

CITY OF HIALEAH FIRE STATION #6

Issue: Accessible toilet facilities in firefighter living quarters.

Analysis: The applicant is requesting a waiver from providing accessible toilets and showers in the portion of the building that is not open to the public and occupied only by licensed firefighters. NFPA Standard 1582 and Sections 633-30-633.35, F. .S. prohibit individuals with mobility impairments from function in the capacity of a firefighter. Accessible toilet facilities have been provided in the areas of the building serving the public. The project will cost \$873,000 and the City elected to have it designed in accordance with UFAS which in Section 4.1(5) permits areas that are not open to the public and in which persons with disabilities cannot perform required job functions to be inaccessible.

Project Progress:

The project is in plan review.

Items to be Waived:

Accessible toilet facilities for firefighters. Note: Because the building has been designed according to UFAS, there is no corresponding section of the Florida Code.

Waiver Criteria: There is no specific guidance for a waiver of this requirement in the code. The Commission's current rule, authorized in Section 553.512, Florida Statutes, provides criteria for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS
OF CHAPTER 553, PART V, FLORIDA STATUTES**

Your application will be reviewed by the Accessibility Advisory Council and its recommendations will be presented to the Florida Building Commission. You will have the opportunity to answer questions and/or make a short presentation, not to exceed 15 minutes, at each meeting. The Commission will consider all information presented and the Council's recommendation before voting on the waiver request.

1. Name and address of project for which the waiver is requested.

Name: City of Hialeah Fire Station #6

Address: Fire Station #6 780 West 25th Street, Hialeah, Florida 33012

2. Name of Applicant. If other than the owner, please indicate relationship of applicant to owner and written authorization by owner in space provided:

Applicant's Name: Otto Drozd III

Applicant's Address: 83 East 5th Street, Hialeah, Florida 33010

Applicant's Telephone: (305) 883-6909 **FAX:** (305) 883-5991

Applicant's E-mail Address: odrozd@hialeahfl.gov

Relationship to Owner: City of Hialeah Fire Chief

Owner's Name: City of Hialeah

Owner's Address: 501 Palm Avenue, Hialeah, Florida 33010

Owner's Telephone: (305) 883-5800 **FAX:** (305) 883-5992

Owner's E-mail Address: Mayor@hialeahfl.gov

Signature of Owner: _____

Contact Person: Otto Drozd III

Contact Person's Telephone: (305) 883-6909 **E-mail Address:** odrozd@hialeahfl.gov

Approved as to form and
legal sufficiency:

William Grodnick
William M. Grodnick
City Attorney

Form No. 2001-01

3. Please check one of the following:

New construction.

Addition to a building or facility.

Alteration to an existing building or facility.

Historical preservation (addition).

Historical preservation (alteration).

4. Type of facility. Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)

The building will be a one story 6014 sq ft. Fire Station. A fire station is operational 24 hours a day, 7 days a week and its occupants are firefighters as defined by and meeting the requirements of Florida Statutes 633.30- 633.35. This facility will serve as a central location in which to provide the community with a full array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility.

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration): Approximately \$1,000,000

6. Project Status: Please check the phase of construction that best describes your project at the time of this application. Describe status.

Under Design Under Construction*

In Plan Review Completed*

* Briefly explain why the request has now been referred to the Commission.

7. Requirements requested to be waived. Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived.

Issue

1: Florida Statutes Title XXXIII Regulation of Trade, Commerce, Investments, and Solicitations Chapter 553 Part II Accessibility by Handicapped Persons Section 553.503, FL Statutes that state "This code shall apply to State & Local Governmental Facilities"

Issue

2: Florida Statutes Title XXXIII Regulation of Trade, Commerce, Investments, and Solicitations Chapter 553 Part II Accessibility by Handicapped Persons Section 553.504 Exceptions to applicability of the guidelines (12) a-c

Issue

3: Chapter 11 Florida Accessibility Code for Building Construction Part A 11-4 Accessible Elements and Spaces: Scope Technical requirements 11-4.1.2 (6), 11-4.22 Toilet Rooms, 11-4.23 Bathrooms, Bathing Facilities, and Shower Rooms.

8. **Reason(s) for Waiver Request:** The Florida Building Commission may grant waivers of Florida-specific accessibility requirements upon a determination of unnecessary, unreasonable or extreme hardship. Please describe how this project meets the following hardship criteria. Explain all that would apply for consideration of granting the waiver.

The hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

The hardship is a result of a condition that is not accounted for the under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify as Florida Statutes 633.30-633.35, govern a firefighter. Under these sections there is a requirement that a firefighter be in good physical condition as outlined by the National Fire Protection Association (NFPA) Standard 1582. Not under any circumstance would an individual with a disability be qualified to be a Firefighter. Therefore, making the requirement of the accessibility code impractical for those areas of fire the station that would not be open to the public.

Substantial financial costs will be incurred by the owner if the waiver is denied.

The owner has made a **diligent investigation** into the costs of compliance with the code, but cannot find an efficient mode of compliance. Provide detailed cost estimates and, where appropriate, photographs. Cost estimates must include bids and quotes.


9. Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data which may affect the cost estimates. For example, for vertical accessibility, the lowest documented cost of an elevator, ramp, lift or other method of providing vertical accessibility should be provided, documented by quotations or bids from at least two vendors or contractors.

a. Each bathroom would require the following:	Labor	Materials
1. Wood backing for grab bars lavatories and accessories	60.00	25.00
2. Grab bars at toilet (1-36" and 1-42")	30.00	53.00
3. Grab bars at showers (1-18" and 1-30" or 1-L shape	30.00	46.00
4. Shower control and hc kit	100.00	170.00
5. Shower Seat	60.00	250.00
6. Handicap Toilet instead of standard	<u>75.00</u>	<u>120.00</u>
	355.00	664.00
	\$1019	

b. 5 Bathrooms 5 @ 1019= \$5095.00
 Engineering Fee \$3000.00
 Total \$8095.00

10. **Licensed Design Professional:** Where a licensed design professional has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary. The following comments pertain to: 1) New Fire Station #6, 780 West 25th Street. As per Federal Register 28 CFR Part 35 Section 35.151 and 36 CFR Part 1191. The Department of Justice's Title II Regulations give state and local governments the option of choosing between designing constructing or altering their facilities in conformance with UFAS or with ADAAG. We choose to use UFAS which includes an Occupancy Classification Section that is not included in the ADA. This Section 4.1.4(5) deals with fire stations and states that the application of the code should apply to: "All Areas for Which the Intended Use will Require Public Access or Which May Result in Employment of Physically Handicapped Persons." Based on this we contend that the bathrooms for the firefighters do not need to comply with accessibility requirement.

Please note, that we are providing an accessible toilet room in the front part of the station where the public will have access.

Signature 
 Printed Name _____
 Phone number _____

Angel H. Lamela
 City Architect
 Construction & Maintenance
 City of Hialeah
 900 East 56th Street
 Hialeah, FL 33013
 (305) 687-2682

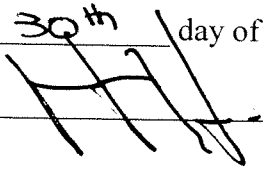
(SEAL)

CERTIFICATION OF APPLICANT:

I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this 30th day of JANUARY, 2008

Signature



Otto Drozd, III
Printed Name

By signing this application, the applicant represents that the information in it is true, accurate and complete. If the applicant misrepresents or omits any material information, the Commission may revoke any order and will notify the building official of the permitting jurisdiction. Providing false information to the Commission is punishable as a misdemeanor under Section 775.083, Florida Statutes.

REVIEW AND RECOMMENDATION BY LOCAL BUILDING DEPARTMENT.

Please state why the issue is being referred to the Florida Building Commission as well as a recommendation for disposition. The Building Official or his or her designee should review the application and indicate that to the best of his or her knowledge, all information stipulated herein is true and accurate. Further, if this project is complete, explain why it is being referred to the Commission. The Building Official or his or her designee should sign a copy of the plans accompanying this application as certification that such plans are the same as those submitted for building department review. Please reference the applicable section of the Accessibility Code.

The section enclosed in shaded box, page 4 of FAC 1997 indicating changes to the ADA Accessibility Guidelines (ADAAG) and specifically item 1. Purpose-Section (3) stating that "This Code shall also apply: to state and local government facilities pursuant to F.S. 553.503". Instead I request to use the Uniform Federal Accessibility Standards (UFAS)

Has there been any permitted construction activity on this building during the past three years? If so, what was the cost of construction?

Yes No Cost of Construction _____

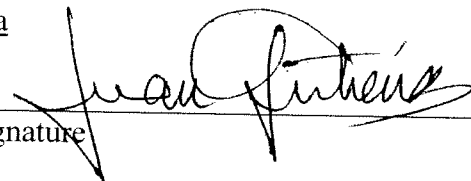
Comments/Recommendation The City of Hialeah, Florida has selected the option of designing an alteration to an existing fire station in conformance with the Uniform Federal Accessibility Standards (UFAS). Based on Florida Statutes 633.30-633.35 and specifically F.S. 633.34(5) these facilities shall not have any firefighters that is either temporarily or permanently disabled.

My recommendation is for approval. To the best of my knowledge and belief, all information stipulated here is true and accurate.

Jurisdiction City of Hialeah, Florida

Building Official or Designee

Signature



Printed Name:

Juan Gutierrez, Building Official
Certification Number: BU-0000970
501 Palm Avenue
Hialeah, Florida 33010
Telephone: (305) 883-5830
Fax: (305) 883-5949

Form No.: 2001-02, Page 1 of 2

Certification of Licensed Design Professional for Replicated Designs to be Placed on Consent Agenda

Note: This form is to be used only for cases in which design documents are duplicates of previously approved waivers and the project can be placed on a Consent Agenda pursuant to Rule 9B-7.003(3), Florida Administrative Code.

I, Angel H. Lamela, City Architect a licensed architect/engineer in the state of Florida, whose Florida license number is AR 0009520, hereby state as follows:

1. I am the architect/engineer of record for the project known as (name of project) Fire Station #6, 780 West 25th Street, Hialeah, Florida 33012, for which the Owner seeks a waiver of one or more accessibility requirements in an application to which this Certification is attached.
2. I hereby certify that to the best of my knowledge and belief to the Florida Building Commission that the design documents for the (insert project described in paragraph 1 above) Fire Station #6, 780 West 25th Street, Hialeah, Florida 33012 are the same as the design documents previously submitted to the Commission and referenced in paragraph 3 below, except that the two projects are built or to be built on different parcels of land at different locations.
3. The licensed design professional of record (identify the licensed design professional of record), Angel H. Lamela, prepared the design documents for the project known as Fire Station #8, Fire Station #2 and Fire Station #3, for which the majority of the Accessibility Advisory Council recommended approval and the Commission granted a waiver of one or more accessibility requirements in Final Order Nos. DCA 04-HC-012, DCA 04-HC-011, DCA 06-HC-203.

Printed Name: Angel H. Lamela, City Architect

Affix certification seal below:

Address: 900 East 56 Street, Hialeah, Florida 33013

Telephone: (305) 687-2682

Fax: (305) 687-2642

E-Mail Address: alamela@hialeahfl.gov

Certification of Applicant for Replicated Designs to be Placed on Consent Agenda

Note: This form is to be used only for cases in which design documents are duplicates of previously approved waivers and the project can be placed on a Consent Agenda pursuant to Rule 9B-7.003(3), Florida Administrative Code.

City of Hialeah, am applying for placement on the Consent Agenda pursuant to Rule 9B-7.003(3), Florida Administrative Code. I (check one of the following and complete blanks):

am the owner of this Project (name of project) Fire Station # 6, 780 West 25th Street, 33012,

and was the owner of the project known as Fire Station #8, Fire Station #2 and Fire Station #3,

am the franchisee of this Project (name of project) N/A,

am under the same franchiser (name of franchiser) N/A

who was the franchiser of the project known as _____,

am the licensee of this Project (name of project) _____,

am under the same licensor (name of licensor) _____,

who was the licensor of the project known as _____,

for which the majority of the Accessibility Advisory Council recommended approval, and the Florida Building Commission granted a waiver of one or more accessibility requirements in Final Order Nos. DCA 04-HC-012, DCA 04-HC-011, DCA 06-HC-203.

I hereby swear or affirm that the above information to the best of my knowledge is true and correct.

Dated this 30 day of JANUARY, 20 08

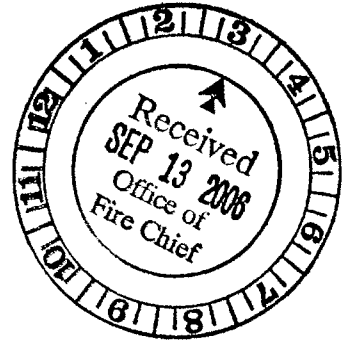
Angel H. Lamela
Signature

Angel H. Lamela, City Architect
Printed Name

Providing false information to the Florida Building Commission is punishable as a misdemeanor under Section 775.083, Florida Statutes.

MC

STATE OF FLORIDA
BUILDING COMMISSION



In the Matter of)
CITY OF HIALEAH)
FIRE STATION #8,)
Petitioner)
_____)

No. DCA06-HC-203

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION #8 came for consideration before the State of Florida Building Commission (the Commission) in accordance with section 553.512(1), Fla. Stat. (2006), and Fla. Admin. Code R. Ch. 9B-7 (2006), at the meeting of the Commission on August 22, 2006, upon a consensus opinion of the Accessibility Advisory Council (the Council) members in attendance. At that meeting, the Commission made the following findings of fact:

1. The Owner is City of Hialeah, 501 Palm Avenue, Hialeah, Florida 33010 ("the Owner").
2. The Applicant is Otto Drozd III, City of Hialeah Fire Chief, 83 East 5th Street, Hialeah, Florida 33010 ("the Applicant"). The Applicant did not appear before the August 21, 2006 meeting of the Council, but the City was represented at this meeting by Melissa Negron.
3. The project for which the Applicant is seeking a waiver is the \$873,000 new construction of a fire station. The facility will serve as a central location in which to provide the community with a full array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility. The project is located at 5405 West 18th Avenue, Hialeah, Florida 33013.

4. The owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4.1.2(6) (Accessible Elements and Spaces: Scope Technical Requirements), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship that would result from the literal application of these requirements to its project is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under § 633.30 – 633.35, Fla. Stat., (2005) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter. The Applicant contends that the firefighters bunk room area is not a public area and that the firefighters must be able bodied in accordance with state law. The new fire station will have a fully accessible toilet room in the front area of the station, to which the public will have access. Firefighters who are injured and rendered temporarily unable to perform firefighting duties are normally assigned to desk work during their recover. They would not be working in the firefighters' bunkroom area of the station, and they would be able to use the fully accessible bathroom in the front part of the station.

6. The owner believes that under 28 C.F.R. § 35.151 (2006) and 36 C.F.R. Part 1191 (2006), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With

Disabilities Act Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently from ADAAG and specifies that it is to be applied to “all areas for which the intended use will require public access or which may result in employment of physically handicapped persons.” Based on the UFAS requirements, the Owner contends that the non-public bathrooms for use only by the firefighters do not need to comply with accessibility requirements.

7. The owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all three of the accessible toilet and shower rooms located in the non-public portion of the fire station is estimated at \$6,057;00

8. The consensus opinion of Council members present was to recommended approval of a waiver from the requirements found in Section 11-4.1.3(11), Florida Building Code, Building Volume, based on unnecessary hardship pursuant to § 553.512, Fla. Stat., 2005, and in favor of the UFAS design criteria. The recommendation is contingent on the use of the building remaining a fire station, and should the occupant use change a new waiver application must be filed.

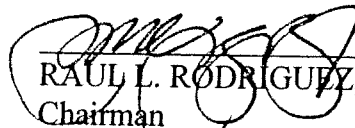
Having considered the foregoing information, together with the consensus opinion of the Council members present, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED subject to the conditions noted.

This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, section 553.501 et seq., Fla. Stat. (2005), and other than as modified by this Final Order, any construction or post construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans With Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitting authority for the project. section 553.513, Fla. Stat. (2005). Nothing in this Final Order shall be construed to relieve the Owner of any duties it may have under the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. 12101 et seq. (2000), or the regulations under the Act. The waiver granted in this Final Order shall expire one (1) year from the date of the Order unless the construction has commenced within that time.

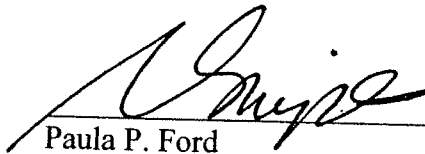
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Fla. Stat. (2005), and Fla. R. App. P. 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Fla. Stat. (2005).

DONE AND ORDERED this SIXTH OF SEPTEMBER 2006 in Coral Gables, Miami Dade County, State of Florida.


RAUL L. RODRIGUEZ, AIA
Chairman
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF FILING AND SERVICE

I HEREBY CERTIFY that the above document has been filed with the Department's designated Agency Clerk and that true and correct copies have been furnished to the persons listed below in the manner described, on the 8th day of Sept, 2006

for 

Paula P. Ford
Agency Clerk

By U.S. Mail to:

Neil Melick
Chairman,
Advisory Accessibility Council
City of West Palm Beach
P.O. Box 3366
West Palm Beach, Florida 33042-3366

Otto Drozd III
Fire Chief
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

Juan Gutierrez
Building Official City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

Angel H. Lamela
City Architect
Construction and Maintenance
City of Hialeah
900 East 56 Street
Hialeah, Florida 33013

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**LAW DEPARTMENT
City of Hialeah**

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of)
CITY OF HIALEAH FIRE)
STATION 2,)
Petitioner)
_____)

No. DCA04-HC-012

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION 2 came for consideration before the State of Florida Building Commission (the "Commission") in accordance with § 553.512(1), Fla. Stat. (2002), and Fla. Admin. Code R. Ch. 9B-7 (2002), at the meeting of the Commission on January 13, 2004 upon a recommendation by the Accessibility Advisory Council (the "Council"). At that meeting, the Commission made the following findings of fact:

1. The Owner is the CITY OF HIALEAH, 501 Palm Avenue, Hialeah, Florida 33010.

2. The Owner was represented by MELISSA NEGRON, Assistant City Attorney, 501 Palm Avenue, Hialeah, Florida 33010, and OTTO DROZD III, Fire Chief, 83 East 5th Street, Hialeah, Florida 33010, at the meeting of the Council on January 12, 2004.

3. The project for which the Owner is seeking a waiver is a one story 8,500 square foot Fire Station which will serve as a central location in which to provide the community with a full

array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility.

4. The requirements for which the Owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4-1.2(6), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under §§ 633.30 - 633.35, Fla. Stat., (2002) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter.

6. The Owner believes that under 28 C.F.R. § 35.151 (2003), and 36 C.F.R. Part 1191 (2003), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With Disability Act

Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently than ADAAG and specifies that it is to be applied to "all areas for which the intended use will require public access or which may result in employment of physically handicapped persons." Based on the UFAS requirements, the Owner contends that the non-public bathrooms for the firefighters do not need to comply with accessibility requirements.

7. The Owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all five of the accessible toilet and shower rooms located in the non-public portion of the fire station is estimated at \$8,095.

8. Based on its consideration of the foregoing information, the description of the construction, the representations by the Owner, and the applicable legal requirements, the Council unanimously recommended that the Application for Waiver be granted based on unnecessary hardship pursuant to § 553.512 Fla. Stat., (2003), and in favor of the UFAS design criteria.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED.

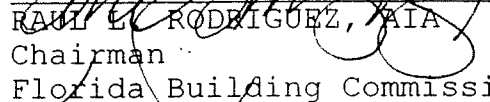
This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, § 553.501 et seq., Fla. Stat. (2002), and other than as modified by this Final Order, any construction or post construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans With Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitting authority for the project. § 553.513, Fla. Stat. (2002). Nothing in this Final Order shall be construed to relieve the Owner of any duties it may have under the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. § 12101 et seq. (2000), or the regulations under the Act. The waiver granted in this Final Order shall expire one (1) year from the date of the Order unless the construction has commenced within that time.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with § 120.68(2)(a), Fla. Stat. (2002), and Fla. R. App. P. 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 and with the appropriate District Court of Appeal not

later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by § 35.22(3), Fla. Stat. (2002).

DONE AND ORDERED this January 29, 2004 in Coral Gables, Miami Dade County, State of Florida.


RAUL L. RODRIGUEZ, AIA
Chairman
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Copies To:

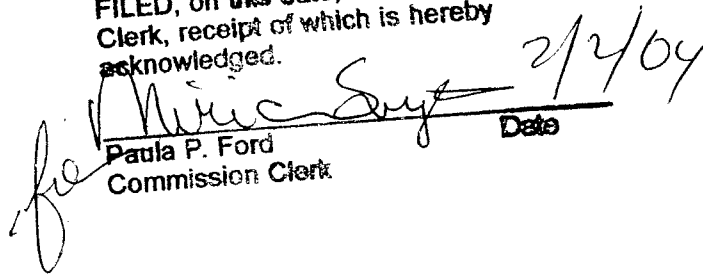
Neil Melick, Chairman,
Advisory Accessibility Council
City of West Palm Beach
P.O. Box 3366
West Palm Beach, Florida 33042-3366

Melissa Negron
Assistant County Attorney
501 Palm Avenue
Hialeah, Florida 33010

Angela H. Lamela
City Architect
Construction and Maintenance
900 East 56 Street
Hialeah, Florida 33010

Juan Guitierrez
Building Official
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.


Paula P. Ford
Commission Clerk

Date
2/2/04

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of)
CITY OF HIALEAH FIRE)
STATION 3,)
)
Petitioner)
_____)

No. DCA04-HC-011

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION 3 came for consideration before the State of Florida Building Commission (the "Commission") in accordance with § 553.512(1), Fla. Stat. (2002), and Fla. Admin. Code R. Ch. 9B-7 (2002), at the meeting of the Commission on January 13, 2004 upon a recommendation by the Accessibility Advisory Council (the "Council"). At that meeting, the Commission made the following findings of fact:

1. The Owner is the CITY OF HIALEAH, 501 Palm Avenue, Hialeah, Florida 33010.

2. The Owner was represented by MELISSA NEGRON, Assistant City Attorney, 501 Palm Avenue, Hialeah, Florida 33010, and OTTO DROZD III, Fire Chief, 83 East 5th Street, Hialeah, Florida 33010, at the meeting of the Council on January 12, 2004.

3. The project for which the Owner is seeking a waiver is a two story 8,970 square foot Fire Station which will serve as a central location in which to provide the community with a full

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**LAW DEPARTMENT
City of Hialeah**

array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility.

4. The requirements for which the Owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4-1.2(6), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under §§ 633.30 - 633.35, Fla. Stat., (2002) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter.

6. The Owner believes that under 28 C.F.R. § 35.151 (2003), and 36 C.F.R. Part 1191 (2003), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With Disability Act

Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently than ADAAG and specifies that it is to be applied to "all areas for which the intended use will require public access or which may result in employment of physically handicapped persons." Based on the UFAS requirements, the Owner contends that the non-public bathrooms for the firefighters do not need to comply with accessibility requirements.

7. The Owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all six of the accessible toilet and shower room located in the non-public portion of the fire station is estimated at \$12,614.

8. Based on its consideration of the foregoing information, the description of the construction, the representations by the Owner, and the applicable legal requirements, the Council unanimously recommended that the Application for Waiver be granted based on unnecessary, and extreme financial hardship pursuant to § 553.512 Fla. Stat., (2003).

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED.

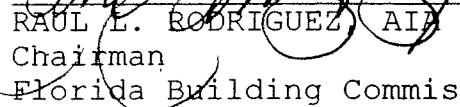
This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, § 553.501 et seq., Fla. Stat. (2002), and other than as modified by this Final Order, any construction or post construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans With Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitting authority for the project. § 553.513, Fla. Stat. (2002). Nothing in this Final Order shall be construed to relieve the Owner of any duties it may have under the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. § 12101 et seq. (2000), or the regulations under the Act. The waiver granted in this Final Order shall expire one (1) year from the date of the Order unless the construction has commenced within that time.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with § 120.68(2)(a), Fla. Stat. (2002), and Fla. R. App. P. 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 and with the appropriate District Court of Appeal not

later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by § 35.22(3), Fla. Stat. (2002).

DONE AND ORDERED this January 29, 2004 in Coral Gables, Miami Dade County, State of Florida.


RAUL L. RODRIGUEZ, AIA
Chairman
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Copies To:

Neil Melick, Chairman,
Advisory Accessibility Council
City of West Palm Beach
P.O. Box 3366
West Palm Beach, Florida 33042-3366

Melissa Negron
Assistant County Attorney
501 Palm Avenue
Hialeah, Florida 33010

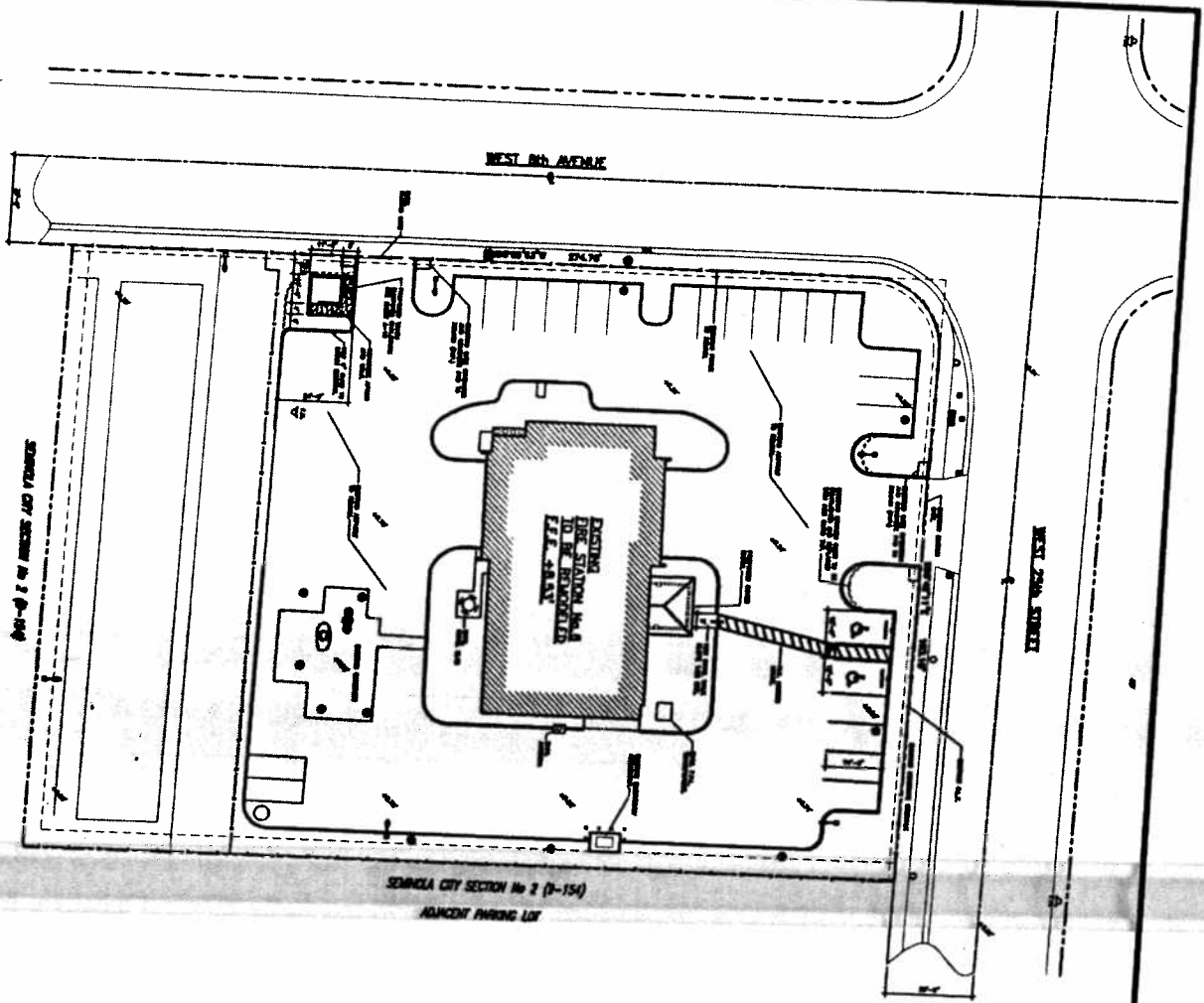
Angela H. Lamela
City Architect
Construction and Maintenance
900 East 56 Street
Hialeah, Florida 33010

Juan Guitierrez
Building Official
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

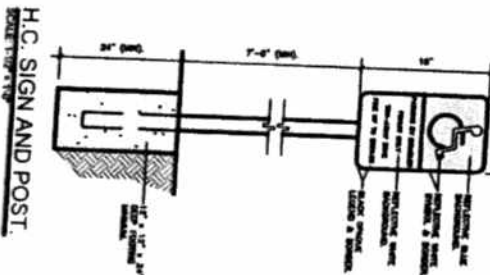
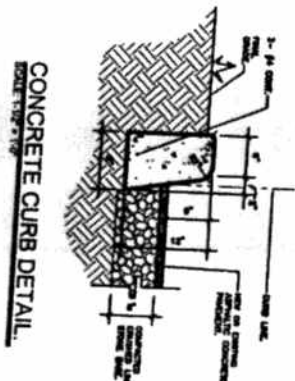
FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.


Paula P. Ford
Commission Clerk

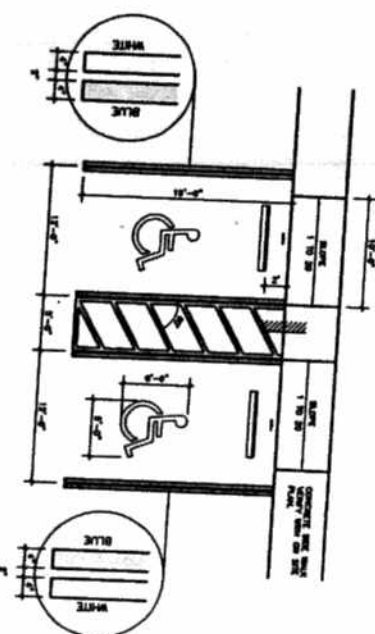
2/2/04
Date



ACCESSIBILITY INFORMATION:
 1. THIS PLAN SHOWS THE GENERAL LOCATION OF ACCESSIBLE PARKING SPACES.
 2. THE EXACT LOCATION OF EACH SPACE SHALL BE DETERMINED BY THE FIELD ENGINEER.
 3. THE EXACT LOCATION OF EACH SPACE SHALL BE DETERMINED BY THE FIELD ENGINEER.
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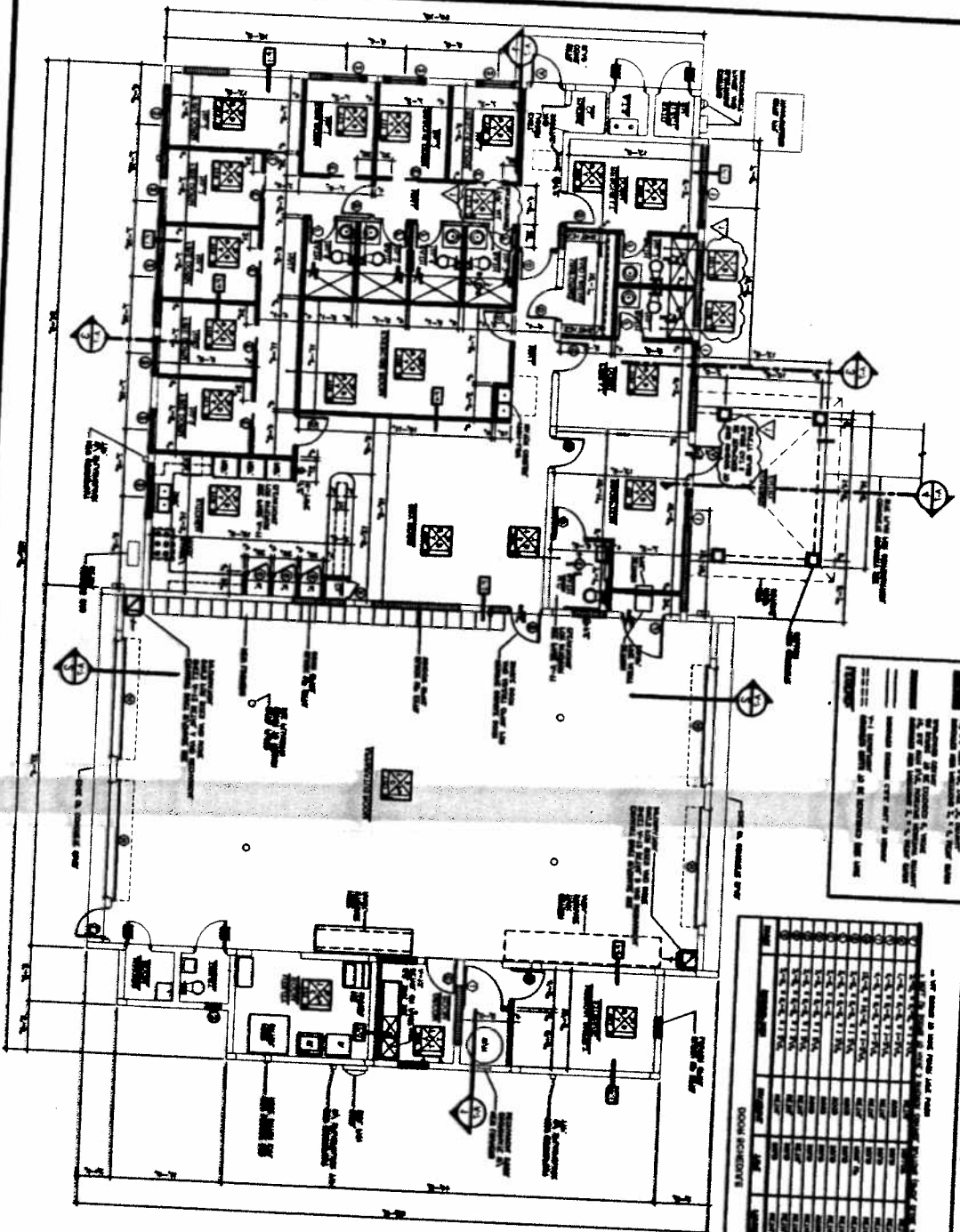


H.C. PARKING AT 90°



DATE	1/10/10
BY	...
CHECKED	...
SCALE	AS SHOWN

PROPOSED FLOOR PLAN FIRE STATION No. 8

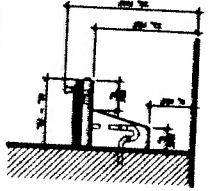


NOTES:
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY ENGINEER.
 4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 5. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
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WATER COOLER DETAIL



PROPOSED PROJECT FOR FIRE STATION No. 8 REMODELING
 130 WEST 35TH STREET
 HIALEAH, FL

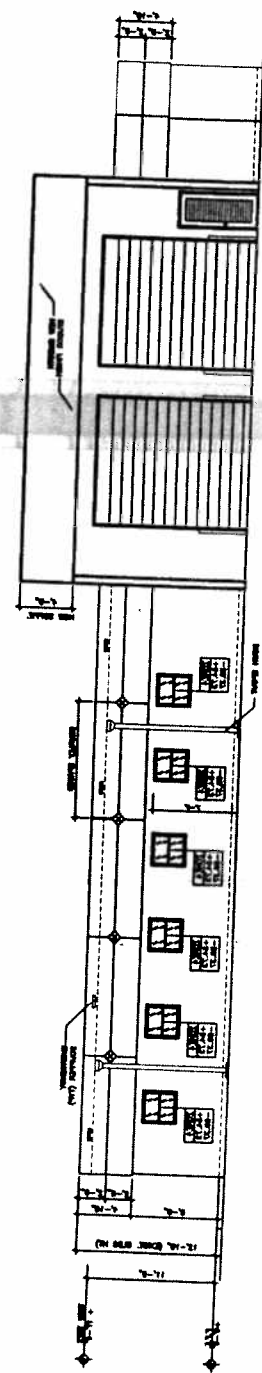
DATE: 01/10/10
 DRAWN BY: ...
 CHECKED BY: ...

CITY OF HIALEAH
 CONSTRUCTION & MAINTENANCE - DESIGN CENTER
 ANGEL H. LAMBLA
 HIALEAH, FL 33012
 300 EAST 28th STREET
 (305) 981-2900

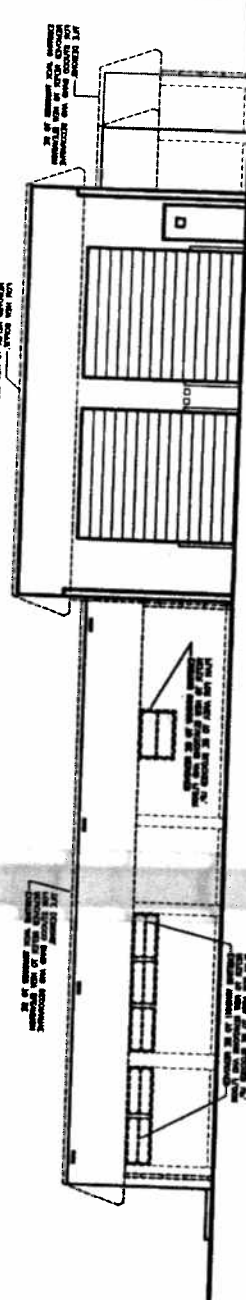
CONTRACTOR: ...
OWNER: ...

NOTES:
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
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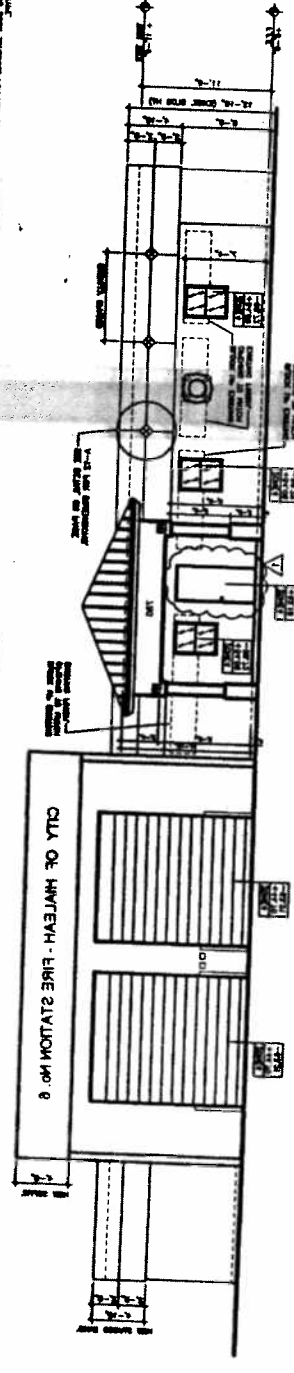
NEW SOUTH ELEVATION



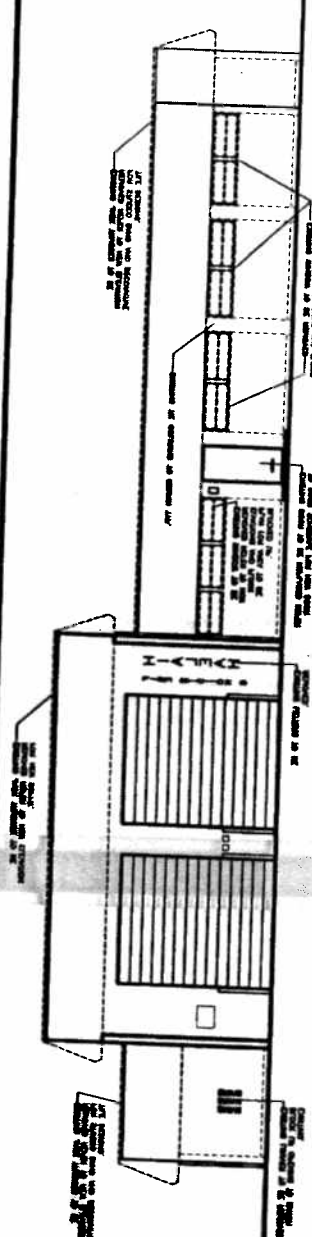
EXISTING SOUTH ELEVATION



NEW NORTH ELEVATION



EXISTING NORTH ELEVATION

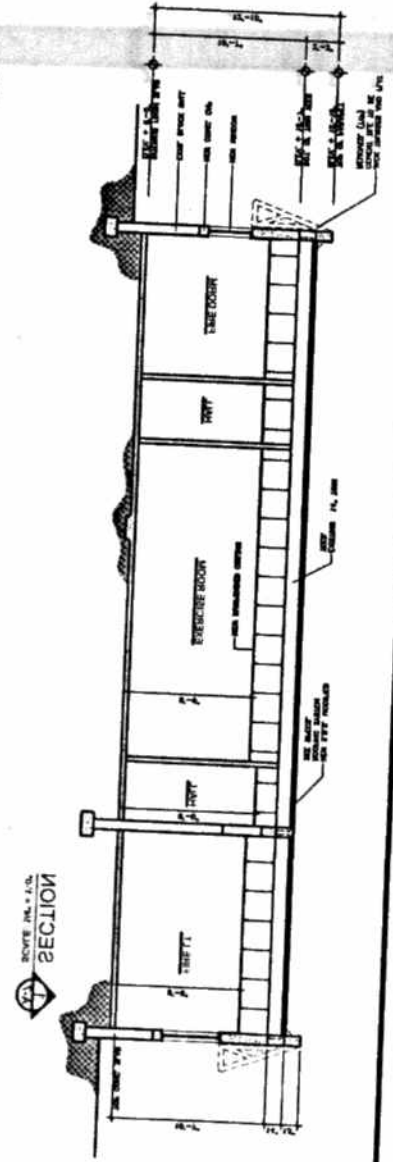
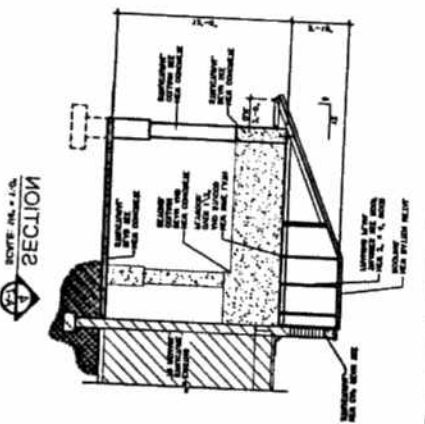
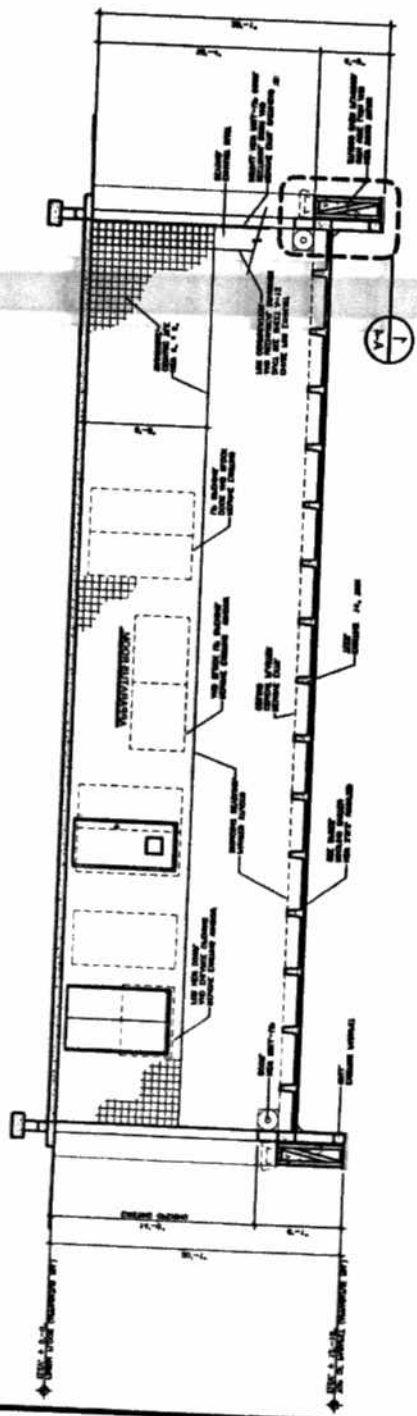
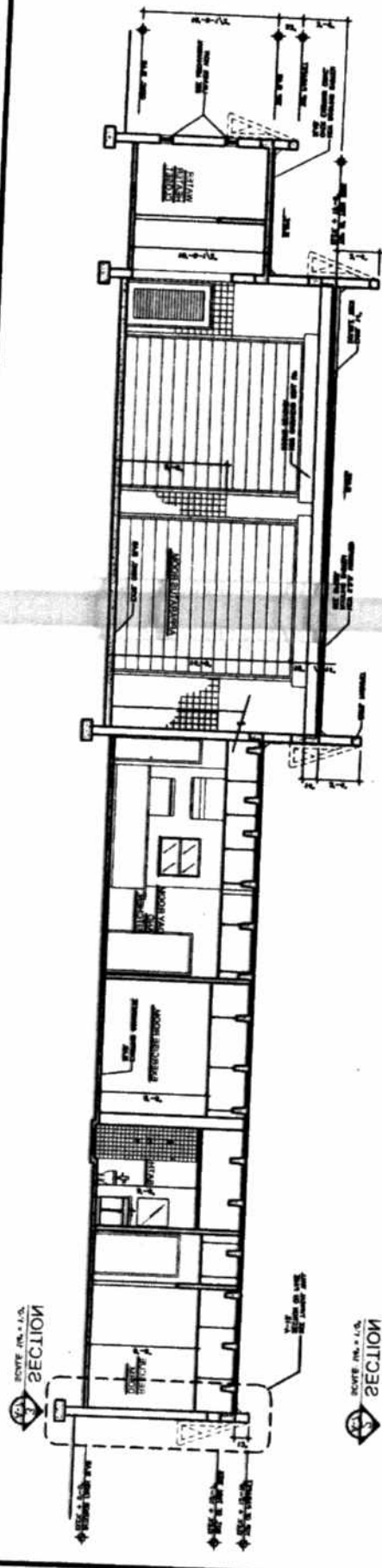


CITY OF HIALEAH - FIRE STATION No. 6

<p>PROPOSED PROJECT FOR FIRE STATION No. 6 REMODELING 180 WEST 25TH STREET HIALEAH FL</p>			<p>ARCHITECT MICHAEL H. LAMEIRA 300 EAST 25th STREET HIALEAH FL 33150 (305) 964-2500</p>	<p>CITY OF HIALEAH CONSTRUCTION & MAINTENANCE - DESIGN CENTER</p>
<p>DATE: _____ SCALE: _____ DRAWN BY: _____ CHECKED BY: _____</p>				



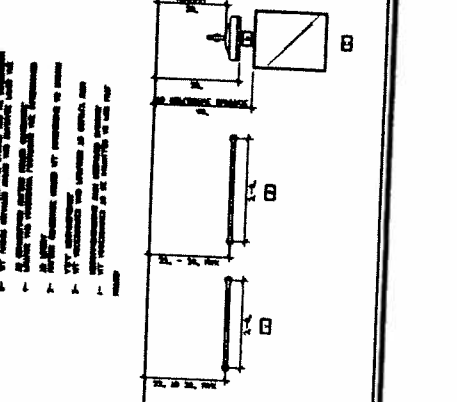
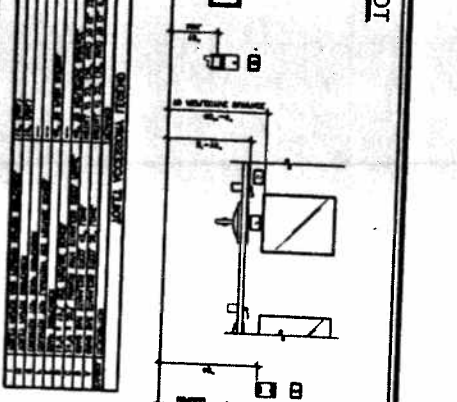
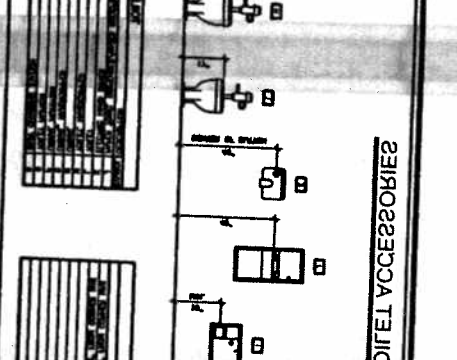
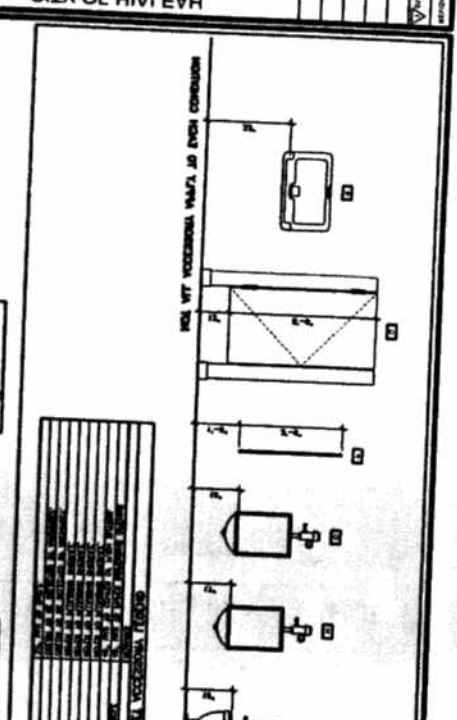
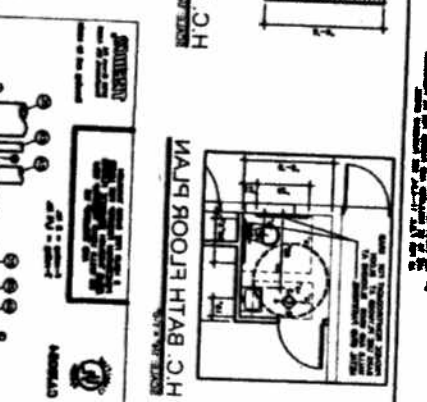
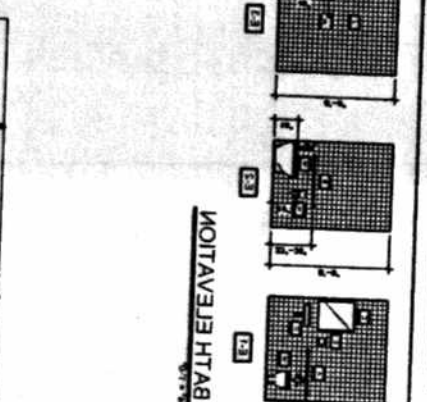
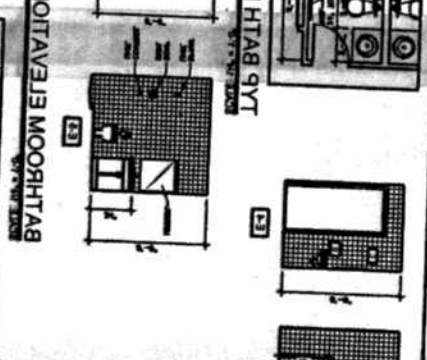
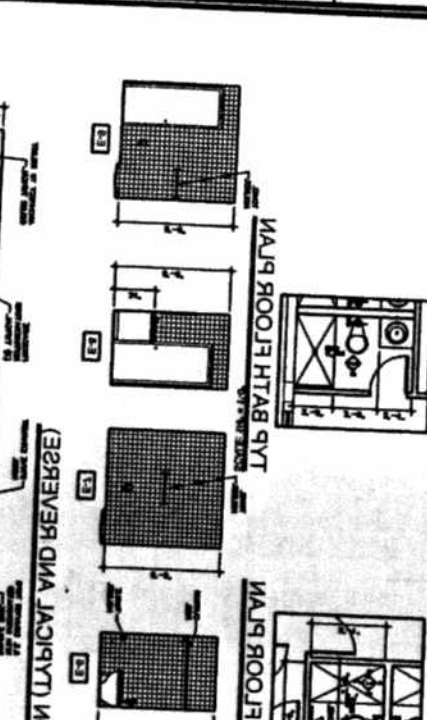
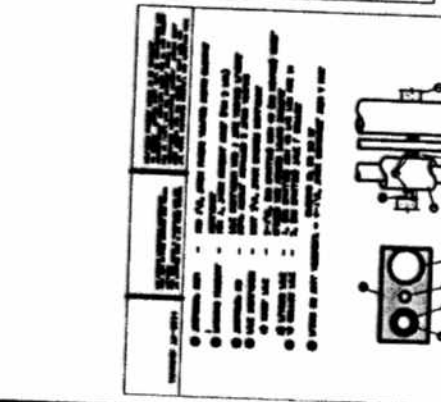
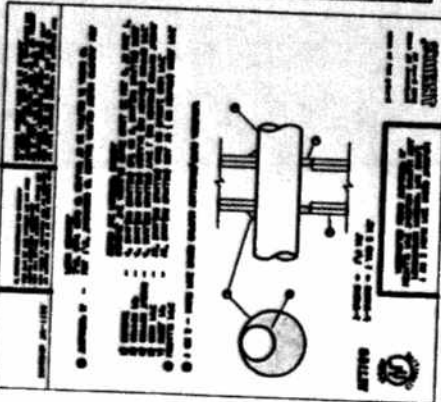
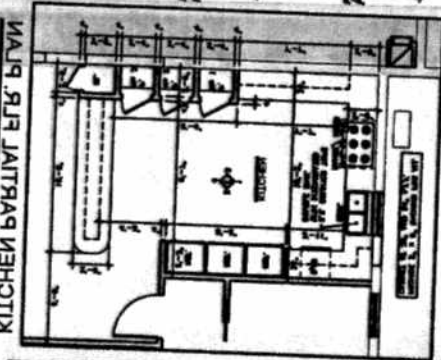
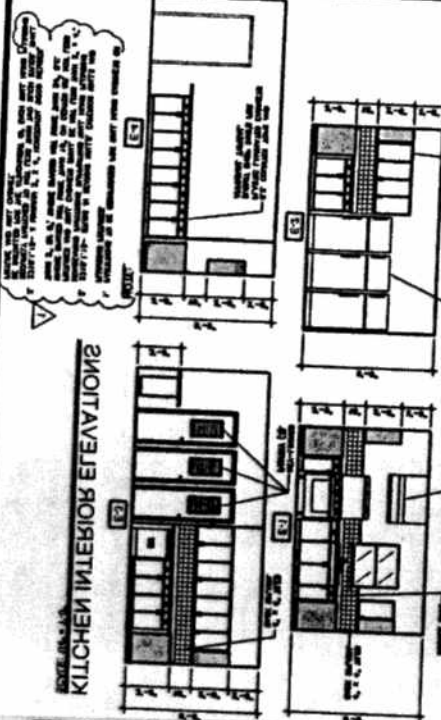
NO.	DATE	DESCRIPTION





MICHAEL H. HAVELY
 LICENSE NO. 10000
 STATE OF OREGON
 REGISTERED PROFESSIONAL ENGINEER
 CIVIL ENGINEERING

DATE	NO.	REVISION



1. ALL CABINETS TO BE 18" DEEP
 2. ALL COUNTERTOPS TO BE 3" OVERHANG
 3. ALL SINKS TO BE 18" WIDE
 4. ALL STOVE TOPS TO BE 30" WIDE
 5. ALL DISHWASHERS TO BE 24" WIDE
 6. ALL REFRIGERATORS TO BE 36" WIDE
 7. ALL APPLIANCES TO BE 120V AC
 8. ALL ELECTRICAL WORK TO BE DONE BY LICENSED ELECTRICIAN

1. ALL CABINETS TO BE 18" DEEP
 2. ALL COUNTERTOPS TO BE 3" OVERHANG
 3. ALL SINKS TO BE 18" WIDE
 4. ALL STOVE TOPS TO BE 30" WIDE
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