



AGENDA ITEM BA
TAB 9



VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Village Manager
John C. Gilbert

DATE: August 27, 2013
TO: Honorable Mayor and Members of the Village Council
FROM: John C. Gilbert, Village Manager
RE: 12-22-24 Crandon Boulevard: Appeal of an administrative Decision by the Building, Zoning and Planning Director

RECOMMENDATION

It is recommended that the attached appeal be denied.

BACKGROUND

On March 6, 2013, the applicant, Morgan Property Group, filed an appeal of an administrative decision by the Building, Zoning and Planning Director relating a proposed site plan and conditional use on property located at 12-22-24 Crandon Boulevard. Attached is a memorandum by the Director setting forth his reasons for making those determinations and his recommendation that the appeal be denied.

Based upon the Director's memorandum, I recommend that the appeal be denied.



V I L L A G E O F K E Y B I S C A Y N E

Department of Building, Zoning and Planning

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

DATE: August 27, 2013
TO: John C. Gilbert, Village Manager
FROM: Jud Kurlancheek, Director, AICP
RE: 12-22-24 Crandon Boulevard: Appeal of an administrative Decision by the Building, Zoning and Planning Director

Director
Jud Kurlancheek, AICP
Chief Building Official
Eugenio M. Santiago, P.E., CFM

A. BACKGROUND

On March 6, 2013, Morgan Property Group (the "Developer") filed two separate Planning and Zoning Applications with the Village for several unplatted tracts of contiguous C-1 zoned land along Crandon Boulevard at the entrance to the Village (the "Property"). One of the applications requested site plan approval for an approximately 14,558 sq. ft. commercial building on the Property, pursuant to Section 30-73 of the Village's Land Development Regulations (the "LDRs"). The other application requested the approval of a conditional use pursuant to Section 30-72 of the LDRs to operate a retail package wine and liquor store from within the proposed building on the Property.

In evaluating the sufficiency of the two submittals, I have found, among other things, that the Developer proposed to utilize the existing driveways within the adjacent Harbor Plaza shopping center, located to the rear at 51 Harbor Drive, as a means of ingress and egress to the Property, and likewise, vehicles coming to and from the Harbor Plaza shopping center would utilize the proposed driveways within the new development for ingress and egress to Crandon Boulevard. I also found that the proposed package wine and liquor store, when combined with the other space within the proposed building totaled 11,930 sq. ft., which exceeded the 10,000 sq. ft. occupancy limitation contained with Section 30-101(a) of the LDR's.

ADMINISTRATIVE DETERMINATIONS

Based upon the findings described above, I made two (2) specific determinations. In summary, the determinations were as follows:

1. The application seeking site plan approval was deficient under Section 30-70(f)(2)b. of the LDRs for failure to include all the driveways on the proposed site plan. Specifically the site plan did not include those driveways within the adjacent Harbor Plaza property, which driveways the Developer was proposing as access to and from the new development; and

2. The conditional use application was deficient because the proposed package wine and liquor store was part of a larger store (pharmacy), which together exceeded the 10,000 sq. ft. occupancy limitation contained in Section 30-101(a) of the Zoning and Land Development Regulations.

The determination regarding the site plan deficiency/driveways was first conveyed to the Developer in writing on March 20, 2013, and again on April 8, 2013 at which time the Developer was also notified of the second determination regarding the 10,000 sq. ft. occupancy limitation. See, Exhibits 1 and 2 attached to this Memorandum. On April 19, 2013, the Developer supplemented the applications to address numerous deficiencies, but made no changes to address the two determinations made by me. Finally, on April 26, 2013, I informed the Developer that the applications were still not complete and again repeated the same site plan/driveways and occupancy problems as being unresolved. See, Exhibit 3, attached to this Memorandum.

B. THE APPEALS

On May 24, 2013, the Developer filed a Planning and Zoning Application requesting an Appeal of an Administrative Decision, pursuant to Section 30-70 of the LDRs, appealing both of the determinations. A summary of each appeal/challenge follows:

1. Occupancy Limitation. The Developer argues that I erred in combining the package wine and liquor store with the pharmacy because they are distinct and separate uses occupying separate spaces within the proposed commercial building. Moreover, the Developer argues that I should be estopped from making this determination based upon a decision in 2012 by the Department of Building Zoning and Planning to allow the expansion of the CVS pharmacy at 700-726 Crandon Boulevard, which allowed that store to exceed 10,000 sq. ft. The Developer also argues that as a result of the CVS approvals, the Village is violating the Developer's rights of "equal protection" by "selectively enforcing" the 10,000 sq. ft. occupancy limitation against the Developer.
2. Site Plan/Driveways. The Developer argues that the limited work (if any) being done on the Harbor Plaza property does not technically trigger the requirement for site plan review of that particular property and therefore requiring that property to be included within the site plan is not warranted. This argument is based upon a legal theory that the Village must strictly apply/construe its own ordinance in favor of the property owner. The second justification for not including the Harbor Plaza property in the Site Development Plan is that the request is "unprecedented" and "discriminatory." The Developer claims that no other property owner has been required by the Village to submit a site plan for adjacent land under similar circumstances and that the request by the Village is "intentional and arbitrarily discriminatory" resulting in a violation of its constitutional equal protection rights. In support of its argument, the Developer cites to a 2001 approval of a site plan for a bank at 100 Crandon Boulevard and

claims that the applicant in that instance was not required to include adjacent land within the Site Development Plan.

Finally, the Developer makes general allegations suggesting that in concert with the Village Attorney, I made the determinations in an effort to affect the value of the Property as part of a greater plan by the Village Council to condemn the Property; however, there is no evidence or documentation provided to support these allegations.

C. ANALYSIS AND RECOMMENDATION ON APPEALS

1. Appeals are Untimely. Section 30-70 of the LDRs provides that any party in interest who is aggrieved by a decision of a Village official and wishes to appeal such decision must do so within thirty (30) days. In this particular situation, I decided that the site plan application was deficient for failure to include the Harbor Plaza property/driveways in early March 2013 and notified the Developer of that decision on March 20, 2013. Thereafter on April 8, 2013, I again notified the Developer of the same decision, as well as his decision that the package wine and liquor store exceeded the 10,000 sq. ft. occupancy limitation. The absolute deadline for filing an appeal on both decisions was therefore May 8, 2013.

Despite a third notification sent to the Developer on April 26, 2013 expressly re-stating the same decisions/determinations, the Developer waited until May 24, 2013 (nearly two (2) months) to file an appeal. This failure to timely file the appeal is unjustifiable and jurisdictional. On this basis alone, it is recommended that both appeals should be rejected.

2. Occupancy Limitation Appeal. While I continue to be concerned with the overall size of what will likely appear as one large Walgreens store, a careful review of the appeal and a re-evaluation of the original submittal reveal that the proposed package wine and liquor store is intended to be a distinct and separate store occupying 1,903 sq. ft. A change in the original decision has therefore been issued to the Developer. A copy of the letter reflecting the new determination was issued on August 14, 2013, and is attached to this Memorandum as Exhibit 4. I have determined that the proposed package wine and liquor store is not part of the adjacent retail store space. This new determination is subject to the condition that a revised plan be submitted for the package store only, and that the plan includes a block wall separation with no interior connections to the adjacent space. Additionally, the package wine and liquor store must obtain a separate certificate of occupancy and no inventory may be stored elsewhere in the building. Consequently, the appeal on this issue is moot and no decision of the Village Council is necessary.

3. Site Plan/Driveway Appeal. I have determined that the application requesting site plan approval must include a Site Development Plan showing all driveways, which will serve the new development. The legal obligation to include the driveways is clearly set out in Section 30-70(f)(2)b. of the LDR's. The relevant part the Section reads as follows:

(f) A complete application shall include the following:

(2) *Site Development plan.*

b. Proposed off-street Parking spaces, driveways and sidewalks, including location, construction material, dimensions and Setbacks...(emphasis added)

The Developer has refused to include this information in the required Site Development Plan. Its reasons are summarized in Section B-2 of this Memorandum. The first reason is that the Harbor Plaza property is not vacant or being redeveloped and therefore the Village cannot require the Site Development Plan to include the adjacent property. This argument is not based upon an accurate reading of the Zoning and Land Development Regulations, which clearly requires the Site Development Plan to include the driveways without any limitation. In fact, the Developer itself claims to have an "easement" over and across the adjacent property for the specific purpose of serving the proposed development. In its original application for site plan approval, the Developer states as follows:

Additional ingress and egress will be provided through a cross access easement with the neighboring property to the immediate west, thereby providing access from the Property to Harbor Drive.

It is difficult to understand how the Developer can propose cross-access over an adjacent shopping center by way of an easement and refuse to include the Harbor Plaza driveways within the site plan. Even more perplexing is the fact that the Developer is also proposing that the patrons of Harbor Plaza will use the new Property for access to and from Crandon Boulevard, but claims the Village staff and Council have no right to review a site plan showing how such cross-access will operate. This is contrary to all tenets of planning and the expressed requirements of the LDR's.

The second reason the Developer refuses to include the required information/drawing is because the Village has allegedly never required this information from any other similarly situated landowner. As proof of this allegation, the Developer cites to a 2001 site plan approval for a bank at 100 Crandon Boulevard. The problem with this allegation is that it is absolutely false. A simple review of the 2001 application reflects that the site plan did include the driveway on the adjacent land, and to assure the Village that the adjacent driveway would continue to serve the approved bank site, the Council conditioned the site plan on the recording of a unity of title, which combined both parcels together as one single development site. A copy of the relevant portion of that site plan and approved Village Council Resolution No. SP-04 is attached to this Memorandum as Exhibit 5.

Based upon the clear and unequivocal requirement of the LDR's, and the fact that the Village has been consistent and non-discriminatory in its application of the LDR's, it is recommended that the appeal on the second issue be denied.

Finally, it is important to state that I have at no time made any determination or decision, nor taken any action in connection with the subject applications, which was directly or indirectly motivated by or intended to affect the value of the subject Property or for any purpose other than to, in good faith, apply and implement the LDR's of the Village. No elected or appointed official on the Village has, in any manner, attempted to influence any determination or decision which I have made in the execution of his responsibilities. Any suggestion or allegation otherwise is completely false and should not serve as a basis for any decision by the Council on this appeal.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *1st Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

March 20, 2013

Director
Jud Kurlancheek, AICP
Chief Building Official
Eugenio M. Santiago, P.E., CFM

Neisen Kasdin
Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714

Re: Site Plan and Conditional Use Applications: 12, 22, and 24 Crandon Boulevard

Dear Mr. Kasdin:

On March 6, 2013, the Village Building, Zoning and Planning Department received the submittal of a site plan and conditional use applications for property located at 12, 22, and 24 Crandon Boulevard. After review, the Village staff has determined that the applications are not "complete." In order for the Village staff to process the applications and determine them to be complete please provide the following:

1. Site Plan Application

- Existing site characteristics map.
 - A certified property survey showing existing site characteristics is required to be submitted, including existing utility lines and easements. The surveyor notes provide that this survey was prepared without the benefit of a title search and there may be additional restrictions and easements. A preliminary review reveals that a parking easement is not mentioned on the survey.
 - Please provide an updated certified survey meeting all of the requirements of Section 30-73(f)(1) of the Village Code.



- Site Development plan.

- The Site development plan is required to show all driveways. The site plan shows two driveways that connect to 51 Harbor Drive: (1) a south driveway that connects to a driveway on 51 Harbor Drive through the parking lot and to Harbor Drive; and (2) a north driveway indicated as one way entering the property at 12, 22, 24 Crandon Blvd. This driveway connects to an alley on the north and west at 51 Harbor Drive. Given that the site plan proposes to have access through driveways on 51 Harbor Drive this property is required to be a part of the site plan. Therefore, please include this property and the property owner as a part of this application.
- The distance of existing buildings on adjacent properties from property line are required to be shown. Please show the existing building on 51 Harbor Drive.
- All proposed utility lines and easements are required to be shown. Please show all proposed utility lines and easements.
- Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(2) of the Village Code.

- Landscape plan.

- The method of irrigation, as required, has not been submitted. Please submit.
- Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(3) of the Village Code.

- Architectural plan

- A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color is required. The site plan indicates there is a mezzanine but the floor plan is not shown. The floor plan for the main floor is not dimensioned. The submission does not include an exterior paint chart for the exterior of the building. The rendering is not sufficient as it does not specify the colors. Please submit an updated plan meeting the requirements provided above.
- The Village Code requires that the proposed location and elevations of signs, including height, dimensions, setbacks, construction material and color be shown. The signage plan does not include dimensions, heights,

colors, or construction materials. Please provide a signage plan that meets the requirements provided above.

- Please provide an updated architectural plan meeting all of the requirements of Section 30-73(f)(4) of the Village Code.

- Tabular summary.

- Total gross project acreage and net buildable land area is required to be shown. The site plan shows an area called "Future Building Area." This area is not dimensioned on the site plan. This area should be separated into a separate category on the tabular summary labeled "Site Data."
- Please provide an updated tabular summary meeting all of the requirements of Section 30-73(f)(5) of the Village Code.

- Drainage plan.

- Paving and drainage plans are required to meet specific requirements provided for within the Village Code. The "Conceptual Paving, Grading, and Drainage Plan submitted does not meet the minimum Village Code requirements including providing sufficient elevations and calculations to show retention of storm water on the site. There are no calculations to show retention of runoff on the property. Please update the drainage plan to meet this requirement.
- Please provide an updated drainage plan meeting all of the requirements of Section 30-73(f)(6) of the Village Code.

- Site Plan Application.

- The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.

- Optional Information Required.

- The Village Code provides that certain optional information may be required, if deemed necessary by the Building, Zoning, and Planning Director. As Director, I believe the following information is required to be submitted: (1) A map reflecting the general character and relationship of surrounding properties given the access driveways through 51 Harbor Drive. See, Section 30-73(f)(9)(a) of the Village Code; (2) The intended

progressive stages or phasing of development given the site plan provides for "future building area." See, Section 30-73(l)(9)(c) of the Village Code. In the event the future building area is not a part of the site plan then please label it "not a part;" and (3) Please provide any studies regarding the environmental impact on the property from the adjacent gas station. See, Section 30-73(l)(9)(e) of the Village Code.

2. Conditional Use

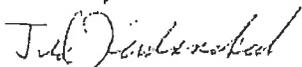
- Condition Use Application.

- The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.

The Village staff will commence its formal review of the applications once the required application requirements have been submitted, the applications have been deemed complete and after the Village Attorney determines the applications to be legally sufficient. With that being said, Village staff has conducted a preliminary review of the applications. We encourage you and your client to meet with staff prior to re-submittal as this may help to expedite the formal review of the applications.

If you have any questions or concerns please feel free to contact me.

Sincerely,



Jud Kurlancheek, AICP, Director



VILLAGE OF KEY BISCAINE

Department of Building, Zoning and Planning

Village Council

Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director

Jud Kurlancheek, AICP

Chief Building Official

Eugenio M. Santiago, P.E., CFM

April 8, 2013

Neisen Kasdin
Akerman Senterfit
One Southeast Third Avenue, Suite 2500
Miami, FL 33131-1714

Re: Site Plan and Conditional Use Applications: 12-22-24 Crandon Boulevard

Dear Mr. Kasdin:

Thank you for meeting with us on April 4, 2013 to review your application for site plan and conditional use approval on property located at 12-22-24 Crandon Boulevard (the "Property"). During the course of the meeting, we discussed the relationship between the Property and the adjacent 51 Harbor Drive property (the "51 Harbor Property"). In lieu of including the 51 Harbor Drive Property as a part of the site plan, you proposed a cross access agreement that would allow patrons of the Property to have ingress and egress access through the 51 Harbor Drive Property to Harbor Drive. The Department agrees that such a cross access agreement is necessary given the proposed layout of the site plan.

However, in addition to the proposed cross access agreement, it is the determination of the Department that the 51 Harbor Drive Property must be included as a part of the site plan as the driveway from Harbor Drive to the Property is an integral part of the ingress and egress access to and from the proposed development. Therefore, as proposed, the Property and the 51 Harbor Drive Property are to be considered a part of one site plan and the owners of these properties must execute the appropriate affidavit(s) and application(s).

In addition, as discussed at the aforementioned meeting, Sec. 30-110(a)(2) of the Village Zoning and Land Development Regulations require that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises". It is the determination of the Department that the Walgreens Pharmacy and the Liquor store, as proposed, occupy



one building and said building exceeds the 10,000 sq. ft. limitation. Please amend the site plan application to comply with this requirement.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jud Kurlancheek".

Jud Kurlancheek, AICP, Director



VILLAGE OF KEY BISCAINE

Department of Building, Zoning and Planning

Village Council
Franklin H. Caplan, Mayor
Mayra P. Lindsay, Vice Mayor
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director
Jud Kurlancheck, AICP
Chief Building Official
Eugenio M. Santiago, P.E., CFM

April 26, 2013

Neisen O. Kasdin, Esq.
Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, Florida 33131-1714

Re: 12, 22 and 24 Crandon Boulevard

Dear Mr. Kasdin,

I am in receipt of your April 19, 2013 letter together with the enclosed materials. While several of the items have been responded to sufficiently, two principle and fundamental problems with the application remain unresolved. From a review of the proposed site plan as well as the proposed cross access agreement, it is clearly apparent that the owners/developers/tenant intends to use the shopping center at 51/99 Harbor Drive as a principle means of ingress and egress to and from the proposed development. Moreover, the proposed cross access agreement grants the owner of the adjacent property rights and ingress and egress through and across the subject property to and from Crandon Boulevard. If your client intends to utilize adjacent properties as part of the driveway system for the development as a means of ingress and egress to Harbor Drive, the adjacent property must be included as part of the land submitted for site plan approval.

The other significant issue addressed in your letter but not adequately responded to relates to the 10,000 square foot occupancy limitation. It is quite apparent from the site plan and the documentation provided that the proposed Walgreens intends to occupy more than 10,000 square feet within the proposed building. This is precluded by the plain reading of the regulations and requires no special interpretation or examination of the intent of the ordinance. New plan must be modified to reflect occupancy of no greater than 10,000 square feet.



In addition, please provide a signed and sealed survey and a legend on sheet C-1 "Site Plan" explaining the symbols (E, S, T, and W) for the easements.

Except as provided above, I believe that the materials you have provided adequately address the issues set forth in my March 20, 2013 letter. As soon as the plans and application have been modified to address the issues discussed above, my office will be in a position to move forward with the processing and substantive analysis of the applications. If you have any further questions or concerns, please do not hesitate contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jud Kurlancheek".

Jud Kurlancheek, AICP, Director



V I L L A G E O F K E Y B I S C A Y N E

Department of Building, Zoning and Planning

Village Council

Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

August 14, 2013

Director

Jud Kurlancheck, AICP

Chief Building Official

Eugenio M. Santiago, P.E., CFM

Mr. Neisan O. Kasdin
Akerman Senterfitt
One Southeast Third Avenue, Suite 2500
Miami, FL 33131-1714

Re: 12, 22, 24 Crandon Boulevard

Dear Mr. Kasdin:

On April 26, 2013, I sent you a letter identifying two issues that remained unresolved relating to Site Plan Application (SP-22) and Conditional Use Application (CU-04) on property located at 12, 22 & 24 Crandon Boulevard. On May 24, 2013, I received your appeal of my administrative decision relating to these two remaining issues (the "Appeal"). As discussed at our recent meeting, the issue relating to the 10,000 square foot limitation can be resolved by providing the following:

- (1) The Letter of Intent and Site Plan shall be modified to remove any references to a particular tenant;
- (2) The site plan and floor plan for Conditional Use Application should only indicate a liquor store; and
- (3) A note shall be placed on the Conditional Use Application plans demonstrating that the dividing wall between the proposed liquor store and adjacent tenant is composed of CBS or equivalent materials under the Florida Building Code. In addition, the note shall state that the proposed liquor store area shall be served by its own utilities and have no access to the adjacent tenant.

If you make the above referenced modifications, I will consider the Conditional Use Application to be complete and the issue relating to the 10,000 square foot limitation resolved. If you agree with the above referenced modifications, please also confirm in writing that you have withdrawn the 10,000 square foot limitation issue from the



Appeal. However, please note, a public hearing on the Conditional Use Application cannot be set until the remaining issue on Appeal relating to the Site Plan Application has been resolved. If you do decide to submit revised plans, please also include a signed and sealed survey and explanation of the meaning of the symbols E, S, T, & W located on Sheet C-1 "Site Plan" as requested in my April 26, 2013 letter. If you have any further questions or concerns please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jud Kurlancheek".

Jud Kurlancheek, AICP, Director

RESOLUTION NO. SP-04

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA; APPROVING A REQUEST (FILE SP-04) FOR APPROVAL OF A SITE PLAN PURSUANT TO THE PROCEDURES SET FORTH IN THE ZONING AND LAND DEVELOPMENT REGULATIONS FOR PROPERTY LOCATED AT 100 CRANDON BOULEVARD.

WHEREAS, the St. Michael Property Holdings, Inc. has applied for approval of Site Plan pursuant to the Zoning and Land Development Regulations;

WHEREAS, the Village Council at its meeting of July 10, 2001 completed a duly advertised public hearing thereon; and

WHEREAS, the Village Council has determined that the application is consistent with the review criteria as set forth Section 30-80 "Site Plan Review Procedures" of the Zoning and Land Development Regulations.

WHEREAS, the site plan review regulations provide for the issuance of a Development Order (F.S. Sex.163.3164) within specified timeframes otherwise the approval is automatically null and void.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA AS FOLLOWS:

Section 1: That following review of the Building, Zoning, and Planning staff report and all submitted written and oral testimony received during the public hearing, the request for the Variance and Site Plan Approval is hereby approved subject to the following conditions:

1. A unity of title for property at 100 and 104 Crandon Boulevard shall be recorded in the public records prior to the issuance of a building permit.
2. The applicant shall construct the following improvements in the public rights of way consistent with Village's specifications: a 10 ft. wide (minimum) decorative sidewalk, curbing, and irrigation of the swale. These improvements shall be constructed prior to the issuance of any Certificate of Occupancy and included in the plans for a building permit. No building permit shall be issued until the Village and other regulatory agencies approve the plans showing these improvements.
3. That the Building, Zoning, and Planning Director is authorized to approve minor modifications to the plans when it is determined by the Director that such modifications are in substantial conformance with the plans as approved by Council.
4. A detailed landscape plan shall be submitted with the building permit application. A building



permit shall not be issued until the Building, Zoning, and Planning Department approves the landscape plan. A Certificate of Occupancy shall not be issued until the landscaping has been installed and approved by the Department.

5. Signage on the building is limited to the business that occupies the largest amount of floor area. Secondary signage is permitted through a directory sign on exterior of the building. The size of the directory sign shall conform with the Zoning and Land Development Regulations.
6. This resolution shall be recorded in the public records or Miami-Dade County prior to the issuance of a building permit.

Section 2: That the Building, Zoning, and Planning Department is hereby directed to forward a copy of this resolution to the applicant.

PASSED AND ADOPTED this 10th day of July, 2001.

VILLAGE OF KEY BISCAYNE
VILLAGE COUNCIL



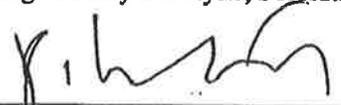

Mayor Joe I. Rasco

ATTEST:



Conchita H. Alvarez, CMC, Village Clerk

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
Village of Key Biscayne, Florida, only


Weiss Serota Helfinan Pastoriza
& Guedes, P.A., Village Attorney

This document was prepared by
Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Dept.


Jud Kurlancheek, AICP, Director

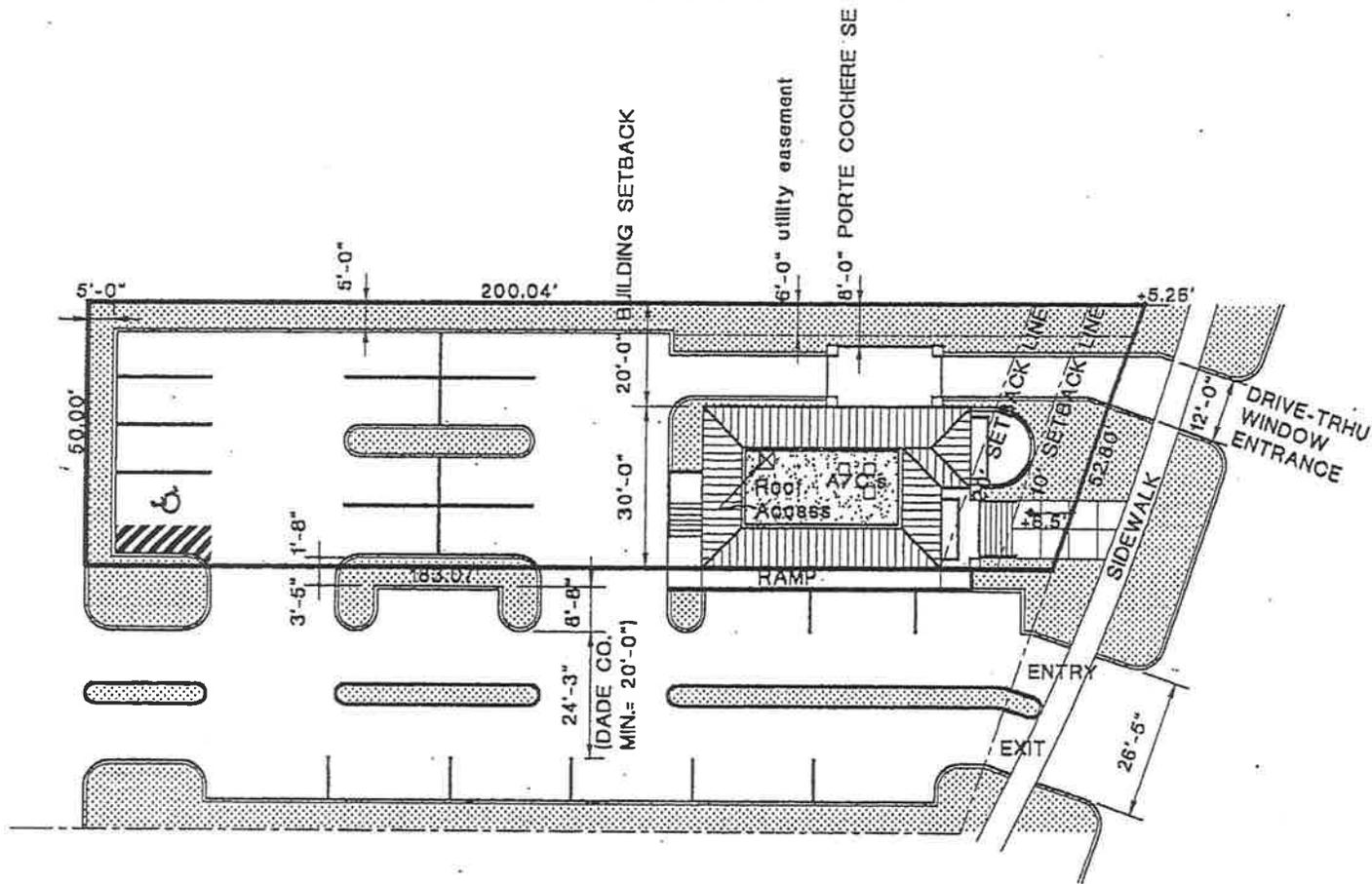
ST. MICHAEL PROPERTY HOLDINGS, INC.

100 CRANDON BOULEVARD

VILLAGE OF KEY BISCAYNE, FLORIDA

EASTSHORE

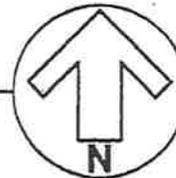
architects



SITE AREA	9,577 SF
LOT COVERAGE	1,803 SF (17%)
F.A.R.	4,493 SF (47%)
GREEN AREA	2,182 SF (23%)
PARKING SPACES	12 (1 HANDICAPPED)
FIRST FLOOR AREA	1,803 SF GROSS (1,170 SF NET)
SECOND FLOOR AREA	1,445 SF GROSS (1,088 SF NET)
THIRD FLOOR AREA	1,445 SF GROSS (1,088 SF NET)

PLOT PLAN

SCALE: 1/32" = 1'-0"



Luis Jauregui
5/17/01

A New Office Building For:

ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Crandon Boulevard Village of Key Biscayne

Eastshore Int'l, Corp.
74-12-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

ISSUE DATE:

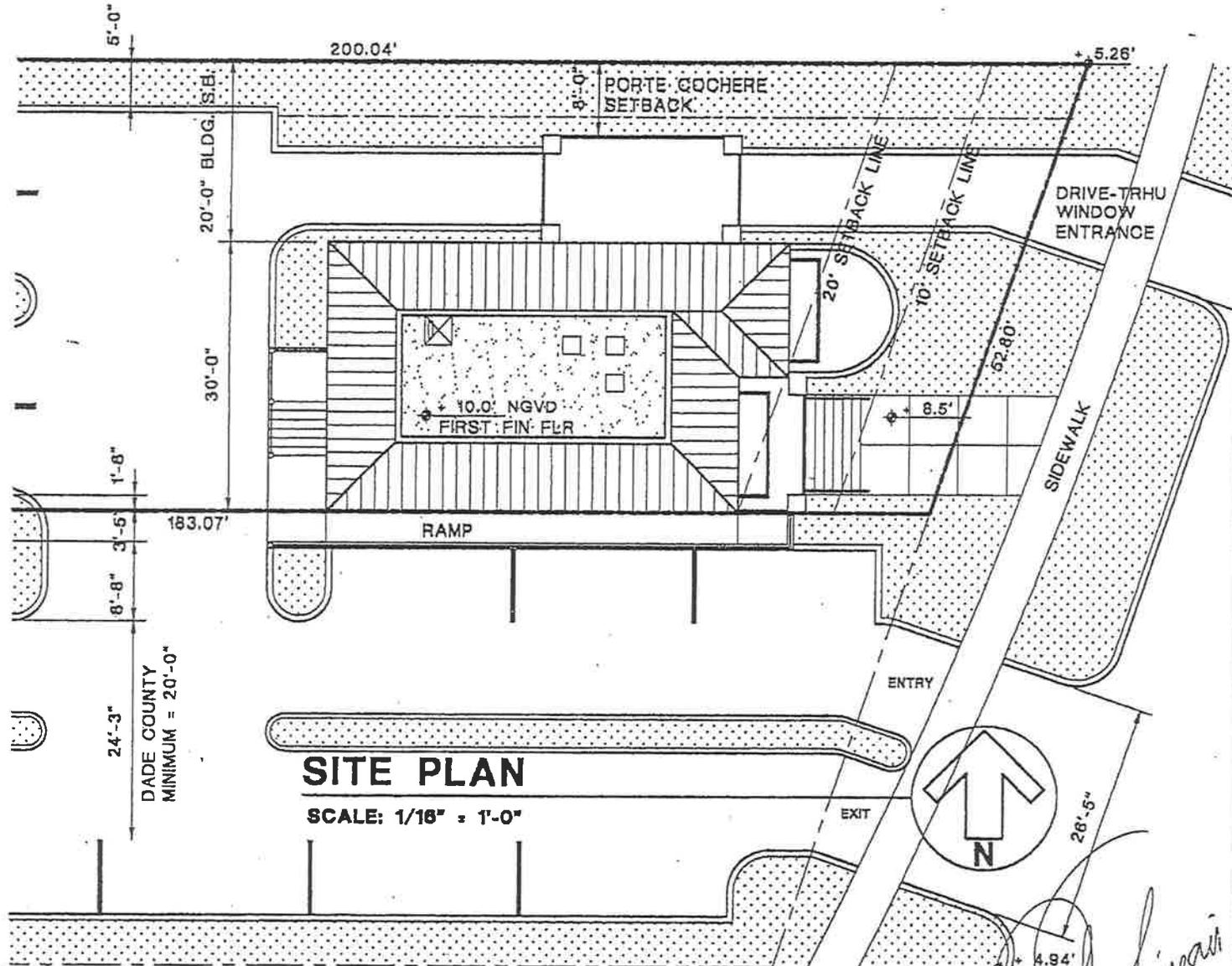
05-18-01

PROJECT NUMBER:

07-10

SHEET NUMBER

A-1



SITE PLAN

SCALE: 1/16" = 1'-0"



Luis Jauregui
5/17/01

A New Office Building For:

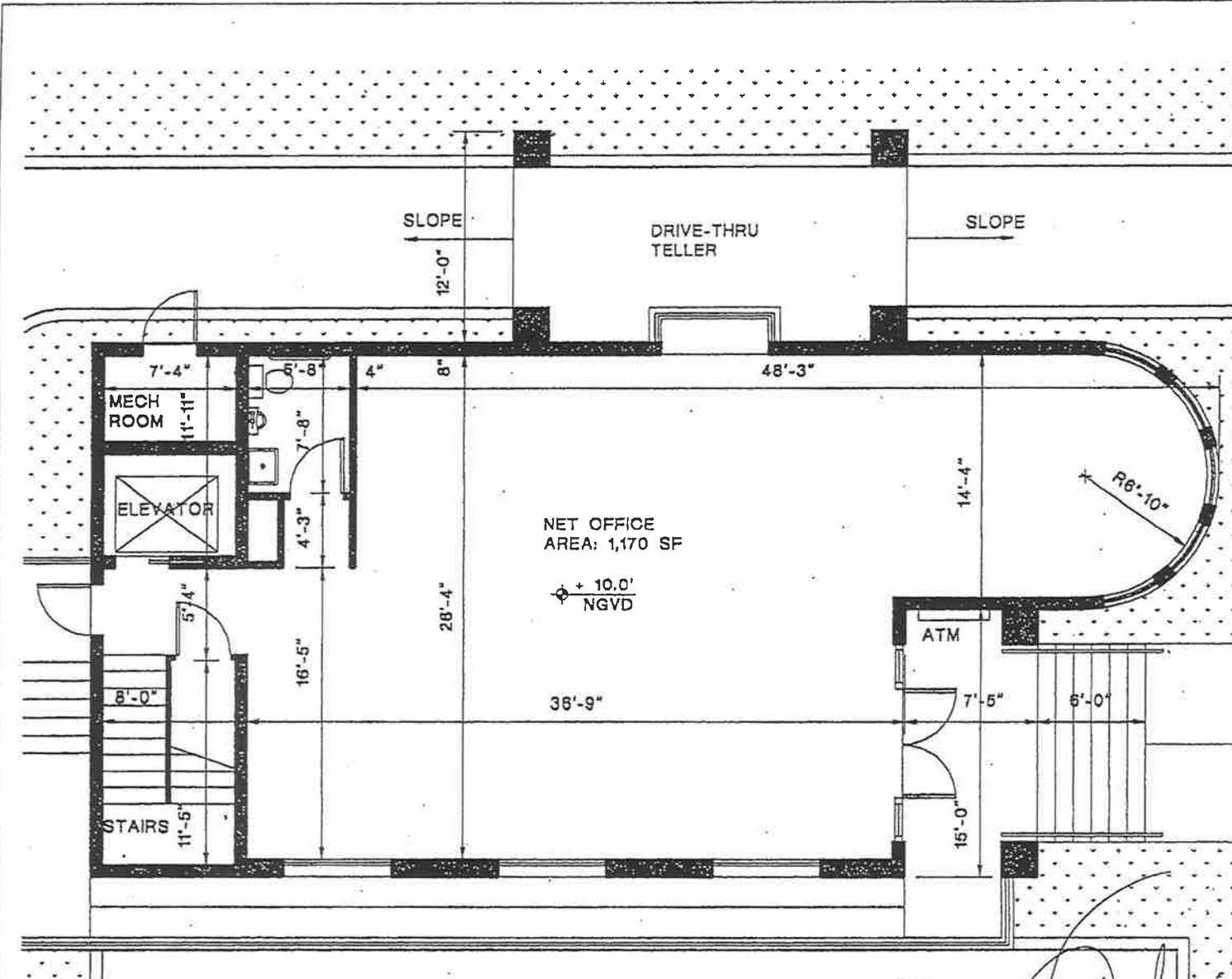
ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Crandon Boulevard Village of Key Biscayne

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077

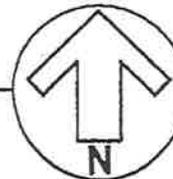
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

ISSUE DATE:	08-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-2



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

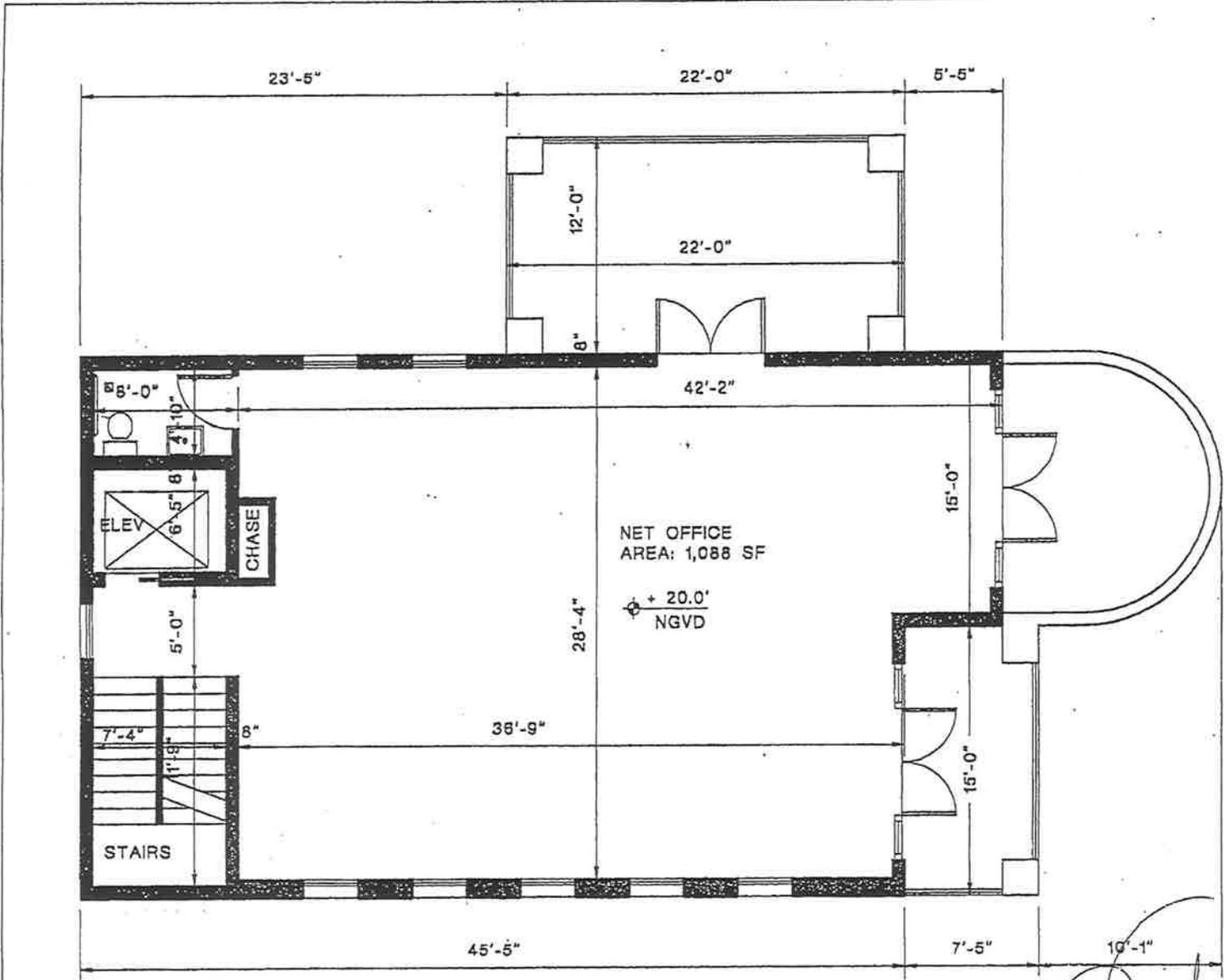


Luis Jauregui
5/17/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

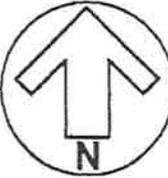
A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	02-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-3



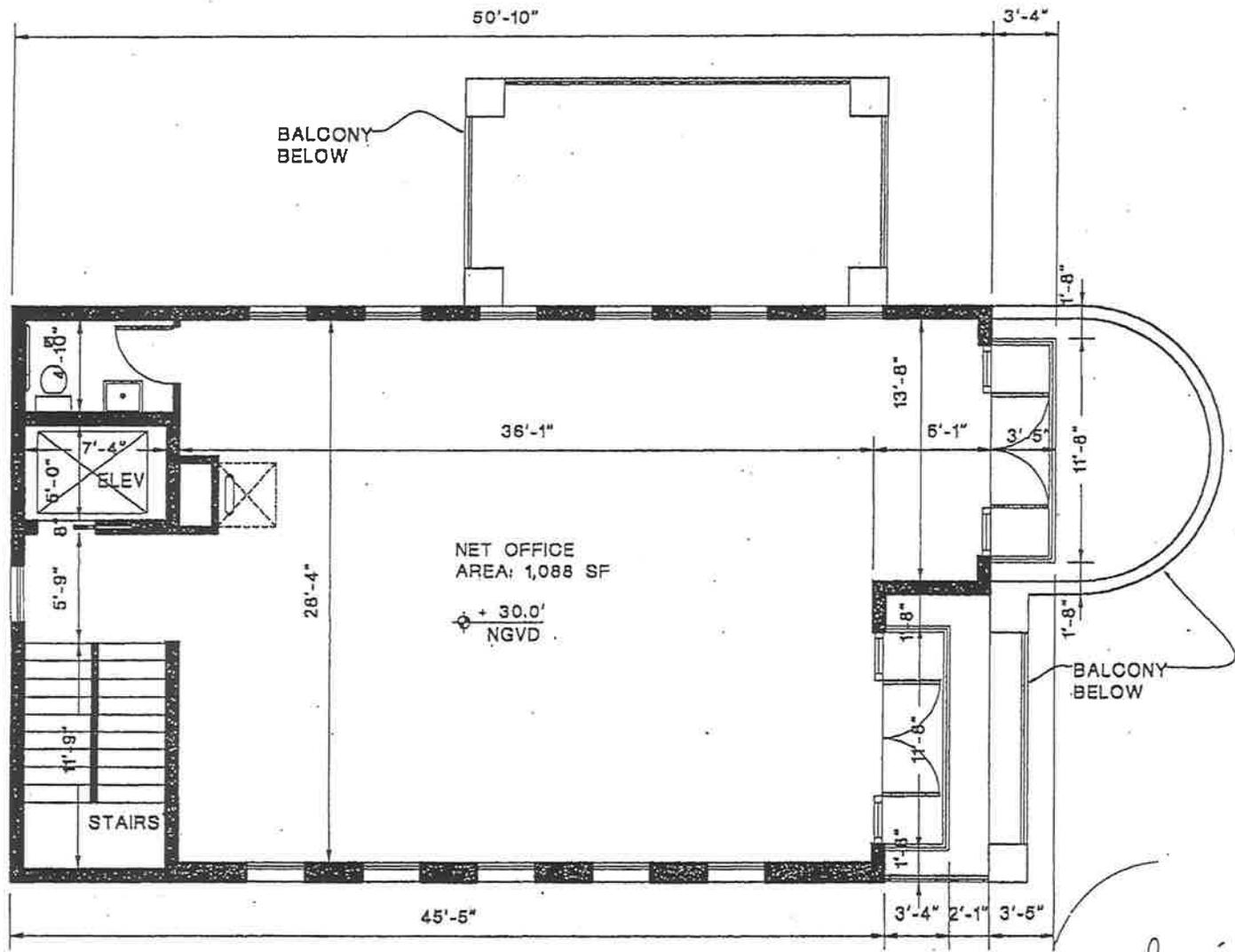
SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"



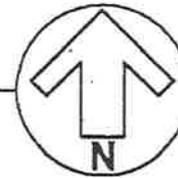
Luis Jauregui
5/17/01

<p>A New Office Building For: ST. MICHAEL PROPERTY HOLDINGS, INC. 100 Crandon Boulevard Village of Key Biscayne</p>		<p>Eastshore Int'l. Corp. 7412-B SW 48 Street Miami, FL 33155 (305) 662-5077</p>	
<p>ISSUE DATE:</p>		<p>05-18-01</p>	
<p>PROJECT NUMBER:</p>		<p>01-10</p>	
<p>SHEET NUMBER</p>		<p>A-4</p>	



THIRD FLOOR PLAN

SCALE: 1/8" = 1'-0"

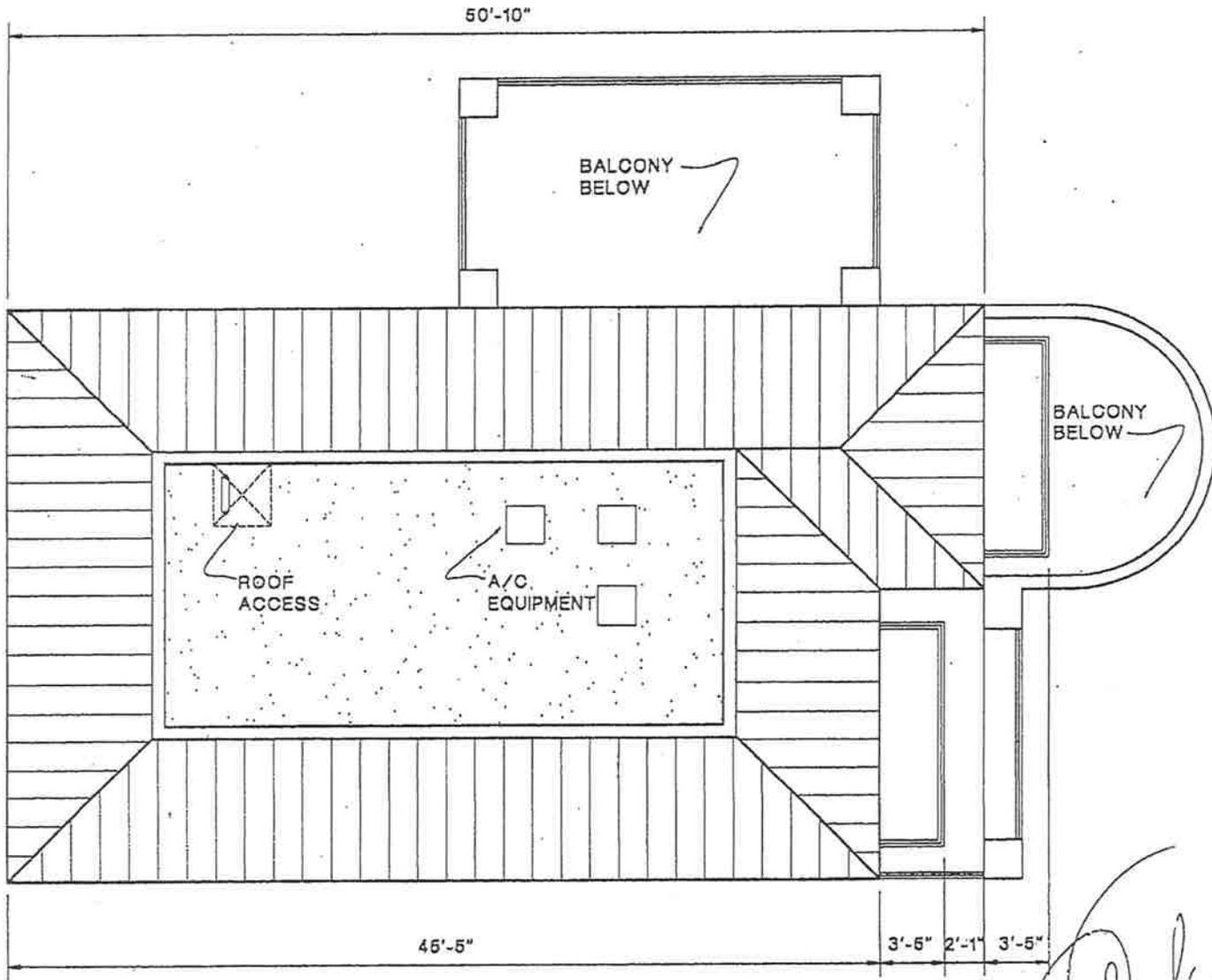


Luis Jauregui
5/17/01

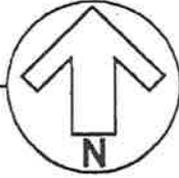
Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	06-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-5

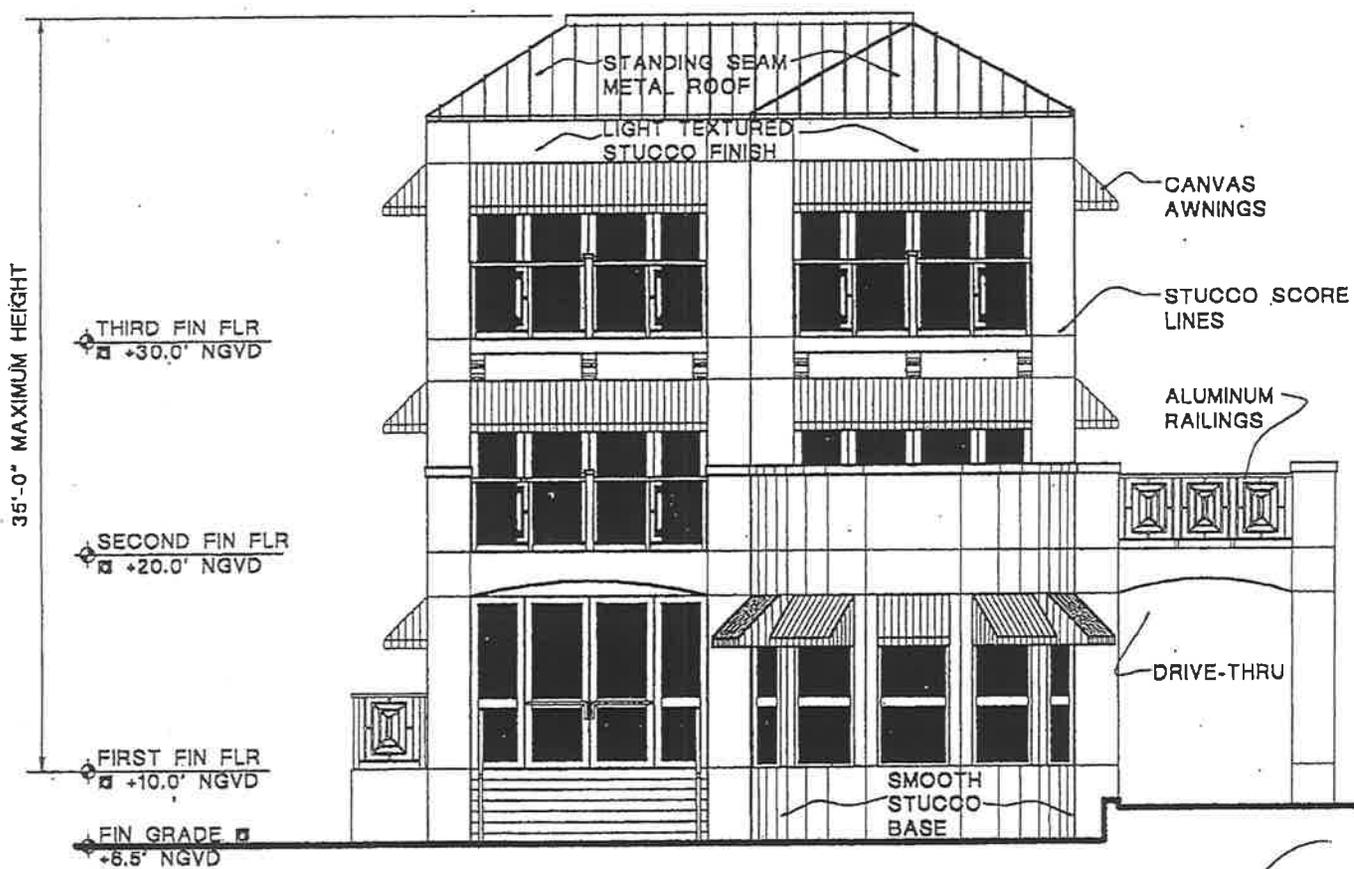


ROOF PLAN
 SCALE: 1/8" = 1'-0"



Luis Jauregui
 5/17/01

Eastshore Int'l, Corp. 7412-B SW 48 Street Miami, FL 33155 (305) 662-5077	
Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101	
A New Office Building For:	
ST. MICHAEL PROPERTY HOLDINGS, INC.	
100 Crandon Boulevard	Village of Key Biscayne
ISSUE DATE:	
05-18-01	
PROJECT NUMBER:	
01-10	
SHEET NUMBER	
A-6	



FRONT (EAST) ELEVATION

SCALE: 1/8" = 1'-0"

Luis Jauregui
5/19/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077

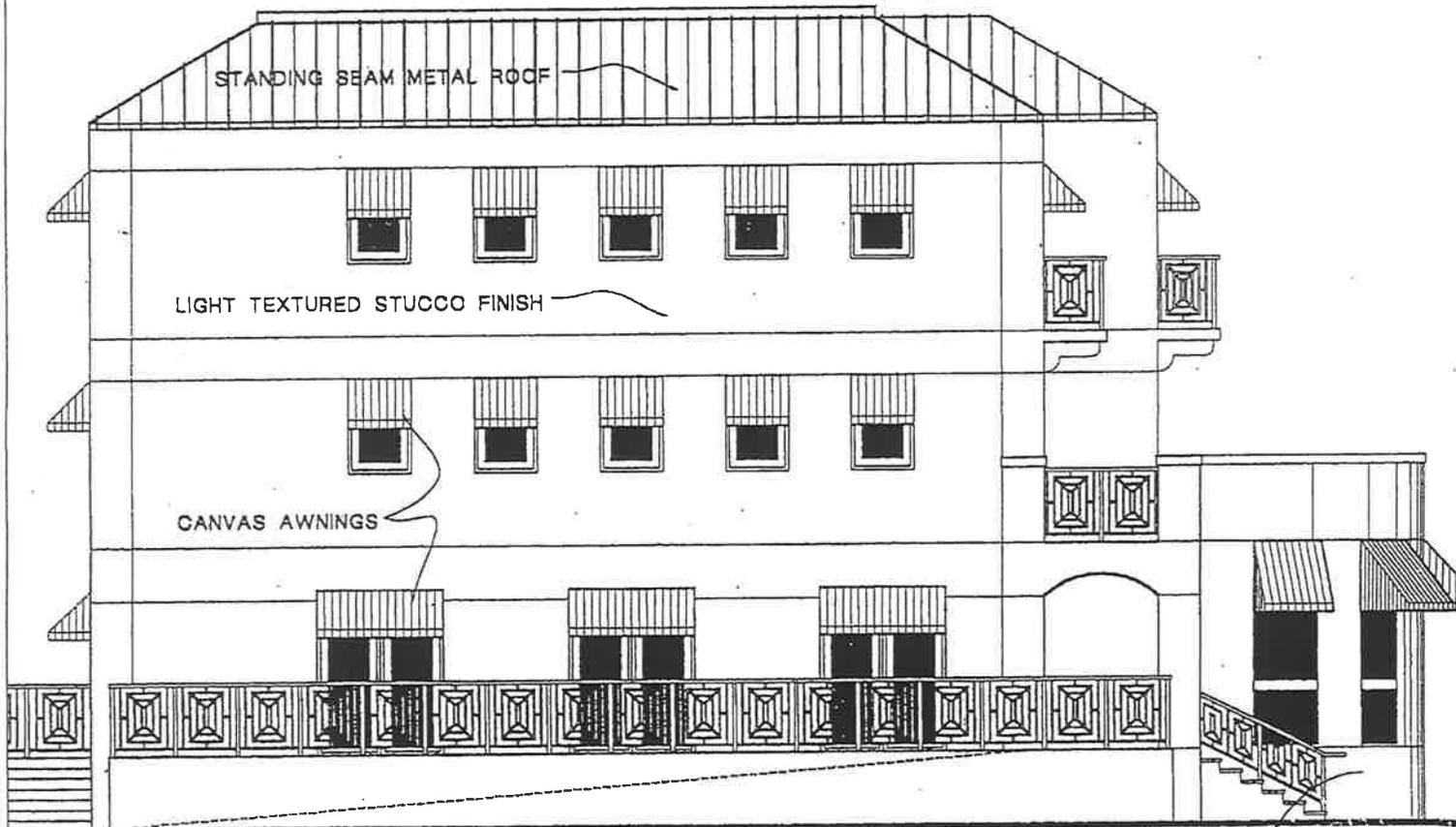
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:

ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	07-18-01
PROJECT NUMBER:	01-30
SHEET NUMBER	A-7



STANDING SEAM METAL ROOF

LIGHT TEXTURED STUCCO FINISH

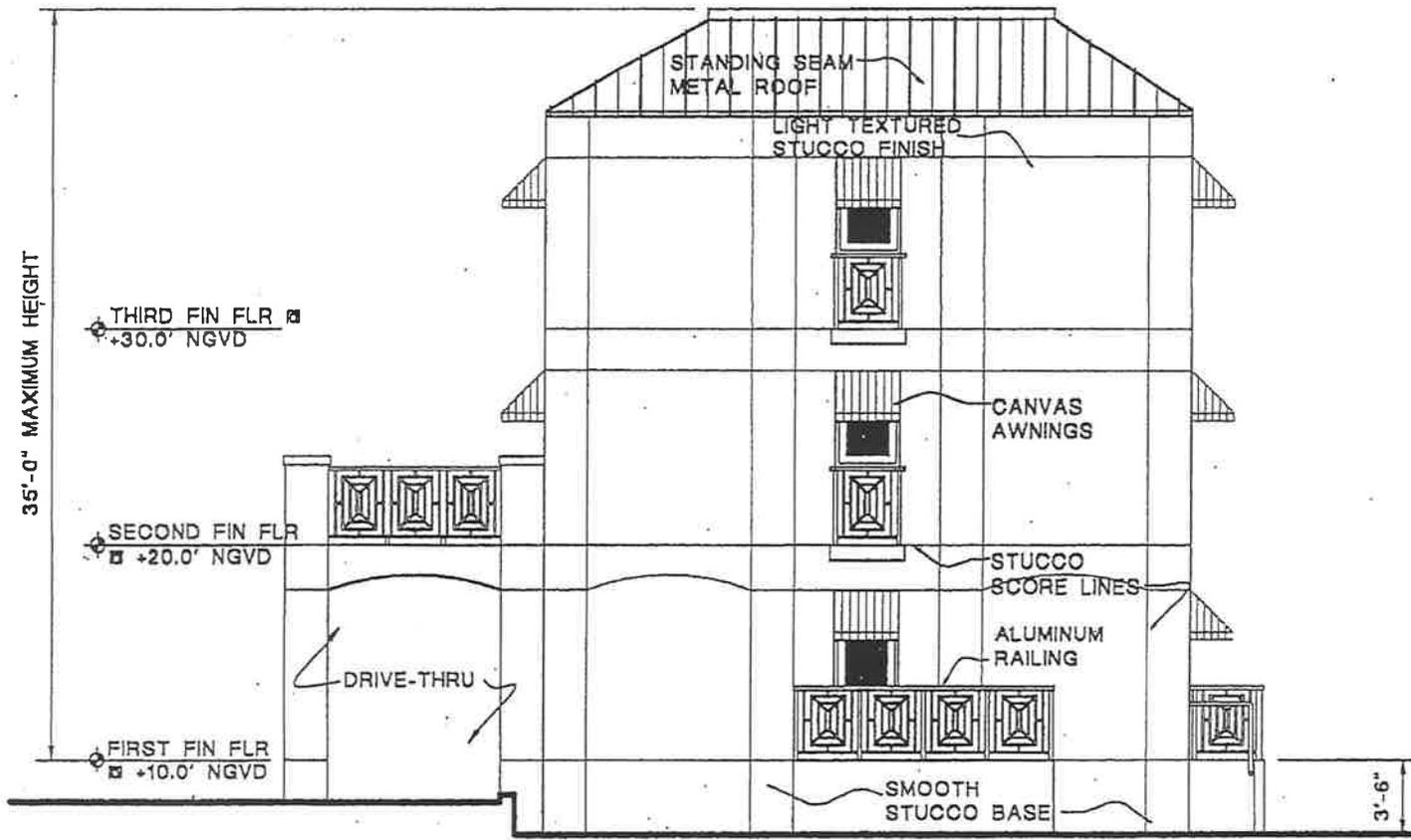
CANVAS AWNINGS

LEFT SIDE (SOUTH) ELEVATION

SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

<p>Eastshore Int'l. Corp. 74-12-B SW 48 Street Miami, FL 33155 (305) 662-5077</p> <p>Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101</p>	
<p>A New Office Building For:</p> <p>ST. MICHAEL PROPERTY HOLDINGS, INC.</p> <p>100 Crandon Boulevard Village of Key Biscayne</p>	
ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-8



REAR (WEST) ELEVATION

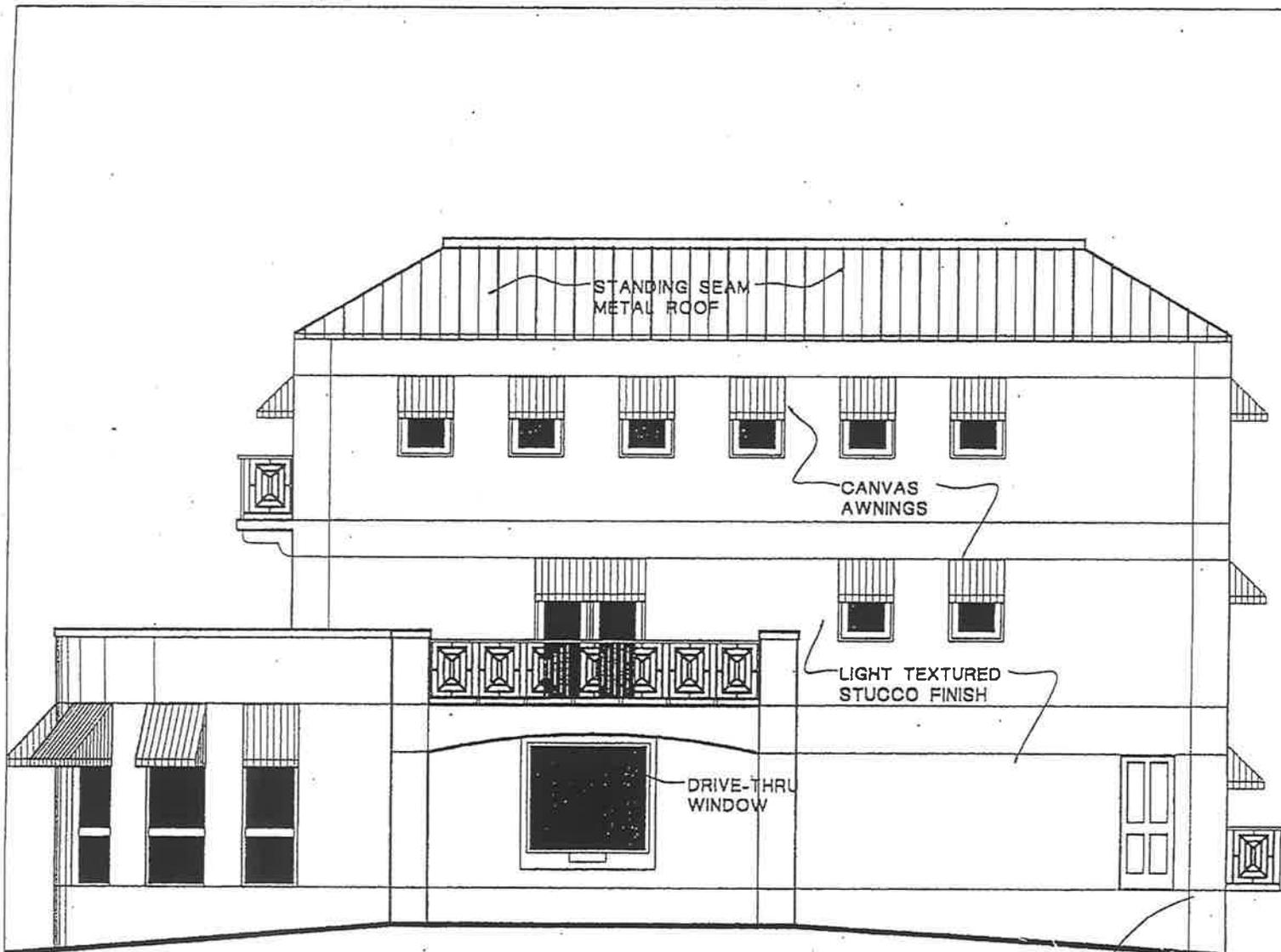
SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

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Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-9



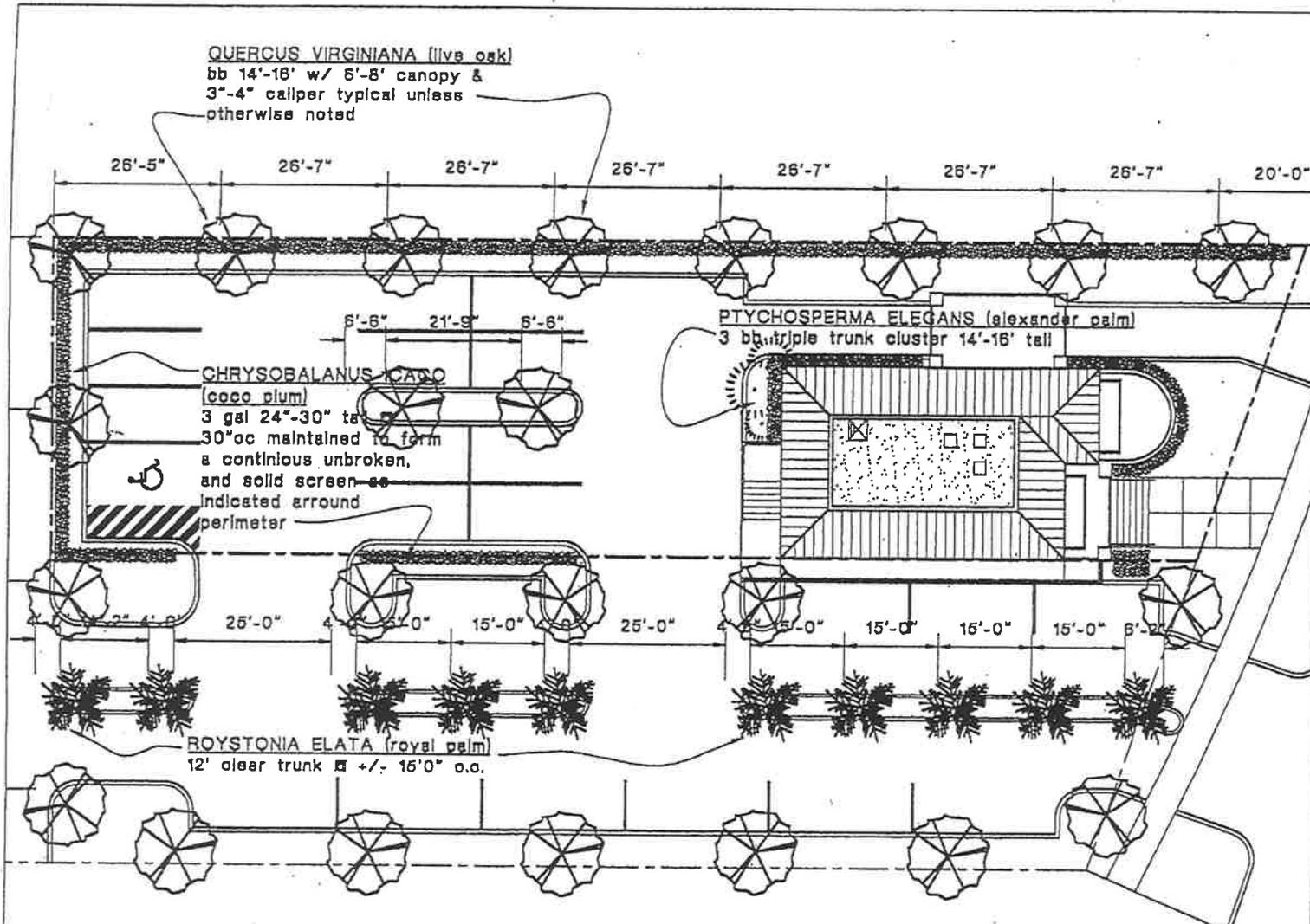
LEFT SIDE (SOUTH) ELEVATION

SCALE: 1/8" = 1'-0"

Eastshore Int'l. Corp.
 74-12-B SW 48 Street
 Miami, FL 33155
 (305) 662-5077
 Luis Jauregui, AR 12124
 Ignacio Zabaleta, AR 12101

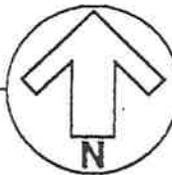
A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
 100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	1-10



LANDSCAPE PLAN

SCALE: NTS



Handwritten signature and date: Luis Jauregui 5/17/01

Eastshore Int'l. Corp. 7412-B SW 48 Street Miami, FL 33155 (305) 662-5077	
ST. MICHAEL PROPERTY HOLDINGS, INC. 100 Crandon Boulevard Village of Key Biscayne	
A New Office Building For:	
Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101	
ISSUE DATE:	05-18-01
PROJECT NUMBER:	07-10
SHEET NUMBER	A-11



Neisen O. Kasdin

Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

May 24, 2013

Via Hand Delivery

Mr. Jud Kurlancheek, AICP
Director, Department of Building, Zoning, and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

Re: Appeal of Administrative Decision Related to Application No. SP-22 and
Application No. CU-04 (Filed March 6, 2013)

Dear Mr. Kurlancheek:

Our firm represents Morgan Property Group ("Applicant") in connection with applications for site plan approval ("Application No. SP-22") for the proposed redevelopment of the property located at 12, 22 & 24 Crandon Boulevard (the "Property") and for conditional use approval ("Application No. CU-04") for a retail package wine and liquor store, which were originally filed with the Village of Key Biscayne on March 6, 2013.

Pursuant to Section 30-70 of the Village of Key Biscayne Code of Ordinances (the "Code"), the Applicant files this appeal of your administrative decision, dated April 26, 2013, in which you assert two fundamental reasons for refusing to process Application No. SP-22 and Application No. CU-04, contrary to applicant's rights to due process and a quasi-judicial hearing under Chapter 30 of the Village's Land Development Regulations for consideration and approval of its proposed development plan for the Property. A copy of the April 26th determination is attached as **Exhibit 1**.

A. BACKGROUND

On March 6, 2013, the Applicant submitted to the Village of Key Biscayne Application No. SP-22 and Application No. CU-04 along with all required application fees and supporting documentation. A copy of the March 6th submittal package is attached as **Exhibit 2**.

On March 20, 2013, you responded with a letter in which you identified several items that you deemed necessary to be provided to your department in order to commence your review of Application No. SP-22 and Application CU-04 ("RAI No. 1"). A copy of RAI No. 1 is attached as **Exhibit 3**.

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On April 8, 2013, before we had a chance to submit our response to RAI No. 1, you provided my office with a second request for additional information, specifically (1) to require that the property located immediately to the west of the Property included in Application No. SP-22 and Application CU-04 – specifically 51 Harbor Drive – be added to the applications and to the site plan itself and that the owner of the property located at 51 Harbor Drive join the applications as a co-applicant, and (2) that the site plan be revised to comply with restrictions set forth in Section 30-101 of the Code related to the maximum square footage of commercial properties (“RAI No. 2”). A copy of RAI No. 2 is attached as **Exhibit 4**.

On April 19, 2013, we submitted a Response to RAI No. 1 and RAI No. 2 (“Applicant’s Response to RAI No. 1 and No. 2”) to provide additional information requested and to address what we believed were requests for information that were unwarranted or unrelated to the completeness of the applications. A copy of Applicant’s Response to RAI No. 1 and No. 2, which includes the most current plan set and supporting documentation, is attached as **Exhibit 5**.

On April 26, 2013, you issued a letter, in which you determined that “two principle and fundamental problems with the application remain unresolved.” Specifically you assert:

From a review of the proposed site plan as well as the proposed cross-access agreement, it is clearly apparent that the owners/developers/tenant intends to use the shopping center at 51/99 Harbor Drive as a principle means of ingress and egress to and from the proposed development. Moreover, the proposed cross access agreement grants the owner of the adjacent property rights and ingress and egress through and across the subject property to and from Crandon Boulevard. If your client intends to utilize adjacent properties as part of the driveway system for the development as a means of ingress and egress to Harbor Drive, the adjacent property must be included as part of the land submitted for site plan approval.

The other significant issue addressed in your letter but not adequately responded to relates to the 10,000 square foot occupancy limitation. It is quite apparent from the site plan and the documentation provided that the proposed Walgreens intends to occupy more than 10,000 square feet within the proposed building. This is precluded by the plain reading of the regulations and requires no special interpretation or examination of the intent of the ordinance. New plan must be modified to reflect occupancy of no greater than 10,000 square feet.

B. APPEAL PURSUANT TO SECTION 30-70 TO PETITION THE VILLAGE COUNCIL TO OVERTURN THE ADMINISTRATIVE DETERMINATION

The purpose of this Appeal is to petition the Village Council to consider the current administrative determination, and to make a ruling overturning the administrative determination:

(1) to permit the applications to move forward without inclusion of the adjoining property at 51/99 Harbor Drive on grounds that: (a) mandatory inclusion of adjacent property in the site plan

application violates Key Biscayne's Code of Ordinances ; and (b) requiring joinder of the adjacent property is unprecedented and constitutes discrimination against this particular applicant; and

(2) to determine that the site plan as presented is in compliance with the 10,000 square feet occupancy limitation because (a) the Walgreens pharmacy and retail package wine and liquor store are two separate stores permitted by the clear language in the Code and neither store is greater than 10,000 square feet, and (b) even if they are treated as one store, the Director's interpretation is inconsistent with the sole prior interpretation of the Code and therefore, constitutes discrimination against this particular applicant.

C. DETAILED GROUNDS FOR APPEAL

(1) The Town Council should overturn the Director's determination and permit the applications to move forward without inclusion of the adjoining property at 51/99 Harbor Drive

(a) Mandatory Inclusion of Adjacent Property in Site Plan Application Violates Key Biscayne Code of Ordinances

Section 30-73(b) of the Code states that site plan review is only required for (i) developments located in certain zones and which include either new construction on a vacant lot (including lots with buildings that have been demolished), or (ii) an addition to an existing structure that increases the square footage by more than 50 percent. Neither of these requirements apply to the adjacent property, located at 51 Harbor Drive. There is no new construction proposed, nor is there a planned addition to any existing structure.¹ The Code does not stipulate that the creation and recordation of an easement requires site plan review.

Courts have long held that zoning laws are subject to "strict construction in favor of the right of the property owner to the unrestricted use of his property." Mandelstam v. City Commission of City of South Miami, 539 So. 2d 1139, 1140 (1988); see also City of Miami Beach v. 100 Lincoln Rd., Inc., 214 So. 2d 39 (1968). Strict construction of an ordinance prohibits courts and other governmental bodies "from inserting words or phrases into municipal ordinances to express intentions that do not appear." Rinker Materials Corp. v. City of North Miami, 286 So. 2d 552 (1973).

The Village's demand that an adjacent parcel, which meets none of the site plan requirements set forth in the Code, be included in a site plan application is an egregious attempt to "insert words or phrases into a municipal ordinance to express intentions that do not appear" and a clear violation of the principal of strict construction.

¹ In fact, the Applicant is actually proposing a reduction in floor area. Specifically, as noted in the application submitted March 6, 2013, the Applicant is proposing to demolish 15,551 square feet of existing restaurant space and replace with 14,558 square feet of pharmacy, storage space, and a retail package wine & liquor store.

The Applicant and owner of 51 Harbor Drive are proposing the creation of a cross-access easement to simply memorialize and protect an existing pattern of use that has provided a means of ingress and egress to both properties for the last four decades. Historic aerial photographs showing the existing cross-access connection are attached as **Exhibit 6**.

Such an easement is commonly recognized by municipalities in Miami-Dade County for legally established cross access between properties to maximize efficiencies and avoid unnecessary vehicular traffic. The principal means of ingress and egress to the Property are the driveways providing access to Crandon Boulevard. The cross-access provided by the interconnected driveway system, which has been used for approximately forty years, does not involve new construction, including any alteration to the existing driveway system, nor an addition to an existing structure. Thus the Village's assertion that the *creation* of a cross access easement requires site plan review violates the provisions of the Village Code as well as the clear judicial mandate that zoning laws be strictly construed, and constitutes a gross overreach of the Village's regulatory power.

(b) Requiring Joinder of Adjacent Property is Unprecedented and Constitutes Discrimination Against This Particular Applicant and Violates Applicant's Equal Protection Rights.

The Village's demand that the Applicant include adjacent property in a site plan application because of cross-access through that property is unprecedented. No similar requirement has been applied to similarly situated applications. In light of the Village's extensively documented interest in acquiring the Property, the Village's demand represents intentional and arbitrarily discriminatory treatment that violates the Applicant's constitutional rights.

Independent research of public records made available by Village staff and consultation with the Assistant Village Attorney has confirmed that the Village has not previously required an applicant to include adjacent property in a site plan application simply because of cross-access provided via that adjacent property. In fact, the Village has approved similarly situated site plans which reference vehicular cross access through an adjacent parcel but do not include that parcel. In 2001, the Village approved a site plan (Resolution No. SP-04) for proposed development at 100 Crandon Boulevard. An integral element of the development was vehicular cross-access through the adjacent parcel, located at 104 Crandon Boulevard. A copy of Resolution No. SP-04 and the plans submitted and approved in connection with the resolution are attached as **Exhibit 7**.

However, the site plan only delineated the 100 Crandon Boulevard property, even though cross-access through 104 Crandon Boulevard was shown on the plans reviewed and approved by the Village Council and staff analysis specifically cited the cross-access as a component necessary to the site's circulation. In addition, the Village Attorney has confirmed that the Village has not previously required that an adjoining property be included as part of a site plan application. A copy of email correspondence from Chad Friedman, Esq., dated May 6, 2013 is attached as **Exhibit 8**.

Given the complete lack of precedent to support the Village's demand, the requirement to include adjacent property in a site plan application represents an arbitrary attempt to enforce a non-existent provision of the Code, thereby discriminating against this particular Applicant. The

United States Supreme Court has affirmed that a property owner may raise an equal protection claim based on the application of a land use regulation. See City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432 (1985). The purpose of the equal protection clause "of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents." Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000). The Supreme Court has also recognized successful equal protection claims brought by a property owner that is a "class of one;" an individual who has been "intentionally treated differently from others similarly situated and that there has been no rational basis for the difference in treatment." Id.; see also City National Bank of Florida v. City of Tampa, 67 So. 2d 293 (2011). Such a claim is cognizable under 42 U.S.C. Section 1983. City National Bank of Florida, 67 So. 2d at 297; see also Primera Iglesia Bautista Hispana of Boca Raton, Inc. v. Broward County, 450 F. 3d 1295 (2006).

The Village's unprecedented decision to require the Applicant to include an adjacent parcel in a site plan application, when similarly situated applications have been accepted *and* approved by the Village Council without the inclusion of adjacent properties, has no rational basis and represents an exercise of intentional and arbitrary discrimination which violates the Applicant's equal protection rights.

Further bolstering the case for intentional and arbitrary discrimination is the fact that the Village's motivation is likely rooted in ill-will towards the Applicant. The Village has made plain its desire to acquire the Applicant's property for use as a public park. The Village Attorney has guided the Council at public meetings on how they can move forward with appraising the Property and ultimately condemning the Property. The Village's Land Acquisition Committee Final Report presented to the Village Council in 2010 clearly recommended that the Village Council take the necessary steps to acquire the Property, advocating for a future park by contemplating a negative image of a suburban Walgreens, painting Walgreens as an unimaginable use and user for the commercially-zoned property. A copy of the Land Acquisition Committee Presentation is attached as Exhibit 9. As recently as earlier this month, the Property owner has documented telephone calls with appraisers hired by the Village in which those appraisers conveyed that the Village Attorneys asserted that the application for the site plan would not be approved and therefore, should not be considered in the appraisals.

Thus the Village and the Applicant's proposed plans for the Property stand in direct contravention to one another. The Supreme Court has noted that an "extra factor" motivating a government decision – described as "ill will," "vindictive action," or "illegitimate animus" – could strengthen an individual's equal protection claim. Olech, 528 U.S. 562 565-66 (Breyer, J. concurrence). Given the Village's long-held desire to acquire the Applicant's property for use as a public park, the unprecedented and arbitrary demand to include an adjacent property in a site plan application may be rooted in the Village's "illegitimate animus" towards the Applicant's proposed development.

The Village's unprecedented and irrational demand to include an adjacent property in a site plan application represents intentional and arbitrary discrimination against the Applicant,

thereby violating their equal protection rights, and subjecting the Village to the costs of the Applicant's attorney's fees for litigating the claim.²

(2) The site plan as presented is in compliance with the 10,000 square feet occupancy limitation

On November 22, 2005, the Village Council adopted Ordinance No. 2005-19, which amended Chapter 30 of the Land Development Regulations to regulate development along Crandon Boulevard. Among other amendments, Ordinance No. 2005-19 amended Section 30-101 to impose certain occupancy limitations on commercial uses in the C-1 district. A copy of Ordinance No. 2005-19 is attached as Exhibit 10.

Sec. 30-101(a)(2) of the Village Zoning and Land Development Regulations was modified to include the following language³:

Main Permitted Uses

...

Commercial Uses

1. Offices: No individual or multiple business entity(ies) that are affiliated can occupy more than 10,000 sq. ft.

Medical Offices shall not exceed 10,000 sq. ft.

2. Retail uses: No individual or multiple business entity(ies) shall occupy more than 10,000 sq. ft.*, except for stores whose principal product is food for consumption off the premises. Antique furniture that is at least 50 years old and the resale of jewelry, art, and furs.

...

² 42 U.S.C. Section 1988(b) provides for an award of attorney's fees to a prevailing party in any action or proceeding to enforce a provision of Section 1983.

³This section has been taken directly from the chart included as Section 3 of Ordinance No. 2005-19. The phrase "that are affiliated" is highlighted because of the relevance of its meaning in the context of its application to the Applicant's site plan.

(a) Site Plan Proposed by the Applicant Includes Two Separate "Stores", each in Compliance with the Limitations set forth in Section 30-101.

Section 30-101(a) restricts individual or multiple business entities from occupying more than 10,000 square feet. The administrative determination asserts that "it is quite apparent from the site plan and the documentation provided that the proposed Walgreens intends to occupy more than 10,000 square feet within the proposed building."

The administrative determination mischaracterizes the site plan as a single use or store. Walgreens is proposed to be the tenant operating a pharmacy *and* a separate retail package wine and liquor store within the same shopping center. The fact that the two stores are proposed to be owned by the same or affiliated entities is not relevant in the applicability of the occupancy limitation. In fact, the clear language of Section 30-101, regulates affiliated entities only in the office context and not in the retail context. Secondly, the occupancy limitation regulates stores. Here the Applicant proposes two separate stores with two separate entrances.

When the language of a statute is clear and unambiguous, [the] "plain and ordinary meaning must control." Daniels v. Fla. Dep't of Health, 898 So.2d 61, 64 (Fla. 2005). Principles of statutory construction apply to interpretation of municipal ordinances. Rinker Materials Corp. v. City of North Miami, 286 So.2d 552, 553-54 (Fla.1973)

The Applicant fully complies with the plain meaning of the occupancy limitations. Section 30-101(a) distinguishes between office and retail uses. Specifically, Section 30-101(a)1. applies the 10,000 square feet limitation to separate businesses in *office* buildings that are "affiliated" while Section 30-110(a)2. specifically excludes the term "affiliated" when regulating retail uses. Section 30-110(a)(2) states that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises."

When read *in pari materia*, it is reasonable to restrict multiple office businesses occupying more than 10,000 square feet where they are affiliated; however, in the retail context, the affiliation between a Walgreens Pharmacy and a Walgreens Retail Package Wine & Liquor Store is unwarranted under the explicit language of the code. In fact, to apply the same restrictions on retail uses as are applied on office uses would be analogous to disregarding the inclusion of the word "affiliated" all together. See DeSisto College, v. Town of Howey-In-The-Hills, 706 F. Supp. 1479 (M.D. Fla. 1989) (requiring that an ordinance be construed by those specific criteria mentioned, excluding from its operation those items not specifically mentioned). Thus, unlike office uses, affiliated retail uses are not evaluated cumulatively for purposes of occupancy limitations unless they are all contained within 1 store.

It is a fundamental canon of statutory construction that all words and provisions must be given effect. Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So.2d 452, 455 (Fla. 1992). Words take meaning based upon their context or association with other words in an ordinance. DeSisto College, 706 F. Supp. at 1495.

The occupancy limitation on retail uses in Section 30-101(a)2. by use of the word "store", applies to individual or multiple business entities operating a single "store". Section 30-110(a)2. states that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises." (emphasis added). This restriction is on stores, not buildings.

The Code does not define the term "store". Where a term or word is not explicitly defined, courts look to the dictionary to establish common ordinary meaning. Perrin v. United States, 444 U.S. 37, 42 (1979); see also Green v. State, 604 So.2d 471, 473 (Fla.1992).

MacMillan's Dictionary defines the word "store" to mean "a place that sells goods". MacMillian Dictionary (2013). Walgreens Pharmacy and Walgreens Retail Package Wine and Liquor Store are two separate stores, each proposing to sell goods. The Applicant is proposing one store (the Walgreens Pharmacy) to consist of 10,000 square feet, with a mezzanine level limited to storage use. As indicated in a letter dated May 31, 2012, the Village Attorney articulates that a mezzanine is excluded from the 10,000 square feet limitation so long as it is used for storage space and otherwise meets the "headroom" and other limitations of the applicable building code. A copy of the May 31, 2012 letter is attached as Exhibit 11. The Applicant is proposing a separate retail package wine and liquor store with separate entrance to consist of 1,930 square feet. Each tenant will have a separate entrance, separate utilities, and there will be no cross access between the stores. The stores will have separate cash registers and will have separate and distinct operating hours. The Village requires a separate conditional use permit for the retail package wine and liquor store, which is not required for the Walgreens Pharmacy.

Because the pharmacy is limited to 10,000 square feet and the retail package wine and liquor store is 1,930 square feet, the proposed site plan is in compliance with the limitations set forth in Section 30-101(a).

(b) Even if the intent was to apply the Ordinance to two separate stores owned by the same entity, Village should be estopped from enforcing this restriction against Walgreens under the theory of selective enforcement because the Village has already interpreted this code provision to allow the expansion of the CVS at 700-726 Crandon Blvd from roughly 14,000 to 18,000 square feet in 2012.

"Zoning regulations should be consistently applied and construed to favor property owners." Town of Longboat Key v. Islandside Property Owners Coalition, LLC, 95 So. 3d 1037 (Fla. 1st DCA 2012) (citing Rinker Materials Corp. v. City of North Miami, 286 So.2d 552, 553-54 (Fla.1973)).

Ordinance No. 2005-19 was adopted in 2005. The only past interpretation of Section 30-110(a)2) involved the approval of the expansion of the CVS Pharmacy at 726 Crandon Boulevard to approximately 18,300 square feet of floor area. On February 21, 2012, the Village issued a final building permit for interior renovation and expansion to adjacent area. A copy of the Building Permit and Application are attached as Exhibit 12. A copy of the certificate of use, issued for the period October 1, 2012 to September 30, 2013 is attached as Exhibit 13.

The Village interpreted Section 30-110(a)(2) to allow a CVS pharmacy to expand to over 18,000 square feet and did not revoke building permits or otherwise reverse its interpretation.

"Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records." Section 119.07(1)(a), F.S. (2013). Failure to provide access to public records is a violation under Chapter 119, Florida Statutes, with serious penalties, including possibly suspension or impeachment, fines, and in some cases even imprisonment. See Section 119.110, F.S. (2013).

The enforcement of an ordinance against one entity without consistent application to other entities similarly situated constitutes selective enforcement. See Ads in Motion--Florida, Inc. v. City of Fort Lauderdale, 429 So.2d 806 (Fla. 4th DCA 1983) (striking down application by City of Ft. Lauderdale of a municipal sign ordinance against one billboard company where the City selectively enforced the sign ordinance against defendant but not against similarly-situated sign owners).

As noted above, disparate treatment may arise to a violation of equal protection. the Supreme Court has recognized successful equal protection claims brought by a property owner that is a "class of one;" an individual who has been "intentionally treated differently from others similarly situated and that there has been no rational basis for the difference in treatment." Olech, 528 U.S. at 564; see also City National Bank of Florida v. City of Tampa, 67 So. 2d 293 (2011). Such a claim is cognizable under 42 U.S.C. Section 1983. City National Bank of Florida, 67 So. 2d at 297; see also Primera Iglesia Bautista Hispana of Boca Raton, Inc. v. Broward County, 450 F. 3d 1295 (2006).

Walgreens is a direct competitor with CVS. CVS was approved for over 18,000 square feet of retail use within a single store. To institute a new interpretation that prohibits Walgreens from enjoying the same rights as CVS would impose an unfair burden on the Applicant in a manner not imposed on other similarly-situated entities.⁴

To that end, our firm has tried to obtain documents and correspondence related to the decision to issue permits to allow the CVS expansion but unfortunately, the records that would reveal the facts behind the decision were not provided to us. Our firm submitted a public records request pursuant to Chapter 119, Florida Statutes, to the Village Clerk on May 9, 2013 for all records (including email correspondence) related to issuance of permits for the property located at 700-726 Crandon Boulevard between the years 2005 and 2013. On May 17, 2013, a CD was provided to my associate, Steven Wernick, Esq., containing what you asserted were all correspondence files retrieved in response to our request. After review of the voluminous data contained on the CD, there were no files contained prior to the end of 2011, and well more than 90% of the files were entirely irrelevant and nonresponsive to the request. As of the date of this Appeal, we have not been provided relevant files between the years 2005 and 2011.

⁴ If the Village approved the CVS expansion on the basis that it met the exception to the 10,000 square foot occupancy limitation under Section 30-101(a) for stores whose principal product is food for consumption off the premises, this exception should also be applicable to the Walgreens Pharmacy, which will contain as much or more food for consumption off the premises.

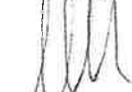
D. Request for Hearing

The Applicant originally submitted these applications on March 6, 2013 with the intention that the item could be reviewed by staff and scheduled for a hearing on the April 23, 2013 Village Council agenda. We believed wholeheartedly that the April 19th response satisfied all of the comments related to “completeness” set forth in RAI No. 1 and RAI No. 2. However, the administrative determination dated April 26, 2013 has prevented the Applicant from even having its plans considered as a complete application.

The Applicant has previously provided all of the necessary information set forth in Section 30-72 and Section 30-73 of the Village Code to warrant the review and consideration of this Application by staff and ultimately the Village Council. However, because of roadblocks created by Village staff, the Applicant is forced to file this Appeal to the Village Council, to pay additional significant sums of money to bring the Appeal to the Village Council for consideration, and all in an attempt to merely be allowed to walk in the door for actual review of site plan and conditional use applications. The Village's disparate treatment of this Applicant has caused this Applicant great hardship and significant delays and additional expenses to seek the ability to develop the Property.

In order not to delay the process any further, we insist that this Appeal be scheduled for consideration by the Village Council on the June 26, 2013 agenda. Section 30-68 of the Code requires publication of notice no less than ten (10) days prior to the public meeting. Based on the filing of this Appeal today May 24, 2013, the Village has sufficient time to schedule the item for the Village Council meeting of June 26, 2013. If schedules do not permit, then we request that the Appeal be scheduled for consideration as soon as possible.

Sincerely,



Neisen O. Kasdin

Enclosures

cc: Conchita Alvarez, Village Clerk
Stephen Helfman, Esq., Village Attorney
Chad Friedman, Esq., Assistant Village Attorney
Steven Wernick, Esq., Akerman Senterfitt
Max Puyanich, Key Biscayne Gateway Partners, Ltd.
Trey Morgan, Morgan Property Group



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning
88 West McIntyre Street, Suite 250 Key Biscayne, FL 33149
Phone (305) 365-5512 Fax (305) 365-5556
www.keybiscayne.fl.gov

PLANNING AND ZONING APPLICATION

Date Filed: _____

File #: _____
(to be completed by Staff)

1. REQUEST FOR:

- () SUPERVISORY VARIANCE
() ADMINISTRATIVE VARIANCE
() REGULATORY VARIANCE
(x) APPEAL OF AN ADMINISTRATIVE DECISION
() SITE PLAN APPROVAL
() UNUSUAL USE
() OTHER
() AMENDMENT TO ZONING ORDINANCE
() SPECIAL EXCEPTION
() AMENDMENT TO THE COMPREHENSIVE PLAN
() ZONING DISTRICT CHANGE

Explain your request:

Appeal of Director Kurlancheek's administrative decision, dated April 26, 2013, denying acceptance of site plan and conditional use applications (SP-22; CU-04) on stated basis that (1) adjoining property at 51/99 Harbor Drive must be included in the applications, and (2) site plan exceeds 10,000 sq.ft. occupancy limitation.

2. Street Address of Property: 12, 22, & 24 Crandon Boulevard

Legal Description: Lot(s) _____ Block _____

Subdivision: Matheson Estates

3. Name of Applicant: Morgan Property Group

Mailing Address of Applicant: c/o Neisen O. Kasdin, Esq.

1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Business Telephone: (305) 982.5629 Home Telephone: _____

Fax: (305) 374.5095 Email: neisen.kasdin@akerman.com

Mission Statement: "TO PROVIDE A SAFE, QUALITY ENVIRONMENT FOR ALL ISLANDERS THROUGH RESPONSIBLE GOVERNMENT"

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Fax: (305)365.0800 Email: maxp@commodorerealty.com

5. Contact Person: Name Neisen O. Kasdin, Esq.

Address 1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Telephone: (305) 982.5629 Fax: (305)374.5095

6. Name/address of anyone else who should receive notice of the hearing?

Max D. Puyanik, Key Biscayne Gateway Partners, LTD, 30 West Mashta Drive,
Suite 400, Key Biscayne, FL 33149

7. If applicant is owner, indicate date purchased: N/A

8. If applicant is lessee, indicate date leased N/A Years

9. Is there an option to purchase the property? Yes () No (x)

10. Is the request the result of a violation notice? NO If yes, attach a copy of the violation.

11. Existing use of property Restaurant. If residential, how many apartments ?

hotel units ? If commercial, how many sq. ft. in your space 15,551?

Single family home? Yes () No (x)

12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

Selective Enforcement and Inconsistency with Village Land Development Regulations
Pursuant to Chapter 30. [See enclosed letter for detailed grounds of appeal]

13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:

- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

N/A

b. Is compatible with the surrounding land uses and would not be detrimental to the community.

N/A

14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.
15. All supporting data and exhibits submitted with this application become a permanent part of the public records.
16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at (305) 365-5506.

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The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date Name (Type or Print) Address Signature

ADMINISTRATIVE VARIANCES ONLY

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Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature

If you need additional signatures please use the above format.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant:  Date 5/23/13

Signature of Owner: _____ Date _____

Application Received by: _____ Date _____

Approved by: _____ Date _____

Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

If you need additional signatures please use the above format.

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Signature of Applicant: _____ Date _____

Signature of Owner: M. O. R. _____ Date 5/24/13

Application Received by: _____ Date _____

Approved by: _____ Date _____

AFFIDAVITS

Complete one or more of the following that relates to your request.

Developer for Tenant

Affidavit (If tenant is applicant then owner must sign owner/power of attorney affidavit)

I, George A. Morgan III, being first duly sworn, depose and say that I am the Developer for Tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

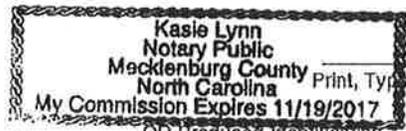
I, George A. Morgan III, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA North Carolina
COUNTY OF MIAMI-DADE Mecklenburg

[Signature]
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this 23 day of May 2017 by George A. Morgan III
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida NC



Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit

I, _____, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, _____, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this _____ day of _____, by _____
Name of person making statement

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Owner/Power of Attorney Affidavit

I, Max D. Puyanik, being duly sworn, depose and say that I am the owner of the described real property and that I am aware of the nature and effect the request for: _____

APPEAL OF ADMINISTRATIVE DECISION

relative to my property, which is hereby made by me OR I am here by authorizing NEISEN O. KASDIN, ESQ. to be my legal representative before the Village Council.

I, MAX D. PUYANIC, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

m/d/r

Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this 24th day of May, 2013, by Max D. Puyanik.
Name of person making statement

C. Ridge

Signature of Notary Public, State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____

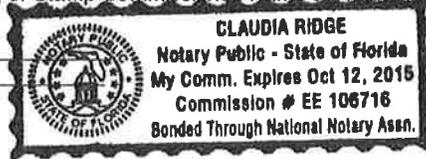


EXHIBIT 1



Neisen O. Kasdin

Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

March 6, 2013

VIA HAND DELIVERY

Mr. Jud Kurlancheek; AICP
Director, Department of Building, Zoning, and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

Re: Letter of Intent -- Walgreens / Application for Site Plan and Conditional Use for Retail Package Wine and Liquor Store

Dear Mr. Kurlancheek:

On behalf of Morgan Property Group (the "Applicant"), and with the consent of Key Biscayne Gateway Partners, Ltd., the owner of the subject property, we submit the enclosed Site Plan and Conditional Use applications and supporting materials for the proposed redevelopment of the property located at 12, 22 & 24 Crandon Boulevard (the "Property"), which will include a Walgreens Pharmacy and a retail package wine and liquor store (the "Project"). The Property is located in the C-1 Light Intensity Commercial Zoning District and has a Commercial Future Land Use designation.

The Property is currently occupied by a 3,745 square foot building formerly used as the La Carreta restaurant and a 10,816 square foot commercial building that previously housed the Stefano's restaurant and nightclub. As part of the Project, the Applicant plans to demolish the existing structures and construct the new improvements in a manner that enhances the visual character of the Property and further integrates the site with the surrounding area.

The Applicant is redeveloping the Property with a development plan that is consistent with the Village Development Standards and which will reduce the overall intensity currently existing on the Property. Further, the Project will satisfy a need for additional drug store space, as highlighted in the Village of Key Biscayne Master Plan. Specifically, Section C (Key Biscayne Retail Analysis) of the Master Plan indicates that 29,000 square feet of drug store space "will be needed in 2013 under a moderate population growth scenario" and "it is desirable to have two facilities." This demand continues as the local CVS experiences significant daily

akerman.com

BOCA RATON DALLAS DENVER FORT LAUDERDALE JACKSONVILLE LAS VEGAS LOS ANGELES MADISON MIAMI NAPLES
NEW YORK ORLANDO PALM BEACH SALT LAKE CITY TALLAHASSEE TAMPA TYSONS CORNER WASHINGTON, D.C.
WEST PALM BEACH

{25919506;2}

customer traffic.

Site Plan Application

The Applicant respectfully requests approval of a site plan application to develop a new Walgreens pharmacy and drug store at 12, 22 & 24 Crandon Boulevard. The proposed building will contain a 10,000 square foot pharmacy on the first floor level, and an upper-level mezzanine totaling 2,628 square feet. As part of a separate application, the Applicant is also requesting approval of an adjacent retail package wine and liquor store totaling 1,930 square feet.

The Project satisfies the criteria for Site Plan Approval in the Village's Land Development Regulations for the following reasons:

Natural environment. The Applicant will provide additional landscape features to enhance architectural features, and to relate structural design to the site. Wherever possible, existing vegetation is being preserved, especially the trees along the north and the larger trees along the west boundary of the project. These larger trees are being supplemented with smaller, flowering trees, both native and exotic. Elsewhere on the site, a mix of larger flowering trees and native canopy trees will provide shade in the parking areas and year-round colorful accents.

Open space. The Project provides passive open spaces arranged to enhance internal spatial relationships between the proposed structure and future structure, to provide buffers between the Project and adjacent uses, and facilitate pedestrian movement within the Property.

Circulation and Parking. Vehicular and pedestrian access to the site are provided through two entrances on Crandon Boulevard. The main entrance on Crandon Boulevard will service the main building and provide easy access to the primary parking area and store entrances. On the northern side of the Property, service vehicles will have one-way access to the parking and loading areas on the western side of the proposed building. The circulation pattern connects the entire parking lot so vehicles entering on the northern side of the Property will have access to the primary parking area located to the west and south of the main building. Additional ingress and egress will be provided through a cross access easement with the neighboring property to the immediate west, thereby providing access from the Property to Harbor Drive.

The land development regulations require a minimum of 56 parking spaces. The Applicant, however, proposes 57 spaces. The site plan proposes to introduce 52 standard spaces, 3 ADA compliant spaces, and 2 spaces dedicated to golf cart use. All entrances to the parking lot lead to the proposed development and will be used to serve patrons of the Walgreens and the other proposed commercial building.

Emergency access will be provided from the main entrance on Crandon Drive.

Building and other Structures. The Land Development Regulations require a 10 foot front setback, 0 foot rear setback, and 30 foot side setbacks from the property line. The Project meets or exceeds these minimum requirements, providing adequate buffers from surrounding properties. Specifically, the plan contemplates a 10 foot front setback, 48.4 foot rear setback, 18.3 foot side setback from the north property line, and 141.2 foot side setback from the adjacent parcel to the south.

As shown on the elevations and rendering for the Project, the proposed building is harmonious to the terrain and the surrounding neighborhood and will be a significant enhancement to this prominent location. The site plan as presented in the enclosed application meets all land development regulations. The Applicant implements finishes that create compatible visual relationships to other existing structures in the Village. The primary materials used are concrete, natural Florida keystone, and stucco. Further architectural detailing is used to enhance the building's articulation. For example, decorative lighting is placed at the building's two entrances, and ornamental louvers line portions of the building's second mezzanine level. Additionally, a metal standing seam roof adorns the mezzanine's roof, providing an architectural element that is compatible with the Florida Vernacular style found elsewhere in the Village.

As noted on the enclosed site plan, the redevelopment of the Property will include a site for a future commercial building; however the future commercial building is not part of the current site plan application.

Conditional Use Application

The Applicant also proposes a 1,930 square foot package wine and liquor store to allow the sale of packaged alcoholic beverages adjacent to the Walgreens Pharmacy. This application satisfies the criteria provided in Section 30-72 of the Village's Land Development Regulations for the following reasons:

- (1) The Conditional Use is consistent with the Comprehensive Plan because the Property is designated commercial, which allows for general commercial and business uses.
- (2) The configuration and design of the site will facilitate safe movement of vehicular and pedestrian traffic, both internal to the use and upon the adjacent roadways that will serve the use. Vehicular access to the site is provided through two entrances from Crandon Boulevard. On the northern side of the Property, vehicles will have one-way access to the parking and loading areas on the western side of the proposed building. The circulation pattern connects the entire parking lot so vehicles entering on the northern side of the Property will have access to the

primary parking area located to the west and south of the main building. Further south, the second entrance on Crandon Boulevard will service the main building and provide easy access to the primary parking area and store entrances. The cross access easement with the shopping center to the immediate west will permit patrons of both properties to safely access them without having to travel down Crandon Boulevard or Harbor Drive.

- (3) The proposed use is consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use because it is currently located in a commercially-zoned property along the Crandon Boulevard corridor. The redevelopment of the commercial area will enhance the existing site by decreasing the property's existing intensity and increasing the amount of landscaping and open space and providing an architectural design which is consistent with the Village's overall appearance.
- (4) There are adequate Setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust or other potential nuisances. Specifically, in addition to significant landscaped buffering, the plan contemplates a 10 foot front setback, 48.4 foot rear setback, 18.3 foot north side setback, and 141.2 foot south side setback.
- (5) The application of the use at the subject location is consistent with the purpose of the underlying commercial zoning district, which allows for general commercial and business uses.
- (6) The proposed package store will have minimal adverse impacts upon neighboring properties; particularly, the main vehicular entrance to the package store will be located along Crandon Boulevard, a main thoroughfare. The physical entrance to the package store is significantly set back nearly 140 feet from the southern property line; further, sufficient landscaping along the Property's borders will minimize the effects of noise, traffic patterns, and glare from exterior lighting or headlights on nearby residential properties.
- (7) Because Walgreens is a national chain that operates many package liquor stores throughout the country, the Applicant has implemented many crime-reducing strategies in its operational plans for other similar stores, and will provide the same for the proposed Project. Specifically, the Applicant will ensure adequate measures are in place to minimize the amount and degree of law enforcement activities that could reasonably be anticipated to be generated by the proposed package store, both outside and inside, with particular emphasis upon noise, vehicular use by patrons, and vandalism.

- (8) The proposed package store makes adequate provision for the elimination of the potential for adverse impact upon adjacent residential areas from hazardous or illegal overflow parking. The proposed store contains more parking than required by the land development regulations. Further, there are no residential areas abutting the Property that may be affected by overflow parking. Indeed, Harbor Drive and Crandon Drive buffer the nearest residential areas and will deter and virtually eliminate the possibility of illegal parking in residential areas; crossing these streets will inconvenience store patrons choosing to park outside the designated lot.
- (9) The proposed package store is located in the general vicinity of a few schools and places of worship in the Village. Specifically, St. Christopher's by the Sea Episcopal Church and Montessori School, at 95 Harbor Drive, is approximately 150 feet from the Property. St. Agnes Catholic Church, at 100 Harbor Drive is approximately 400 feet from the Property. Key Biscayne Presbyterian Church, 160 Harbor Drive, is approximately 1,330 feet from the Property. The Pankey Institute, at 1 Crandon Drive, is approximately 70 feet from the Property. However, the site plan provides adequate buffers through parking and heavily landscaped areas around the perimeter of the Property. Further, vehicles access to the package store is primarily limited to Crandon Boulevard, which is a major thoroughfare and provides an adequate buffer from properties across the street.

Conclusion

The Applicant is confident that this proposed redevelopment of the Property will be a welcomed addition to Key Biscayne which will enhance this area's aesthetics and provide new retail options for Key residents.

The Applicant hereby submits and respectfully requests approval of the Site Plan Application pursuant to Section 30-73 of the Village's Land Development Regulations and approval of the Conditional Use Application pursuant to Section 30-72(c) of the Village's Land Development Regulations. Please do not hesitate to contact me at 305.374.5600 should you have any questions related to this matter. Thank you very much for your consideration.

Sincerely,



Neisen O. Kasdin

Enclosures



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning
88 West McIntyre Street, Suite 250 Key Biscayne, FL 33149
Phone (305) 365-5512 Fax (305) 365-5556
www.keybiscayne.fl.gov

PLANNING AND ZONING APPLICATION

Date Filed: 3-6-13

File #: SP-22
(to be completed by Staff)

1. REQUEST FOR:

- () SUPERVISORY VARIANCE
() ADMINISTRATIVE VARIANCE
() REGULATORY VARIANCE
() APPEAL OF AN ADMINISTRATIVE DECISION
(x) SITE PLAN APPROVAL
() UNUSUAL USE
() OTHER
() AMENDMENT TO ZONING ORDINANCE
() SPECIAL EXCEPTION
() AMENDMENT TO THE COMPREHENSIVE PLAN
() ZONING DISTRICT CHANGE

Explain your request:

Site plan approval for a 10,000 sf pharmacy with a 2,628 sf mezzanine, 1,930 sf liquor store and a future building.

2. Street Address of Property: 12, 22, & 24 Crandon Boulevard

Legal Description: Lot(s) Block

Subdivision: Matheson Estates

3. Name of Applicant: Morgan Property Group

Mailing Address of Applicant: c/o Neisen O. Kasdin, Esq.

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Business Telephone: (305) 982.5629 Home Telephone:

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Fax: (305) 365.0800 Email: maxp@commodorerealty.com

5. Contact Person: Name Neisen O. Kasdin; Esq.

Address 1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Telephone: (305) 982.5629 Fax: (305) 374.5095

6. Name/address of anyone else who should receive notice of the hearing?

Max D. Puyanico, Key Biscayne Gateway Partners, LTD, 30 W. Mashta Dr., Suite 400, Key Biscayne, FL 33149
Mario Garcia-Serra, Esq., Greenberg Traurig, PA, 333 S.E. 2nd Avenue, Miami, FL 33131

7. If applicant is owner, indicate date purchased: _____

8. If applicant is lessee, indicate date leased _____ Years _____

9. Is there an option to purchase the property? Yes () No (x)

10. Is the request the result of a violation notice? NO If yes, attach a copy of the violation.

11. Existing use of property Restaurant. If residential, how many apartments _____?

hotel units _____? If commercial, how many sq. ft. in your space 15,551 _____?

Single family home? Yes () No (x)

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- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

N/A

-
- b. Is compatible with the surrounding land uses and would not be detrimental to the community.

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The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for and Administrative Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

If you need additional signatures please use the above format.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant: _____ Date 3/6/13

Signature of Owner: WJL _____ Date _____

Application Received by: Ⓢ as president of Capital Builders _____ Date 3-6-13

Approved by: _____ Date _____

AFFIDAVITS

Complete one or more of the following that relates to your request.

Tenant or Owner Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, _____, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, _____, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Signature of Applicant

Sworn to (or affirmed) and subscribed before me this
____ day of _____, by _____
Name of person making statement

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit

General Partner of the aforesaid limited partnership
I, Max D. Puyanic, being first duly sworn, depose and say that ~~we are~~ ^{I am} the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing. ~~limited partnership~~

~~limited partnership~~
I, Max D. Puyanic, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

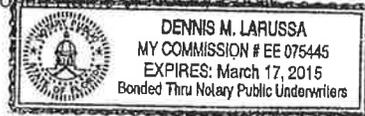
WDB
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
6th day of March 2013, by MAX D. PUYANIC
Name of person making statement

Dennis M. Larussa
Signature of Notary Public - State of Florida

Dennis M. Larussa
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification NIA
Type of Identification Produced NIA - Known



President of the General Partner of
the Limited Partnership which owns

Owner/Power of Attorney Affidavit

I, Max D. Puyanic, being duly sworn, depose and say that I am the owner of the described real property and that I am aware of the nature and effect the request for: Site plan approval

relative to my property, which is hereby made by me OR I am here by authorizing Neisen Kasdin to be my legal representative before the Village Council.

I, Max D. Puyanic, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

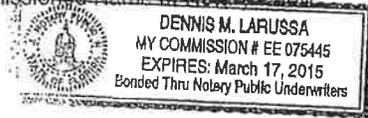
[Signature]
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
6th day of March 2013, by MAX D. PUYANIC
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida
Dennis M. LaRussa

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification N/A
Type of Identification Produced N/A - Known





VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning
88 West McIntyre Street, Suite 250 Key Biscayne, FL 33149
Phone (305) 365-5512 Fax (305) 365-5556
www.keybiscayne.fl.gov

PLANNING AND ZONING APPLICATION

Date Filed: 3-6-13

File #: CU-04
(to be completed by Staff)

1. REQUEST FOR:

- () SUPERVISORY VARIANCE
() ADMINISTRATIVE VARIANCE
() REGULATORY VARIANCE
() APPEAL OF AN ADMINISTRATIVE DECISION
() SITE PLAN APPROVAL
() UNUSUAL USE
(x) OTHER Conditional Use
() AMENDMENT TO ZONING ORDINANCE
() SPECIAL EXCEPTION
() AMENDMENT TO THE COMPREHENSIVE PLAN
() ZONING DISTRICT CHANGE

Explain your request:

Conditional use approval for a 1,930 sf liquor store.

2. Street Address of Property: 12, 22, & 24 Crandon Boulevard

Legal Description: Lot(s) Block

Subdivision: Matheson Estates

3. Name of Applicant: Morgan Property Group

Mailing Address of Applicant: c/o Neisen O. Kasdin, Esq.

1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Business Telephone: (305) 982.5629 Home Telephone:

Fax: (305) 374.5095 Email: neisen.kasdin@akerman.com

Mission Statement: "TO PROVIDE A SAFE, QUALITY ENVIRONMENT FOR ALL ISLANDERS THROUGH RESPONSIBLE GOVERNMENT"

4. Name of Property Owner if Different from Applicant: Key Biscayne Gateway Partners, LTD

Address of Property Owner if Different from Applicant: 30 West Mashta Drive, Suite 400
Key Biscayne, FL 33149

Business Telephone: (305)365.2600 Home Telephone: (305)710.9289

Fax: (305)365.0800 Email: maxp@commodorerealty.com

5. Contact Person: Name Neisen O. Kasdin, Esq.

Address 1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Telephone: (305)982.5629 Fax: (305)374.5095

6. Name/address of anyone else who should receive notice of the hearing?

Max D. Puyanic, Key Biscayne Gateway Partners, LTD, 30 W. Mashta Dr., Suite 400, Key Biscayne, FL 33149
Mario Garcia-Serra, Esq., Greenberg Traurig, PA, 333 S.E. 2nd Avenue, Miami, FL 33131

7. If applicant is owner, indicate date purchased: _____

8. If applicant is lessee, indicate date leased _____ Years _____

9. Is there an option to purchase the property? Yes () No (x)

10. Is the request the result of a violation notice? NO If yes, attach a copy of the violation.

11. Existing use of property Restaurant. If residential, how many apartments _____?

hotel units _____? If commercial, how many sq. ft. in your space 15,551?

Single family home? Yes () No (x)

12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

N/A

13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:

- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

N/A

SUPERVISORY VARIANCES ONLY

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

ADMINISTRATIVE VARIANCES ONLY

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for and Administrative Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date Name (Type or Print) Address Signature

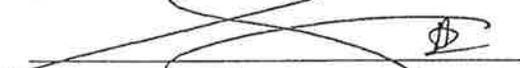
Date Name (Type or Print) Address Signature

Date Name (Type or Print) Address Signature

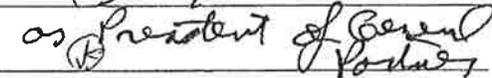
If you need additional signatures please use the above format.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant:  Date 3/6/13

Signature of Owner:  Date _____

Application Received by:  as President of General Products Date 3-6-13

Approved by: _____ Date _____

AFFIDAVITS

Complete one or more of the following that relates to your request.

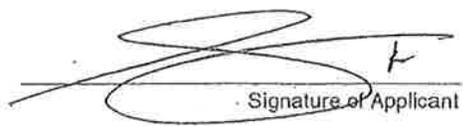
Developer for Tenant

~~Developer for Tenant~~ Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

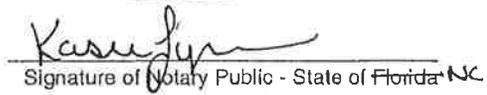
I, Morgan Property Group, being first duly sworn, depose and say that I am the ~~Developer for Tenant~~ of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, Morgan Property Group, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF ~~FLORIDA~~ North Carolina
COUNTY OF ~~MIAMI-DADE~~ mecklenburg

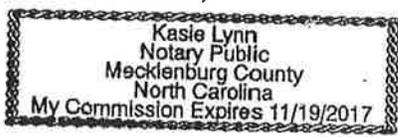

Signature of Applicant

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III
Name of person making statement


Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____

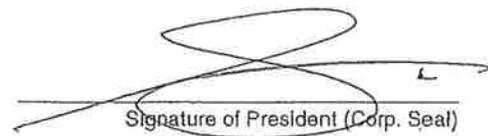


Corporation Affidavit

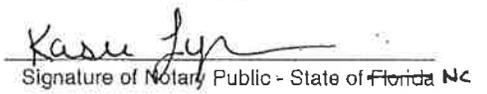
I, George A. Morgan III, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, George A. Morgan III, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF ~~FLORIDA~~ North Carolina
COUNTY OF ~~MIAMI-DADE~~ mecklenburg

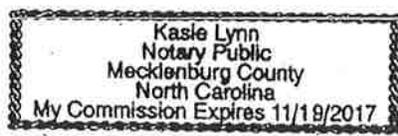

Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III
Name of person making statement


Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____



AFFIDAVITS

Complete one or more of the following that relates to your request.

Tenant or Owner Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, _____, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, _____, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Signature of Applicant

Sworn to (or affirmed) and subscribed before me this
____ day of _____, by _____
Name of person making statement

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit

General Partner of the aforesaid limited partnership

I, Max D. Puyanic, being first duly sworn, depose and say that ^{I am} ~~we are~~ the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing. ~~limited partnership~~
limited partnership

I, Max D. Puyanic, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

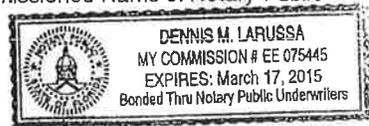
M(DP)
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
6th day of March 2013, by MAX D. PUYANIC
Name of person making statement

Dennis M. Larussa
Signature of Notary Public - State of Florida

Dennis M. Larussa
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification N/A
Type of Identification Produced N/A - known



President of the General Partner of
the Limited Partnership which owns

Owner/Power of Attorney Affidavit

I, Max D. Puyanic, being duly sworn, depose and say that I am the ~~owner~~ of the described real property and that I am aware of the nature and effect the request for: Site plan approval

relative to my property, which is hereby made by me OR I am here by authorizing Neisen Kasdin to be my legal representative before the Village Council.

I, Max D. Puyanic, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

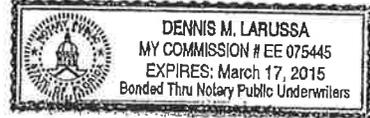
Max D. Puyanic
Signature of President (Corp. Seal)

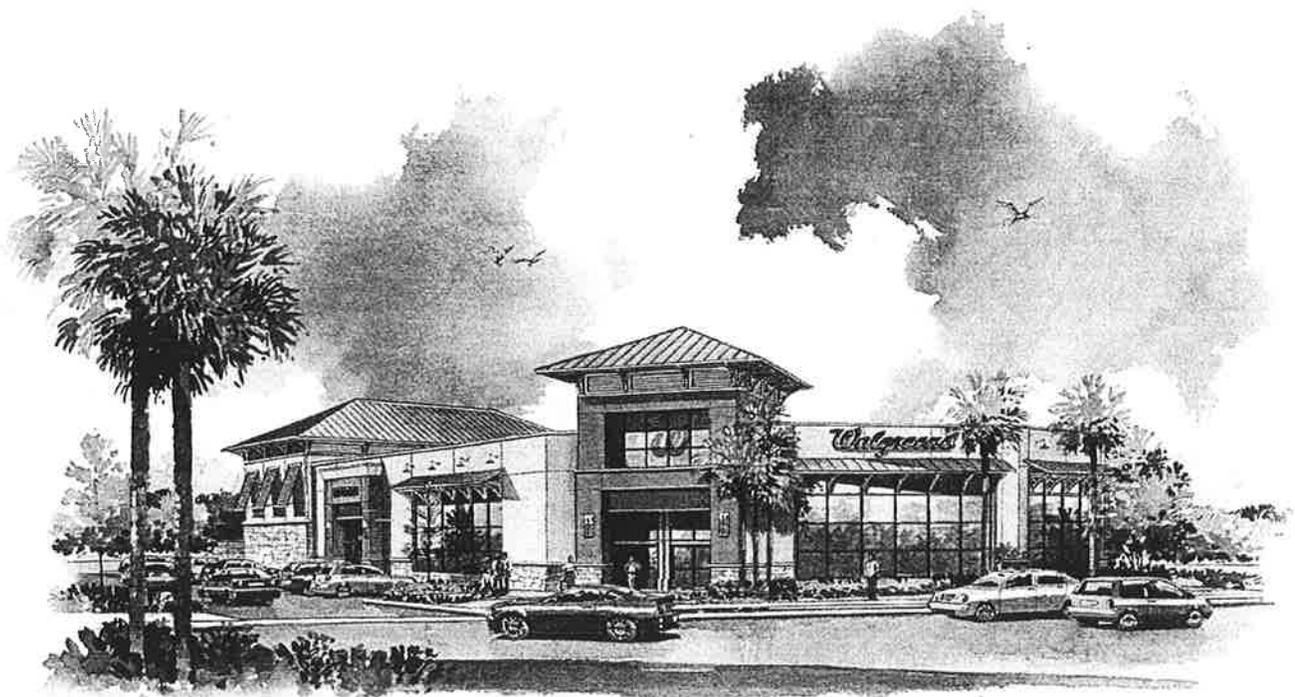
Sworn to (or affirmed) and subscribed before me this
6th day of March 2013, by MAX D. PUYANIC
Name of person making statement

Dennis M. Larussa
Signature of Notary Public - State of Florida

Dennis M. Larussa
Print, Type, or Stamp Commissioned Name of Notary Public

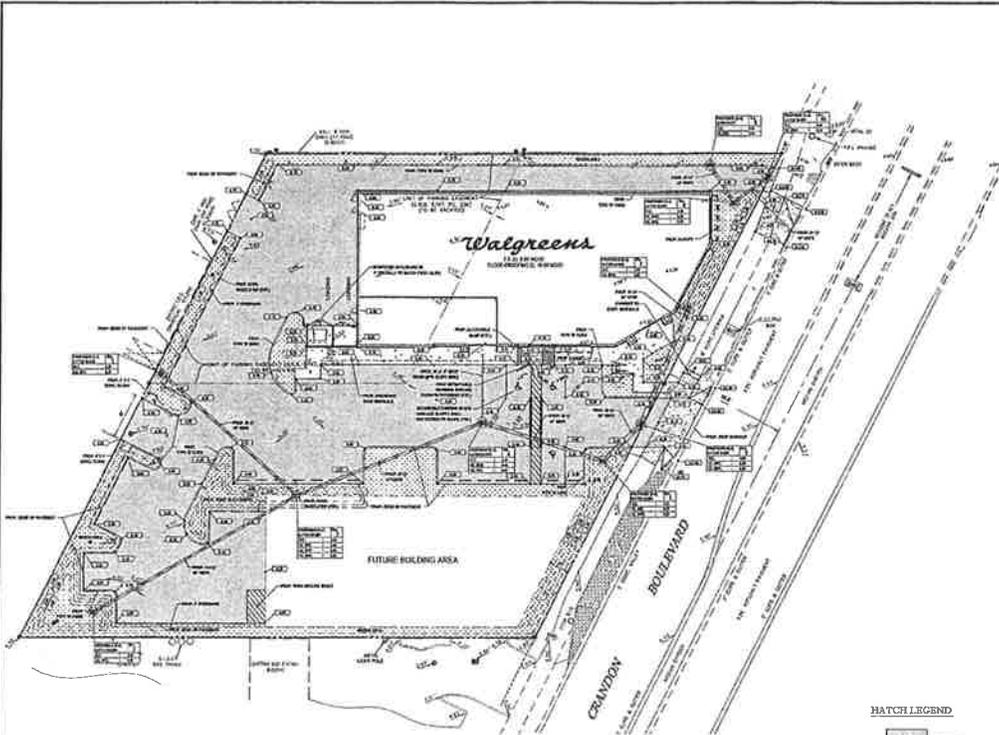
Personally Known ✓ OR Produced Identification N/A
Type of Identification Produced N/A - known





 Morgan
PROPERTY GROUP


ANGEL C. SAQUI, FAIA
ARCHITECTS PLANNERS INTERIORS, Ltd.



- CONSTRUCTION NOTES**
1. CONSTRUCTION TO BE ACCORDANCE WITH ALL APPLICABLE CODES AND REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
 2. CONSTRUCTION TO BE ACCORDANCE WITH ALL APPLICABLE CODES AND REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
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PAVING, GRADING & DRAINAGE LEGEND

SYMBOL	DESCRIPTION
[Symbol]	ASPHALT PAVING
[Symbol]	CONCRETE PAVING
[Symbol]	GRAVEL PAVING
[Symbol]	GRAVEL FILL
[Symbol]	GRAVEL SUBGRADE
[Symbol]	GRAVEL UNDERLAY
[Symbol]	GRAVEL CURB
[Symbol]	GRAVEL DRAINAGE
[Symbol]	GRAVEL FILL
[Symbol]	GRAVEL SUBGRADE
[Symbol]	GRAVEL UNDERLAY
[Symbol]	GRAVEL CURB
[Symbol]	GRAVEL DRAINAGE

ALL BUILDINGS SHALL BE FLOOD-PROOFED IN ACCORDANCE WITH THE FLORIDA BUILDING CODE.

HATCH LEGEND

- [Symbol] ASPHALT PAVING
- [Symbol] CONCRETE PAVING
- [Symbol] GRAVEL PAVING
- [Symbol] GRAVEL FILL
- [Symbol] GRAVEL SUBGRADE
- [Symbol] GRAVEL UNDERLAY
- [Symbol] GRAVEL CURB
- [Symbol] GRAVEL DRAINAGE

Always call 811 before you dig
Sunshine811.com

BOHLER ENGINEERING
 10000 BOYD BLVD, SUITE 100
 BOYD, FLORIDA 32110
 (407) 891-1111
 WWW.BOHLERENGINEERING.COM

NO.	DATE	BY

NOT FOR CONSTRUCTION

CRANDON BLVD. & CRANDON PARK

MORGAN PROPERTY

SCALE OF THIS DRAWING: 1" = 20'

DATE OF THIS DRAWING: 08/14/2018

BOHLER ENGINEERING
 10000 BOYD BLVD, SUITE 100
 BOYD, FLORIDA 32110
 (407) 891-1111
 WWW.BOHLERENGINEERING.COM

MICHAEL A. TROXELL
 PROFESSIONAL ENGINEER
 LICENSE NO. 12500
 EXPIRES 08/31/2020

CONCEPTUAL PAVING, GRADING & DRAINAGE PLAN

C-2



Aerial view of 12, 22, & 24 Crandon Blvd



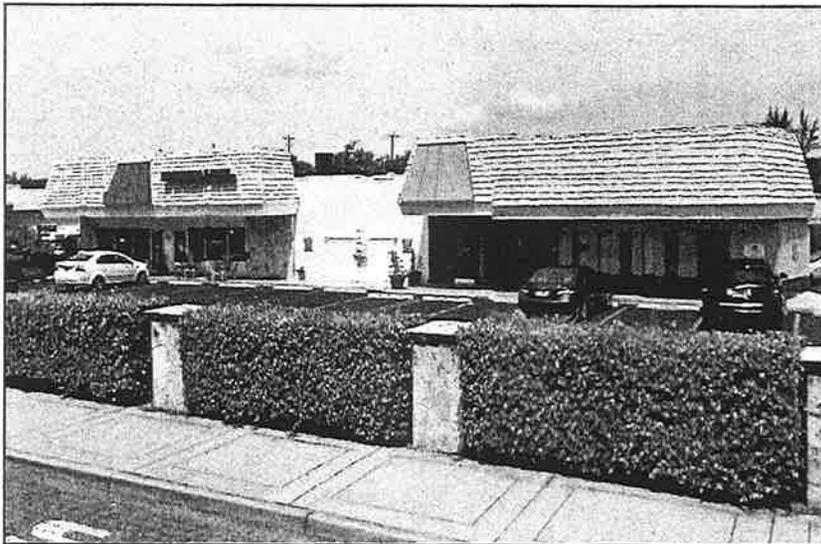
View from Crandon Blvd. looking at north bldg.



Northwest view from Crandon Blvd. of north bldg.



Alley view between 12 and 22 Crandon Blvd.



View from Crandon Blvd. of southern bldg.



Northwest view from Crandon Blvd. of southern bldg.

EXHIBIT 2



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council

Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *1st Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

March 20, 2013

Director

Jud Kurlancheek, AICP

Chief Building Official

Eugenio M. Santiago, P.E., CFM

Neisen Kasdin
Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714

Re: Site Plan and Conditional Use Applications: 12, 22, and 24 Crandon Boulevard

Dear Mr. Kasdin:

On March 6, 2013, the Village Building, Zoning and Planning Department received the submittal of a site plan and conditional use applications for property located at 12, 22, and 24 Crandon Boulevard. After review, the Village staff has determined that the applications are not "complete." In order for the Village staff to process the applications and determine them to be complete please provide the following:

1. Site Plan Application

- Existing site characteristics map.
 - A certified property survey showing existing site characteristics is required to be submitted, including existing utility lines and easements. The surveyor notes provide that this survey was prepared without the benefit of a title search and there may be additional restrictions and easements. A preliminary review reveals that a parking easement is not mentioned on the survey.
 - Please provide an updated certified survey meeting all of the requirements of Section 30-73(f)(1) of the Village Code.

- Site Development plan.

- The Site development plan is required to show all driveways. The site plan shows two driveways that connect to 51 Harbor Drive: (1) a south driveway that connects to a driveway on 51 Harbor Drive through the parking lot and to Harbor Drive; and (2) a north driveway indicated as one way entering the property at 12, 22, 24 Crandon Blvd. This driveway connects to an alley on the north and west at 51 Harbor Drive. Given that the site plan proposes to have access through driveways on 51 Harbor Drive this property is required to be a part of the site plan. Therefore, please include this property and the property owner as a part of this application.
- The distance of existing buildings on adjacent properties from property line are required to be shown. Please show the existing building on 51 Harbor Drive.
- All proposed utility lines and easements are required to be shown. Please show all proposed utility lines and easements.
- Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(2) of the Village Code.

- Landscape plan.

- The method of irrigation, as required, has not been submitted. Please submit.
- Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(3) of the Village Code.

- Architectural plan

- A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color is required. The site plan indicates there is a mezzanine but the floor plan is not shown. The floor plan for the main floor is not dimensioned. The submission does not include an exterior paint chart for the exterior of the building. The rendering is not sufficient as it does not specify the colors. Please submit an updated plan meeting the requirements provided above.
- The Village Code requires that the proposed location and elevations of signs, including height, dimensions, setbacks, construction material and color be shown. The signage plan does not include dimensions, heights,

colors, or construction materials. Please provide a signage plan that meets the requirements provided above.

- Please provide an updated architectural plan meeting all of the requirements of Section 30-73(f)(4) of the Village Code.

- Tabular summary.

- Total gross project acreage and net buildable land area is required to be shown. The site plan shows an area called "Future Building Area." This area is not dimensioned on the site plan. This area should be separated into a separate category on the tabular summary labeled "Site Data."
- Please provide an updated tabular summary meeting all of the requirements of Section 30-73(f)(5) of the Village Code.

- Drainage plan.

- Paving and drainage plans are required to meet specific requirements provided for within the Village Code. The "Conceptual Paving, Grading, and Drainage Plan submitted does not meet the minimum Village Code requirements including providing sufficient elevations and calculations to show retention of storm water on the site. There are no calculations to show retention of runoff on the property. Please update the drainage plan to meet this requirement.
- Please provide an updated drainage plan meeting all of the requirements of Section 30-73(f)(6) of the Village Code.

- Site Plan Application.

- The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.

- Optional Information Required.

- The Village Code provides that certain optional information may be required, if deemed necessary by the Building, Zoning, and Planning Director. As Director, I believe the following information is required to be submitted: (1) A map reflecting the general character and relationship of surrounding properties given the access driveways through 51 Harbor Drive. See, Section 30-73(f)(9)(a) of the Village Code; (2) The intended

progressive stages or phasing of development given the site plan provides for "future building area." See, Section 30-73(1)(9)(e) of the Village Code. In the event the future building area is not a part of the site plan then please label it "not a part;" and (3) Please provide any studies regarding the environmental impact on the property from the adjacent gas station. See, Section 30-73(1)(9)(e) of the Village Code.

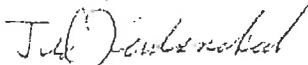
2. Conditional Use

- Condition Use Application.
 - The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.

The Village staff will commence its formal review of the applications once the required application requirements have been submitted, the applications have been deemed complete and after the Village Attorney determines the applications to be legally sufficient. With that being said, Village staff has conducted a preliminary review of the applications. We encourage you and your client to meet with staff prior to re-submittal as this may help to expedite the formal review of the applications.

If you have any questions or concerns please feel free to contact me.

Sincerely,



Jud Kurlancheek, AICP, Director

EXHIBIT 3



V I L L A G E O F K E Y B I S C A Y N E

Department of Building, Zoning and Planning

Village Council

Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director

Jud Kurlancheek, AICP

Chief Building Official

Eugenio M. Santiago, P.E., CFM

April 8, 2013

Neisen Kasdin
Akerman Senterfit
One Southeast Third Avenue, Suite 2500
Miami, FL 33131-1714

Re: Site Plan and Conditional Use Applications: 12-22-24 Crandon Boulevard

Dear Mr. Kasdin:

Thank you for meeting with us on April 4, 2013 to review your application for site plan and conditional use approval on property located at 12-22-24 Crandon Boulevard (the "Property"). During the course of the meeting, we discussed the relationship between the Property and the adjacent 51 Harbor Drive property (the "51 Harbor Property"). In lieu of including the 51 Harbor Drive Property as a part of the site plan, you proposed a cross access agreement that would allow patrons of the Property to have ingress and egress access through the 51 Harbor Drive Property to Harbor Drive. The Department agrees that such a cross access agreement is necessary given the proposed layout of the site plan.

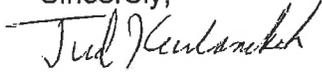
However, in addition to the proposed cross access agreement, it is the determination of the Department that the 51 Harbor Drive Property must be included as a part of the site plan as the driveway from Harbor Drive to the Property is an integral part of the ingress and egress access to and from the proposed development. Therefore, as proposed, the Property and the 51 Harbor Drive Property are to be considered a part of one site plan and the owners of these properties must execute the appropriate affidavit(s) and application(s).

In addition, as discussed at the aforementioned meeting, Sec. 30-110(a)(2) of the Village Zoning and Land Development Regulations require that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises". It is the determination of the Department that the Walgreens Pharmacy and the Liquor store, as proposed, occupy

one building and said building exceeds the 10,000 sq. ft. limitation. Please amend the site plan application to comply with this requirement.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Jud Kurlancheek". The signature is written in a cursive style with a horizontal line underlining the first name.

Jud Kurlancheek, AICP, Director

EXHIBIT 4



Neisen O. Kasdin

Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

April 19, 2013

Via Electronic Mail

Mr. Jud Kurlancheek, AICP
Director, Department of Building, Zoning, and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

Re: Application No. SP-22 and Application No. CU-04 (Filed March 6, 2013)
Response to Request for Additional Information #1 and #2

Dear Mr. Kurlancheek:

Our firm represents Morgan Property Group ("Applicant") in connection with applications for site plan approval (Application No. SP-22) for the proposed redevelopment of the property located at 12, 22 & 24 Crandon Boulevard (the "Property") and for conditional use approval (Application CU-04) for a retail package wine and liquor store, which were filed with the Village of Key Biscayne on March 6, 2013.

You provided us with a letter dated March 20, 2013 in which you identify several items that you deem necessary to be provided in order to commence your review of Application No. SP-22 and Application CU-04 ("RAI No. 1"). On April 3, 2013, our team met with you and your staff, including Bill Fehr and Assistant Village Attorney, Chad Friedman, Esq., to review your request for additional information and to clarify any misunderstandings. Upon leaving that meeting, we informed you that we would be submitting a response to RAI No. 1 the following week.

On the following Monday, April 8, 2013, before we had a chance to submit our response to RAI No. 1, you provided my office with a second request for additional information, specifically (1) to require that the property located immediately to the west of the Property included in Application No. SP-22 and Application CU-04 – specifically 51 Harbor Drive – be added to the applications and to the site plan itself and that the owner of the property located at 51 Harbor Drive join the applications as a co-applicant, and (2) that the site plan be revised to comply with restrictions set forth in Section 30-101 of the Village Code related to the maximum square footage of commercial properties ("RAI No. 2").

By way of this letter and the attached exhibits and revised plan sheets, we submit this Response to RAI No. 1 and RAI No. 2 (this "Response") for your consideration. Specifically, this

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BOCA RATON DALLAS DENVER FORT LAUDERDALE JACKSONVILLE LAS VEGAS LOS ANGELES MADISON MIAMI NAPLES
NEW YORK ORLANDO PALM BEACH SALT LAKE CITY TALLAHASSEE TAMPA TYSONS CORNER WASHINGTON, D.C.
WEST PALM BEACH

{26189260;2}

Response identifies each comment followed in bold with the Applicant's response.

The intent of this Response is to provide you with revised plans to completely replace the original plans submitted for both applications, documentation to supplement the application, and information in response to questions/comments posed. The exhibits incorporated by reference and attached hereto are the following:

Exhibit A	All plan sheets (Rendering, Sketch of Survey, C-1, C-2, C-3, C-4, LP-1, LP-2, LP-3, LD-1, A1.11, A2.11, A2.12, A2.13)
Exhibit B	Cross Access Easement Agreement [DRAFT]
Exhibit C	Stormwater Drainage Report
Exhibit D	Affidavit for Morgan Property Group (Application No. SP-22)
Exhibit E	Phase II ESA Summary
Exhibit F	Affidavit for Morgan Property Group (Application No. CU-04)

RAI No.1 – March 20, 2013

1. Site Plan Application. Existing Site Characteristics Map

- *A certified property survey showing existing site characteristics is required to be submitted, including existing utility lines and easements. The surveyor notes provide that this survey was prepared without the benefit of a title search and there may be additional restrictions and easements. A preliminary review reveals that a parking easement is not mentioned on this survey.*
- *Please provide an updated certified survey meeting all of the requirements of Section 20-73(f)(1) of the Village Code.*

Included within the complete set of plans attached as Exhibit A to this Response is an updated signed and sealed certified Sketch of Survey prepared by J.F. Lopez, as amended April 6, 2013, which includes all easements of record and all utility lines above ground which are documented in the normal practice of surveying consistent with state law. The surveyor has include Note 10 indicating that the survey has been made in accordance with Title Commitment Agent's File "Reference 13-0032 Gateway", dated March 22, 2013, issued by Old Republic National Insurance Company.

Additionally, the parking easement referenced in RAI No.1 above was terminated through the Easement Termination Agreement, recorded November 10, 2011 at OR BK 27890, PG 215 in the Public Records of Miami-Dade County.

2. Site Plan Application. Site Development Plan

- *The Site Development Plan is required to show all driveways. The site plan shows two driveways that connect to 51 Harbor Drive: (1) a south driveway that connects to a driveway on 51 Harbor Drive through the parking lot and to Harbor Drive; and (2) a north driveway indicated as one way entering the property at 12, 22, and 24 Crandon Blvd. This driveway connects to an alley on the north and west at 51 Harbor Drive. Given that the site plan proposes to have access through driveways on 51 Harbor Drive this property is required to be a part of the site plan. Therefore, please include this property and the property owner as a part of this application.*

Sheet C-1 indicates the proposed driveways located on the Property. Sheet C-4 identifies the existing driveways located on the adjacent property at 51 Harbor Drive which provides cross-access between the properties. The two driveways that you mention have existed and are proposed to be retained. To memorialize the consent of the neighboring property owner to the cross-access between properties, attached for your information as Exhibit C is a draft Cross Access Easement Agreement. The Applicant and the neighboring property owner at 51 Harbor Drive will execute the Cross-Access Easement Agreement in the same or substantially similar form prior to issuance of building permit.

- *The distance of existing buildings on adjacent properties from the property lines are required to be shown. Please show the existing building on 51 Harbor Drive.*

See Sheet C-1.

- *All proposed utility lines and easements are required to be shown. Please show all proposed utility lines and easements.*

See Sheet C-1.

- *Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(2) of the Village Code.*

See Sheet C-1.

3. Site Plan Application, Landscape Plan

- *The method of irrigation, as required, has not been submitted. Please submit.*

The method of irrigation was originally provided in a paragraph in the bottom right-hand corner on Sheet LP-3 (Y) submitted on March 6, 2013. For your convenience, the method of irrigation is now addressed on Sheet LP-3 (Y) and in two places on Sheet LP-1.

Specifically: "Irrigation Supply to be from Potable Water Source." "An irrigation plan shall be submitted for approval prior to issuance of a building permit. Said

irrigation system shall be provided with one hundred (100) percent overlap, if irrigation is required by this article. Irrigation plans shall be submitted for review and permitting at the time of application for building permit.”

We have reviewed these additional details with you at the April 3, 2013 meeting and you indicated that they were sufficient.

- *Please provide an updated site development plan meeting all of the requirements of Section 30-73(f)(3) of the Village Code.*

This comment asks for an updated site development plan, although based on the placement of the comment under the Landscape Plan heading and the referenced code section, it is most likely that the comment purports to ask for an updated Landscape Plan. Included on Sheets LP-1, LP-2, and LP-3 are updated landscape plans and details.

4. Site Plan Application. Architectural Plan

- *A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color is required. The site plan indicates there is a mezzanine but the floor plan is not shown. The floor plan for the main floor is not dimensioned. The submission does not include an exterior paint chart for the exterior of the building. The rendering is not sufficient as it does not specify colors. Please submit an updated plan meeting the requirements provided above.*

The Applicant's architect has addressed these comments in a manner consistent with the requirements under Section 30-73(f)(4) of the Village Code. See Sheets A1.11, A2.11, A2.12, and A2.13.

- *The Village Code requires that the proposed location and elevations of signs, including height, dimensions, setbacks, construction material and color be shown. The signage plan does not include dimensions, heights, colors, or construction materials. Please provide a signage plan that meets the requirements provided above.*

See Sheet A2.13.

- *Please provide an updated architectural plan meeting all of the requirements of Section 30-73(f)(4) of the Village Code.*

See Sheets A1.11, A2.11, A2.12, and A2.13.

5. Site Plan Application. Tabular Summary

- *Total gross project acreage and net buildable land area is required to be shown. The site plan shows an area called "Future Building Area." This area is not dimensioned on the site plan. This area should be separated into a separate category on the tabular summary labeled "Site Data."*

Sheet C-1 has been updated to show the dimensions of the Future Building Area on the site plan and within the tabular summary labeled "Site Data" to make clear the area of land comprising the Future Building Area. Note that the Future Building Area is not a part of this site plan.

- *Please provide an updated tabular summary meeting all of the requirements of Section 30-73(f)(5) of the Village Code.*

See Sheet C-1.

6. Site Plan Application. Drainage Plan

- *Paving and drainage plans are required to meet specific requirements provided for within the Village Code. The "Conceptual Paving, Grading, and Drainage Plan submitted does not meet the minimum Village Code requirements including providing sufficient elevations and calculations to show retention of storm water on the site. There are no calculations to show retention of runoff on the property. Please update the drainage plan to meet this requirement.*

See Sheet C-2 (Paving, Grading, and Drainage), which as revised provides sufficient elevations and calculations to show retention of stormwater on site in a manner consistent with best engineering practices. As additional supporting information attached as Exhibit D, please find the Stormwater Drainage Report, dated April 1, 2013.

- *Please provide an updated drainage plan meeting all of the requirements of Section 30-73(f)(6) of the Village Code.*

See Sheet C-2 (Paving, Grading, and Drainage).

7. Site Plan Application. Affidavit

- *The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.*

The Affidavits included within the Village's application for site plan approval and conditional use approval are the same; they ask for signatures by the applicant as tenant or property owner. Morgan Property Group, the Applicant, is neither the tenant nor the property owner. Morgan Property Group is the developer of the proposed building on behalf of the tenants who have leased the Property from Key Biscayne Gateway Partners, Ltd. In response to this request, the Applicant has signed and submits to you the original notarized signed affidavit for Application No. SP-22, attached as Exhibit E, modified in a manner approved by the Assistant Village Attorney to apply to the Applicant.

8. Site Plan Application. Optional Information Required

- *The Village Code provides that certain optional information may be required if deemed necessary by the Building, Zoning, and Planning Director. As Director, I believe the following information is required to be submitted:*

(1) A map reflecting the general character and relationship of surrounding properties given the access driveways through 51 Harbor Drive. See Section 30-73(f)(9)(a) of the Village Code;

See Sheet C-4, which provides an aerial map with the site plan at its center, demonstrating the context of the surrounding properties on all sides.

(2) The intended progressive stages or phasing of development given the site plan provides for "future building area." See, Section 30-73(f)(9)(c) of the Village Code. In the event the future building area is not a part of the site plan then please label it "not a part;" and

See Sheet C-1, indicating that the Future Building Area is "Not a Part" of the site plan.

(3) Please provide any studies regarding the environmental impact on the property from the adjacent gas station. See Section 30-73(f)(9)(e) of the Village Code.

See the summary and conclusions from the Phase II Environmental Site Assessment, attached as Exhibit F, demonstrating no risks of soil or groundwater impacts to the Property from off-site RECs.

9. Conditional Use Application. Affidavit

- *The application provides that the name of the applicant is Morgan Property Group. As provided in the application, Morgan Property Group is not the property owner. Please have Morgan Property Group sign the appropriate affidavit(s) in the application. In*

addition, if the driveways on 51 Harbor Drive continue to be utilized please have the property owner execute the application and related documents.

The Affidavits included within the Village's application for site plan approval and conditional use approval are the same; they ask for signatures by the applicant as tenant or property owner. Morgan Property Group, the Applicant, is neither the tenant nor the property owner. Morgan Property Group is the developer of the proposed building on behalf of the tenants who have leased the Property from Key Biscayne Gateway Partners, Ltd. In response to this request, the Applicant has signed and submits to you the original notarized signed affidavit for Application No. CU-04, attached as Exhibit G, modified in a manner approved by the Assistant Village Attorney to apply to the Applicant.

RAI No.2 – April 8, 2013

1. 51 Harbor Drive

In addition to the proposed cross access agreement, it is the determination of the Department that the 51 Harbor Drive Property must be included as a part of the site plan as the driveway from Harbor Drive to the Property is an integral part of the ingress and egress access to and from the proposed development. Therefore, as proposed, the Property and the 51 Harbor Drive Property are to be considered a part of one site plan and the owners of these properties must execute the appropriate affidavit(s) and application(s).

This request places an unreasonable burden on the Applicant and owner of 51 Harbor Drive.

First, joinder of a neighboring property owner in a site plan application is not required under Section 30-73(b). Section 30-73(b) provides:

Site Plan review shall be required for each Development activity that is not located in a single-family, Two-family, GU Governmental or PROS Public Recreation and Open Space zoning district, and that features:

- (1) Any new construction on a vacant Lot (this applies to Lots that had Buildings that have been demolished); or*
- (2) Any addition to an existing Structure that increases the Structure's square footage by 50 percent or more.*

Neither of these conditions for Site Plan Review under Section 30-73(b) apply to 51 Harbor Drive. The adjacent property owner is neither proposing (1) any new construction on a vacant lot nor (2) any addition to the existing structures.

Second, this request is unprecedented. Through independent research of agendas dating back to 2005 (as far back as are available on the Village's

website), we have found no instance in which the Village has requested an Applicant include a neighboring property within a site plan purely because of cross-access through the property. We have submitted this week to your attention a public records request for any similar site plan applications in which the Village has imposed such a condition on an applicant.

Third, and significantly, the Applicant is not proposing any change to the cross-access driveways; the Applicant is merely retaining an existing circulation pattern. The two driveways that you mention have existed for vehicle circulation for approximately 40 years, pre-dating the incorporation of the Village of Key Biscayne. The Sketch of Survey shows that the access points to the neighboring property exist today. There is no new development proposed at 51 Harbor Drive. And on the subject Property, the Applicant is actually proposing a reduction in floor area. Specifically as noted in the application submitted March 6, 2013, the Applicant is proposing to demolish 15,551 square feet of existing restaurant space and replace with 14,558 square feet of pharmacy, storage space, and a retail package wine & liquor store.

The Cross Access Easement Agreement should be sufficient for your review of this Application. This instrument is commonly recognized by municipalities in Miami-Dade County for legally established cross access between properties to maximize efficiencies and avoid unnecessary vehicular traffic.

2. Floor Area Restrictions on Retail Uses

- In addition, as discussed at the aforementioned meeting, Sec. 30-110(a)(2) of the Village Zoning and Land Development Regulations require that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises." It is the determination of the Department that the Walgreens Pharmacy and the Liquor Store, as proposed, occupy one building and said building exceeds the 10,000 sq. ft. limitation. Please amend the site plan application to comply with this requirement.

This interpretation is contrary to the intent of Section 30-110(a)(2) and the only past interpretation of this section by the Village.

First, the building area included within the site plan on Sheet C-1 is consistent with the plain meaning of Section 30-110(a)(2). Section 30-110(a)(2) states that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises." (emphasis added). This restriction is on stores, not buildings. The Applicant is proposing one store (the Walgreens Pharmacy) to consist of 10,000 square feet, with a mezzanine level limited to storage use. As indicated in the letter from the Village Attorney dated May 31, 2012, he indicates that a mezzanine is excluded from the 10,000 square feet limitation so long as it is used for storage

space and otherwise meets the "headroom" and other limitations of the applicable building code. The Applicant is proposing a separate retail package wine and liquor store with separate entrance to consist of 1,930 square feet.

In 2005, the Village adopted Ordinance No. 2005-19, which adopted amendments to Section 30-101 (Commercial Districts) including limitations on commercial uses in the C-1 district. As noted in the materials supporting the adoption of the Ordinance, the presentations by Village consultants Wallace Roberts & Todd for the Crandon Boulevard Zoning and Development Committee, and the recommendations from the Committee and consultants, the intent of the 10,000 square feet limitation was part of a larger effort to encourage retailing and discourage office uses in ground floor shopping center locations. Clearly, the restriction is not intended to prohibit commercial buildings greater than 10,000 square feet in building area, but rather single entrance stores that exceed 10,000 square feet in service area. The commercial areas of the Village, located primarily on the west side of Crandon Boulevard are occupied by large retail shopping centers and office buildings that well-exceed 10,000 square feet, many of which include multiple stores located under a single roof. Your interpretation would deem nearly every commercial building in the Village of Key Biscayne nonconforming with the code and flies in the face of the intent of the Ordinance.

Second, Ordinance No. 2005-19 distinguished between office and retail uses. Specifically, Section 30-110(a)(1) applies the 10,000 square feet limitation to businesses in office buildings that are "affiliated" while Section 30-110(a)(2) excludes that term. Section 30-110(a)(2) states that "no individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. except for stores whose principal product is food for consumption off the premises."

When read *in pari materia*, it is reasonable to restrict multiple office businesses occupying more than 10,000 square feet where they are affiliated; however, in the retail context, the affiliation between a Walgreen's Pharmacy and a Walgreen's Retail Package Wine & Liquor Store is unwarranted under the explicit language of the code. These two stores have separate entrances and separate defined tenant floor area, and therefore, must be treated as separate retail uses.

Lastly, this interpretation is highly disconcerting and surprising given the many meetings and communications between the Applicant, Property Owner, and Village representatives over the past several months.

The only past interpretation of Section 30-110(a)(2) involved the approval of the expansion of the CVS Pharmacy at 726 Crandon Boulevard to approximately 18,000 square feet of floor area. The Village interpreted Section 30-110(a)(2) in that manner and did not revoke building permits or otherwise reverse its interpretation.

The Applicant and Property Owner have relied on the plain language of the code as well as past interpretations and communications from the Village Attorney and from your office in expending time and money to pursue the approval of these plans. To institute this interpretation at this point in time would impose an unfair burden on the Applicant in a manner not imposed on other similarly-situated entities.

We believe this Response satisfies all of the comments related to "completeness" set forth in RAI No. 1 and RAI No. 2. Although there may be additional comments or comments that the Village believes are unresolved, none are pertinent to the completeness of the application.

The Applicant has provided all of the necessary information set forth in Section 30-72 and Section 30-73 of the Village Code to warrant the review and consideration of this Application by staff and ultimately the Village Council. I hope that you and your staff will conduct a timely review of this Application and treat this Applicant in the same manner and with all due process afforded to other applicants seeking to develop property in the Village of Key Biscayne.

We originally submitted this Application on March 6, 2013 with the intention that the item could be reviewed by staff and scheduled for a hearing on the April 23, 2013 Village Council agenda. We now submit this Response to you with the request that you schedule the item for the May 28, 2013 Village Council agenda.

In order not to delay the process any further, we respectfully request that you confirm that our application is now complete and provide us with a timeline for your review of the plans for substantive comments and scheduling the item for public hearing in front of the Village Council. While we understand staff may have additional comments or concerns, we do not believe there is any reason to delay the review of these applications and urge you to provide us with substantive comments as soon as possible so that we may address them in time for the May 28th meeting.

Thank you for your attention to this matter. We look forward to continuing to work cooperatively towards the approval of a well-designed project that can be beneficial for the Village and its residents.

Sincerely,



Neisen O. Kasdin

Enclosures

cc: Stephen Helfman, Esq., Village Attorney
Chad Friedman, Esq., Assistant Village Attorney
Steven Wernick, Esq., Akerman Senterfitt
Max Puyanic, Key Biscayne Gateway Partners, Ltd.
Trey Morgan, Morgan Property Group

Exhibit "A" – Plan Sets
(Four full-sized sets enclosed)

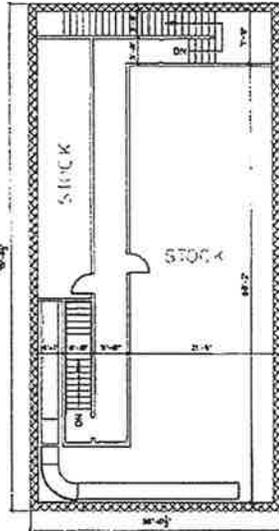


 **Morgan**
PROPERTY GROUP

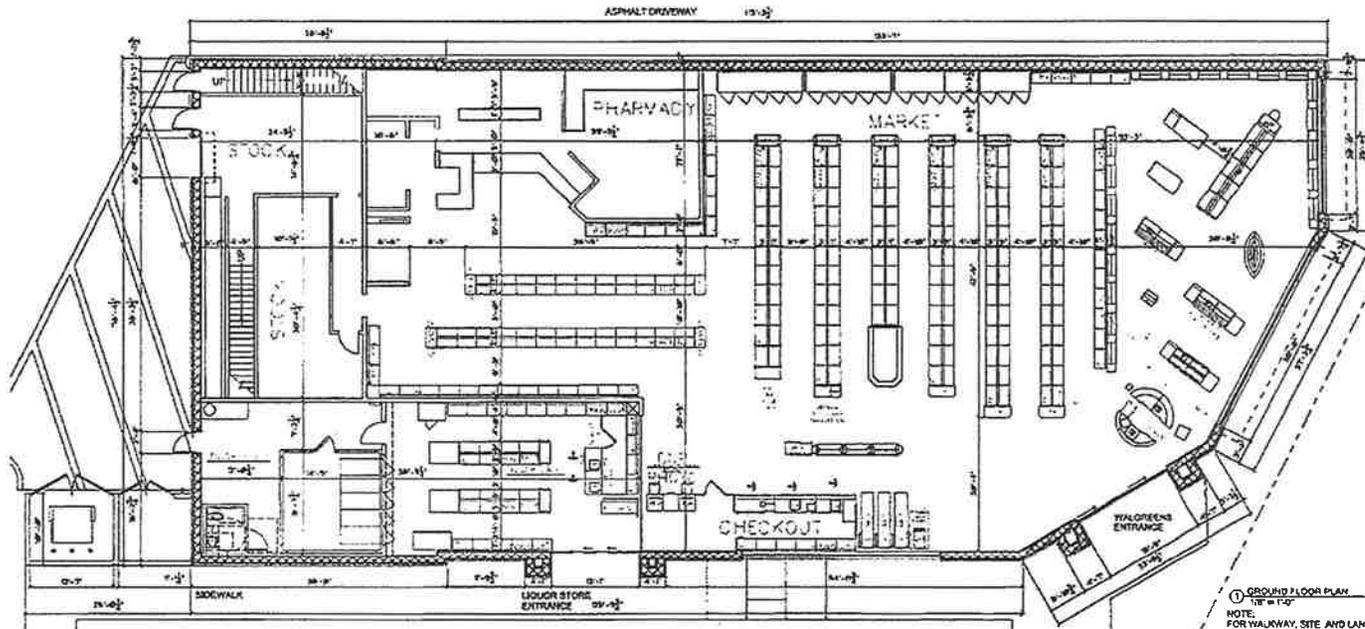

APR 1, 2002



ANGEL C. SAQUI, FAIA
ARCHITECTS PLANNERS INTERIORS, L.L.C.



① MEZZANINE LEVEL FLOOR PLAN
1/8" = 1'-0"



① GROUND FLOOR PLAN
1/8" = 1'-0"

NOTE:
FOR WALKWAY, SITE AND LANDSCAPE DESIGN
SEE CIVIL ENGINEER DRAWINGS.

Walgreens

PROJECT NO. _____
 PROJECT TYPE: NEW CONSTRUCTION

DATE PREPARED FOR: _____ BY: _____
 WALGREENS
 LANDLORD'S CONSULTANT

ALL CONSTRUCTION WORK UNLESS NOTED OTHERWISE, IS:
 WALGREENS CONTRACTOR
 LANDLORD'S CONTRACTOR TO BE SELECTED:

STORE	BUILDING
NEW: <input type="checkbox"/>	NEW: <input type="checkbox"/>
REMODELING: <input type="checkbox"/>	EXISTING: <input type="checkbox"/>
RELOCATION: <input type="checkbox"/>	NEW SHELL ONLY: <input type="checkbox"/>
OTHERS: <input type="checkbox"/>	



ANGEL C. SAQUI, FALA
 ARCHITECTS + PLANNERS + INTERIORS, LPA

Development of
MORGAN PROPERTY GROUP
 1001 Selwyn Corporate Park
 Suite 250
 Durham, N.C. 27617

COORDINATION
 SITE BY APPROVAL COMMENTS

NO. DATE BY DESIGNER

REVISIONS

CERTIFICATION AND SEAL

I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATIONS WERE PREPARED BY ME OR UNDER MY SUPERVISION AND I AM A DULY LICENSED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF CAROLINA. I AM NOT PROVIDING ANY PROFESSIONAL SERVICE.

ANGEL C. SAQUI, FALA
 ARCHITECT

STORES

PROJECT NAME
Walgreens

AT
 (HWY) BRANSON BLVD. & HARBOR HWY
 BRANSON, MISSOURI

FLOOR PLAN

DATE PLOTTED: _____ SCALE: 1/8" = 1'-0"
 DRAWN BY: _____
 CHECKED BY: _____
 DATE: 08/09/11
 REVIEWED BY: _____
 APPROVED BY: _____

A1.11

Walgreens

PROJECT TYPE: **NEW CONSTRUCTION**
 DRAWING OPERATIONS BY:
 PALORLINT
 CONSTRUCTION
 ALL CONSTRUCTION WORK SHALL BE AS SHOWN, BUT:
 CONTRACTOR'S RESPONSIBILITY

NOI..... NOI.....
 PERMITS..... PERMITS.....
 OTHER..... OTHER.....



ANGEL C. SAQUI, FAIA
 ARCHITECT & PLANNER, INC.
 1000 S. W. 10th St. Suite 100
 Ft. Lauderdale, FL 33304

A Division of
MORGAN PROPERTY GROUP
 13014 Sabalway Corporate Place
 Suite 300
 Charlotte, NC 28277
 704.366.1000

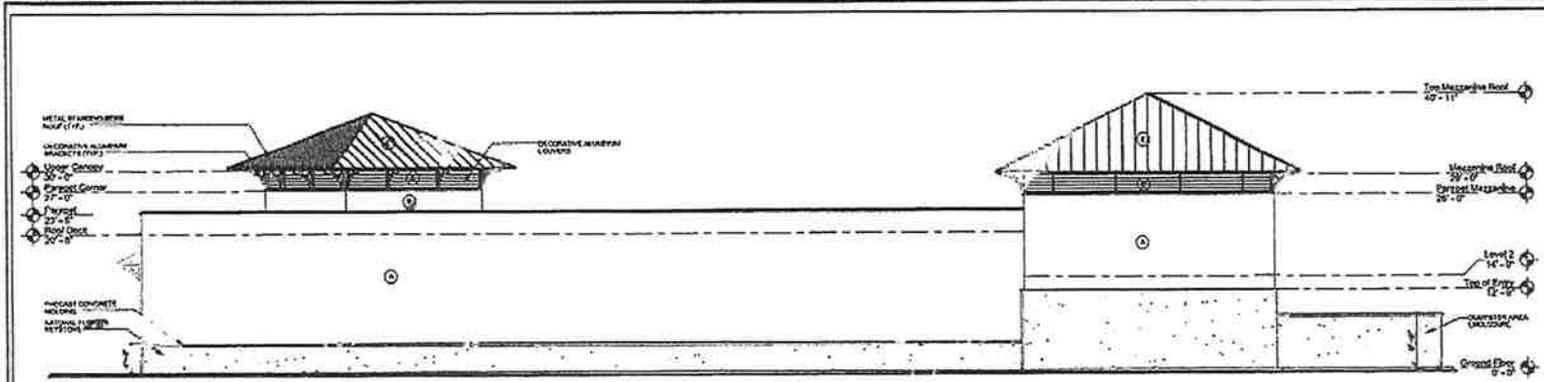
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DATE: 05/11/2011
 TIME: 10:00 AM
 PROJECT: WALGREENS
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]

PROJECT NAME: **Walgreens**
 AT: (HWY) GRANDON DR. & HARBOR DR. W. (CORNER)
 FT. LAUDERDALE, FL

DATE PLOT: 05/11/2011
 TIME PLOT: 10:00 AM
 DRAWN BY: [Signature]
 DATE: 05/11/2011
 REVISIONS: [Signature]
 PLAN DATE: [Signature]

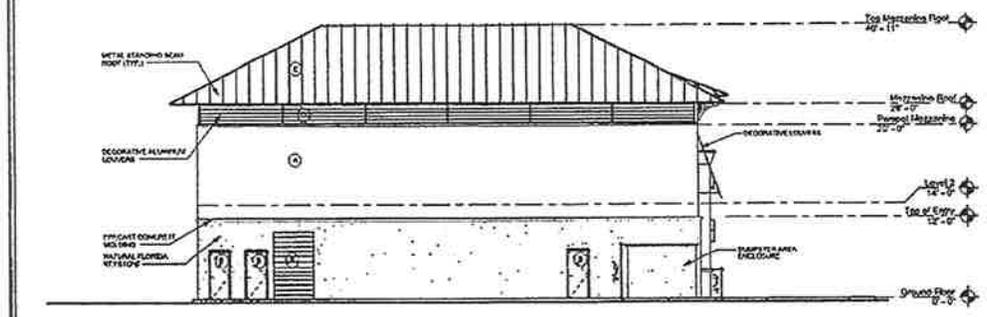
A2.12



3 NORTH ELEVATION
 15' x 1'-0"

COLOR LEGEND - SHEET WALLS ONLY

1	SW 6357 - CONCRETE (OR LIGHT GREY COLOR)
2	SW 7303 - BRICK AND STONE (DO NOT COLOR FOR EXTERIOR TO MATCH BRICK AND STONE FOR INTERIOR)
3	SW 6359 - BRICK (DO NOT COLOR FOR EXTERIOR TO MATCH BRICK AND STONE FOR INTERIOR)
4	SW 7524 - CHANNEL MESH (ACCENT COLOR FOR ALL LOUVERS AT SECOND FLOOR LEVELS & BARRICADES AT FIRST AND THIRD)
5	ENVC GREY - BRICKS (BRICK METAL, NOT)



4 WEST ELEVATION
 15' x 1'-0"

Exhibit "B" – Cross Access Easement Agreement [DRAFT]

Name: Max D. Puyanic, Esquire
Address: 30 West Mashta Drive, Suite 400
Key Biscayne, Florida 33149
This instrument prepared by:
Max D. Puyanic, Esquire
Law Office of Max D. Puyanic
30 West Mashta Drive, Suite 400
Key Biscayne, Florida 33149

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

CROSS ACCESS EASEMENT AGREEMENT

THIS CROSS ACCESS EASEMENT AGREEMENT ("Agreement") is made by and between **HARBOUR SHOPPING CENTER, INC.**, a Florida corporation whose business address is c/o Commodore Realty, Inc., 30 West Mashta Drive, Suite 400, Key Biscayne, Florida 33149 ("HARBOUR "); and **KEY BISCAYNE GATEWAY PARTNERS, LTD.**, a Florida limited partnership, whose office address is c/o Commodore Realty, Inc., 30 West Mashta Drive, Suite 400, Key Biscayne, Florida 33149 ("GATEWAY").

WITNESSETH:

WHEREAS, HARBOUR is the fee title owner of certain real property located at 51-99 Harbor Drive, Key Biscayne, Florida, which is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "HS Tract"); and

WHEREAS, GATEWAY is the fee title owner of certain real property located at 12 Crandon Boulevard and 22-24 Crandon Boulevard, Key Biscayne, Florida, which is located adjacent to the HS Tract and is more particularly described in Exhibit "B", attached hereto and made a part hereof (the "GW Tract"); and

WHEREAS, HARBOUR and GATEWAY desire to grant each other perpetual non-exclusive reciprocal vehicular ingress, egress and access easements in, on, over, across and upon the driveways now or hereafter constructed on the HS Tract and the GW Tract (individually a "Tract" or collectively "Tracts").

NOW, THEREFORE, for an in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound, do hereby agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Easements.

2.1 Grant of Access Easement. HARBOUR and GATEWAY, as both grantors and grantees, do hereby grant and convey one to the other and their respective successors and assigns, perpetual non-exclusive reciprocal easements in, on, over, across and upon the driveways constructed, or to be constructed, upon the HS Tract and the GW Tract for ingress and egress of vehicular traffic to and from the HS Tract and the GW Tract upon the terms and conditions set forth herein (each an "Access Easement" or collectively "Access Easements").

3. Easement Terms.

3.1 Construction of Driveways. HARBOUR and GATEWAY agree, at their respective sole cost and expense, to construct a connecting driveway within the Access Easements located on their respective Tracts in accordance with applicable codes, governmental rules, regulations and standards for driveways in Key Biscayne, Florida. HARBOUR agrees to construct a curb cut on the HS' Tract, at HARBOUR 's sole cost and expense, so as to provide a driveway which will connect to a driveway to be constructed on the GW Tract by GATEWAY as shown on Exhibits "C" and "D" (the "HS Driveway" and the "GW Driveway"). GATEWAY agrees to permit HARBOUR to enter upon the GW Tract as may be reasonably necessary to construct the HS Driveway and, upon completion of such construction, to restore the Gateway Tract adjacent to the HS Driveway to the same condition as existed prior to the work. HARBOUR agrees to permit GATEWAY to enter upon the HS Tract as may be reasonably necessary to construct the GW Driveway and, upon completion of such construction, to restore the HS Tract adjacent to the GW Driveway to the same condition as existed prior to the work.

3.1.1 Timing of Construction. HARBOUR and GATEWAY shall apply for their respective construction permits at the same time. HARBOUR and KEY BISCAYNE GATEWAY shall complete all construction of the driveways within 180 days of the granting of permits by the applicable governmental authorities. No construction shall be commenced, scheduled to take place, or take place during the months of November and December of any year.

3.2 Relocation of Easement Area. The parties acknowledge that each shall have the right to alter the configuration of the Access Easement located on their respective Tract at any time and from time to time, in their sole and absolute discretion, and at their respective sole cost and expense, so long as such alteration or reconfiguration of the Access Easement still permits vehicular access between the Tracts.

3.3 Maintenance. Each of the parties, at their respective sole cost and expense, shall maintain the Access Easement located on their respective Tracts in a state of good repair at all times during the term of this Agreement, including without limitation, all cleaning, re-surfacing, replacing, striping, repairing of pavement and curbing and replacing of directional signs so that the improvements shall at all times meet the standards used in first class shopping centers in the Key Biscayne and Miami-Dade County area.

3.4 Obstructions. Except as provided in Paragraph 3.2 above and Paragraph 3.5 below, during the term of this Agreement, the parties shall not construct any improvements in the Access Easements other than roadway pavement, and adjacent curbs, berms, landscaping,

dividers, medians, signage and any other improvements required by applicable governmental authorities. Each party may install, maintain, operate, repair, replace and/or remove any utility lines, sanitary and storm sewer lines, light poles for street lighting, signage and other similar improvements in the Access Easement on its respective Tract; provided any such improvements do not obstruct or otherwise interfere with the other party's unobstructed and continuous use of the Access Easement as an access driveway.

3.5 Traffic Control - Temporary and Partial Closure. In connection with the Access Easements and the construction and maintenance of improvements situated within the Access Easements, the parties may temporarily close portions of the driveways contained in the Access Easements on their respective properties; provided, however, that the work shall be accomplished with diligence and continuity and with adequate traffic control so as to keep any interruptions to a minimum.

3.6 Liability Insurance. During the term of this Agreement, the parties shall maintain public liability and property damage insurance with contractual indemnity coverage, if available, insuring against all of their respective liabilities and all of the liabilities of their respective invitees, employees, customers or agents, arising out of the use of the Access Easements. Each policy shall name the other party and its mortgagees, if any, as additional named insureds. During construction of the HS Driveway, HARBOUR shall require its general contractor to furnish satisfactory evidence of statutory worker's compensation insurance, commercial general liability insurance, builder's risk and comprehensive automobile liability insurance. Such insurance shall name GATEWAY as an additional insured. During construction of the GW Driveway, GATEWAY shall require its general contractor to furnish satisfactory evidence of statutory worker's compensation insurance, commercial general liability insurance, builder's risk and comprehensive automobile liability insurance. Such insurance shall name HARBOUR an additional insured. Upon request, each party shall provide the other with a copy of a certificate from an insurer licensed to do business in the State of Florida (a) evidencing that the policies described herein are in full force and effect; and (b) providing that unless the parties who are named as additional insureds shall have been given thirty (30) days advance written notice, such insurance policy shall not be cancelled and shall continue in full force and effect.

3.7 Taxes. Each party, respectively, shall pay all real estate taxes, special and general assessments, and other governmental impositions and charges of every kind and nature whatsoever levied and assessed against their own real property.

4. Miscellaneous.

4.1 No Dedication. This Agreement shall not be construed, expressly or by implication, as a dedication to the public for public use and the parties may, by mutual agreement, terminate or modify their respective rights and obligations hereunder without the consent of any governmental authority or agency.

4.2 Agreement. This Agreement embodies and constitutes the entire understanding between the parties with respect to the Access Easement contemplated herein and all

prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

4.3 Amendments. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated, except by an instrument in writing signed by the parties or their respective successors and/or assigns.

4.4 Notices. If a party desires to give notice hereunder to the other, such notice shall be in writing and addressed to the party for whom it is intended at the address shown above. The notice may be deposited in the United States mail, by certified or registered mail, return receipt requested with postage prepaid, or sent by Federal Express or comparable national overnight mail service. Notice shall be deemed to have been given upon receipt or refusal of delivery of said notice.

4.5 Default. The breach of a covenant by any party is a default by that party. No party shall be deemed to be in default under this Agreement unless and until the alleged defaulting party shall have received written notice of default and shall have failed to cure the default within thirty (30) days after the receipt of such notice.

4.6 Remedies. If a party fails to cure its default within the time period described herein (after receiving notice as required by Paragraph 4.4), the non-defaulting party shall have all rights and remedies available at law and in equity. Under no circumstances may this Agreement be terminated by any party without the prior written consent of the other, even if a party is in default hereunder.

4.7 Binding Effect and Governing Law. The covenants contained in this Agreement are not personal, but shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida.

4.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

4.9 Enforceability. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

4.10 Attorney's fees and costs. In the event of any controversy, claim, and/or legal action taken by either party herein, arising out of, or relating to the interpretation and/or enforcement of this Agreement, the prevailing party shall be awarded reasonable

DRAFT

attorney's fees, costs, and expenses, incurred at all pre suit, pretrial and appellate levels and legal jurisdictions, whether suit be brought or not.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year above set forth.

HARBOUR SHOPPING CENTER, INC.,
a Florida corporation

Witness: _____

By: _____

Print Name: _____

Title: _____

Witness: _____

Date: _____

KEY BISCAYNE GATEWAY PARTNERS, LTD.,
a Florida limited partnership by
By: **KEY BISCAYNE PARTNERS, INC.,**
a Florida corporation, its General Partner

Witness: _____

By: _____

Print Name: _____

Title: _____

Witness: _____

Date: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by _____, personally known to me to be the

DRAFT

_____ of HARBOUR SHOPPING CENTER, INC. a Florida corporation, on behalf of the corporation, personally known to me, who freely and voluntarily executed this instrument under authority duly vested in him.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2011.

My Commission Expires:

Notary Public

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by MAX D. PUYANIC, as _____ of KEY BISCAYNE GATEWAY PARTNERS, INC., a Florida corporation the General Partner of KEY BISCAYNE GATEWAY PARTNERS, LTD., a Florida limited partnership, on behalf of the corporation, personally known to me, who freely and voluntarily executed this instrument under authority duly vested in him by the limited liability company.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2011.

My Commission Expires:

Notary Public

Exhibit "C" – Stormwater Drainage Report

STORMWATER MANAGEMENT REPORT

for

Walgreens – Key Biscayne

12, 22 & 24 Crandon Boulevard
Key Biscayne, Florida

Prepared for:

Morgan Property Group

Prepared by



BOHLER
ENGINEERING

1000 Corporate Drive, Suite 250
Ft. Lauderdale, FL 33334

Phone: 954-502-7000



Michael A. Teofel, P.E.
Florida Professional Engineer License No. 50572

BEPC # F120079

PROJECT DESCRIPTION

1. Introduction

This Site currently contains a 10,816 square feet retail building and 3,750 square feet full service restaurant with associated parking lots. This project proposes the demolition of the buildings and parking lots for the construction of a 10,000 square feet Walgreens Pharmacy, 2,628 square feet Mezzanine, 1,930 square feet Walgreens Liquor Store, and +/-2,500 square feet future retail building. The project proposes the construction of swales to retain the first inch of runoff as demonstrated in the accompanying calculations.

2. Site Requirements

Per the Village of Biscayne's master stormwater plan, the first inch of runoff must be stored on-site and the building must be protected as itemized below:

- First inch of runoff stored on-site:
Runoff volume required = 1.35 ac-in
Storage volume in swales = 1.43 ac-in
Elevation runoff volume required is met = 4.77'
- Building flood protection:
FEMA Zone AE (Elevation 8.00' and 9.00' NGVD)
Highest FEMA elevation controls = 9.00' NGVD
1' higher than FEMA elevation = 10.00' NGVD
Design 100-year 3-day storm event stage = 6.58' NGVD
Highest crown of road adjacent to the Property = 5.75' NGVD
8" above highest crown = 6.42' NGVD

3. Conclusion

The proposed project will result in a net improvement from the existing condition. The green area will increase from 0.08 acres to 0.25 acres. The first inch of runoff will be stored on-site in proposed swales. The building will be flood-proofed to elevation 10.00' to meet Key Biscayne and FEMA finished floor requirements.

It is understood that any future development on the site will result in the reevaluation of the above conclusions.



BOHLER ENGINEERING

1000 Corporate Drive, Ft. Lauderdale, FL 33334
Tel: 954-202-7000
Fax: 954-202-7070

Date: 1/30/2013
Project: Walgreens - Key Biscayne
Project No: F120079

Calculated By: AMR
Checked By: MT

EXISTING PRE-CONDITION DRAINAGE CALCULATIONS

Design Criteria:

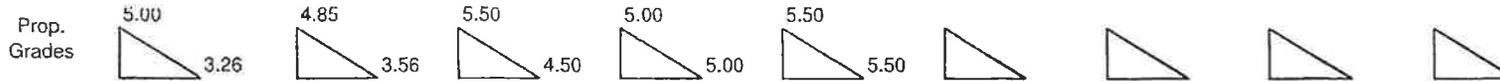
Control Elevation 2.00'
FEMA Elevations 9.00' (NGVD) or 7.44' (NAVD)

Proposed Acreages

Lake Areas (A_L):	0 sf	or	0.000 ac
Roof Areas (A_R):	15,870 sf	or	0.364 ac
Paved Areas (A_P):	39,460 sf	or	0.906 ac
Green Areas (A_G):	3,485 sf	or	0.080 ac
<u>Total (A_T):</u>	<u>58,815 sf</u>	or	<u>1.350 ac</u>



STAGE STORAGE AREA CALCULATION



Stage	Green Area		Pavement		Sidewalk		Building		Building		Total Site
	Area	0.080	Area	0.847	Area	0.059	Area	0.278	Area	0.086	
	(ac.-ft.)	0.000	(ac.-ft.)	0.000	(ac.-ft.)	0.000	(ac.-ft.)	0.000	(ac.-ft.)	0.000	1.350
2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.75	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.02
4.00	0.01	0.06	0.06	0.06	0.00	0.00	0.00	0.00	0.00	0.00	0.08
4.25	0.02	0.16	0.16	0.16	0.00	0.00	0.00	0.00	0.00	0.00	0.18
4.50	0.04	0.29	0.29	0.29	0.00	0.00	0.00	0.00	0.00	0.00	0.33
4.75	0.05	0.46	0.46	0.46	0.00	0.00	0.00	0.00	0.00	0.00	0.52
5.00	0.07	0.67	0.67	0.67	0.01	0.01	0.00	0.00	0.00	0.00	0.75
5.25	0.09	0.89	0.89	0.89	0.02	0.02	0.07	0.07	0.00	0.00	1.06
5.50	0.11	1.10	1.10	1.10	0.03	0.03	0.14	0.14	0.00	0.00	1.37
5.75	0.13	1.31	1.31	1.31	0.04	0.04	0.21	0.21	0.02	0.02	1.71
6.00	0.15	1.52	1.52	1.52	0.06	0.06	0.28	0.28	0.04	0.04	2.05
6.25	0.17	1.73	1.73	1.73	0.07	0.07	0.35	0.35	0.06	0.06	2.39
6.50	0.19	1.94	1.94	1.94	0.09	0.09	0.42	0.42	0.09	0.09	2.72
6.75	0.21	2.16	2.16	2.16	0.10	0.10	0.49	0.49	0.11	0.11	3.06
7.00	0.23	2.37	2.37	2.37	0.12	0.12	0.56	0.56	0.13	0.13	3.40
7.25	0.25	2.58	2.58	2.58	0.13	0.13	0.63	0.63	0.15	0.15	3.74
7.50	0.27	2.79	2.79	2.79	0.15	0.15	0.69	0.69	0.17	0.17	4.07
7.75	0.29	3.00	3.00	3.00	0.16	0.16	0.76	0.76	0.19	0.19	4.41
8.00	0.31	3.21	3.21	3.21	0.18	0.18	0.83	0.83	0.21	0.21	4.75
8.25	0.33	3.43	3.43	3.43	0.19	0.19	0.90	0.90	0.24	0.24	5.09
8.50	0.35	3.64	3.64	3.64	0.21	0.21	0.97	0.97	0.26	0.26	5.42
8.75	0.37	3.85	3.85	3.85	0.22	0.22	1.04	1.04	0.28	0.28	5.76



BOHLER

ENGINEERING

Date: 1/30/2013
 Project: Walgreens - Key Biscayne
 Project No: F120079

DESIGN CRITERIA

Control Elevation 2.00' NGVD
 FEMA Elevation 9.00' (NGVD) or 7.44' (NAVD)

LAND USE SUMMARY

Areas:	Square Ft.	Acres	Percent
Lake	0	0.00	0.0%
Building	15,870	0.364	27.0%
Pavement and Sidewalk	39,460	0.906	67.1%
Pervious	3,485	0.080	5.9%
Total Area:	58,815	1.350	100.0%

STAGE STORAGE AREA CALCULATION

Stage	Site Stage-Storage (previous page) (ac.-ft.)	Underground Storage (ac.-ft.)	Total Storage Area (ac.-ft.)
2.00	0.00	0.00	0.00
2.25	0.00	0.00	0.00
2.50	0.00	0.00	0.00
2.75	0.00	0.00	0.00
3.00	0.00	0.00	0.00
3.25	0.00	0.00	0.00
3.50	0.00	0.00	0.00
3.75	0.02	0.00	0.02
4.00	0.08	0.00	0.08
4.25	0.18	0.00	0.18
4.50	0.33	0.00	0.33
4.75	0.52	0.00	0.52
5.00	0.75	0.00	0.75
5.25	1.06	0.00	1.06
5.50	1.37	0.00	1.37
5.75	1.71	0.00	1.71
6.00	2.05	0.00	2.05
6.25	2.39	0.00	2.39
6.50	2.72	0.00	2.72
6.75	3.06	0.00	3.06
7.00	3.40	0.00	3.40
7.25	3.74	0.00	3.74
7.50	4.07	0.00	4.07
7.75	4.41	0.00	4.41

Soil Storage

Land Use Summary:

	Acres	Percent
Lake Areas (A_L):	0.000	0.0%
Roof Areas (A_R):	0.364	27.0%
Paved Areas (A_P):	0.906	67.1%
Green Areas (A_G):	0.080	5.9%
Total (A_T):	1.350	100.0%

Compacted Soil Storage per
SFWMD Vol. IV Page C-III-1

Depth to Water Table (feet)	Water Storage (inches)
1	0.45
2	1.88
3	4.95
4	8.18

Average Pervious Grade (Elev.): 4.13 ft
Depth to Water Table: 2.13 ft
Soil Storage at Average Depth (S_S): 2.28 inches

Weighted S value:

$$= S_S \times \% \text{ Pervious}$$

$$= 2.28 \times 0.059$$

$$= \boxed{0.13 \text{ inches}}$$

Rainfalls (P)

From Figure C-9, 100-Year 3-Day Storm = $\boxed{13.50 \text{ inches}}$

Runoff Volume

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (13.50 - 0.2(0.64))^2 / (13.50 + 0.8(0.64)) \\ &= 13.35 \text{ inches of total runoff} \end{aligned}$$

$$\begin{aligned} \text{Runoff Volume} &= Q * \text{Project Area} \\ &= 1.35 \text{ ac} * 12.76'' = 18.02 \text{ acre-inches} = 1.50 \text{ acre-ft.} \end{aligned}$$



BOHLER ENGINEERING

1000 Corporate Drive, Ft. Lauderdale, FL 33334
Tel: 954-202-7000
Fax: 954-202-7070

Date: 1/17/2013
Project: Walgreens - Key Biscayne
Project No: F120079

Calculated By: AMR
Checked By: MT

PROPOSED POST-CONDITION DRAINAGE CALCULATIONS

Design Criteria:

Control Elevation 2.00'
FEMA Elevations 9.00' (NGVD) or 7.44' (NAVD)

Proposed Acreages

Lake Areas (A_L):	0 sf	or	0.000 ac
Roof Areas (A_R):	14,611 sf	or	0.335 ac
Paved Areas (A_P):	33,364 sf	or	0.766 ac
Green Areas (A_G):	10,840 sf	or	0.249 ac
Total (A_T):	58,815 sf	or	1.350 ac

Compute Pretreatment Volume:

Provide at least 1/2 inch over the developed project:

$$\begin{aligned}
 V_{PRE} &= 1/2 \text{ inch} \times A_T \times 1 \text{ ft} / 12 \text{ inches} \\
 &= 1/2 \times 1.35 / 12 \\
 &= 0.06 \text{ ac-ft or } 0.72 \text{ ac-in}
 \end{aligned}$$

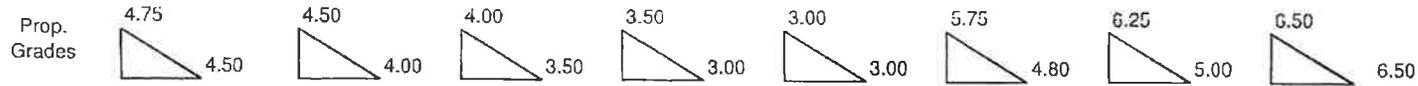
Compute Required Water Quality Volume:

1) Calculate 1 inch over the developed project:

$$\begin{aligned}
 V_{PRE} &= 1 \text{ inch} \times A_T \times 1 \text{ ft} / 12 \text{ inches} \\
 &= 1 \times 1.35 / 12 \\
 &= 0.11 \text{ ac-ft or } 1.35 \text{ ac-in} > 0.72 \text{ ac-in for Pretreatment}
 \end{aligned}$$



STAGE STORAGE AREA CALCULATION



Stage	Swale Perimeter		Swale 4-4.5		Swale 3.5-4		Swale 3-3.5		Swale Bottom		Pavement		Sidewalk		Building		Total Site 1.350	
	Area	0.139 0.000 (ac.-ft.)	Area	0.060 0.000 (ac.-ft.)	Area	0.025 0.000 (ac.-ft.)	Area	0.016 0.000 (ac.-ft.)	Area	0.009 0.000 (ac.-ft.)	Area	0.678 0.000 (ac.-ft.)	Area	0.088 0.000 (ac.-ft.)	Area	0.335 0.000 (ac.-ft.)		Area
2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01
3.75	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.02
4.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.03
4.25	0.00	0.00	0.01	0.02	0.01	0.01	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.04
4.50	0.00	0.02	0.02	0.02	0.02	0.01	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.07
4.75	0.02	0.03	0.03	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.11
5.00	0.05	0.05	0.03	0.03	0.03	0.02	0.02	0.02	0.02	0.02	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.19
5.25	0.09	0.06	0.04	0.03	0.03	0.02	0.02	0.02	0.02	0.02	0.07	0.00	0.00	0.00	0.00	0.00	0.00	0.31
5.50	0.12	0.08	0.04	0.04	0.04	0.02	0.02	0.02	0.02	0.02	0.17	0.01	0.00	0.00	0.00	0.00	0.00	0.48
5.75	0.16	0.09	0.05	0.04	0.04	0.02	0.02	0.02	0.02	0.02	0.32	0.02	0.00	0.00	0.00	0.00	0.00	0.70
6.00	0.19	0.11	0.06	0.04	0.04	0.03	0.03	0.03	0.03	0.03	0.49	0.04	0.00	0.00	0.00	0.00	0.00	0.95
6.25	0.23	0.12	0.06	0.05	0.05	0.03	0.03	0.03	0.03	0.03	0.66	0.06	0.00	0.00	0.00	0.00	0.00	1.20
6.50	0.26	0.14	0.07	0.05	0.05	0.03	0.03	0.03	0.03	0.03	0.83	0.08	0.00	0.00	0.00	0.00	0.00	1.46
6.75	0.30	0.15	0.08	0.06	0.06	0.03	0.03	0.03	0.03	0.03	1.00	0.10	0.00	0.00	0.00	0.00	0.00	1.71
7.00	0.33	0.17	0.08	0.06	0.06	0.04	0.04	0.04	0.04	0.04	1.17	0.12	0.00	0.00	0.00	0.00	0.00	1.96
7.25	0.36	0.18	0.09	0.06	0.06	0.04	0.04	0.04	0.04	0.04	1.34	0.14	0.00	0.00	0.00	0.00	0.00	2.22
7.50	0.40	0.20	0.09	0.07	0.07	0.04	0.04	0.04	0.04	0.04	1.51	0.17	0.00	0.00	0.00	0.00	0.00	2.47
7.75	0.43	0.21	0.10	0.07	0.07	0.04	0.04	0.04	0.04	0.04	1.68	0.19	0.00	0.00	0.00	0.00	0.00	2.72
8.00	0.47	0.23	0.11	0.08	0.08	0.04	0.04	0.04	0.04	0.04	1.85	0.21	0.00	0.00	0.00	0.00	0.00	2.98
8.25	0.50	0.24	0.11	0.08	0.08	0.05	0.05	0.05	0.05	0.05	2.02	0.23	0.00	0.00	0.00	0.00	0.00	3.23
8.50	0.54	0.26	0.12	0.08	0.08	0.05	0.05	0.05	0.05	0.05	2.19	0.25	0.00	0.00	0.00	0.00	0.00	3.49
8.75	0.57	0.27	0.13	0.09	0.09	0.05	0.05	0.05	0.05	0.05	2.36	0.28	0.00	0.00	0.00	0.00	0.00	3.74



BOHLER

ENGINEERING

Date: 1/17/2013
 Project: Walgreens - Key Biscayne
 Project No: F120079

DESIGN CRITERIA

Control Elevation 2.00' NGVD
 FEMA Elevation 9.00' (NGVD) or 7.44' (NAVD)

LAND USE SUMMARY

Areas:	Square Ft.	Acres	Percent
Lake	0	0.00	0.0%
Building	14,611	0.335	24.8%
Pavement and Sidewalk	33,364	0.766	56.7%
Pervious	10,840	0.249	18.4%
Total Area:	58,815	1.350	100.0%

STAGE STORAGE AREA CALCULATION

Stage	Site Stage-Storage (previous page) (ac.-ft.)	Underground Storage (ac.-ft.)	Total Storage Area (ac.-ft.)
2.00	0.00	0.00	0.00
2.25	0.00	0.00	0.00
2.50	0.00	0.00	0.00
2.75	0.00	0.00	0.00
3.00	0.00	0.00	0.00
3.25	0.00	0.00	0.00
3.50	0.01	0.00	0.01
3.75	0.02	0.00	0.02
4.00	0.03	0.00	0.03
4.25	0.04	0.00	0.04
4.50	0.07	0.00	0.07
4.75	0.11	0.00	0.11
5.00	0.19	0.00	0.19
5.25	0.31	0.00	0.31
5.50	0.48	0.00	0.48
5.75	0.70	0.00	0.70
6.00	0.95	0.00	0.95
6.25	1.20	0.00	1.20
6.50	1.46	0.00	1.46
6.75	1.71	0.00	1.71
7.00	1.96	0.00	1.96
7.25	2.22	0.00	2.22
7.50	2.47	0.00	2.47
7.75	2.72	0.00	2.72

Soil Storage

Land Use Summary:

	Acres	Percent
Lake Areas (A_L):	0.000	0.0%
Roof Areas (A_R):	0.335	24.8%
Paved Areas (A_P):	0.766	56.7%
Green Areas (A_G):	0.249	18.4%
Total (A_T):	1.350	100.0%

Compacted Soil Storage per
SFWMD Vol. IV Page C-III-1

Depth to Water Table (feet)	Water Storage (inches)
1	0.45
2	1.88
3	4.95
4	8.18

Average Pervious Grade (Elev.): 4.30 ft
Depth to Water Table: 2.30 ft
Soil Storage at Average Depth (S_S): 2.80 inches

Weighted S value:

$$= S_S \times \% \text{ Pervious}$$

$$= 2.8 \times 0.184$$

$$= \boxed{0.52 \text{ inches}}$$

Rainfalls (P)

From Figure C-9, 100-Year 3-Day Storm = $\boxed{13.50 \text{ inches}}$

Runoff Volume

Runoff (Q) = 1.00 inch of total runoff

Runoff Volume = Q * Project Area

$$= 1.350 \text{ ac} \times 1" = 1.35 \text{ acre-inches} = 0.11 \text{ acre-ft.}$$

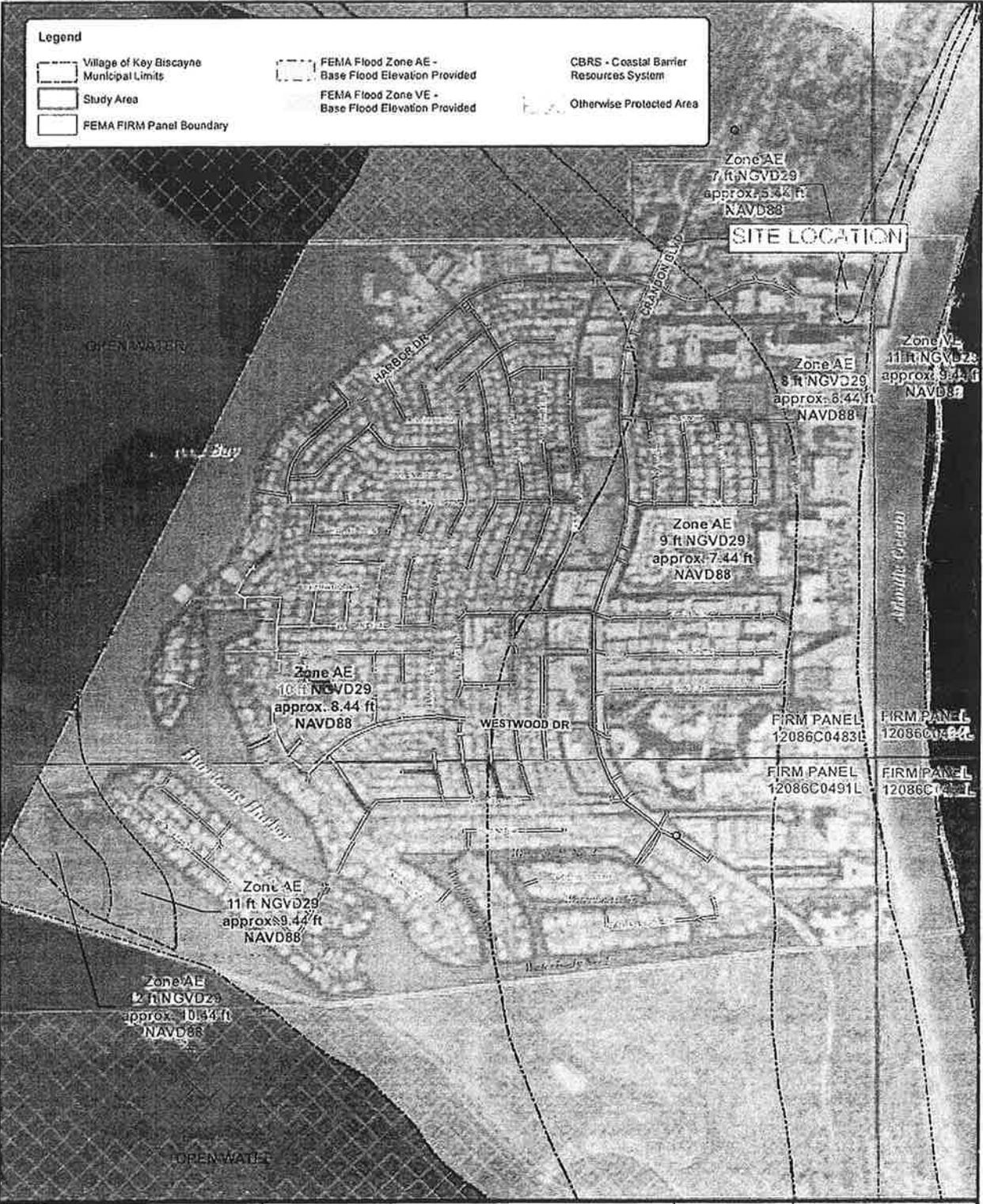
Stage for first inch of runoff $\boxed{4.75}$ <4.80' lowest asphalt elevation

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (13.50 - 0.2(0.64))^2 / (13.50 + 0.8(0.64)) \\ &= 12.90 \text{ inches of total runoff} \end{aligned}$$

Runoff Volume = Q * Project Area

$$= 1.35 \text{ ac} \times 12.76" = 17.41 \text{ acre-inches} = 1.45 \text{ acre-ft.} <1.50 \text{ acre-ft Existing}$$

Stage for 100-Year 3-Day Storm $\boxed{6.50}$ <10' elevation of floodproofing >
6.42' (8" above closest crown of road (5.75'))



**FEMA FLOOD ZONE MAP
STORMWATER MASTER PLAN UPDATE
VILLAGE OF KEY BISCAIYNE, FLORIDA**

Figure 2.15

0 1,200 Feet

Source: Village of Key Biscayne GIS Data
provided for use with
FEMA Flood Zone Maps

Map Date: 11/19/2010
Drawing Date: 11/19/2010
Scale: 1" = 100'

3.3.1.2 Precipitation

A design storm is a one that is equaled or exceeded, on average, once in a prescribed duration of time. Thus, a 10-year storm is equaled or exceeded, on average, once every 10 years. The design storm can also be expressed as a probability of occurring in any one year. Therefore, a 2-year storm has a 50 percent probability of being equaled or exceeded in a given year and a 5-year storm has a 20 percent probability.

At the time of the previous SWMMP the level of service standard for most residential roads was a 5-year/24-hour design storm. Since that time the Water Management Districts in the state of Florida have begun to require public infrastructure within the right of way to be sized or designed to safely convey a 10-year/72-hour design storm. Therefore, the results and figures depicted in this SWMMP Update will be based on the 10-year/72-hour design storm. In the Village a storm of this size yields approximately 9.5-inches of rainfall in 72-hours.

FEMA provides additional Community Rating Points for all communities that manage all storms up to and including the 100-year storm. Therefore for this SWMMP Update the design storms modeled are the mean-annual, 5-year, 10-year, 25-year, and 100-year/72-hour storm events as predicted by the SFWMD rainfall hyetograph shown in **Appendix J**. **Table 3.1** summarizes the total depth of rainfall associated with the various design storms.

Table 3.1 – Rainfall Depth per Storm Event

Storm Event	Rainfall (in)
Mean Annual	5.0
5-year/72-hour	8.2
10-year/72-hour	9.5
25-year/72-hour	10.9
100-year/72-hour	13.5

Exhibit "D" – Affidavit for Morgan Property Group (Application No. SP-22)

AFFIDAVITS

Complete one or more of the following that relates to your request.

Developer for Tenant

~~_____~~ Affidavit (If tenant is applicant then owner must sign owner/power of attorney affidavit)

I, Morgan Property Group, being first duly sworn, depose and say that I am the ~~_____~~ Developer for Tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, Morgan Property Group, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA North Carolina
COUNTY OF ~~MIAMI-DADE~~ Mecklenburg

[Signature]
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III.
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____



Corporation Affidavit

I, George A. Morgan III., being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, George A. Morgan III., hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA North Carolina
COUNTY OF ~~MIAMI-DADE~~ Mecklenburg

[Signature]
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III.
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____

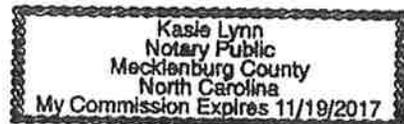


Exhibit "E" – Phase II ESA Summary



December 14, 2012

Mr. Richard Magner, Jr.
Senior Vice President
Construction & Development
Morgan Property Group
13024 Ballantyne Corporate Place, Suite 250
Charlotte, North Carolina 28277

**Re: Limited Phase II Subsurface Investigation
Proposed Walgreen Store #15569
12 & 22-28 Crandon Boulevard
Key Biscayne, Miami-Dade County, Florida**

Apex Job No.: WAG1556912.002

Dear Mr. Magner:

Enclosed please find the Limited Phase II Subsurface Investigation report prepared by Apex Companies, LLC for the proposed Walgreen store location. The Phase II assessment was conducted in accordance with our approved proposal dated October 31, 2012.

This report is certified to **Morgan Property Group and Walgreen Company.**

If you have any questions regarding the enclosed materials, please do not hesitate to contact the undersigned at (860) 282-1700.

Sincerely,
APEX COMPANIES, LLC

A handwritten signature in black ink, appearing to read 'Rylan D. Farr', written over a white background.

Rylan D. Farr
Program Manager

Enclosure



December 14, 2012

Mr. Richard Magner, Jr.
Senior Vice President
Construction & Development
Morgan Property Group
13024 Ballantyne Corporate Place, Suite 250
Charlotte, North Carolina 28277

**Re: Limited Phase II Subsurface Investigation
Proposed Walgreen Store #15569
12 & 22-28 Crandon Boulevard
Key Biscayne, Miami-Dade County, Florida**

Dear Mr. Magner:

Apex Companies, LLC (Apex) is pleased to submit this Limited Phase II Subsurface Investigation report to Morgan Property Group (Morgan) for the above-referenced property (subject property and/or the site). Apex understands that the subject property consists of two parcels totaling approximately 0.97 acres. The parcel located at 12 Crandon Boulevard is improved with one main building with a total net rentable area of 3,745 square feet. The parcel at 22-28 Crandon Boulevard is also improved with one main building with a total net rentable area of 10,816 square feet. The site layout is shown on the attached **Figure 1**.

BACKGROUND

Apex performed a Phase I Environmental Site Assessment (Phase I ESA) at the site in October 2012. The conclusions reached during the Phase I ESA including the following:

- Three (3) dry cleaning facilities were identified within an eighth of a mile of the subject property. The dry cleaning facilities were identified as Master Clean Cleaner (73 Harbor Drive), Key Colony Dry Cleaners (180 Crandon Boulevard), and Paradise Cleaners/Best Care Cleaners (21 Harbor Drive). Master Clean Cleaner is currently located adjacent to the west of the subject property within the Harbor Plaza Shopping Center. This dry cleaning facility was not identified in the Environmental Data Resources (EDR) database search. It is believed that this facility does not store dry cleaning chemicals on-site according to store personnel. However, no management was available at the time of the site inspection to substantiate this claim. Therefore, Apex considers the Master Clean Cleaner facility to be an off-site recognized environmental condition (REC) to the subject property. Key Colony Dry Cleaners is located adjacent to the southwest and up-gradient of the subject property. The wastes generated at this property were identified as spent halogenated solvents. No violations associated with Key Colony Dry Cleaners were identified in the EDR report. However, due to the facility's up-gradient location and close

proximity to the subject property, as well as its status as a RCRA Small-Quantity Generator (SQG), Apex considers Key Colony Dry Cleaners to be an off-site REC to the subject property. Paradise Cleaners/Best Care Cleaners is located approximately 220 feet to the southwest and up-gradient of the subject property. This facility was identified in the EDR database report as a RCRA-SQG. However, due to the facility's up-gradient location and close proximity to the subject property, as well as its status as a RCRA-SQG, Apex considers Paradise Cleaners/Best Care Cleaners to be an off-site REC to the subject property.

- The KB Petroleum Gas Station, addressed as 38 Crandon Boulevard, is located adjacent to the south and up-gradient of the subject property. The facility was identified in the UST database for the presence of two (2) 10,000-gallon, double-walled, fiberglass gasoline USTs. These USTs were installed in November 2009 and are currently in use. KB Petroleum Gas Station was identified in the LUST database due to petroleum releases that occurred on the property in 1988 and 2001. Although cleanup was not required for the release occurring in 2001, remediation associated with the 1988 release is ongoing. The KB Petroleum Gas Station was identified seven (7) times in the Miami-Dade Enforcement Case Tracking System for noncompliance's associated with mobile air sources and USTs. Additionally, the property formerly operated as a BP Oil Gas Station and Key Gulf Service Station. These previous facilities were identified in several environmental databases, including the RCRA-SQG/CESQG database, the Miami-Dade County Hazardous Waste database, and the FINDS database. Due to its historical generation of hazardous waste, its previous enforcement action filings, and ongoing remediation of petroleum contamination, the KB Petroleum Gas Station located at 38 Crandon Boulevard is considered an off-site REC to the subject property.
- Shell JR Oil Inc., addressed as 70 Crandon Boulevard, is located 218 feet to the south and up-gradient of the subject property. The property currently operates as a gas station facility. Shell JR Oil, Inc. was identified in the UST database for the presence of three (3) 12,000-gallon, fiberglass, double-walled, gasoline USTs. Shell JR Oil Inc. was identified in the LUST database for petroleum releases that occurred on the property in 1988 and 1996. The cleanup work status for both incidents was identified as "Closed" in the EDR database report. Shell JR Oil, Inc. was listed in the ENF database four (4) times for enforcement actions associated with USTs and mobile air sources at the facility. Due to the property's proximity and up-gradient location to the Site, as well as its history of leaking USTs and enforcement action filings, Apex considers Shell JR Oil, Inc. to be an off-Site REC to the subject property.

The purpose of the proposed investigation was to obtain data to help evaluate whether historical off-site activities associated with the storage and dispensing of petroleum products along with the use of drycleaner solvents have had impacts to soil, groundwater and soil gas at the site.

Subsurface Groundwater Sampling

In an effort to help identify soil and groundwater impacts associated with the off-site historic storage and dispensing of petroleum products along with the off-site use of drycleaner solvents, Apex advanced six (6) soil borings at the subject property. The location of the soil borings have been selected based upon current on-site structural features and the conclusions/findings of the

Phase I ESA prepared in October 2012 by Apex. The site layout and proposed soil boring locations are provided on **Figure 2**.

On November 13, 2012, Apex mobilized to the site to obtain soil and groundwater samples. Apex contracted with JAEE Environmental Services (JAEE) located in Davie, Florida to provide GeoProbe services to advance select soil borings with the use of direct push technology (DPT) methods. The upper five feet of soil material at each boring location was excavated with the use of a field decontaminated stainless steel hand auger assembly. Clearing of the borehole with a hand auger was used to assure the absence of subsurface utilities within this interval. After the borehole was cleared to 5 feet below grade (bg), separate five-foot core barrels with a removable acetate sleeve were installed to the desired sample interval depth of 15 feet bg at each boring location. The first core barrel was driven from 5 to 10 feet bg, and the second core barrel was driven from 10 to 15 feet bg. Moisture content identified in the soil samples collected indicated a depth to groundwater of approximately 2 to 3 feet bg.

Soil samples were collected continuously at one foot intervals from grade level to 15 feet bg. Soil samples obtained from each sampled interval were placed into 16-ounce (oz.) mason jars. The jars were half filled and sealed with aluminum foil and allowed to equilibrate to ambient temperatures. Utilizing a calibrated Organic Vapor Analyzer – Photoionization Detector (OVA-PID), a mason jar from each sample depth interval was screened with a standard, non-filtered probe. No OVA-PID vadose zone response readings were identified in soil borings GPW-1 through GPW-6. Soil boring logs which include OVA-PID readings along with the OVA-PID calibration log are provided in **Attachment A**.

Due to the properties of anticipated chemicals of concern associated with identified off-site RECs, Apex obtained a horizontal and vertical groundwater sample at each boring location. After the soil samples have been collected, the DPT core barrel was retrofitted with a 4-foot stainless steel well screen drive point assembly protected within an outer stainless steel sleeve. At the desired depth of 6 feet bg and 15 feet bg, the outer casing was retracted to expose the well screen within the formation from 2 to 6 feet bg and 11 to 15 feet bg. Shallow groundwater samples were designated as "A" and deep groundwater samples were designated as "B".

Polyethylene tubing was inserted within the DPT drive rods to a depth which intersected the well screen. The polyethylene tubing was connected to a length of silicon tubing which was attached to the head of a peristaltic pump to assure a proper seal. Turbidity samples were obtained during purging activities. The peristaltic pump was used to purge groundwater from each sample point until a sediment-free discharge was observed prior to collecting the groundwater samples. Turbidity samples were obtained periodically during the purging process. When the turbidity reading from the discharge was reported below 20 NTU's, groundwater samples were collected. Turbidity readings were reported below 20 NTUs at each shallow boring location except GPW-3A (60 NTU) and GPW-5A (38.2 NTU). Turbidity readings were reported above 20 NTUs at each deep boring location ranging from 600 NTU to 850 NTU. When turbidity readings remained above 20 NTUs during the purging process, groundwater samples were collected after a total volume of 4 gallons was purged from these sample locations. Screen intervals and sample turbidity readings are provided on **Table 1**. The calibration log for the turbidity meter is included in **Attachment B**.

Groundwater samples were collected from corresponding soil borings as GW-1A/B through GW-6A/B. Groundwater samples obtained from the DPT well points were transferred into laboratory-supplied containers, stored on ice, and were delivered by Intralabs to Pace Analytical Services, Incorporated (Pace) located in Ormond Beach, Florida. The groundwater samples were

analyzed for benzene, toluene, ethyl-benzene, total xylenes and methyl-tert butyl ether (BTEX+M) and Volatile Organic Halocarbons (VOHs) by EPA Method 8260B, polycyclic aromatic hydrocarbons (PAHs) by EPA Method 8270C and total recoverable petroleum hydrocarbons (TRPH) by FL-Pro Method. Pace's FDOH/NELAP certification for these analysis is E83079. Once the temporary groundwater well points were removed, the boreholes were backfilled with native soil and restored to grade level conditions. Each sample location was sealed at the surface with an asphalt patch to match existing surface pavement material.

Lithology

Apex examined hand auger returns and DPT soil samples from the surface to 15 feet bg at each sample location. The upper foot consisted of a limerock sand sub-base grading to a tan/brown silty sand beneath a paved asphalt surface. Brown to dark brown organic sand was identified to approximately 3 feet bg. Gray to black silty sand with little to no silt and clay was identified to a depth of 6 feet bg. Gray to black sand with shell fragments was identified to the borehole terminus. A medium to coarse grain sand with no silt and clay included sporadic shells and shell fragments from 9 to 12 feet bg. Soil boring logs are provided in **Attachment A**.

Groundwater Laboratory Analytical Results

BTEX and MTBE were reported either below their respective Florida Department of Environmental Protection (FDEP) Table I Groundwater Cleanup Target Levels (GCTLs) or below laboratory method detection limits (MDLs) in GW-1A/B through GW-6A/B. PAHs were reported either below their respective FDEP Table I GCTLs or below laboratory MDLs in GW-1A/B through GW-6A/B. TRPH was reported either below its respective FDEP Table I GCTLs or below laboratory MDLs in GW-1A/B through GW-6A/B. VOH parameters were reported either below its respective FDEP Table I GCTLs or below laboratory MDLs in GW-1A/B through GW-6A/B.

Groundwater analytical results are provided in **Table 1**. The groundwater laboratory analytical data package is provided in **Attachment C**.

Soil Vapor Sampling and Analysis

The purpose of the investigation is to obtain current soil vapor data to help evaluate the potential for exposure to one or more volatile organic compounds (VOCs). The scope of work included advancing four (4) temporary soil vapor sample points (VP-01 through VP-04) in the proposed Walgreen Store #15569 building footprint. Soil vapor points were biased towards the building corners. Vapor sample point VP-01 was relocated from its proposed location due to parked cars and vehicular traffic. The approximate location of the soil vapor points is provided on **Figure 2**.

The soil vapor sampling consisted of advancing a field decontaminated 2.5-inch diameter stainless steel hand auger through the surface asphalt and limerock sub base material to a depth of 10 inches bg. Asphalt measurements were identified at a thickness of 2 inches. Once the hand auger cleared the base material, a ½-inch diameter steel rod was manually advanced to a depth of 18-inches bg at each location. The borehole depth was selected based upon groundwater identified at approximately 2-feet bg during previously conducted groundwater sampling activities. Once the desired depth was achieved, a 6-inch stainless steel soil vapor

implant connected to 1/8-inch inside diameter polyethylene tubing was inserted to the base of each borehole. The soil vapor borehole was completed by filling the annular space between vapor implant and the formation with a standard 20/30 grade silica sand pack to approximately 10-inches bg. A fine sand seal was placed above the filter pack to a depth of 4-inches bg. A hydrated bentonite slurry was placed between the polyethylene tubing, which exited the soil vapor borehole and terminated above grade, and the asphalt pavement for an effective surface seal.

Prior to sampling, each vapor probe was purged for one minute. The purging process removed approximately 200 milliliters (mL) of air from the formation and residual air within the tubing/vapor implant equipment. During the purging process, recovered air was continuously monitored for VOCs with a calibrated OVA-PID. OVA-PID readings were not identified at any of the soil vapor probe locations.

At each vapor point location, a leak test was conducted. The leak test selected for this location involved introducing helium as a gaseous tracer compound into a shroud covering the sample point apparatus exiting the concrete slab. A portable helium gas monitor was used to document a reasonably steady concentration of tracer gas within the shroud. After the purging process was completed as discussed above, the helium monitor was connected to the soil vapor implant tube exiting the concrete slab. The monitor was used to detect trace helium gas concentrations within the sample zone beneath the slab. No helium gas readings from the sample zone were reported at any of the soil probe locations, except for VP-01. The lack of helium readings in VP-02 through VP-04 demonstrated a proper seal at the surface. The helium reading from the sample zone at VP-01 was reported at 2,450 ppm (2.45%). Since the helium reading was reported below 10% of the shroud concentration of 44.6%, the surface seal is considered acceptable for sampling. Soil probe construction details, OVA-PID readings and leak test readings are reported for each soil vapor point provided in **Attachment D**.

Once soil vapor purging and leak test results were confirmed, the soil vapor points were prepared for sampling. Soil vapor samples were collected in laboratory pre-cleaned 1-liter (L) Summa canisters. Each canister was equipped with an in-line Critical Orifice Assembly (COA) and an analog vacuum gauge. The COA was calibrated for a sample collection duration time of four (4) hours. The analog vacuum gauge provided canister vacuum measurements prior to and throughout the 4-hour sampling event. The soil vapor sampling event was conducted either for the full 4-hour sampling duration, or when the analog vacuum gauge registered a reading of five (5) inches of mercury (Hg).

The soil vapor samples collected within the Summa canisters were transported offsite under a chain-of-custody form for laboratory analysis by Columbia Analytical Services Inc. (Columbia) located in Simi Valley, California. The soil vapor samples were analyzed for VOCs by Method TO-15. Additional analysis was conducted for the trace test compound helium via modified EPA Method 3C (single injection).

Once the samples were collected, the polyethylene tubing was cut below grade. The vapor sample boreholes were sealed to grade level with concrete.

Analytical Results Summary

VOCs analyzed were not reported above commercial Environmental Protection Agency (EPA) Regional Screening Levels (RSLs) as published in May 2012 at a Target Cancer Risk (TCR) of

10E-5 for carcinogens. VOC compounds which were detected above their laboratory MDLs are provided on **Table 2**. Trace test compound helium was reported below MDLs at each sample location, except VP-01. Helium was reported in VP-01 at 770 ppm. The analytical results are included within a copy of the laboratory report that is provided as **Attachment E**.

Conclusions and Recommendations

Based upon the analytical results, Apex concludes that there does not appear to be a risk of soil or groundwater impacts or VOC vapor intrusion from historical off-site activities associated with the storage and dispensing of petroleum products along with the use of drycleaner solvents.

Apex appreciates the opportunity to provide Morgan Property Group with the results of Limited Phase II Subsurface Investigation from proposed Walgreen Store #15569. If you have questions or comments regarding the information in this report or if we can be of further assistance, please call us at (904) 900-1779 or (860) 282-1700.

Sincerely,
Apex Companies, LLC



Matthew A. McDonnell, P.G.
Program Manager

Apex Companies, LLC



Rylan D. Farr
National Program Manager

Attachments

Exhibit "F" – Affidavit for Morgan Property Group (Application No. CU-04)

AFFIDAVITS

Complete one or more of the following that relates to your request.

Developer for Tenant

Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, Morgan Property Group, being first duly sworn, depose and say that I am the Developer for Tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, Morgan Property Group, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA North Carolina
COUNTY OF MIAMI-DADE mecklenburg

[Signature]
Signature of Applicant

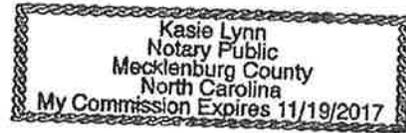
Sworn to (or affirmed) and subscribed before me this
5 day of April, by George A. Morgan III
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ✓ OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit



I, George A. Morgan III, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, George A. Morgan III, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA North Carolina
COUNTY OF MIAMI-DADE mecklenburg

[Signature]
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
5 day of April, by George A. Morgan III
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ✓ OR Produced Identification _____
Type of Identification Produced _____

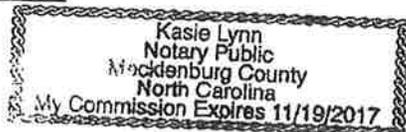


EXHIBIT 5



V I L L A G E O F K E Y B I S C A Y N E

Department of Building, Zoning and Planning

Village Council

Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director

Jud Kurlancheek, AICP

Chief Building Official

Eugenio M. Santiago, P.E., CFM

April 26, 2013

Neisen O. Kasdin, Esq.
Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, Florida 33131-1714

Re: 12, 22 and 24 Crandon Boulevard

Dear Mr. Kasdin,

I am in receipt of your April 19, 2013 letter together with the enclosed materials. While several of the items have been responded to sufficiently, two principle and fundamental problems with the application remain unresolved. From a review of the proposed site plan as well as the proposed cross access agreement, it is clearly apparent that the owners/developers/tenant intends to use the shopping center at 51/99 Harbor Drive as a principle means of ingress and egress to and from the proposed development. Moreover, the proposed cross access agreement grants the owner of the adjacent property rights and ingress and egress through and across the subject property to and from Crandon Boulevard. If your client intends to utilize adjacent properties as part of the driveway system for the development as a means of ingress and egress to Harbor Drive, the adjacent property must be included as part of the land submitted for site plan approval.

The other significant issue addressed in your letter but not adequately responded to relates to the 10,000 square foot occupancy limitation. It is quite apparent from the site plan and the documentation provided that the proposed Walgreens intends to occupy more than 10,000 square feet within the proposed building. This is precluded by the plain reading of the regulations and requires no special interpretation or examination of the intent of the ordinance. New plan must be modified to reflect occupancy of no greater than 10,000 square feet.

In addition, please provide a signed and sealed survey and a legend on sheet C-1 "Site Plan" explaining the symbols (E, S, T, and W) for the easements.

Except as provided above, I believe that the materials you have provided adequately address the issues set forth in my March 20, 2013 letter. As soon as the plans and application have been modified to address the issues discussed above, my office will be in a position to move forward with the processing and substantive analysis of the applications. If you have any further questions or concerns, please do not hesitate contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jud Kurlancheek".

Jud Kurlancheek, AICP, Director

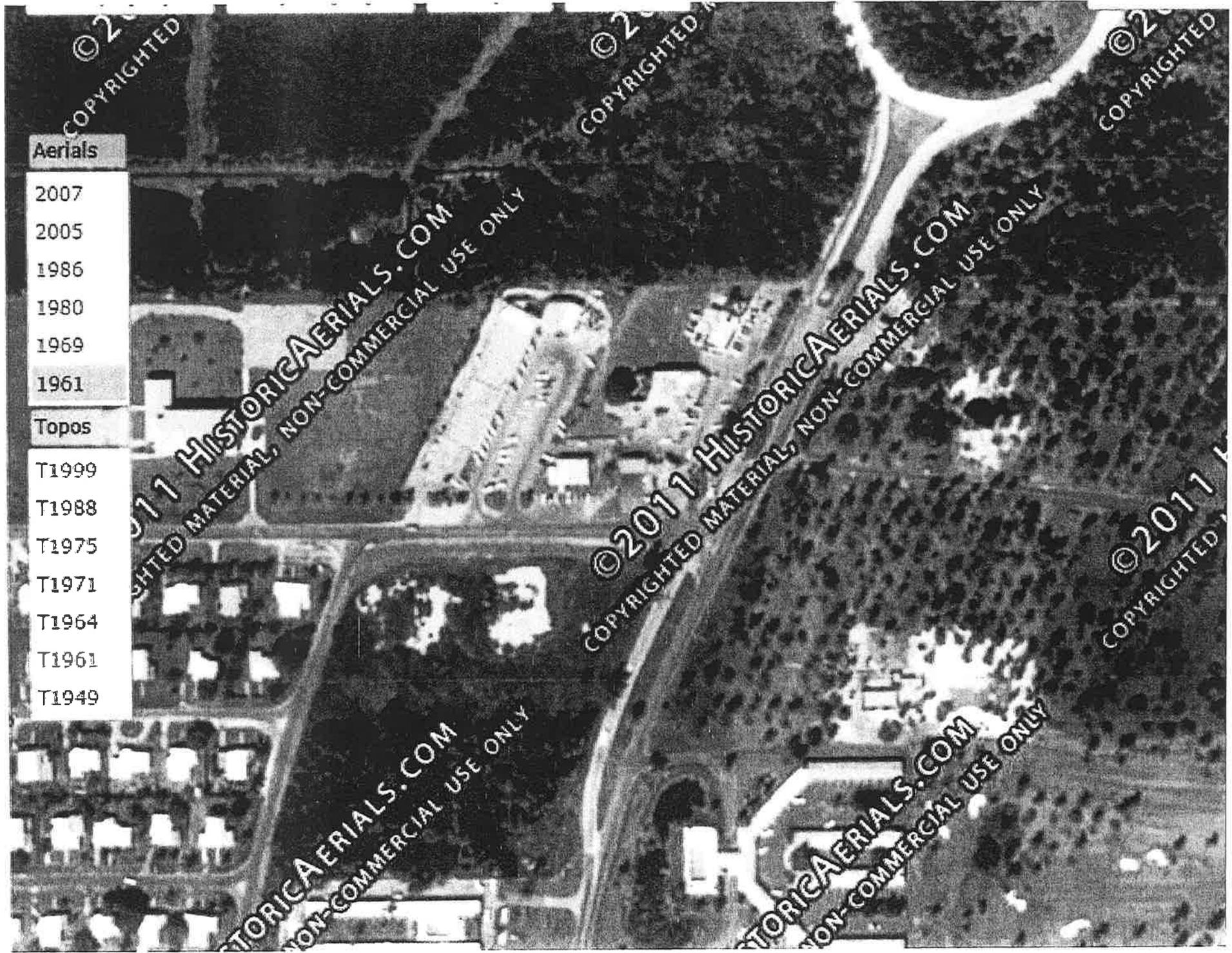
EXHIBIT 6

Aerials

- 2007
- 2005
- 1986
- 1980
- 1969
- 1961

Topos

- T1999
- T1988
- T1975
- T1971
- T1964
- T1961
- T1949

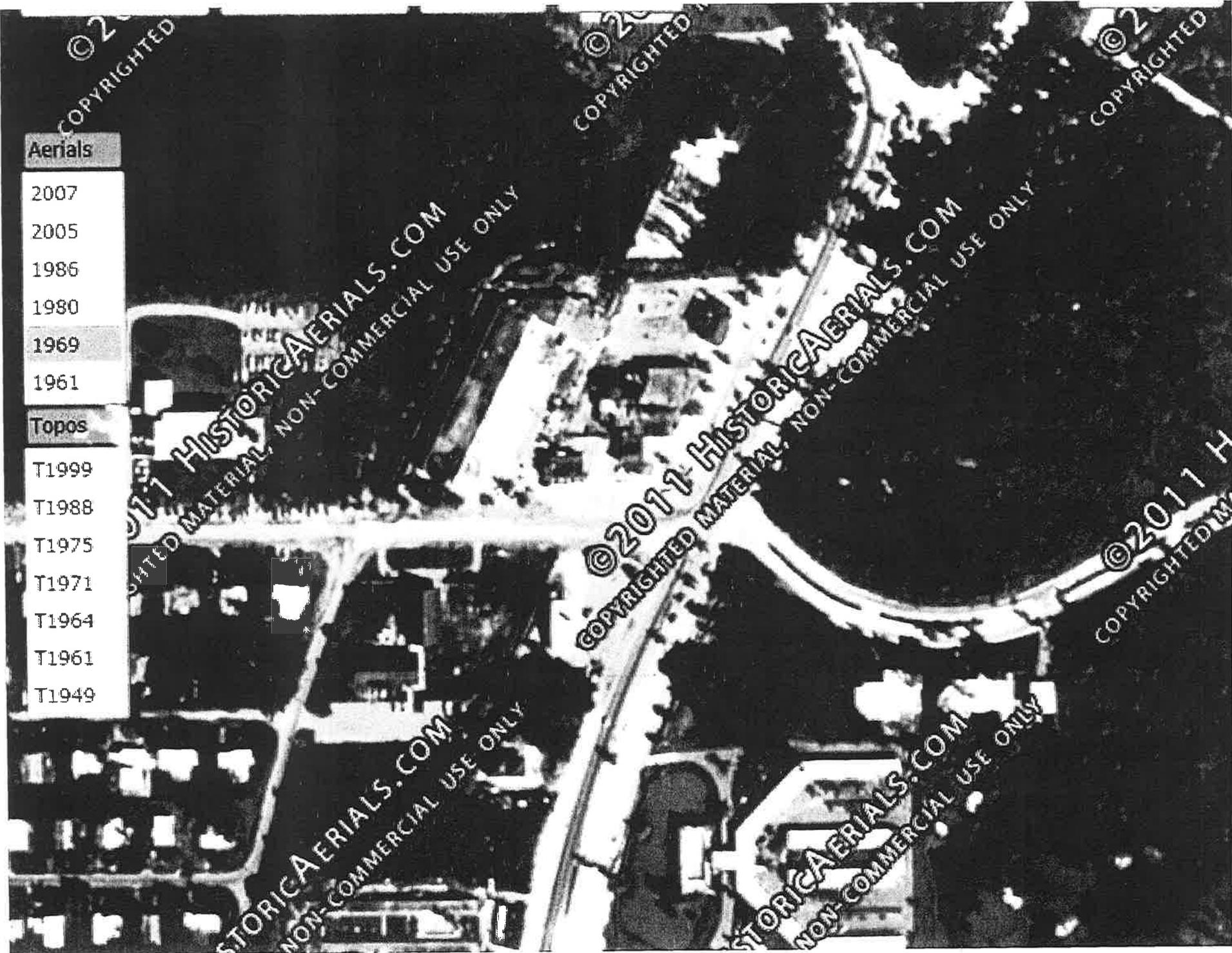


Aerials

- 2007
- 2005
- 1986
- 1980
- 1969
- 1961

Topos

- T1999
- T1988
- T1975
- T1971
- T1964
- T1961
- T1949



Aerials

2007

2005

1986

1980

1969

1961

Topos

T1999

T1988

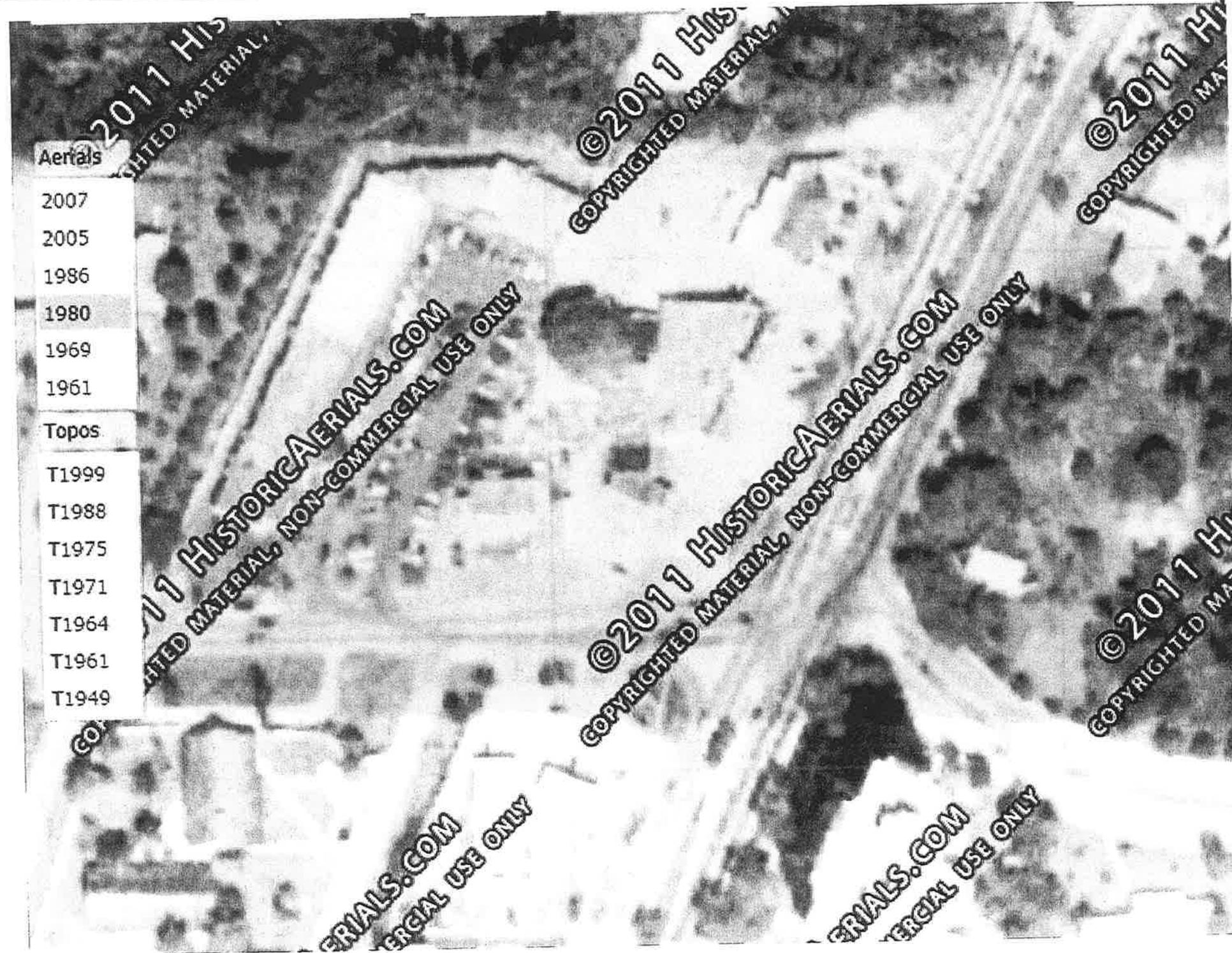
T1975

T1971

T1964

T1961

T1949



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Aerials

2007

2005

1986

1980

1969

1961

Topos

T1999

T1988

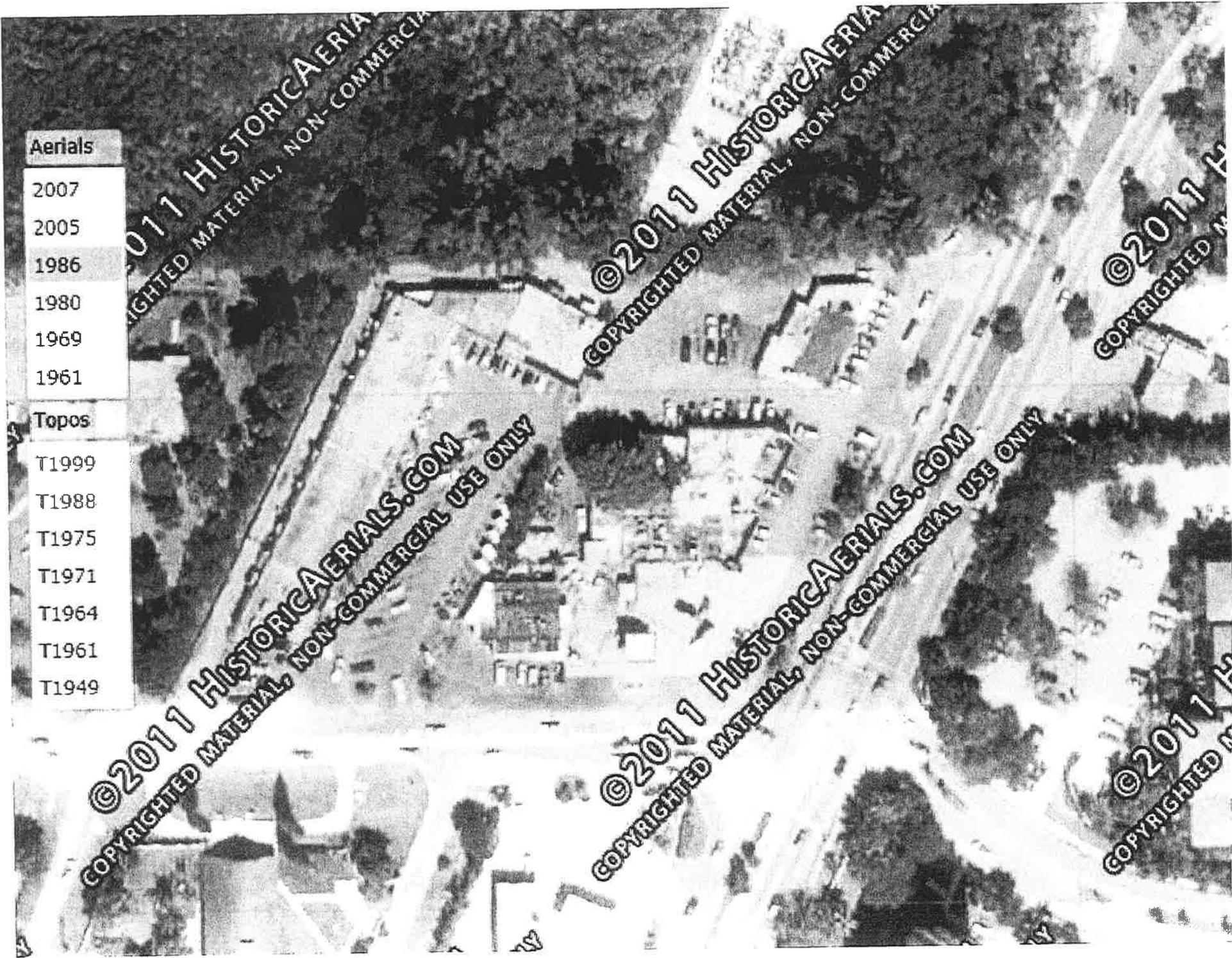
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Aerials

2007

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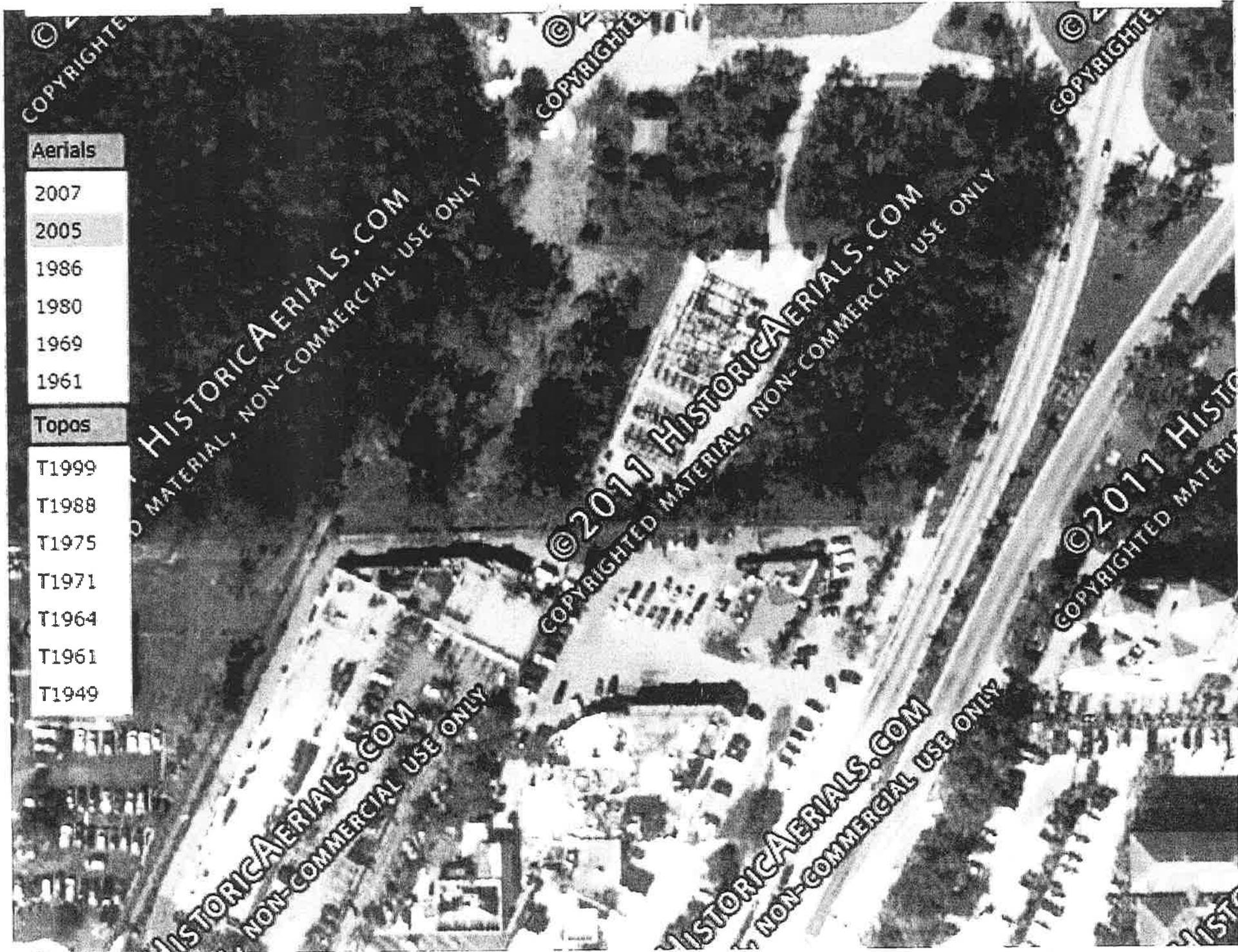
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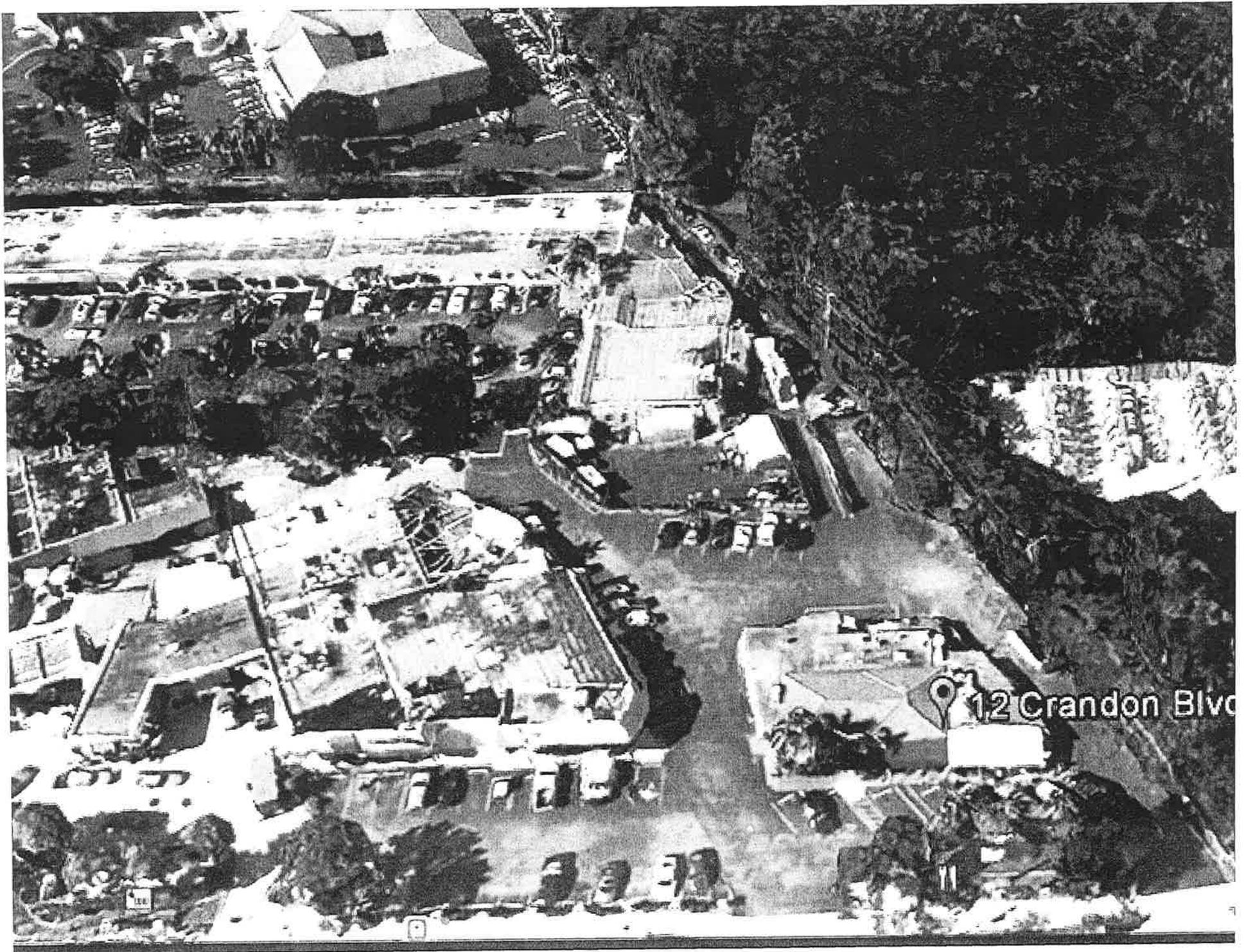




EXHIBIT 7

RESOLUTION NO. SP-04

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; APPROVING A REQUEST (FILE SP-04) FOR APPROVAL OF A SITE PLAN PURSUANT TO THE PROCEDURES SET FORTH IN THE ZONING AND LAND DEVELOPMENT REGULATIONS FOR PROPERTY LOCATED AT 100 CRANDON BOULEVARD.

WHEREAS, the St. Michael Property Holdings, Inc. has applied for approval of Site Plan pursuant to the Zoning and Land Development Regulations;

WHEREAS, the Village Council at its meeting of July 10, 2001 completed a duly advertised public hearing thereon; and

WHEREAS, the Village Council has determined that the application is consistent with the review criteria as set forth Section 30-80 "Site Plan Review Procedures" of the Zoning and Land Development Regulations.

WHEREAS, the site plan review regulations provide for the issuance of a Development Order (F.S. Sex.163.3164) within specified timeframes otherwise the approval is automatically null and void.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AS FOLLOWS:

Section 1: That following review of the Building, Zoning, and Planning staff report and all submitted written and oral testimony received during the public hearing, the request for the Variance and Site Plan Approval is hereby approved subject to the following conditions:

1. A unity of title for property at 100 and 104 Crandon Boulevard shall be recorded in the public records prior to the issuance of a building permit.
2. The applicant shall construct the following improvements in the public rights of way consistent with Village's specifications: a 10 ft. wide (minimum) decorative sidewalk, curbing, and irrigation of the swale. These improvements shall be constructed prior to the issuance of any Certificate of Occupancy and included in the plans for a building permit. No building permit shall be issued until the Village and other regulatory agencies approve the plans showing these improvements.
3. That the Building, Zoning, and Planning Director is authorized to approve minor modifications to the plans when it is determined by the Director that such modifications are in substantial conformance with the plans as approved by Council.
4. A detailed landscape plan shall be submitted with the building permit application. A building

permit shall not be issued until the Building, Zoning, and Planning Department approves the landscape plan. A Certificate of Occupancy shall not be issued until the landscaping has been installed and approved by the Department.

5. Signage on the building is limited to the business that occupies the largest amount of floor area. Secondary signage is permitted through a directory sign on exterior of the building. The size of the directory sign shall conform with the Zoning and Land Development Regulations.
6. This resolution shall be recorded in the public records or Miami-Dade County prior to the issuance of a building permit.

Section 2: That the Building, Zoning, and Planning Department is hereby directed to forward a copy of this resolution to the applicant.

PASSED AND ADOPTED this 10th day of July, 2001.

VILLAGE OF KEY BISCAYNE
VILLAGE COUNCIL



[Signature]
Mayor Joe I. Rasco

ATTEST:

[Signature]

Conchita H. Alvarez, CMC, Village Clerk

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
Village of Key Biscayne, Florida, only

[Signature]
Weiss Serota Helfman Pastoriza
& Guedes, P.A., Village Attorney

This document was prepared by
Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Dept.

[Signature]
Jud Kurlancheek, AICP, Director

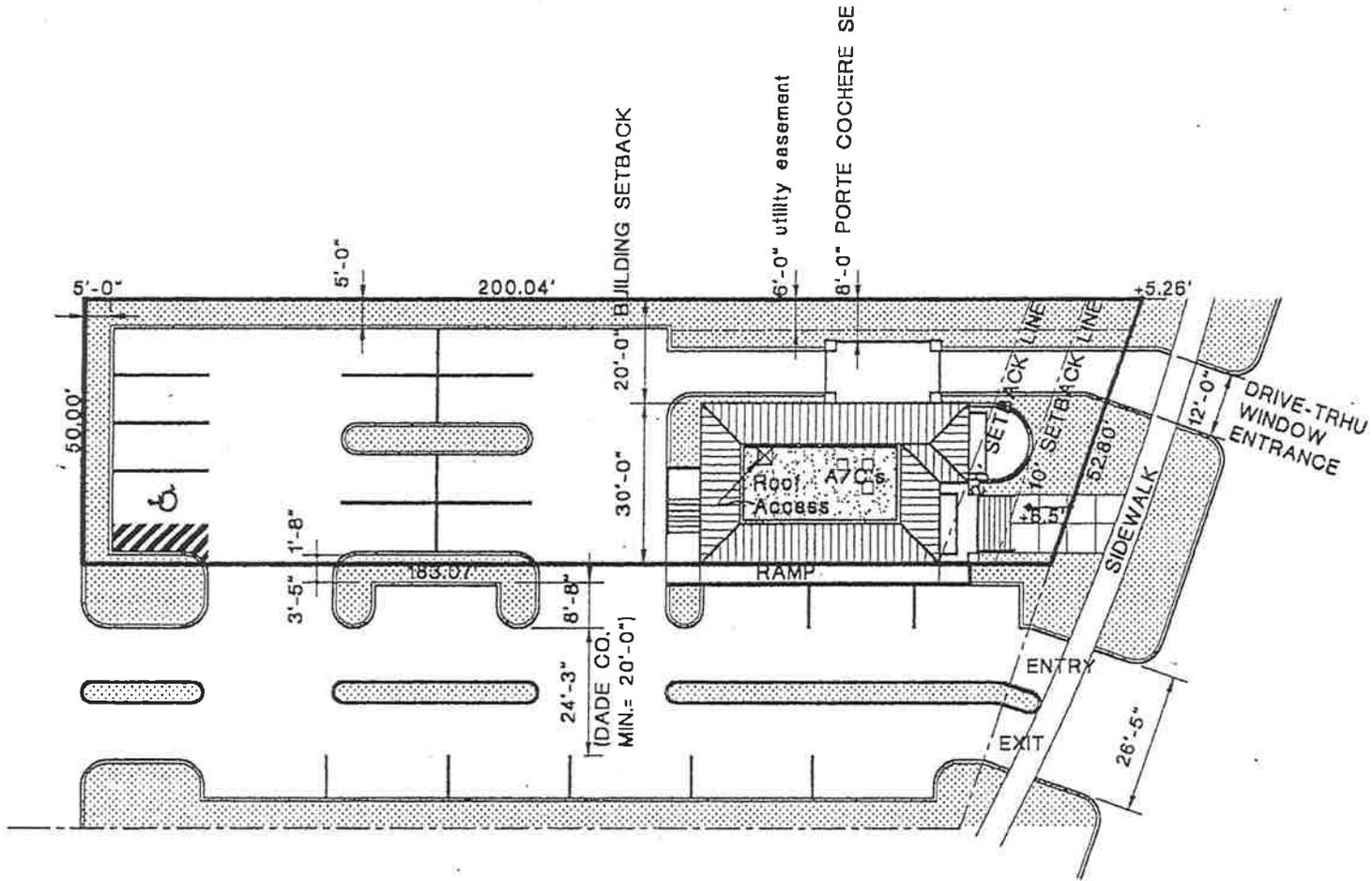
ST. MICHAEL PROPERTY HOLDINGS, INC.

100 CRANDON BOULEVARD

VILLAGE OF KEY BISCAYNE, FLORIDA

EASTSHORE

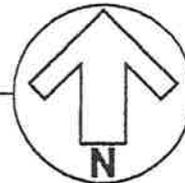
architects



SITE AREA	9,577 SF
LOT COVERAGE	1,603 SF (17%)
F.A.R.	4,493 SF (47%)
GREEN AREA	2,182 SF (23%)
PARKING SPACES	12 (1 HANDICAPPED)
FIRST FLOOR AREA	1,603 SF GROSS (1,170 SF NET)
SECOND FLOOR AREA	1,445 SF GROSS (1,088 SF NET)
THIRD FLOOR AREA	1,445 SF GROSS (1,088 SF NET)

PLOT PLAN

SCALE: 1/32" = 1'-0"



Luis Jauregui
5/17/01

A New Office Building For:

ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Crandon Boulevard Village of Key Biscayne

Eastshore Int'l, Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

ISSUE DATE:

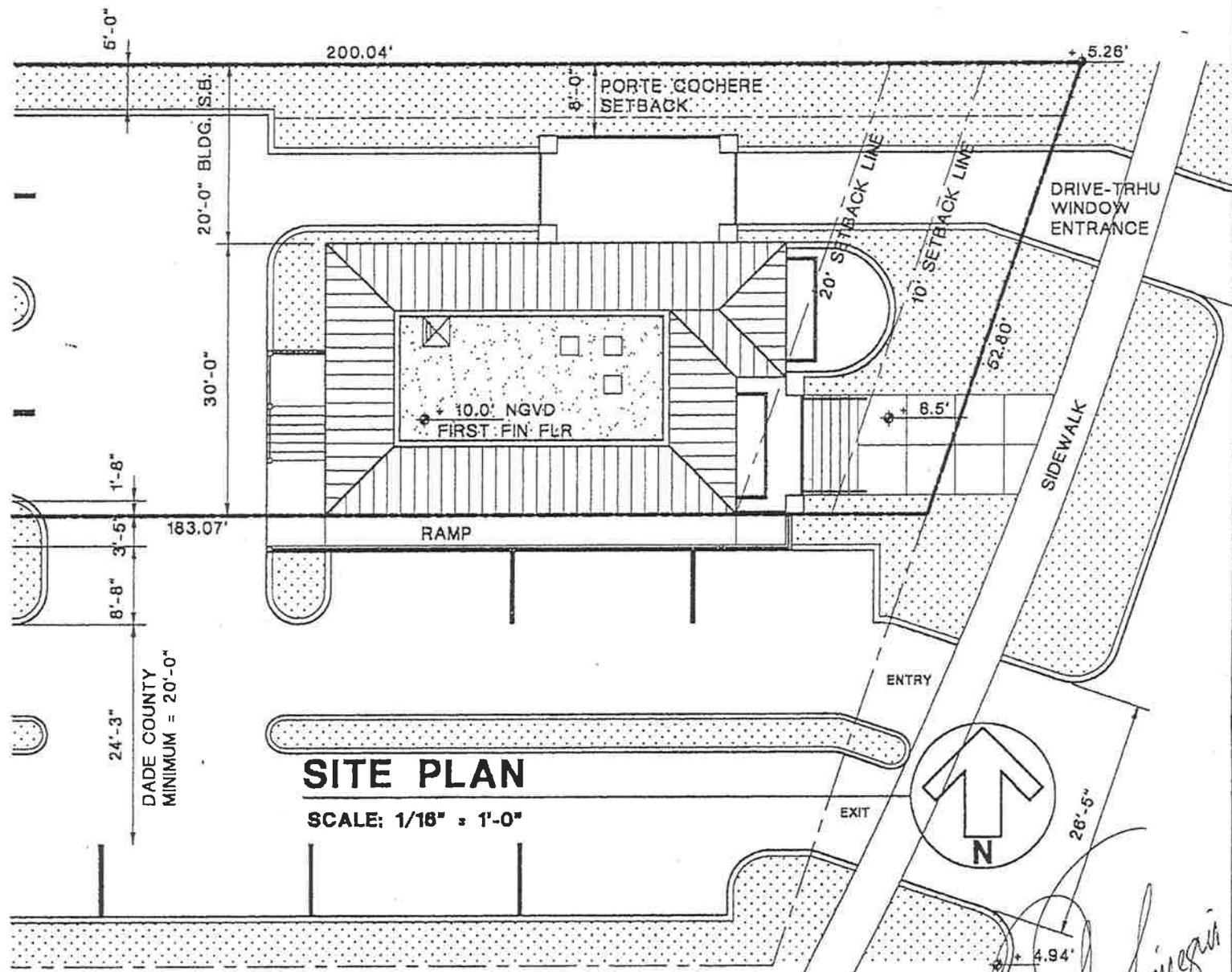
05-18-01

PROJECT NUMBER:

01-10

SHEET NUMBER

A-1



SITE PLAN

SCALE: 1/16" = 1'-0"

Luis Jauregui
5/17/01

A New Office Building For:

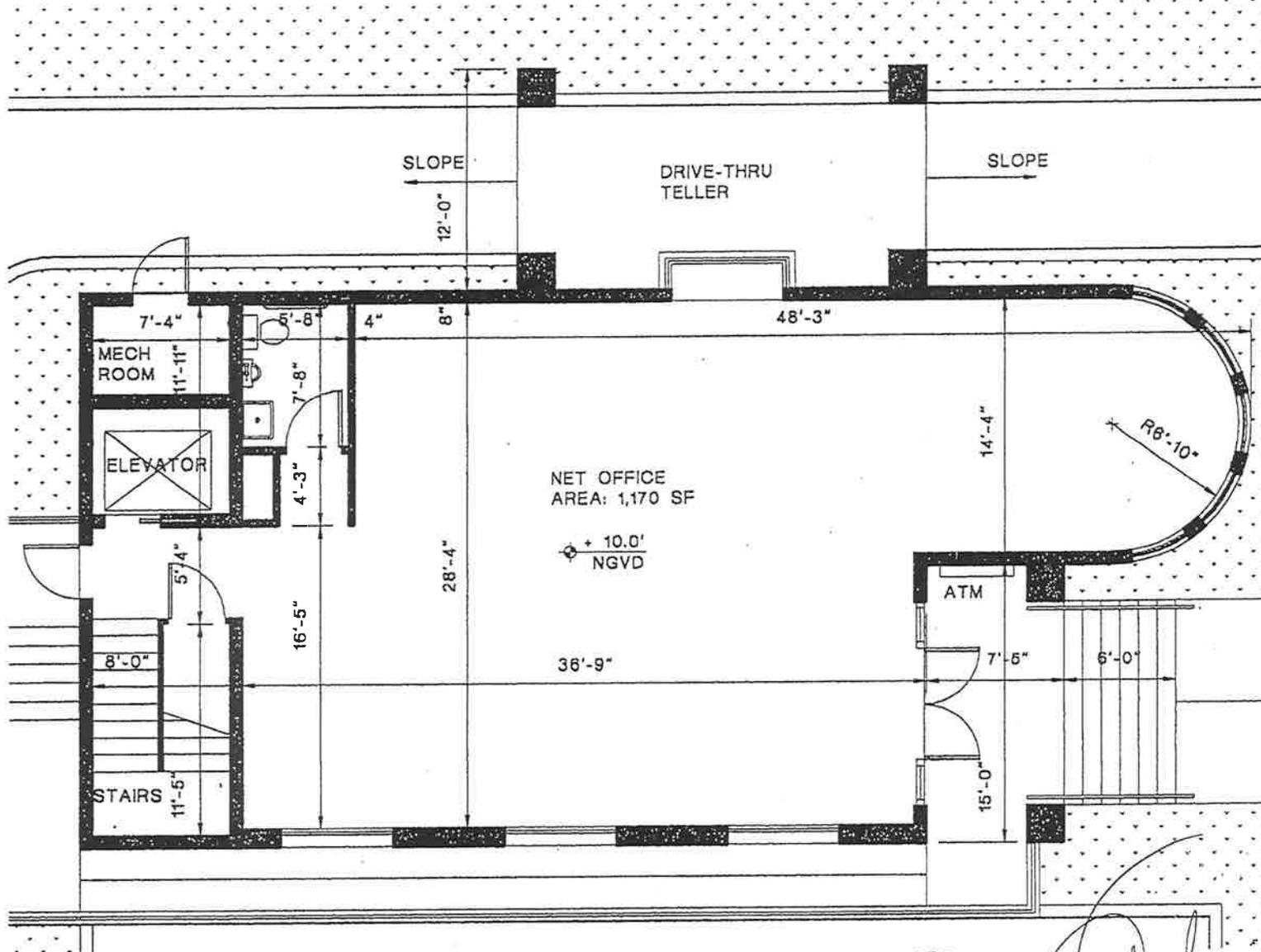
ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Grandon Boulevard Village of Key Biscayne

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077

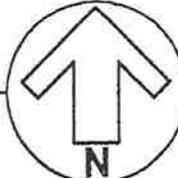
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

ISSUE DATE:
04-18-01
PROJECT NUMBER:
01-10
SHEET NUMBER
A-2



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

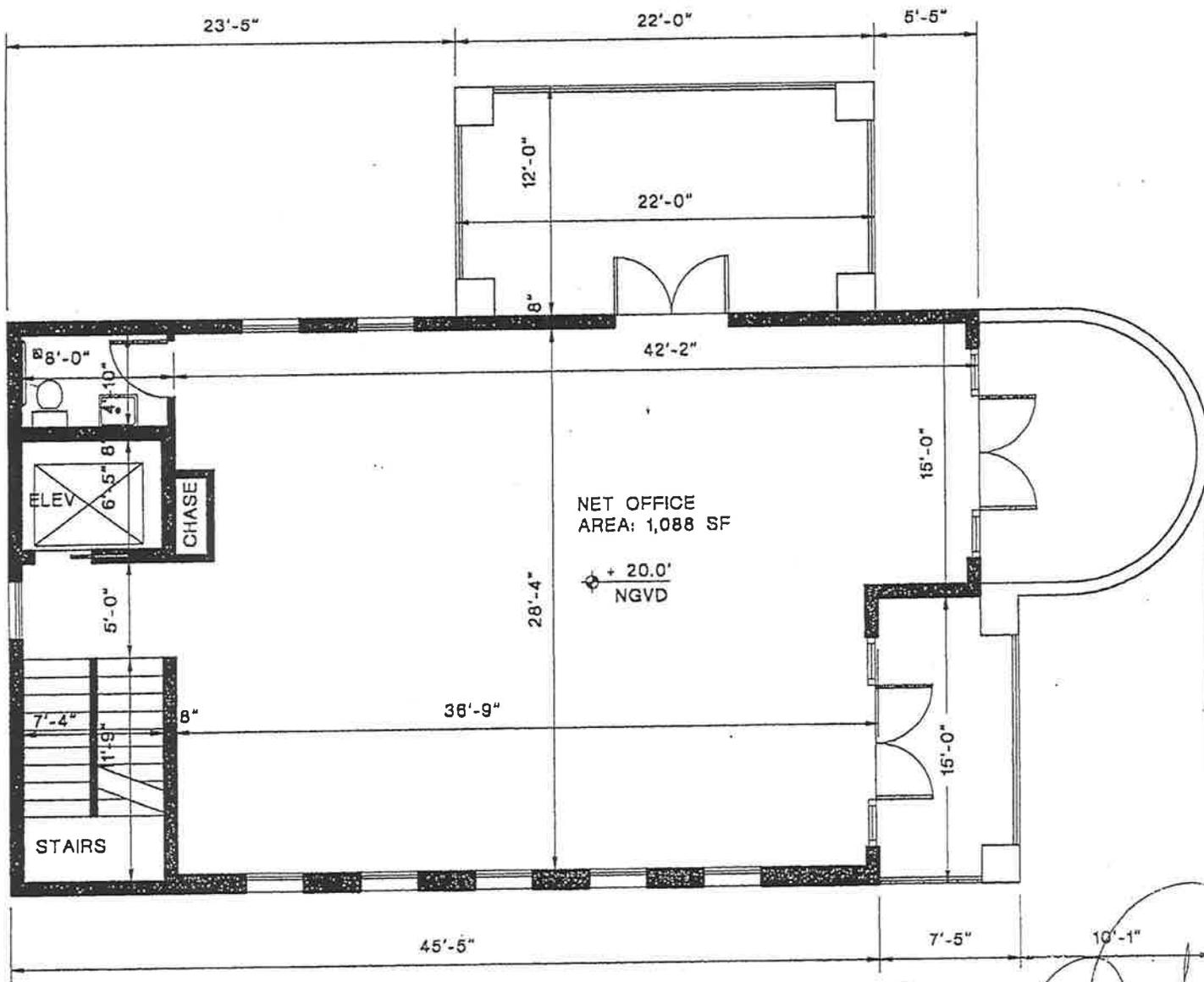


Luis Jauregui
5/17/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
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(305) 662-5077
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Ignacio Zabaleta, AR 12101

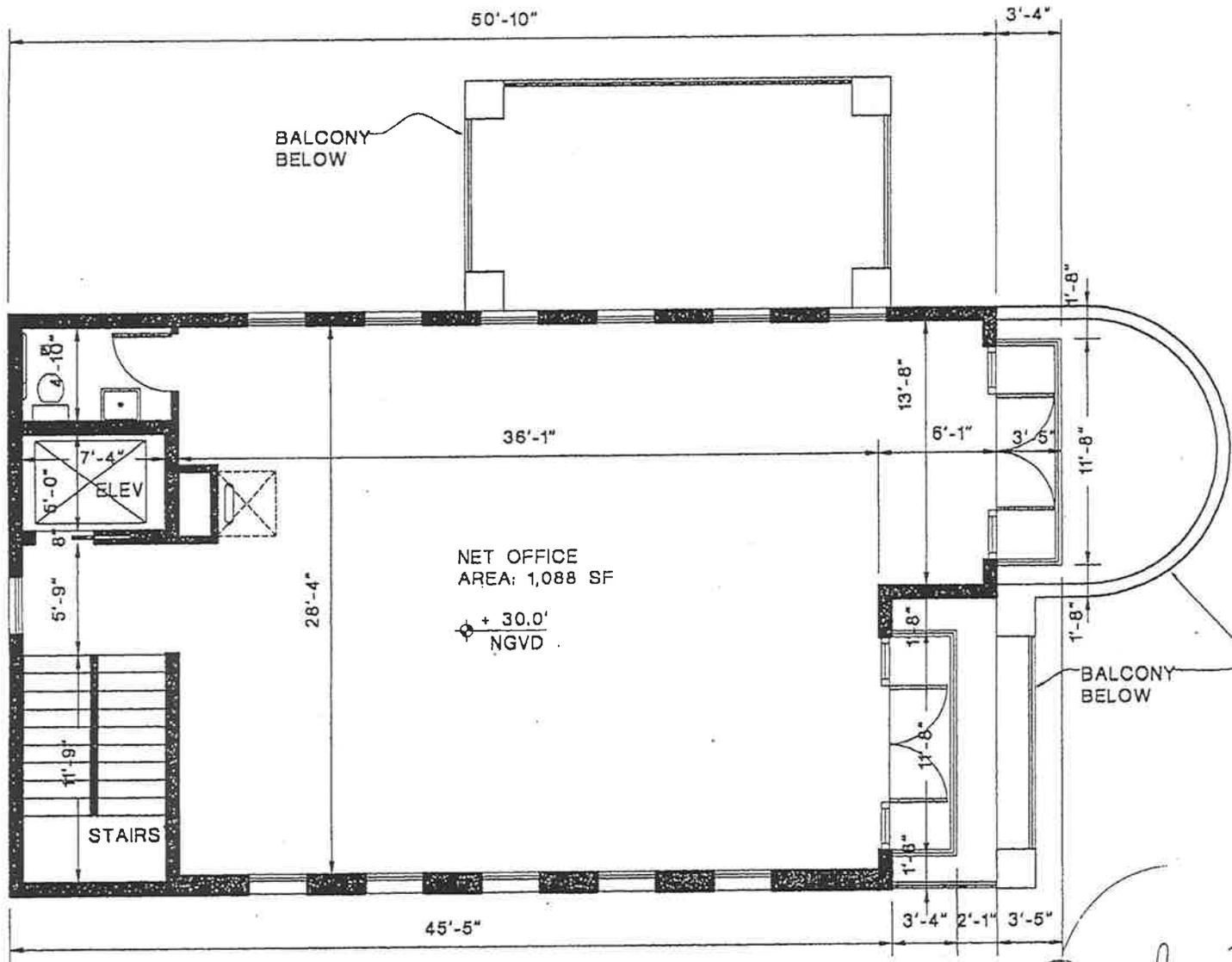
A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-3



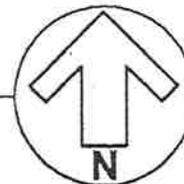
SECOND FLOOR PLAN
 SCALE: 1/8" = 1'-0"

Eastshore Int'l. Corp. 7412-B SW 48 Street Miami, FL 33155 (305) 662-5077 Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101	
A New Office Building For: ST. MICHAEL PROPERTY HOLDINGS, INC. 100 Crandon Boulevard Village of Key Biscayne	
ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-4



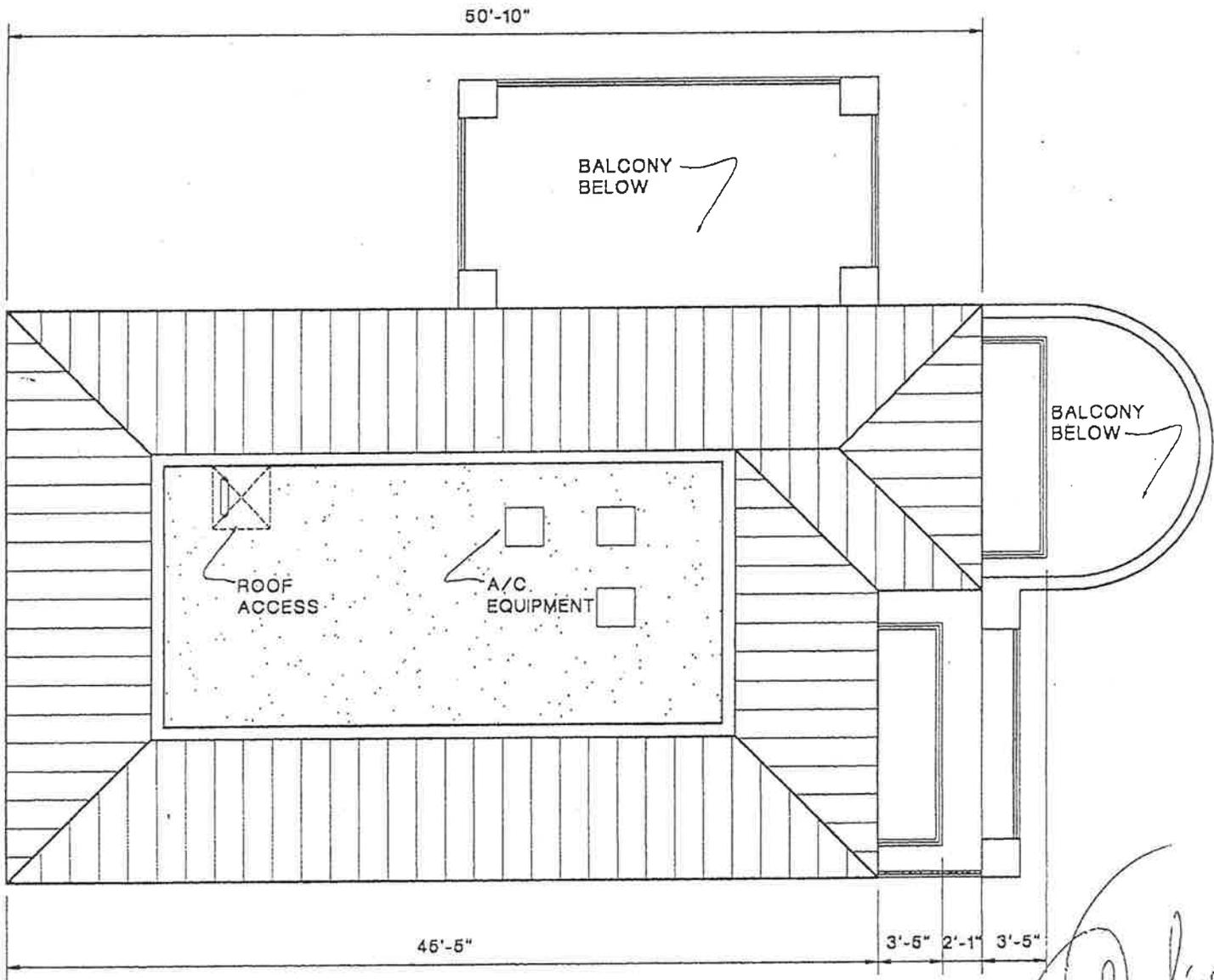
THIRD FLOOR PLAN

SCALE: 1/8" = 1'-0"

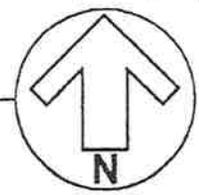


Luis Jauregui
5/17/01

<p>Eastshore Int'l. Corp. 7412-B SW 48 Street Miami, FL 33155 (305) 662-5077</p> <p>Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101</p>	
<p>A New Office Building For:</p> <p>ST. MICHAEL PROPERTY HOLDINGS, INC.</p> <p>100 Crandon Boulevard Village of Key Biscayne</p>	
ISSUE DATE:	08-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-5



ROOF PLAN
 SCALE: 1/8" = 1'-0"

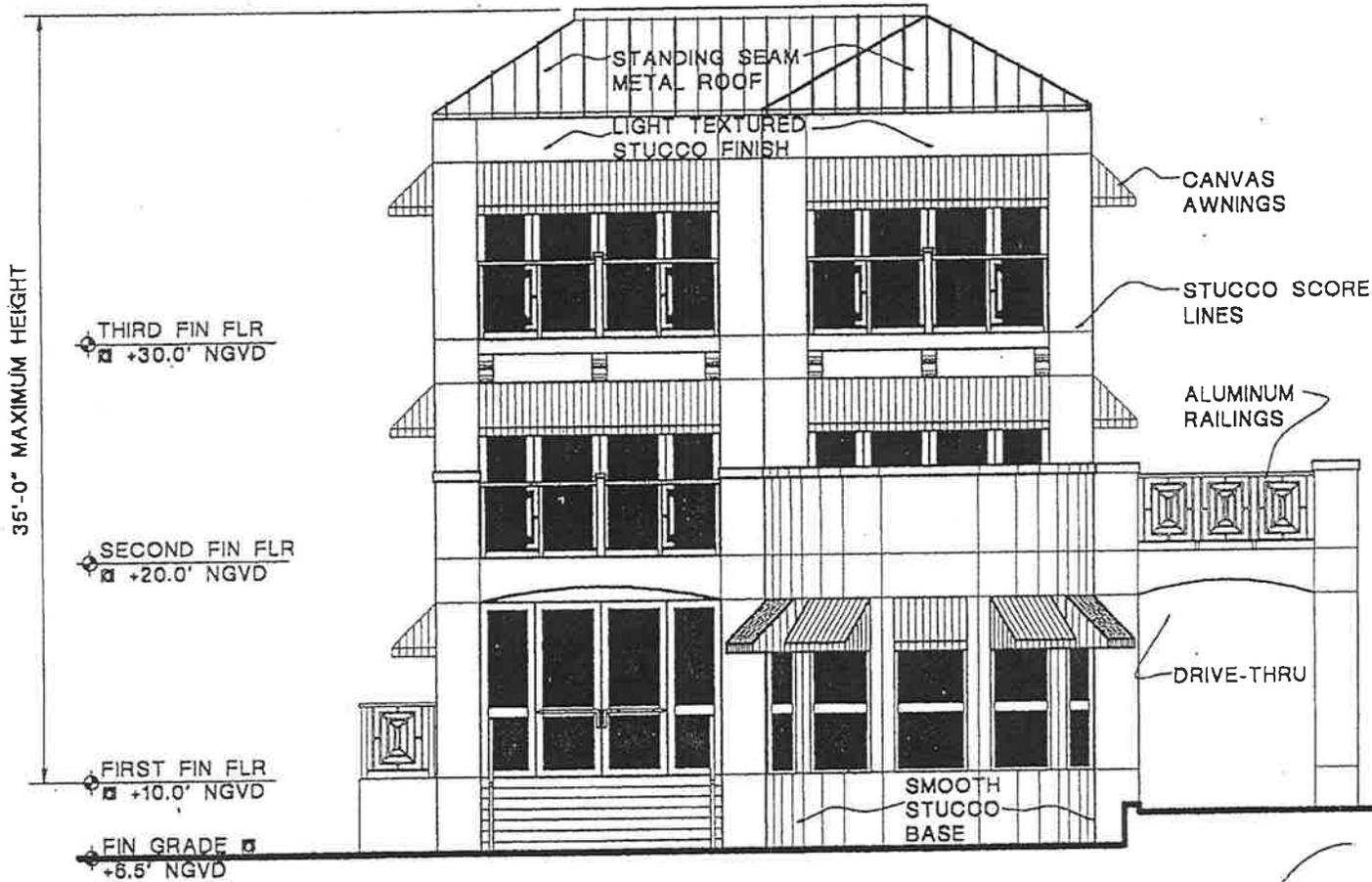


Luis Jauregui
 5/17/01

Eastshore Int'l. Corp.
 7412-B SW 48 Street
 Miami, FL 33155
 (305) 662-5077
 Luis Jauregui, AR 12124
 Ignacio Zabaleta, AR 12101

A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
 100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-6



FRONT (EAST) ELEVATION

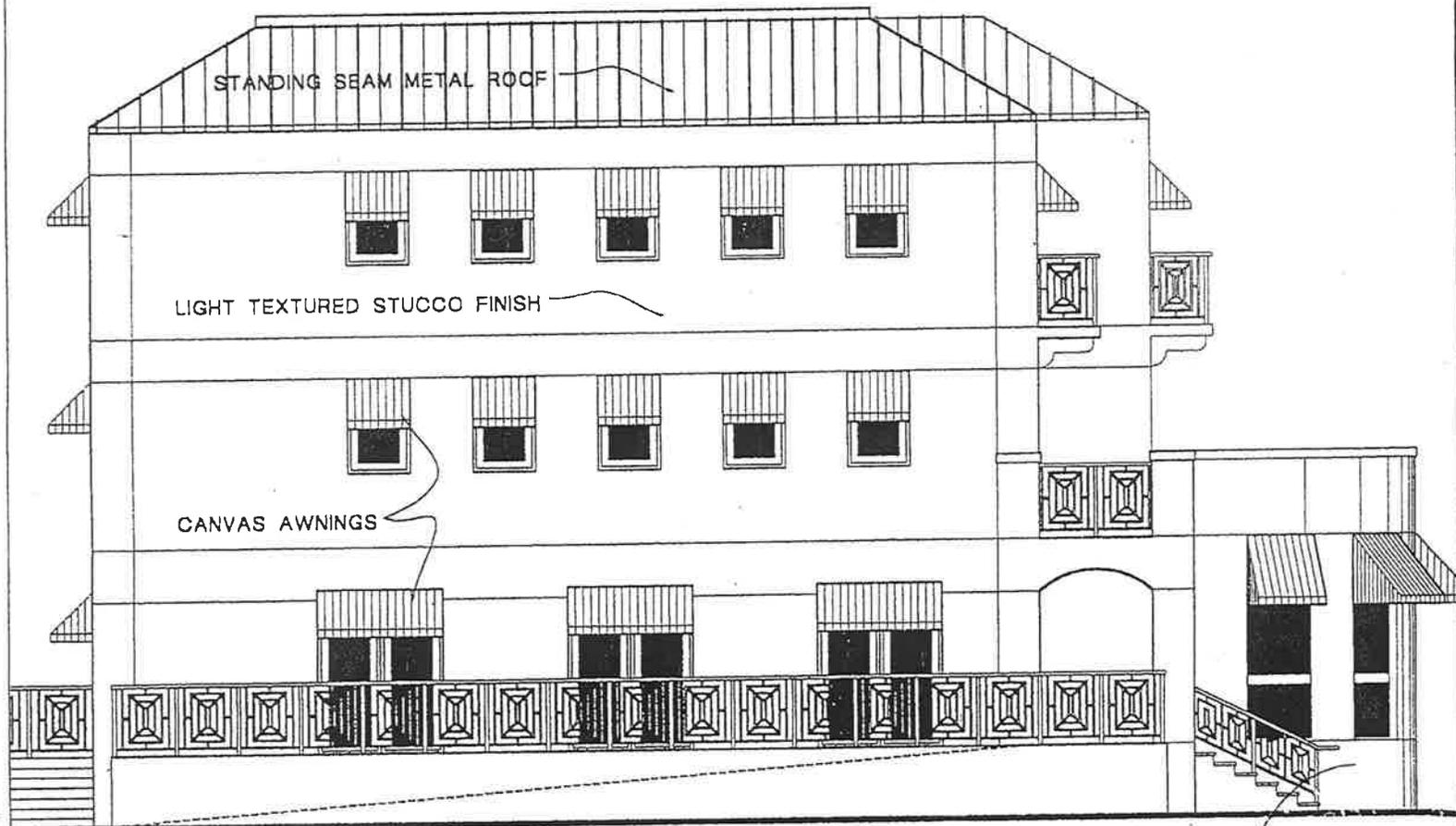
SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	08-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-7



STANDING SEAM METAL ROOF

LIGHT TEXTURED STUCCO FINISH

CANVAS AWNINGS

LEFT SIDE (SOUTH) ELEVATION

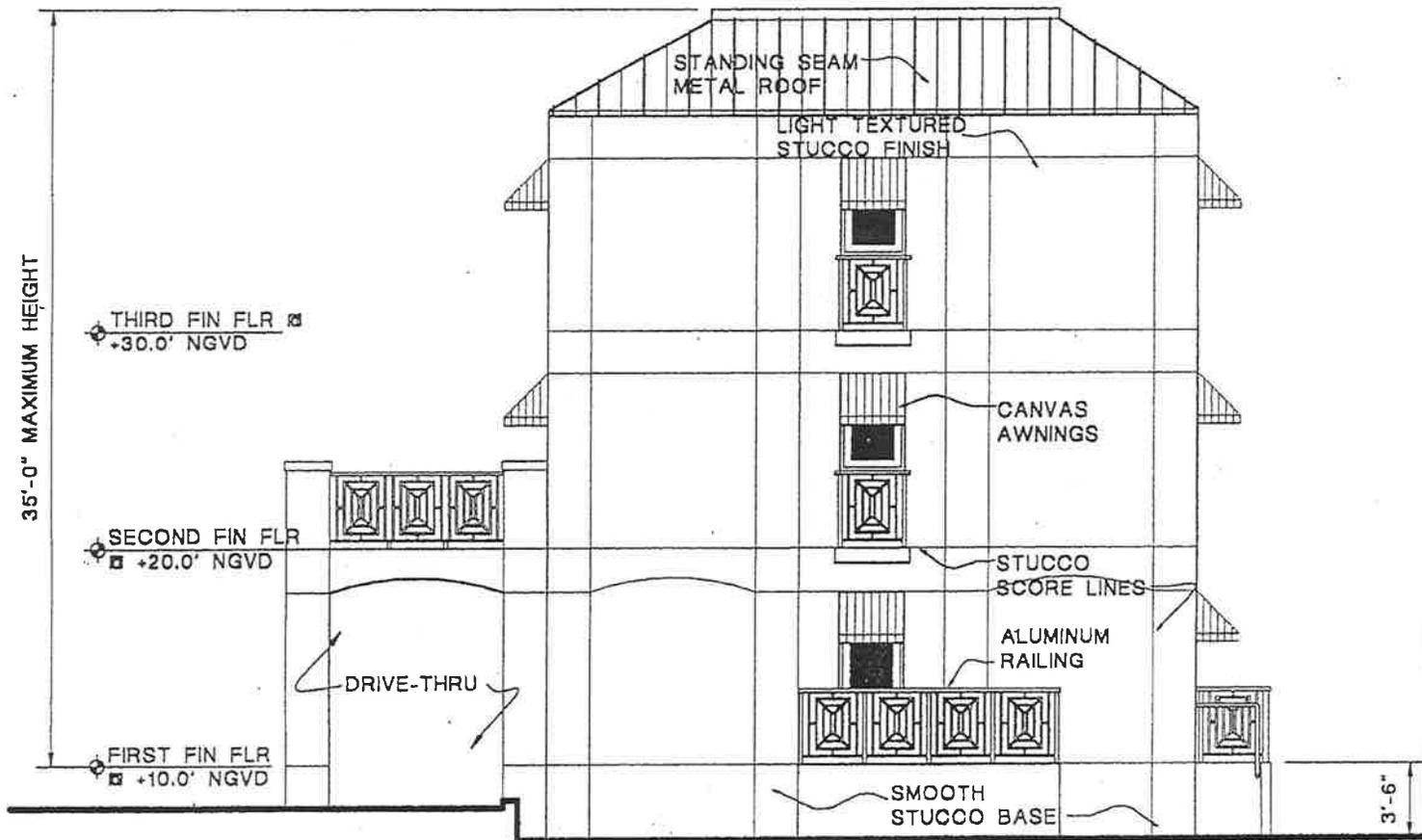
SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077
Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:
ST. MICHAEL PROPERTY HOLDINGS, INC.
100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:	05-18-01
PROJECT NUMBER:	01-10
SHEET NUMBER	A-8

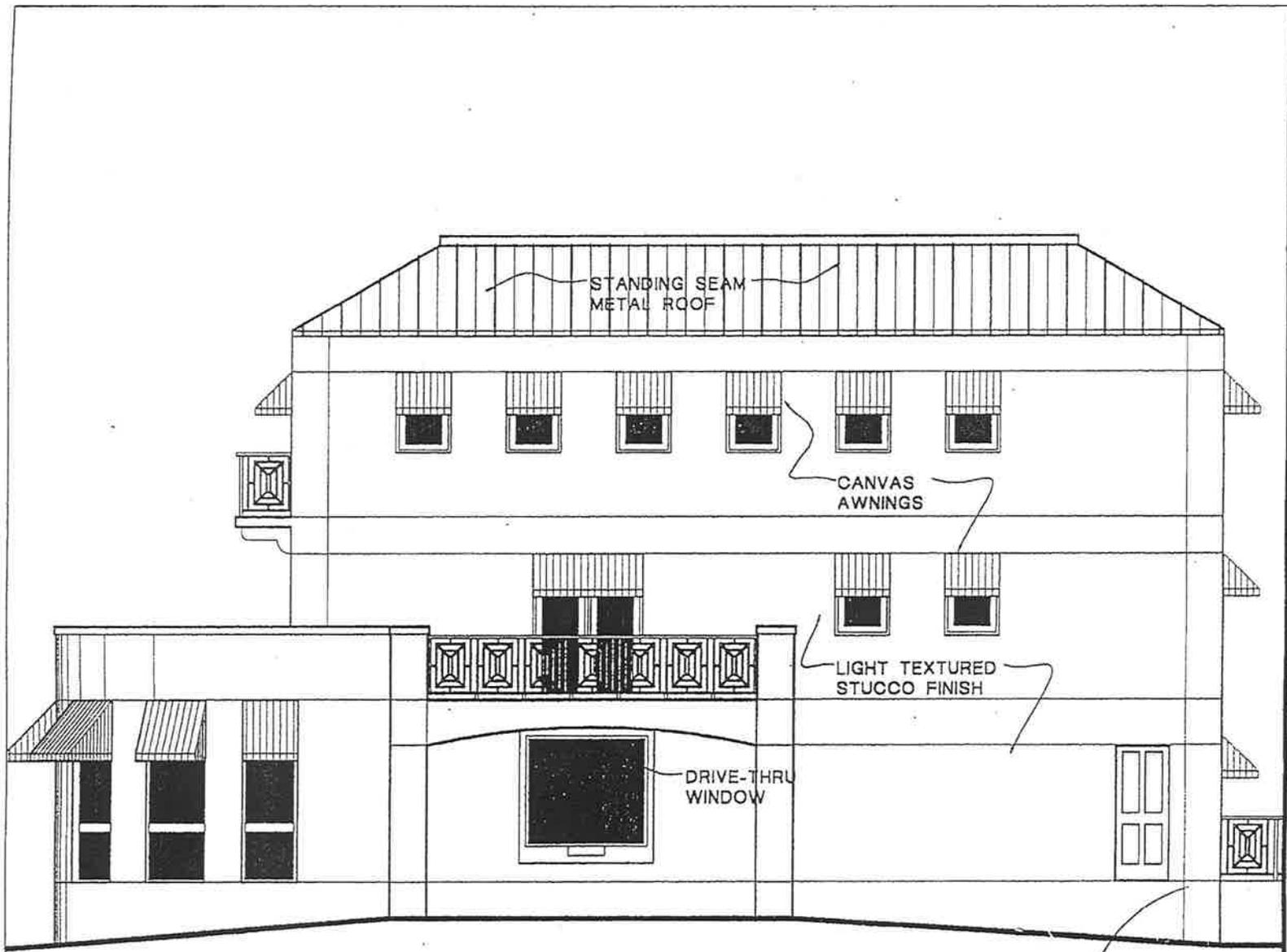


REAR (WEST) ELEVATION

SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

Eastshore Int'l. Corp. 74-12-B SW 48 Street Miami, FL 33155 (305) 662-5077	
Luis Jauregui, AR 12124 Ignacio Zabaleta, AR 12101	
A New Office Building For:	
ST. MICHAEL PROPERTY HOLDINGS, INC.	
100 Crandon Boulevard	Village of Key Biscayne
ISSUE DATE:	
08-18-01	
PROJECT NUMBER:	
01-10	
SHEET NUMBER	
A-9	



LEFT SIDE (SOUTH) ELEVATION

SCALE: 1/8" = 1'-0"

Luis Jauregui
5/17/01

Eastshore Int'l. Corp.
7412-B SW 48 Street
Miami, FL 33155
(305) 662-5077

Luis Jauregui, AR 12124
Ignacio Zabaleta, AR 12101

A New Office Building For:

ST. MICHAEL PROPERTY HOLDINGS, INC.

100 Crandon Boulevard Village of Key Biscayne

ISSUE DATE:
05-18-01

PROJECT NUMBER:
01-10

SHEET NUMBER
A-10

EXHIBIT 8

Rabadan, Alicia (Mia)

From: Chad Friedman <cfriedman@wsh-law.com>
Sent: Monday, May 06, 2013 6:05 PM
To: Wernick, Steven (Assoc-Mia); jkurlancheek@keybiscayne.fl.gov
Cc: Stephen J. Helfman
Subject: RE: public records request

Steve,

To be clear, the Village has not declined to provide you any of the information you requested. Staff has advised me that: (1) there is NOT a list of any site plan applications received and/or approved by the Village of Key Biscayne, in which the applicant proposed cross-access with an adjoining property (and if any exist, copies of application, supporting materials, staff reports, survey and site plan, and any resolution associated with approval); and (2) there are NOT any site plan applications received and/or approved by the Village of Key Biscayne, in which the Village required that an adjoining property owner be included as a co-applicant to a site plan application. Jud has advised me that he simply offered that the Village would be happy to make copies of all of the site plan applications approved by the Village pre 2005 since those are not on the internet. If you have any further questions please direct them to me. Thanks

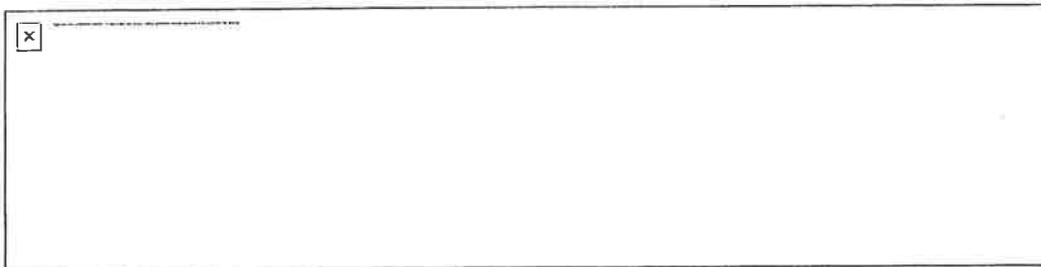
From: steven.wernick@akerman.com [mailto:steven.wernick@akerman.com]
Sent: Monday, May 06, 2013 1:55 PM
To: jkurlancheek@keybiscayne.fl.gov
Cc: Chad Friedman
Subject: RE: public records request

Jud: Thanks for the call this morning. As clarification to your email from earlier today, I submitted April 19th a records request pursuant to Chapter 119, Florida Statutes. By phone this morning, you informed me that you are declining to provide the information requested in the April 19th records request, and you asked that if I would like, I can submit a new records request for copies of site plan and/or variance applications between a certain time period.

I still prefer access to records that are responsive to my April 19th records request. Given your position, I will take a look at our original request and see how best we can obtain the information requested.

Steven J. Wernick
Akerman Senterfitt | One Southeast Third Avenue | Suite 2500 | Miami, FL 33131-1714
Dir: 305.982.5579 | Main: 305.374.5600 | Cell: 786.208.0753 | Fax: 305.349.4803
steven.wernick@akerman.com

V Card | Blo | akerman.com



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From: Jud Kurlancheek [mailto:jkurlancheek@keybiscayne.fl.gov]
Sent: Monday, May 06, 2013 9:24 AM
To: Wernick, Steven (Assoc-Mia)
Cc: Chad Friedman
Subject: public records request

Good Morning Steve,

It was good speaking with you this morning. Please let us know if you would like copies of all site plan and variance applications or those within specified dates. This is what we spoke about and agreed to this morning.

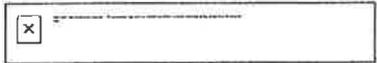
Jud Kurlancheek, AICP, Director
Village of Key Biscayne, Fl
Building, Zoning, and Planning Director
88 W. McIntyre St.
Key Biscayne, FL 33149

Office 305 365 8908
Fax 305 365 5556
Web www.keybiscayne.fl.gov

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Chad Friedman

Partner



2525 Ponce de Leon Blvd., Suite 700 | Coral Gables, FL 33134
P: (305) 854-0800 F: (305) 854-2323 wsh-law.com | vCard



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EXHIBIT 9

Parks Recreation & Open Space

Quality of Life and Community

5.5 Acres Short of Minimum Standard for Green
Space



10,068 People Per Square Mile

Population density 400 PSM Less than Hialeah



Land Acquisition Committee

Recommendation #1

1. Purchase land for both active and passive multi-purpose green space.
 - Purchase **commercial property adjacent to Calusa Park at the entry block** for maximum impact of green space adjacent to an existing park within our jurisdiction.

The Search for Green Space

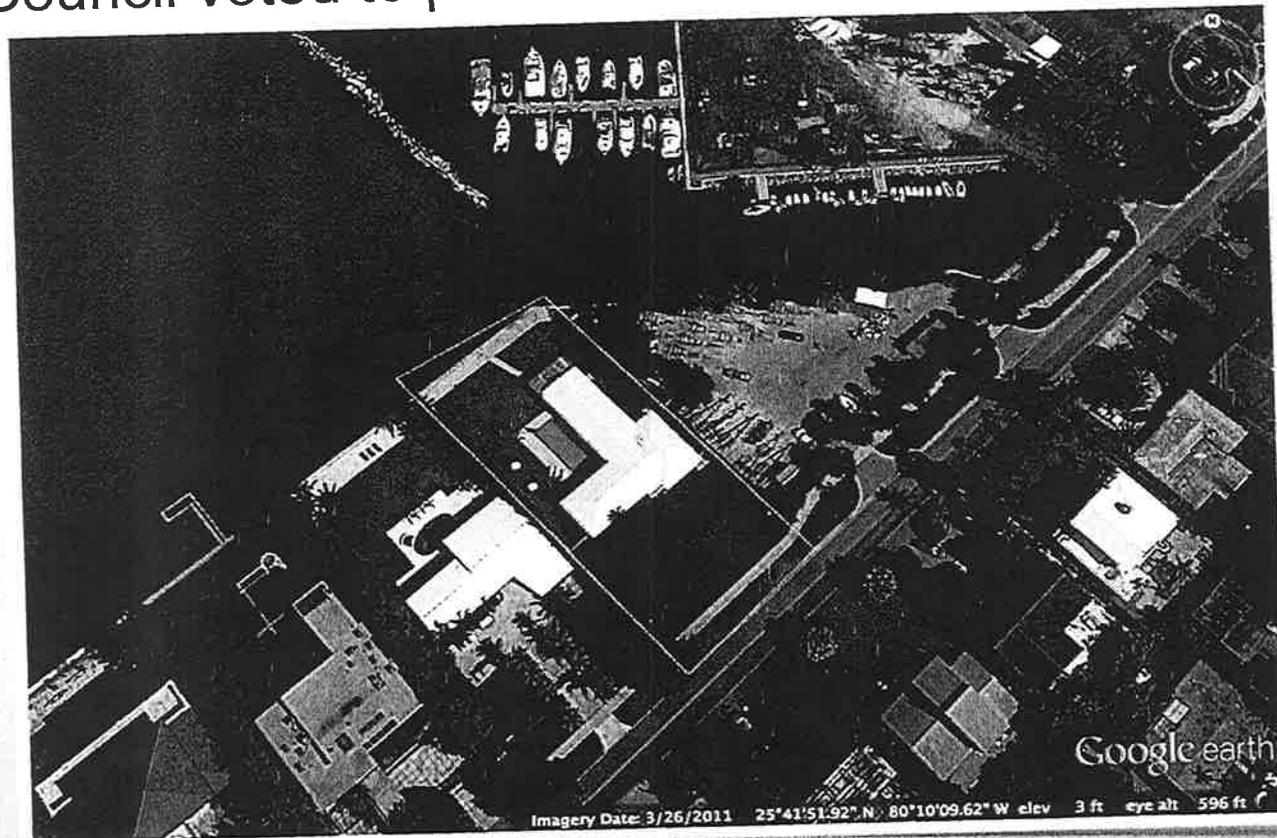
Missed Opportunities :

- The Old Zoo -



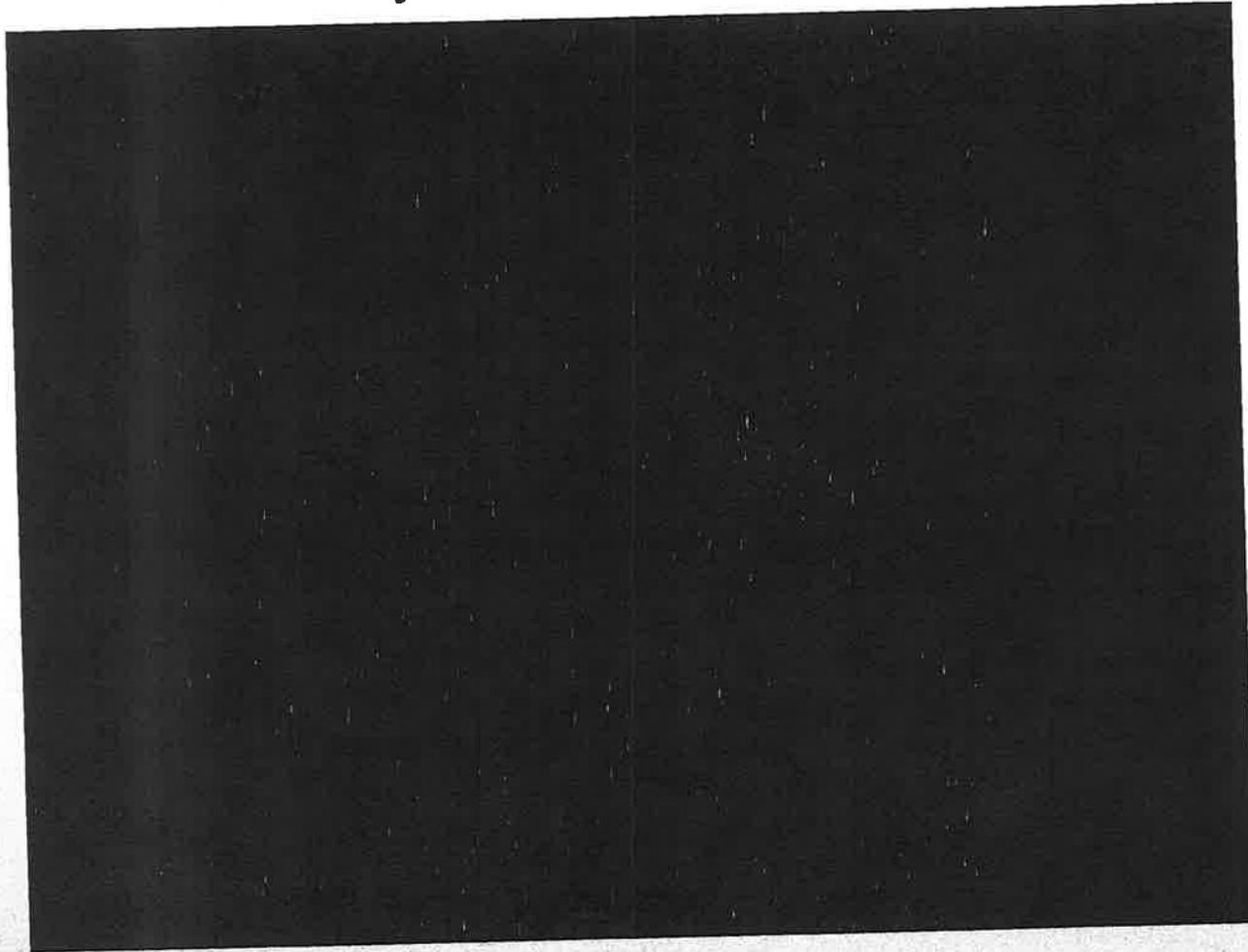
Village Parks: Missed Opportunities

- * Bayfront Park - 200 Harbor Drive for Sale
- * Council voted to purchase but not to fund



Two Properties at our ENTRANCE

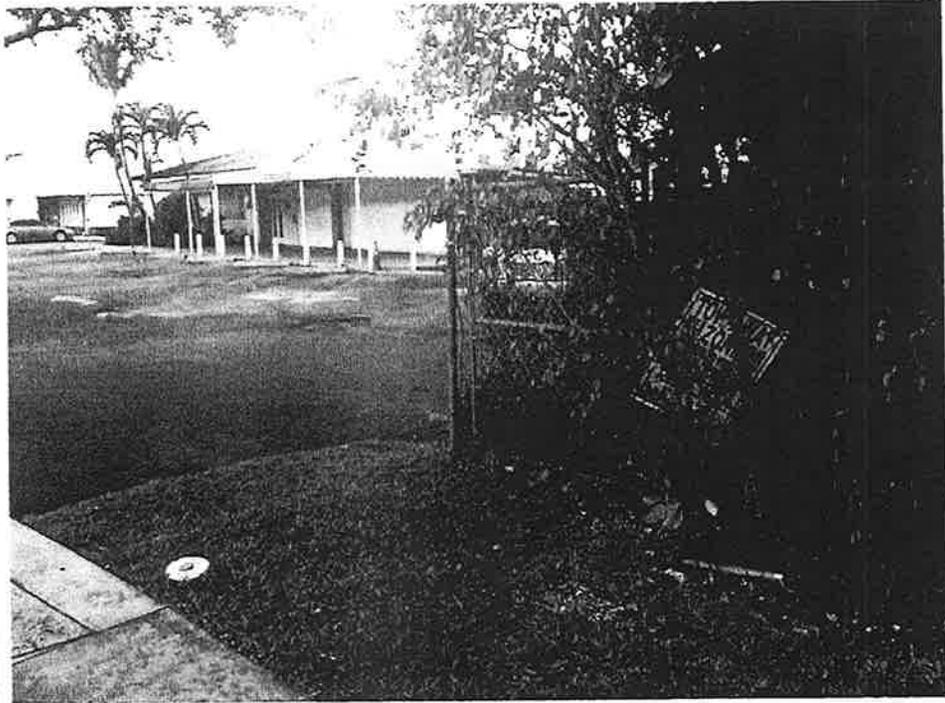
formerly La Carreta & Stefano's



These two commercial properties are appropriate for 7 out of 7 Identified public needs:

- ✓ Unprogrammed Passive & Active Green Space for recreation by all ages.
- ✓ Potential Bayfront Park & Bay Access, Village of Key Biscayne Master Plan goal of 21 years.
- ✓ Cultural Center
- ✓ Senior facilities
- ✓ Dog Park
- ✓ Pedestrian/Bike/Nature trails, Calusa Park (within our jurisdiction)
- ✓ Parking (existing parking also in Calusa Park)

Our current entrance adjacent to
7.5 acres
of nature on the bay...



Welcome to Key Biscayne Visions of a New Entry Park

(Inspiration: The Kampong)



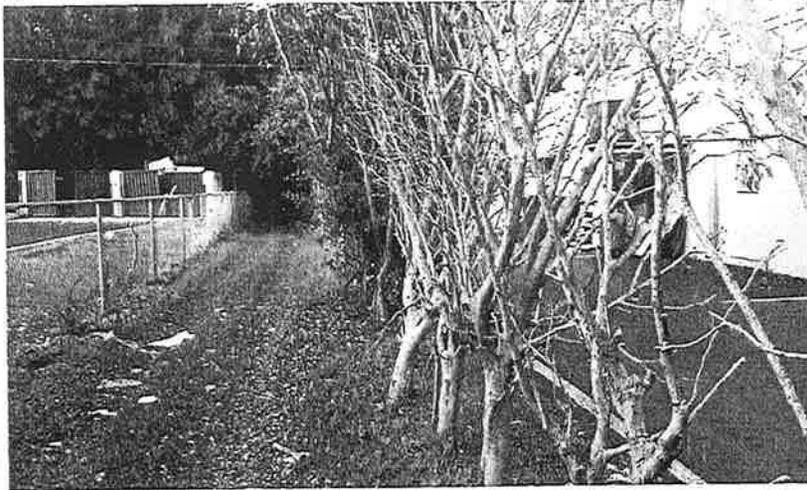
Green Space, Community Recreation, Culture, Natural Beauty

- Inspiration: Kampong Botanical Garden



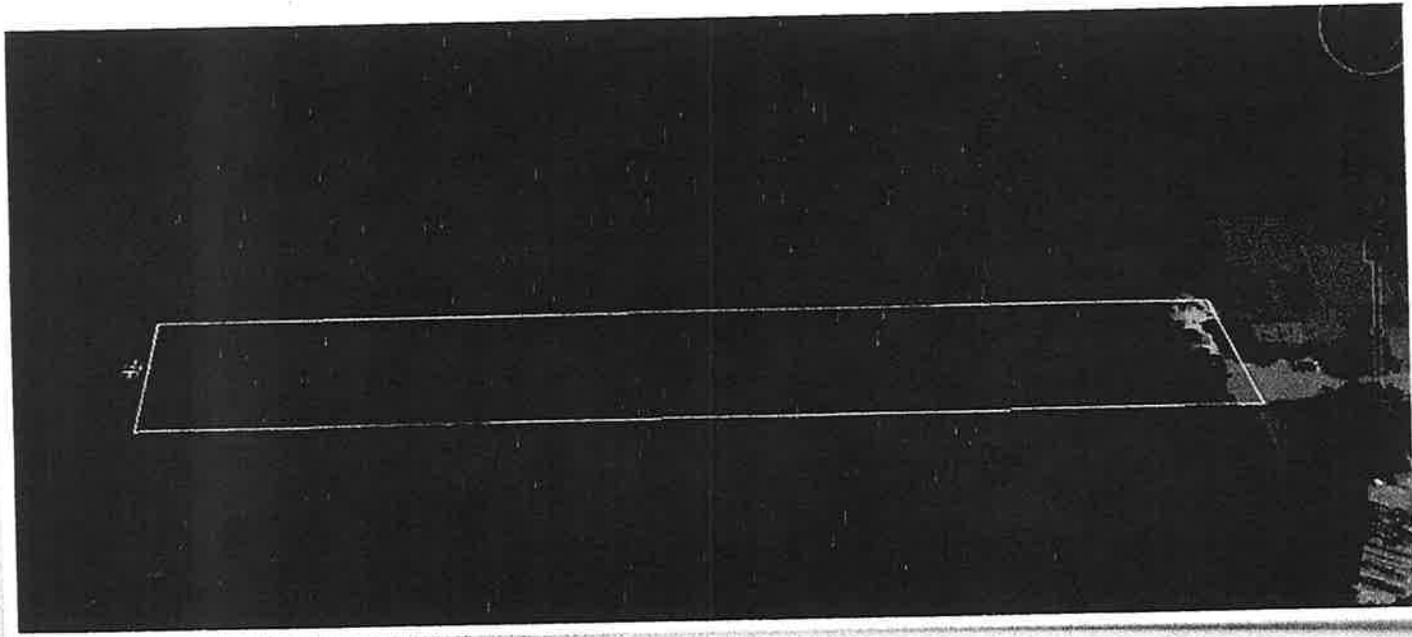
A Better Village Entrance to Calusa Park

~~3 Acres count as Village Green Space~~



Calusa Park

- Nature Trails long discussed as a common goal and included in Master Plan for Calusa
- FPL easements to Bay & parallel to causeway - may offer pedestrian and bike paths.



Key Biscayne.. still waiting for a
public path to Bay views



A Village Park Entrance?

- Miami Beach Botanic Garden

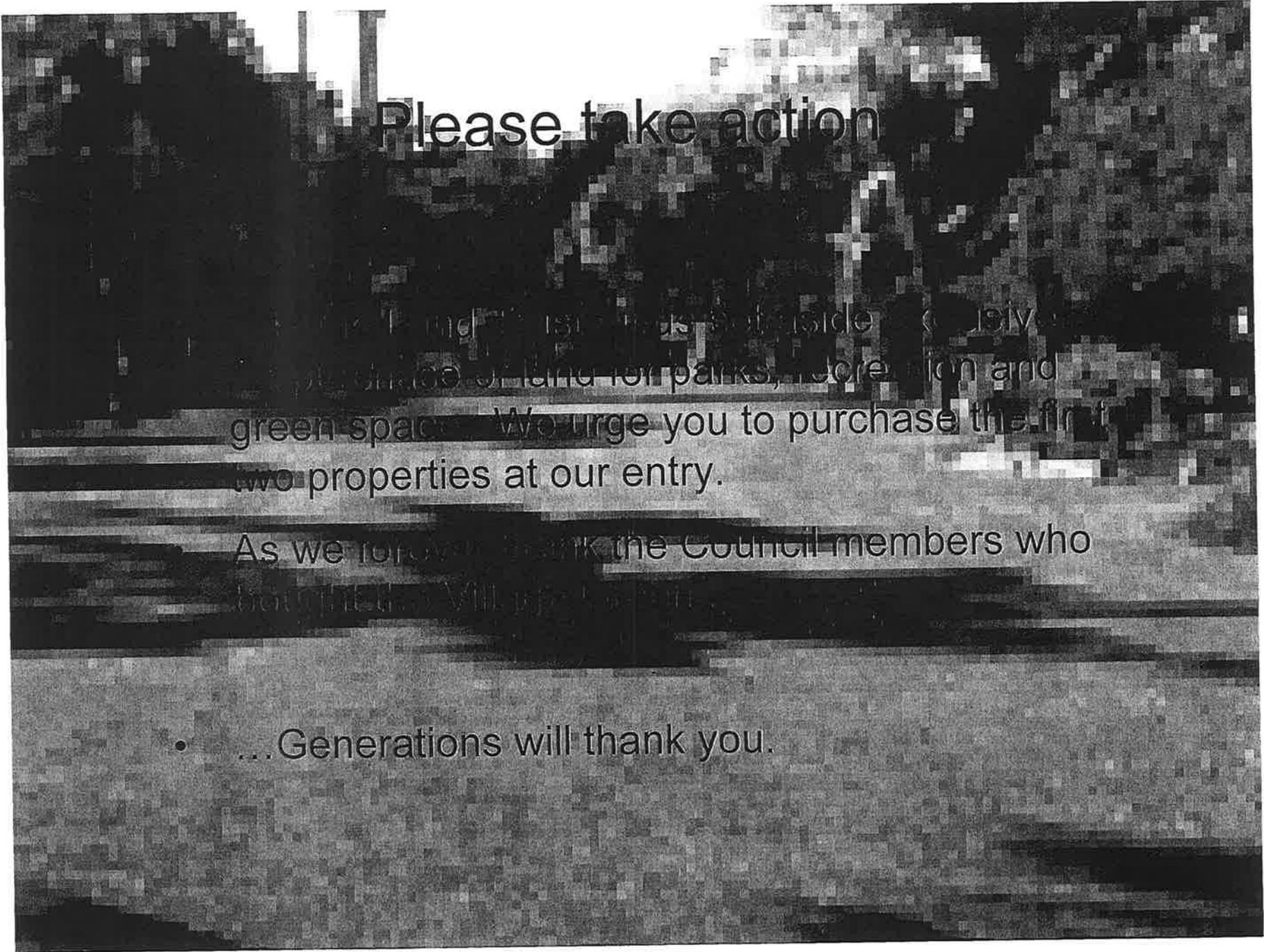


The Kampong



...Or Is something like this
our future entrance?





Please take action

...land... use... side...
...of land for parks, recreation and
green space. We urge you to purchase the first
two properties at our entry.

As we would thank the Council members who
bought the Village...

- ...Generations will thank you.

EXHIBIT 10

ORDINANCE NO. 2005-19

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30 "ZONING" OF THE CODE OF KEY BISCAYNE, FLORIDA BY AMENDING DEFINITIONS; AMENDING PERMITTED AND CONDITIONAL USES; AMENDING DEVELOPMENT REGULATIONS INCLUDING, BUT NOT LIMITED TO, HEIGHT, SETBACK AND FLOOR AREA RATIO REQUIREMENTS; AMENDING PERFORMANCE STANDARDS; AMENDING SUPPLEMENTAL REGULATIONS PERTAINING TO ALCOHOLIC BEVERAGES; AMENDING OFF-STREET PARKING REQUIREMENTS; AMENDING NON-RESIDENTIAL DISTRICT SIGN REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village has reevaluated the land development regulations applicable to the Commercial and Office Districts of the Village Zoning and Land Development Regulations contained in Chapter 30 of the Code of Key Biscayne, Florida, in relation to development along Crandon Boulevard and has determined that certain changes should be made to those regulations; and

WHEREAS, the Local Planning Agency at a duly called public meeting has heard and recommended the adoption of this Ordinance as consistent with the Village Comprehensive Plan; and

WHEREAS, this proposed Ordinance has been properly noticed and heard in conformance with Section 166.041, Florida Statutes, and in conformance with the Village Zoning and Land Development Regulations; and

WHEREAS, the Village Council finds that this Ordinance will promote the health, safety and welfare of the citizens of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Amendment to Section 30-11. That Section 30-11 "Definitions" of Chapter 30 "Zoning" of the Code of Key Biscayne, Florida is hereby amended as follows:

Sec. 30-11. Definitions.

* * *

Floor Area. The sum of the areas of the floors of a Building or Buildings, measured from the exterior faces of exterior Walls or from the exterior face of an architectural projection, from the centerline of Walls separating two attached Buildings. The calculation of Floor Area for Unit sizes is measured from the centerline of a party Wall to the interior face of an exterior Wall.

The Floor Area of a Building shall include all areas except for those areas listed below, unless otherwise provided for in this chapter:

- (1) Accessory water tanks or cooling Towers.
- (2) Unenclosed exterior staircases or steps, exterior open fire escapes and open stairwells.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Unenclosed exterior Terraces, Balconies, breezeways, Porches, Carports, Gazebos, sheds or hallways or areas that provide Access to a Unit or Units.
- (5) Any floor space utilized for parking within an accessory off-street Parking garage. For single Family and Two-Family Structures, the Parking garage is included in the FAR calculation if the finished floor is more than two feet above the crown of the road except as set forth in subparagraph (8). If the Parking garage is the main Permitted Use, then the Floor Area of the Parking levels shall be included in the calculation for Floor Area Ratio.
- (6) Mechanical equipment rooms located above the main roof deck.
- (7) Exterior unenclosed private or public Balconies.
- (8) Floor Area located below BFE is excluded; however, if the ceiling is above BFE and the space is enclosed on more than two sides, 10 percent of the horizontal Floor Area of the space below BFE is included in the Floor Area.
- (9) Exterior elevators and landings.
- (10) Chaises.
- (11) Service station or automotive repair when located in a parking garage.

In volumetric Buildings where there are no interior floors above the finished floor, the Floor Area shall be calculated as if there were a floor for every ten feet. Volumetric space between ten and 13 feet is not counted. Volumetric space above 13 feet shall be calculated as follows: Floor area = 10 percent for each one foot or fraction thereof in height × square feet of the space.

Volumetric space is not counted in the following:

- (1) In entranceways that contain 225 square feet or less.
- (2) Space between ten and 13 feet above the finished floor.
- (3) Space above stairs.

* * *

Lot Coverage. The area of the Lot Occupied by all Buildings, covered Structures and Terraces above Maximum Lot Elevation, excluding the following: In Commercial, Office, or Multiple Family Districts, uncovered, open plazas located on the upper deck of a parking garage, so long as the upper deck is no higher than two 2.0 feet above the Base Flood Elevation constructed with an elevation at or below 3.0 ft. below grade; exterior steps and landings attached to and providing a means of ingress and egress from a Building; Carport Canopies which occupy less than 300 square feet in area; Gazebos occupying a total area of up to two percent of the lot size; utility sheds; carports and porches that provide a ten foot setback pursuant to section 30-100(f)(12); planters with a maximum height of four feet above grade and patios, Decks and swimming pools that are located below the Maximum Lot Elevation. Lot Coverage shall specifically include any non-roofed areas by Walls (other than Building Walls) that exceed six feet in height and are attached to or otherwise form an integral part of Building.

* * *

Section 3. Amendments to Section 30-101. That Section 30-101 “Commercial Districts” of Chapter 30 “Zoning” of the Code of Key Biscayne, Florida is hereby amended as follows:

Sec. 30-101. Commercial Districts.

C-1 Low Intensity Commercial District.

(a) Purpose and Uses.

District Purpose	Main Permitted Uses*	Conditional Uses	Accessory Uses	Prohibited Uses

<p>This district permits the Development of land in a low intensity manner and Uses that provide for the sale of goods and products that are needed throughout the entire Village.</p> <p>The permitted uses provide goods and services that primarily serve the residents of the Village.</p>	<p><u>Bar</u></p> <p>Commercial Uses</p> <p>1. Offices: <u>No individual or multiple business entity(ies) that are affiliated can occupy more than 10,000 sq. ft. Medical offices shall not exceed 10,000 sq. ft.</u></p> <p>2. Retail uses: <u>No individual or multiple business entity(s) shall occupy more than 10,000 sq. ft. *, except for stores whose principal product is food for consumption off the premises. Retail sales including the resale of Antique furniture that is at least 50 years old and the resale of jewelry, art, and furs.*</u></p> <p>Personal Service Uses</p> <p>Restaurant (except on parcels that immediately abut a single Family district)</p>	<p>Service Station <u>where the primary use on the site;</u></p>	<p>Any Use that is customarily associated with the Main Permitted Uses (See Sec. 30-111)</p>	<p>Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See Sec. 30-113)</p>
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* If a Use is located immediately adjacent to a single Family district, then such Use shall be closed after 6:00 p.m. Monday through Saturday. On Sunday, the hours of business are limited to 9:00 a.m. through 1:00 p.m. These restrictions do not apply from Thanksgiving through December 31 where the hours of operation shall be the same as the majority of businesses in the Village.

(b) Development Regulations.

<u>Lots Area</u>	<u>Setbacks</u>	<u>Maximum Number of Stories</u>	<u>Floor Area Ratio (See FAR Design Bonus Schedule)**</u>	<u>Lot Coverage</u>	<u>Minimum Lot Area</u>
<u>Less than or = to 21,000 sq. ft.</u>	Front First Floor — 10 ft. Above 1st floor — 20 ft. Side, Interior — 20 ft. Side, Facing street — 10 ft. Rear — 25 ft.	<u>3 stories not to exceed 35 ft.</u>	<u>.20-.50</u> FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	— 40% 35%	40,000 sq.ft.
<u>More than 21,000 less than or = to 60,000 sq. ft.</u>		<u>3 stories not to exceed 35 ft.</u>	<u>.20-.50</u> FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	35%	

<u>More than 60,000 but less than 100,000 sq. ft.</u>		<u>3 stories not to exceed 35 ft.</u>	<u>.20-.50</u> <u>FAR may be increased to .55 by:</u> <u>a. .025 if subterranean parking garage receives the bonus and/or</u> <u>b. .025 if a parking garage is sited at least 50 ft. from a public street.</u>	<u>35%</u>	
<u>100,000 sq. ft. or more</u>		<u>3 stories not to exceed 35 ft.</u>	<u>.20-.50</u> <u>FAR may be increased to .55 by:</u> <u>a. .025 if subterranean parking garage receives the bonus and/or</u> <u>b. .025 if a parking garage is sited at least 50 ft. from a public street.</u>	<u>35%</u>	

*Lots must be adjacent to one another and have at least one lot line in common

**The FAR Design Bonus Schedule is a range based on a minimum and a maximum.

(c) Setback Requirements.

<u>Street Frontage</u>	<u>Side, Interior</u>	<u>Rear</u>
------------------------	-----------------------	-------------

<p>First and second floor shall be 10 ft.</p> <p>Third floor shall be greater than 20 ft.</p>	<p>0-5 ft. based on Site Plan Review for sideyard facing a street; 0-30 ft. based on Site Plan Review for interior sideyard.</p> <p>If adjacent to land zoned Institutional or adjacent to a park, the sideyard setback is 35 ft.</p>	<p>25 ft. facing Fernwood Rd., Village Green Way or adjacent to single family district; 35 ft. if adjacent to land zoned Institutional or adjacent to a park</p> <p>0 ft. in all other situations</p>
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(d) Floor Area Ratio Design Bonus Schedule.

<u>Design Criteria</u>	<u>How to Calculate Floor Area Ratio Bonus</u>	<u>Maximum FAR Bonus</u>
<p><u>1.Elevation facing a street</u></p> <p>a. <u>First floor: zoning Code requires 50% of elevation to be in windows. Bonus for additional windows.</u></p> <p>b. <u>Steps in front of the storefront leading to the street</u></p> <p>c. <u>Variation in vertical roof lines</u></p> <p>d. <u>Variation in building wall plane</u></p> <p>e. <u>Mansard or pitched roof facing a street</u></p> <p>f. <u>Ornamental reveals, designs, or trellis</u></p> <p>g. <u>Open balconies with 75% of each side having railings</u></p> <p>h. <u>Porch or covered terrace (not a balcony)</u></p>	<p>a.<u>0.0005 per sq. ft. of window</u></p> <p>b.<u>0.0005 per linear ft. of stair width</u></p> <p>c.<u>0.0003 per linear ft. of roof line providing the length of the roof element is not less that 25% of the length for the largest roof</u></p> <p>d.<u>0.0003 per linear ft. of wall recess or projection measured from the corner of the wall joint to corner wall joint of each recess or projected element</u></p> <p>e.<u>0.0003 per linear ft.</u></p> <p>f. <u>0.002 per sq. ft. of decorative element or trellis area</u></p> <p>g.<u>0.0001 per sq. ft. of balcony floor area</u></p> <p>h.<u>0.00003 per sq. ft. of porch or terrace floor area</u></p>	<p>a.<u>0.05</u></p> <p>b.<u>0.05</u></p> <p>c.<u>0.08</u></p> <p>d.<u>0.08</u></p> <p>e.<u>0.08</u></p> <p>f.<u>0.02</u></p> <p>g.<u>0.02</u></p> <p>h.<u>0.08</u></p>
<p><u>2.Courtyards and passageways to interior public spaces</u></p> <p>a. <u>Interior courtyards</u></p> <p>b. <u>Pedestrian Passageways to interior courtyards. No pedestrian passageway can be an interior courtyard.</u></p>	<p><u>.000007 per sq. ft. of courtyard floor area</u></p> <p><u>.000007 per sq. ft. of passageway floor area</u></p>	<p>a.<u>0.07</u></p> <p>b.<u>0.07</u></p>

<u>3.Clustering of Building(s): this bonus is limited to projects that occur on 60,000 sq. ft. or more of land.</u>	<u>.05 per building, provided no individual building floor area is less than 35% of the largest building floor area.</u> <u>Buildings may be connected by roofed passageways.</u>	<u>.15</u>
<u>4.Sites adjacent to a park that provide an alternate route to Crandon Boulevard.</u>	<u>Route must provide two way traffic, commercial uses fronting on > 50% of frontage, and if it connects to two streets then easement to the Village.</u>	<u>.10</u>
<u>5.Use</u> <u>a. Automobile repair*</u> <u>*All new auto repair uses shall agree to a recorded development restriction limiting the use of the property for auto repair for a minimum period of 10 years.</u> <u>b. Service Station</u>	<u>a. .03 per auto repair bay.</u> <u>and/or</u> <u>b. .02 per gasoline dispenser.</u>	<u>a. 0.09</u> <u>b. 0.08</u>
<u>6.Parking Garages</u> <u>a. finished floor located below grade in a garage that contains > 50% of the required parking spaces.</u>	<u>0.06 per foot or fraction thereof below Grade</u>	<u>0.20</u>
<u>7.At Grade Parking Lots</u>	<u>0.025 when access is provided to an adjacent parking lot</u>	<u>0.025</u>
<u>8.Landscaping: Providing more landscaping than is required</u> <u>a. Shade trees</u> <u>b. Native shrub</u> <u>c. Ground cover</u> <u>d. Planter boxes</u>	<u>a.0.005 per shade tree</u> <u>b.0.00005 per native shrub</u> <u>c.0.00005 per sq. ft. of ground cover</u> <u>d.0.00005</u>	<u>a.0.05</u> <u>b.0.01</u> <u>c.0.01</u> <u>d.0.01</u>

(e) (e) Performance Standards (all items apply to uses in the C-1 District).

(1) Service Stations, automotive repair, detailing and washing.

- a. All vehicle repair shall take place within a fully enclosed Building.
 - b. No windows or garage doors shall be placed within 100 feet of residentially zoned property.
 - c. The overnight outdoor storage of vehicles is prohibited.
 - d. Detailing/car washing shall only be permitted in a Structure or under a permitted Canopy. Canopies shall not be placed where they will interfere with on-site Parking or traffic circulation nor visible from a street.
 - e. Air compressors shall be within a wholly enclosed building that prevents the transmission of noise.
- (2) Burglar alarm. The alarm bell or device shall not face residentially zoned property.
- (3) Buffering and Screening: A decorative, opaque six-foot CBS Wall shall be placed 5 ft. from along the rear property lines any property line adjacent to a street. The area between the property line and the Building Wall shall have dense landscaping. The design of the Wall and the landscaping shall be approved by the Building, Zoning, and Planning Director. The Director shall determine if the Wall and landscaping provides an adequate buffer and screen between the Commercial Uses and the Adjacent Properties. The Director may require that additional trees be placed in the swale if required to achieve adequate screening. ~~See section 30-112 for additional Regulations.~~
- (4) Restaurants may offer alcoholic beverages for consumption on the Premises if the ~~primarily~~ primary Use of the property is for the sale of meals. There shall be a printed menu and food shall be available for the entire time the restaurant is open. Alcohol sales may occur as long as the restaurant is open and food is available for consumption on the Premises.
- (5) The Wall, which contains the main entrance into a business, shall have a minimum of 50 percent of the surface in windows and doors.
- (6) Perimeter Walls or fences that face a Street shall be set back two feet from the Lot line.
- ~~(7) Commercial properties may provide two way access from Fernwood Rd. for pedestrians, bicycles, and golf carts; however, the access shall be sited in a manner which does not result in a direct route to Crandon Boulevard.~~
- ~~(8) If a roof deck contains parking spaces, it shall include an opaque 42 inch high parapet.~~
- ~~(9) Stores and offices shall provide a kneewall or bulkhead between 18-24 inches in height.~~

- (10) Buildings which are on sites that include more than one lot shall provide a covered or uncovered passageway for every 200 linear feet of building facade.
- (11) When stairs are provided from a building to a sidewalk, then the width of the stairs shall not be less than 10 ft.
- (12) Parking Garages
- a. The exterior elevations of accessory parking structures shall be designed the architecturally integrated with the exterior elevation.
- b. Primary entrances to a parking structure shall not be located on the main facade of the principal use which the parking structure serves.
- c. Openings in parking structures shall be screened so that no cars, headlights, or light fixtures are visible from surrounding uses. The size and proportions of openings shall be compatible with neighboring buildings. Glazing, perforated metal panels, applied surface elements, landscaping or combinations of these that are compatible with other materials of the facade shall be used to screen openings.
- d. Driveway and pedestrian entries to parking structures shall be integrated with the ground level facade and shall include doors compatible with the design of the building.
- (13) Buildings sited at the corner of two public streets shall provide a prominent corner entrance to street level shops or lobby space.
- (14) Flat roofs shall not be visible from the street or from any floor that contains commercial or office uses. Pitched or mansard roofs shall not use tar, gravel, or asphalt shingles or other similar products as determined by the Building, Zoning, and Planning Director. Flat roofs of garages shall have a parapet or other opaque screening at least 36 inches high measured from the finished deck floor, to shield automobiles from public view at the street level.
- (15) Asphalt or other similar products as determined by the Building, Zoning, and Planning Director shall not be on the surface of any floor that is considered as common space which contains commercial or office uses.
- (16) Common space such as, but not limited to, courtyards, plazas, and pedestrian spaces shall be landscaped in accordance with the landscape standards for vehicular use areas (See Section 30-238), or hardscaped for use as plazas, courtyards, and pedestrian passages integrated into the overall site layout and pedestrian circulation system. These spaces may include architectural trellis work over at least 30% of the top deck area, or treated with a combination of architectural and landscape elements to achieve a screening effect.

(17) In Shopping Centers, facades which front on a street shall contain storefronts that provide the main entrance into the place of business.

(18) All properties which have retail and/or office uses shall provide a bicycle rack or racks which contain one bicycle space per 5 retail and/or office spaces. This shall apply to all shopping centers which currently do not have bicycle racks as well as all existing new shopping centers.

Section 4. Amendments to Section 30-106. That Section 30-106 "Office District" of Chapter 30 "Zoning" of the Code of Key Biscayne, Florida is hereby amended to add paragraph (c) (3) as follows:

Sec. 30-116. Office District.

O-1 Low Intensity Office District.

* * *

(c) Performance standards.

(1) Walls facing a Street shall include a minimum of 50 percent of the surface in windows and doors.

(2) Walls facing residentially zoned property shall not have windows; however, the design of the Wall shall include architectural treatments that add visual interest such as scoring, caps, columns, reveals, and similar architectural treatments. The design shall be approved by the Building, Zoning, and Planning Director.

(3) For properties that front on Crandon Boulevard, the performance standards of the C-1 Low Intensity Commercial District, Section 30-101(e) shall apply.

Section 5. Amendments to Section 30-112. That Section 30-112 "Supplemental Regulations" of Chapter 30 "Zoning" of the Code of Key Biscayne, Florida is hereby amended to read as follows:

Sec. 30-112. Supplemental Regulations.

(a) *Alcoholic beverages.* The Village shall use the Miami-Dade County Ordinance for purposes of regulating the sale of alcoholic beverages; however, in no instance shall alcoholic beverages be offered for sale for consumption on or off the Premises, except in bars, as incidental to ~~for~~ restaurants and grocery stores (limited to the sale of beer and wine only for consumption

off the premises) within 500 feet of a place of worship, a school or from a parcel immediately adjacent to a single Family district. The distance measurement shall be a straight line measured from the property line where the establishment is located to the nearest point of the property line of the school or place of worship. No establishment, except for Hotel room service, shall offer alcoholic beverages for consumption on or off the Premises between 2:00 a.m. and 7:00 a.m. on any day of the week. However, beer and wine may be sold, for off premises consumption only, 24 hours. The Village Council may grant an extended hours license, pursuant to the Conditional Use procedures set forth in section 30-72, to allow an establishment to offer alcoholic beverages for consumption on or off the Premises as late as 4:50 a.m. In evaluating such requests, the Village Council shall use the following criteria:

- (1) The number of off-street Parking spaces;
- (2) The amount and degree of law enforcement activities; and
- (3) The impact on Adjacent Properties in terms of noise and traffic.

The Village Council may require, as a condition of granting an extended hours license, conditions to mitigate the adverse impacts that such establishments have on Adjacent Properties. The extended hours license is personal to the applicant and shall not be transferred or assumed without the approval of the Village Council pursuant to the Conditional Use procedures set forth in section 30-72. An extended hours license is automatically renewed unless it is suspended by the Village Manager. Following the suspension, the Village Council shall hold a public hearing to determine it should be reinstated or revoked. The Village Manager's decision to suspend the extended hours license must be based on a determination that the Use is harmful to the health, safety, and welfare of the Village. The Council shall determine whether there is competent and substantial evidence to support the decision of the Village Manager using the process for an appeal of an administrative decision (See section 30-70). Prior to a decision to suspend an extended hours license, the Police Chief shall submit a report and recommendation to the Village Manager. The report shall ~~provide which~~ address the criteria listed in subparagraphs (1)--(3) above.

The granting of an extended hours license is a privilege subject to revocation by the Village Council at any time. As such, no Person may reasonably rely on a continuation of the privilege. ~~Any holder of a current Miami Dade County extended hours license may exchange that license for a Key Biscayne license until June 30, 2000. Thereafter, a full application must be processed.~~

* * *

Section 6. Amendment to Section 30-184. That Section 30-184 "Amount of required Off-Street Parking" of Chapter 30 "Zoning" of the Code of Key Biscayne, Florida is hereby amended to add paragraph (d) as follows:

Sec. 30-184. Amount of required Off-Street Parking.

* * *

(d) Uses in the C-1 District shall provide one golf cart space per fifty (50) vehicular spaces.

Section 7. Amendments to Section 30-195. That Section 30-195 "Non-residential district signs" of Chapter 30 "Zoning" of the Code of Key Biscayne, Florida is hereby amended to add paragraph (8) as follows:

Sec. 30-195. Non-Residential District Signs.

* * *

(8) Permitted Signage in Office District.

Number One per building mounted on a wall facing the street

Area (maximum) 20 sq. ft.

Letter Height (maximum) 12 inches except for lots facing Crandon Boulevard. Signs shall have a maximum letter height of 18 inches.

Illumination Permitted only for reverse channel letters with back lighted letters

Monument Signs Not permitted

Directory Sign One per building located at the entrance to the building with a maximum area of 15 sq. ft. It may be externally or internally illuminated with the maximum watts to the letters to be read at a distance not to exceed 3 ft.

permit from the Directory Signs

Directory Sign. This regulation only affects which can be viewed from a street.

Section 8. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,

sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 9. Effective Date. This Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 8th day of November, 2005.

PASSED AND ADOPTED on second reading this 22nd day of November, 2005.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA ALVAREZ, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

EXHIBIT 11

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.

ATTORNEYS AT LAW

A PROFESSIONAL LIMITED LIABILITY COMPANY
(INCLUDING PROFESSIONAL ASSOCIATIONS)

MIAMI-DADE OFFICE

2525 PONCE DE LEON BOULEVARD

SUITE 700

CORAL GABLES, FLORIDA 33134

TELEPHONE 305-854-0800

FACSIMILE 305-854-2323

WWW.WSH-LAW.COM

BROWARD OFFICE

200 EAST BROWARD BOULEVARD * SUITE 1900

FORT LAUDERDALE, FLORIDA 33301

TELEPHONE 954-763-4242 * FACSIMILE 954-764-7770

*OF COUNSEL

MITCHELL BJERMAN, P.A.
NINA L. BONISKE, P.A.
MITCHELL J. BURNSTEIN, P.A.
JAMIE ALAN COLE, P.A.
STEPHEN J. HELFMAN, P.A.
GILBERTO PASTORIZA, P.A.
MICHAEL S. POPOK, P.A.
JOSEPH H. SEROTA, P.A.
SUSAN L. TREVARTHEN, P.A.
RICHARD JAY WEISS, P.A.
DAVID M. WOLPIN, P.A.

DANIEL L. ABBOTT
GARY L. BROWN
JONATHAN M. COHEN
IGNACIO G. DEL VALLE
JEFFREY D. DECARLO
ALAN L. GABRIEL
DOUGLAS R. GONZALES
EDWARD G. GUEDES
JOSEPH HERNANDEZ
JOSHUA D. KRUT
MATTHEW H. MANDEL
ALEXANDER L. PALENZUELA-MAURI
ANTHONY L. RECIO
BRETT J. SCHNEIDER
CLIFFORD A. SCHULMAN
ABIGAIL WATTS-FITZGERALD
LAURA K. WENDELL
JAMES E. WHITE

ADRIAN J. ALVAREZ
LILLIAN M. ARANGO
SARA E. AULISIO
ROBERT H. DE FLESCO
BROOKE P. DOLARA
RAQUEL ELEJABARRIETA
CHAD S. FRIEDMAN
ERIC P. HOCKMAN
HARLENE SILVERN KENNEDY*
KAREN LIEBERMAN*
JOHANNA M. LUNDGREN
ALEIDA MARTINEZ MOLINA*
KATHRYN M. MEHAFFEY
ROBERT A. MEYERS*
MATTHEW PEARL
TIMOTHY M. RAVICH*
AMY J. SANTIAGO
GAIL D. SEROTA*
JONATHAN C. SHAMRES
ESTRELLITA S. SIBILA
ALISON F. SMITH
ANTHONY C. SOROKA
EDUARDO M. SOTO
JOANNA G. THOMSON
PETER D. WALDMAN*
SAMUEL I. ZESKIND

May 31, 2012

Via U.S. Mail & Email

Max D. Puyanic, Esq.
Commodore Realty, Inc.
30 West Mashta Drive, Suite 400
Key Biscayne, Florida 33149

Re: Zoning Inquiries

Dear Mr. Puyanic:

The Village Manager has requested that I respond to several inquiries you have recently made regarding your proposed development of the properties located at 12 and 24 Crandon Boulevard, as well as certain zoning issues at 726 Crandon Boulevard, 700 Crandon Boulevard and 328 Crandon Boulevard.

The purpose of this letter is to respond to each of your inquiries.

1. 12/24 Crandon Boulevard.

You have asked the Village to determine whether the area of a proposed mezzanine within your planned retail building (Walgreens) would apply to the 10,000 foot occupancy limitation within the Village's Land & Development Regulations (Sec. 30-101). The mezzanine

Mr. Max D. Puyanac
May 31, 2012
Page 2

is excluded from the 10,000 foot limitation so long as it is used for storage space and otherwise meets the "headroom" and other limitations of the applicable building code.¹

2. 726 Crandon Boulevard.

You have asked the Village whether the recent expansion of the CVS store at 726 Crandon Boulevard conforms with the 10,000 foot size limitation set forth in Section 30-101 of the Code. From a review by staff it appears that the space exceeds the limitation and the approval to expand may have been issued in error. To the extent there was an error, it does not provide a basis for any other property owner to be granted an exemption or variance.

3. 700 Crandon Boulevard.

You have asked the Village whether the restricted hours of operation set forth in Section 30-101 of the Village Code apply to the property at 700 Crandon Boulevard. While the retail use of the property would otherwise be required to conform to the limitation on hours, this particular property was constructed in 1965 and the established use enjoys a non-conforming status under Section 30-30 of the Village Code. Therefore, the limitation on hours does not apply.

4. 328 Crandon Boulevard.

Section 30-181 of the Village Code provides minimum size requirements for off street parking spaces. You have asked the Village staff to explain why certain spaces within existing shopping centers have parking spaces which do not meet these minimum requirements and why the Village has allowed restriping of these spaces.

Several of the existing shopping centers such as the Galleria at 328 Crandon Boulevard, were constructed prior to incorporation in accordance with the requirements of the Miami-Dade County Code. At that time, the Code allowed parking space dimensions to be smaller than what Section 30-181 of the Village Code requires today. Therefore, to the extent they conformed with the County Code, they are deemed non-conforming.

Section 30-30(3) of the Village Code allows property owners to make necessary maintenance and repairs to nonconforming facilities. Village Staff has determined that the restriping of the nonconforming parking spaces is considered necessary maintenance and that such restriping may be performed in accordance within the Village Code.

¹ Please understand that by responding to this particular question, the Village has not in any manner determined that the two (2) properties are presently developable as an individual building site or that the commercial project you are considering otherwise complies with the applicable governmental regulations, including subdivision regulations. Upon the submittal of a site plan, pursuant to Section 30-73 of the Village Code, a complete assessment will be made.

Mr. Max D. Puyanic

May 31, 2012

Page 3

I hope that this letter answers the various questions that you have asked of the Village staff. Should you have any further questions or concerns please feel free to contact me.

Sincerely,


Stephen J. Helfman
mea

SJH/mea
0103.001

cc: John C. Gilbert, Village Manager
Jud Kurlancheek, Director, Building, Zoning & Planning
William Fehr, Zoning Plan Reviewer
Chad Friedman, Esq.

EXHIBIT 12



B-1-11695

VILLAGE OF KEY BISCAIYNE *reg 1/1*

B11-11695 *creds*

Department of Building, Zoning and Planning
 88 West McIntyre St., Suite 250 Key Biscayne, FL 33149
 Phone (305) 365-5512 Fax (305) 365-5556
 www.keybiscayne.fl.gov

PERMIT APPLICATION

(Application is two pages. Please fill out completely.)

Master Permit No. B11-11695 Subsidiary Permit No. _____

GENERAL INFORMATION

Job Address 700 CRANDON BLVD, # 726
 Folio 24-5205-001-0080 Description of Work INTERIOR RENOVATION AND EXPANSION TO ADJACENT AREA.
 Lot _____ Block _____
 Subdivision _____ PB _____ PG _____
 Current use of Property CVS PHARMACY Sq. Ft. 18,300 Units 1 Floors 1
 Proposed use of Property CVS PHARMACY Value of Work _____ Bldg. Value _____
 Tenant Info _____ Tax Assessed/Appraised Value _____
 Mall Unit Number _____ Flood Zone _____ Base Flood Elev. _____

- | <u>PERMIT TYPE</u> | <u>PERMIT CHANGE</u> |
|--------------------------------------|--|
| <input type="checkbox"/> Building | <input type="checkbox"/> Chg. Contractor |
| <input type="checkbox"/> Electrical | <input type="checkbox"/> Renewal |
| <input type="checkbox"/> Mechanical | <input type="checkbox"/> Revision |
| <input type="checkbox"/> Plumbing | <input type="checkbox"/> Extension |
| <input type="checkbox"/> LPGX | <input type="checkbox"/> Supplement |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Re-inspection |

CONTRACTOR INFORMATION
 Contractor Lic. No. CGC056840
 Company Name OAK CONSTRUCTION CO.
 Address 4000 S.W. 30TH AVE
 City FT. LAUDERDALE ST FL Zip 33312
 Contractor Phone No. 954-583-9625
 Contractor Email charlesm@oakconstruction.com
 Qualifier Name CHARLES J. MEPRANO

- | <u>TYPE of IMPROVEMENT</u> | <u>PERMIT CHANGE</u> |
|---|--|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Enclosure |
| <input type="checkbox"/> Alteration Exterior | <input type="checkbox"/> Repair |
| <input checked="" type="checkbox"/> Alteration Interior | <input type="checkbox"/> Demolish |
| <input type="checkbox"/> Relocation of Struct. | <input type="checkbox"/> Shell Only |
| <input type="checkbox"/> Foundation Only | <input type="checkbox"/> Add'n. Attached |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Add'n. Detached |

OWNERSHIP
 Owner CVS PHARMACY STORE # 3236
 Address ONE CVS DRIVE
 City WOONSOCKET STRI Zip 02895
 Phone No. 401-665-1913
 Email rsaldamando@cv.com

P(03893)

ARCHITECT
 Name ROBERT REID WEDDING ARCHITECTS
 License No. AAC001123
 Address 612 S. MILITARY TRAIL
 City DEERFIELD BEACH FL Zip 33442
 Phone No. 954-428-9361
 Email C.SIMPSON@REIDWEDDINGARCHITECTS.COM

ENGINEER
 Name N/A
 License No. _____
 Address _____
 City _____ ST _____ Zip _____
 Phone No. _____
 Email _____

FILE

*****CONTINUED ON REVERSE SIDE*****

PERMITS Plus

File A/P/D's Find A/P/D's Site Parcels People Events



File

A/P/D's

Find A/P/D's

Type: BLDGPRMT Vers: 1101 Building Permit Master (Project) X

Permit #: Address:
 Status: OWNER:
 Date: Notice: Back Stop
 Title:

Screen	Fees	Doc	Desc	Cond	L/H/N	Insp	People	Loc	Relate	OK Appr	Events

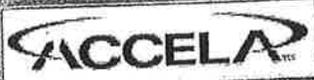
Misc. Fees and Total Fees

Miscellaneous Fees

Lost Plans:	<input type="text" value=""/>	\$0.00	Site Plan Review:	<input type="checkbox"/>	\$0.00
Revised Plans-Major:	<input type="text" value=""/>		Radon / Miami-Dade:	<input checked="" type="checkbox"/>	\$0.01
# Revised Plan Major Pages:	<input type="text" value="0"/>	\$0.00	Metro-Dade Cty	<input type="text" value="105,000 x 60"/>	
Revise Plan-Minor >5Min (Pgs):	<input type="text" value="0"/>	\$0.00	Use Value:	<input checked="" type="checkbox"/> Use SF:	<input type="checkbox"/> \$63.00
Failure to Correct Plans:	<input type="text" value="0"/>	\$0.00	Radon / State DCA:	<input checked="" type="checkbox"/>	\$28.35
Lost Permit Docs.:	<input type="text" value=""/>	\$0.00	DBPR Surcharge:	<input type="text" value=""/>	\$28.35
Prmt. Extend.-Not Expire:	<input type="text" value=""/>	\$0.00	Permit System Fees:	<input checked="" type="checkbox"/>	\$6.00
Renew Permit (<6Months):	<input type="text" value=""/>	\$0.00	Processing Fee:	<input checked="" type="checkbox"/>	\$30.00
Renew Permit (>6Months):	<input type="text" value=""/>	\$0.00	Zoning Plan Review:	<input checked="" type="checkbox"/>	\$25.00
Record Resrch (ea copy):	<input type="text" value="0"/>	\$0.00	Special Min. Permit Fee:	<input type="checkbox"/>	\$0.00
Plan Reprod. (per sheet):	<input type="text" value="0"/>	\$0.00	Other Permit Fee:	<input type="text" value=""/>	\$0.00
Retrieval of Records(Per Insp):	<input type="text" value="0"/>	\$0.00	Permit Subtotal:	<input type="text" value=""/>	\$1,890.00
Scanning Fee:	<input type="text" value="20"/>	\$100.00	Public Works Fee:	<input type="text" value=""/>	\$0.00
Contractor Change:	<input type="text" value=""/>	\$0.00	Total Fees:	<input type="text" value=""/>	\$2,195.71
Contractor Registration:	<input checked="" type="checkbox"/>	\$25.00	Refund Requested:	<input type="checkbox"/>	
Concurrency Review:	<input type="text" value=""/>	\$0.00	Amount Refunded:	<input type="text" value=""/>	\$0.00

PERMITS Plus

File A/P/D's Find A/P/D's Site Parcels People Events



File

A/P/D's

Find A/P/D's

Type: BLDGPRMT Vers: 1101 Building Permit Master (Project) X

Permit #: B11-11695 Address: 700 CRANDON BLVD VKB
 Status: APPLIED OWNER: CSM KEY BISCAYNE EQUITIES LLC Back Stop
 Date: 09/06/2011 Notice: TAKEN TO FIRE DEPT - 02/06/12
 Title: _____

History Log (F9)

Screen	Fees	Doc	Desc	Cond	L/H/N	Insp	People	Loc	Relate	OK Appr	Events

Misc. Fees and Total Fees

Miscellaneous Fees

Lost Plans:	<input type="checkbox"/>	\$0.00
Revised Plans-Major:	<input type="checkbox"/>	
# Revised Plan Major Pages:	0	\$0.00
Revise Plan-Minor >5Min (Pgs):	0	\$0.00
Failure to Correct Plans:	0	\$0.00
Lost Permit Docs:	<input type="checkbox"/>	\$0.00
Print. Extend. -Not Expire:	<input type="checkbox"/>	\$0.00
Renew Permit (<6Months):	<input type="checkbox"/>	\$0.00
Renew Permit (>6Months):	<input type="checkbox"/>	\$0.00
Record Resrch (ea. copy):	0	\$0.00
Plan Reprod. (per sheet):	0	\$0.00
Retrieval of Records(Per Insp):	0	\$0.00
Scanning Fee:	20	\$100.00
Contractor Change:	<input type="checkbox"/>	\$0.00
Contractor Registration:	<input checked="" type="checkbox"/>	\$25.00
Concurrency Review:	<input type="checkbox"/>	\$0.00

Site Plan Review:	<input type="checkbox"/>	\$0.00
Radon / Miami-Dade:	<input checked="" type="checkbox"/>	\$0.01
Metro-Dade Cty		105 .000 x 60
Use Value:	<input checked="" type="checkbox"/>	Use SF: <input type="checkbox"/>
Radon / State DCA:	<input checked="" type="checkbox"/>	\$28.35
DBPR Surcharge:		\$28.35
Permit System Fees:	<input checked="" type="checkbox"/>	\$6.00
Processing Fee:	<input checked="" type="checkbox"/>	\$30.00
Zoning Plan Review:	<input checked="" type="checkbox"/>	\$25.00
Special Min. Permit Fee:	<input type="checkbox"/>	\$0.00
Other Permit Fee:		\$0.00
Permit Subtotal:		\$1,890.00
Public Works Fee:		\$0.00
Total Fees:		\$2,195.71
Refund Requested:	<input type="checkbox"/>	
Amount Refunded:		\$0.00



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

*** FOR OFFICE USE ONLY ***

OWNER BUILDER FORM
(Attach)

PROOF OF OWNERSHIP
(Attach)

CONDO ASSOCIATION
APPROVAL (Attach)

FIRE DEPT. APPROVAL
(Commercial/Multifamily)

HRS/DERM APPROVAL
(Septic/Sewer)

BPR APPROVAL (Restaurants)
DACS APPROVAL (Grocery)

CONCURRENCY
(New Construction)

IMPACT FEE
(New Construction)

CONTRACTOR
REGISTRATION (On File)

SWIMMING POOL
CERTIFICATION (Attach)

OTHER _____
(Specify and Attach)

OTHER _____
(Specify and Attach)

PERMIT FEES:

ISSUING OFFICIAL:

Village of Key Biscayne: \$ _____

Name: JAS

Threshold Inspection Fee: \$ _____
(\$15/Sq. Ft. of F.A.R.)

Date: 2/14/12

Scanning Fee: *(\$5.00/Sheet)* \$ _____

Miami-Dade County: 20 \$ _____
(0.6 x Cost/1000)

Radon: *(\$0.005/Sq. Ft.)* \$ _____

Concurrency: \$ _____
(0.06 x VKB Fee)

State D.C.A.: *(\$0.005/SQ.FT.)* \$ _____
(If Adding New Sq. Footage)

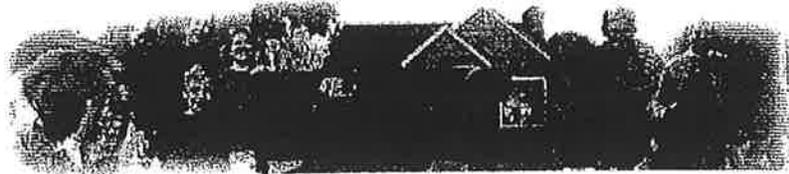
Code Enforcement Fine: \$ _____

Permit Software Fee: \$ 6.00
(Flat Fee)

TOTAL: \$ 2195.71

CONDITIONS OF APPROVAL

My Home



miamidade.gov

ACTIVE TOOL: SELECT



Show Me:

Property Information

Search By:

Select Item

Text only

Property Appraiser Tax Estimator

Property Appraiser Tax Comparison

Summary Details:

Folio No.:	24-5205-001-0080
Property:	700 CRANDON BLVD
Mailing Address:	CSM KEY BISCAYNE EQUITIES LLC % RABINA REALTY 670 WHITE PLAINS RD STE 305 SCARSDALE NY 10583-

Property Information:

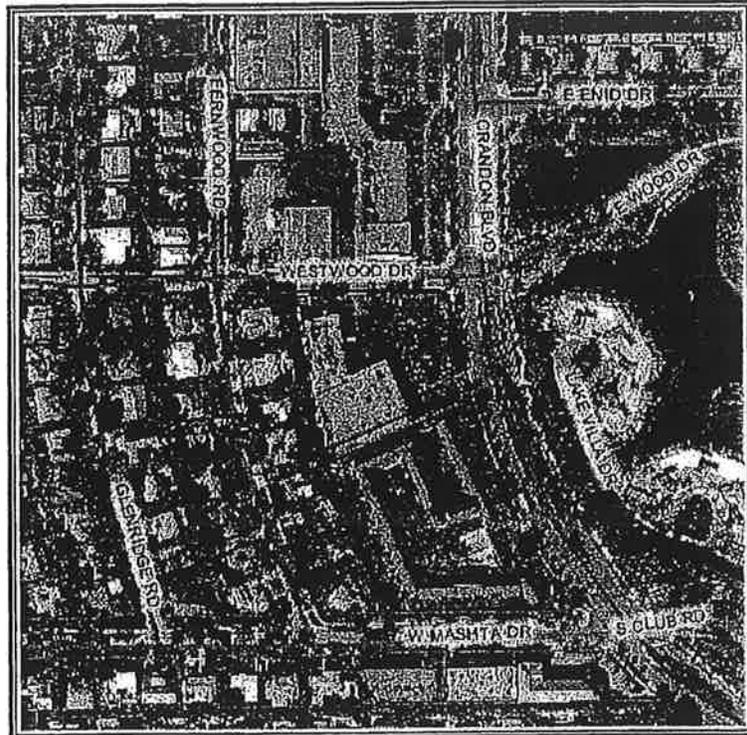
Primary Zone:	6100 RESTRICTED COMMERCIAL
CLUC:	0011 RETAIL OUTLET
Beds/Baths:	0/0
Floors:	2
Living Units:	0
Adj Sq Footage:	25,839
Lot Size:	74,052 SQ FT
Year Built:	1965
Legal Description:	5 & 6 55 42 2.15 AC M/L BISCAYNE KEY ESTS PB 50-61 PORT OF TR C DESC BEG NW COR OF TR C TH E268.19FT C/C/R A/D 36.62FT SELY181.80FT S 67 DEG W 267.63FT W25.47FT NLY308.45FT TO

Assessment Information:

Year:	2010	2009
Land Value:	\$8,886,240	\$7,127,640
Building Value:	\$1,209,714	\$1,034,900
Market Value:	\$10,095,954	\$8,162,540
Assessed Value:	\$8,978,794	\$8,162,540

Taxable Value Information:

Year:	2010	2009
Taxing Authority:	Applied Exemption/ Taxable Value:	Applied Exemption/ Taxable Value:
Regional:	\$0/ \$8,978,794	\$0/ \$8,162,540



Aerial Photography - 2009

0 — 133 ft

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| [My Neighborhood](#) | [Property Appraiser](#)

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Web Site
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FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS



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[Entity Name](#)

[No Events](#)

[No Name History](#)

[Sun](#)

Detail by Entity Name

Foreign Limited Liability Company

CSM-KEY BISCAYNE EQUITIES, LLC

Filing Information

Document Number M03000001050
FEI/EIN Number 352200204
Date Filed 04/02/2003
State DE
Status ACTIVE

Principal Address

670 WHITE PLAINS ROAD, SUITE 305
SCARSDALE NY 10583

Mailing Address

670 WHITE PLAINS ROAD, SUITE 305
SCARSDALE NY 10583

Registered Agent Name & Address

NRAI SERVICES, INC.
515 E. PARK AVENUE
TALLAHASSEE FL 32301 US

Name Changed: 10/25/2005

Address Changed: 02/11/2011

Manager/Member Detail

Name & Address

Title MGR

COOLIDGE-SOUTH MARKETS EQUITIES, INC.
670 WHITE PLAINS ROAD, SUITE 305
SCARSDALE NY 10583

Title MGR

COOLIDGE-SOUTH MARKETS REALTY CORP.
670 WHITE PLAINS ROAD, SUITE 305
SCARSDALE NY 10583

CSM- KEY BISCAVNE EQUITIES, LLC

670 White Plains Road
Suite 305
Scarsdale, New York 10583
914-722-4400

Fee Simple Title Holder/Landlord:
CSM- KEY BISCAVNE EQUITIES, LLC
670 White Plains Road, Suite 305
Scarsdale, NY 10583

Site Location:
CVS Pharmacy #3236.
700/726 Crandon Blvd
Key Biscayne, Fl 33199

To Whom It May Concern:

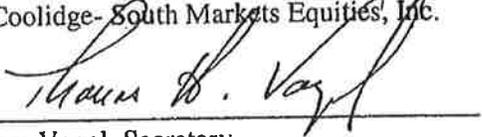
CSM- KEY BISCAVNE EQUITIES, LLC, L.P. is the Fee Simple Title Holder of the property and hereby gives authorization to **CVS Pharmacy**, and/or their agent, Rafael Saldamando, contractors and subcontractors to obtain permit(s) for the interior renovation at the above named location, as well as sign permit application(s) as Owner/Agent of the labor, materials and services to be furnished for the construction of tenant interior renovation located at 700/726 Crandon Blvd, Key Biscayne, Fl 33199.

All work will meet applicable Codes and Regulations.

Should you have any questions, please feel free to contact me at (914) 722-4400 for further information.

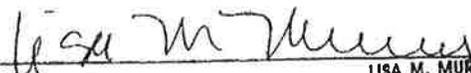
Sincerely,

CSM- KEY BISCAVNE EQUITIES, LLC
By: Coolidge- South Markets Equities, Inc.

By: 
Tom Vogel, Secretary

State of New York ss:
County of Westchester

Acknowledged before me this 1st day of Sept 2011


Notary Public

LISA M. MURRAY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MU4926175
Qualified in Westchester County
My Commission Expires April 25, 2014

PROJECT # 11207

**CVS AT KEY BISCAYNE
(EXPANSION)**

CONTENTS:

LOAD CALCULATION

DATE:

08/02/11

PREPARED BY:



CONSULTING

**1640 NW 2ND AVE
BOCA RATON, FL 33432**

Air System Sizing Summary for WAHU-1

Project Name: 11207_CVS Key Biscayne
 Prepared by: FAE Consulting

08/02/2011
 01:54PM

Air System Information

Air System Name WAHU-1	Number of zones 1
Equipment Class SPLT AHU	Floor Area 326.0 ft ²
Air System Type SZCAV	Location Miami IAP Florida

Sizing Calculation Information

Zone and Space Sizing Method:

Zone CFM Sum of space airflow rates	Calculation Months Jan to Dec
Space CFM Individual peak space loads	Sizing Data Calculated

Central Cooling Coil Sizing Data

Total coil load 1.7 Tons	Load occurs at Jul 1000
Total coil load 20.5 MBH	OA DB / WB 84.6 / 75.3 °F
Sensible coil load 18.2 MBH	Entering DB / WB 76.5 / 63.3 °F
Coil CFM at Jul 1000 810 CFM	Leaving DB / WB 55.7 / 54.5 °F
Max block CFM 810 CFM	Coil ADP 53.4 °F
Sum of peak zone CFM 810 CFM	Bypass Factor 0.100
Sensible heat ratio 0.886	Resulting RH 46 %
ft ² /Ton 190.5	Design supply temp. 55.0 °F
BTU/(hr-ft ²) 63.0	Zone T-stat Check 1 of 1 OK
Water flow @ 10.0 °F rise N/A	Max zone temperature deviation 0.0 °F

Central Heating Coil Sizing Data

Max coil load 6.0 MBH	Load occurs at Des Htg
Coil CFM at Des Htg 810 CFM	BTU/(hr-ft ²) 18.5
Max coil CFM 810 CFM	Ent. DB / Lvg DB 68.2 / 75.1 °F
Water flow @ 20.0 °F drop N/A	

Supply Fan Sizing Data

Actual max CFM 810 CFM	Fan motor BHP 0.13 BHP
Standard CFM 810 CFM	Fan motor kW 0.10 kW
Actual max CFM/ft ² 2.48 CFM/ft ²	Fan static 0.54 in wg

Outdoor Ventilation Air Data

Design airflow CFM 49 CFM	CFM/person 12.36 CFM/person
CFM/ft ² 0.15 CFM/ft ²	

Ulf
 8/2/11



Village of Key Biscayne

Inspection Results For : B11-11695 As of :05-14-2013

Retated Master Permit #:

TYPE: Building Permit Master
SITE ADDRESS: 700 CRANDON BLVD VKB
APPLIED DATE: 09/06/2011

STATUS: FINALED
PARCEL: 24-52050010080
ISSUED DATE: 02/21/2012

DESCRIPTION: INTERIOR REMODEL - CVS PHARMACY # 3236 - SUITE 726
(RECLAIMING ADDITIONAL SF TO EXISTING STORE)

Inspection Items and Results:

Item: 00010 Notice of Commencement

03/21/2012 By: gp Action: AP Comments:

Item: 00011 Setback

Item: 00012 Demolition

Item: 00020 Piling Log

Item: 00030 Grade Beam

Item: 00040 Foundation

Item: 00050 Column Pads

Item: 00060 Slab

03/19/2012 By: gp Action: AP Comments: slab
reinforcing with soiltreatment certficate.

Item: 00070 Precast Joist

Item: 00080 Columns

Item: 00090 Poured Cells

Item: 00100 Tie Beams

Item: 00110 Stairs

Item: 00120 Trusses

Item: 00130 Rake Beam/Cap

Item: 00140 All Shop Drawings

Item: 00150 Fire Stopping / Penetrations

Item: 00160 Framing (Walls)

03/21/2012 By: gp Action: AP Comments:

Item: 00170 Roof Framing

03/21/2012 By: gp Action: AP Comments:
soffit framing.

04/02/2012 By: gp Action: AP Comments:
SUSPENDED CEILING FRAMING.

Item: 00180 Sheathing

Item: 00190 Wire Lath

Item: 00200 Screw Insp. (Dry Wall)

03/23/2012 By: gp Action: AP Comments:

03/26/2012 By: gp Action: AP Comments:

Item: 00210 Accessibility

Item: 00220 Window

Item: 00230 Door / Window Buck

Item: 00240 Store Front

Item: 00250 Shutters

Item: 00260 Doors

Item: 00270 Garage Doors

Item: 00280 Walls/Fence Foundation

Item: 00290 Fence Final

Item: 00300 Retaining Wall

Item: 00310 Railings

Item: 00320 Screen Enclosures

Item: 00340 Sound Proofing (Floors)

Item: 00350 Insulation-Ceilings

03/26/2012 By: gp Action: AP Comments:

Item: 00355 Insulation-Walls

03/26/2012 By: gp Action: AP Comments:

Item: 00360 Pilings (Coastal)

Item: 00370 Dock Deck

Item: 00380 Davit

Item: 00385 Apparatus

Item: 00390 Seawalls / Tie Back

Item: 00393 Pool Barrier

Item: 00394 Pool Setback Survey

Item: 00395 Pool Steel Reinf

Item: 00396 Pool Final

Item: 00397 Zoning Pool Final

Item: 00398 Driveway / Paving

Item: 00399 Subgrade

Item: 00400 Final Driveway

Item: 00805 Tin Cap

Item: 00810 In Progress-Hot Mopping

Item: 00815 In Progress-Tile Installation

Item: 00820 Final Tile Uplift Test

Item: 00825 Final Roofing

Item: 00900 Final Building

05/24/2012 By: GP Action: AP Comments:

Item: 01000 Final Zoning

Item: 00890 Final Fire

05/23/2012 By: FG Action: AP Comments:

EXHIBIT 13

2012-2013
LOCAL BUSINESS TAX RECEIPT
VILLAGE OF KEY BISCAYNE, FLORIDA
88 West Miracle Street, Suite 250
Key Biscayne, Florida 33149

Number: L131682

FOR THE PERIOD COMMENCING OCTOBER 1, 2012 AND
ENDING SEPTEMBER 30, 2013, THE FOLLOWING IS
AUTHORIZED TO ENGAGE IN THE FOLLOWING BUSINESS:

Business Name: CVS/PHARMACY # 3236

Location: 726 CRANDON BLVD.

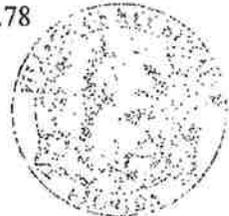
Business: RETAIL/PHARMACY

Certificate of Use Number: CU-9060286

Total Amount: **\$443.78**



Authorized Signature



**BUILDING, ZONING
AND PLANNING**

PENALTY IS IMPOSED - 5% PER MONTH

This receipt is for payment of a business tax
County of Village of Key Biscayne

This fee must be paid by October 1st of each year
penalty for each month of delinquency

Mailing Address:

HOLIDAY CVS, LLC/ DBA CVS/ PHARMACY # 3236

ATTN: CAROL FONTAINE
1 CVS DRIVE -MAIL DROP # 23062A

WOONSOCKET, RI02895

Occupational License #:L131682

Amount Due: \$443.78
HOLIDAY CVS, LLC/ DBA CVS/ PHARMACY # 3236

Certificate of Use#: CU-9060286

Federal ID #:

726 CRANDON BLVD.
All Other Business

State License #:

Occupational License Fee: \$443.78

Certificate of Use Fee: \$0.00