

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 08-26

WHEREAS, the Fort Myers Beach Public Library District ("Applicant") has requested a Variance in the IN (Institutional) Zoning District to allow one (1) combined architectural and mechanical appurtenance with a horizontal are of seven hundred and fifty (750) square feet to exceed the height limitation of 35 feet in the aforesaid zoning district by 9 (nine) feet, 1 (one) inch, for a total height of forty-four (44) feet, 1 (one) inch; and

WHEREAS, Applicant has also requested a Special Exception in the IN Zoning District to allow a cultural facility (library) to expand the existing library building; and

WHEREAS, the subject property is located at 2755 Estero Boulevard, Ft. Myers Beach, FL, with a STRAP number of 19-46-24-W3-002K0.0130 and with a legal description attached as **Exhibit "A"** and incorporated herein; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on May 6, 2008, at which time the LPA gave full and complete consideration to the recommendations of staff, the documents in the file, the request of Applicant and the testimony of all interested persons and recommended that the Town Council grant approval of the variance and grant approval of the special exception, as set forth more fully in LPA resolution 2008-12; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on June 2, 2008, and during the course of this public hearing the Town Council considered the testimony of all interested persons, the documents submitted by Applicant, the Town staff report, the LPA Resolution and other materials from the LPA, and all other evidence presented by Applicant, Staff and the public.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

The Town Council **APPROVES** Applicant's request for a **variance** to allow one (1) combined architectural and mechanical appurtenance with a horizontal area of seven hundred and fifty (750) square feet to exceed the height limitation of 35 feet in the Institutional Zoning District by 9 (nine) feet, 1 (one) inch, for a total height of forty-four (44) feet, 1 (one) inch, subject to the following conditions; and

The Town Council **APPROVES** Applicant's request for a **special exception** to allow a cultural facility (library) to expand the existing library building, subject to the conditions set forth below:

CONDITIONS FOR VARIANCE:

1. The variance is limited to the entry and elevator tower shown on the architectural elevations and site plan attached as **Exhibit "B"** and incorporated herein.
2. The horizontal area of the tower approved by this variance is limited to no more than 750 square feet.

FINDINGS AND CONCLUSIONS (VARIANCE):

1. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question; and

The public library building existed on the subject property when the Town adopted a comprehensive plan, effective January 1, 1999. The Comprehensive Plan characterizes the vicinity of the subject property as the “heart of the island” (Objective 3-A) and includes the library as part of a “complex of civic activities” that Policy 3-A-1 states is “a key community asset.” Policy 3-A-2 comments that “[a] prominent civic structure benefits the community most when its location serves the public conveniently and when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places.” The Comprehensive Plan’s design goals for civic buildings are an exceptional condition inherent to the subject property and its immediate vicinity.

2. The conditions justifying the variance are not the result of actions of the Applicant taken after the adoption of the regulation in question; and

The Library District planned to acquire the Armstrong Property and proposed to construct additional parking on it. As a result, the Library District applied for the 2004 rezoning and special exception. The principal use for which the accessory parking lot was approved by the 2004 special exception—a cultural facility (library) and the building housing it—existed prior to the regulation requiring a special exception.

The height of the existing library building was permitted prior to the Town’s establishment of a height limit of three stories and 35 feet above base flood elevation. The size of the tower for which the variance is requested is necessitated by design considerations that relate to the existing building and the library’s function as a civic structure in the “heart of the island” area. Neither the proportions of the existing building nor the Town’s adoption of neighborhood design goals are the result of the applicant’s actions taken after the adoption of the regulation.

However, the configuration of the proposed tower in such a way that it exceeds the square-footage limit to qualify for exceptions from the height limit for architectural features is the result of specific design choices made by the applicant. Alternative choices could result in code compliance without necessitating this variance. Thus, the design advanced by the applicant is an action taken by the applicant since the adoption of the regulation in question.

3. The variance requested is the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation in question; and

LDC Section 34-631(b)(3) allows architectural and mechanical appurtenances to exceed the height limit set by Table 34-3 by no more than 15 feet, as long as

they are limited to 250 square feet each. Policy 3-A-2 of the Comprehensive Plan states that "a prominent civic structure benefits the community most when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places." In addition to the aesthetic goals of the design, the proposed tower houses mechanical equipment for the elevators to serve the library addition. The applicant suggests that the requested variance is the minimum necessary to house the mechanical equipment and accommodate the designers' vision of a building whose appearance will accord with Policy 3-A-2 of the Comprehensive Plan. The requirement that the design comply with the height regulation may not be unreasonable, however, and alternative visions that would accord with Policy 3-A-2 without the need for a variance could probably be conceived.

4. The granting of the variance **will not be** injurious to the neighborhood or otherwise detrimental to the public health; and

No potential injury to the neighborhood or detriment to the public health is apparent if the variance is granted because the proposed building is a major civic building foreseen by the Comp Plan, the proposed tower would not be habitable, and the size is appropriately scaled to the building.

5. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question

The design goals for civic buildings contained in the Comp Plan and for the "heart of the island" area are uniquely applicable to the library building. General amendments to the LDC to permit exceptions of any kind for civic buildings are not practical as such future developments cannot be foreseen.

CONDITIONS FOR SPECIAL EXCEPTION:

1. Approval of this special exception voids the site plan approved in case #SEZ2004-00012, as codified in Town Council Resolution 04-20 by reference. A copy of this 2004 site plan is attached hereto as **Exhibit "C"** and hereby incorporated by reference.
2. Approval of this special exception does not authorize any development in rights-of-way.
3. Gates across access points, if any, must provide adequate stacking space to avoid interference with traffic flow on adjoining streets, in accordance with LDC Section 34-1749, and must be reviewed for compliance at the time of floodplain development review.
4. Signs on the subject property must comply with LDC Chapter 30 and condition #2 above.
5. Approval of this special exception does not grant the developer undeniable right to receive local development order approval in the form of a floodplain development permit or other permit. Development and/or redevelopment of the subject property must comply with all applicable federal, state, and local

regulations unless granted a variance or other deviation through an appropriate procedure.

6. Any development permitted pursuant to LDO2003-00389 must comply with all requirements of the LDC and with the conditions provided herein. Any inconsistencies between LDO2003-00389 and the requirements of the LDC and/or this approval must be resolved through the floodplain development review process prior to the issuance of any permit pursuant thereto.

FINDINGS AND CONCLUSIONS FOR SPECIAL EXCEPTION:

1. The requested special exception **does comply** with the standards in Land Development Code (LDC) Section 34-88 and:
 - a. The Fort Myers Beach Comprehensive Plan;
 - b. LDC Chapter 34; and
 - c. All other applicable town ordinances and codes.
2. Granting the requested special exception **is not contrary** to the public interest and the health, safety, comfort, convenience, and welfare of the citizens of the Town.
3. The attached conditions **are necessary** for the protection of the health, safety, comfort, convenience, or welfare of the general public and **are reasonably related** to the special exception requested.

In accordance with the requirements of Sections 34-88 of the LDC regarding consideration of eligibility for a Special Exception, the Town Council make the following additional findings and reaches the following additional conclusions:

1. There **EXIST** changed or changing conditions that make approval of this request, with the above conditions, appropriate.

The Library District's decision to expand the library is a changed condition from their needs at the time a prior special exception was granted for a cultural facility (library) that limited development to an accessory use (the proposed parking lot).

2. The requested special exception as conditioned:

- a) **IS** consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

Comp Plan Objective 3-A and Policies 3-A-1 and 3-A-2 refer directly to the appropriateness of a public library within "the complex of civic activities in the Bay Oaks area."

- b) **MEETS OR EXCEEDS** all performance and locational standards set forth for the proposed use.

Specific locational standards are not required for a cultural facility within the IN zoning district. Perimeter buffering, landscaping, storm water management, sea turtle lighting, and other performance standards will be required to be met through the development order process. Since the subject property is both a corner lot and a through lot, it requires street setbacks on all three street frontages, no rear setback, and side setbacks from all other property lines. In the IN zoning district, the required street setback is 20 feet and the required side setback is 7 feet. The applicant's site plan provides adequate space to meet these requirements.

c) **DOES** protect, conserve or preserve environmentally critical areas and natural resources

d) **WILL** be compatible with existing or planned uses and **WILL NOT** cause damage, hazard, nuisance or other detriment to persons or property; and

e) **WILL** be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the LDC.

Upon motion by Councilmember Babcock and seconded by Vice Mayor Acken , the foregoing Resolution was:

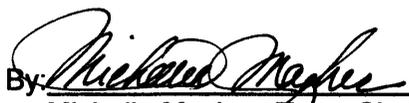
DULY PASSED AND ADOPTED ON THIS 2nd DAY OF JUNE, 2008.

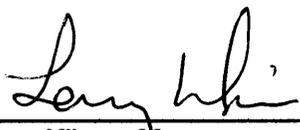
Larry Kiker, Mayor aye
Tom Babcock, Councilmember aye
Bob Raymond, Councilmember aye

Herb Acken, Vice Mayor aye
Jo List, Councilmember aye

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle Mayher, Town Clerk

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency by:

By: 
Annie Dalton, Town Attorney

5

Exhibit A

**FMBSEZ2008-0001
FMBVAR2008-0001
Property Description**



A tract or parcel of land comprising all of lots 7 through 20 inclusive, and part of lot 6, Block K, WINKLER SUBDIVISION, as recorded in Plat Book 8, Page 45, Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 11, said Block K; thence N. 21°00'00" E. on the easterly line of a right-of-way (known as School Street) dedicated by said subdivision for 102.03 feet; thence S. 69°00'30" E. for 149.86 feet; thence N. 21°09'06" E. for 47.95 feet; thence S. 69°00'00" E. for 164.98 feet; thence S. 25°17'00" W. for 186.64 feet to a point of curvature; thence southwesterly on the arc of a curve concave to the northwest having radius 15.00 feet through a central angle of 87°17'50" for 22.85 feet; thence N. 68°56'01" W. for 236.17 feet to a point of curvature; thence northwesterly on the arc of a curve concave to the northeast having radius 50.00 feet through a central angle of 89°46'51" for 78.35 feet to the **Point of Beginning**.

Basis for bearings is easterly right-of-way line of School Street.

Description based on Boundary Survey by Robert J. Bills, PSM 4698, dated 2/6/08 (Project no. 07041320).

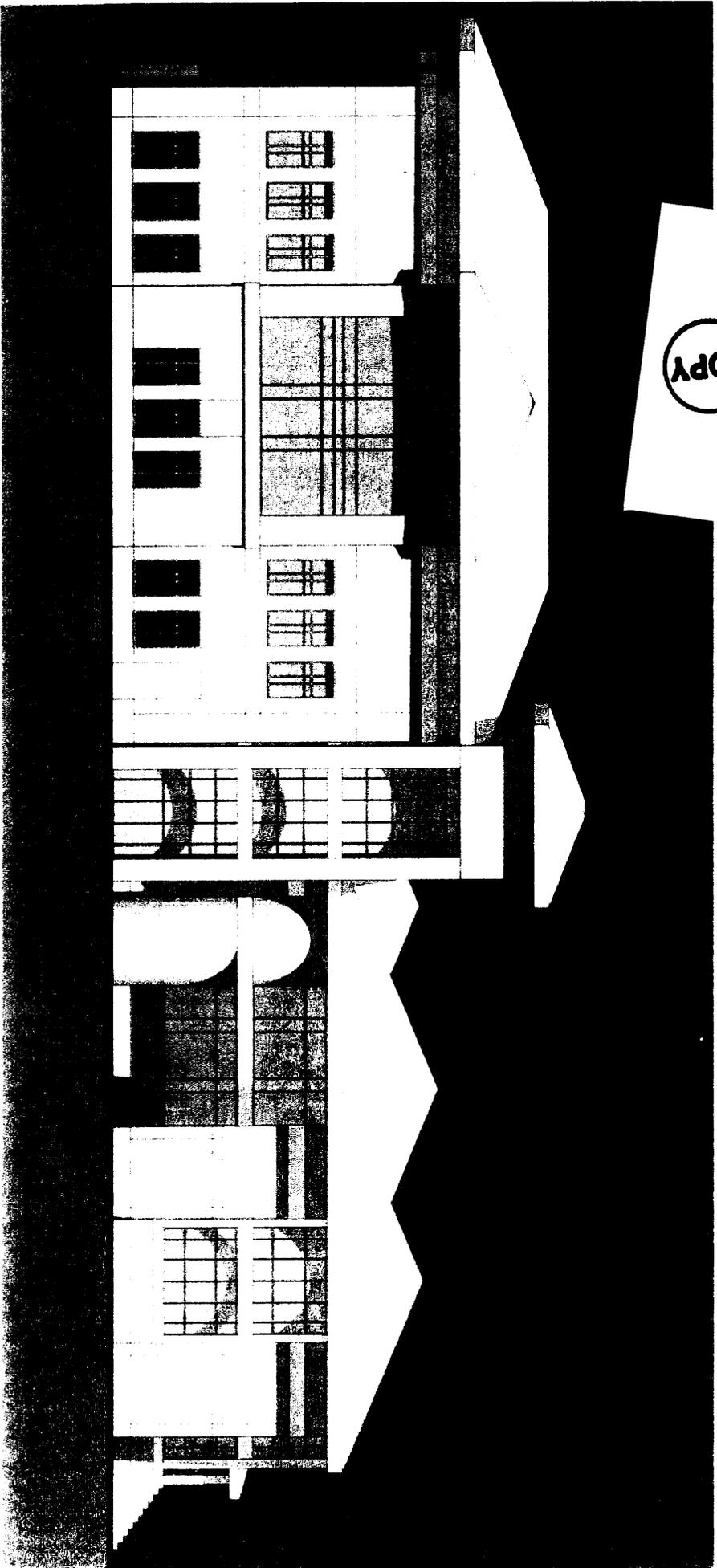
Description not for conveyance purposes.

B-5
PSS

COPY



NOV 2007



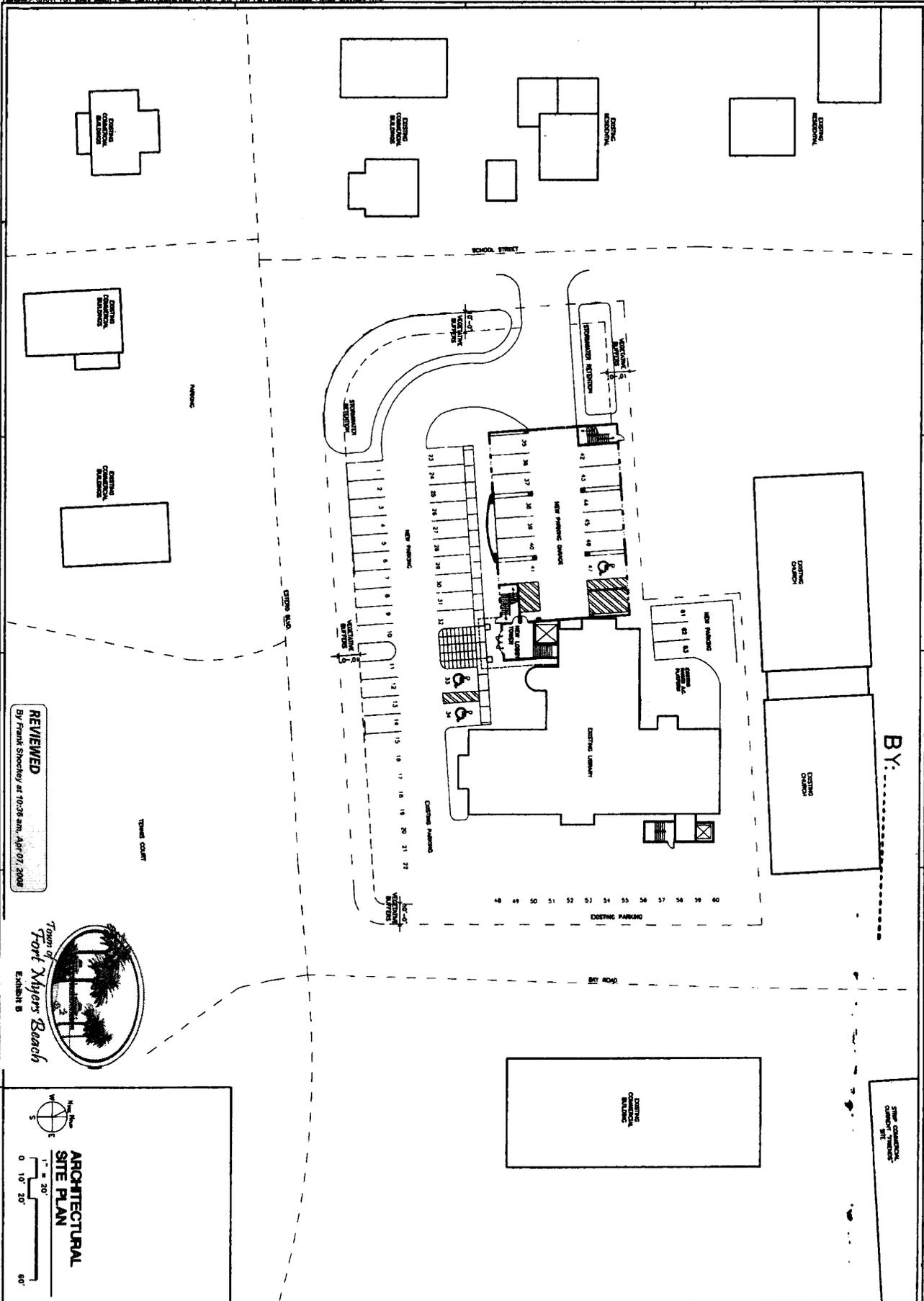
Fort Myers Beach Public Library

October 31, 2007

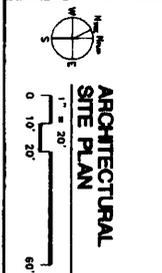
RECORD

HARVARD JOLLY

BY:.....



REVIEWED
By Frank Stockley at 10:28 am, Apr 07, 2008



AS3.1

Project No. 0701
Date: 02/28/08
Sheet: N/A

FORT MYERS BEACH PUBLIC LIBRARY RENOVATION AND ADDITION
FORT MYERS BEACH, FLORIDA
SCHEMATIC DESIGN

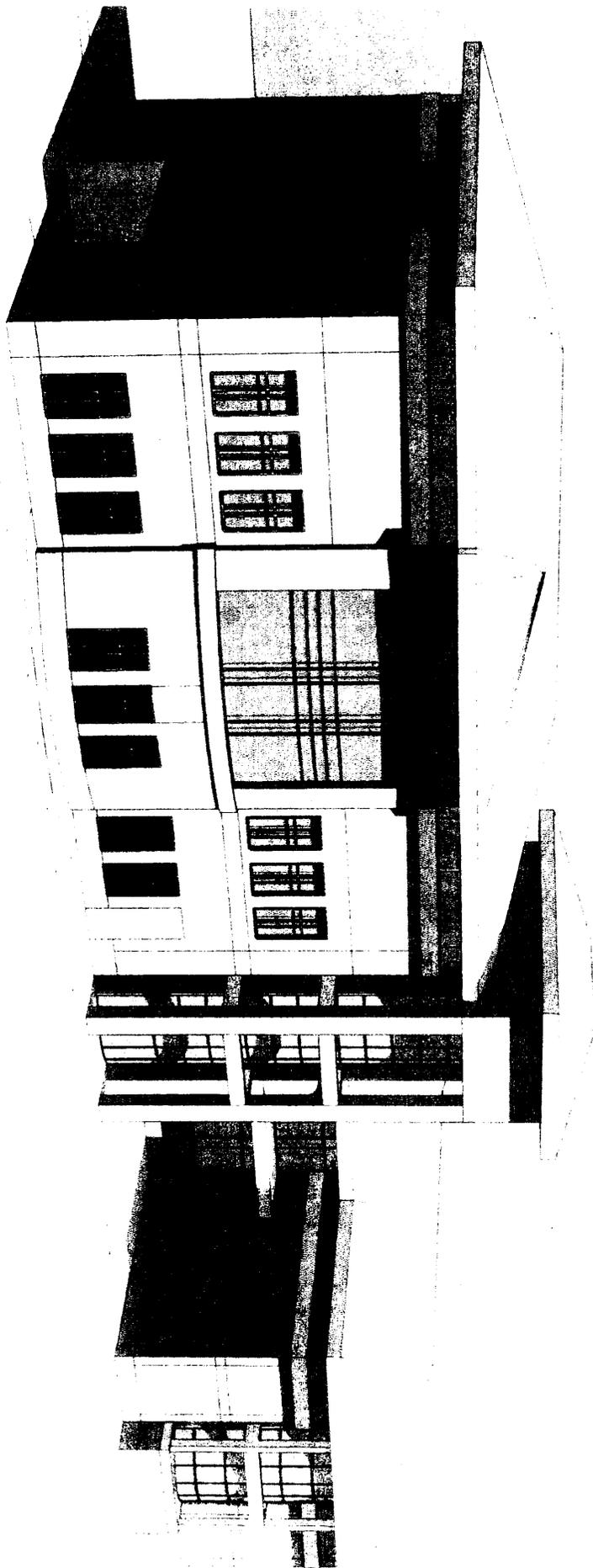
HARVARD • JOLLY
Architecture - Interior Design - Programming - Planning - Landscape - Program Management

RECEIVED
FEB 28 2008

TOWN of Fort Myers Beach
FMB SEZ 2008 001



F.M.B. VAR 2007-0-000



Fort Myers Beach Public Library
October 31, 2007

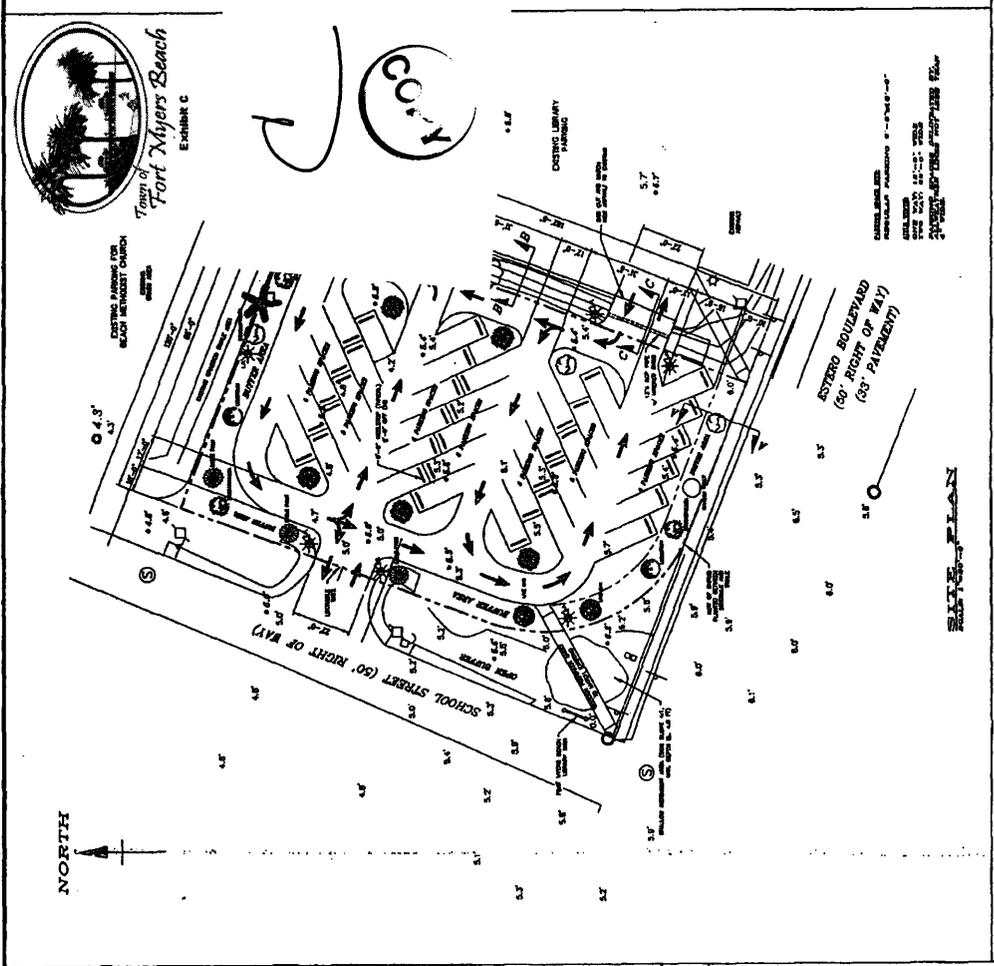
SECRET

HARVARD JOLLY

BY:.....

ATTACHMENT D

1. THE SITE IS LOCATED AT THE INTERSECTION OF ...
 2. THE PROPOSED LIBRARY BUILDING IS ...
 3. THE PROPOSED PARKING LOT IS ...
 4. THE PROPOSED DRIVEWAY IS ...
 5. THE PROPOSED LANDSCAPING IS ...
 6. THE PROPOSED LIGHTING IS ...
 7. THE PROPOSED SIGNAGE IS ...
 8. THE PROPOSED UTILITIES ARE ...
 9. THE PROPOSED ACCESSIBLE PATHWAYS ARE ...
 10. THE PROPOSED FLOOD CONTROL MEASURES ARE ...



11. THE PROPOSED LANDSCAPING IS ...
 12. THE PROPOSED LIGHTING IS ...
 13. THE PROPOSED SIGNAGE IS ...
 14. THE PROPOSED UTILITIES ARE ...
 15. THE PROPOSED ACCESSIBLE PATHWAYS ARE ...
 16. THE PROPOSED FLOOD CONTROL MEASURES ARE ...

LANDSCAPING NOTES
 1. ALL PLANTINGS SHALL BE ...
 2. ALL PLANTINGS SHALL BE ...
 3. ALL PLANTINGS SHALL BE ...
 4. ALL PLANTINGS SHALL BE ...
 5. ALL PLANTINGS SHALL BE ...
 6. ALL PLANTINGS SHALL BE ...
 7. ALL PLANTINGS SHALL BE ...
 8. ALL PLANTINGS SHALL BE ...
 9. ALL PLANTINGS SHALL BE ...
 10. ALL PLANTINGS SHALL BE ...

LANDSCAPING AREA CALCULATIONS:
 TOTAL AREA = 10,000 SQ FT
 EXISTING AREA = 5,000 SQ FT
 PROPOSED AREA = 5,000 SQ FT
 ...

LIGHTING SPECIFICATIONS:
 ALL LIGHTING SHALL BE ...
 ALL LIGHTING SHALL BE ...
 ALL LIGHTING SHALL BE ...
 ...

