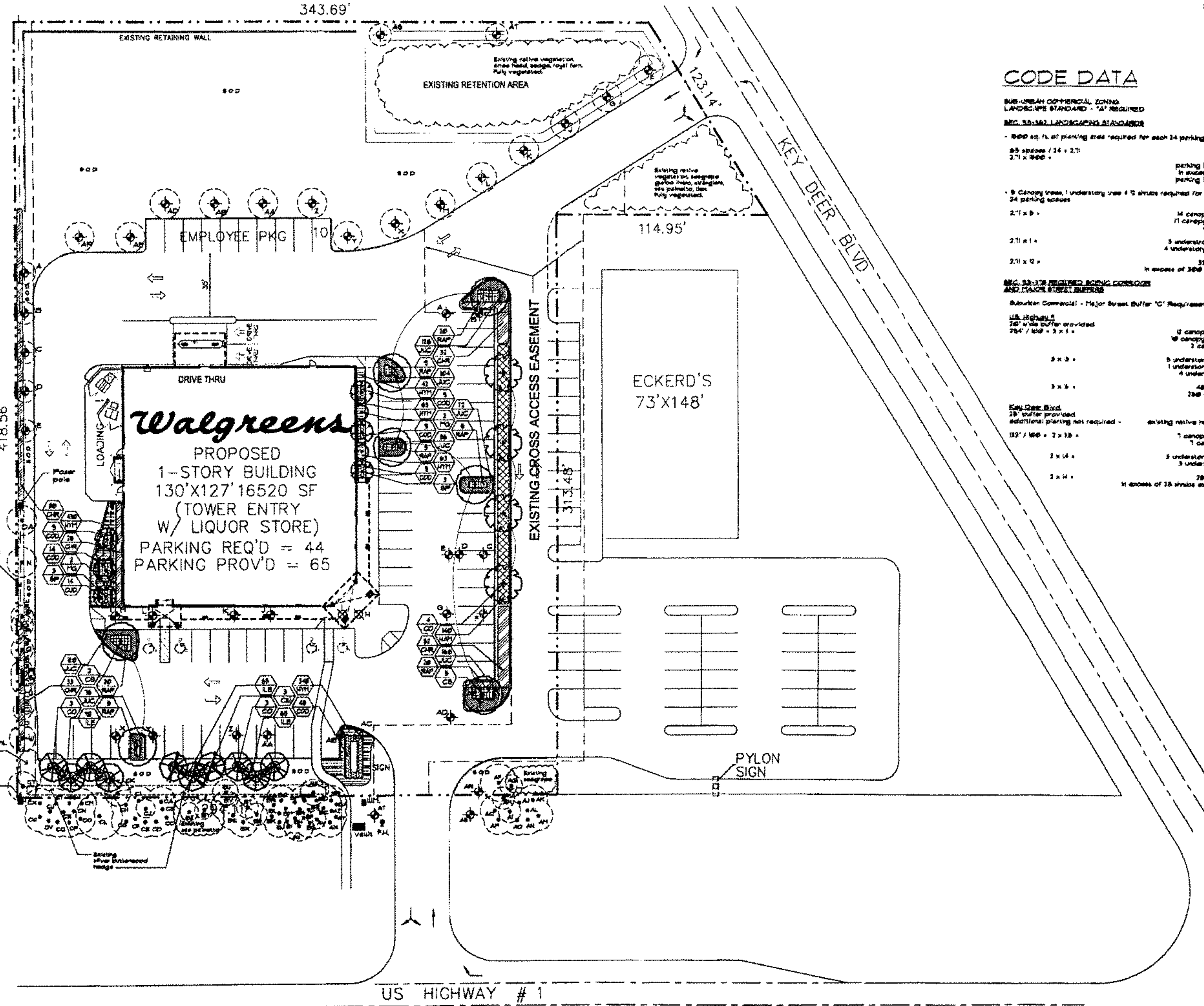
133' / 100 = 2 x 3.5 = 7 canopy trees required
7 canopy trees exist

2 x 2.5 = 5 understory trees required
3 understory trees exist

2 x 14 = 28 shrubs required
in excess of 28 shrubs exist or provided

LEGEND

- EXISTING TREES TO BE REMOVED
- EXISTING TREES TO REMAIN
- EXISTING PALMS TO REMAIN
- EXISTING TREES TO BE RELOCATED
- NEW LOCATION OF RELOCATED TREES
- PROPOSED PALMS
- PROPOSED TREES



project:
walgreens
big pine key
us highway #1
big pine key, florida

dave bodker
landscape architecture/planning inc.
75 n.e. sixth avenue, suite 209
delray beach, florida 33483
561-276-6311

sheet title:
planting plan

project number: 4303
date: 4-10-03
scale: 1" = 30'
drawn by: jse

revisions:

sheet:
L-1
1 of 1 sheets

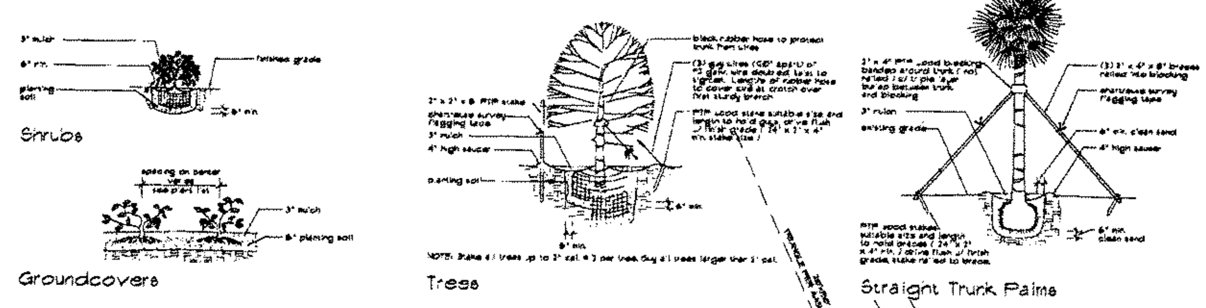
EXISTING TREE LIST

SYM	TREE NAME	DESCRIPTION	STATUS
A	Thrinax	8' ht.	relocate
B	Thrinax	8' ht.	relocate
C	Thrinax	8' ht.	relocate
D	Thrinax	8' ht.	relocate
E	Thrinax	8' ht.	relocate
F	Gumbo limbo	16' ht. x 12' spr., 8" cal.	relocate
G	Gumbo limbo	16' ht. x 12' spr., 8" cal.	relocate
H	Pigeon plum	6' ht. x 8' spr., poor	remove
I	Gumbo limbo	8' ht. x 8' spr., poor	remove
J	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
K	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
L	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
M	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
N	Gumbo limbo	8' ht.	remain
O	Gumbo limbo	12' ht. x 12' spr., 4" cal.	remain
P	Gumbo limbo	12' ht. x 12' spr., 3" cal.	remain
Q	Gumbo limbo	12' ht. x 12' spr., 4" cal.	remain
R	Gumbo limbo	12' ht. x 12' spr.	remain
S	Gumbo limbo	12' ht. x 12' spr.	remain
T	Gumbo limbo	12' ht. x 12' spr.	remain
U	Gumbo limbo	12' ht. x 12' spr.	remain
V	Gumbo limbo	10' ht. x 8' spr., 2" cal.	remain
W	Gumbo limbo	cluster, 8 trunks, 8' ht. x 14' spr., 2" cal.	remain
X	Gumbo limbo	10' ht. x 10' spr., 4" cal.	relocate
Y	Gumbo limbo	10' ht. x 10' spr., 4" cal.	relocate
Z	Gumbo limbo	10' ht. x 10' spr., 4" cal.	relocate
AA	Gumbo limbo	10' ht. x 10' spr., 4" cal.	relocate
AB	Gumbo limbo	10' ht. x 10' spr., 4" cal.	relocate
AC	Pigeon plum	8' ht. x 8' spr.	remove
AD	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
AE	Gumbo limbo	16' ht. x 16' spr., 8" cal.	relocate
AF	Paradise tree	25' ht. x 16' spr., 8" cal.	remain
AG	Gumbo limbo	20' ht. x 16' spr., 8" cal.	remain
AH	Gumbo limbo	20' ht. x 16' spr., 8" cal.	remain
AI	Gumbo limbo	20' ht. x 16' spr., 8" cal.	remain
AJ	Slash pine	8" cal.	remain
AK	Slash pine	6" cal.	remain
AL	Slash pine	3" cal.	remain
AM	Slash pine	4" cal.	remain
AN	Slash pine	4" cal.	remain
AO	Slash pine	8" cal.	remain
AP	Slash pine	6" cal.	remain
AQ	Slash pine	2" cal.	remain
AR	Gumbo limbo	20' ht. x 20' spr., 12" cal.	relocate
AS	Paurotis	20' ht. x 10' spr.	remain
AT	Paurotis	20' ht. x 10' spr.	remain
AU	Dahoon holly	16' ht. x 16' spr., multi	remain
AV	Thrinax	cluster, 6' ht. x 6' spr.	remain
AW	Thrinax	6' ht.	remain
AX	Slash pine	14' ht., 2" cal.	remain
AY	Slash pine	20' ht., 4" cal.	remain
AZ	Slash pine	14' ht., 2" cal.	remain
BA	Slash pine	25' ht., 6" cal.	remain
BB	Slash pine	25' ht., 6" cal.	remain
BC	Slash pine	20' ht., 4" cal.	remain
BD	Slash pine	20' ht., 4" cal.	remain
BE	Slash pine	25' ht., 6" cal.	remain
BF	Slash pine	25' ht., 6" cal.	remain
BG	Slash pine	20' ht., 4" cal.	remain
BH	Slash pine	25' ht., 6" cal.	remain
BI	Slash pine	20' ht., 4" cal.	remain
BJ	Slash pine	20' ht., 4" cal.	remain
BK	Slash pine	20' ht., 4" cal.	remain
BL	Slash pine	20' ht., 4" cal.	remain
BM	Slash pine	25' ht., 6" cal.	remain
BN	Slash pine	20' ht., 4" cal.	remain
BO	Slash pine	20' ht., 4" cal.	remain
BP	Slash pine	20' ht., 4" cal.	remain
BQ	Slash pine	14' ht., 2" cal.	remain
BR	Slash pine	14' ht., 2" cal.	remain
BS	Thrinax	10' ht.	remain
BT	Thrinax	10' ht.	remain
BU	Thrinax	8' ht.	remain
BV	Slash pine	25' ht. x 16' spr., 6" cal.	remain
BW	Slash pine	20' ht., 4" cal.	remain
BX	Slash pine	20' ht., 4" cal.	remain
BY	Green buttonwood	10' ht.	remain
BZ	Green buttonwood	10' ht.	remain
CA	Slash pine	14' ht., 2" cal.	remain
CB	Slash pine	20' ht., 4" cal.	remain
CC	Slash pine	14' ht., 2" cal.	remain
CD	Slash pine	25' ht., 6" cal.	remain
CE	Slash pine	25' ht., 6" cal.	remain
CF	Slash pine	20' ht., 4" cal.	remain
CG	Slash pine	25' ht., 6" cal.	remain
CH	Slash pine	20' ht., 4" cal.	remain
CI	Slash pine	14' ht., 2" cal.	remain
CJ	Saw palmetto	5' ht.	remain
CK	Thrinax	8' ht.	remain
CL	Mahogany	30' ht. x 25' spr., 10" cal.	remain
CM	Slash pine	25' ht., 6" cal.	remain
CN	Slash pine	20' ht., 4" cal.	remain
CO	Slash pine	25' ht., 6" cal.	remain
CP	Slash pine	20' ht., 4" cal.	remain
CQ	Slash pine	25' ht., 6" cal.	remain
CR	Slash pine	20' ht., 4" cal.	remain
CS	Slash pine	14' ht., 2" cal.	remain
CT	Slash pine	25' ht., 6" cal.	remain
CU	Slash pine	20' ht., 4" cal.	remain
CV	Slash pine	14' ht., 2" cal.	remain
CW	Slash pine	25' ht., 6" cal.	remain
CX	Slash pine	20' ht., 4" cal.	remain
CY	Thrinax	8' ht.	remain
DA	Salt bush	8' ht. x 8' spr.	remain

PLANT LIST

SYM	BOTANICAL/COMMON NAME	SPECIFICATIONS	QTY
CD	Coccoloba diversifolia Pigeon Plum	12' ht. x 8' spr., 3" cal. dbh	4
CO	Cordia sebestena Orange Geiger Tree	12' ht. x 6' spr., 3" cal. dbh	6
CS	Conocarpus e. sericeus Silver Buttonwood	12' ht. x 6' spr., 3" cal. dbh	1
CW	Cordia sebestena White Geiger Tree	12' ht. x 6' spr., 3" cal. dbh	3
MG	Myrsine guianensis Myrsine	5' ht. x 3' spr.	4
SP	Sabal palmetto Sabal Palm	14' ct. ht., booted	6
CHR	Chrysobalanus icaco Cocoplum Hedge	3 gal. 24" ht. x 24" spr., 24" o.c.	225
COD	Codiaeum variegatum Mammey Croton	3 gal. 24" ht. x 24" spr., 24" o.c.	112
HAM	Hamelia patens Fire bush	3 gal. 24" ht. x 24" spr., 24" o.c.	140
HYM	Hymenocallis latifolia Spider Lily	1 gal. 12" spr., 12" o.c.	183
ILE	Ilex vomitoria Dahoon Holly	3 gal. 12" ht. x 12" spr., 18" o.c.	227
JUC	Juniperus conferta Shore Juniper	1 gal. 10" spr., 12" o.c.	855
RAP	Raphiolepsis indica Indian Hawthorn	3 gal. 24" ht. x 24" spr., 24" o.c.	88
SOD	Paspalum notatum Bahia sod	full, fresh sod	as req'd

PLANTING DETAILS



PLANTING NOTES

1. ALL PLANTS TO BE FLORIDA NO. 1 OR BETTER.
2. NO SUBSTITUTIONS WILL BE ACCEPTED WITHOUT PRIOR WRITTEN APPROVAL BY THE LANDSCAPE ARCHITECT.
3. ALL LANDSCAPED AREAS TO RECEIVE 100% IRRIGATION COVERAGE BY AN AUTOMATIC SPRINKLER SYSTEM.
4. QUANTITIES ON PLANT MATERIALS ARE FOR CONVENIENCE ONLY. LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR ALL PLANTS SHOWN ON PLANTING PLANS. WHEN DISCREPANCIES OCCUR BETWEEN PLANT LIST AND PLANTING PLANS, THE PLANS ARE TO OVERRIDE THE PLANT LIST IN ALL CASES. SOD QUANTITY IS TO BE DETERMINED BY CONTRACTOR PRIOR TO BIDDING.
5. CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UNDERGROUND UTILITIES TO AVOID DAMAGE.
6. CONTRACTOR IS RESPONSIBLE FOR FURNISHING ALL MATERIALS, TOOLS, EQUIPMENT, LABOR, AND PLANTS NECESSARY FOR THE PROPER PLANTING OF ALL TREES, SHRUBS GROUNDCOVERS, AND GRASS AS SHOWN ON LANDSCAPE ARCHITECT'S PLANTING PLANS.
7. ALL GROUNDCOVER BEDS TO ABUT PARKING, BUILDING, SIDEWALKS, ETC. IN A PERFECTLY CLEAN LINE.
8. ALL TREES AND PALMS TO BE STAKED AND GUYED.
9. ALL PLANTED AREAS ARE TO BE MULCHED WITH MELALEUCA MULCH, GRADE B OR BETTER TO A DEPTH OF 3".
10. ALL PLANT MATERIAL TO BE BACKFILLED WITH 50% CLEAN MUCK AND 50% SAND AND BE FERTILE AND FRIABLE.
11. GROUNDCOVER AND SHRUBS TO BE LAID OUT IN A UNIFORM AND CONSISTENT PATTERN.
12. THE CONTRACTOR SHALL LAY OUT ON THE GROUND THE LOCATIONS FOR THE PLANTS AND OUTLINES OF AREAS TO BE PLANTED. THE CONTRACTOR SHALL OBTAIN APPROVAL FROM THE LANDSCAPE ARCHITECT BEFORE EXCAVATION BEGINS. THE LANDSCAPE ARCHITECT MAY ADJUST THE LOCATION OF SPECIFIED PLANT MATERIALS PRIOR TO PLANTING.
13. TREES AND PALMS TO BE GUARANTEED FOR ONE (1) YEAR, SHRUBS AND GROUNDCOVERS TO BE GUARANTEED FOR NINETY (90) DAYS AFTER FINAL WRITTEN ACCEPTANCE IS GIVEN BY OWNER OR LANDSCAPE ARCHITECT. CONTRACTOR IS RESPONSIBLE FOR PLANT MAINTENANCE UNTIL THE TIME OF WRITTEN ACCEPTANCE.
14. LANDSCAPING IN SAFE DISTANCE TRIANGLES SHALL BE MAINTAINED TO PROVIDE UNOBSTRUCTED VISIBILITY AT A LEVEL BETWEEN 2' AND 6' ABOVE FINISHED GRADE.
15. ALL PROHIBITED PLANT SPECIES (AS IDENTIFIED BY THE CITY, COUNTY, STATE) SHALL BE ERADICATED FROM THE SITE. THIS INCLUDES BUT IS NOT LIMITED TO MELALEUCA, BRAZILIAN PEPPER AND AUSTRALIAN PINE.
16. ALL TREE REMOVAL TO BE PERMITTED AS REQUIRED BY THE APPROPRIATE GOVERNING AGENCIES.
17. ALL EXISTING AND NEWLY CREATED PLANTING BEDS TO BE CLEANED AND FREE OF WEEDS AND DEBRIS AND EXCAVATED AS REQUIRED TO FULFILL PLANTING SOIL REQUIREMENTS OF THE PLANTING DETAILS.
18. FILL HOLES WHERE EXISTING TREES OR PLANT MATERIAL HAVE BEEN REMOVED TO PROVIDE LEVEL SURFACE WITH SURROUNDING AREA AND SOD OVER IF NEW PLANT BEDS ARE NOT TO BE INSTALLED.
19. ALL PLANTING BEDS THAT ARE ADJACENT TO PAVING ARE TO BE LOWER THAN THE ADJACENT PAVING SO THAT RUNOFF (MULCH, SOIL) FROM THE BED DOES NOT RUN ONTO THE ADJACENT PAVING.

CODE DATA

SUB-URBAN COMMERCIAL ZONING
LANDSCAPE STANDARD - 'A' REQUIRED

SEC. 9.5-363. LANDSCAPING STANDARDS

- 1500 sq. ft. of planting area required for each 24 parking spaces

65 spaces / 24 = 2.71
2.71 x 1500 = 4065 sq. ft. parking lot area required
in excess of 3300 sq. ft. parking lot area required

- 5 Canopy trees, 1 understory tree + 12 shrubs required for each 24 parking spaces

2.71 x 5 = 14 canopy trees required
11 canopy trees provided + relocated trees

2.71 x 1 = 3 understory trees required
4 understory trees provided

2.71 x 12 = 33 shrubs required
in excess of 300 shrubs provided

SEC. 9.5-376 REQUIRED SCENIC CORRIDOR AND MAJOR STREET BUFFERS

Suburban Commercial - Major Street Buffer 'C' Requirement

U.S. Highway 1
30' wide buffer provided
294' / 100 = 3 x 4 = 12 canopy trees required
10 canopy trees provided
2 canopy trees exist

3 x 13 = 9 understory trees required
1 understory tree provided
4 understory trees exist

3 x 16 = 48 shrubs required
250 shrubs provided
50 shrubs exist

Key Deer Blvd.
25' buffer provided
additional planting not required - existing native hammock to remain

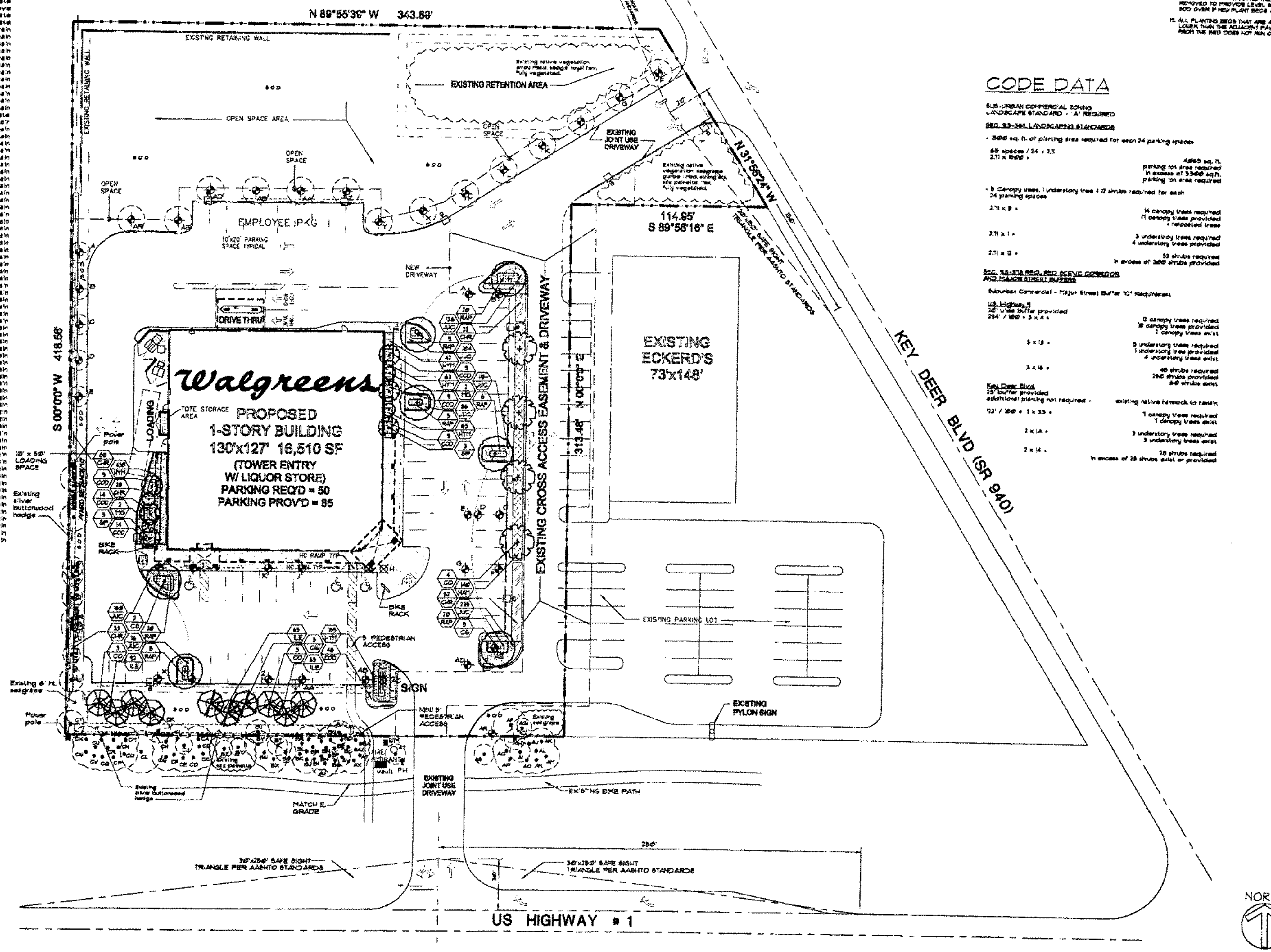
93' / 100 = 1 x 3.5 = 1 canopy trees required
1 canopy trees exist

1 x 14 = 3 understory trees required
3 understory trees exist

2 x 14 = 28 shrubs required
in excess of 28 shrubs exist or provided

LEGEND

- EXISTING TREES TO BE REMOVED
- EXISTING TREES TO REMAIN
- EXISTING PALMS TO REMAIN
- EXISTING TREES TO BE RELOCATED
- NEW LOCATION OF RELOCATED TREES
- PROPOSED PALMS
- PROPOSED TREES



project:
walgreens
big pine key
us highway #1
big pine key, florida

dave bodker
landscape architecture/planning inc.
75 n.e. sixth avenue, suite 209
delray beach, florida 33483
561-276-6311

sheet title:
planting plan

project number: 4303
date: 4-10-03
scale: 1" = 30'
drawn by: jes

revisions:
△ 6-2-03

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sheet:
L-1

1 of 1 sheets

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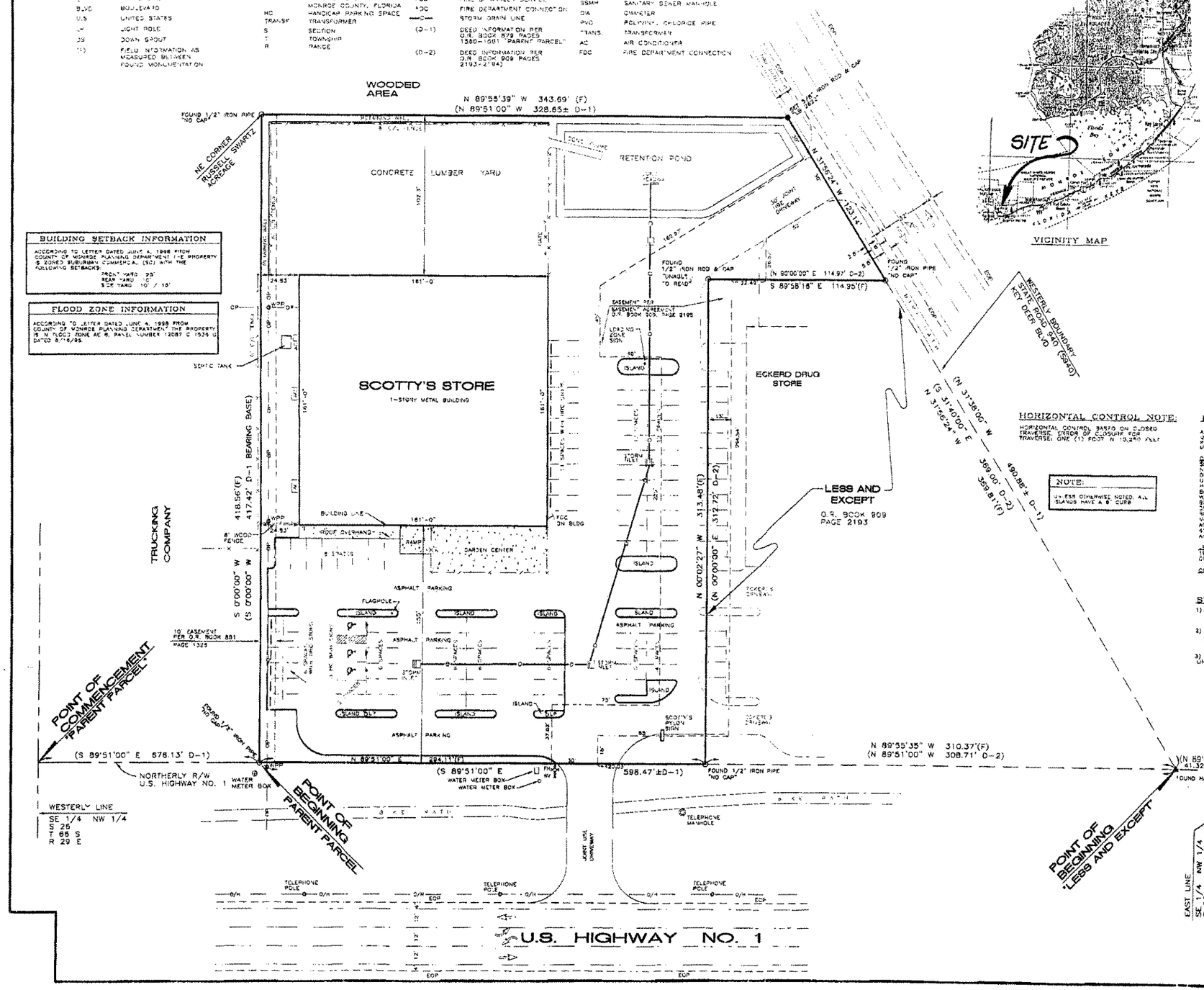
LEGEND

▲	FOUND POINT AS NOTED	EOP	EDGE OF PAVEMENT	OP	OVERHEAD POWER LINE	CO	CLEANOUT
O	FOUND IRON ROD/PIPE AS NOTED	EXIST	EXISTING	O/H	OVERHEAD UTILITY LINES	DDC	DOUBLE DETECTOR CHECK VALVES
WOOD O	WOOD POWER POLE	&	AND	WV	WATER VALVE	BLDG	BUILDING
CONC.	CONCRETE	FND.	FOUND	FH	FIRE HYDRANT	ELEC	ELECTRIC
R/W	RIGHT OF WAY	S.R.	STATE ROAD	WM	WATER METER	U.G.	UNDERGROUND
B.O.C.	BACK OF CURB	NO.#	NUMBER	C/L	CHAINLINK	D.I.	DRAIN INLET
℄	CENTERLINE	O.R.	OFFICIAL RECORDS OF MONROE COUNTY, FLORIDA	FSS	FIRE SPRINKLER SERVICE	SSMH	SANITARY SEWER MANHOLE
BLVD	BOULEVARD	HC	HANDICAP PARKING SPACE	FDC	FIRE DEPARTMENT CONNECTION	DIA	DIAMETER
U.S.	UNITED STATES	TRANSF	TRANSFORMER	—D—	STORM DRAIN LINE	PVC	POLYVINYL CHLORIDE PIPE
LP	LIGHT POLE	S	SECTION	(D-1)	DEED INFORMATION PER O.R. BOOK 879 PAGES 1580-1581 "PARENT PARCEL"	TRANS.	TRANSFORMER
DS	DOWN SPOUT	T	TOWNSHIP			AC	AIR CONDITIONER
(S)	FIELD INFORMATION AS MEASURED BETWEEN FOUND MONUMENTATION	R	RANGE	(D-2)	DEED INFORMATION PER O.R. BOOK 909 PAGES 2193-2194	FDC	FIRE DEPARTMENT CONNECTION



BUILDING SETBACK INFORMATION

ACCORDING TO LETTER DATED JUNE 4, 1998 FROM COUNTY OF MONROE PLANNING DEPARTMENT THE PROPERTY IS ZONED SUBURBAN COMMERCIAL (SC) WITH THE FOLLOWING SETBACKS:

FRONT YARD 25'
REAR YARD 0'
SIDE YARD 10' / 15'

FLOOD ZONE INFORMATION

ACCORDING TO LETTER DATED JUNE 4, 1998 FROM COUNTY OF MONROE PLANNING DEPARTMENT THE PROPERTY IS IN FLOOD ZONE AE 8, PANEL NUMBER 12087 C 1526 G DATED 8/16/93.

'NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER'

CERTIFICATION

I AM A PROFESSIONAL LAND SURVEYOR AND MAPPER IN THE STATE OF FLORIDA (# REGISTRATION NUMBER IS 5130/3231).

I HEREBY CERTIFY TO CONDRESS FINANCIAL CORPORATION (FLORIDA), SCOTTY'S, INC., FIRST AMERICAN TITLE INSURANCE COMPANY, BACON AND CARST, HOLLAND & KNIGHT, L.L.P., AND OTTERBOURG, STEINGER, HOUSTON & ROSEN, P.C. AS THEIR INTERESTS MAY APPEAR, THAT SAID SURVEY WAS PREPARED ON THE GROUND BY A FIELD INSTRUMENT SURVEY ACTUALLY MADE ON THE GROUND IN CORRECT ACCORDANCE TO THE LEGAL DESCRIPTION PROVIDED IN CERTAIN TITLE INFORMATION OR TITLE COMMITMENT REMARKS CORRECTLY SHOWS THE LOCATION OF ALL ABOVE GRADE AND VISIBLE BUILDINGS, STRUCTURES, OTHER IMPROVEMENTS (INCLUDING ALL PARKING AND LOADING AREAS) SITUATED ON THE SURVEYED PREMISES, AND THAT, EXCEPT AS SHOWN, THERE ARE NO EASEMENTS OR RIGHTS OF WAY WHICH ARE VISIBLE OVER OR ACROSS THE SURVEYED PREMISES BY ANY ABOVE GRADE OR VISIBLE IMPROVEMENTS, AND THAT, EXCEPT AS SHOWN, THERE ARE NO ENCROACHMENTS ONTO THE SURVEYED PREMISES BY ANY ABOVE GRADE AND VISIBLE IMPROVEMENTS ON ADJOINING PREMISES, AND THAT THERE ARE NO ENCROACHMENTS ONTO THE ADJOINING PREMISES, STRIPS OR GAPS BY ANY ABOVE GRADE AND VISIBLE IMPROVEMENTS ON THE SURVEYED PREMISES EXCEPT AS SHOWN. THE SHOWN BUILDINGS ON THE PREMISES DO NOT ENCROACH ONTO EASEMENTS PROVIDED IN CERTAIN OF THE INSTRUMENTS OR ON RIGHTS OF WAY AND DO NOT VIOLATE BUILDING SETBACK OR THE CURRENT ZONING (EXCEPT AS NOTED) ACCORDING TO INFORMATION AS PROVIDED AND TO THE ACCESS TO AND EGRESS FROM THE SURVEYED PREMISES AND THE IMPROVEMENTS CONSTRUCTED THEREON TO A PUBLIC WAY ARE PROVIDED VIA WAYS INDICATED ON THE SURVEY ABOVE GRADE AND VISIBLE WATER, SANITARY SEWER, ELECTRIC, TELEPHONE, ALL STORM DRAINAGE ARE AT OR WITHIN THE BOUNDARIES OF THE SURVEYED PREMISES OR AT A PUBLIC WAY AS SHOWN ON THE SURVEY. THE SURVEYED PREMISES ARE IN THE FLOOD HAZARD DESIGNATION AS SHOWN ACCORDING TO INFORMATION AS NOTED. ALL PARCELS ARE CONTIGUOUS AND THERE ARE NO STRIPS OR GORES OWNED BY OTHER PRIVATE PARTIES WITHIN THE SURVEYED PREMISES, OTHER THAN PUBLIC ROAD-OF-WAY OR AS PROVIDED BY EASEMENTS SHOWN ON THIS SURVEY AS PROVIDED IN CERTIFICATE OF TITLE CERTIFICATION.

IN MAKING THE SURVEY I LOOKED FOR THE FOLLOWING ABOVE GRADE AND VISIBLE ITEMS:

1. RIGHTS OF WAY, OLD HIGHWAYS OR ABANDONED ROADS, LANES OR DRIVEWAYS, DRAINS, DITCHES, WATER, GAS OR OIL PIPE LINES ACROSS THE SURVEYED PREMISES.
2. SEPTICS, STORAGE TANKS, POND, LAKES, SHAPES OR TRANSIT DITCHES LOCATED, BORDERING ON OR RUNNING THROUGH, IN WHOLE OR IN PART, OF THE SURVEYED PREMISES.
3. CEMETERIES OR FAMILY BURYING GROUNDS LOCATED ON THE SURVEYED PREMISES.
4. TELEPHONE, TELEGRAPH OR ELECTRIC POWER POLES, WIRES OR GUYS OVERHANGING OR CROSSING OR LOCATED ON THE SURVEYED PREMISES.
5. ANY DRIVEWAYS OR WALKWAYS AND PARTY WALLS OR RIGHTS OF SUBJACENT AFFECTING THE SURVEYED PREMISES.

THIS MAP AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS" JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND ACSM IN 1992.

THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS, FLORIDA CHAPTER 61-G17, F.A.C. AND CHAPTER 472 F.S.

DATE: 10-7-98 FIELD DATE: 8/28/98

STEVEN L. PETERSON P.L.S. #5231

HORIZONTAL CONTROL NOTE:

HORIZONTAL CONTROL BASED ON CLOSED TRAVERSE. ERROR OF CLOSURE FOR TRAVERSE: ONE (1) FOOT IN 19,280 FEET

LEGAL DESCRIPTION

A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 65 SOUTH, RANGE 29 EAST IN BIG PINE KEY, MONROE COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26 AND THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, 676.13 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED TRACT OF LAND; FROM SAID POINT OF BEGINNING BEAR SOUTH 89 DEGREES 51 MINUTES EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, 598.47 FEET MORE OR LESS TO THE WESTERLY BOUNDARY OF THE STATE ROAD 940 RIGHT-OF-WAY; THENCE BEAR NORTH 31 DEGREES 38 MINUTES WEST ALONG SAID WESTERLY BOUNDARY OF STATE ROAD 940, 490.86 FEET MORE OR LESS; THENCE BEAR NORTH 89 DEGREES 51 MINUTES WEST, 308.71 FEET MORE OR LESS TO THE NORTHEAST CORNER OF ACREAGE RECENTLY PURCHASED BY RUSSEL SWARTZ; THENCE BEAR SOUTH 412.42 FEET BACK TO THE POINT OF BEGINNING OF THE SAID TRACT OF LAND AND SAID TRACT CONTAINING 4.44 ACRES MORE OR LESS.

LESS AND EXCEPT PROPERTY CONVEYED IN WARRANTY DEED DATED MAY 31, 1994 IN OFFICIAL RECORDS BOOK 909, PAGE 2193, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

CONTAINING 3.0 ACRES (AFTER LESS & EXCEPT)

SURVEYORS REPORT

1) BEARINGS BASED ON WESTERLY BOUNDARY LINE AS S 00°00'00" W PER DEED (O.R. BOOK 879 PAGES 1580 & 1581).

2) CERTIFICATE OF TITLE INSURANCE BY FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER 0884A-0279 COMMITMENT NUMBER FA-CC-98-31988 CCD MAY 2, 1988.

3) MONUMENTATION FOUND IN FIELD APPEARS TO BE OCCUPATION LINE OF EXISTING IMPROVEMENTS ON PARCELS.

DESIGNED BY:	
DRAWN BY: LCK	
CHECKED BY: PJD	
SCALE: 1" = 30'	
DATE OF: 9-1-98	

DATE	NO.	REVISION

SCOTTY'S
BIG PINE KEY, FLORIDA
STORE #95

AS-BUILT SURVEY

TAYLOR-McVAY INC.
1989 U.S. HWY. 98 SOUTH
LAKELAND, FLORIDA 33801
(941) 686-0844
FAX (941) 680-1434

STATE OF FLORIDA AUTHORIZATION FOR SURVEYING AND MAPPING BUSINESS LB 2682

SHEET 1 OF 1

Additional information submitted for file.

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Gadinsky Real Estate, LLC

Development and Brokerage

Date: 5/2/03

To: Aref Joulani
Monroe County
Phone: 305-
Fax: 305-289-2536

From: Seth Gadinsky

Pages: 2

Subject: **Walgreens**

Enclosed is the letter you requested.

When Walgreens added the liquor store they told me it would be 2,000 sq. ft .so I added that in my mind to the original store size of 14,560 sq. ft. to come up with 16,560 sq. ft.

When they actually incorporated it into the store the size was a little smaller. 16,510 sq. ft is the correct number.

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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Gadinsky Real Estate, LLC

Development and Brokerage

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Friday, May 02, 2003

Aref Joulani
Monroe County Planning Department
Growth Management Division
2798 Overseas Highway
Suite 400
Marathon, FL 33050

Dear Aref: Via Fax 305-289-2536

At 30351 Overseas Highway we plan on demolishing the existing Scotty's store, including the parking lot and concrete loading area in the rear and replace it with a Walgreens store with a double lane drive through pharmacy.

The property is 3.01 acres. The size of the proposed store will be 127' along US1 & 130' deep for a total of 16,510 sq. ft. Liquor sales total 2,000 sq. ft. of the overall floor plan. The store will not be open 24 hours.

If you need any additional information please call.

Sincerely,

Seth Gadinsky
Managing Partner

1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@ieausa.com

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URS

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May 7, 2003

Ms. Judith Chambers - Planning Commission Coordinator
MONROE COUNTY PLANNING DEPARTMENT
2798 Overseas Highway - Suite 410
Marathon, Florida 33050-2227

via FAX & US Mail

Re: Walgreens - Big Pine Key

Dear Ms. Chambers:

We have reviewed the letter prepared by *Transport Analysis Professionals, Inc. (TAP)* for the Walgreens pharmacy. The letter dated April 8th, 2003 was transmitted to us from the Monroe County Planning Department on April 28th, 2003.

The letter primarily documents the trip generation characteristics for the proposed replacement of the existing Scotty's hardware store with a Walgreens pharmacy consisting of a liquor store and a drive-through window. The trip generation for the existing and proposed land uses is based on the *ITE Trip Generation Manual - 6th Edition*. The trip generation for the proposed conditions is based on land use code (LUC) 881 - *Pharmacy/Drug Store with Drive-Through Window*, although part of the building will be used as a liquor store. The trip generation rate for LUC 881 is higher than any comparable ITE LUC for a Liquor Store, therefore resulting in a conservative trip generation estimate.

According to the data presented in the letter, the Walgreens pharmacy is estimated to generate 1,460 gross trips per day, nearly half of which are pass-by trips, resulting in a net trip generation of 745 trips per day. The existing Scotty's hardware store is estimated to generate 1,666 gross trips per day, 10% of which are estimated to be pass-by trips, resulting in 1500 trips per day being eliminated by demolishing the hardware store. Therefore, the proposed replacement of Scotty's hardware store to a Walgreens pharmacy is anticipated to reduce trips generated by the subject site by 755 trips per day.

The net trip reduction for the project site may not be directly translated to trip reduction onto US 1. It is likely that some of the 1500 primary trips that were generated by Scotty's will be diverted to the True Value hardware store located in Big Pine Key and other hardware stores located in Marathon, and continuing to impact the traffic conditions on US 1. On the other hand, not all 1500 of these trips have originated from Big Pine Key. A good proportion of the trips may have originated from near-by islands

URS Corporation
Lakeshore Complex
5100 NW 33rd Avenue, Suite 150
Fort Lauderdale, FL 33309-6375
Tel: 954.739.1881
Fax: 954.739.1789

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east and west of Big Pine Key. Therefore, the elimination of Scotty's will result in trip reduction on US 1 in Big Pine Key of those trips generated beyond Big Pine Key. The addition of Walgreens in Big Pine Key will also reduce trips that previously commuted to Marathon since that is where the next nearest Walgreens is located. Therefore, although trip reduction on US 1is not clearly definable, we agree, in general, that the proposed change in use will not have a detrimental effect on traffic conditions in Big Pine Key.

A site plan was transmitted with the traffic report. Assuming the site plan correctly shows the design vehicle maneuverability, the need for trucks to encroach into the opposing lane when turning should be of concern. According to the vehicle turning path shown on the site plan, the curb radii at both driveways will have to be increased. Further, the design vehicle maneuverability only shows delivery vehicles entering from Key Deer Boulevard and exiting onto US 1. If the intent is to restrict trucks from taking other travel paths, how is it going to be enforced? If not other potential vehicle turning paths should also be shown on the site plan. The 35-foot sight triangles shown for the driveway onto US 1 do not match the AASHTO standards. The clear site triangles are not shown for the driveway onto Key Deer Boulevard. Finally, are the vehicles exiting from the drive-through required to make a u-turn to avoid conflicting with the delivery vehicles in the rear of the building (western edge of the site)? If they are restricted from accessing the rear of the building, how will it be enforced?

We conclude the traffic study adequately responds to the traffic reporting requirements. The site plan, site triangles, and vehicle manuverability will have to be revised to accurately reflect the proposed conditions.

Should you have any questions, please call me.

Sincerely,

URS Corporation Southern

Raj Shanmugam, P.E.
Project Manager

cc: Mr. Aref Joulani - Monroe County Senior Planner

RS/JS/rs.JC050803_Walgreens_BigPine.wpd

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Gadinsky Real Estate, LLC

Development and Brokerage

Date: 5/22/03

To: Aref Joulani
Monroe County
Phone: 305-289-2599
Fax: 305-289-2536

From: Seth Gadinsky

Pages: 6

Subject: **Response to letters**

I also received a call from Paul Kruger at the Corp of Engineers who said we will need a Jurisdiction Analysis of the Wetlands to determine if they are even involved in the process.

Bill Surina, the Fire Marshal asked for and received a full sized site plan.

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1111 Lincoln Road • Suite 400 • Miami Beach, FL 33139 • Office (786) 276-2387 • Facsimile (305) 531-1017
Email: gadinsky@icausa.com

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Florida Keys
Aqueduct Authority
Post Office Box 1239
1100 Kennedy Drive
Key West, Florida 33041-1239
Telephone (305) 296-2454

April 10, 2003

Seth Gadinsky
Gadinsky Real Estate, LLC
1111 Lincoln Road Suite 400
Miami Beach, FL 33129

RE: Proposed Walgreens Store (Existing Scotty's)
Big Pine Key

Dear Mr. Gadinsky:

In regard to your recent inquiry and submittal of information for the proposed development of the property referenced above.

The authority has determined that there is an existing 12" water main in front of the subject property on US -1 and it appears adequate to provide water service to the subject property. The existing Scotty's store has an existing 6" fire line Account # 032503 and a 5/8" domestic meter Account # 032365. A complete set of plans for the development will be required for review by the Authority.

Prior to demolishing any structures please contact Ms. Kip Waite at 305-296-2454 ext.106 in order to receive credit for the existing fixtures.

Should you have any questions or require any further information please feel free to contact this office.

Sincerely Yours,

FLORIDA KEYS AQUEDUCT AUTHORITY

Edgar F. Nicolle, Jr.
Distribution Design Manager

EFN/cma

cc: Margaret Gil, Customer Service Manager KW
Kip Waite, Administrative Assistant/Policy

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(305) 295-1000
1001 James Street
PO Box 6100
Key West, FL 33041-6100
www.KeysEnergy.com

UTILITY BOARD OF THE CITY OF KEY WEST

April 3, 2003

Mr. Seth Gadinsky
Gadinsky Real Estate, LLC
1111 Lincoln Road
Suite 400
Miami Beach, FL 33139

RE: Redeveloping Scotty's Lumber (New Walgreens)
30351 Overseas Highway

Dear Mr. Gadinsky:

This is to acknowledge that the above mentioned party has begun a coordination process with Keys Energy Services (Keys).

KEYS' Engineering Section requests that they be provided with a ***full set of plans and a Project Review Form*** for the referenced project.

These *plans* are necessary in order for us to ensure that there is adequate service for your project, as well as our existing, surrounding customers.

Please return the *full set of plans and the Project Review Form* to one of our Customer Accounts Representatives.

Should you have any questions, please contact me at 295-1078.

Sincerely,

UTILITY BOARD-CITY OF KEY WEST
"Keys Energy Services"
Carl R. Jansen, General Manager

Mark Garcia
Customer Accounts Representative

MG/sh

c:
D. Price, Engineering Supervisor
File: CUS-200

Utility Board Members
Robert R. Padron, Chairman Dr. Otha P. Cox, Vice-Chairman
Leonard H. Knowles, Member Gayle Swofford, Member Lou Hernandez, Member

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

April 21, 2003

Scotty's Incorporated
c/o Seth Gadinsky
1111 Lincoln Road #400
Miami Beach, Florida 33139

Service Log Number: 4-1-03-TA-1203 (FEMA)
Applicant: Scotty's Incorporated
Date: April 4, 2003
County: Monroe

Dear Mr. Gadinsky:

Thank you for your request for technical assistance coordination with the Fish and Wildlife Service (Service) on your project which involves demolition and replacement of a building. The construction of the new building will not exceed the current footprint of the building, parking lot, and storage area. New development, encroaching on any non-blacktopped area, is not within this letter's review. The project is located at Scotty's, 30351 Overseas Highway, Big Pine Key, Monroe County, Florida. The Real Estate number is 00111690-000900.

The Service believes that your project, as described in the information submitted, will not increase risk to any threatened or endangered species or critical habitat. If modifications are made to the project, or if additional information involving potential effects on listed species becomes available, please coordinate with the Service.

Please note that Service approval of this project in no way implies compliance with other Federal, State, County, or municipal regulations. It is the applicant's responsibility to ensure that the project meets all applicable regulations.

Thank you for your assistance in conserving the environment of the Florida Keys. If you have any questions, please contact Andrew Gude at 305-872-5563.

Sincerely yours,

James J. Slack
Field Supervisor
South Florida Ecological Services Office

cc:
Monroe County Building Department, Marathon, Florida (Tim McGar

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Department of Environmental Protection

South District, Marathon Branch Office
2796 Overseas Highway, Suite 221
Marathon, Florida 33050-4276
Telephone 305/289-2310

Jeb Bush
Governor

David B. Struhs
Secretary

May 6, 2003

Seth Gadinsky
1111 Lincoln Road
Suite 400
Miami Beach, Florida 33139

Re: Monroe County - ERP
Florida Keys Ecosystem Management Area
Scotty's Lumber, 330351 Overseas Hwy, Big Pine Key
Monroe County, Florida

Dear Mr. Gadinsky:

This letter is in response to your letter of coordination dated March 26, 2003, received by the Department April 9, 2003. A review of your submittal revealed that proposed construction activities may require permits from the South Florida Water Management District (SFWMD).

The Department and the Water Management districts have executed Operating Agreements that divide responsibilities for processing environmental resource permit applications in accordance with the type of activity involved. This division of responsibilities is summarized in Attachment 1 of the "Joint Application for Environmental Resource Permit/Authorization to Use Sovereign Submerged Lands/Federal Dredge and Fill Permit" booklet.

It appears your proposal should be processed by the South Florida Water Management District. Enclosed is a "Joint Application for Environmental Resource Permit/Authorization to Use Sovereign Submerged Lands/Federal Dredge and Fill Permit" booklet. Please submit your application to the following address:

South Florida Water Management District
P. O. Box 24680
West Palm Beach, Florida 33416-4680.

If you have any questions regarding the application you may contact Ron Peekstock of the SFWMD at (561) 686-8800.

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Currently, the Department has not permitted a wastewater treatment and disposal system for this property. In order to obtain additional information regarding the wastewater treatment and disposal method used for this property, please contact the Department of Health in Marathon at (305) 289-2721, or in Key West at (305) 293-7524.

In addition, EPA 40 Code of Federal Regulations (CFR) Part 61, Subpart M requires owners or operators of a demolition or renovation activity to thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos. Please submit the enclosed DEP Notification 62-257.900(1) form at least 10 working days before demolition begins. If you have any questions concerning this matter, please contact Jim Edds in our Marathon office at 305-289-2310.

If you have any questions you may contact me at the letterhead address or by telephone at 305/ 289-2310.

Sincerely,

Tania McMillan
Environmental Manager
Submerged Lands and
Environmental Resource Program

TM/tm
Enclosure(s)
cc: Ron Peekstock, SFWMD
Jim Edds, DEP Marathon

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May 30, 2003

Ms. Nicole Petrick - Planning Commission Coordinator
MONROE COUNTY PLANNING DEPARTMENT
2798 Overseas Highway - Suite 410
Marathon, Florida 33050-2227

via FAX & US Mail

Re: Walgreens - Big Pine Key
Second Review

Dear Ms. Petrick:

In response to our review comments dated May 7th, 2003 we received a revised site plan dated May 29th, 2003 from *Richard Wensing Architects and Planners, PA*. The site plan revisions correctly show the site triangles according to AASHTO standards at project driveways, and the assumption is that there are no visual obstructions within the site triangle to motorists exiting from the project site. The revised site plan also shows the vehicle maneuverability for vehicles entering and exiting through the driveway located on Key Deer Boulevard. The architect – Mr. Jeffrey Sherman, and the realtor – Mr. Seth Gadinsky, informed us that Walgreens intends to allow delivery vehicle access through Key Deer Boulevard driveway only. Further they stated that there will be only one delivery vehicle per week, hence there will be little or no conflict between the delivery trucks and drive-through or other vehicles exiting through the rear of the building, where the loading area is located. The architect has added statements to that affect on the site plan.

We conclude the revised site plan adequately addresses our review comments.

Should you have any questions, please call me.

Sincerely,

URS Corporation Southern

Raj Shanmugam, P.E.
Project Manager

cc: Mr. Aref Joulani - Monroe County Planning Administrator

URS Corporation
5100 NW 33rd Avenue
Suite 150
Fort Lauderdale FL 33309-6375
Tel: 954.739.1881
Fax: 954.739.1789

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Petrick-Nicole

From: Lee Robert Rohe, Esquire[SMTP:lrrlaw@bellsouth.net]
Sent: Saturday, May 31, 2003 11:10 AM
To: Nicole Petrick
Subject: Big Pine Key CommuniKeys Master Plan

Nicole,

I note that the above item is being heard after the BPK Walgreen's item on June 11th in Marathon. Please forward this email on to the appropriate person (David Ritz?) who should consider this a request to have the CommuniKeys item heard ahead of the BPK Walgreen's item. It makes more sense to hear the CommuniKeys first. I would also like a written reply to this request.

Thanks.

Lee R. Rohe, Esq.
745-2254

278

LEE R. ROHE
ATTORNEY AT LAW

P.O. BOX 420259
25000 OVERSEAS HWY
SUMMERLAND KEY, FL 33042

TELEPHONE (305) 745-2254
FAX: (305) 745-4075
E-MAIL lrrlaw@bellsouth.net

SENT VIA FAX AND U.S. MAIL

June 2, 2003

David Ritz, Planning Commission Chairman
c/o Nicole Petrick, Planning Coordinator
Monroe County Planning Department
2798 Overseas Highway
Marathon, Florida 33050

Re: Request for Continuance for Item 7 scheduled for the June 11, 2003 hearing in Marathon, Florida

Dear Chairman Ritz:

On behalf of my client, Ms. Susan Eanes, I am requesting a continuance on Item 7 which pertains to an amendment to major conditional use to develop a Walgreens Pharmacy at 30351 Overseas Highway, Big Pine Key, Florida.

I am requesting this continuance based upon the fact that as of May 30, 2003, there was no Staff Report available on this proposal nor any up-to-date site plans. I have requested that Ms. Petrick contact me when these materials do become available, but, to date, I have not been contacted.

As a matter of fairness to my client and other members of the public who are concerned about the impact of a Walgreens in Big Pine Key, I ask that this meeting be rescheduled to the next meeting in July in Marathon so that all concerned will have a meaningful opportunity to review the application.

Should you have any questions, please do not hesitate to have your staff contact my office. Thank you for your assistance.

Sincerely,

Lee Rohe

Lee R. Rohe, P.A.

cc: Susan Eanes

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Monroe County Planning Department
Growth Management Division
Suite 410
2798 Overseas Highway
Marathon, Florida 33050-2227

AUTHORIZATION FORM

To Whom It May Concern:

I, DOUG BOWNE, the VP of Scotty's, Inc., do hereby authorize Donald L. Craig and The Craig Company to act on my behalf in all matters pertaining to the Amendment to Major Conditional Use and Alcoholic Beverage Special Use Permit for the property located at 30351 Overseas Highway, Big Pine Key, Monroe County, Florida.

Doug Bowne
(Name of client)

6/4/03
Date

Subscribed and sworn to (or affirmed) before me on June 4 2003 (date) by DOUG BOWNE (name of affiant, deponent or other signer). He/she is personally known to me or has presented _____ as identification.

Judith A. Freiwald
Notary's Signature and Seal

_____ Name of Acknowledger typed, printed or stamped

_____ Title or Rank

_____ Commission Number, if any

JUDITH A. FREIWALD
Notary Public - State of Florida
My Commission Expires Apr 11, 2007
Commission # DD184120
Bonded By National Notary Assn.

Monroe C' 'y Department of Planning and Enviro :ntal Resources
2798 Overseas Highway Marathon Florida 33050
305-289-2500 conaway@mail.state.fl.us

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Memo

June 9, 2003

TO: Monroe County Planning Commission

FROM: K. Marlene Conaway, Director

RE: DRC meeting for Amendments to Major Conditional Use

Lee Rohe has questioned why the Development Review Committee meeting has not been held for the Walgreens Amendment to a Major Conditional Use on Big Pine Key. The Department has DRC meetings for a major conditional use because, in addition to the technical site design review, a determination is made as to whether a particular location is appropriate for a use of the type proposed.

In reviewing an amendment to a major conditional use the type of use has already been determined appropriate for the location. The review of an amendment is limited to the technical review of the proposed project. The procedural requirement of having a formal DRC meeting for an amendment to a major conditional use has not been followed since before Tim McGarry became Planning Director in 1996. There is really no reason for this extra meeting since the same people who serve as the DRC are also the people who are reviewing the project.

However, with the reasoning aside, the Planning Director has directed staff to have a DRC meeting on June 11, 2003 at 9 a.m. to review the staff report for Walgreens. This is not a public hearing – the DRC meeting is a staff meeting that the public may attend. Taking of public comment is not required and will be reserved till the Planning Commission Public Hearing at 10 a. m. This pre-planning commission meeting of the DRC will take care of any procedural concerns regarding the amendment. I have discussed this issue with John Wolfe before proceeding with advertising the DRC meeting.

cc. Tim McGarry, Division Director
John Wolfe, Esquire
Lee Rohr, Esquire
Nicholas Mulick, Esquire
Don Craig

DEVELOPMENT REVIEW COMMITTEE
RESOLUTION NO. D16-03

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMENDING APPROVAL TO THE PLANNING COMMISSION OF THE REQUEST FILED BY SCOTTY'S INC. TO REDEVELOP THE EXISTING SCOTTY'S HARDWARE STORE INTO A 16,510 SQ. FT. WALGREENS DRUG STORE CONSISTING OF A DRIVE THROUGH WINDOW AND A 2,000 SQ. FT. LIQUOR STORE ON A PROPERTY LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 66 SOUTH, RANGE 29 EAST, BIG PINE KEY, MONROE COUNTY, FLORIDA. THE REAL ESTATE NUMBER IS 00111690.000900.

WHEREAS, Scotty's Inc. is the owner of the real property described as a tract of land in a part of the southeast quarter of the northeast quarter of Section 26, Township 66 South, Range 29 East, in Big Pine Key, Monroe County, Florida; and

WHEREAS, Scotty's Inc. proposed to redevelop the existing Scotty's hardware store in Big Pine Key by removing the existing 161 by 161 Ft. building and replacing it with a 127 by 130 Ft. (16,510 Sq. Ft.) structure consisting of a Walgreens drug store, a drive through window for the pharmacy, and a 2,000 Sq. Ft. liquor store; and

WHEREAS, the site is approximately 131,447 Sq. Ft. or 3.01 acres and is located in the Suburban Commercial (SC) Land Use District; and

WHEREAS, the proposed Walgreens drug store will not be a 24-hour business operation; and

WHEREAS, the Development Review Committee (DRC) of Monroe County, Florida, in accordance with the provisions of Sections 9.5-24 and 9.5-68 of the Monroe County Land Development Regulations, met to review the request of Scotty's Inc. for approval of a Major Conditional Use; and

WHEREAS, the Development Review Committee reviewed the following documents and other information relevant to the request for approval of a Major Conditional Use:

1. Site Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

2. General Floor Plan & Schedules by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

3. Exterior Elevations, Details, and Sign data, by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

4. Drainage Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and

5. Landscaping Plan by Dave Bodker, Landscape Architecture/Planning Inc. dated 04/22/2003; and

6. AS-Built Survey by Taylor-McVay Inc. and Signed and Sealed by Stephen J. Peterson, P.L.S., dated 04/07/2003.

WHEREAS, based upon the information and empirical evidence submitted, the Development Review Committee adopted the following findings of fact and conclusions of law:

1. Based on the Site Plan, delivery vehicles' access is through Key Deer Boulevard driveway only. Further, the applicant has stated that there will be only one scheduled truck delivery per week. Therefore, we find that signs shall be posted on the access driveways from Key Deer Boulevard and US 1 Highway that limit delivery vehicles access only from Key Deer Boulevard driveway, hence, there will be no conflict between the delivery trucks and drive-through or other vehicles exiting through the rear of the building, where loading is located. Furthermore, we find that the site shall be restricted to one scheduled delivery per week by Walgreens trucks. In the event that the hours of operation increase to 24-hour/day operation, the conditional use shall be amended and the traffic study shall be revised.

2. Based on the submitted transplantation plan, endangered Paurotis palms located on DOT right-of-way are scheduled for removal. Therefore, we find that the transplantation plan must exclude removal of these palms to be in compliance with Section 9.5-345, General Environmental Design Criteria.

3. Based on the application, a stormwater management plan has been provided but has not been approved by the South Florida Water Management District. Therefore, we find that compliance with Section 9.5-293 has not been determined.

4. Based on the application, the applicant has contacted the Monroe County Health department regarding a wastewater treatment system but has not received approval from the Monroe County Health Department. Therefore, we find that compliance with Section 9.5-294 has not been determined.

5. Based on the application, coordination with the Fire Marshal has started. Therefore, we conclude that conceptual approval of the project by the Fire Marshal's Office is needed.

6. Based on the application, coordination with the Keys Energy Services (KEYS) has started. According to the letter of coordination dated April 3, 2003, KEYS will need a full set of plans and a project review form to determine load requirement. Therefore, we conclude that approval of the plans by KEYS is required.

WHEREAS, the Development Review Committee, based on its findings of fact and conclusions of law, recommended **approval** with conditions of the application for a Major Conditional Use submitted by Scotty's Inc. to the Director of Planning; and

WHEREAS, the Director of Planning has duly considered the recommendation of the Development Review Committee; and

WHEREAS, the record established, the testimonies, offered, and the evidence submitted, support the findings of fact adopted by the Development Review Committee; and

NOW THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA, to **APPROVE** the request by Scotty's Inc. to redevelop the existing 25,921 Sq. Ft. Scotty's hardware store into a 16,510 Sq. Ft. of medium intensity Walgreens drug store consisting of a drive-through window for the pharmacy and a 2,000 Sq. Ft. liquor store in Big Pine Key, with the following conditions:

1. Prior to the issuance of Certificate of Occupancy, signs shall be posted on the access driveways from Key Deer Boulevard and US 1 Highway that limit the access of delivery vehicles only through the Key Deer Boulevard driveway.

2. Prior to issuance of a building permit, the transplantation plan must be revised to delete the removal of two threatened Paurotis Palms.

3. Prior to issuance of a building permit, the surface water management plan shall be approved by the South Florida Water Management District.

4. Prior to issuance of a building permit, the Florida Department of Health shall approve the Wastewater Treatment Plan.

5. Prior to issuance of a building permit, the Fire Protection Plan shall be approved by the Monroe County Fire Marshal.

6. The Keys Energy Services (KEYS) shall determine load requirement based on the review of a complete set of plans and approval shall be received prior to the issuance of a building permit.

PASSED AND ADOPTED BY THE DEVELOPMENT REVIEW COMMITTEE of Monroe County, Florida, at a meeting held on the 11th day of June 2003.

Frederick Gross, Island Planning Team Director/DRC Chair	YES
Ralph Gouldy, Sr. Admin. Environmental Resources	YES
Aref Joulani, Sr. Admin. Development Review	YES
Bobbie Sleighter, Health Department	YES
Department of Public Works	YES
Department of Engineering	YES

DEVELOPMENT REVIEW COMMITTEE OF
MONROE COUNTY, FLORIDA

By _____
Frederick Gross, DRC Chair

Signed this 10 day of JUNE, 2003

MONROE COUNTY PLANNING COMMISSION

AGENDA ITEM SUMMARY

Meeting Date: June 11, 2003

Department: Planning

AGENDA ITEM WORDING: An Amendment to a Major Conditional Use application to redevelop an existing Scotty's hardware store. The project consists of a Walgreens drug store, a drive-through window, and a liquor store. The property is located on US 1 Highway west of the Key Deer Boulevard, near Mile Marker 30 on Big Pine Key. The Real Estate number is 00111690.000900.

ITEM BACKGROUND: The site is scarified. The Land Use District is Suburban Commercial (SC) and the Future Land Use Map designation is Mixed Use/Commercial (MC).

The Scotty's hardware store was permitted in May 1983 under the Building Permit number A10578. The applicant is proposing to remove the existing 161 by 161 Sq. Ft. building belonging to Scotty's and replace it with a 127 by 130 Ft. (16,510 Sq. Ft.) structure consisting of a drug store, a drive through window for the pharmacy, and a 2,000 Sq. Ft. liquor store. The proposal does not consist of a 24-hour business operation.

ISSUES OF IMPORTANCE: A Traffic Generation and Distribution Report was submitted with the application and reviewed by the County's Traffic Consultant. According to the data presented in the letter, the Walgreens pharmacy is estimated to generate 1,460 gross trips and 745 net trips per day. The proposed Walgreens pharmacy is anticipated to reduce trips generated by the subject site (Scotty's hardware store) by 755 trips per day. Regarding the impact on US 1 Highway, the County's Traffic Consultant has stated that although trip reduction on US 1 is not clearly definable, the proposed change in use will not have a detrimental effect on traffic conditions in Big Pine Key.

PREVIOUS RELEVANT COMMISSION ACTION:

None

STAFF RECOMMENDATION: The Planning staff recommends APPROVAL of the project with the conditions outlined in the Staff Report.

DOCUMENTATION: Included __Staff Report____ To Follow___N/A___

MEMORANDUM

To: The Planning Commission

From: Aref Joulani, Sr. Admin. Policy and Planning
Ralph Gouldy, Sr. Admin. Environmental Resources

Date: 05/29/2003

Re: An Amendment to a Major Conditional Use application to redevelop an existing Scotty's hardware store. The project consists of a Walgreens drug store, a drive-through window, and a liquor store. The property is located on US 1 Highway west of the Key Deer Boulevard, near Mile Marker 30 on Big Pine Key. The Real Estate number is 00111690.000900.

MEETING DATE: June 11, 2003

I. REQUEST:

1. *Applicant*: Scotty's Inc.
   Agent: Donald L. Craig, AICP
   Owner: Scotty's Inc.

2. *Proposed use & size:*
   This proposal is to redevelop the Scotty's hardware store by removing the existing 161 by 161 Sq. Ft. building and replacing it with a 127 by 130 Ft. (16,510 Sq. Ft.) structure consisting of a drug store, a drive through window for the pharmacy, and a 2,000 Sq. Ft. liquor store. The proposal does not consist of a 24-hour business operation.

3. *Location:*
   The property is located on Big Pine Key and is legally described as a tract of land in a part of the southeast quarter of the northeast quarter of Section 26, Township 66 South, Range 29 East, in Big Pine Key, Monroe County, Florida. The Real Estate Number is 00111690.000900.

4. *Plans reviewed:*
   - Site Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and
   - General Floor Plan & Schedules by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and
   - Exterior Elevations, Details, and Sign data, by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003; and

- Drainage Plan by Richard Wensing, P.A. Architects and Planners, dated 04/22/2003 and revised on May 29, 2003; and
- Landscaping Plan by Dave Bodker, Landscape Architecture/Planning Inc. dated 04/22/2003; and
- AS-Built Survey by Taylor-McVay Inc. Signed and Sealed by Stephen J. Peterson, P.L.S., dated 04/07/2003.

II. BACKGROUND INFORMATION:

1. *Land use district:*
   Suburban Commercial (SC)

2. *Future land use designation:*
   Mixed Use Commercial (MC)

3. *Size of site:*
   Approximately 131,447 Sq. Ft. or 3.01 acres

4. *Existing vegetation:*
   The Property is disturbed with existing native landscape vegetation and a small hammock area adjacent to State Road 940 (Key Deer Boulevard). There is a stormwater retention area located at the rear of the property. Although this retention area has wetland vegetation, per section 62-340.700, F.A.C., stormwater treatment areas of less than .5 acres are not delineated as wetlands.

5. *Community character of immediate vicinity:*
   The community character of the immediate vicinity is a mixture of uses including commercial, light industrial, residential, and institutional uses. The submitted survey shows a trucking company to the west, and a drug store to the east. The north (rear) property line is bordered by Slash Pineland habitat.

6. *Previous approvals:*
   In December 1982, Scotty's Inc. applied for a building permit to build the Scotty's hardware store in Big Pine Key. According to a Memorandum dated May 31, 1983 due to the size of the development, the project did not require major development approval. However, the project was reviewed for potential environmental impacts such as clearing of the land, landscaping, and stormwater management. In May 31, 1983, Building Permit number A10578 was issued for construction of the Scotty's store. Subsequently, other permits were issued for that development including permit A10689 for 8,000 C.Y. land fill, A10690 for 4.5 acres land clearing, and A10691 for driveway and left turn storage lane. In addition, in 1983 the project received a South Florida Water Management District Permit for a development consisting of 0.6 acre roof, 1.8 acre pavement, 0.24 acre retention area, and 0.29 acre of grassed area.

III. REVIEW OF THE APPLICATION:

Section 9.5-65 lists the standards applicable to all conditional uses. The standards and the Planning staff's analysis are given below:

A) The conditional use is consistent with the purposes, goals, objectives and standards of the plan and this chapter.

1. Compliance with Chapter 9.5, Monroe County Land Development Regulations:

a. The project has been reviewed and found to be **in compliance** with the following regulations:

1. Purpose of the Suburban Commercial (SC) land use district, Section 9.5-201 and 206
2. Permitted uses, Section 9.5-235
3. Minimum yards and shoreline setback, Section 9.5-281 and 9.5-286
4. Height, Section 9.5-283
5. Energy and conservation standards, Section 9.5-326
6. Environmental open space, Section 9.5-347
7. Parking and loading, sections 9.5-351, 352, and 354
8. Outdoor lighting Section 9.5-391
9. Access standards, Section 9.5-421 and Section 9.5-422
10. Clear sight triangle, Section 9.5-427
11. Handicap accessibility, FS 533

b. The following sections of the Land Development Regulations have been found **in compliance** but require Staff discussion for clarity:

1. Section 9.5-69, Environmental Designation Survey.

As the proposal involves the redevelopment of a previously scarified site, an environmental designation survey is not required.

2. Section 9.5-262 and Section 9.5-269, Density/Intensity of Use

The maximum Floor Area Ratio for a medium intensity commercial retail in Suburban Commercial (SC) land use district is 0.25. The site area is approximately 131,447 Sq. Ft. or 3.01 acres. The applicant is proposing to redevelop the property from the existing 25,921 Sq. Ft. hardware and garden store to a 16,510 Sq. Ft. of medium intensity Walgreens drug store. The maximum allowable medium intensity commercial building for this site is 32,862 Sq. Ft. The existing density is 75% of the allowable floor area and the proposed building will utilize only 50% of the allowable floor area or 12.6% of the land coverage.

3. Section 9.5-317, Flood Plain Management Criteria

The existing Scotty's received a variance to the Flood Hazard Ordinance and the building was built below the base flood level. The information on the submitted survey and the Site Plan shows that the property is located in Flood Zone AE 8. The Site Plan indicates that the finished Floor Elevation of the proposed Walgreens will be above the Base Flood Elevation at 8.15 feet.

4. Section 9.5-335 through 9.5-349, Environmental Standards

The transplantation plan calls for the removal of two threatened Paurotis Palms (*Acoelorraphe wrightii*) from the DOT right-of-way. Section 9.5-345 states that "To the maximum extent practicable, development shall be sited so as to preserve all listed threatened, endangered, commercially exploited and regionally important plant species..." Since these palms are not located on the subject property and their removal is not necessary for development, they shall remain undisturbed.

5. Section 9.5-346, Transplantation Plan

The Transplantation plan is in compliance with Section 9.5-346 with the exception of the two Paurotis Palms mentioned above.

6. Section 9.5-361, Parking Lot Landscaping and Section 9.5-366 Street Trees

Class A parking lot landscaping requires 1,500 Sq. Ft. of planting area with 5 canopy trees, 1 understory tree, and 12 shrubs per 24 parking spaces. The proposal is for 65 parking spaces. Therefore, 4,062 Sq. Ft. of planting area with 14 canopy trees, 3 understory and 33 shrubs are required. The submitted landscape plan exceeds this requirement.

7. Section 9.5-375 through 9.5-381, Scenic Corridors and Buffer-Yards

The required Class C Major Street Bufferyard along US 1 and Class C Bufferyard along State Road 940 (Key Deer Boulevard), have been provided in accordance with Monroe County Code.

8. Section 9.5-426, Traffic Study

A Traffic Generation and Distribution Report was submitted with the application and reviewed by the County's Traffic Consultant. According to the data presented in the letter, the Walgreens pharmacy is estimated to generate 1,460 gross trips and 745 net trips per day.

After review of the traffic study, the County's Traffic Consultant stated that the proposed Walgreens pharmacy is anticipated to reduce trips generated by

the subject site (Scotty's hardware store) by 755 trips per day. Regarding the impact on US 1 Highway, the Traffic Consultant stated that "although trip reduction on US 1 is not clearly definable, we agree, in general, that the proposed change in use will not have a detrimental effect on traffic conditions in Big Pine Key."

The submitted Site Plan shows delivery vehicles' access through Key Deer Boulevard driveway only. Further, based on the Site Plan, there will be only one scheduled delivery by Walgreens trucks per week, hence there will be no conflict between the delivery trucks and drive-through or other vehicles exiting through the rear of the building, where loading is located.

c. Staff has reviewed the project and found **compliance to be determined** with the following Sections of the Code.

1. Section 9.5-69, Community Impact Statement

Most of the issues have been addressed adequately in the submittal except the following items:

- From the letter dated March 26, 2003 to the Monroe County Fire Marshal, it appears that coordination has started with that department. However, conceptual approval of the project by Fire Marshal is needed before compliance with Section 9.5-69 can be determined.

- A letter of coordination with the Keys Energy Services (KEYS) has been submitted. According to the letter of coordination dated April 2, 2003, KEYS will need a full set of plans and a project review form to determine load requirement. Therefore, compliance with Section 9.5-69 cannot yet be determined.

2. Section 9.5-293, Surface Water Management

A surface water management plan has been submitted. The plan must be reviewed and approved by the South Florida Water Management District (SFWMD).

3. Section 9.5-294, Wastewater Treatment Criteria

According to the application the applicant has submitted a coordination letter to the Department of Health concerning the wastewater treatment requirements. Compliance with section 9.5-294 is to be determined based on approval by the Monroe County Health Department.

d. Staff has reviewed the project and found the following items to be **not in compliance** with the Code.

None

2. *Consistency with the goals, objectives and policies of the Monroe County Year 2010 Comprehensive Plan:*

   The proposed project is generally consistent with the goals, objectives and policies of the Monroe County Year 2010 Comprehensive Plan.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Based on the Site Plan, delivery vehicles' access is through Key Deer Boulevard driveway only. Further, the applicant has stated that there will be only one scheduled truck delivery per week. Therefore, Staff finds that signs shall be posted on the access driveways from Key Deer Boulevard and US 1 Highway that limit delivery vehicles access only from Key Deer Boulevard driveway, hence, there will be no conflict between the delivery trucks and drive-through or other vehicles exiting through the rear of the building, where loading is located. Furthermore, Staff finds that the site shall be restricted to one scheduled delivery by Walgreens trucks. In the event that the hours of operation increase to 24-hour/day operation, the conditional use shall be amended and the traffic study shall be revised.

2. Based on the submitted transplantation plan, endangered Paurotis palms located on DOT right-of-way are scheduled for removal. Therefore, Staff finds that the transplantation plan must exclude removal of these palms to be in compliance with Section 9.5-345, General Environmental Design Criteria.

3. Based on the application, a stormwater management plan has been provided but has not been approved by the South Florida Water Management District. Therefore, Staff finds that compliance with Section 9.5-293 has not been determined.

4. Based on the application, the applicant has contacted the Monroe County Health department regarding a wastewater treatment system but has not received approval from the Monroe County Health Department. Therefore, Staff finds that compliance with Section 9.5-294 has not been determined.

5. Based on the application, coordination with the Fire Marshal has started. Therefore, Staff concludes that conceptual approval of the project by the Fire Marshal's Office is needed.

6. Based on the application, coordination with the Keys Energy Services (KEYS) has started. According to the letter of coordination dated April 3, 2003, KEYS will need a full set of plans and a project review form to determine load requirement. Therefore, Staff concludes that approval of the plans by KEYS is required.

V. RECOMMENDED ACTION:

Based on the Findings of Fact and Conclusions of Law above, the Planning Staff recommends **APPROVAL** with the following conditions:

1. Prior to the issuance of Certificate of Occupancy, signs shall be posted on the access driveways from Key Deer Boulevard and US 1 Highway that limit the access of delivery vehicles only through the Key Deer Boulevard driveway.

2. Prior to issuance of a building permit, the transplantation plan must be revised to delete the removal of two threatened Paurotis Palms.

3. Prior to issuance of a building permit, the surface water management plan shall be approved by the South Florida Water Management District.

4. Prior to issuance of a building permit, the Florida Department of Health shall approve the Wastewater Treatment Plan.

5. Prior to issuance of a building permit, a Fire Protection Plan shall be approved by the Monroe County Fire Marshal.

6. The Keys Energy Services (KEYS) shall determine load requirement based on the review of a complete set of plans and approval shall be received prior to the issuance of a building permit.

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APPLICANT EXHIBIT LIST - PLANNING COMMISSION

LOCATION Marathon Sbr. Center DATE 6/11/03

CASE FILE SCOTTY'S INC. AM/MAJOR cond. use

Esq./Agent for Applicant - Nick Mulick

APPLICANT/APPELLANT EXHIBIT # PAGES : 1

DESCRIPTION: Site Plan of proposed development SP 1 dated 5/29/03

APPLICANT/APPELLANT EXHIBIT # PAGES :

DESCRIPTION:

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DESCRIPTION:

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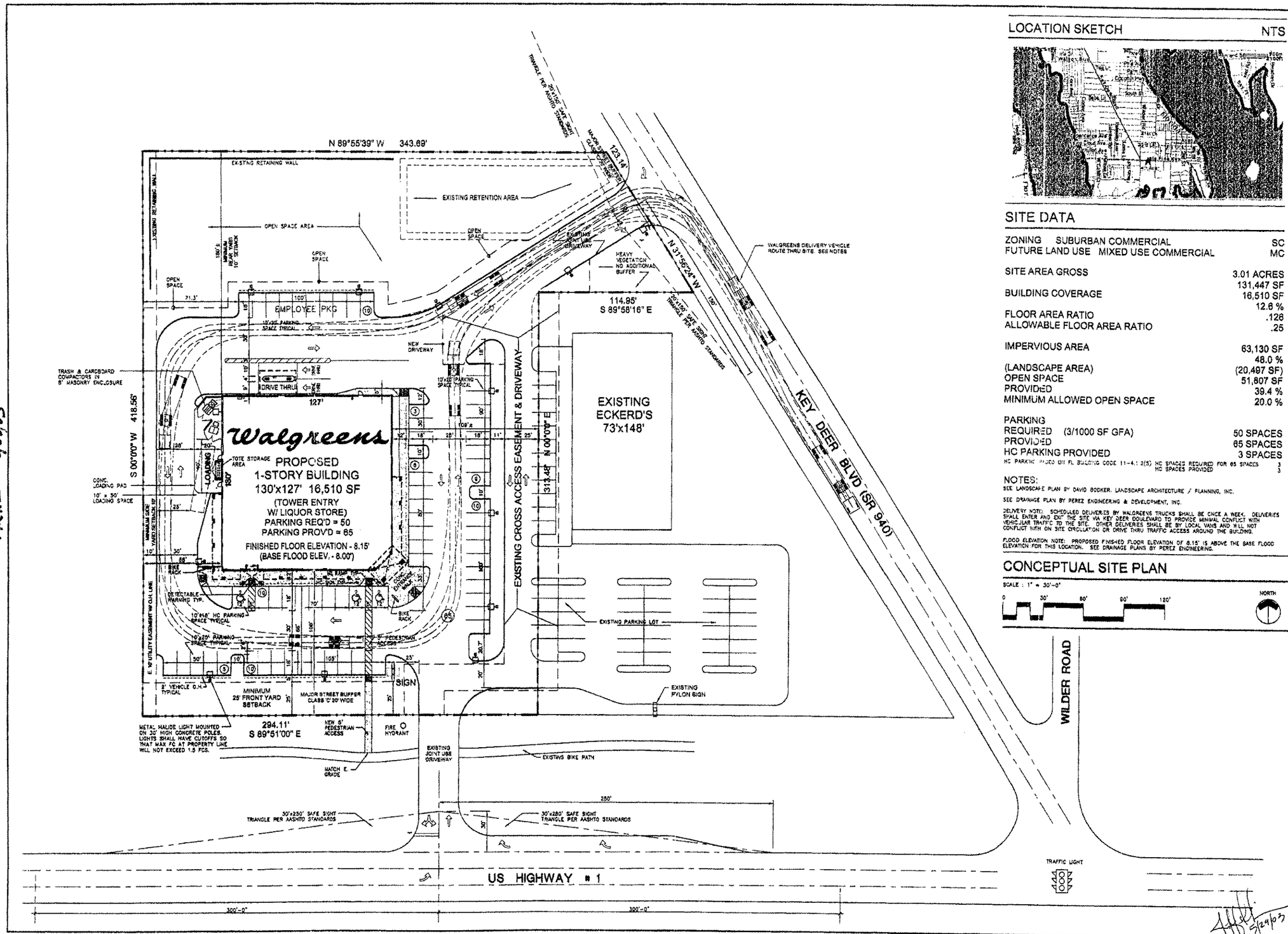
REVISED FINAL 06/05/03



LOCATION SKETCH

NTS

SITE DATA

ZONING SUBURBAN COMMERCIAL	SC
FUTURE LAND USE MIXED USE COMMERCIAL	MC
SITE AREA GROSS	3.01 ACRES 131,447 SF
BUILDING COVERAGE	16,510 SF 12.6 %
FLOOR AREA RATIO ALLOWABLE FLOOR AREA RATIO	.126 .25
IMPERVIOUS AREA	63,130 SF 48.0 %
(LANDSCAPE AREA) OPEN SPACE PROVIDED MINIMUM ALLOWED OPEN SPACE	(20,497 SF) 51,807 SF 39.4 % 20.0 %
PARKING	
REQUIRED (3/1000 SF GFA)	50 SPACES
PROVIDED	65 SPACES
HC PARKING PROVIDED	3 SPACES
HC PARKING REQ'D BY FL BUILDING CODE 11-4.1.2(5) HC SPACES REQUIRED FOR 65 SPACES HC SPACES PROVIDED	3 3

NOTES:

SEE LANDSCAPE PLAN BY DAVID BOCKER, LANDSCAPE ARCHITECTURE / PLANNING, INC.

SEE DRAINAGE PLAN BY PEREZ ENGINEERING & DEVELOPMENT, INC.

DELIVERY NOTE: SCHEDULED DELIVERIES BY WALGREENS TRUCKS SHALL BE ONCE A WEEK. DELIVERIES SHALL ENTER AND EXIT THE SITE VIA KEY DEER BOULEVARD TO PROVIDE MINIMAL CONFLICT WITH VEHICULAR TRAFFIC TO THE SITE. OTHER DELIVERIES SHALL BE BY LOCAL VANS AND WILL NOT CONFLICT WITH ON SITE CIRCULATION OR DRIVE THRU TRAFFIC ACCESS AROUND THE BUILDING.

FLOOD ELEVATION NOTE: PROPOSED FINISHED FLOOR ELEVATION OF 8.15' IS ABOVE THE BASE FLOOD ELEVATION FOR THIS LOCATION. SEE DRAINAGE PLANS BY PEREZ ENGINEERING.

CONCEPTUAL SITE PLAN

SCALE : 1" = 30'-0"

0 30' 60' 90' 120'

NORTH

RICHARD WENSING AIA
ARCHITECTS & PLANNERS, PA
WEST PALM BEACH, FLORIDA
561-684-1888 AA-C002181

REVISED PLANS

Walgreens

BIG PINE KEY, FLORIDA

US HIGHWAY #1

23005_SPF_R1
SITE DEVELOPMENT PLAN

DRAWN RW
DATE 4-4-03

REVISIONS
1 REVISED 4-18-03
2 5-28-03 COUNTY COMMENTS

SHEET SP-1

COMM. NO. 23005

5/29/03

05/29/03

PUBLIC EXHIBIT LIST - PLANNING COMMISSION

LOCATION Marathon Gov't Center DATE 6/11/03

CASE FILE SCOTTY'S INC. AM/MAJOR Cond. Use

Submitted by Lee Rohe

PUBLIC EXHIBIT # 1 PAGES : 1

DESCRIPTION: LDR Sect 9.5-46 B(3)

PUBLIC EXHIBIT # 2 PAGES : 6

DESCRIPTION:

Photos dated 6/11/03 BIG PINE Key Traffic light 1-10

PUBLIC EXHIBIT # 3 PAGES : 1

DESCRIPTION: ITE Daily Trip Graph

PUBLIC EXHIBIT # 4 PAGES : 1

DESCRIPTION: Hand drawn sketch made by Miles Moss during Hearing

PUBLIC EXHIBIT # PAGES :

DESCRIPTION:

PUBLIC EXHIBIT # PAGES :

DESCRIPTION:

PUBLIC EXHIBIT # PAGES :

DESCRIPTION:

Sec. 9.5-46. Hearing procedures for applications for development approval.

(a) *Setting the Hearing:* When the department review coordinator determines that an application for development approval is complete and that a public hearing is required by this chapter, he shall consult with the secretary of the body or bodies required to conduct the hearing and shall select a place and time certain for the required hearing, and shall cause published, written and posted notices of the hearing to be given.

(b) *Examination and Copying of Application and Other Documents:* At any time upon reasonable request, any person may examine the application and materials submitted in support of or in opposition to an application for development approval. Copies of such materials shall be made available at cost.

(c) *Conduct of Hearing:*

(1) *Oath or affirmation:* Testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing.

(2) *Rights of all persons:* Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization must present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears at a public hearing shall identify himself and his address and if appearing on behalf of an organization state the name and mailing address of the organization.

(3) *Due order of proceedings:* The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person may ask relevant questions of other persons appearing as witnesses, but shall do so only through the chairman at the chairman's discretion. The order of proceedings shall be as follows:

a. The department of planning staff shall present a narrative and graphic description of the proposed development.

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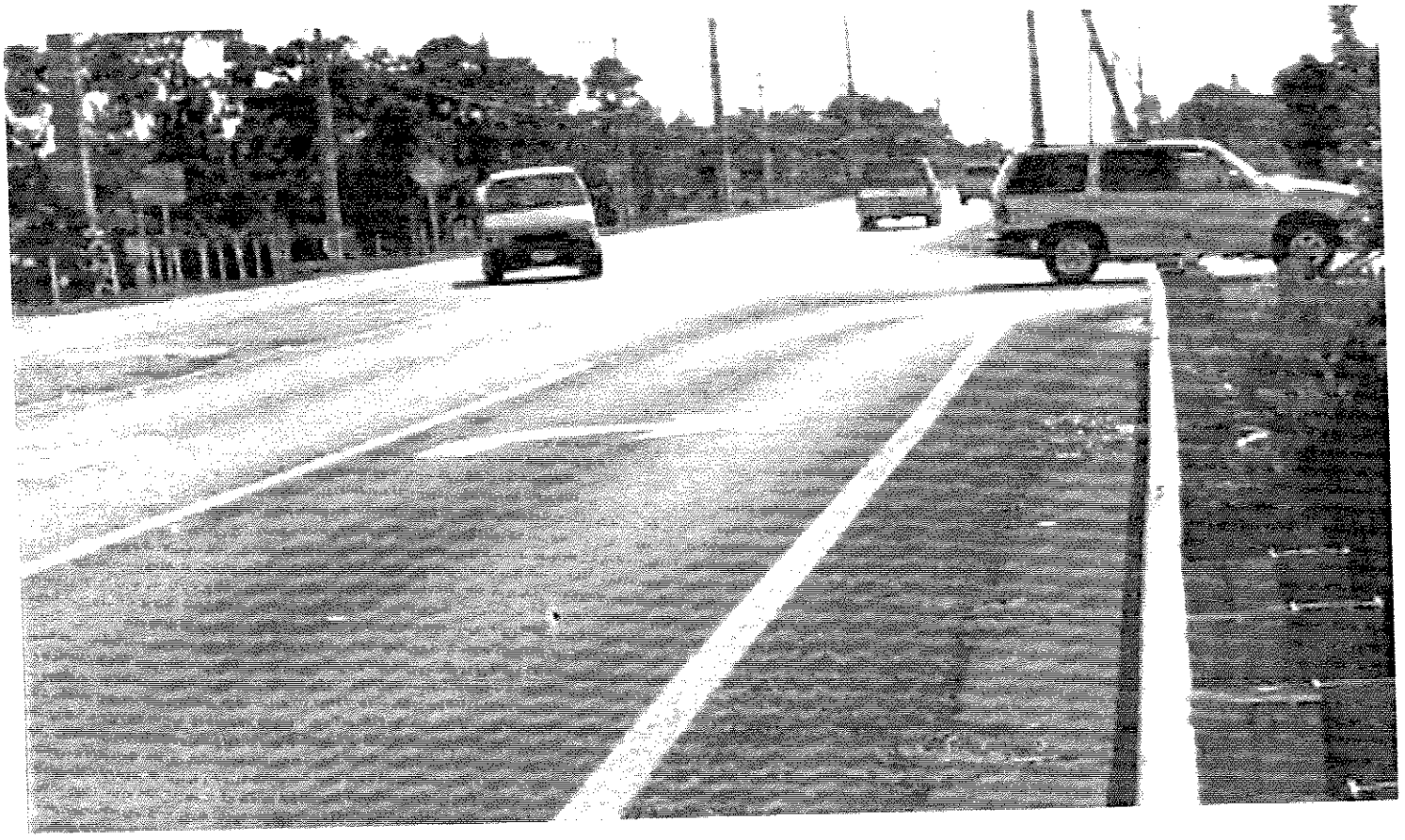

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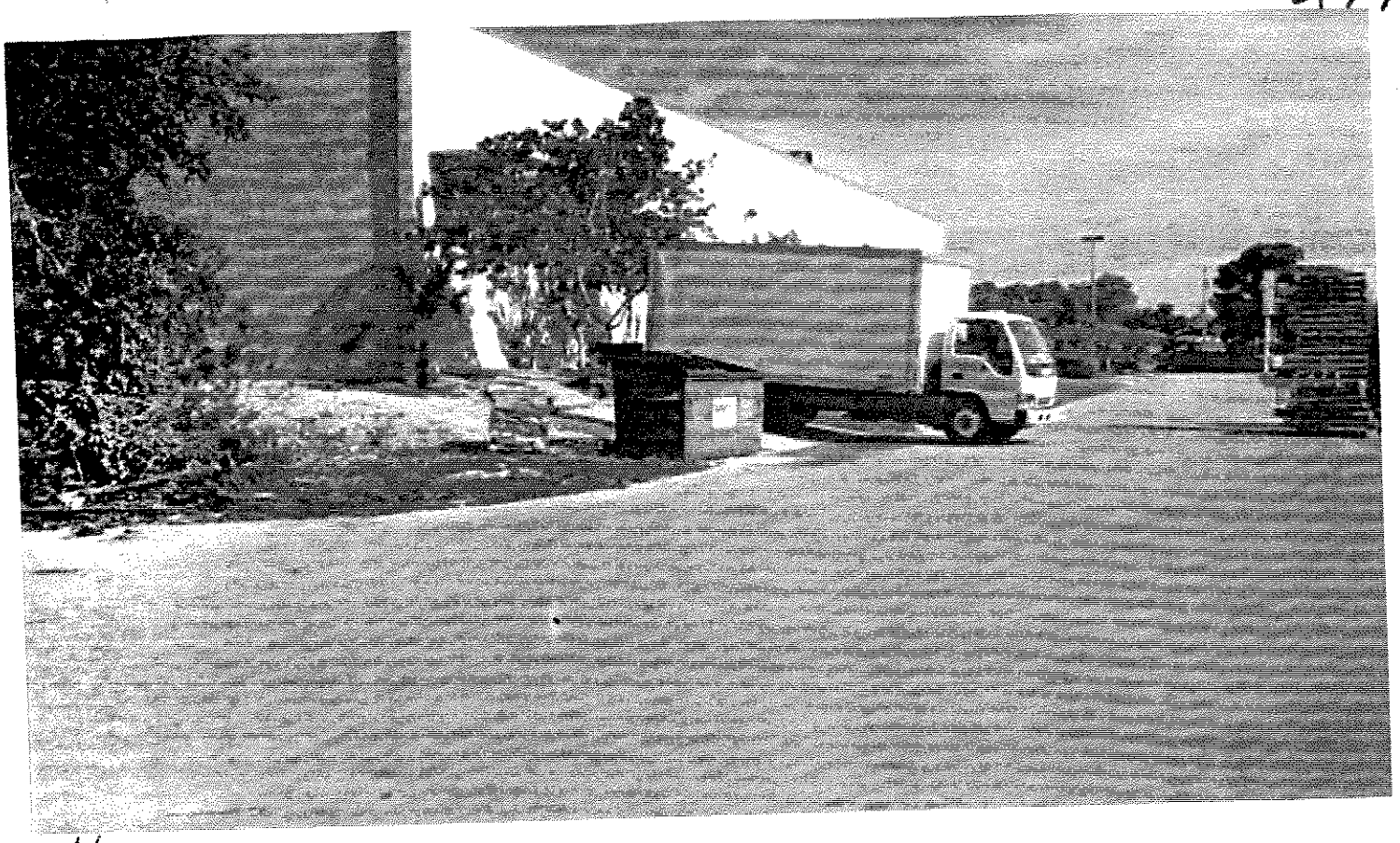

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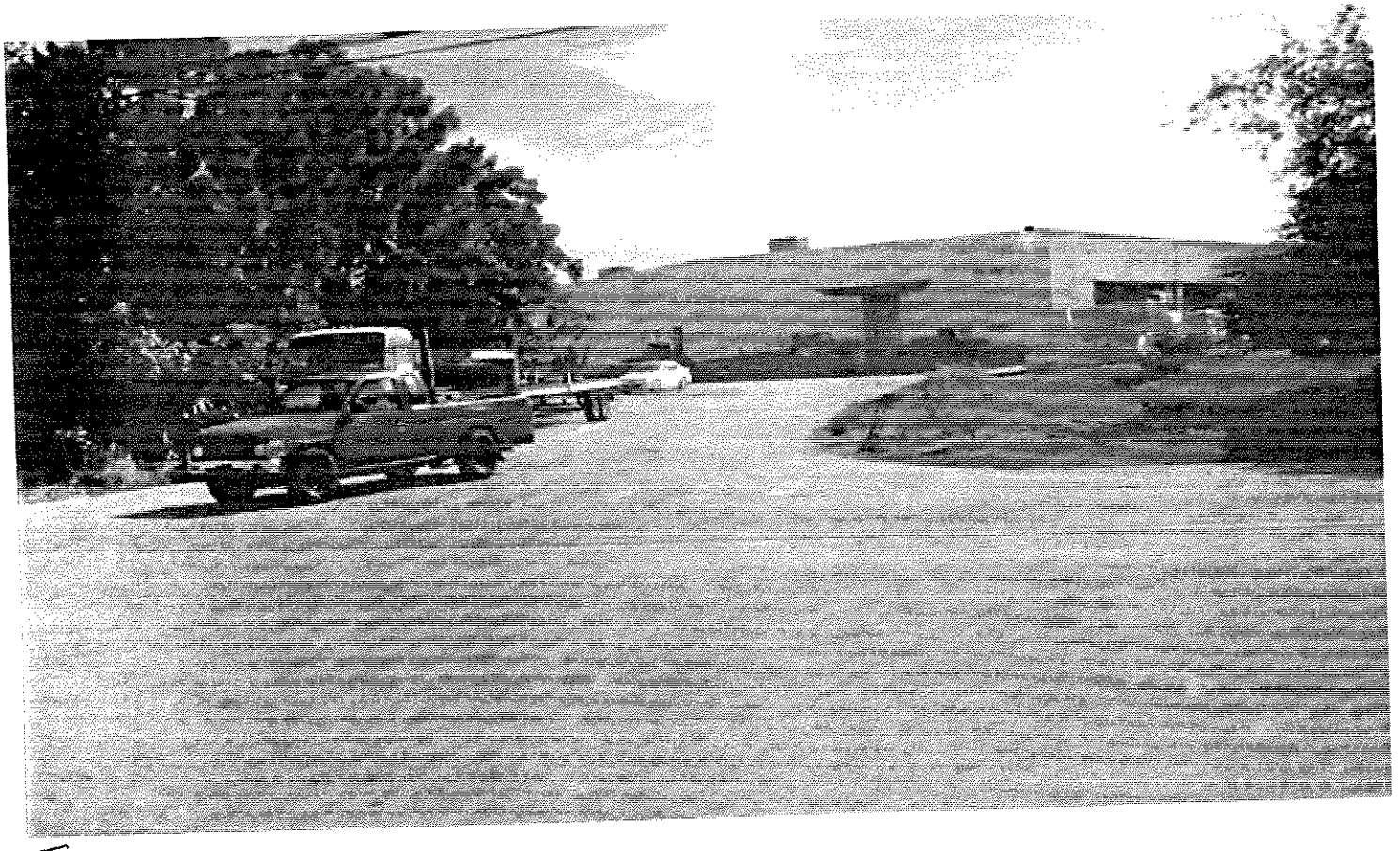

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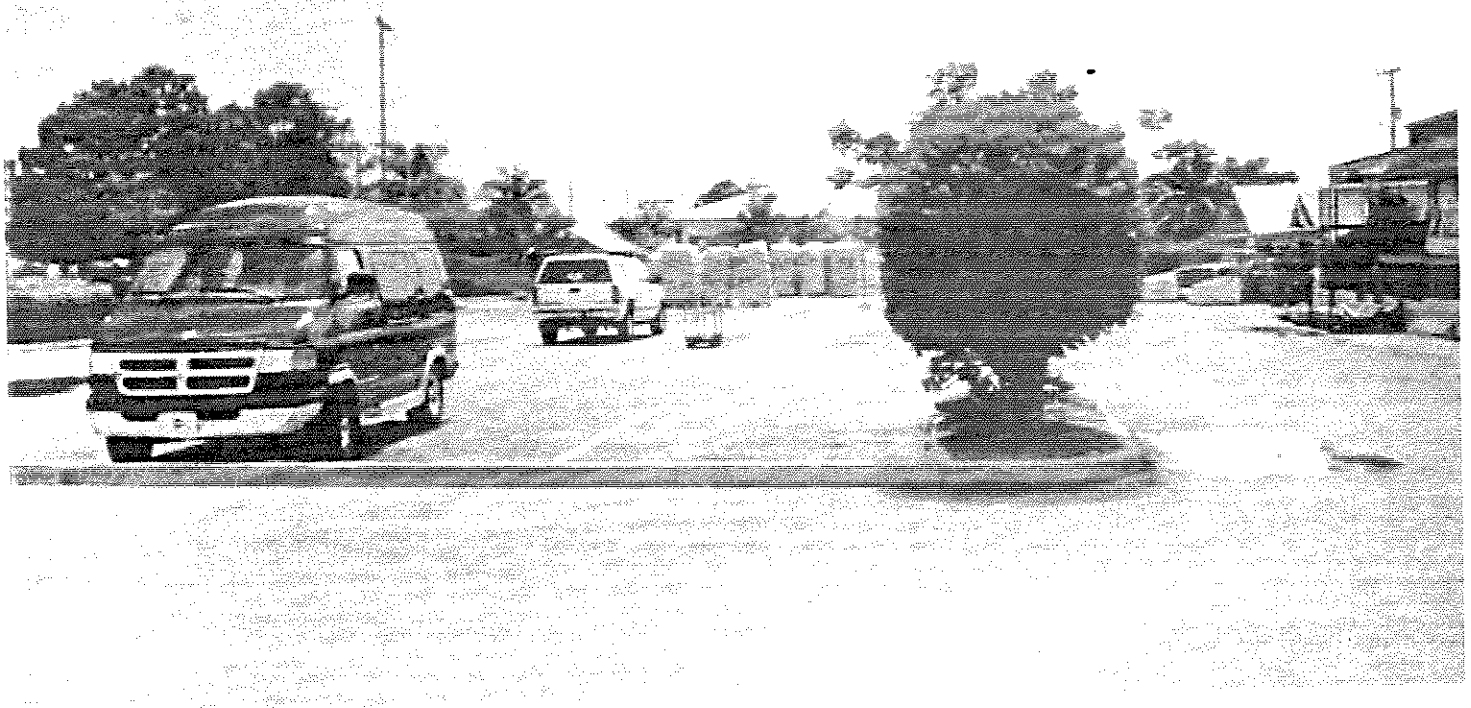

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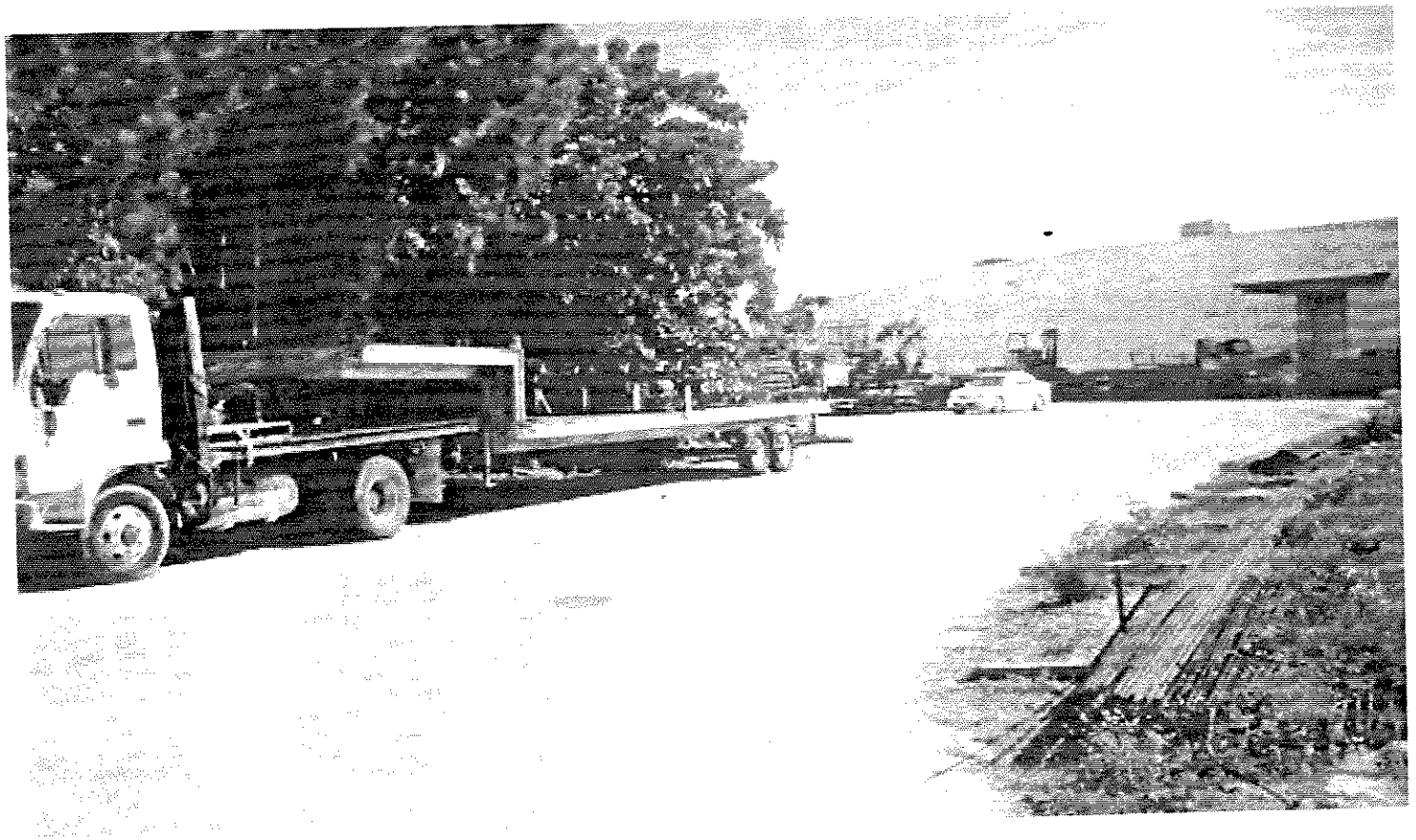

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