

TAB 8

Staff Report
Conditional Use Permit (CU0802)
McDonald's Sign
699 10th Street East

BACKGROUND:

The McDonalds Restaurant located at 699 10th Street East has existed since 1980. The existing sign was also constructed at that time. In 2007, McDonalds applied for site plan approval to remove the existing restaurant and replace it with a new prototype store. The plans indicated that the existing 80' +/- pole sign was proposed to remain. The sign does not conform to the current Land Development Code (LDC) sign height limitation of 30 feet. The removal and replacement of the restaurant building constitutes a substantial improvement to the property. The site must comply with all requirements of the LDC, including the sign height limitation. As such, the nonconforming sign is required to be removed.

McDonalds has indicated that the sign is an integral part of the economic survival of the restaurant. Removal of the sign translates to the possible elimination of McDonalds at this location. The existing restaurant may be renovated allowing the sign to remain provided that the renovation improvements do not constitute a substantial improvement. The applicant has identified the necessity of keeping the sign in the attached narrative.

Staff approved the site plan conditioned upon removal of the sign. Section 3-154 of the Sign Ordinance (see attached) allows a pole sign in excess of 30' with the approval of a conditional use permit. The applicant has opted to apply for the Conditional Use Permit prior to removing the existing building. Action of this request will determine their ultimate plans for the property.

GENERAL LOCATION/PARCEL SIZE:

Location: 699 10th Street East

EXISTING LAND USE/ZONING CATEGORY:

Future Land Use: GCOM (General Commercial)
Zoning: CG (Business Light Commercial)

REQUESTED APPROVAL

A conditional use permit may be issued for the establishment of a sign in excess of the 30' height limitation pursuant to Section 3-154 of the Land Development Code. Allowing the existing sign to remain cannot create an unsafe condition or be detrimental to health safety and welfare of the general public. The following conditions have been analyzed in reviewing this request:

- (1) The proposed use shall be consistent with the purpose and intent of the applicable zoning district regulations, this article, and the comprehensive plan. **A sign is critical to the success of the restaurant. The proposed request is consistent with the review criteria of the CG zoning district and GCOM future land use designation.**
- (2) The proposed use shall be compatible with surrounding land uses and the general character of the area, considering, without limitation, such factors as traffic, lighting, appearance, and effect on surrounding property values. **The sign has existed in its current state since 1980. The sign could be considered distracting to drivers on US 41, but that seems to be the applicant's point of allowing it to remain. There are a substantial number of residences that have been built in close proximity that were not constructed prior to the sign's original installation. Because the many of the homes were constructed after the sign, it would appear that there have been no detrimental affect on property values.**
- (3) The conditional use will not adversely impact on the public interest or adjacent property and all necessary alternative measures shall be taken by the applicant to prevent any such impact. **The sign has been in place for 28 years. There do not appear to have been any adverse impacts on the public interest or adjacent properties in that time. There is no reason to believe that any adverse impacts will be created by allowing the sign to remain.**
- (4) The conditional use is not discriminatory, considering similar situations in the general area and in past decisions under this article. **This request is not discriminatory in terms of considering similar situations in the general area. The Burger King and Wendy's signs are also higher than 30'. However, this is the first application for conditional use permit approval to allow any of**

these signs to remain. If either previously mentioned restaurant wants to rebuild, they may consider the decision of this request as providing precedence in their own application.

- (5) The purpose of the requirement is otherwise fully achieved, or more important purposes of this article will be served thereby, or the requirement serves no valid public purpose in the particular case. **The requirement provides a valid public purpose in that Palmetto probably does not want multiple 80 foot high signs. However, the circumstances surrounding the approval of this request may be justified with the pre-existing condition. Applicants for other new commercial uses cannot make the same claim, except Burger King and/or Wendy's.**
- (6) The proposal shall be consistent with the stated purpose and intent of the applicable district regulations and this article. **The proposal is consistent with stated purpose and intent of the CG zoning district regulations.**
- (7) The proposal shall comply, where applicable, to the regulations of the zoning district in which the proposed use is most commonly permitted. **The sign is supportive of the use of land as a restaurant as a permitted use of land.**
- (8) The proposal shall not create hazardous vehicular or pedestrian traffic conditions or any other type of unsafe condition. **The sign is purposely designed to capture the attention of passing motorists. There have not been an unusually high number of accidents in close proximity to the sign. Due to the height, there is no cross visibility danger at the entrance to the restaurant.**

STAFF RECOMMENDATION:

The existing sign has been in existence for many years. Some may consider the sign a landmark in Palmetto. On the other hand, other businesses have been established within close proximity of McDonalds and have complied with the sign height limitation. The sign ordinance has an amortization provision that applied to all nonconforming signs. Evidently this provision was ignored at the time it was to take effect. This sign, along with others including Burger King and Wendy's, would have been removed in 1993 if enforced. Planning staff is in the process of revising the LDC, including the signage requirements. The existing amortization provision has not been

enforced. It is the opinion of staff that the denial of this application can be questioned against the lack of enforcement of the existing regulations. It can be construed that the approval of this application would validate the continued existence of the sign despite the amortization provision. As such, staff recommends approval of this request.

PLANNING AND ZONING BOARD RECOMMENDATION:

The Planning and Zoning Board shall recommended **APPROVAL WITH ONE (1) CONDITION** of the proposed conditional use permit application. The vote was 5 – 1 with Mr. Moore opposing the request. Mr. Ugarte was absent. The condition reads:

This approval is specific to the existing owner. The approval becomes invalid upon the sale of the property to any other entity.

Planning and Zoning meeting minutes are not yet available since the meeting was held June 9, 2008. The DRC minutes are attached.

CITY COMMISSION

The City Commission shall **APPROVE, APPROVE WITH CONDITIONS or DENY** the proposed conditional use permit.

Attachments:
Applicants Material
DRC Minutes

City of Palmetto
Development Review Committee
Meeting Minutes
March 12, 2008

PRESENT

Bob Schmitt, City Planner
Frank Woodard, Deputy Director Engineering
Dick Clarke, ZNS Engineering
Matt Bloome, Stormwater Manager
Ken Hawkins, Planner 1
Linda Butler, Planning Tech.

Meeting started at 9:00 am

ORDER OF BUSINESS:

1. 9:00 a.m. – Pre-application Meeting:
 - a. South Pullen Tract (Project #04-431) (Bryan Cale & Whiting Preston)
 - 2 unit building and carriage homes
 - 51 single family homes
 - Consistent with original GDP
 - Drainage requirements
 - Future plans for vacuum sewer
 - GDP in by April 18th
 - No gated entry
2. Discussion/Distribution of Plan:
 - a. **Sanctuary Cove Final Plat (Project #05-443F) (1st Submittal)**
 - Legal issues, check survey
 - b. **Riviera Walk East Final Plat (Project #04-386F) (1st Submittal)**
 - Schedule re-inspection
 - Site needs to be cleaned
 - Put comments in writing, forward to Bob

c. MCAT Transfer Station

- Issue with sewer
- Bus traffic direction
- Invite MCAT in for next DRC meeting (Bob will e-mail Mark Muller, instruct him to contact Duane Kinn regarding specifics of project)

3. Comments Due:

a. Palmetto Town Center GDP (GDP# 0707) (3rd submittal)

- Presented new elevations to P&Z Board at there request

b. Riviera Dunes Banquet Center (2nd submittal) (#07-575)

- Dumpster is the only issue
- Send comments

4. Plan Sign Off Review

- a.** None

5. Team Inspection

- a** None

6. New Business

- a.** None

7. Old Business

- a.** RaceTrac Renovation: Project moving forward, conduit issue resolved
- b.** Sunnydale Properties: City Commission approved the process to move forward with annexation.

c. Gulling Variance: Applicant pulled variance

d. 17th Street East easement: Bob stated this is the easement in front of Memphis Industrial Park that is under construction. Dick stated to the best of his knowledge this easement came up when the City was considering upsizing and taking over the lift station, it was founded that is was not needed.

A question arose regarding the status of Pelican Bay. It was stated there are some issues with the County.

8. Adjourned

City of Palmetto
Development Review Committee
Meeting Minutes
March 26, 2008

PRESENT

Bob Schmitt, City Planner
Duane Kinn, Deputy Director of Operations
Frank Woodard, Deputy Director Engineering
Dick Clarke, ZNS Engineering
Matt Bloome, Stormwater Manager
Ken Hawkins, Planner 1
Linda Butler, Planning Tech.

Meeting started at 9:00 am

ORDER OF BUSINESS:

1. Discussion/Distribution of Plan:

- a. Spacebox @ Palmetto (Project #05-434)
 - Survey on Condo Plat
 - See attached DRC comments and Lincoln Associates response
- b. MCAT Transit Station (Project #06-499) Mark Mueller, JAG Engineering, Jane Boatman, Fawley Bryant, Erin Tracht, JAG Engineering.
 - Upgrade lift station, due to flow into station
 - Bus route
 - Mr. Mueller will provide information to Mr. Kinn to be passed on to Ray for review
 - Construction by end of year
 - Fence added per City's request
- c. Lukowiak AN-PA-Z-08-04
 - Will go before P&Z on April 14, 2008
 - No utilities

2. Comments Due

a. Sanctuary Cove Final Plat (Project #05-443F) (1st Submittal)

- 1st read April 21, 2008, subject to change
- Review plans
- Fence has to come down or Sanctuary Cove take control of ditch
- Matt will document meeting w/county regarding removal of fence and send via e-mail

b. Riviera Walk East Final Plat (Project #04-386F) (1st Submittal)

- Schedule site re-inspection April 1st, 2008
- Site needs to be cleaned
- Smoke test performed, PW crew to be present

3. Pre-application Meeting: David Bailey, John Cucci

- Formerly Sunrise Hotel, located on 17th St W (listed as transient housing)
- Total 14 units on property
- Plans to add 12 more units including a manager office
- Clean up property
- Master meter vs. individual meters
- Gravity sewer
- Site visit

4. Plan Sign Off Review

None

5. Team Inspection

None

6. New Business

- a. LDC Amendments. Will meet on April 2 to review and make changes to the LDC.
- b. A-1 Mini-Storage
 - No plans to expand upon

- Make improvements
- Permitted use
- Pepper Trees to be removed
- Go through SWFWMD
- See comment sheet

7. Old Business

None

8. Adjourned

City of Palmetto
Development Review Committee
Meeting Minutes
May 28, 2008

PRESENT

Bob Schmitt, City Planner
Frank Woodard, Deputy Director Engineering
Dick Clarke, ZNS Engineering
Matt Bloome, Stormwater Manager
Ken Hawkins, Planner 1
Commissioner Eric Ball, City of Palmetto Commissioner
Linda Butler, Planning Tech.

Meeting started at 9:00 am

ORDER OF BUSINESS:

1. Discussion/Distribution of Plan:

- a. Request for TC/O Schott mini-Storage (05-437)
 - Received letter regarding request for TC/O
 - Occupancy is still an issue
 - A designated use has not been identified
 - Proper submittal of paperwork was not submitted

2. Comments Due

- a. Pullen Estates GDP (04-431)
 - Need to send DRC comments to Brian Cale
 - This project is not a rush project, not high priority at this time
 - A new map has been requested
 - Garbage pick-up
 - Sewer issues; direction of flow, need details on tie-in and who will be responsible for drainage ditch, lift station upgrade
 - Are the Amenities Center public buildings? And will the floor area ratio be required in the plans?
 - There are no parking shown for the amenity building
 - Need to know how many units in each building

3. Pre-application Meetings:

None

4. Plan Sign Off Review

None

5. Team Inspection

None

6. New Business

None

7. Old Business

a. Sanctuary Cove Final Plat (05-443F)

- Need Jim's comments
- Need to keep detailed documentation of project's progress

b. Sanctuary Cove Community Center (Const. Plans 1st Submittal) (08-580)

- Same as above (a)

c. Sanctuary Cove Sales Center (Construction Plans 1st Submittal) (08-581)

- Same as above (a)

d. McDonald's Sign (CU 0802)

- Will go before P&Z June 9th and City Commission on June 16th
- Follow ordinance guideline, however it was not followed before
- Need to be consistent with other surrounding establishments

e. C&D Migrant Housing (Const. Plans 1st Submittal) (08-579)

- Contingent upon receiving the Conditional Use permit, which go before P&Z on July 14th, 2008
- Need DRC comments on plans, due June 11, 2008
- Review parking, need parking designation, provide fire lane, possible stripping to maintain drive width
- Units needs to be identified
- Dumpster location not an issue
- Existing sewer-tie in

f. Palmetto Town Center FSP (07-574)

- Drive isle evaluated
- Need development agreement
- Need e-mail from Roger and a resolution from NRFD

g. MCAT Transit Station (06-499)

- Ralf Heseler, MCAT presented the changes of the transit station proposed plans to City Commission, changes were approved.
- Need to verify if the water and sewer issues have been resolved
- Plans cannot be signed off until all issues are resolved

h. Riviera Walk East Final Plat (04-386F) 4/1/08

- There is the possibility of the property being sold
- Ken will follow-up with Jennifer regarding punch list, also send DRC meeting comments, if no response in 2 weeks, after June 11th the application will be consider abandoned.

i. Spacebox @ Palmetto (05-434)

- Ken will prepare comments for response to Scott

8. Adjourned: 10:30 a.m.

Jun 10 2008 1:09PM HP LASERJET FAX 8136711793

P.1

June!

Dear Commissioner

Please allow the sign to stay. I would like to see a new store and more jobs

Nancy Chaffin

May 5, 2008

Sara Lammara

Apresento la kupa 14/12 9417233476. Blackto
fo mup la sra de McDonald. No lo quiso que
ven en Quitar el sign de McDonald por favor no lo
Quitar el sign de McDonald se va puesto a la
noche.

Sara

Ami Lammara

80-62-5

Dear Commission

I fear that there are having
problem with McDonalds sign. Live work there
3 1/2 hrs and I need things. In please
keep the sign up so we can keep our
business going.

Thank you

Marvin Blagov

Sir,

yo Eric Cruz trabajo el McDonald en Palmetto

Vivo la Calle 34th ST Ave 2 Apt 101b

necesitamos una Jenda Khora and me gnteriv

trabajo

Gracia

Eric Cruz

5:28-08

Dear Commissioner

I live at 5760 90th Ave Circle

Parish when live in 301

I can see the nice big bright M

sign way up IN THE Sky a nice

thing to see and I loved here

41 years, So live seen the big sign

since the first time they put it up

and I can't believe that I will

Not see the sign anymore if you

Takes IT Down!

Please keep the sign up.

It's a land mark for Palmview.



Maria Acevedo

Dear Commissioner

I heard that were not getting our store
rebuild due to the sign the my store were I work
comright 8pm 5am. We get a lot of people at night going
over 41 and they see the Big sign of McDonalds and they
stop to eat a safe place for anyone to stop and please
so please get yes to the sign

Jennifer Bayfield

Jun 10 2008 1:07PM HP LASERJET FAX

8136711793

p.1

May 31

Dear Commissioner

I live at 707 3rd Ave Wt
in Palmetto. I saw the River
City News the Article on the
McDonald's sign. I want you
to support the sign. We
need all the business off
of 41 we can get.

Lucas Hamlin

I'm one of the Managers at McDonalds of Palmetto I live
at 203 7th St Dr E Apt 203 Palmetto, we need a new sign but
please keep the sign up, Everyone can see the sign and I'm afraid
without the sign we can lose some of our business and I can't afford
not to have a job. Thanks for listening

Patricia Plurante

DEAR Commissioner

My name is Sonia Moreno I live at
2407 14th ST Dr W. Apt A. Palmetto, Please keep
the sign up, I've been working there for 4 months I still
will like to be working there many more years.

Thanks

Sonia Moreno

May 22, 2008

Dear Commissioner,
I live at 1307 6th St. W in
Palmetto. I saw in the River City
News the article on the McDonald's
sign. I want you to support the
sign. We need all the business
off of 41 we can get.

Thank you,
M. F. Hatcher

52608

Sen Commissioner.

clue heard that
you, sorry the city is
having problems keeping
the B&O up for
McDonalds. I don't want
the signs come down
Bear Lewis here 20 years
ago just fine. I've been
at it. I did nice high sign.
Look my american sign.
Please keep it up

Steve McDonald





RED TAB



McDonald's Restaurant
Attachment to the City of Palmetto Petition for Conditional Use Permit

Purpose

McDonald's is requesting a Conditional Use Permit to keep its existing pylon sign. McDonald's proposes to demolish and reconstruct a new 4,553 square foot McDonald's restaurant and the required site support elements to serve it. The signage is a critical element to the store's success. McDonald's thought that it would be allowed to remain as-is as long as they did not modify the sign.

Reasons

1. The existing sign was installed at its current height to draw business from US 41. That traffic has been and continues to be critical to the success of the restaurant. The fast food industry is extremely competitive and the loss of the signage would be a tremendous loss.
2. The sign is compatible with the surrounding land uses and the general character on the area. Factors such as traffic, lighting, and appearance are not diminished in any way. The surrounding properties are commercial properties and a mobile home park.
3. The conditional use will not adversely impact on the public interest or adjacent property. The legally permitted sign has been in place since 1980 and there has not been any known negative impact to anyone in the community. It is our position that this sign does not harm the public.
4. The conditional use is not discriminatory, considering similar situations in the general area and in past decisions under this Ordinance. There are other businesses with signs similar to McDonald's. They have chosen to limit the financial reinvestment so that they can preserve their existing signage.
5. The site will comply with the Sign Code in ALL other respects. New permits will be obtained for all other signs.
6. This request is consistent with the stated purpose and intent of the applicable district regulations and this Ordinance. It also meets the intent of the Enterprise Zone. A well-designed, optimally visible, and appropriately-placed sign fosters a partnership with the municipality and the chance to create financial opportunities for both the business and the community. The revitalization of the site and the area helps to promote a healthy tax base.
7. A conditional use permit would comply with the regulations of the zoning district.

DIVISION 5. COMMERCIAL ZONED DISTRICTS

Sec. 3-154. Pole signs.

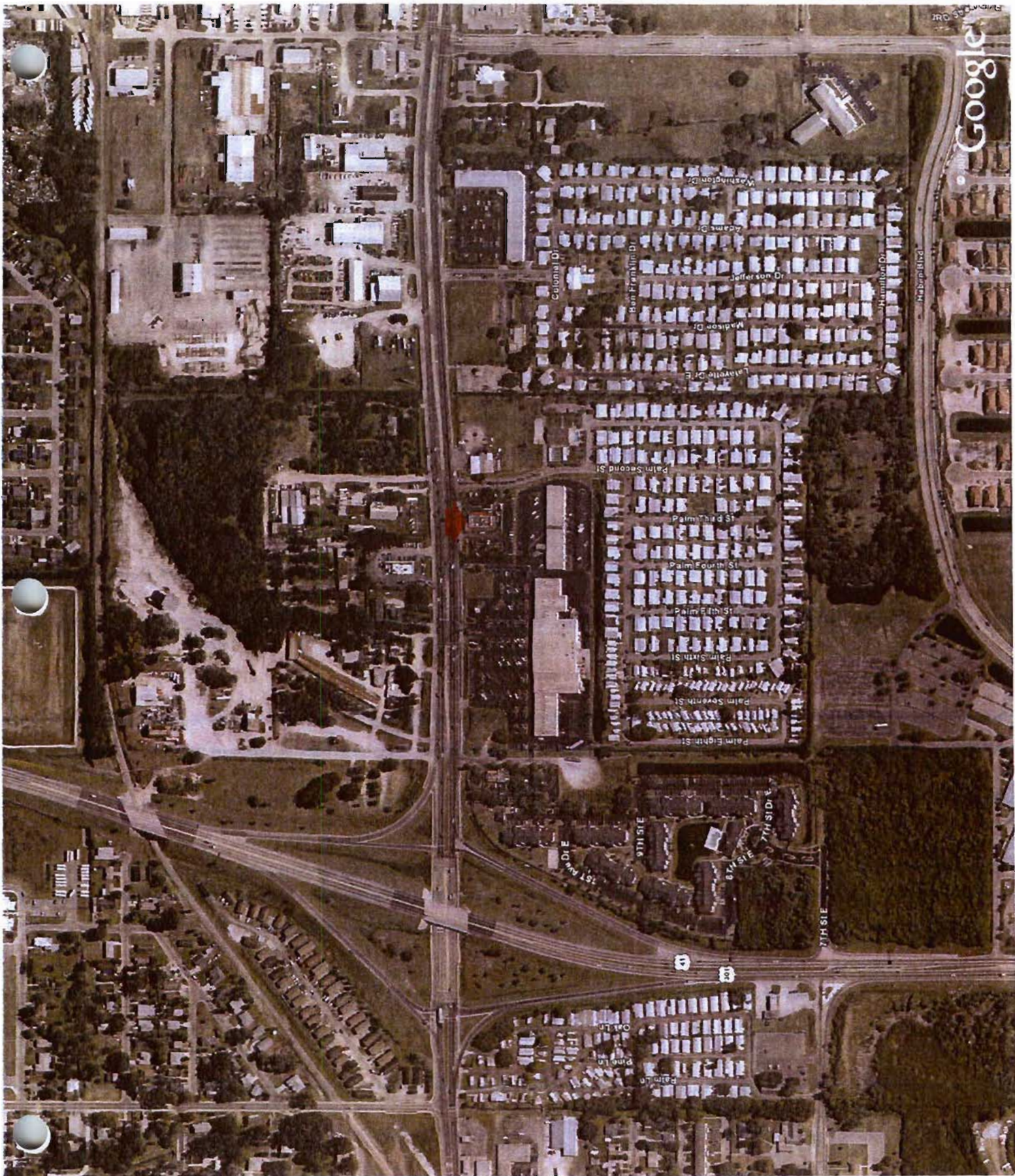
(a.) One (1) pole sign shall be permitted in commercial zoned districts for each individual commercial use, excluding commercial uses in an integrated commercial shopping center, provided that it shall not:

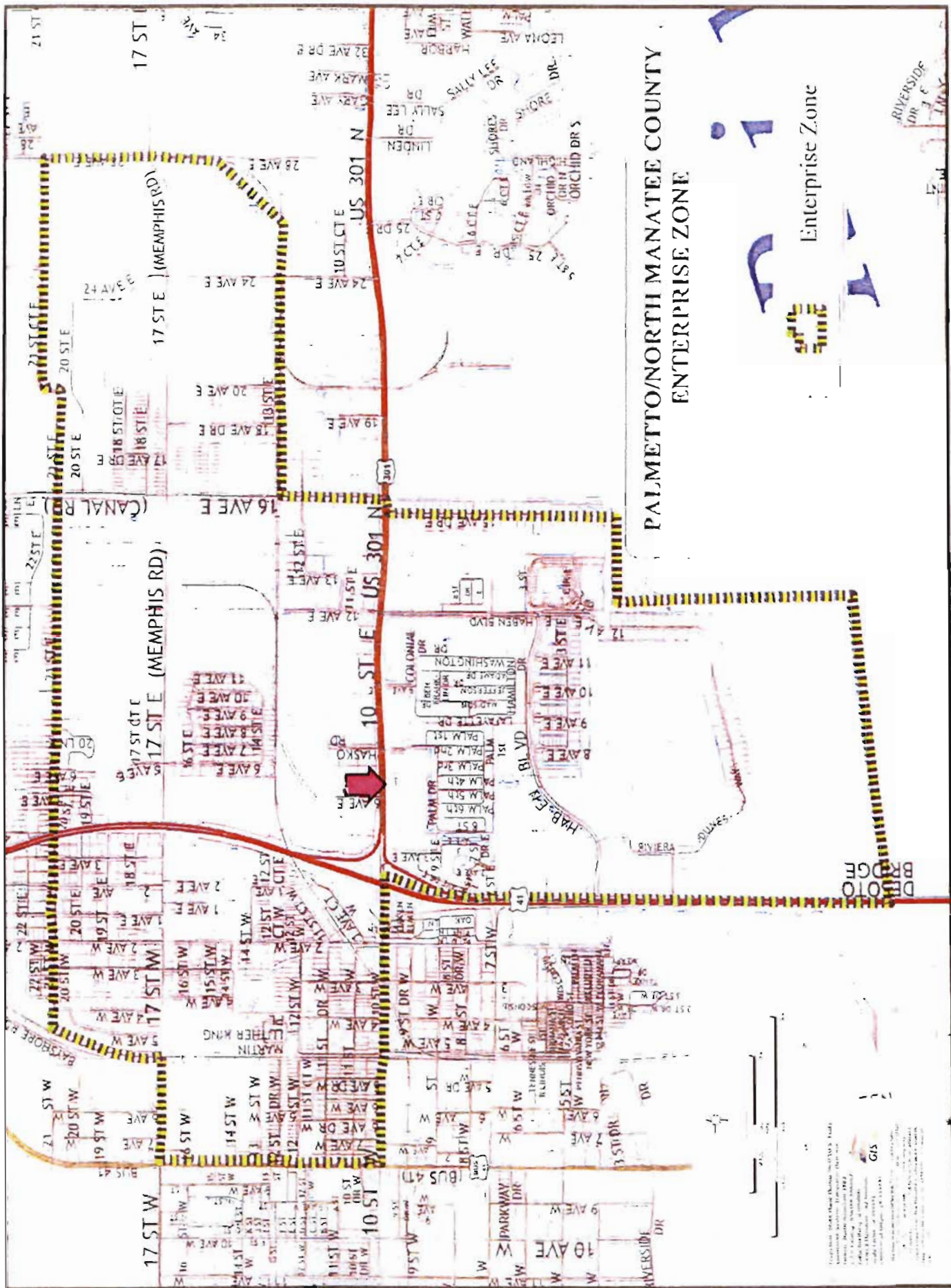
- (1) Exceed forty (40) square feet in surface area;
- (2) Overhang any public right-of-way or interfere in the clear site triangle;
- (3) Exceed thirty (30) feet in height above the average grade of the lot.

(b.) The provisions of subsections (1) and (3) above may be exceeded upon issuance of a conditional use permit.

8. The proposal will not create hazardous vehicular or pedestrian traffic conditions or any other type of unsafe condition. The additional height over that allowed by Code gives drivers more time to negotiate lane changes and thereby increases safety.

BLUE TAB



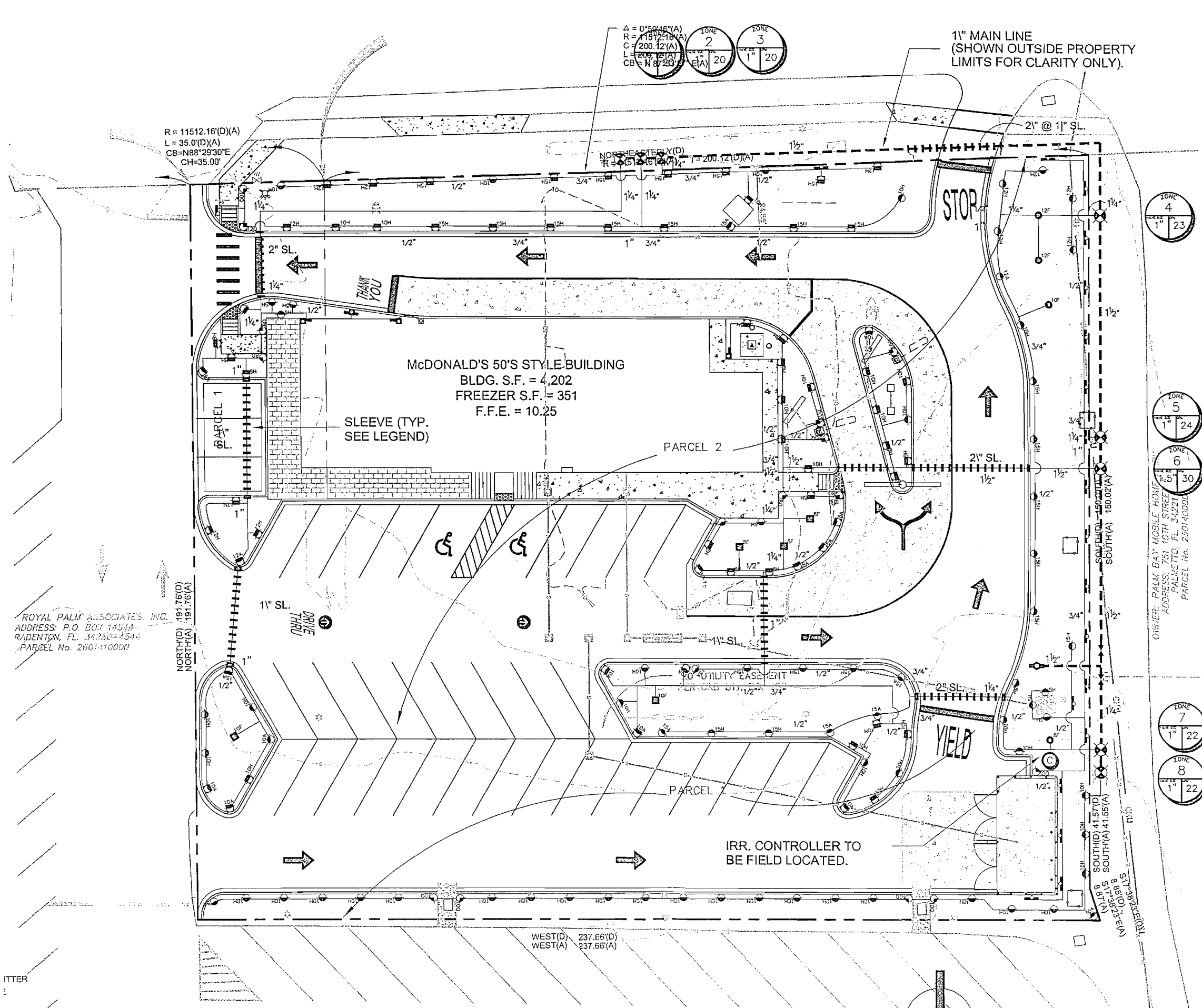


PALMETTO/NORTH MANATEE COUNTY ENTERPRISE ZONE

Enterprise Zone

Map created by: GIS
Map data source: 2000
Map software: ArcView 3.2a
Map file name: Palmetto_EnterpriseZone.mxd

GREEN TAB



ROYAL PALM ASSOCIATES, INC.
 ADDRESS: P.O. BOX 14544
 BRADENTON, FL. 34260-4544
 PARCEL No. 2601-110000

- ZONE 2
1" 20
- ZONE 3
1" 20
- ZONE 4
1" 23
- ZONE 5
1" 24
- ZONE 6
1" 30
- ZONE 7
1" 22
- ZONE 8
1" 22

ZONE #	TYPE	GPM	RUN TIME	GPD

OWNER: ROYAL PALM ASSOCIATES, INC.
 ADDRESS: P.O. BOX 14544
 BRADENTON, FL. 34260-4544
 PARCEL No. 2601-110000



300 West Fulton Street
Tampa, Florida 33607
P.O. Box 2488
Tampa, Florida 33607-2808
Phone 407-332-6941
Fax 407-339-0629

Certificate of
Authorization No. 7143
© 2006

Engineers
Surveyors
Architects
Planners
Landscape Architects
Environmental Scientists
Construction
Management
Design/Build

By

Revision

Date

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

No.

BOUNDARY & TOPOGRAPHIC SURVEY
ALTA / AC-SM LAND TITLE SURVEY

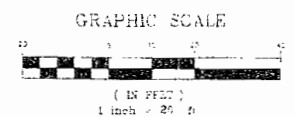
McDonald's
U.S. HIGHWAY No. 301
SECTION 14-TOWNSHIP 34 SOUTH-RANGE 17 EAST
TAMPA COUNTY, FLORIDA

Sheet No.

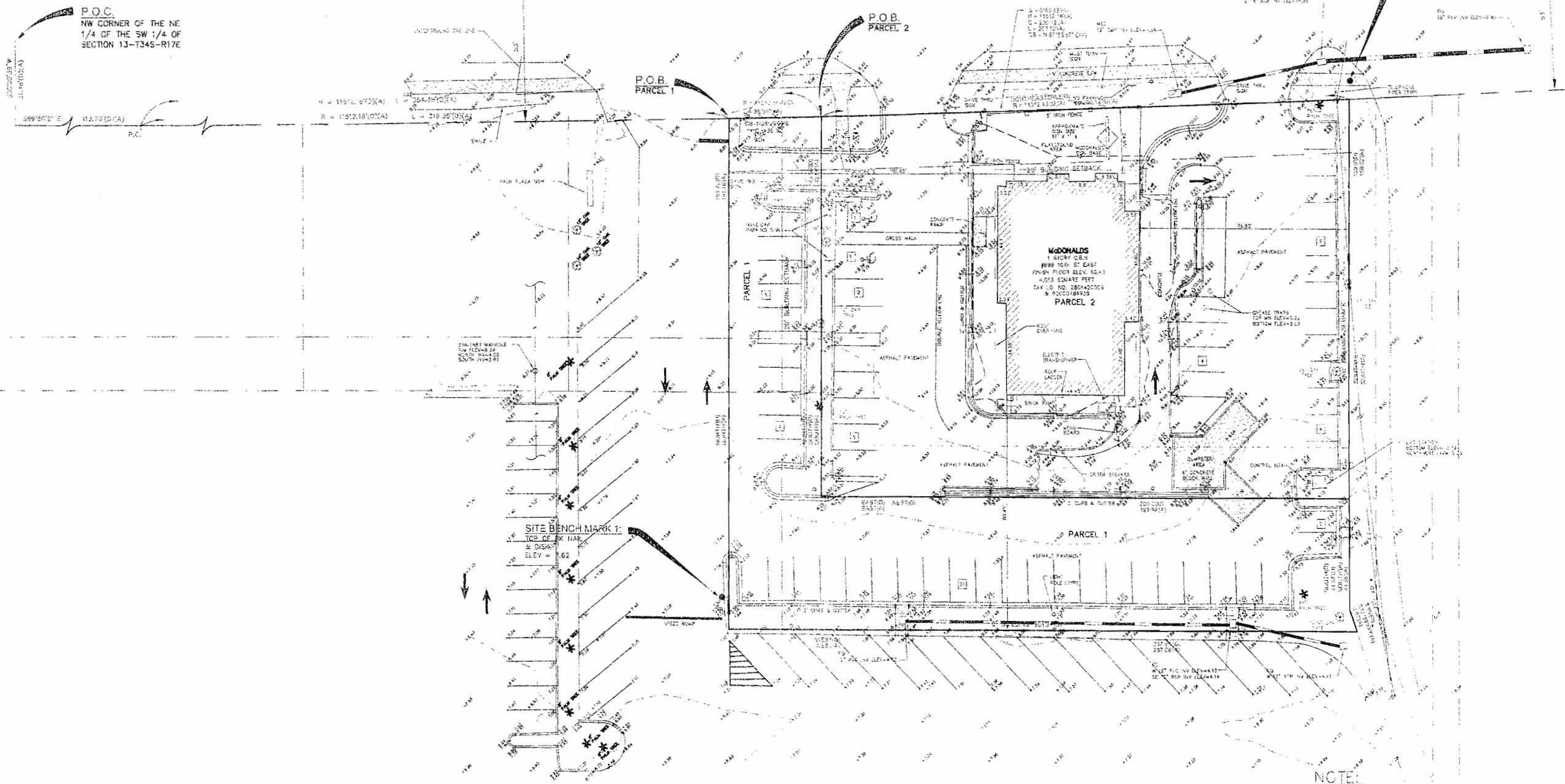
3

of 3

C/L U.S. HIGHWAY No. 301
(STATE ROAD NO. 43)
(150' PUBLIC RIGHT-OF-WAY PER
FDOT RIGHT-OF-WAY MAP SECTION No. 1302-(104) 202
DATED 7/27/54)

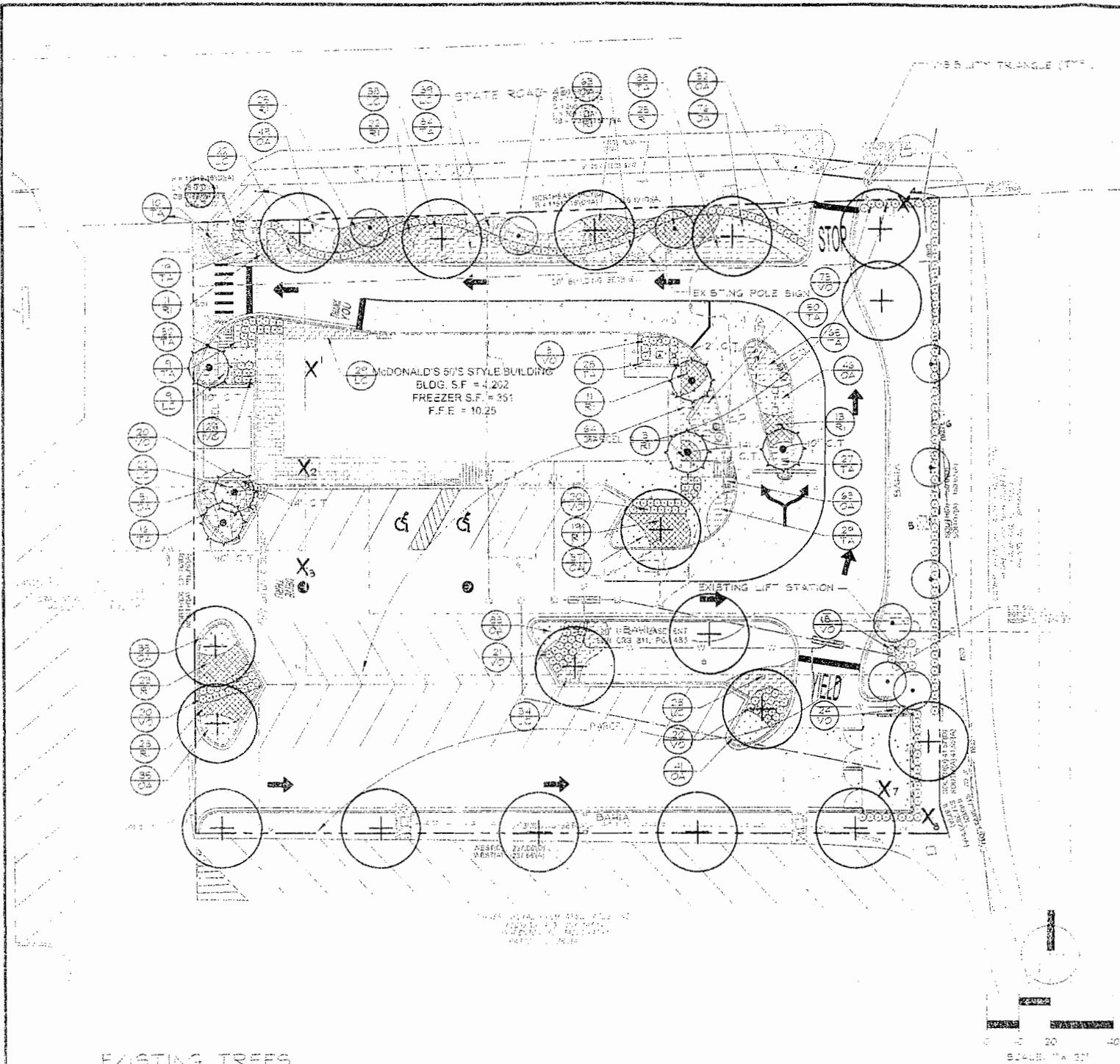


P.O.C.
NW CORNER OF THE NE
1/4 OF THE SW 1/4 OF
SECTION 13-T34S-R17E



NOTE:

THIS SURVEY IS NOT VALID WITHOUT SHEETS 1 THROUGH 3 OF 3



PLANT LIST

SYM.	QTY.	BOTANICAL NAME	COMMON NAME	DESCRIPTION
TREES				
CC	4	CALLISTEMON	BOTTLEBRUSH	10 GAL. STANDARD 8' MIN. HT. 3' SPREAD
OV	18	QUERCUS VIRGINIANA	HIGH RISE OAK	7' GAL. 10' MIN. HT. 4' SPREAD
SP	6	SABAL PALMETTO	CABBAGE PALMETTO	1' GAL. 1' AS 8-CKN.
SHRUBS				
SR	2	STRELITZIA REGINAE	TROPICAL BIRD OF PARADISE	3' GAL. 24" MIN. HT. 30" D.C.
VO	308	VIBURNUM COCCINEUM	SWEET VIBURNUM	3' GAL. 24" MIN. HT. 30" D.C.
GROUND COVER				
GA	650	OPHIOPOGON ARGENTATUS	ARIZONA GRASS	3' GAL. FULL 18" D.C.
LC	215	LANTANA CAMARA	LANTANA CAMARA	1' GAL. 24" D.C.
RI	198	RIPIPHOLEPS INDICA	INDIAN HAWTHORN	3' GAL. 12" MIN. HT. 12" MIN. SPREAD 30" D.C.
TA	457	TRACHELOSPERMUM ASATICUM	TRICOLOR JASMINE	3' GAL. FULL 18" D.C.
BAHA	BY CONTR.	PASPALUM NOTATUM ARGENTINAE	ARGENTINE BAHIA	30" D.C. CONTRACTOR TO VERIFY

NOTE: PLANT DESCRIPTIONS ARE FOR MINIMUM ACCEPTABLE SPECIFICATIONS. ALL ORDER A LISTED FOR CONTAINER SIZE, CALIPER, HEIGHT, SPREAD, ETC. MUST BE MET FOR PLANT MATERIAL ACCEPTANCE. FOR EXAMPLE, IF A THREE GALLON SHRUB DOES NOT MEET THE HEIGHT OR SPREAD SPECIFICATION, IT WILL NOT BE ACCEPTED.

IF SPECIFIED PLANTS ARE UNAVAILABLE AT TIME OF CONSTRUCTION, CONTRACTOR MAY REPLACE SPECIFIED PLANTS WITH PLANTS APPROVED BY LANDSCAPE ARCHITECT AND CITY STAFF.

ALL OPEN SPACE AREAS WITHIN THE PROPERTY SHALL BE SODDED UNLESS PAVED, SEEDED AND MULCHED OR PLANTED WITH SHRUBS AND GROUND COVER.

EXISTING TREES

TREE	DBH	TYPE
NUMBER	(INCHES)	
1	18"	OAK TREE
2	12"	OAK TREE
3	12"	PALM TREE
4	18"	PALM TREE
5	36"	OAK TREE
6	12"	OAK TREE
7	8"	PALM TREE
8	8"	TWIN OAK TREE

X = TREE TO BE REMOVED

TREE LEGEND

X - EXISTING TREE TO BE REMOVED
 (circle with cross) - EXISTING TREE TO REMAIN

cph

590 N. Westshore Blvd.
 Suite 700
 Tampa, Florida 33609
 Phone (813) 288-0231
 Fax (813) 288-0135

Certificate of
 Authorization No. 1213
 (1/2007)

Engineers

Surveyors

Architects

Planners

Landscape Architects

Environmental Scientists

Construction Management

Design/Build

By

Revision

Date

No.

LSP

Job No.

File

Designed by:

Drawn by:

Checked by:

Approved by:

Scale:

Date:

Job No.:

File:

LANDSCAPE PLAN

McDonald's

699 10TH STREET EAST

PALMETTO, MANATEE COUNTY, FL

Sheet No.

L-1

McDONALD'S PROJECT
 CODE: 009-0399

6990 J. Post, P.L.A.
 LA 2007-1922

