

**BEFORE THE FLORIDA HOUSING FINANCE CORPORATION**

**MERIDIAN HOUSING LIMITED PARTNERSHIP,  
Petitioner,**

vs.

**CASE NO.: Application 2002-110S**

**FLORIDA HOUSING FINANCE  
CORPORATION,  
Respondent.**

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RECEIVED  
MAY 15 2002  
FLORIDA HOUSING FINANCE CORPORATION

**PETITION FOR INFORMAL  
ADMINISTRATIVE HEARING**

Pursuant to Sections 120.569 and 120.57, Fla. Stat., and Rule 67-48.005(1), Fla. Admin. Code, Petitioner, Meridian Housing Limited Partnership, (hereafter "Meridian") hereby requests an informal administrative hearing on the determination of the Florida Housing Finance Corporation not to award Meridian proximity tie-breaker points for the Just 99 Cents grocery store pursuant to Rule 67-48.004(17), Fla. Admin. Code, and the Universal Application, and states:

1. The Petitioner, Meridian, is a Florida limited partnership which has applied to the Florida Housing Finance Corporation during the 2002 Universal Cycle for a State Apartment Incentive Loan ("SAIL") for the construction of The Meridian, a 160 unit high rise residential housing development located at 2900 North 26<sup>th</sup> Avenue, in Hollywood, Florida. For purposes of this proceeding, Meridian's address is that of its undersigned counsel, Margaret-Ray Kemper; Ruden, McClosky, Smith, Schuster & Russell, P.A.; 215 South Monroe Street, Suite 815, Tallahassee, Florida 32301; telephone number (850) 681-9027.

2. The agency affected is the Florida Housing Finance Corporation (“Corporation”), 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-0329.

3. The Corporation assigned Application No. 2002-110S to Meridian’s application for the 2002 Universal Cycle (“Application”).

4. Meridian received notice of the Corporation’s determination of pre-appeal scores and Notice of Rights on July 23, 2002, by overnight delivery.

5. Meridian’s substantial interests have been determined by the Corporation’s denial of proximity tie-breaker points for a grocery store within one mile of The Meridian in that construction of Meridian’s development is dependent on the receipt of SAIL funds and the loss of proximity tie-breaker points for a grocery store will adversely impact the award of SAIL funds to Meridian.

6. There are no disputed issues of material fact. Accordingly, Meridian requests an informal proceeding pursuant to Section 120.57(2), Fla. Stat.

7. Proximity tie-breaker points are issued for projects located within a specified proximity to certain services, one of which is a grocery store. A development located within one mile of a grocery store is eligible to received 1.25 proximity tie-breaker points.

8. Meridian in its Application submitted documentation showing that its development was within one mile of the BJ’s Wholesale Club located on Oakwood Boulevard in Hollywood, Florida.

9. The Corporation’s staff performed the preliminary scoring and awarded Meridian’s Application 1.25 proximity tie-breaker points for grocery store.

10. After performing the preliminary scoring, the Corporation notified all applicants of the preliminary scores. Any applicant could question the scoring of Meridian’s Application if

it believed the Corporation had made a scoring error, within ten calendar days after the date the applicant received the preliminary scores. Such a challenge is called a Notice of Possible Scoring Error (“NOPSE”).

11. Another applicant in its NOPSE challenged Meridian’s reliance on BJ’s Wholesale Club, contenting that BJ’s Wholesale Club is not open to the general public but instead imposes a membership requirement.

12. After receipt of the NOPSEs with respect to its Application, Meridian submitted timely additional documentation, know as CUREs, to the Corporation pursuant to Rule 67-48.004(6), Fla. Admin. Code. As part of its CURE, Meridian provided information that a second grocery store, Just 99 Cents located at the corner of Sheridan Street and West Dixie Highway in Hollywood, Florida, is within one mile of its development. The aerial attached as Exhibit “A” shows the general location of the Just 99 Cents store.

13. After Meridian submitted its CUREs, all applicants had an opportunity to review the CUREs. Any applicant could submit to the Corporation a notice of alleged deficiencies (“NOAD”) challenging Meridian CUREs. No NOADs were filed with the Corporation as to Meridian’s CUREs.

14. After review of the additional documentation submitted by Meridian, the Corporation issued its pre-appeal scores for Meridian’s Application. With respect to proximity tie-breaker points, the Corporation did not award any proximity tie-breaker points for a grocery store. The reason given for the failure to award proximity tie-breaker points for a grocery store was that the “Store listed in revised Application is not a grocery store.”

15. Part III.A.II(1)(a) of the Universal Application defines a grocery store as follows:

Grocery Store – For purposes of tie-breaker points, a grocery store means a self-service retail market that sells food and household goods and has at least 4,500 square feet of air conditioned space.

The Universal Application also requires that the grocery store be in existence and available for use by the general public as of the application deadline.

16. The Just 99 Cents store meets the Corporation’s definition of grocery store and otherwise satisfies the requirements for the award of 1.25 proximity tie-breaker points. The Just 99 Cents store:

- (a) is a self-service retail market that sells food and household goods. See the affidavit of David M. Reich attached as Exhibit “B”. The pictures attached to that affidavit as Exhibit 1 show some of the food items and household goods, which can be purchased at the Just 99 Cents store. As the affidavit and pictures indicate, the store sells the items generally found in a grocery store, including but not limited to, dairy products, breads and cookies, produce, dry goods, canned goods, beverages, paper products, laundry supplies, meat, frozen foods, and personal hygiene items.
- (b) contains at least 4,500 square feet. Site plan data provided the City of Hollywood by Winn Dixie, the previous occupant of the store, states the building square footage as 26,880 square feet. See the documents attached as Exhibit “C”.
- (c) is air-conditioned. See the affidavit of David M. Reich attached as Exhibit “B”.
- (d) was in existence and available for use by the public on the date of the application. See the affidavit of David M. Reich attached as Exhibit “B”.

(e) is within one mile of the development site. See the Surveyor Certification provided with Meridian's CUREs and attached as Exhibit "D" and the affidavit of David M. Reich attached as Exhibit "B".

**Request for Relief**

17. Meridian seeks a determination that the Just 99 Cents store meets the Corporation's definition of grocery store, satisfies all requirements for proximity tie-breaker points for a grocery store, and is within one mile of The Meridian and that Meridian's Application be awarded an additional 1.25 proximity tie-breaker points.

**Reservation of Right to Request Formal**

18. At this time, Meridian requests an informal proceeding pursuant to Section 120.57(2), Fla. Stat., as there are no disputed issues of material fact. However, in the event that disputed issues of fact arise during the pendency of the proceeding, Meridian reserves the right to request that the matter be transferred to the Division of Administrative Hearings for formal administrative proceedings.

Respectfully submitted this 9<sup>th</sup> day of August, 2002.

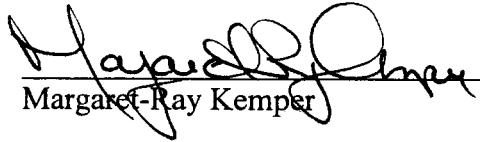
RUDEN, McCLOSKEY, SMITH  
SCHUSTER & RUSSELL, P.A.



Margaret-Ray Kemper  
215 South Monroe Street, Suite 815  
Tallahassee, Florida 32301  
(850) 681-9027  
(850) 224-2032 (Facsimile)  
Florida Bar ID No. 0200311  
Counsel for Petitioner, Meridian Housing Limited  
Partnership

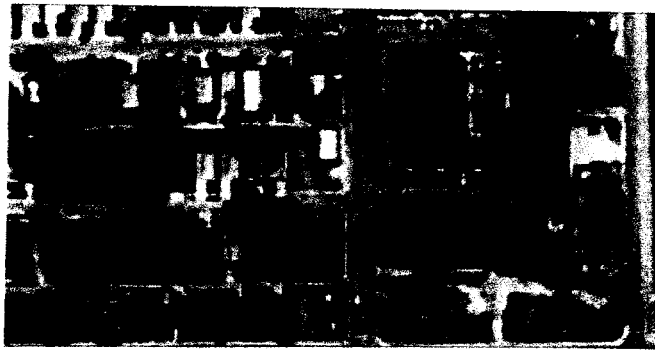
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that an original and two copies of the foregoing has been filed with the Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, this 9<sup>th</sup> day of August, 2002.

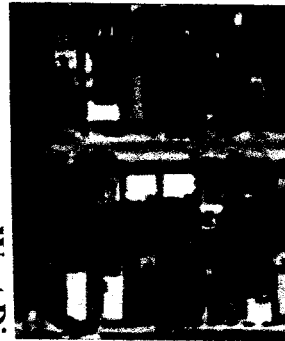
  
Margaret-Ray Kemper

# 99 Cent Store

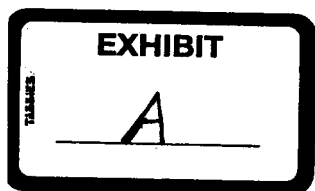
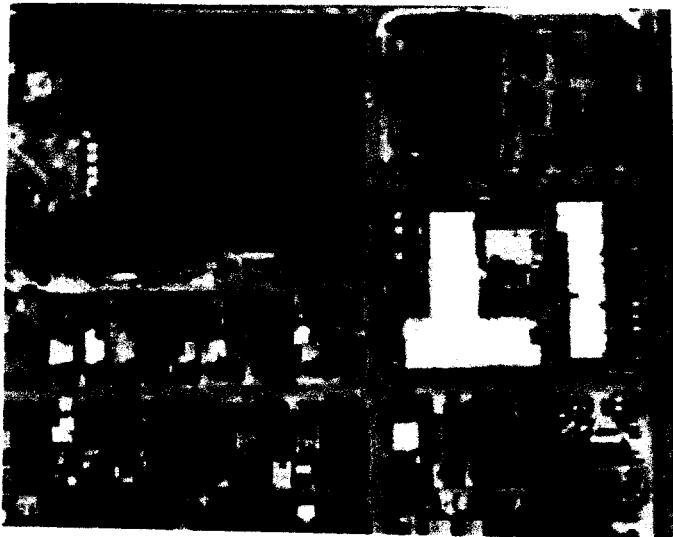
## Aerial Photograph of South West Corner of Sheridan St. & West Dixie Highway



Sheridan Street



West Dixie Highway



**\*location of store is outlined**

AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF BROWARD

BEFORE ME personally appeared David M. Reich, who being sworn, deposes and says:

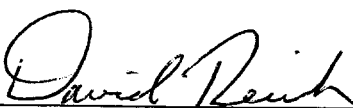
1. I am the Secretary-Treasurer of THP Meridian Corporation, the general partner of Meridian Housing Limited Partnership.

2. I am familiar with the Just 99 Cents store located at the corner of Sheridan Street and West Dixie Highway in Hollywood, Florida, have shopped in the store on numerous occasions, and know, based upon my personal experience, that the store is self-service, sells both food and household goods, is within one mile of the site of the residential housing development known as The Meridian, is open to the general public, is air conditioned, and was in existence and available for use by the general public as of the 2002 Universal Application deadline.

3. On Tuesday, August 6, 2002, I visited the Just 99 Cents store located at the corner of Sheridan Street and West Dixie Highway in Hollywood, Florida. During the course of that visit, I observed that a wide variety of both food and household goods were in stock and offered for sale and took the photographs which are attached hereto as Exhibit 1. The photographs attached as Exhibit 1 fairly and accurately depict the items shown and the type and variety of food and household goods offered for sale.

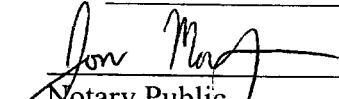
4. Based upon my experience in the development of various properties, I estimate the size of the Just 99 Cents store located at the corner of Sheridan Street and West Dixie Highway in Hollywood, Florida to at least 20,000 square feet.

FURTHER AFFIANT SAYS NOT.



David M. Reich

Sworn to and subscribed before me this 8<sup>th</sup> day of August, 2002 by David M. Reich, who is personally known to me or who produced \_\_\_\_\_ as identification.

  
Notary Public

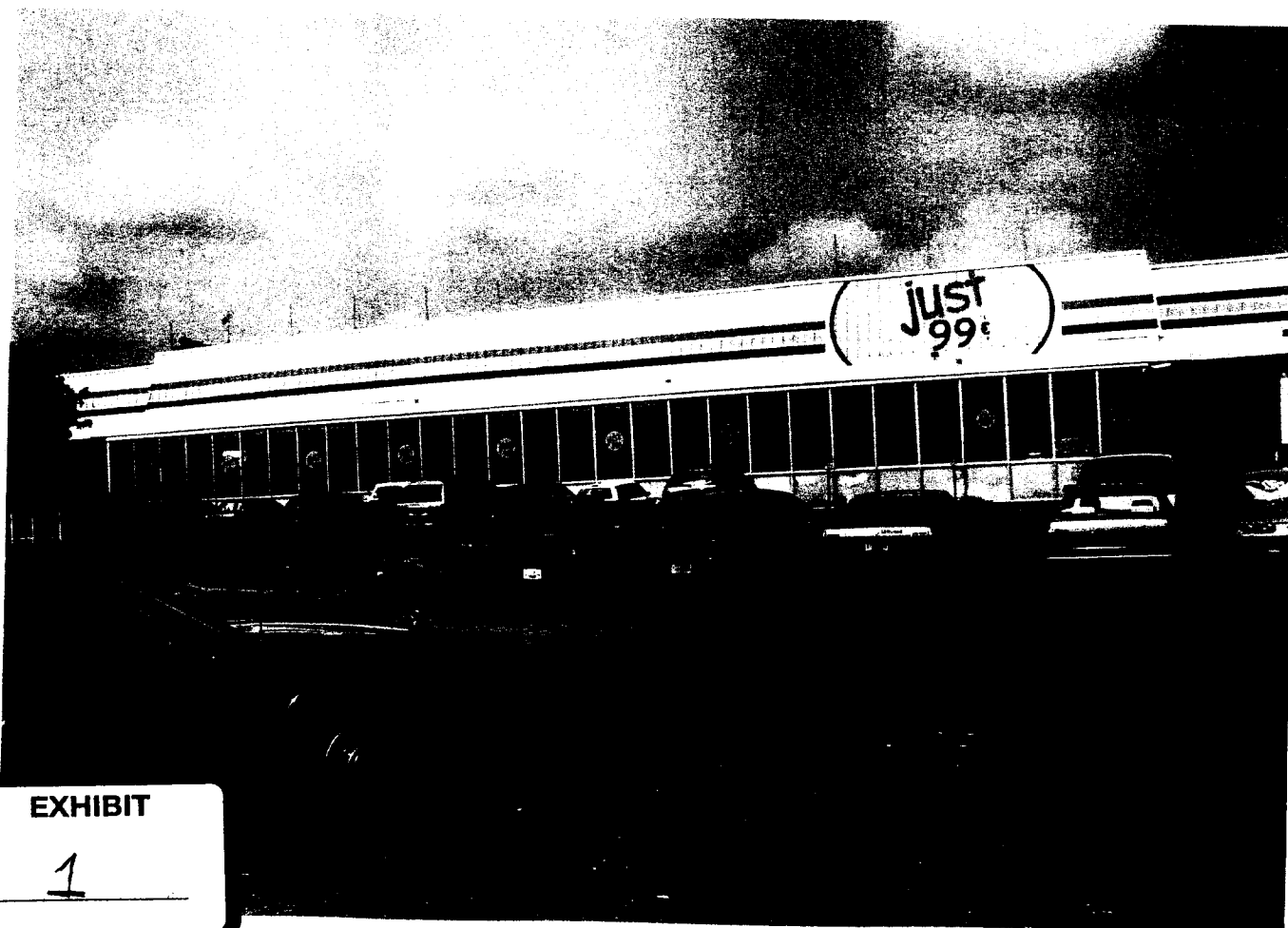
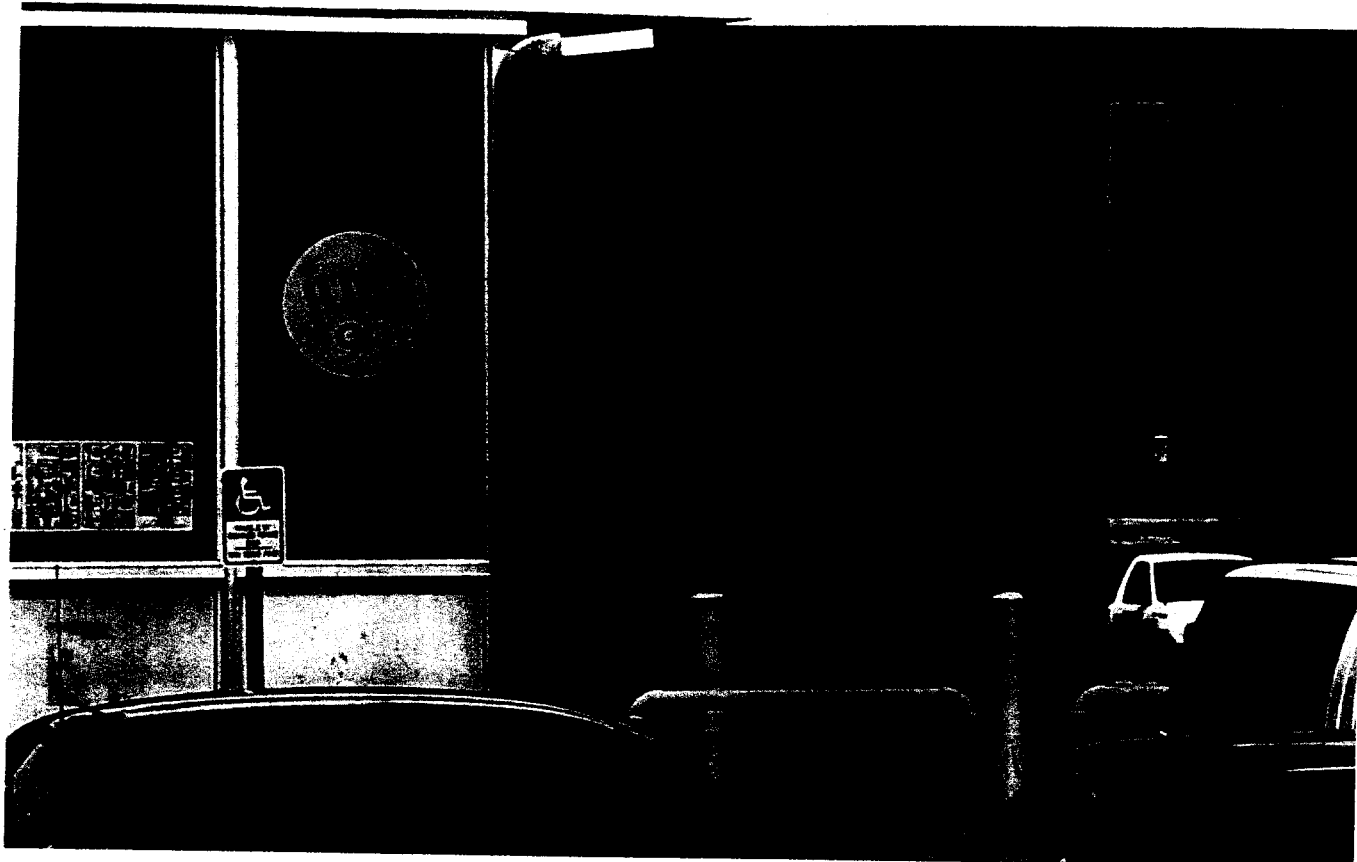
My Commission Expires: 02/18/06



EXHIBIT

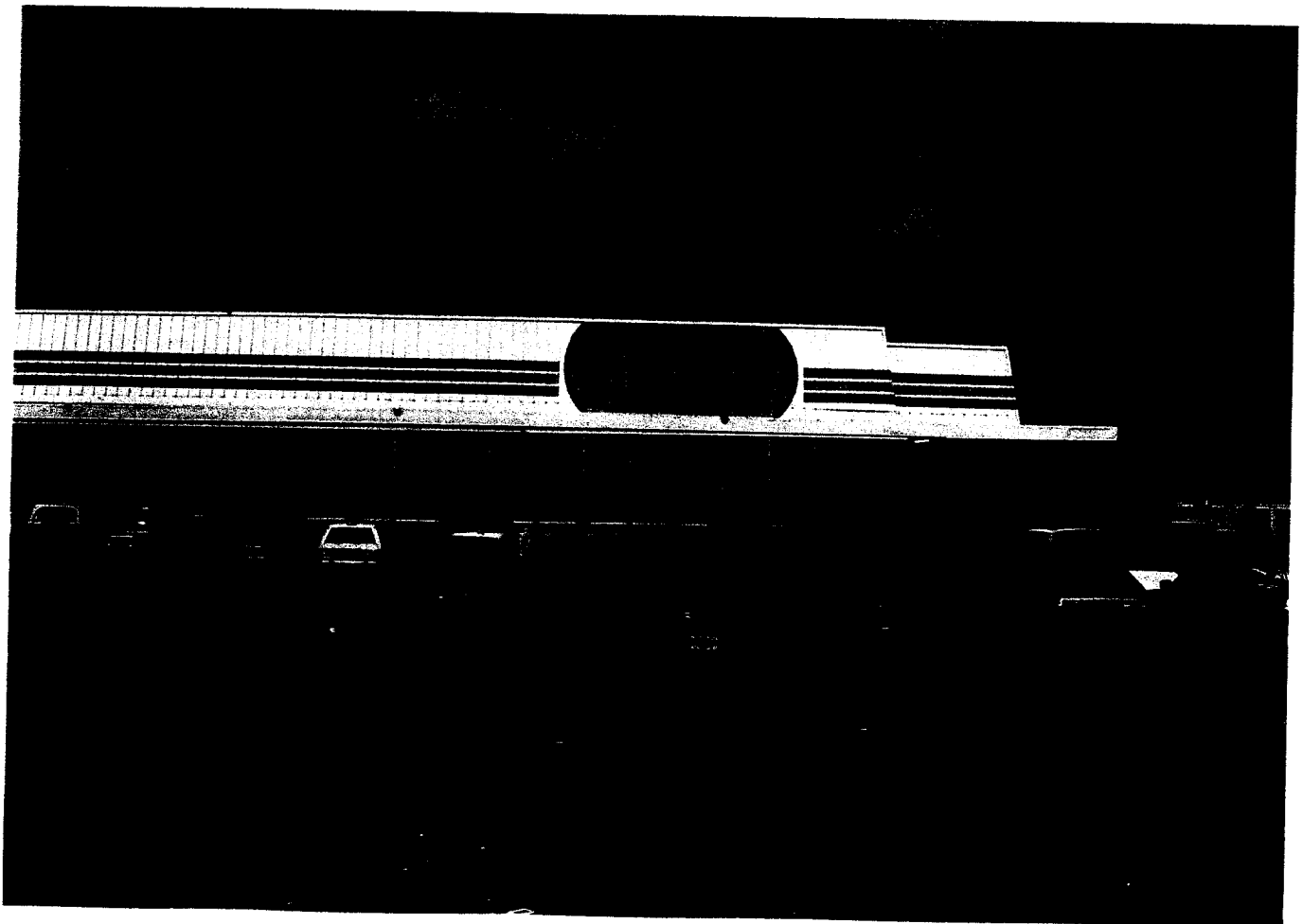
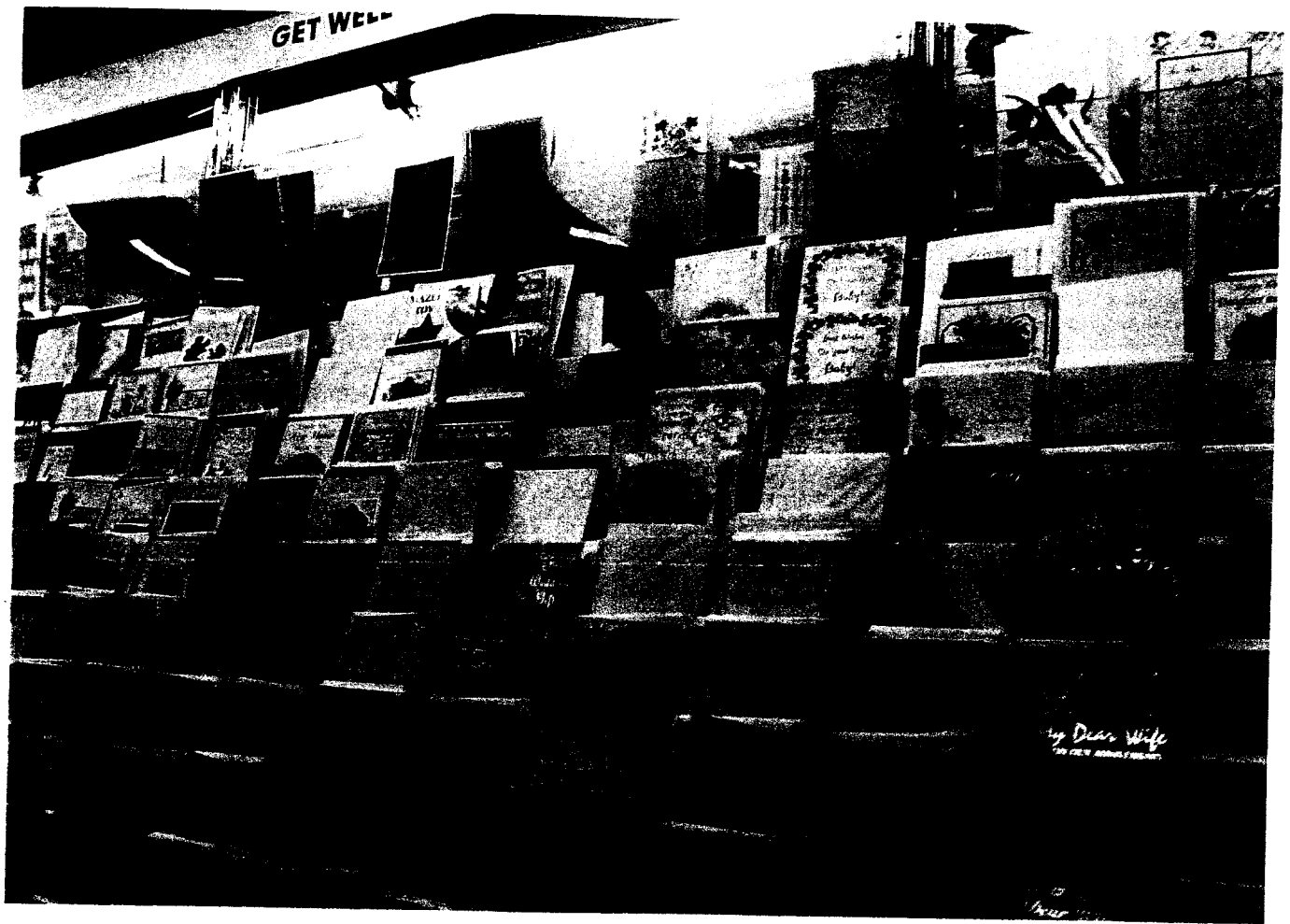
B





EXHIBIT

1



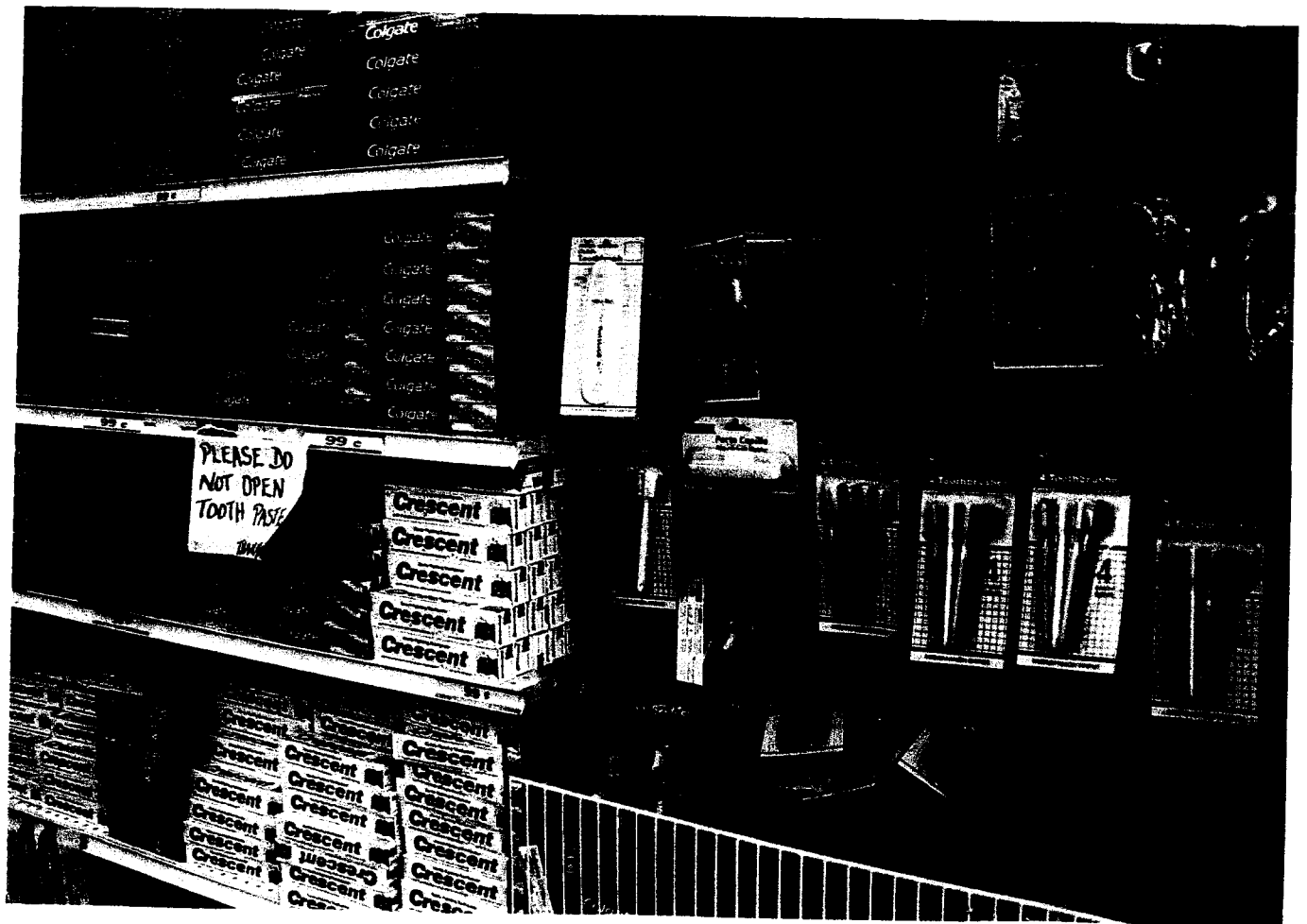




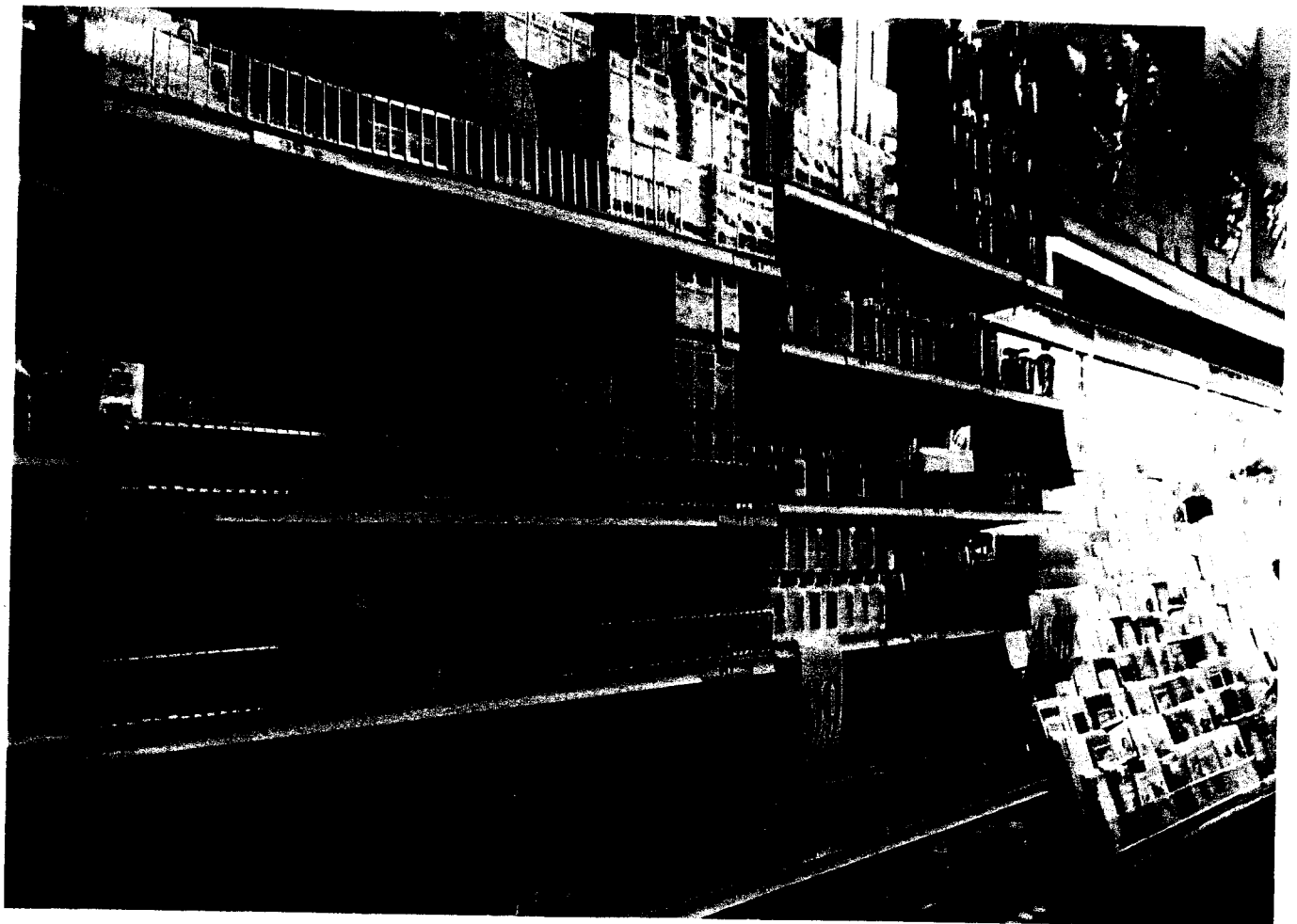


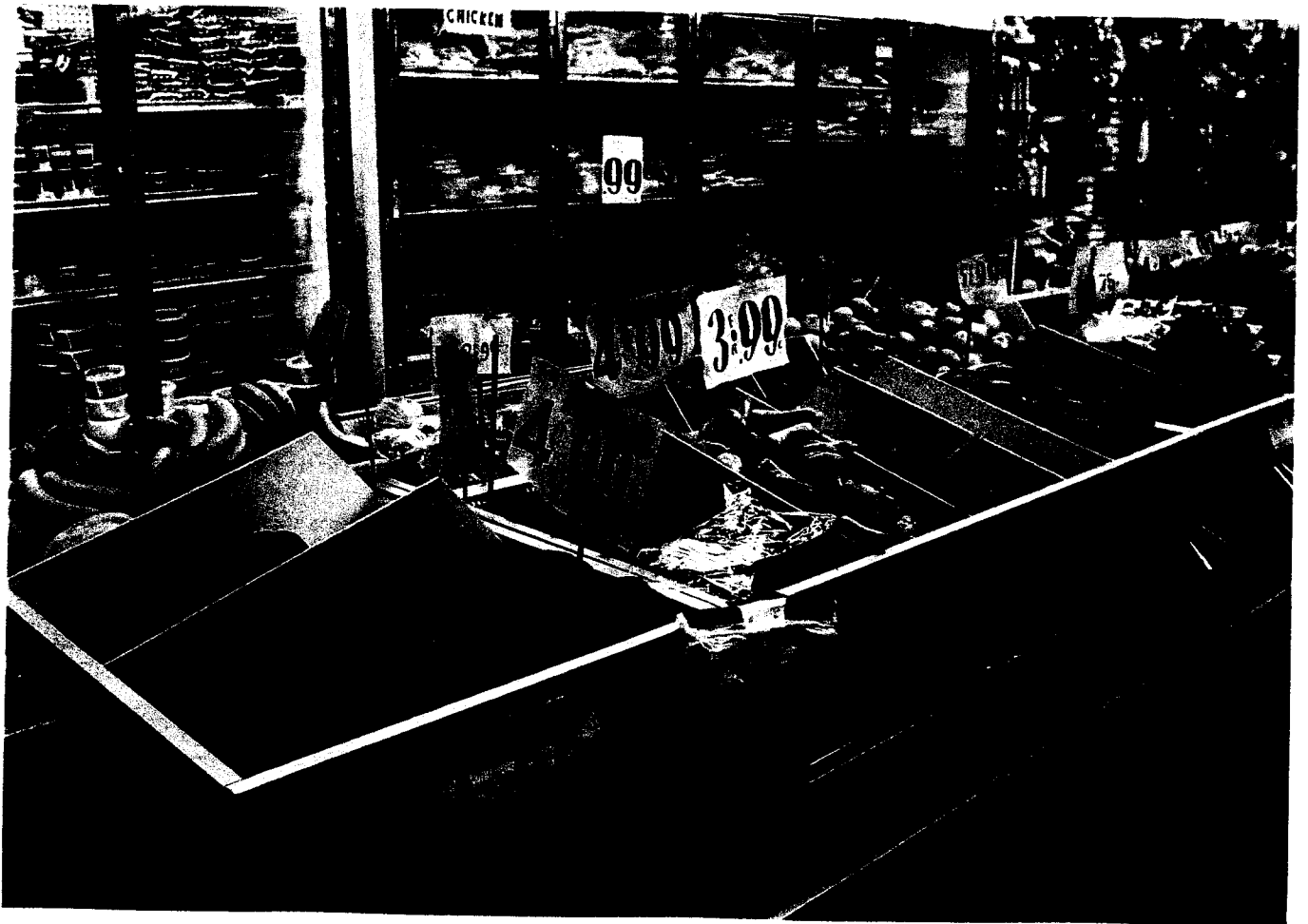




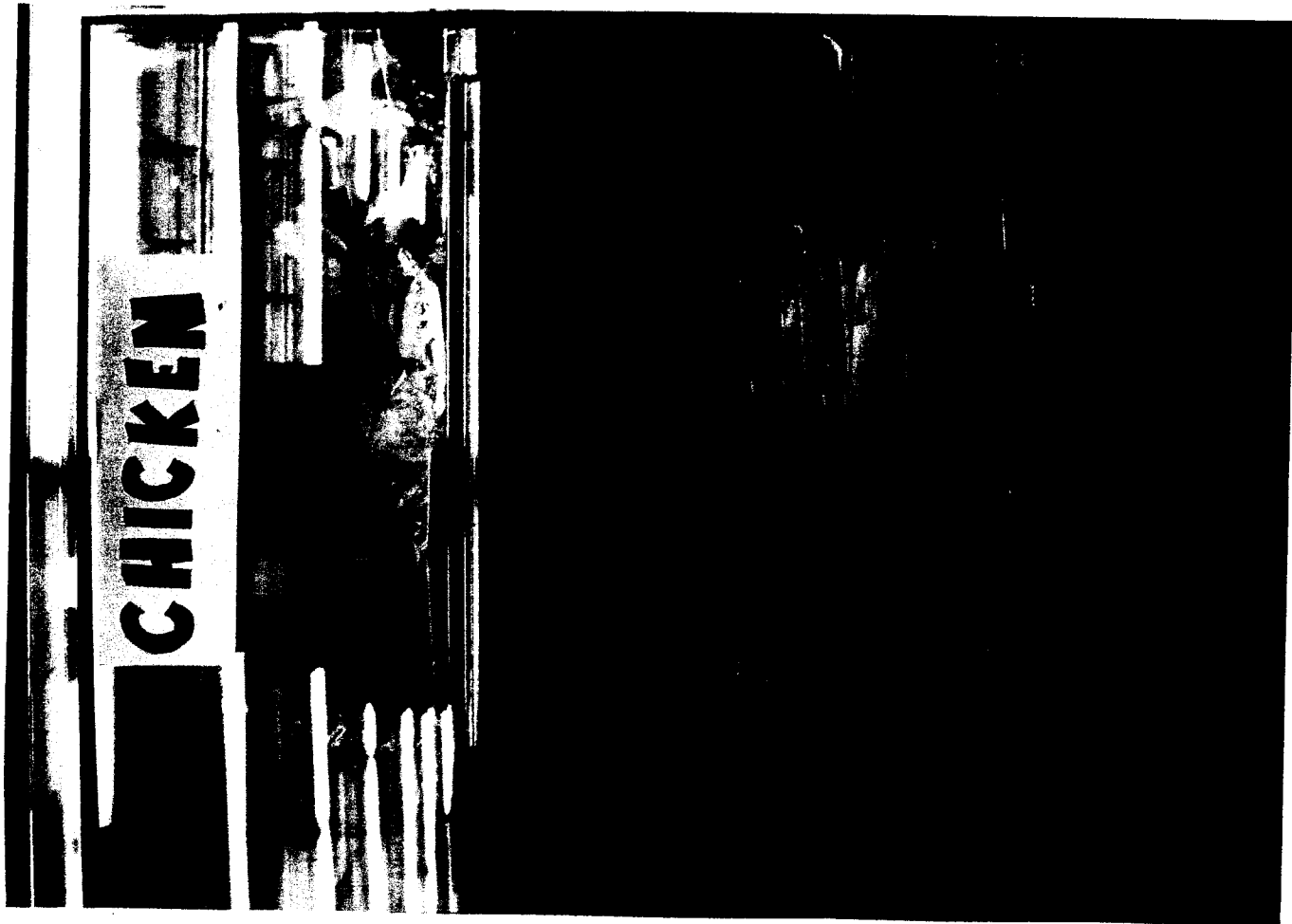


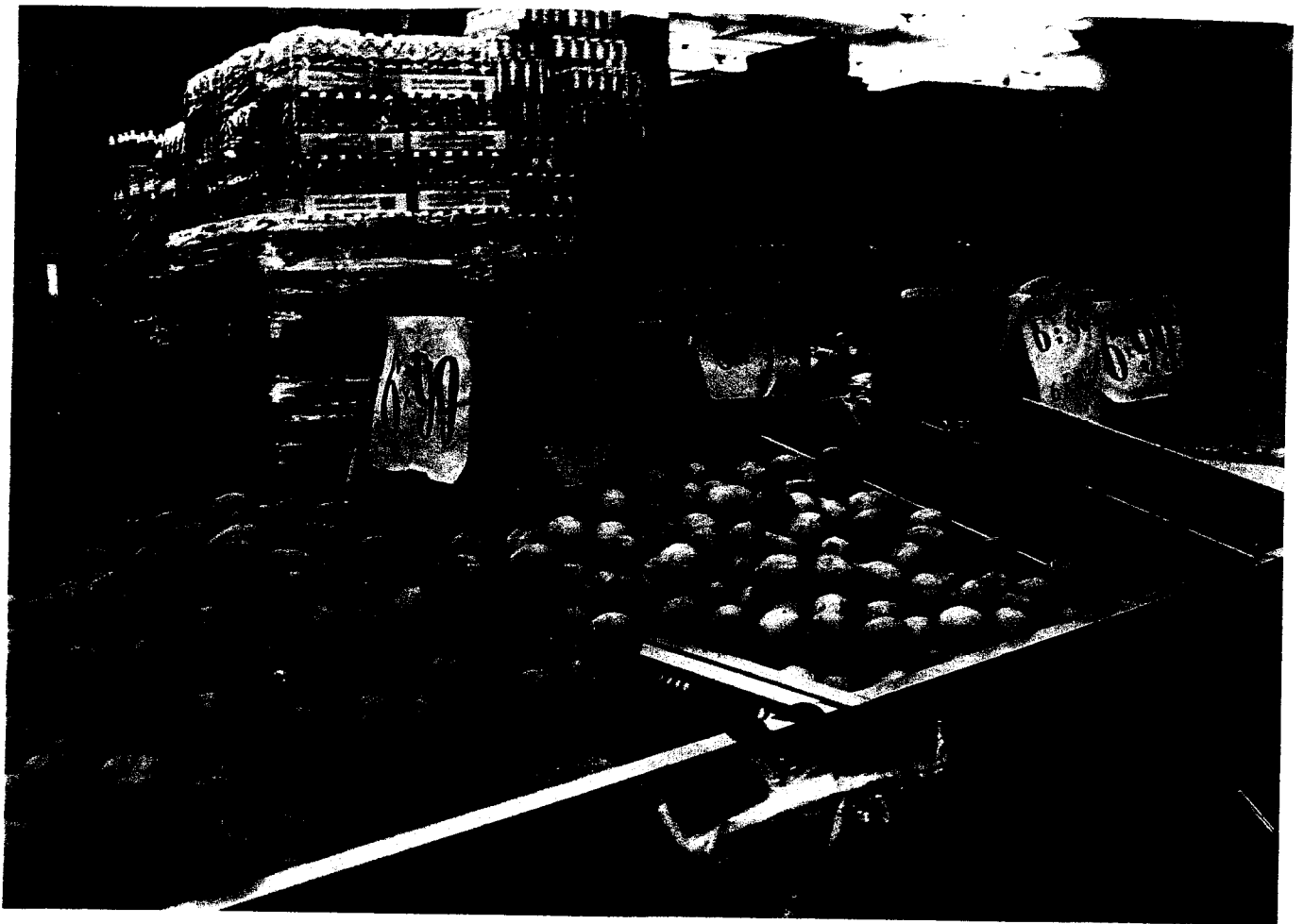












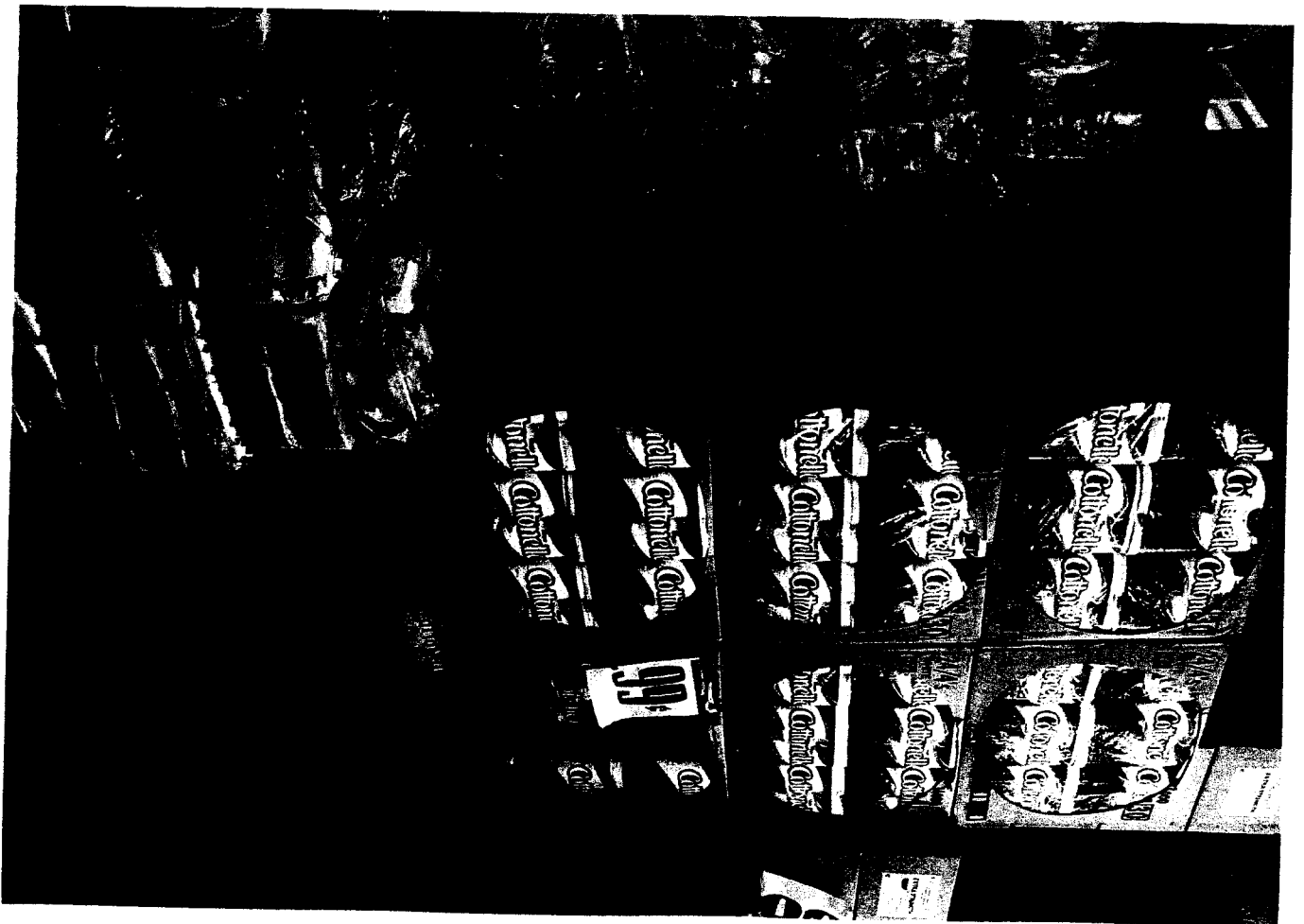


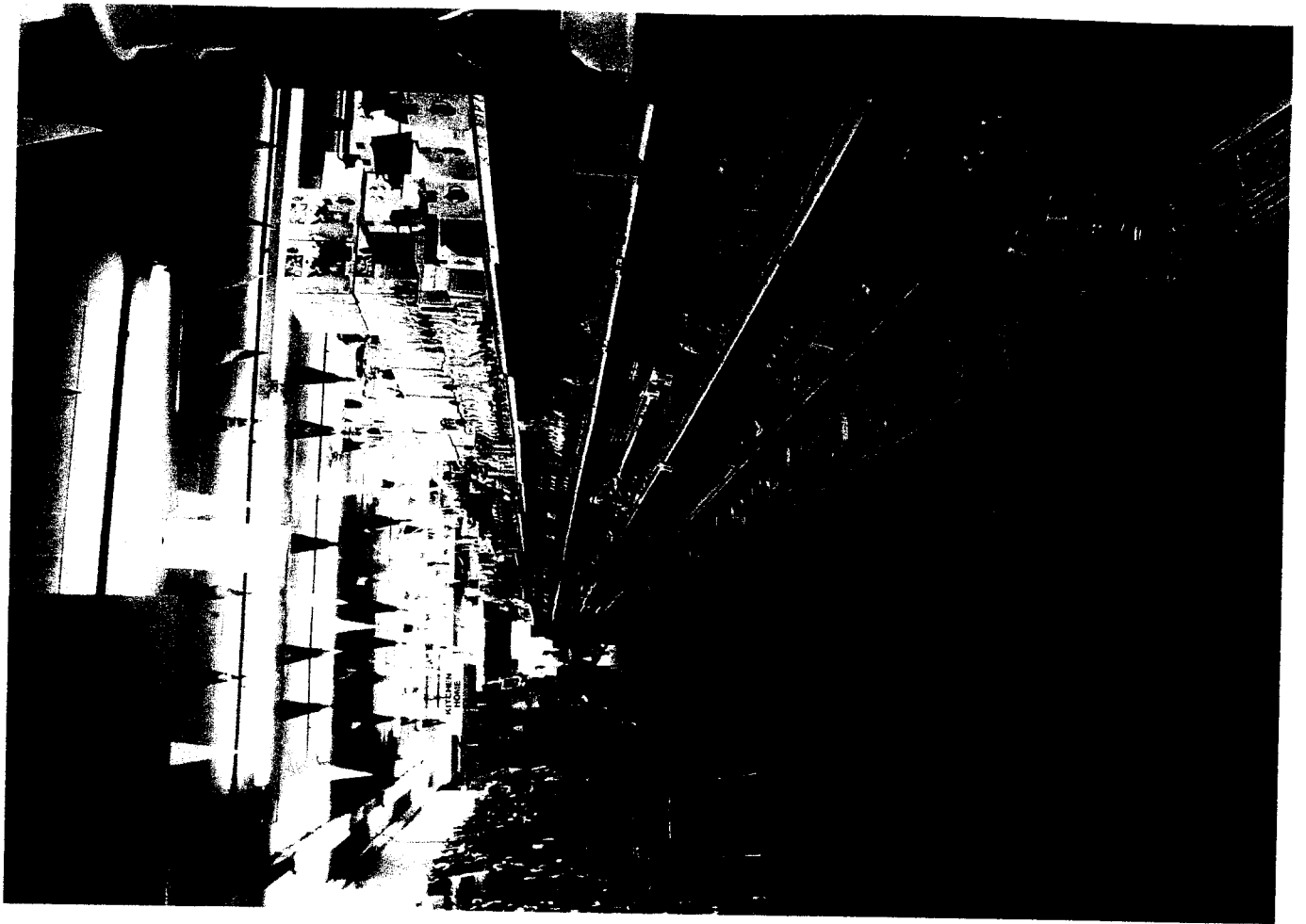


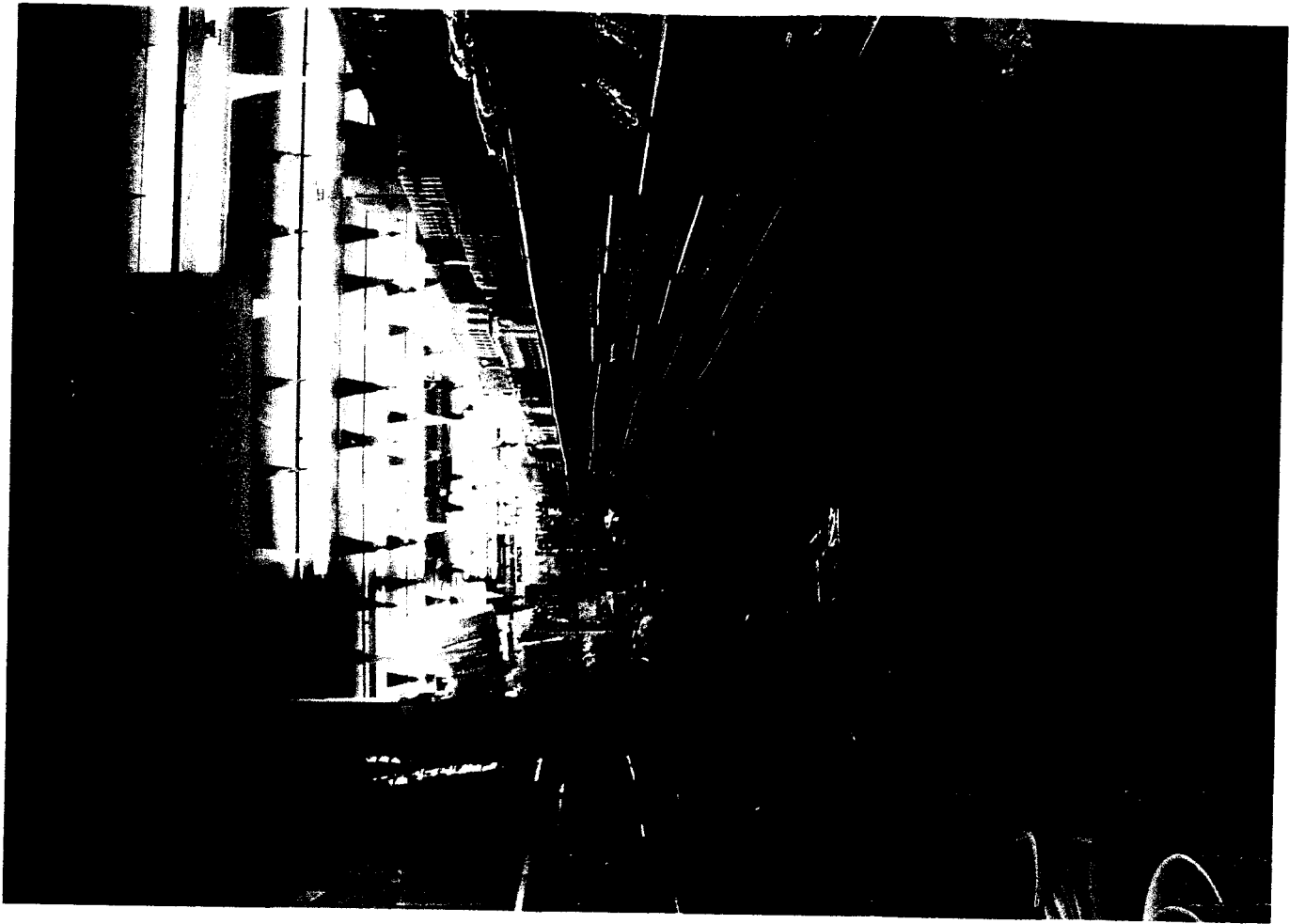


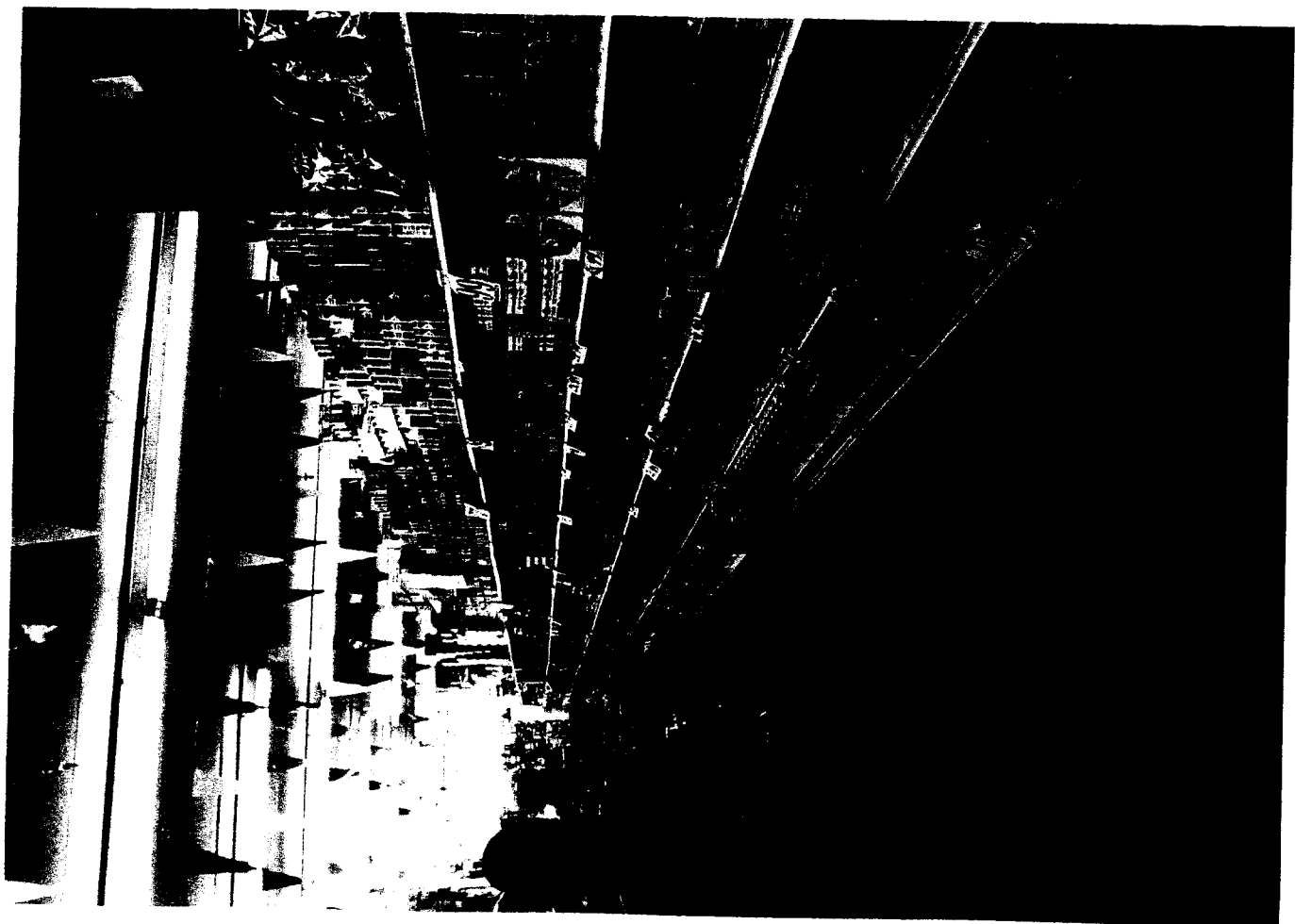
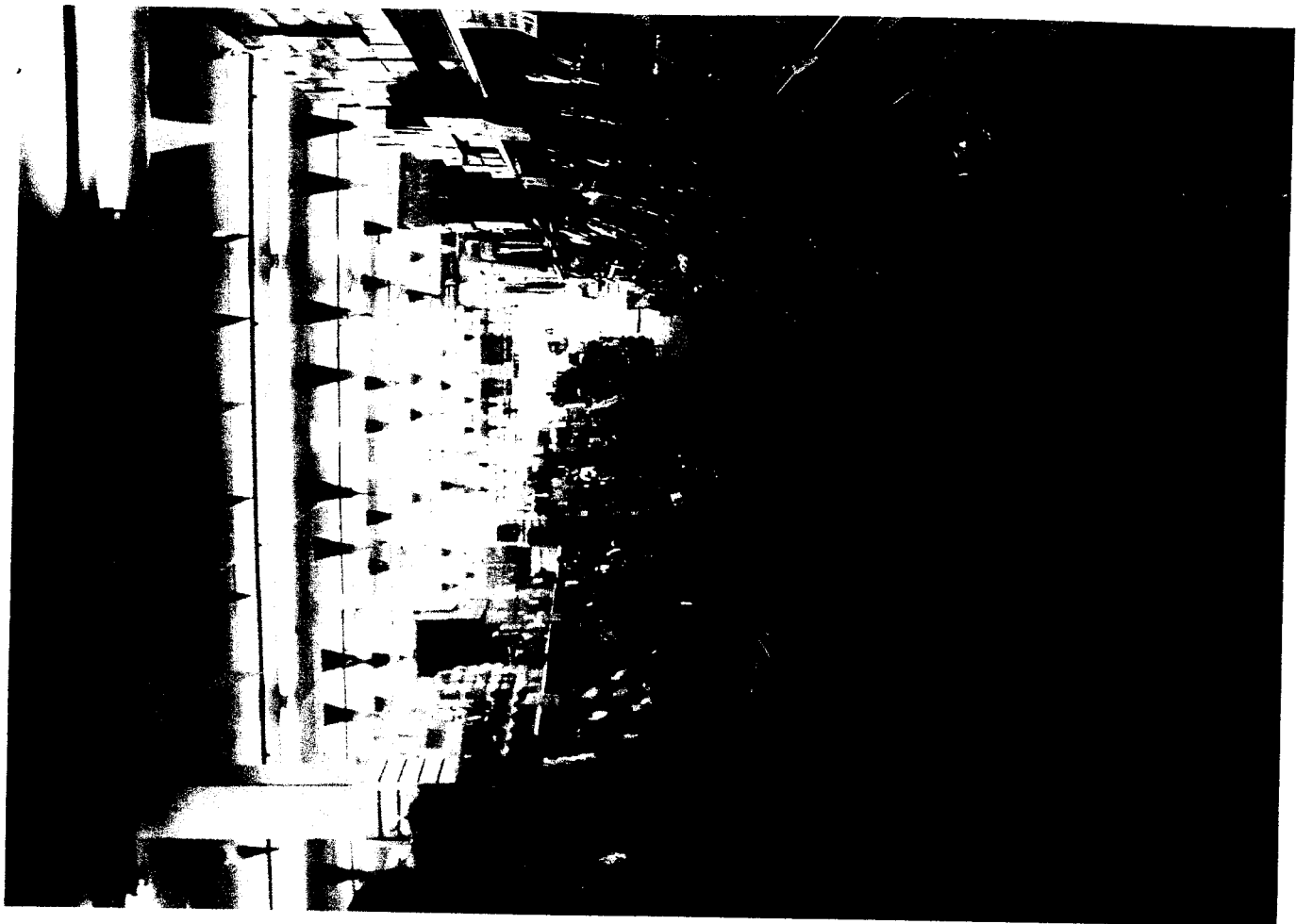




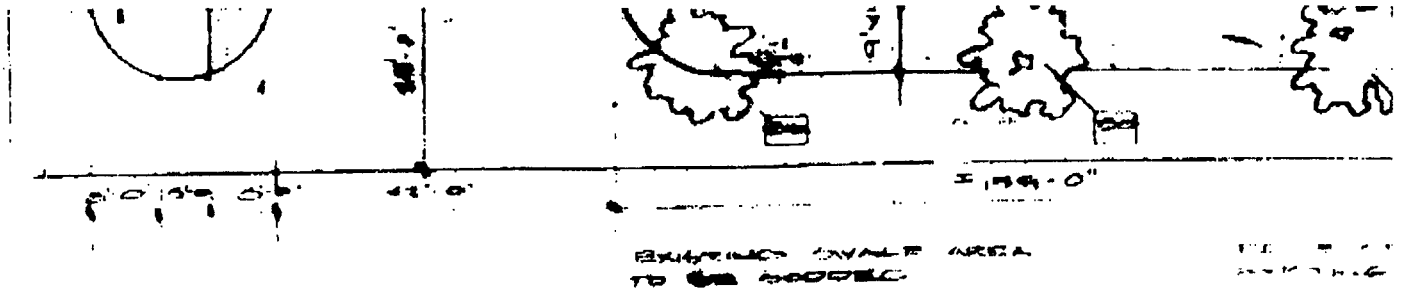












# SITE PLAN

SCALE: 1" = 20'-0"

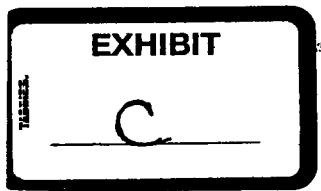
## LEGAL DESCRIPTION

ALL OF BLOCK 14, "HOLLYWOOD PARK", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, AT PAGE 15 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; INCLUDING THE TWO ALLEYS PLATTED IN BLOCK 14.

LESS AND EXCEPTING THE NORTH 10 FEET OF LOTS 1, 12, 13, 14, 15, AND 16; ALSO EXCEPTING THAT PART OF LOT 12 WHICH IS INCLUDED IN THE EXTERNAL AREA FORMED BY A 25-FOOT RADIUS ARC WHICH IS TANGENT TO THE WEST LINE OF SAID LOT 12 AND TANGENT TO A LINE 10 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOT 12; AND EXCEPTING THAT PART OF LOT 1 WHICH IS INCLUDED IN THE EXTERNAL AREA FORMED BY A 32-FOOT RADIUS ARC WHICH IS TANGENT TO THE EAST LINE OF SAID LOT 1 AND TANGENT TO A LINE 10 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOT 1.

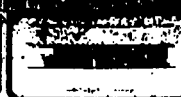
## SITE DATA

SQUARE FOOTAGE	DIVIDED BY	PARKING REQUIREMENT	=	PARKING SPACES
EXISTING CUSTOMER SERVICE	16,960 SQ.FT.	@ 1/200 SQ.FT.	=	84.8 SPACES
EXISTING STOCKROOMS AND MACHINE ROOMS AND EXT. MEAT COOLERS	8,120 SQ.FT.	@ 1/1000 SQ.FT.	=	8.1 SPACES
NEW VESTIBULE AREA	1,800 SQ.FT.	@ 1/200 SQ.FT.	=	9.0 SPACES
TOTAL PARKING REQUIRED				102
TOTAL EXISTING PARKING				121
TOTAL PARKING PROVIDED				118
GROSS PROJECT ACREAGE	110,960 SQ.FT.	=	2.54 ACRES	
BUILDING COVERAGE	26,080 SQ.FT.			24.3 %
IMPERVIOUS SURFACE	57,966 SQ.FT.			52.2 %
LANDSCAPING AREAS	6,114 SQ.FT.			13.5 %
				100.0 %





WINN DIXIE THE BEEF PEOPLE



LANDSCAPE PLANTING SCHEDULE

DATE	PLANTING NAME	QUANTITY	COMMENTS

GENERAL SITE RENOVATION NOTES

1. ALL EXISTING UTILITIES TO BE MAINTAINED AND PROTECTED.

2. ALL EXISTING TREES TO BE PRESERVED AND PROTECTED.

3. ALL EXISTING CURBS AND SIDEWALKS TO BE REPAIRED OR REPLACED.

4. ALL EXISTING DRIVEWAYS TO BE REPAIRED OR REPLACED.

5. ALL EXISTING PAVEMENT TO BE REPAIRED OR REPLACED.

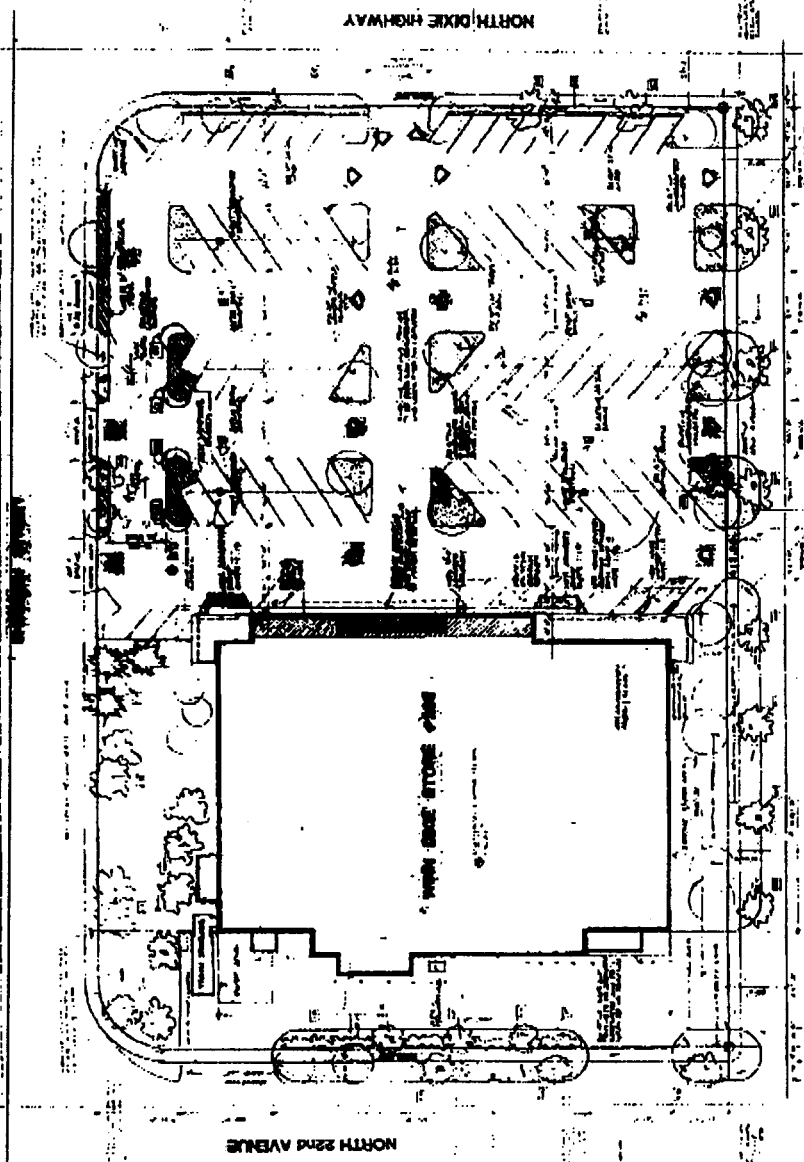
6. ALL EXISTING FENCES TO BE REPAIRED OR REPLACED.

7. ALL EXISTING SIGNAGE TO BE REPAIRED OR REPLACED.

8. ALL EXISTING LIGHTING TO BE REPAIRED OR REPLACED.

9. ALL EXISTING UTILITIES TO BE MAINTAINED AND PROTECTED.

10. ALL EXISTING TREES TO BE PRESERVED AND PROTECTED.



SITE PLAN

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

DATE: 08/09/2002

PROJECT: WILEY STORE RENOVATION

LOCATION: 1000 NORTH 22ND AVENUE, WILSON, NC 27157

DESIGNER: WILEY ARCHITECTS

CLIENT: WILEY STORE

SITE DATA

NO.	DESCRIPTION	QUANTITY	DATE	STATUS
1	PLANTING	100	08/09/2002	PLANNED
2	PLANTING	50	08/09/2002	PLANNED
3	PLANTING	25	08/09/2002	PLANNED
4	PLANTING	10	08/09/2002	PLANNED
5	PLANTING	5	08/09/2002	PLANNED
6	PLANTING	2	08/09/2002	PLANNED
7	PLANTING	1	08/09/2002	PLANNED
8	PLANTING	1	08/09/2002	PLANNED
9	PLANTING	1	08/09/2002	PLANNED
10	PLANTING	1	08/09/2002	PLANNED

**LANDSCAPE LEGEND:**

- GRASSY YARDS (VARIOUS TO BE PLANTED)
- PLANTING TO BE PLANTED
- EXISTING PLANTING (19-22' DIA)
- NEW BRUSH LOG TREE
- NEW PALM TREE
- NEW HEDGE
- NEW SPREADER COVER



SEE PLANNING & SURVEY SHEETS

**WILEY ARCHITECTS**

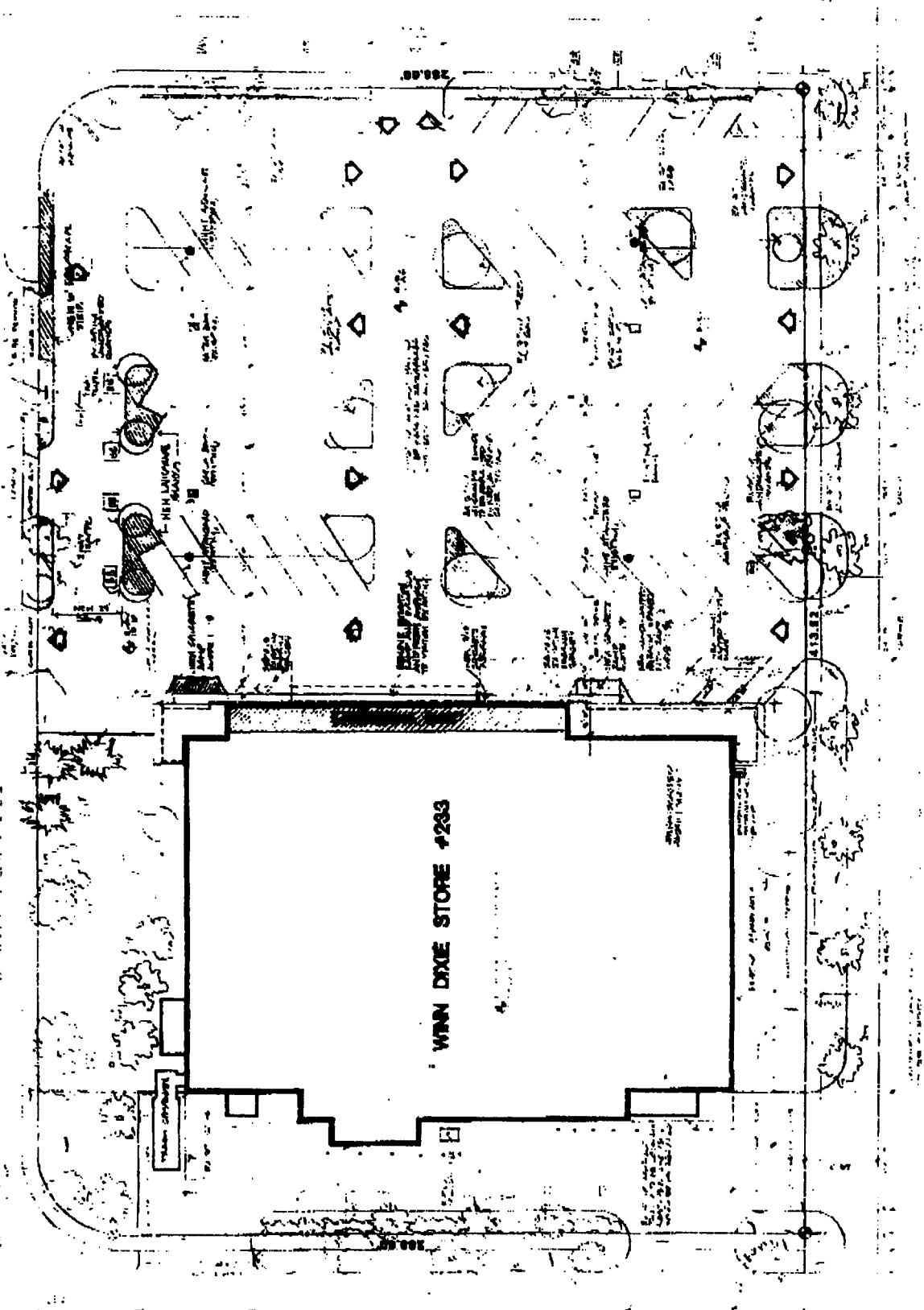
1000 NORTH 22ND AVENUE  
WILSON, NC 27157  
TEL: 919-433-4000



# WINN DIXIE

NORTH DIXIE HIGHWAY

SHERMAN STREET



NORTH 22ND AVENUE

SHERMAN STREET

LANDSCAPE LEGEND



**SITE PLAN**

SCALE: 1" = 20'-0"

AS SHOWN, ACCORDING TO THE PLAN THEREOF  
BY THE ARCHITECT, DATE OF THE PUBLIC TECH. IS '92

REVISED

SURVEYOR CERTIFICATION

Name of Applicant: Meridian Housing Limited Partnership

Name of Development: The Meridian

Address: 2900 North 26th Avenue, Hollywood, FL 33020

The undersigned Florida licensed surveyor confirms the following:

	Latitude		Longitude	
State the Tie-Breaker Measurement Point. Tie-Breaker Measure Point means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development.	<u>26</u> Degrees	<u>02.359</u> Minutes (truncated after 3 decimals)	<u>-80</u> Degrees	<u>09.589</u> Minutes (truncated after 3 decimals)
Location of closest public bus stop or metro-rail stop	<u>26</u> Degrees	<u>02.377</u> Minutes (truncated after 3 decimals)	<u>-80</u> Degrees	<u>09.482</u> Minutes (truncated after 3 decimals)
A land survey map (no larger than 11" x 17") must be provided which clearly shows the following information:				
1. Boundaries of the proposed Development site; 2. Location of the Tie-Breaker Measurement Point; and 3. The scale of the map.				
If an Address for the service(s) is not included on Street Atlas USA, Version 9.0, state the name and latitude/longitude coordinates of the closest service(s) on the chart below. Determination of the location coordinates should be made at the main entrance used by the general public.				
	Latitude		Longitude	
Name of grocery store Just 99 Cents	<u>26</u> Degrees	<u>01.994</u> Minutes (truncated after 3 decimals)	<u>-80</u> Degrees	<u>09.094</u> Minutes (truncated after 3 decimals)
Name of public school	___ Degrees	___ Minutes (truncated after 3 decimals)	___ Degrees	___ Minutes (truncated after 3 decimals)
Name of medical facility	___ Degrees	___ Minutes (truncated after 3 decimals)	___ Degrees	___ Minutes (truncated after 3 decimals)

If Florida Housing discovers that there are any false statements made in this certification, Florida Housing will forward a copy to the State of Florida Department of Business and Professional Regulation for investigation.

CERTIFICATION

Under penalties of perjury, I declare that the foregoing statement is true and correct.

[Signature] Date 6/25/02 Name of Surveyor Don P. Proud / Ralph D. Denuzzio & Associates, Inc.

Print or Type Name Don P. Proud Address 6100 Boulevard of Champions

Professional Surveyor, Mapper Print or Type Title North Lauderdale, Florida 33069

#LS4037 Florida License Number Telephone Number (including area code) (954) 969-5100

This certification may not be signed by the Applicant, by any related parties of the Applicant, or by any Principals or Financial Beneficiaries of the Applicant. If the certification is inappropriately signed, the Application will not receive proximity tie-breaker points. If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

Exhibit 21

EXHIBIT

D

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