

Docket Item #7  
SPECIAL USE PERMIT #2003-0112

Planning Commission Meeting  
April 6, 2004

**ISSUE:** Consideration of a request for a special use permit for continuance of a nonconforming convenience store use.

**APPLICANT:** 7-Eleven Inc.  
by Maynard Sipe, attorney

**LOCATION:** 4949 Seminary Road

**ZONE:** RC/High Density

**PLANNING COMMISSION ACTION, APRIL 6, 2004:** On a motion by Mr. Dunn, seconded by Mr. Komoroske, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 6 to 1, with Ms. Fossum voting against.

Reason: The Planning Commission agreed with the staff analysis. As to the issue of allowing the sale of single beers, as requested by the applicant, a majority of the Commission expressed a strong desire to be consistent by applying the condition across the City.

Speakers:

Maynard Sipe, the applicant's attorney, spoke in support of the application. Mr. Sipe requested that the applicant be allowed to continue selling single beers in that there have been no complaints related to single sales at this location.

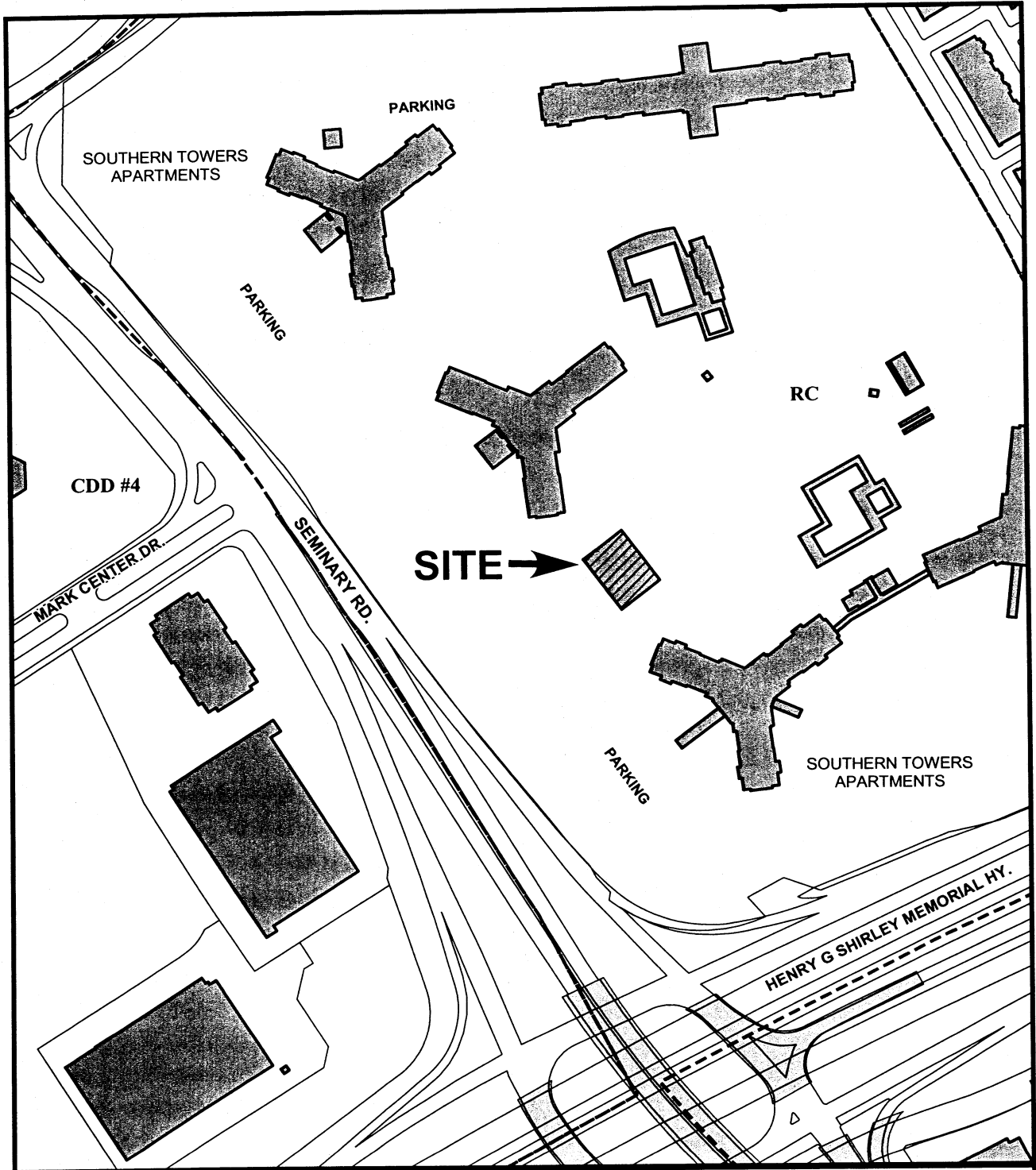
**PLANNING COMMISSION ACTION, MARCH 2, 2004:** By unanimous consent, the Planning Commission deferred the request.

Reason: The applicant requested the deferral.

**PLANNING COMMISSION ACTION, FEBRUARY 3, 2004:** By unanimous consent, the Planning Commission deferred the request.

Reason: The applicant requested the deferral.

**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.



**SUP #2003-0112**

**04/06/04**



**I. DISCUSSION:**

REQUEST

The applicant, 7-Eleven Inc., requests special use permit approval for the continued operation of a nonconforming convenience store located at 4949 Seminary Road in the Southern Towers apartment complex.

SITE DESCRIPTION

The subject property is one lot of record with a vast frontage on Seminary Road just north of Highway 395, and a total lot area of almost 41 acres. The site is developed with the Southern Towers high rise, high density apartment community.

SURROUNDING USES

The 7-Eleven store is adjacent to two high rise apartment buildings, and the community pool. Across Seminary Road is the Winkler property, and the Hilton high rise hotel is also in the vicinity.

PROJECT DESCRIPTION

The applicant proposes to continue operating the nonconforming 7-Eleven convenience store. The applicant is the lessee of the property, and has operated the existing convenience store on the property since February 1965. According to the applicant, the store is well integrated into the community and provides a valuable service to residents of both the Southern Towers complex and immediate neighborhood. The store is a typical convenience retail store selling a variety of goods including food and beverages. The applicant states that the store is intended to provide quick and convenient shopping and goods typically purchased in small quantities. Food and beverages are purchased for consumption off premises. The following information discusses the proposed continued operation:

Hours: The store is open 24 hours a day, 365 days a year.

ABC License: The store has an Alcoholic Beverage Control license for off-premise sale of beer and wine between the hours of 6:00 a.m. and 12:00 midnight.

Landscaping: The applicant states that the site is presently well landscaped with shrubs and flowerbeds. The existing landscaping is maintained by the property owner, Souther Towers, LLC, who employs a groundskeeping staff. No changes are proposed.

Parking: Parking is available adjacent to the store in a shared parking area for the Southern Towers complex. The original Site Plan#63-045 approved parking for commercial uses at this building, and additional parking is not required.

**Waste**

**Management:** Trash generated is typically solid waste from a small retail establishment, largely consisting of paper, cardboard and plastic. Trash is picked up by a private hauler several times per week. Store employees perform a minimum of two litter walks per day to pick up litter around the store. Southern Towers' groundskeepers maintain common areas and parking lots.

**Police:** A Police substation is located at the premises.

ZONING

The subject property is located in the RC/High density apartment zone. Section 3-903 (K)(4) of the Zoning Ordinance allows a convenience store in the RC zone only with a special use permit.

MASTER PLAN

The proposed use is consistent with the Alexandria West small area plan chapter of the Master Plan, which designates the property for uses compatible to the RC zoning, including some office and commercial functions supportive of nearby residential uses.

**II. STAFF ANALYSIS:**

Staff does not object to the continued use of the 7-Eleven located at 4949 Seminary Road. The building is compatible architecturally with the surrounding buildings of the Southern Towers community, and the grounds are well maintained. Staff did not observe any problems with litter or other maintenance problems on the premises. The 7-Eleven sign is relatively small, and is attached to the building. The store is well established in the Southern Towers community, continuing to provide convenience retail items to area residents as it has for the past 39 years.

Although the grounds are kept in good condition, staff found that there probably was originally an additional cherry tree on the west side of the entryway sidewalk at the front of the building that mirrored the same species on the other side of the sidewalk. Staff recommends that a cherry tree be added at the west side location to balance the entryway landscaping and enhance the greenery at the front of the building.

In regard to alcohol sales, staff recommends the standard condition prohibiting single sales. The applicant discussed with staff the possibility of not including the condition because there does not appear to be any major issues with alcohol sales at this location. Although staff is not aware of specific problems caused from single sales at this location, staff supports the Police recommendation prohibiting single sales to prevent any potential problems, such as littering and loitering, and to be consistent with Police's policy to limit such sales city-wide.

Staff recommends a number of other conditions similar to those already approved for the previous 7-Eleven cases, such as with regard to litter, outdoor storage, and trash.

With these conditions, staff recommends approval of the special use permit.

**III. RECOMMENDED CONDITIONS:**

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z)
3. No food, beverages, or other material shall be stored outside. (P&Z)
4. The business shall be permitted to operate for 24 hours daily. (P&Z)
5. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of 40 fluid ounces or more. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (Police)
6. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be permitted to accumulate on site outside of those containers. (P&Z)
7. The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and a robbery awareness program for all employees. (Police)
8. The applicant shall require its employees who drive to work to use off-street parking. (P&Z)
9. No seats or tables shall be provided for the use of patrons. (P&Z)

10. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)
11. A cherry tree shall be installed on the west side of the entryway sidewalk, mirroring the cherry tree on the east side of the sidewalk. The existing landscaping shall be maintained. (P&Z)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
13. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
14. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
15. Lighting shall be to the satisfaction of the Director of Transportation and Environmental Services in consultation with the Chief of Police. (P&Z)
16. The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (Police)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;  
Barbara Ross, Deputy Director;  
Valerie Peterson, Urban Planner.

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Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

#### **IV. CITY DEPARTMENT COMMENTS**

Legend: C - code requirement R - recommendation S - suggestion F - finding

##### Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers.
- R-2 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-3 All loudspeakers shall be prohibited from the exterior of the building.

##### Code Enforcement:

- F-1 No comments.

##### Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility is currently operating as 7-11 under Alexandria Health Dept. Permit, issued to The Southland Corporation.
- C-3 This facility and all the modifications must meet current Alexandria Code requirements for food establishments.
- C-4 Five sets of plans must be submitted to and approved by this department prior to the construction/modifications. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.

- C-5 Permits and/or approval must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- C-8 Restrooms, including the common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- C-9 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 If and "ABC Off" license is approved we recommend the following conditions:
  - 1. Beer and wine coolers be sold only in 4-packs, 6-packs or bottles more than 40 fluid ounces. Wine may be sold in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with a alcohol content of 14% or more by volume) may not be sold.
  - 2. That the SUP is reviewed after one year.

**The following recommendation related to site lighting has not been included as a condition; rather, staff has recommended that lighting be to the satisfaction of the Director of T&ES in consultation with the Chief of Police, which will likely result in lower lighting levels than recommended by the Police.**

- R-4 The lighting for the parking lot be minimum of 2.0 foot candles minimum maintained.



SUP #2003-0112  
4949 Seminary Road

**The following recommendation related to landscaping has not been included as a condition because the landscaping at the site is lush and mature and enhances the property, and does not appear to block visibility.**

R-5 The shrubbery is to be a maximum height of 36 inches when it is mature.

APPLICATION for SPECIAL USE PERMIT # 2003-0112

[must use black ink or type]

PROPERTY LOCATION: 4949 Seminary Road, Alexandria

TAX MAP REFERENCE: 020.01-01-01 ZONE: RC

APPLICANT Name: 7-Eleven, Inc.

Address: 5300 Shawnee Road, Alexandria, Virginia 22312

PROPERTY OWNER Name: Southern Towers, LLC

Address: 333 South Glebe Road, Suite 227, Arlington, VA 22204

PROPOSED USE: Convenience Store

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia. *TO BE PROVIDED MS*

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Michael R. Vanderpool, Esq.  
Maynard L. Sipe, Esq.

*Maynard Sipe*  
Signature

Print Name of Applicant or Agent  
Vanderpool, Frostick & Nishanian, PC  
9200 Church Street, Suite 400  
Mailing/Street Address

703-369-4738      703-369-3653  
Telephone #      Fax #

Manassas, VA 20110  
City and State      Zip Code

November 25, 2003  
Date

=====DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY=====

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one)  the Owner  Contract Purchaser  
 Lessee or  Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

IYG Holding Co.

4-1-4 Shibakoen  
Minato-ku, Tokyo  
Japan 105

72.51% of common stock

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license  
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.

2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.



**USE CHARACTERISTICS**

4. The proposed special use permit request is for: *(check one)*

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- expansion or change to an existing use with a special use permit,
- other. Please describe: Continuation of a non-conforming use (under Section 12-214 of Zoning Ordinance)

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

Approximately 1,000 to 1,500 customers per day.

B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

Approximately fourteen (14) employees total.

Maximum of four (4) employees per shift.

6. Please describe the proposed hours and days of operation of the proposed use:

Day:

Hours:

365 days per year

twenty-four (24) hours per day

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

No significant noise beyond that generated by typical retail business activities.

B. How will the noise from patrons be controlled?

No significant noise from patrons anticipated.

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8. Describe any potential odors emanating from the proposed use and plans to control them:

No significant odors generated by use.

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9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

Typical solid waste from small retail establishments (consisting largely of paper, cardboard and plastic).

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B. How much trash and garbage will be generated by the use?

Approximately 30 cubic yards per week.

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C. How often will trash be collected?

Multiple pick-ups per week by private hauler.

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D. How will you prevent littering on the property, streets and nearby properties?

Employees perform litter walks twice per day on property in vicinity of store. Southern Towers also employs a full-time groundskeeping staff that maintain the common areas.

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10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

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11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

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12. What methods are proposed to ensure the safety of residents, employees and patrons?

A City Police Community Substation is located on-site within the store.

Store has closed circuit T.V. and monitored alarm system. Southern Towers employs a full-time security staff that patrols the property.

### ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes.  No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

Current ABC license for off-premises sale of beer and wine

6:00 a.m. - 12:00 a.m. (midnight)

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D. During what hours of the day do you expect loading/unloading operations to occur?

A consolidated delivery is made to minimize the number of truck deliveries. The consolidated delivery is made daily.  
large truck deliveries are scheduled to comply with the City's noise ordinance.

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

Consolidated deliveries arrive once daily. Other vendors deliver several times per week. Typically, three or four trucks deliver per 24 hour period.

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

Existing access is adequate.

**SITE CHARACTERISTICS**

17. Will the proposed uses be located in an existing building?  Yes  No

Do you propose to construct an addition to the building?  Yes  No

How large will the addition be? \_\_\_\_\_ square feet.

18. What will the total area occupied by the proposed use be?

Approx. 2800 sq. ft. (existing) + -0- sq. ft. (addition if any) = 2800 sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building  a house located in a residential zone  a warehouse

a shopping center. Please provide name of the center: \_\_\_\_\_

an office building. Please provide name of the building: \_\_\_\_\_

other, please describe: duplex commercial building

**SPECIAL USE APPLICATION  
7-Eleven, Inc.**

**Seminary Road (Southern Towers), Alexandria**

**WRITTEN NARRATIVE**

7-Eleven, Inc. ("7-Eleven" or "Applicant"), the lessee of the property described in the City of Alexandria land records as Tax Map Parcel Number 020.01-01-01 and having a street address of 4949 Seminary Road, Alexandria, Virginia (the "Property") requests approval of a Special Use Permit (SUP) to continue operating the existing use of a convenience store (the "Store"). This request is in accordance with Section 12-214 of the City of Alexandria's Zoning Ordinance that requires such SUP for continuance of any existing legal non-conforming use.

The Store contains approximately 2800 square feet. It is zoned High Density Apartment Zone (RC).

The Store is located in the Southern Towers apartment complex located on Seminary Road near its intersection with Shirley Highway. 7-Eleven has operated the existing convenience store on the Property since February 1965. The Store is well integrated into the community and provides a valuable service to residents of both the Southern Towers complex and the immediate neighborhood.

**Nature of Activity**

The 7-Eleven store is a typical convenience retail store selling a variety of goods including food and beverages. The Store is intended to provide quick and convenient shopping and goods are typically purchased in small quantities. Food and beverages are purchased for consumption off premises. The Store has an A.B.C. license for off premises sell of beer and wine between the hours of 6:00 a.m. and midnight. The Store is open 24 hours a day, 365 days a year.

### Architecture

The Store building's existing façade is illustrated in the attached color photos (Exhibit A). No changes to the façade is proposed. The existing standard 7-Eleven sign will remain next to the entrance.

### Landscaping

This site is presently well landscaped with attractive shrubs and flowerbeds. The existing landscaping is maintained by the property owner, Southern Towers, LLC, who employs a groundskeeping staff. No change to the landscaping is proposed.

### Parking

Adequate parking is available adjacent to the Store in the shared parking area for the Southern Towers complex. Since the existing non-conforming use was established prior to 1992, the existing parking is grandfathered.

### Waste Management

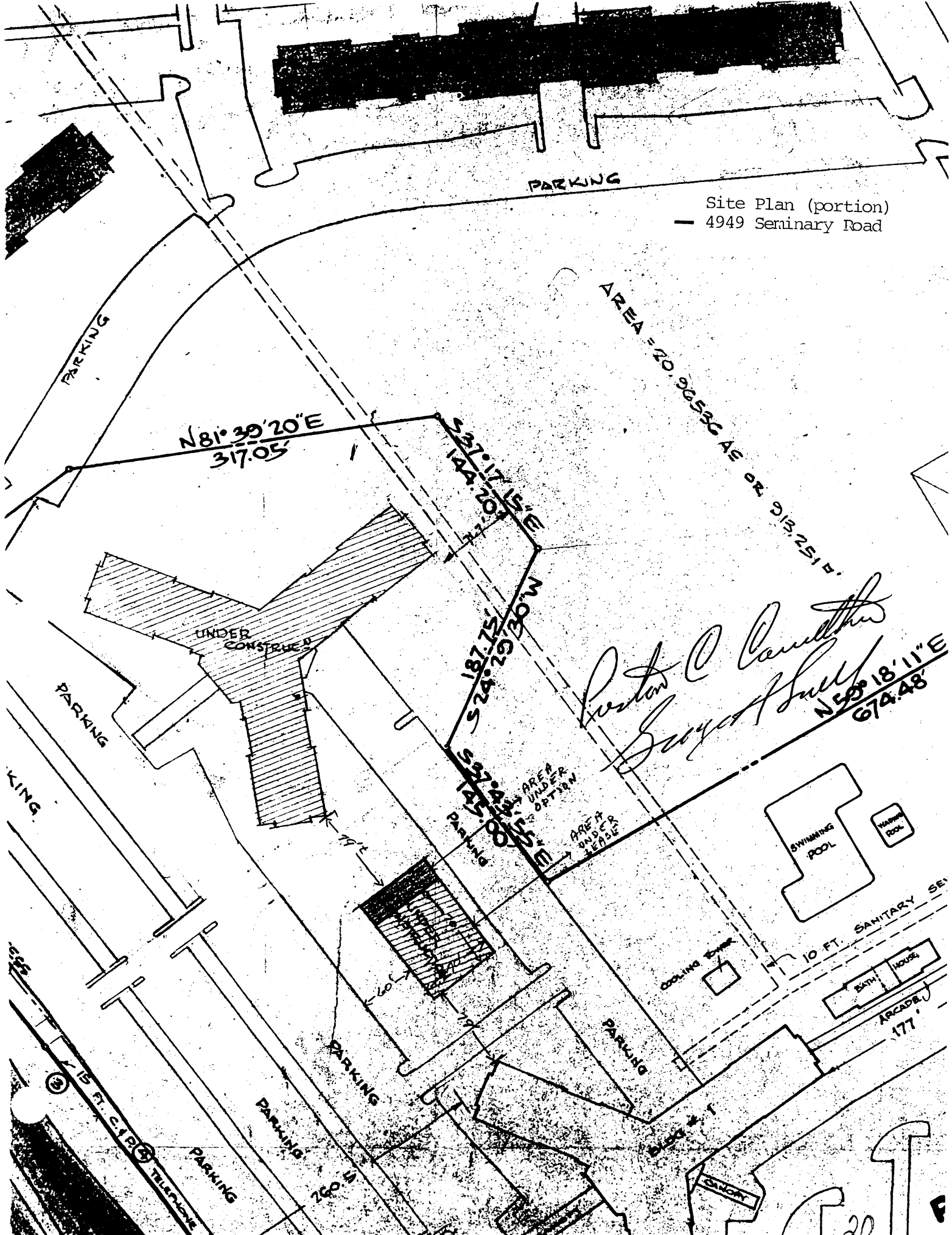
Trash generated is typical solid waste from a small retail establishment, largely consisting of paper, cardboard and plastic. Trash is picked up by a private hauler several times per week.

Store employees perform a minimum of two litter walks per day to pick up litter around the Store. Southern Towers' groundskeepers maintain the common areas and parking lots.

### Conclusion

The nature of the existing convenience store use and its scale of operations has proven compatible with the adjacent apartments and the existing uses in the surrounding area and, thus, no significant change in operations is necessary. With approval of the requested SUP, the Store will continue to provide convenience shopping for residents of Southern Towers and the immediate neighborhood.

Site Plan (portion)  
— 4949 Seminary Road



AREA = 20,965.536 AC OR 913,251 B.

N81°39'20"E  
317.05'

S27°17'15"E  
144.20'

S187°25'  
524.2930'W

*Robert O. Cavallaro*  
*Surveyor of Sullivan*  
N59°18'11"E  
674.48'

UNDER CONSTRUCTION

AREA UNDER OPTION

AREA UNDER OPTION

SWIMMING POOL

WADING POOL

10 FT. SANITARY SEW

COOLING TOWER

BATH

HOUSE

ARCADE

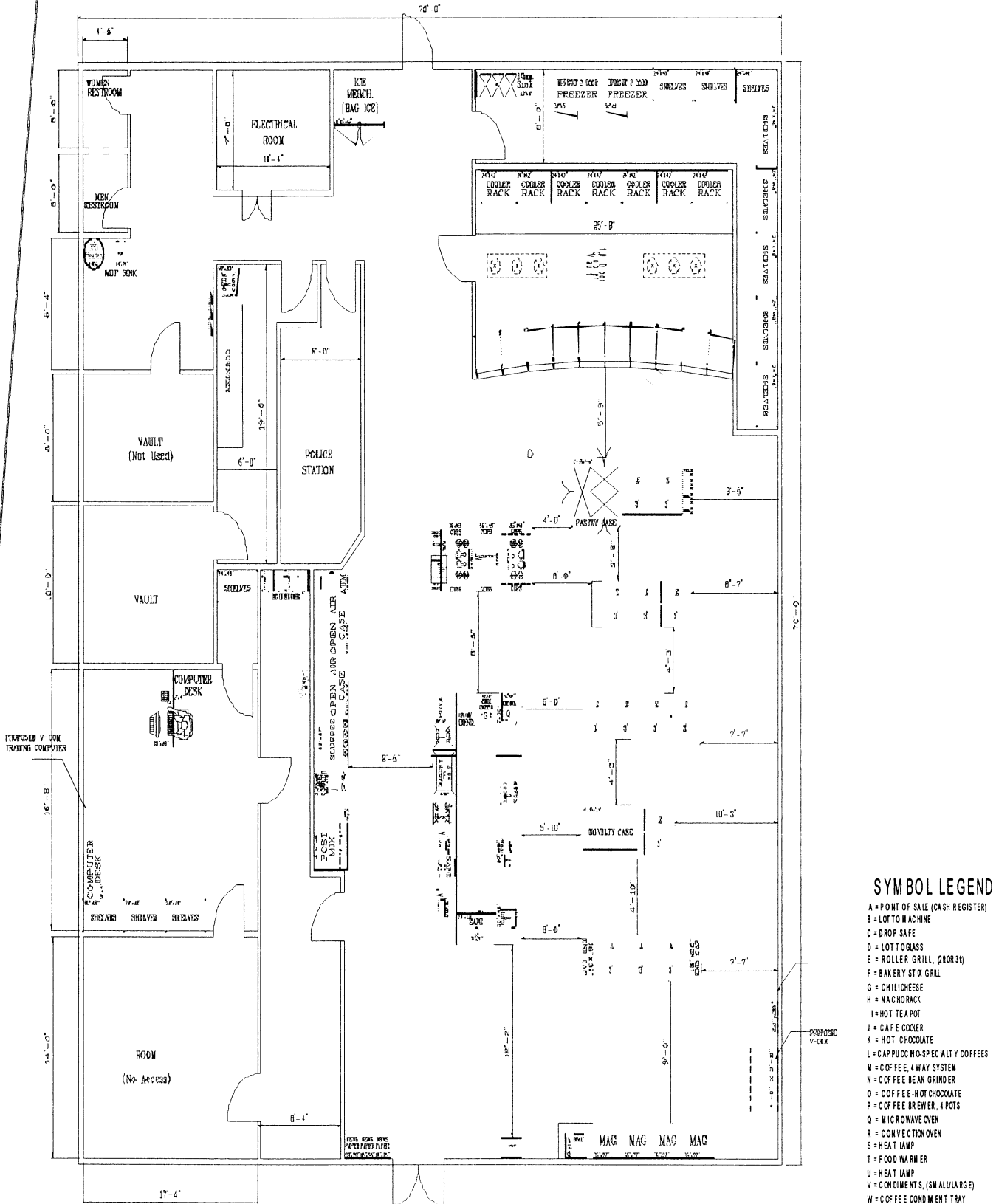
177'

CANOPY

20



SUP 2003-0112



**SYMBOL LEGEND**

- A = POINT OF SALE (CASH REGISTER)
- B = LOT TO MACHINE
- C = DROP SAFE
- D = LOT TO GLASS
- E = ROLLER GRILL, (24OR31)
- F = BAKERY STIX GRILL
- G = CHILLICHEESE
- H = NACHORACK
- I = HOT TEA POT
- J = CAFE COOLER
- K = HOT CHOCOLATE
- L = CAPPUCCINO-SPECIALTY COFFEES
- M = COFFEE, 4WAY SYSTEM
- N = COFFEE BEAN GRINDER
- O = COFFEE-HOT CHOCOLATE
- P = COFFEE BREWER, 4 POTS
- Q = MICROWAVE OVEN
- R = CONVECTION OVEN
- S = HEAT LAMP
- T = FOOD WARMER
- U = HEAT LAMP
- V = CONDIMENT S, (SM ALL/LARGE)
- W = COFFEE CONDIMENT TRAY

7-11 Store #10725  
Market #2554  
4949 SEMINARY RD.  
ALEXANDRIA, VA 22311

THIS IS NOT A LEGAL DOCUMENT. THE INTENT IS TO SHOW CURRENT EQUIPMENT CONFIGURATION.

MSEA 50925926

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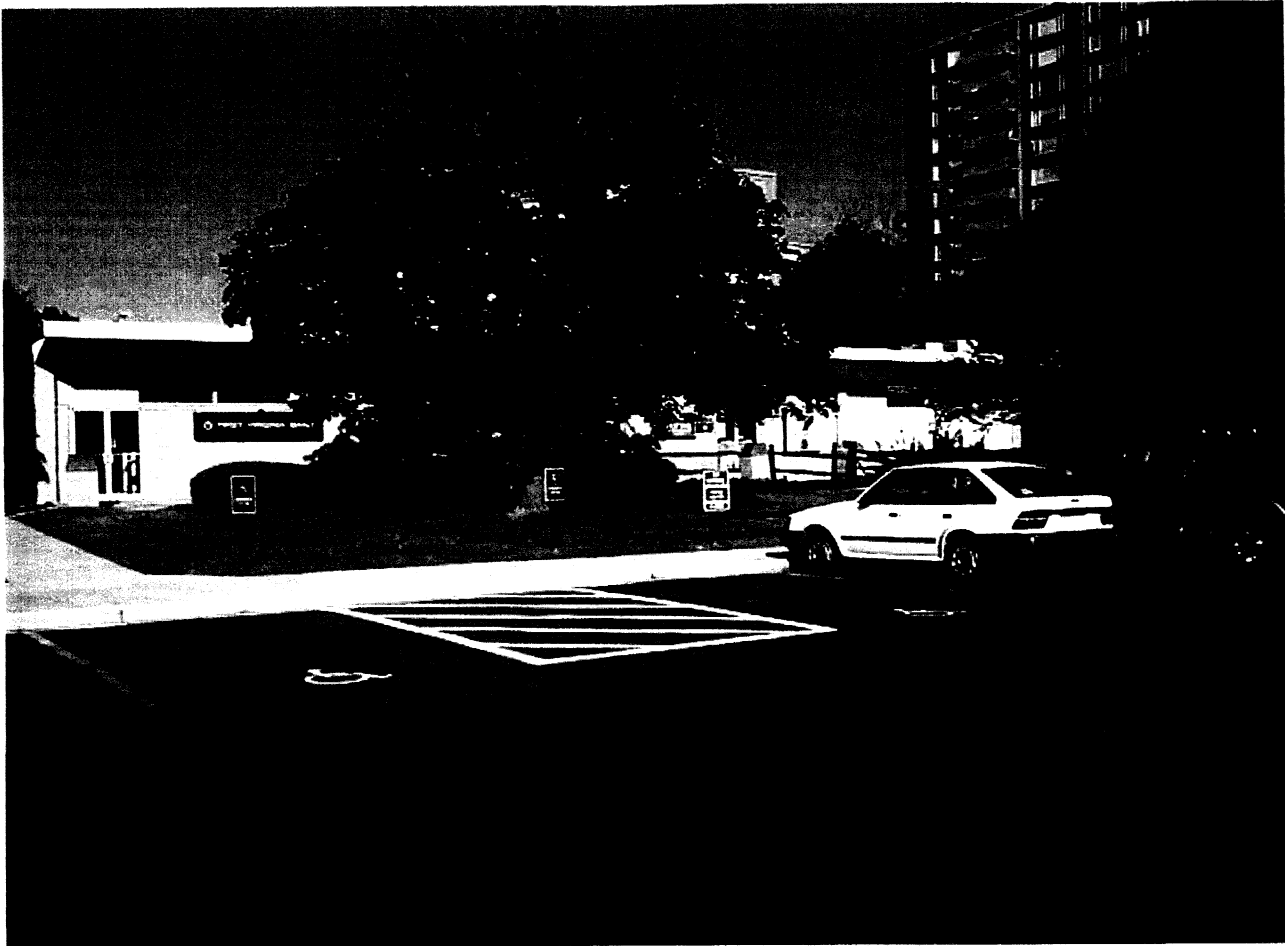
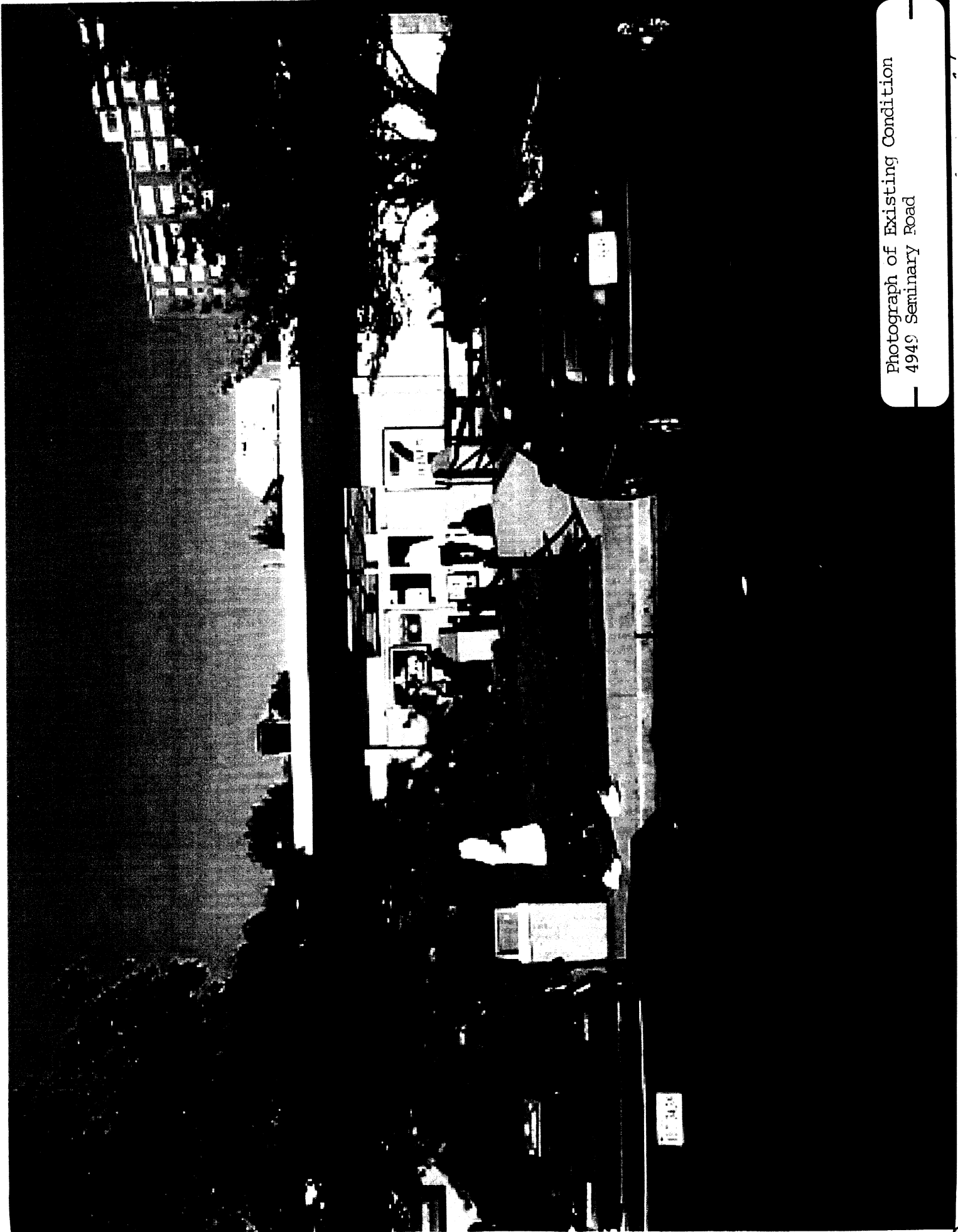


Photo of Existing Conditions  
— 4949 Seminary Road —

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SLP 2003-0112



Photograph of Existing Condition  
4949 Seminary Road



*Summary*

