
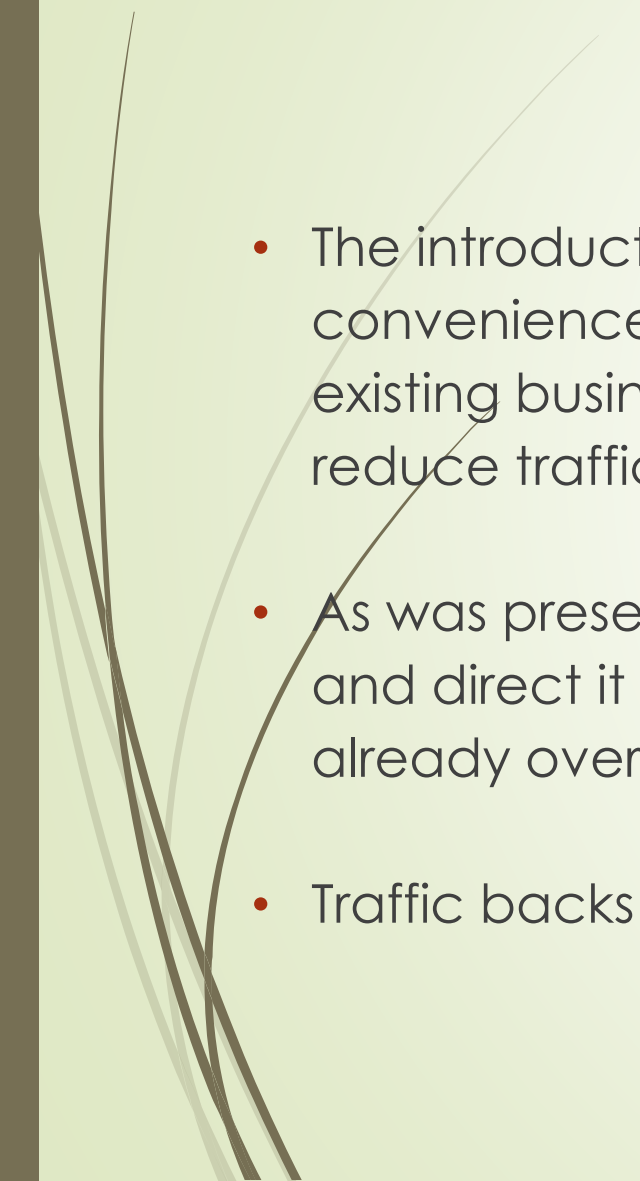


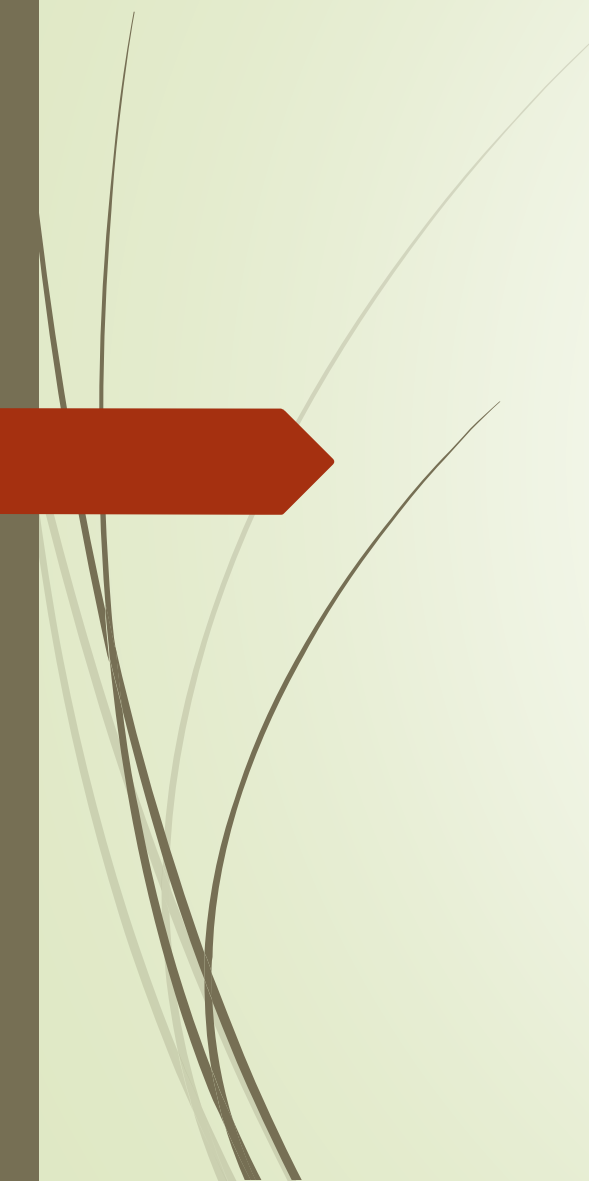



THE COMPREHENSIVE PLAN DESIGNATES THE 7-ELEVEN PROPERTY AS MIXED USE WEST THE PROPERTY IS ZONED MIXED USED WEST

- The planning theory for mixed use land use is that the combination of uses will work together to minimize traffic and the uses will compliment one another
- To achieve this planning theory there must be a mix of uses that works.
- The area where the 7-Eleven is proposed consists of office and commercial workplace uses. These uses are a significant tax base for the City.

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- The introduction of a Regional Highway Use with 14 fueling positions, a huge convenience store, and a fast food restaurant is not complimentary to the existing businesses and it certainly will not work in synergy with the office uses to reduce traffic – just the opposite.
 - As was presented to the P&Z Board, the 7-Eleven use will pull traffic from I-95 and direct it to an intersection, Barnett Drive and 10th Avenue North which is already over capacity.
 - Traffic backs up from Barnett, north to the school.



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- At the Planning & Zoning Hearing, we presented two experts:
 - Dr. William Whiteford a Planning Professor at UF and Planning Consultant. Dr. Whiteford was also the Director of Zoning at Palm Beach County for many years.
 - Mr. Masoud Atefi an expert in transportation planning. Mr. Atefi was the Supervisor of the PBC Traffic Engineering Division for 15 years, where he supervised the review of every Traffic Report submitted by every developer in the cities and counties of Palm Beach County



Dr. Whiteford's findings re the 7-Eleven Application

- Not consistent with the City's Comp Plan Policies, specifically land use and traffic.
- The project is not consistent with Future Land Use Element Policy 1.1.1.6
- The project is not consistent with Transportation Element Policies 2.1.4.23. and 2.1.4.7.
- Policy 1.1.1.6 states:

“The Mixed Use-West category is intended to provide for a mixture of residential, office, service and commercial retail uses within specific areas west of I-95.”

The intent of the Policy is to promote development with a mix of two or more distinct uses.

The proposed 7-Eleven application is **100% commercial retail uses.**

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- The project would not meet Policy 2.1.4.3 which states:

“Heavy traffic generating land uses (as defined in the City’s LDRs) **shall be carefully considered** before permitting along Tenth Avenue North immediately west of I-95.” *(emphasis added)*


- Heavy traffic land uses include vehicular uses and are typically located at a major intersection
- The proposed 7-Eleven) is a *High Intensity Vehicular Uses* according to the City’s Code (Definitions and Sec. 23.3-6. - Use Tables)



The 7-Eleven project is not consistent with Policy 2.1.4.7 states:


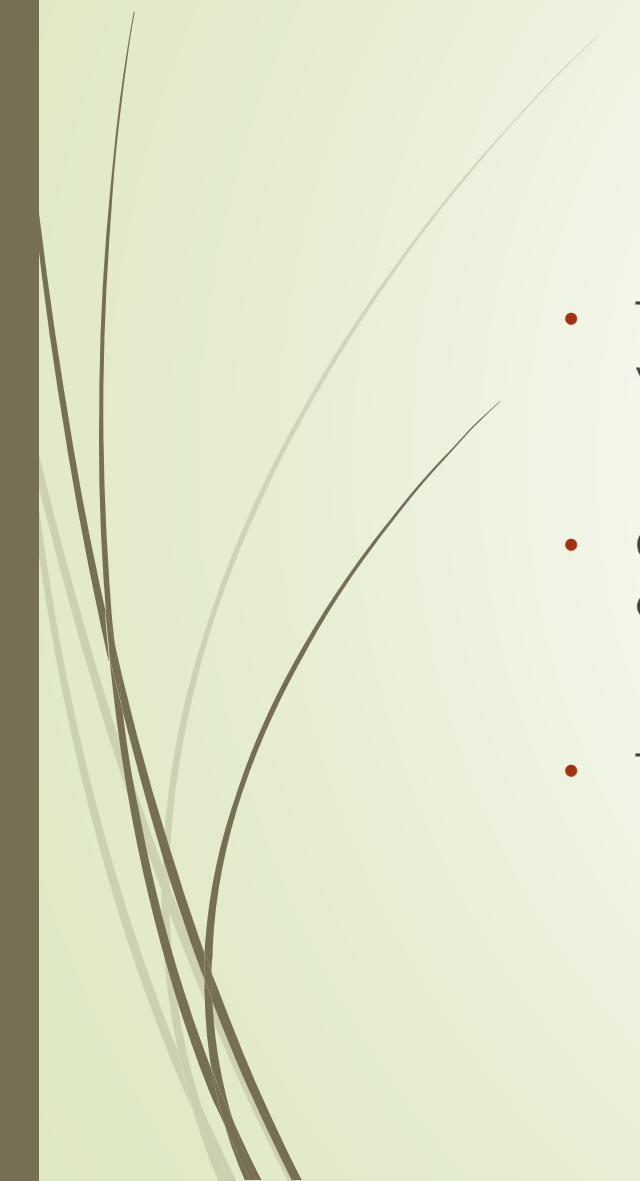
“The City shall encourage the development of mixed-use development to reduce the need for vehicular trips.”

- The intersection of 10th Avenue North and Barnett Drive is not a major intersection
- Barnett Drive provides direct access to Lake Worth Middle School
- **Careful consideration** of the introduction of a *High Intensity Vehicular Use* to a congested area that includes a school and related pedestrian activity should result in the conclusion that the proposed use at this location is not consistent with this Policy



Dr. Whiteford also testified that the 7-Eleven application did not meet the Criteria for a Conditional Use

- Conditional uses are allowed in the MU-W district subject to meeting the following specific criteria:
- *“to ensure they will not created excessive problems for through traffic or have a negative impact on nearby residential areas or the commercial viability of their neighbors” (emphasis added)*
- As demonstrated by the traffic expert, the proposed project increases traffic congestion in the area, and adversely affects the viability of commercial redevelopment on the established neighboring commercial properties.

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- There was no evidence introduced at the P&Z Hearing regarding the variance necessary and upon which the Site Plan relies;
 - Consequently, Dr. Whiteford demonstrated that the Site Plan Criteria cannot be met without the variance.
 - The variance approval by the P&Z Board is currently on appeal.

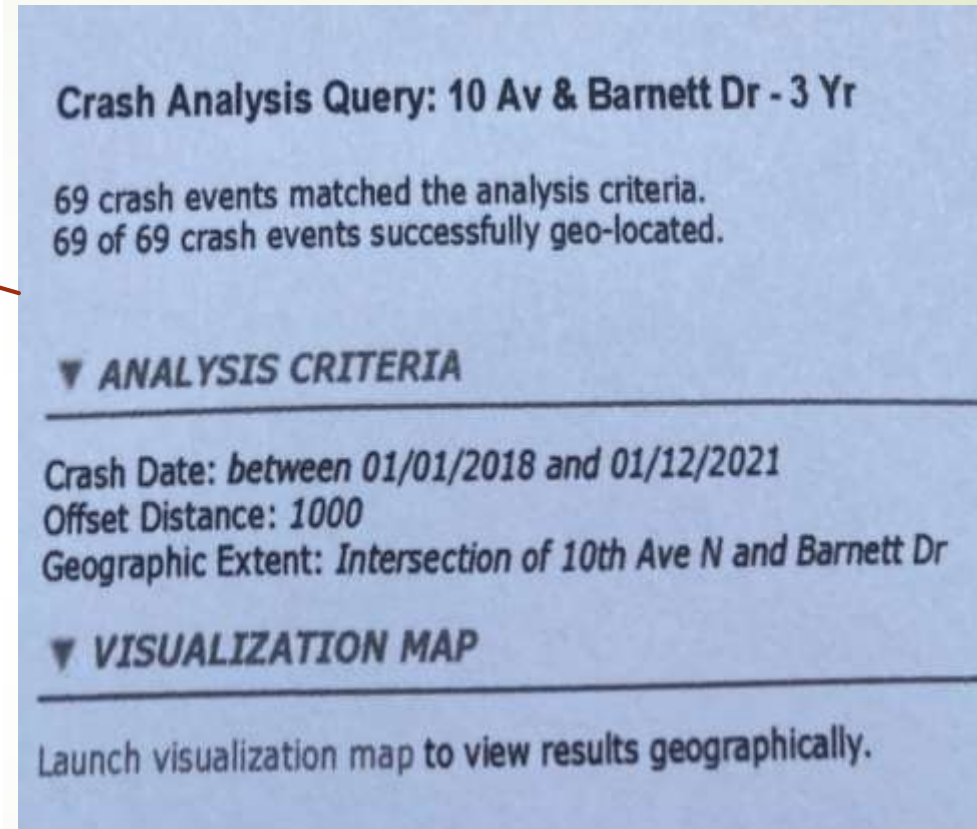
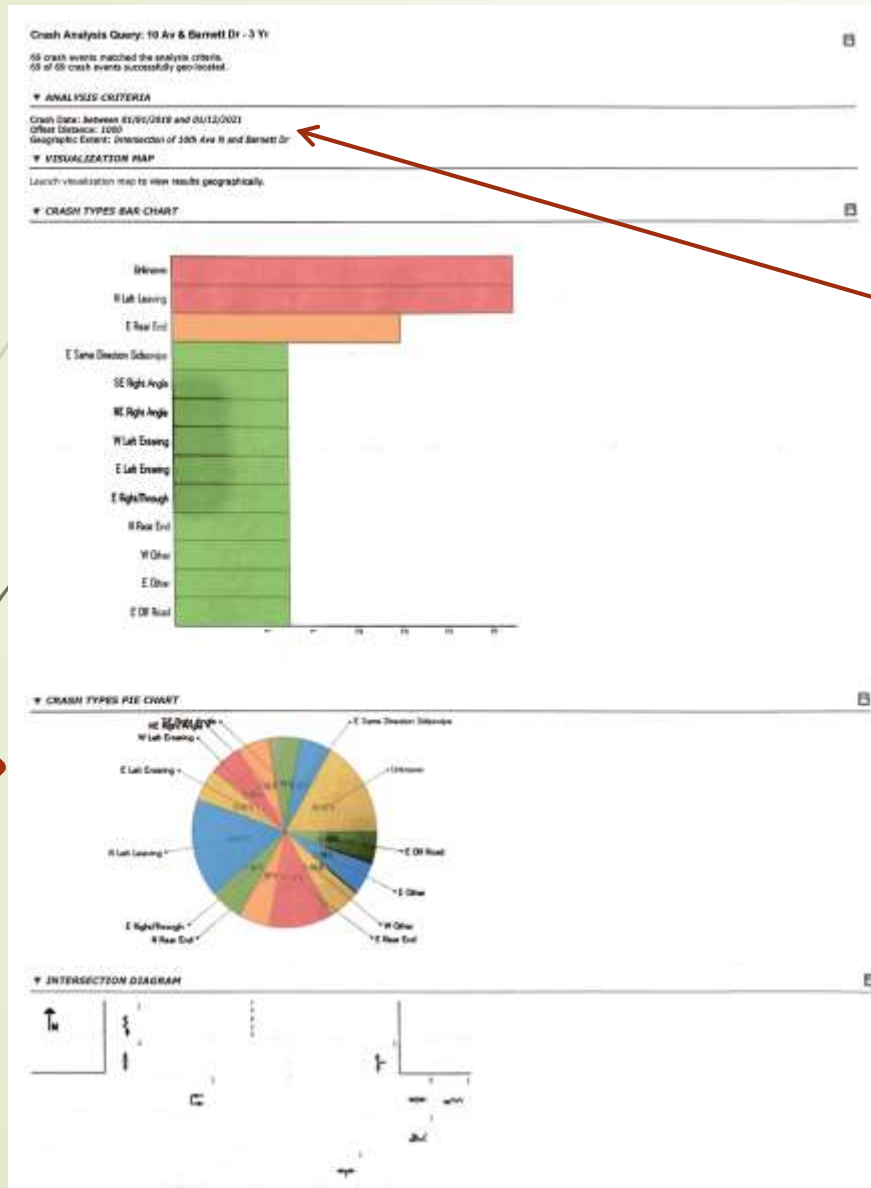


Mr. Altefi - Expert testimony that the Barnett Drive and 10th Avenue North intersection Fails

- Traffic backs up at this intersection
- The left turn from this intersection heading east is **unsafe**, which he demonstrated by producing Intersection Crash Data from the County.

Palm Beach County Intersection Crash Analysis

10th Ave N./Barnett Dr. - 3 Years Data (1/1/2018 to 1/12/2021)

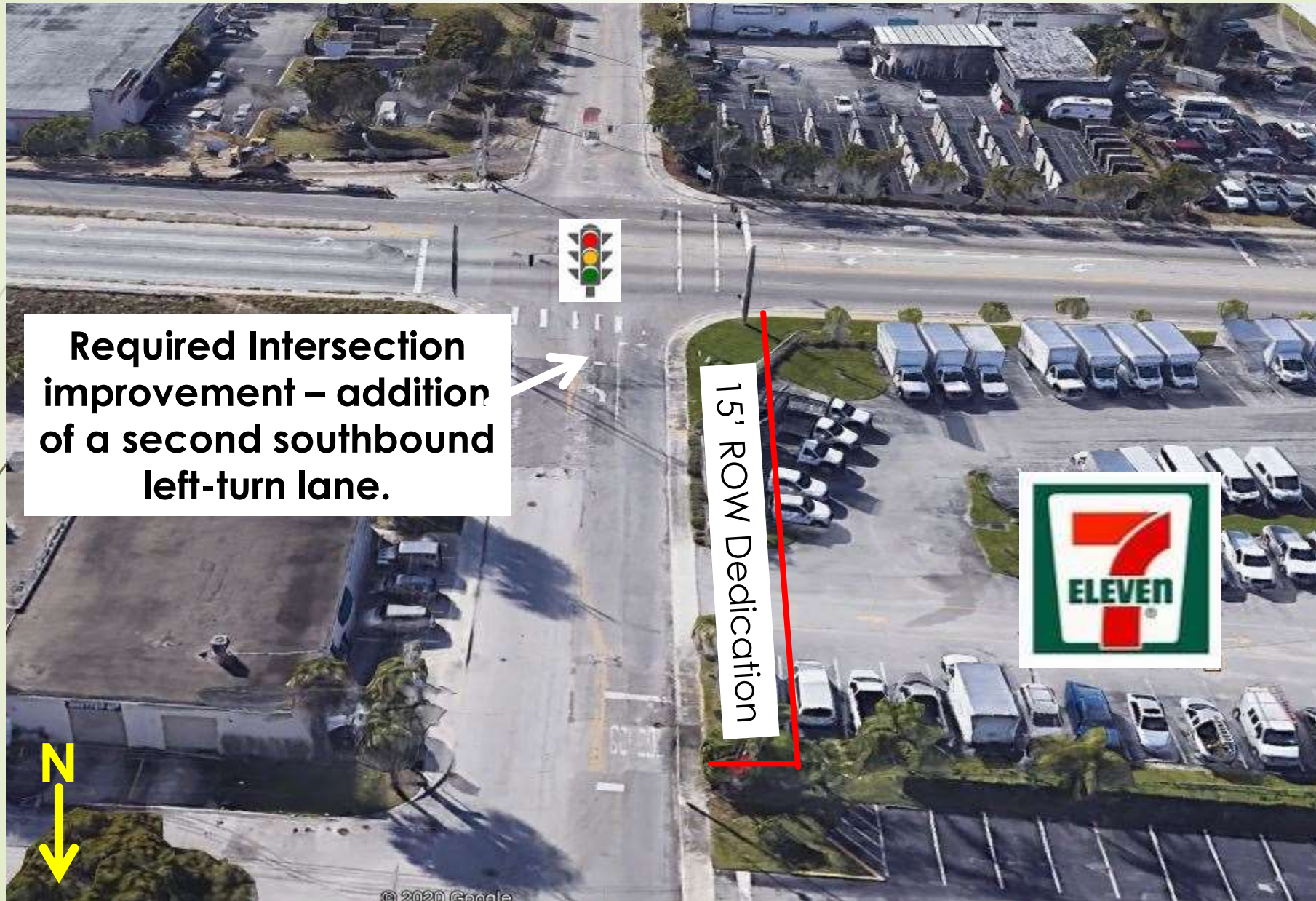




Mr. Altefi testified that

- To make this intersection close to safe and allow it to function, a turn lane would have to be added by the developer to its property.
- The Developer's attorney argued that the City should **FUND** this needed safety improvement.

Required Intersection Improvement





Legal Consequences:

- City cannot approve development that is NOT CONSISTENT with it's Plan's policies – Sections 163.3161(6) and 163.3194(1), F.S.
- The approval of a project that is not consistent with the policies of the City's Comprehensive Plan exposes the City to a lawsuit from the businesses which have formed its economic base for many years.



Legally Defensible Motion

- The Planning & Zoning decision was 1) not based on Competent Substantial Evidence because 7-Eleven's evidence was not sufficiently relevant and material to lead a reasonable mind to accept it as adequate to support an approval. 2) The Board's decision did not comply with the essential requirements of law because it was not consistent with Comprehensive Plan policies and did not meet the criteria in the zoning code and the conditional use criteria in the Code.
- Finally, the Board had no evidence on the variance at the second hearing, therefore the site plan did not meet setback criteria of the code for site plans.



IS THE PRESERVATION OF THE CITY'S EXISTING BUSINESSES
IMPORTANT?

WHO DO YOU SUPPORT, THE FRANCHISED CORPORATE GIANT OR
THE LOCAL BUSINESSMEN AND THEIR BUSINESSES THAT HAVE
CONTRIBUTED TO THE CITY'S TAX BASE FOR DECADES?