



Application No.:

V-2015-026

Attachment "C"

Easement & Operating Agreement

Harley Davidson

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING VARIANCE APPLICATIONS FOR SIGNAGE FOR PETERSON'S HARLEY- DAVIDSON SOUTH LOCATED AT 19825 S. DIXIE HIGHWAY, TO PERMIT A MONUMENT SIGN TO BE 137.7 SQUARE FEET WHERE 48 SQUARE FEET IS ALLOWED; AND PROVIDING FOR AN EFFECTIVE DATE.

1989 NOV 17 AM 10: 26

89R418810

OFF. REC. 14329PG1775

EASEMENT AND OPERATING AGREEMENT

This Easement and Operating Agreement entered into this 20th day of October, 1989 between Circuit City Stores, Inc., a Virginia corporation qualified to do business in the State of Florida, its successors and assigns ("CIRCUIT CITY"), and KFC Management Company, a Delaware corporation, its successors and assigns ("KFC"),

1 National

WITNESSETH:

That CIRCUIT CITY, in accordance with a Declaration of Restrictive Covenants In Lieu Of Unity Of Title executed by CIRCUIT CITY on the 20th day of October, 1989 and recorded in Plat Book _____ at Page _____ of the Public Records of Dade County, Florida, and KFC, in consideration of the mutual covenants and easements herein contained, recite and agree as follows:

RECITALS

1. CIRCUIT CITY owns certain real property more fully described in Exhibit "E" attached hereto and made a part hereof.

2. KFC has agreed to buy and CIRCUIT CITY has agreed to sell a portion of the real property described in Exhibit "E" attached hereto and made a part hereof which portion is more fully described in Exhibit "F" attached hereto and made a part hereof. The remainder of the Exhibit "E" property will be retained by CIRCUIT CITY and is more fully described in Exhibit "G" attached hereto and made a part hereof.

3. A site plan for the real property described in Exhibit "E" has been approved by the Dade County Building and Zoning Department. Said site plan is entitled "Site Plan for CIRCUIT CITY and Kentucky Fried Chicken, Cutler Ridge, Florida", prepared by Stuart H. Barger, A.I.A., Inc., dated August, 1988; revised September 6, 1989.

4. The real property described in Exhibits "E", "F" and "G" is hereinafter referred to as Parcel "E", Parcel "F" and Parcel "G", respectively.

5. The Declaration of Restrictive Covenants in Lieu of Unity of Title referred to hereinabove requires the execution and delivery, in recordable form, of this Operating and Easement Agreement between CIRCUIT CITY, as Seller, and KFC, as Buyer, and the approval of the form of same by the Dade County Building and Zoning Department prior to the conveyance of Parcel "F" to KFC. *This Agreement incorporates by reference all of the terms and conditions of the aforementioned Declaration of Restrictive Covenants.*

6. Parcels "F" and "G" adjoin and abut each other along the property line between the two properties. The parties wish to provide easements one to the other for parking, parking lot light maintenance, and vehicular and pedestrian access and for the maintenance of such access, lighting and parking improvements for their mutual benefit.

AGREEMENT

7. KFC grants to CIRCUIT CITY and CIRCUIT CITY grants to KFC, an easement of ingress and egress over so much of their respective property as is presently improved as driveways for use of vehicular and pedestrian traffic in connection with their respective properties.

OFF. REC: 14329PG1776

8. The parties shall not obstruct, impede, or interfere, either with the other, in the reasonable use of such driveway improvements for the purpose of ingress and egress to and from the respective properties.

9. KFC grants to CIRCUIT CITY an easement for parking and for the maintenance of parking lot lighting as to the parcel described in Exhibit "A" attached hereto.

10. KFC grants to CIRCUIT CITY an easement for access and for the maintenance of parking lot lighting as to the parcel described in Exhibit "B" attached hereto.

11. KFC grants to CIRCUIT CITY an easement for parking and for the maintenance of parking lot lighting as to the parcel described in Exhibit "C" attached hereto.

12. CIRCUIT CITY grants to KFC an easement for parking and for the maintenance of parking lot lighting as to the parcel described in Exhibit "D" attached hereto.

13. KFC shall provide sufficient (even if redundant) parking lot lighting on its property to independently meet building and zoning standards for its property and as to the parcel described in Exhibit "D" attached hereto in which an easement is herein provided and set out in paragraph 12 above. In the event that its night business hours are extended past Circuit City's, KFC shall utilize such lighting as is required as to its own property and the parcel described in Exhibit "D" hereof.

14. KFC shall, upon Circuit City's request, for its late night sales, light KFC's parking lot beyond KFC's normal business hours and Circuit City shall pay KFC promptly after billing, the pro-rata cost of such lighting as computed by Florida Power and Light Company, its successors or assigns.

15. Circuit City has erected a free-standing business identification sign on its property and has provided space for a "tenant" sign thereon in the approximate dimensions of 3 feet by 12 feet. KFC shall have the use of such tenant sign space for its own business identification at its own expense for manufacture, installation, maintenance and repair.

16. The parties shall maintain their respective driveway, parking lot lighting, parking, landscaping, and other improvements in a usable, neat, and uniform manner so that the overall appearance of the said driveway and parking lot improvements is that of one driveway and parking lot. The parties shall each bear and be responsible for the costs of maintaining in good repair all such improvements on their own respective properties. In the event that either party fails to undertake and perform the repair and maintenance of the easement which it is responsible to repair and maintain (including, but not limited to normal maintenance which is here defined as the filling of potholes, chuckholes, maintenance of all parking lot lighting, and resurfacing), and said party has received a notice of such failure to properly repair or maintain the easement it is responsible to maintain and has failed to properly repair or maintain said easement within 20 days after said notice, then the party sending such notice shall have the right to repair and maintain said easement at the expense of the party whose obligation it was to properly maintain or repair said easement.

OFF. REC. 14329PG1777

17. These easements for said purposes are and shall be non-exclusive easements to the grantees herein, their successors and assigns, and nothing herein shall limit or prevent the use of all or any part of the same owned by the respective grantors, their successors or assigns, for any purposes not interfering with or affecting adversely the use, occupation and enjoyment thereof by such grantees, provided that no building or structures other than the uses thereon contemplated by this Agreement shall be constructed or located thereon; nor shall anything herein prevent or preclude the grantors herein, their successors or assigns, from using, dedicating or conveying all or any part of the said easements owned by them respectively; nor shall anything herein prevent or preclude the grantors, their successors or assigns, from granting any other easement or easements covering all or portions of the real property herein described, and owned by them respectively, for any purpose not interfering with the respective grantees' use, occupation and enjoyment of the easements hereby granted.

18. CIRCUIT CITY and KFC warrant that they have full power and authority to grant said easements and that this Agreement is made, granted and given in contemplation of the conveyance of Parcel "F" to KFC by CIRCUIT CITY as described hereinabove and that said conveyance be subject in all respects to this Agreement and each of the provisions set out herein.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed this 20 day of October, 1989.

CIRCUIT CITY STORES, INC.

By: *Benjamin B. Brumming, Jr.*
Asst. Vice President.

(Seal)

Attest: *Susan S. Williams*
Assistant Secretary

KFC NATIONAL MANAGEMENT COMPANY

By: *David C. Clark*
Vice - President

(Seal)

Attest: *Susan C. Clark*
Assistant - Secretary

This document prepared by:

HARVEY I. REISEMAN, P.A.
3050 Biscayne Boulevard
Suite 701
Miami, Florida 33137

4-378-A

OFF. REC. 14329PG1778

STATE OF KENTUCKY }
COUNTY OF JEFFERSON } SS:

I, *Dixie C. Gask*, a notary public in and for the State and County aforesaid, do hereby certify that *David Catlett*, *Vice President* and *Susan C. Chan*, *Assistant Secretary* of KFC NATIONAL MANAGEMENT COMPANY, a Delaware corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this *13th* day of *October*, 19*89*

Dixie C. Gask
Notary Public, State at Large, Kentucky
My Commission expires *July 10, 1991*
Dixie C. Gask Notary Public
State at Large, Kentucky
My Commission Expires July 10, 1991

(ACKNOWLEDGEMENT — INDIVIDUAL):

STATE OF *VIRGINIA* }
COUNTY OF _____ } SS:

I, _____, a notary public in and for the State and County aforesaid, do hereby certify that _____ and _____ of _____ who are (is) personally known to me to be the same person(s) whose name(s) are (is) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they (he) signed, sealed, and delivered the said instrument as their (his) free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 19____

Notary Public

(ACKNOWLEDGEMENT — CORPORATE):

STATE OF *VIRGINIA* }
COUNTY OF *HENRICO* } SS:

I, *Patricia P. Bailey*, a notary public in and for the State and County aforesaid, do hereby certify that *Benjamin B. Cummings, Jr.*, *Assistant Vice President* and *Susan S. Williams*, *Assistant Secretary* of *CIRCUIT CITY STORES, INC.*, a *Virginia* corporation, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this *20th* day of *October*, 19*89*

PATRICIA P. BAILEY
NOTARY PUBLIC

Patricia P. Bailey
Notary Public my Commission Expires *11-30-93*

OFF. REC. 14329PG1779

EXHIBIT 'A'

LEGAL DESCRIPTION

A PARCEL OF LAND FOR, PARKING, SITUATED IN TRACT 'D', AS SHOWN ON THE PLAT OF POINT ROYALE SECTION TEN, AS RECORDED IN PLAT BOOK 125 PAGE 91 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

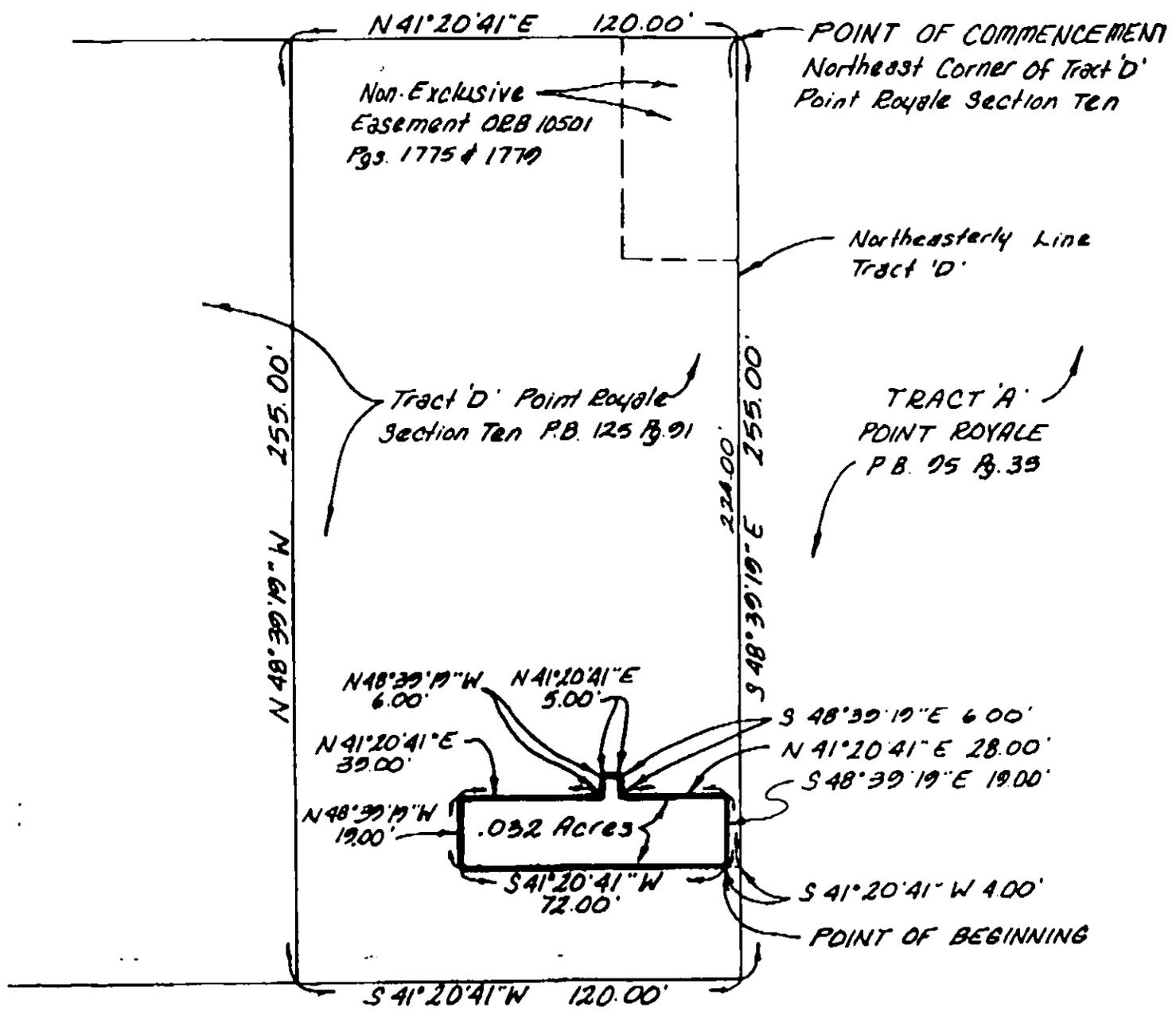
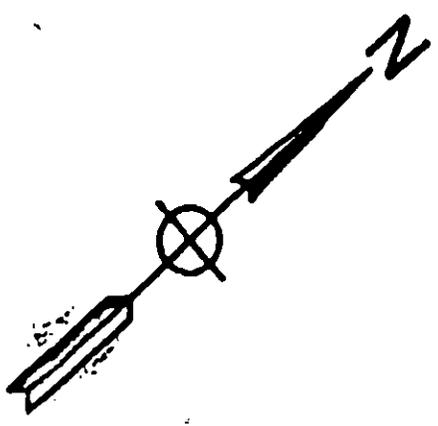
COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 'D', THENCE ALONG THE NORTHEASTERLY LINE OF SAID TRACT 'D', SOUTH 48°39'19" EAST A DISTANCE OF 224.00 FEET, THENCE DEPARTING SAID NORTHEASTERLY LINE, SOUTH 41°20'41" WEST A DISTANCE OF 4.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 41°20'41" WEST A DISTANCE OF 72.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 19.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 39.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 6.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 5.00 FEET; THENCE SOUTH 48°39'19" EAST A DISTANCE OF 6.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 28.00 FEET; THENCE SOUTH 48°39'19" EAST A DISTANCE OF 19.00 FEET, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 0.032 ACRES MORE OR LESS.

| | | | | |
|---|---|-------------------|----------------------|-----------------|
|  | GREENHORNE & O'MARA, INC. 690 VILLAGE BOULEVARD, SUITE 300 WEST PALM BEACH, FL 33409 (407) 622-7707 | | DESIGN ESH | SCALE — |
| | <small>ARCHITECTS • PLANNERS • ENGINEERS • SURVEYORS • PHOTOGRAMMETRISTS</small> | | DRAWN | 1 OF 2 |
| <small>NO. 12-13-ATLANTA, GA. TEL. 404-525-1100 FAX 404-525-1101</small> | | DATED 11/11/11 | | SHEET 1 OF 2 |

EXHIBIT 'A'

SR No. 5 (US No. 1)



THIS IS NOT A SURVEY

EXHIBIT 'B' OFF. REC. 14329PG1781

LEGAL DESCRIPTION

A PARCEL OF LAND FOR, ACCESS, SITUATED IN TRACT 'D', AS SHOWN ON THE PLAT OF POINT ROYALE SECTION TEN, AS RECORDED IN PLAT BOOK 125 PAGE 91 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

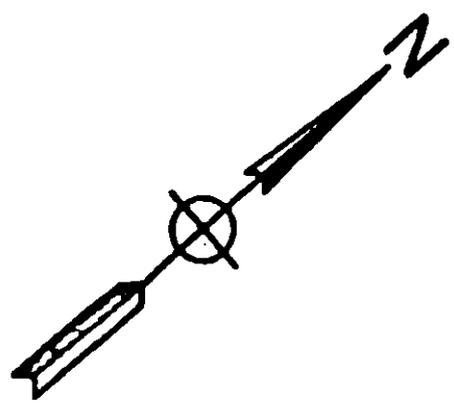
COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 'D', THENCE ALONG THE NORTHWESTERLY LINE OF SAID TRACT 'D', SOUTH 41°20'41" WEST A DISTANCE OF 30.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 19.00 FEET; THENCE SOUTH 48°39'19" EAST A DISTANCE OF 40.00 FEET; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 71.00 FEET; THENCE SOUTH 48°39'19" EAST A DISTANCE OF 210.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 120.00 FEET, TO ITS INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID TRACT 'D'; THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 48°39'19" WEST A DISTANCE OF 26.00 FEET; SAID LINE ALSO BEING THE SOUTHWESTERLY LINE OF AN ACCESS EASEMENT AS DESCRIBED ON EXHIBIT 'D', IN OFFICIAL RECORD BOOK 10517 PAGES 2033 THROUGH 2034, OF SAID PUBLIC RECORDS; THENCE DEPARTING SAID NORTHEASTERLY LINE, SOUTH 41°20'41" WEST A DISTANCE OF 98.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 21.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 12.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 4.00 FEET; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 12.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 135.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 81.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 4.00 FEET; TO THE INTERSECTION WITH THE SOUTHERLY LINE OF A NON-EXCLUSIVE EASEMENT AS DESCRIBED IN OFFICIAL RECORD BOOK 10501 PAGES 1775 THROUGH 1779 RECORDED IN SAID PUBLIC RECORDS; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 13.00 FEET, ALONG SAID SOUTHERLY LINE; THENCE NORTH 48°39'19" WEST A DISTANCE OF 60.00 FEET, ALONG THE WESTERLY LINE OF SAID NON-EXCLUSIVE EASEMENT, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 0.222 ACRES MORE OR LESS

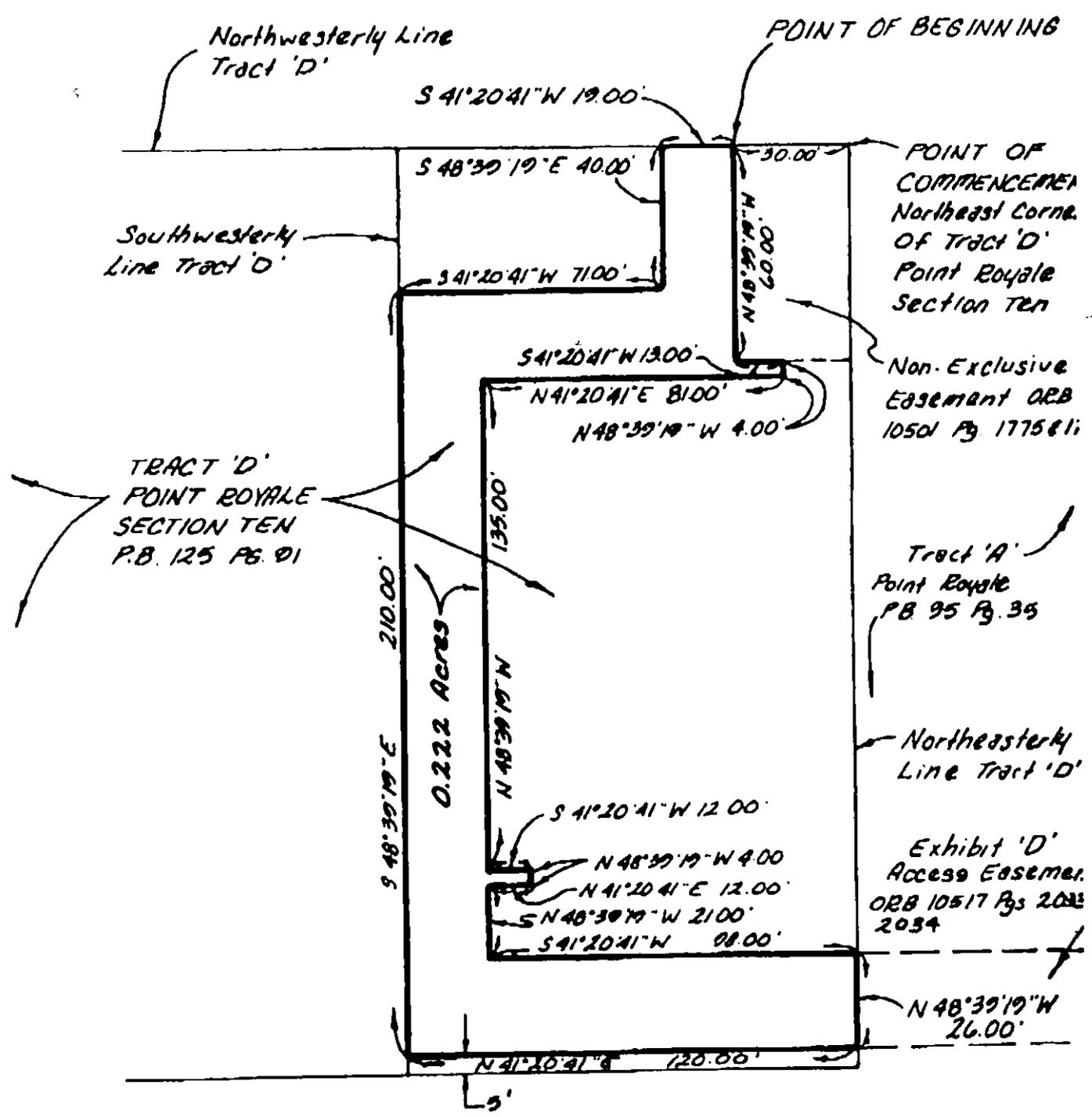
| | | |
|---|--|------------------|
|  | ENGINEERS • ARCHITECTS • PLANNERS • SURVEYORS • PHOTOGRAMMETRISTS | |
| | GREENHORNE & O'MARA, INC. 180 VILLAGE BOULEVARD, SUITE 360 WEST PALM BEACH, FL 33409 (407) 63-7107 | |
| DESIGN <i>ESH</i> DRAWN | SCALE 1 of 2 | D. THEO SHEET |

OFF. REC. 14329PG1782

EXHIBIT 'B'



SB No. 5 (U.S. No. 1)



THIS IS NOT A SURVEY

EXHIBIT 'C'

OFF. REC. 14329PG1783

LEGAL DESCRIPTION

A PARCEL OF LAND FOR, PARKING, SITUATED IN TRACT "D", AS SHOWN ON THE PLAT OF POINT ROYALE SECTION TEN, AS RECORDED IN PLAT BOOK 125 PAGE 91 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "D", THENCE ALONG THE NORTHWESTERLY LINE OF SAID TRACT "D", SOUTH 41°20'41" WEST A DISTANCE OF 62.00 FEET; THENCE DEPARTING SAID NORTHWESTERLY LINE, SOUTH 48°39'19" EAST A DISTANCE OF 20.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 48°39'19" EAST A DISTANCE OF 20.00 FEET; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 38.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 20.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 24.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 5.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 5.00 FEET; THENCE SOUTH 48°39'19" EAST A DISTANCE 5.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 29.00 FEET, TO THE POINT OF BEGINNING.

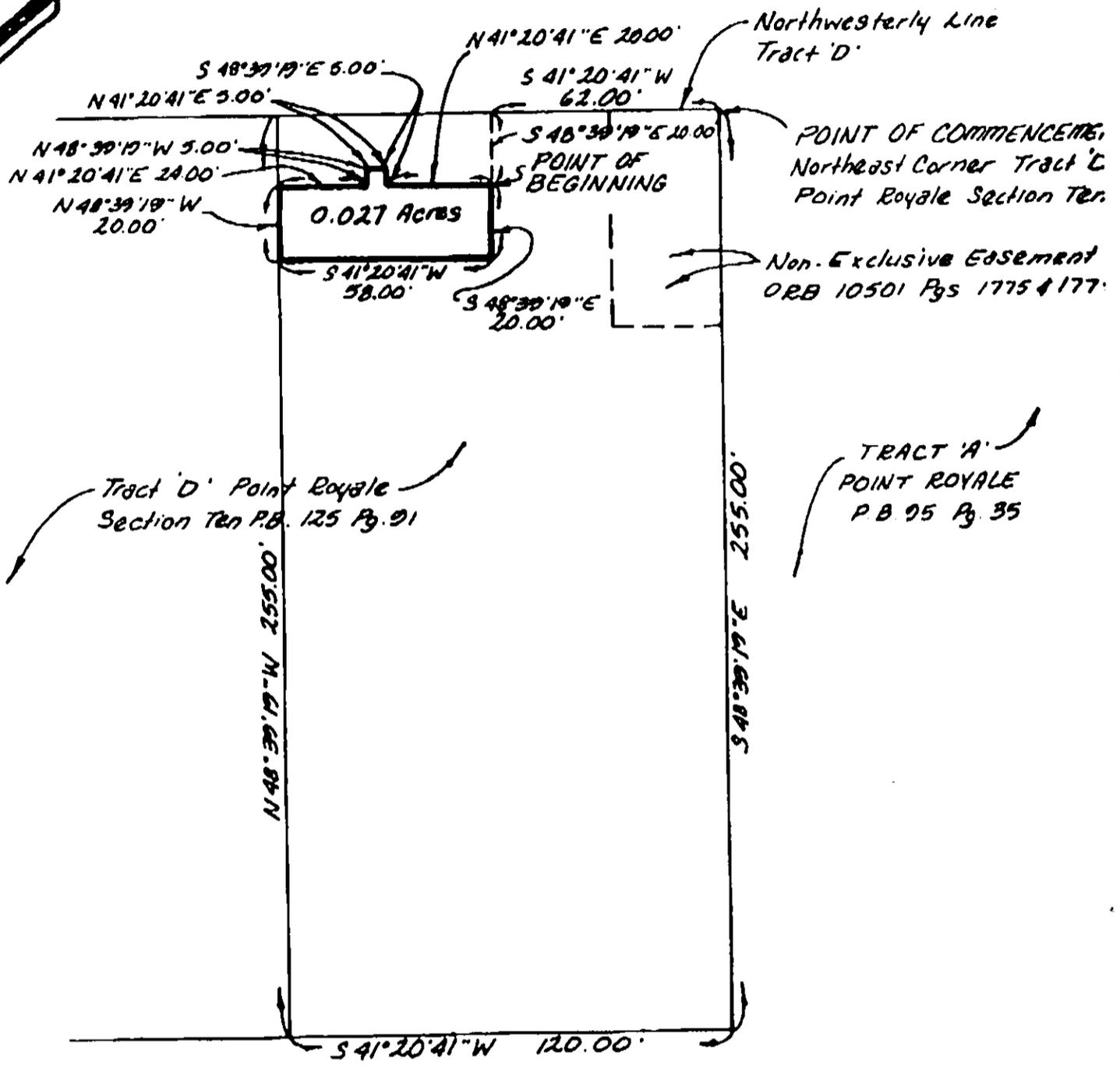
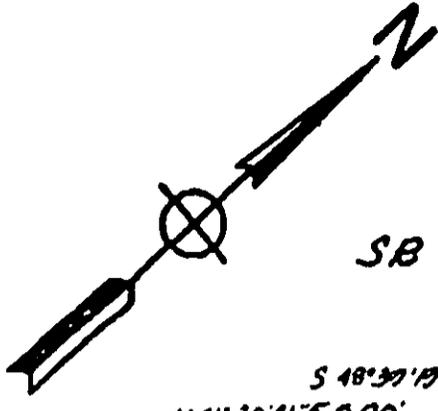
SAID PARCEL CONTAINING 0.027 ACRES MORE OR LESS

| | | |
|---|---|--|
|  | ENGINEERS • ARCHITECTS • PLANNERS • SCIENTISTS • SURVEYORS • PHOTOGRAMMETRISTS | |
| | GREENHORNE & O'MARA, INC. 500 VILLAGE BOULEVARD, SUITE 360 WEST PALM BEACH, FL 33409 (407) 833-7707 | |
| DESIGN DRAWN CHECKED | SCALE 1 OF 2 SHEET | |

EXHIBIT 'C'

OFF. REC. 14329PG1784

SB No. 5 (US No. 1)



THIS IS NOT A SURVEY

EXHIBIT 'D'

OFF. REC. 14329PG1785

LEGAL DESCRIPTION

A PARCEL OF LAND FOR, PARKING, SITUATED IN TRACT 'D', AS SHOWN ON THE PLAT OF POINT ROYALE SECTION TEN, AS RECORDED IN PLAT BOOK 125 PAGE 91 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 'D', THENCE ALONG THE NORTHWESTERLY LINE OF SAID TRACT 'D', SOUTH 41°20'41" WEST A DISTANCE OF 120.00 FEET; THENCE DEPARTING SAID NORTHWESTERLY LINE, SOUTH 48°39'19" EAST A DISTANCE OF 20.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE, SOUTH 48°39'19" EAST A DISTANCE OF 195.00 FEET; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 20.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 6.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 3.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 135.00 FEET; THENCE SOUTH 41°20'41" WEST A DISTANCE OF 3.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 20.00 FEET; THENCE NORTH 48°39'19" WEST A DISTANCE OF 44.00 FEET; THENCE NORTH 41°20'41" EAST A DISTANCE OF 5.00 FEET, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 0.082 ACRES MORE OR LESS.

| | | |
|---|--|--|
|  | ENGINEERS • ARCHITECTS • PLANNERS • INTERIORS • SURVEYORS • PHOTOGRAMMETRISTS | |
| | GREENHORNE & O'MARA, INC. 880 VILLAGE BOULEVARD, SUITE 800 WEST PALM BEACH, FL 33409 (407) 835-7707 | |
| | ANnapolis, MD • ATLANTA, GA • ARIZONA, AZ • CHICAGO, IL • DALLAS, TX • DENVER, CO • HOUSTON, TX • LOS ANGELES, CA • MEMPHIS, TN • MIAMI, FL • NEW YORK, NY • PHOENIX, AZ • RICHMOND, VA • TAMPA, FL • WASHINGTON, DC | |

| | |
|---------|---------------|
| DESIGN | SCALE |
| ESH | 1 of 2 |
| CHECKED | SHEET |
| 7/89 | B4118-602-621 |

OFF. REC. 14329PG1787

41° 20' 41" W 202.27'

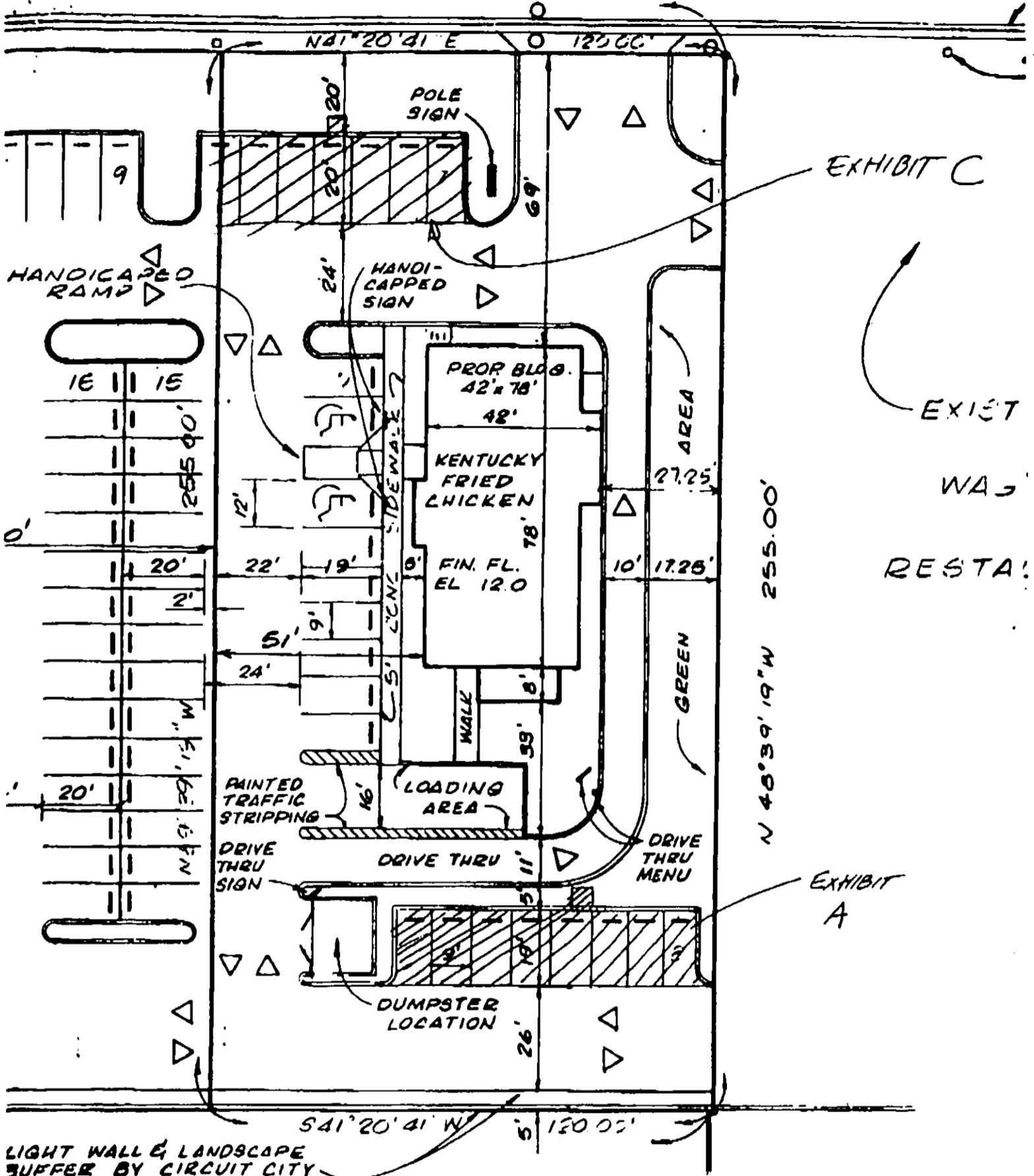


EXHIBIT C

EXIST

WAS

RESTA!

EXHIBIT A

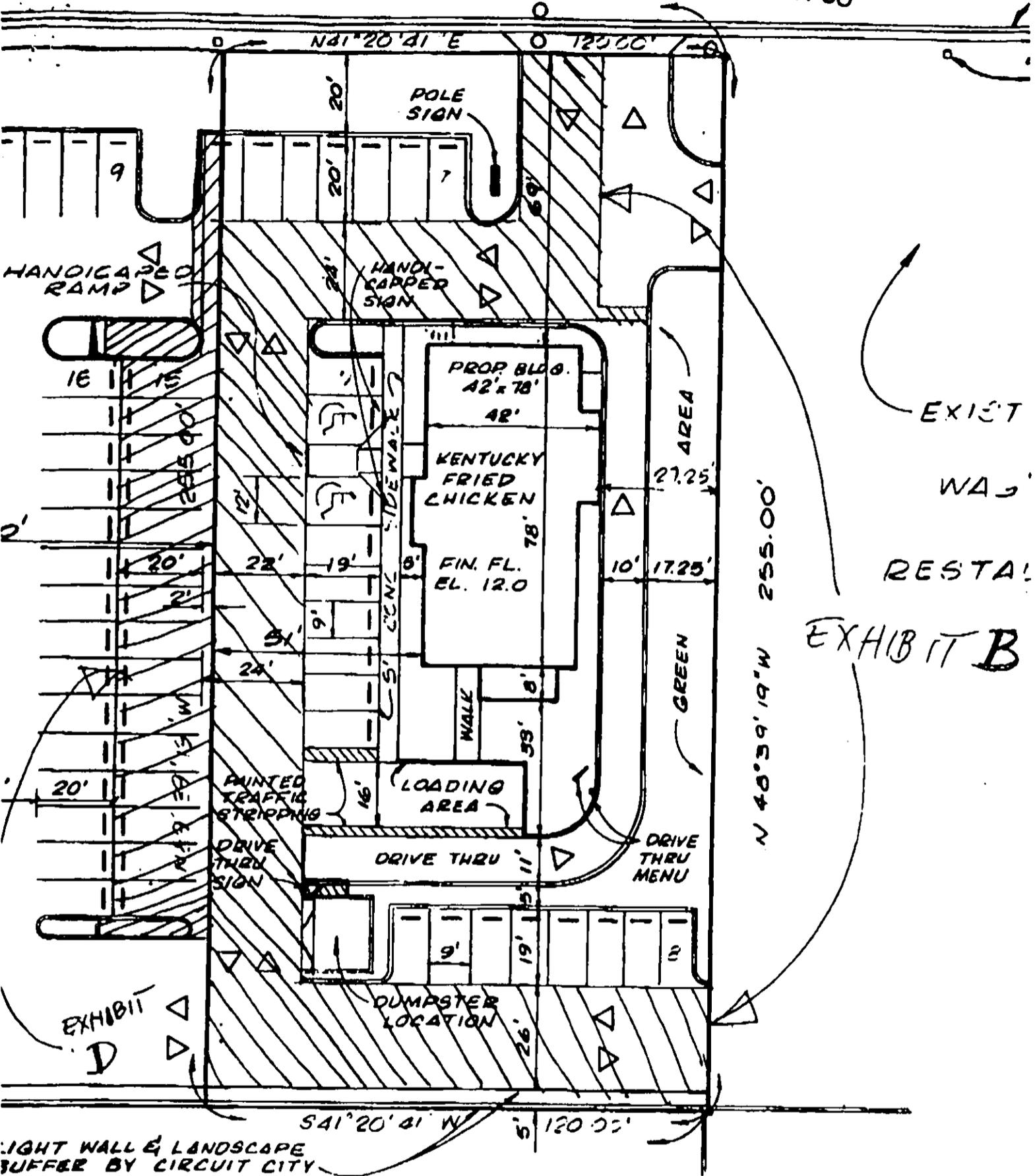
LIGHT WALL & LANDSCAPE BUFFER BY CIRCUIT CITY

09/17/83 11:20 1200 200 0402 1200 0402

OFF. REC. 14329PG1788

41° 20' 41" W

202.27'



EXIST
WAS
RESTA!

EXHIBIT B

LIGHT WALL & LANDSCAPE
BUFFER BY CIRCUIT CITY

OFF.
REC: 14329PG1789

EXHIBIT "E"

Tract A, less the Northeasterly 158 feet thereof, POINT ROYALE SECTION FOUR, according to the Plat thereof, recorded in Plat Book 95, Page 35, of the Public Records of Dade County, Florida.

LESS Tract C, POINT ROYAL SECTION ELEVEN, according to the Plat thereof, recorded in Plat Book 110, Page 27, of the Public Records of Dade County, Florida.

AND ALSO LESS, Tract A, RIDGEVIEW GARDENS, according to the Plat thereof, recorded in Plat Book 121, Page 52, of the Public Records of Dade County, Florida.

NOW KNOWN AS:

Tract "D", POINT ROYALE SECTION TEN, according to the Plat thereof, recorded in Plat Book 125, Page 91, of the Public Records of Dade County, Florida, and as more particularly shown in "Sketch of Boundary Survey" prepared by Jack Mueller & Associates, Inc. for Circuit City Stores, Inc., dated July 14, 1988, revised July 29, 1988.

RECORDED 17 1965 DAE COUNTY
DEPUTY CLERK, COUNTY CLERK

EXHIBIT "F"

OFF. REC. 14329PG1790

A Portion of Tract "D" as Shown on the Plat of POINT ROYAL SECTION TEN as recorded in Plat Book 125, Page 91 of the Public Records of Dade County, Florida, a resubdivision of a portion of Tract "A" POINT ROYALE SECTION FOUR as recorded in Plat Book 95, Page 35, lying in a portion of Section 5 and 6, Township 56 South, Range 40 East, Dade County, Florida, described as follows:

The Northeast 120.00 feet of said Tract "D" as measured at right angles from the most northerly line of said Tract "D" said North line bears North 48 39' 19" West having a length of 255.00 feet, containing 0.702 acres more or less.

DECEMBER 17 1989

DADE COUNTY

Charles
DEPUTY CLERK, CIRCUIT COURT

OFF. REC. 14329PG1791

EXHIBIT "G"

Tract "D" as Shown on the Plat of POINT ROYAL SECTION TEN as recorded in Plat Book 125, Page 91 of the Public Records of Dade County, Florida, a resubdivision of a portion of Tract "A" POINT ROYALE SECTION FOUR as recorded in Plat Book 95, Page 35, lying in a portion of Section 5 and 6, Township 56 South, Range 40 East, Dade county, Florida, less

The Northeast 120.00 feet of said Tract "D" as measured at right angles from the most northerly line of said Tract "D" said North line bears North 48 39' 19" West having a length of 255.00 feet, containing 0.702 acres more or less.

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA.
RECORD VERIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT