

## **NICKELODEON HOTEL SUITES 4D THEATER**

**Issue:** Vertical accessibility to all rows of seats in a stadium type theater.

**Analysis:** The applicant is requesting a waiver from providing vertical accessibility to all rows of seats in a 75 seat theater that is undergoing a \$524,000 alteration. The design indicates the required four accessible seats with companion seats will be provided on the last row of the theater. The applicant stipulates that the last row is frequently the least desirable, but because of the theater's size, it is only six rows from the front. No cost estimates were provided as the applicant stated the issue is technical infeasibility rather than budget issues.

### **Project Progress:**

The project is in plan review.

### **Items to be Waived:**

Vertical accessibility to all rows of seats, as required by Section 553.509, Florida Statutes.

553.509 Vertical accessibility. Nothing in Sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level regardless of whether the guidelines require an elevator to be installed in such building, structure or facility, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
- (2) Unoccupiable spaces, such as rooms, enclosed spaces and storage spaces that are not designed for human occupancy, for public accommodations or for work areas; and
- (3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to equipment control rooms and projection booths.

**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:** Nickelodeon Hotel Suites - 4D Theater

**Address:** 14500 Continental Gateway  
Orlando, Florida

**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:** Joel Vanderlay

**Applicant's Address:** 14500 Continental Gateway, Orlando, Florida

**Applicant's Telephone:** 407-387-1802                      **FAX:** 407-387-1490

**Applicant's E-mail Address:** joelvanderlay@millerglobal.com

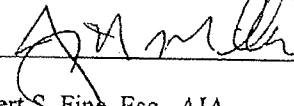
**Relationship to Owner:** Design and Construction Manager

**Owner's Name:** Miller Global Properties, LLC

**Owner's Address:** 4643 South Ulster Street, Suite 1500, Denver CO 80237

**Owner's Telephone:** 303-773-0369                      **FAX:** 303-694-0082

**Owner's E-mail Address:** joelvanderley@millerglobal.com

**Signature of Owner:** 

**Contact Person:** Robert S. Fine, Esq., AIA

**Contact Person's Telephone:** 305-579-0826    **E-mail Address:** finer@gtlaw.com

This application is available in alternate formats upon request.  
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 facility is a one story Hotels Commons Building of 46,336 square feet. It houses the hotel restaurant, a small theater, gift shops, photo pick up and three partitioned meeting areas. The renovation is located in a portion of the existing three meeting rooms using one and one-third of the meeting rooms to create the 4-D theater of 2045 square feet seating 76 people.

**5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):**

Approximately \$524,000.

**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.

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

**Issue**

1: § 553.509, Fla. Stat.; § 11-4.1.6(1)(f), Florida Building Code (2004): Vertical accessibility to all levels above and below occupiable grade level-- in this case, to each and every seating level in a stadium seating type movie theater.

**Issue**

2: \_\_\_\_\_  
\_\_\_\_\_

**Issue**

3: \_\_\_\_\_  
\_\_\_\_\_

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.

Due to the maximum slope, minimum width, and landings required for a ramp, it is, as a practical matter, technically infeasible to provide vertical accessibility to *each* level of the theater. Further, an inclined lift cannot be used to provide vertical accessibility to *each* level of the theater as such a lift, if it even could be fabricated, would impermissibly encroach the means of egress.

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

The Hotel Commons Building is at maximum allowable area. In order to compete with the local market hotels which are theme park related, the 4D theater is being installed. Since it is not reasonably feasible to provide vertical accessibility to *each* level, then the applicant will be at a competitive disadvantage to the neighboring hotels.

[ ] 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.

Not applicable.

**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. Not applicable. The basis of hardship in this waiver request is not the cost of construction to provide vertical accessibility.

**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.

Since the very first applications for waiver of the vertical accessibility requirement in stadium seating type movie theaters came before the Commission and Council, it has been definitively documented that it is not technically feasible to provide vertical accessibility to *every single level* of a movie theater's seating area due to the physical constraints of accessible ramps (maximum slope, minimum width, minimum landing dimensions, etc.) and providing them in between each and every level; as well as the problems with inclined lifts that could stop at *every level* (feasibility of manufacture, encroachment into the means of egress).

Since we cannot provide vertical accessibility to *every level* of the theater, we have looked to provide wheelchair in the best location(s) possible considering the physical constraints of the project. Because of the very limited size of the theater, we were not able to provide vertical accessibility in multiple locations. We have provided the wheelchair accessible seating at the last row in the theater. Although in many theaters this is not optimum, in this theater, it is only six (6) rows back from the screen. Our only other choice would have been the front row. That choice, however, would result in an unacceptable viewing angle for persons with mobility difficulties and further, give an impression of being segregated from the remainder of the seating area.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

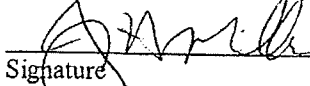
(SEAL)

\_\_\_\_\_  
Phone number

**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 19<sup>th</sup> day of FEBRUARY, 2008

  
\_\_\_\_\_  
Signature

JAMES H MILLER  
\_\_\_\_\_  
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.

[ ] 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.

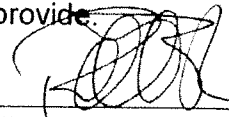
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9. **Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data which may affect the cost estimates.** For example, for vertical accessibility, the lowest documented cost of an elevator, ramp,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

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_

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.

With the area and budget constraints of retrofitting the hotel commons building for a 4D Theater, we provided an economical entry to the accessible seating through the theater exit. The canopy was extended to provide a covered approach. We determined with the owner that to get the wheelchair bound to the seating area, a ramp up and then down to enter in the same matter was not practical. And with the building area constraints, this made it not possible to consider adding area to the common building. Also, the addition of elevators/lifts would still not give a similar entry and movement through the space experience for the disabled because the two runs of stairs to get the audience and the stadium seating descent to get to the seating and the exit. For the limited size and interest of the entry, there is nothing gained by the entry procession. Also to provide lift access would require three lifts for the small scale project (2 for entry and one to get back down to the exit). Since everyone leaves the theater through the ADA entry we thought it would be the most similar experience we can reasonably provide.

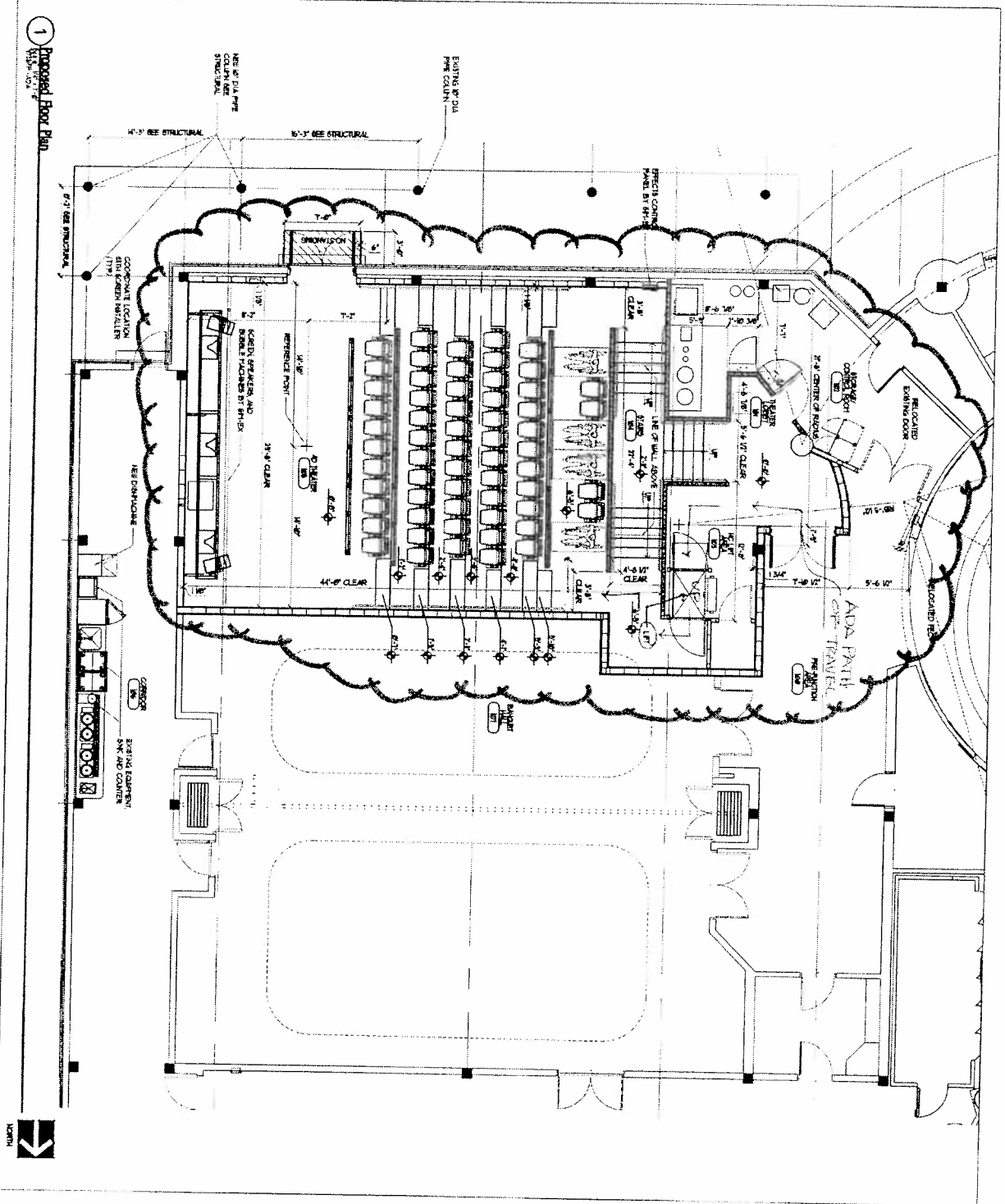
  
\_\_\_\_\_  
Signature

Robert Burke Jr.  
Printed Name

Phone number: 407.629.4511

(SEAL)

SELECTIVE RENOVATES



1 Proposed Floor Plan  
 1/16 - 1/20



**Nickelodeon 4D Theater**  
 Orlando, Florida

**2007/036**

PROPOSED FLOOR PLAN  
 A2.1-ADA

**Burke  
 Fenique  
 Architects**

1800 E. Lake  
 40800  
 Orlando, Florida 32825  
 Phone: 407.241.1234  
 Fax: 407.241.1235  
 Email: info@burkefenique.com

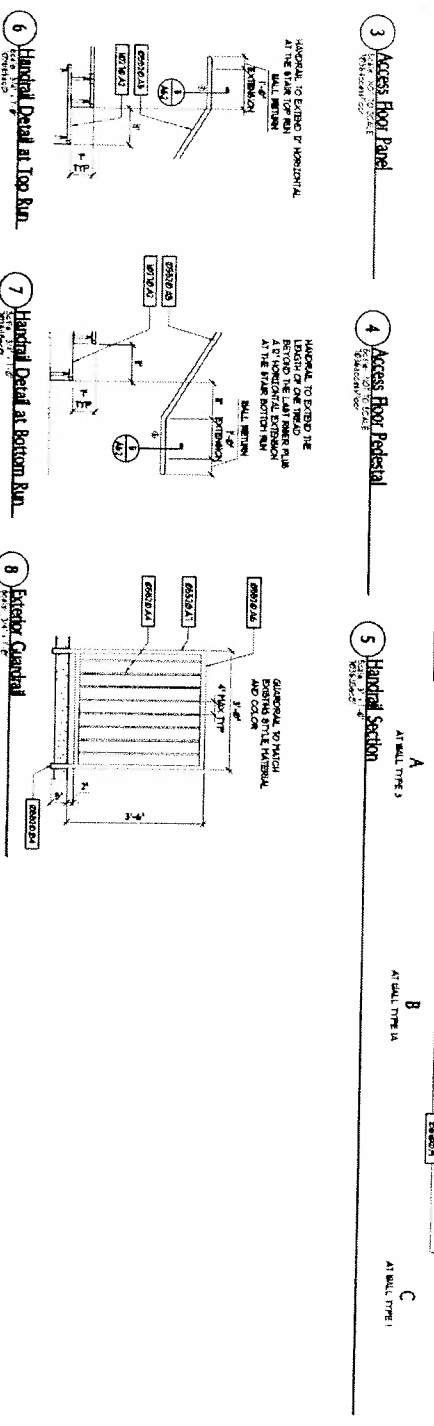
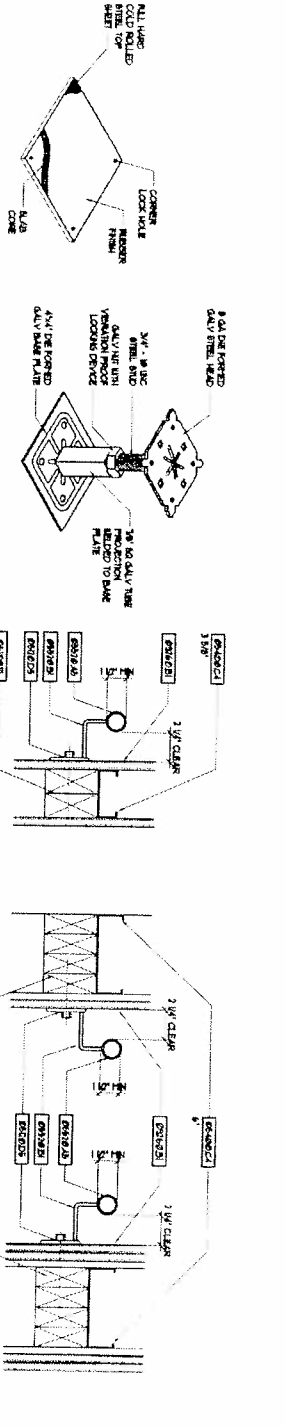
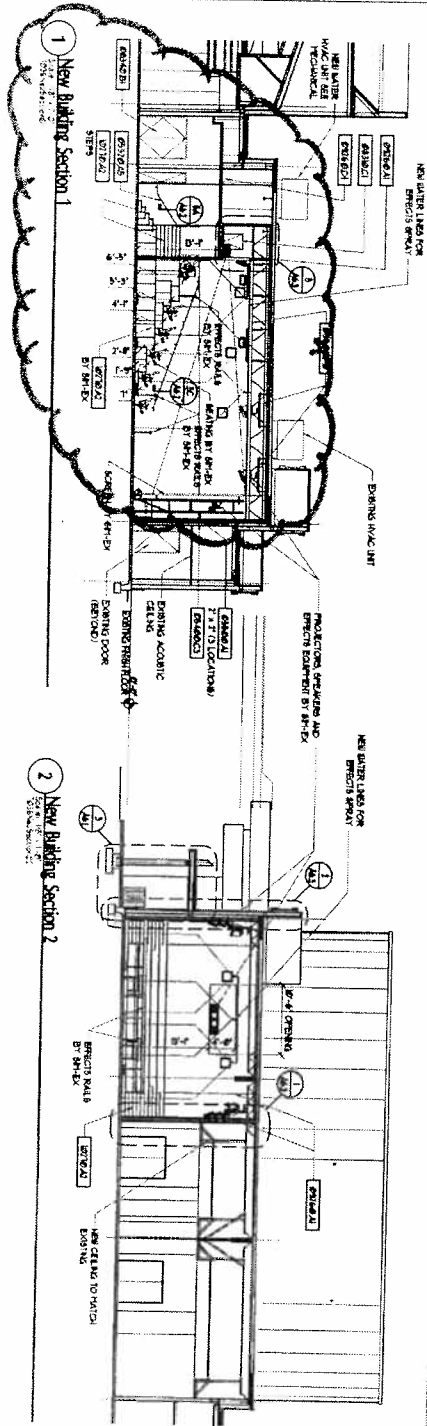
Project No. 2007/036  
 Date: 12/10/07  
 Scale: As Shown

**1/16 - 1/20**

DATE

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- SELECTIVE RENOVATES**
- 61000 EXISTING TILE
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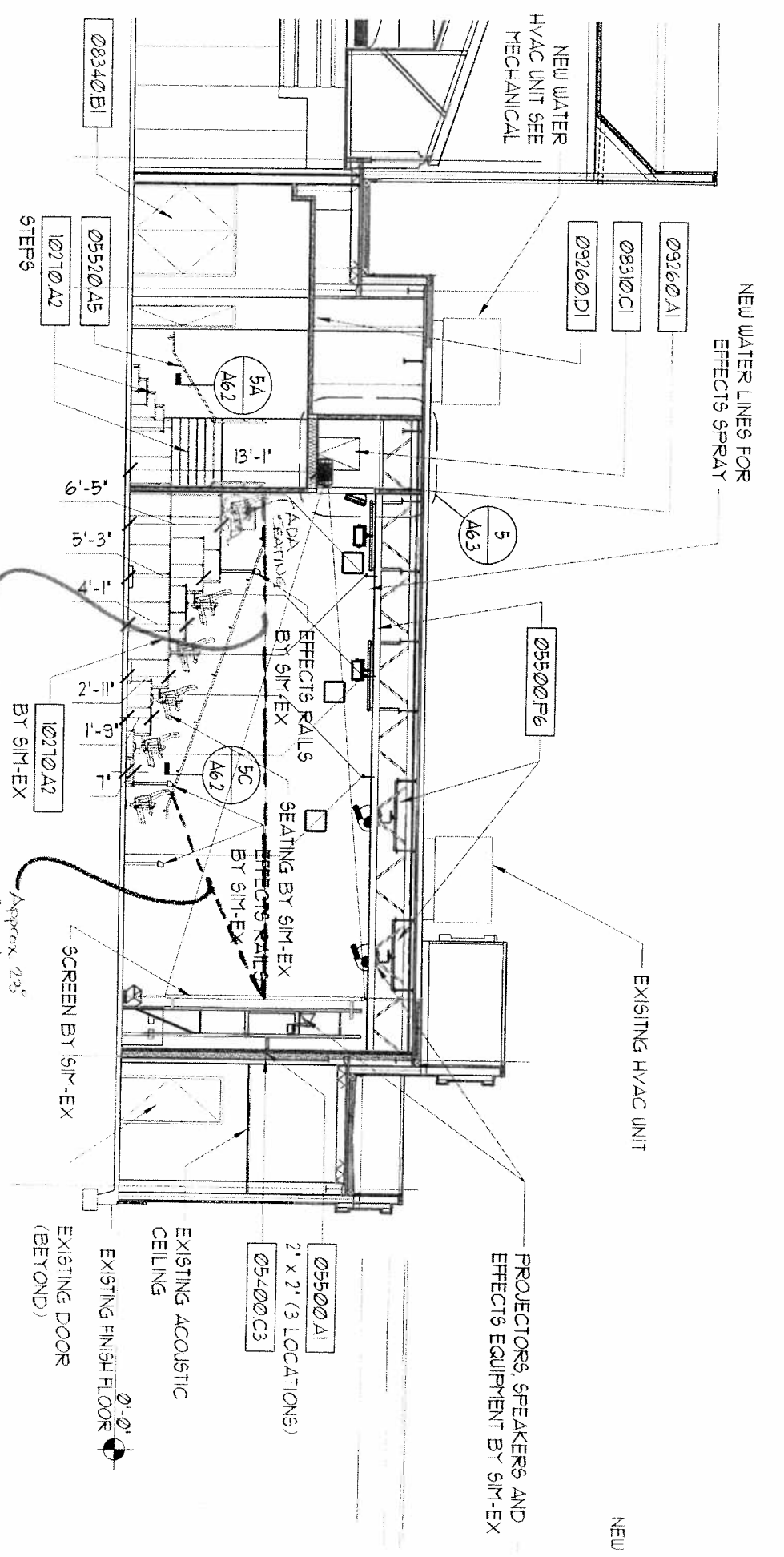
**Nickelodeon 4D Theater**  
Orlando, Florida

2007/036  
A6.2

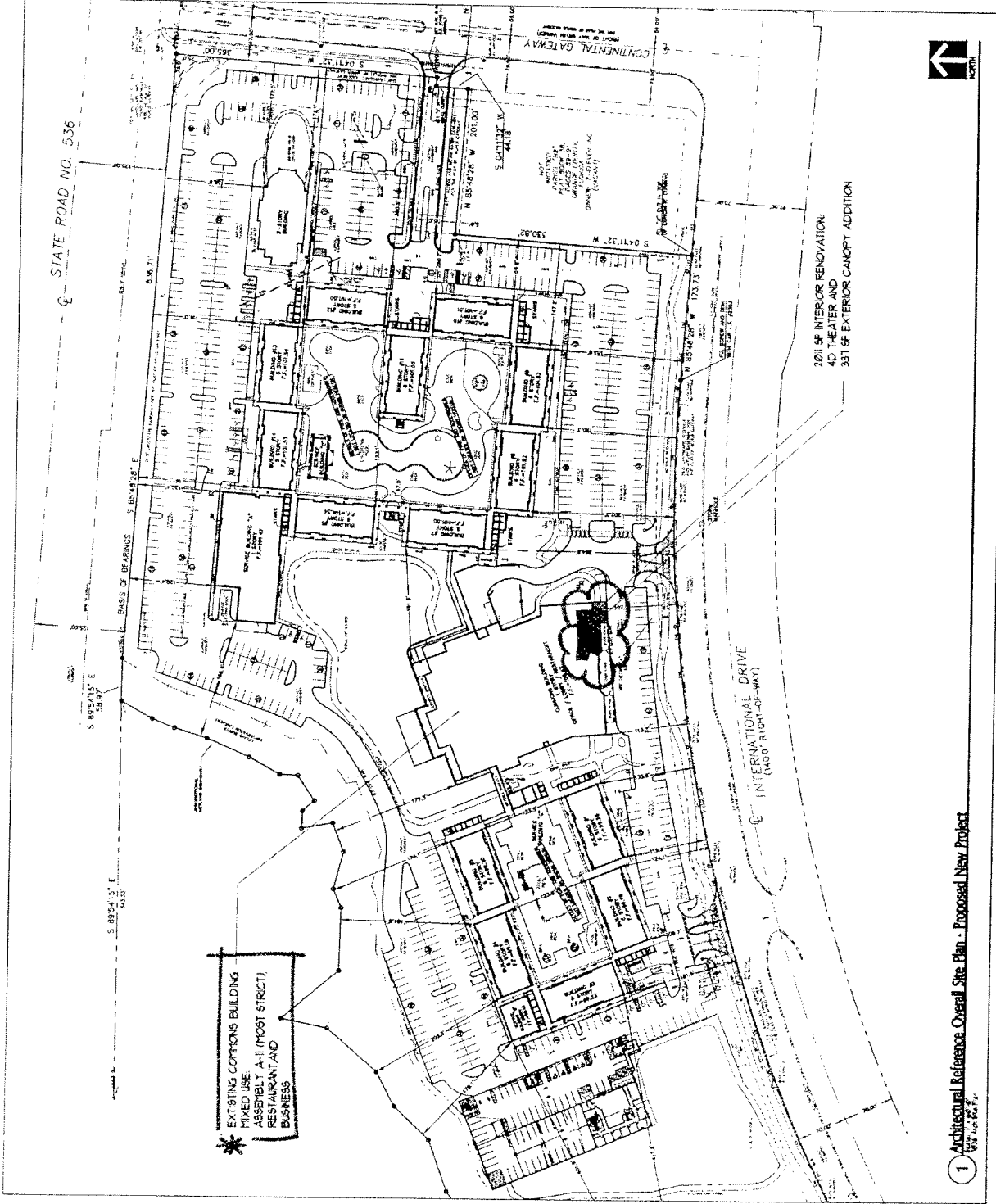
Burke  
McKinnis

**1**  
**New Building Section 1**

Scale: 1/8" = 1'-0"  
 1036N (Section 01)  
 MTS



SELECTIVE KEYNOTES



Nickelodeon 4D Theater  
Orlando, Florida

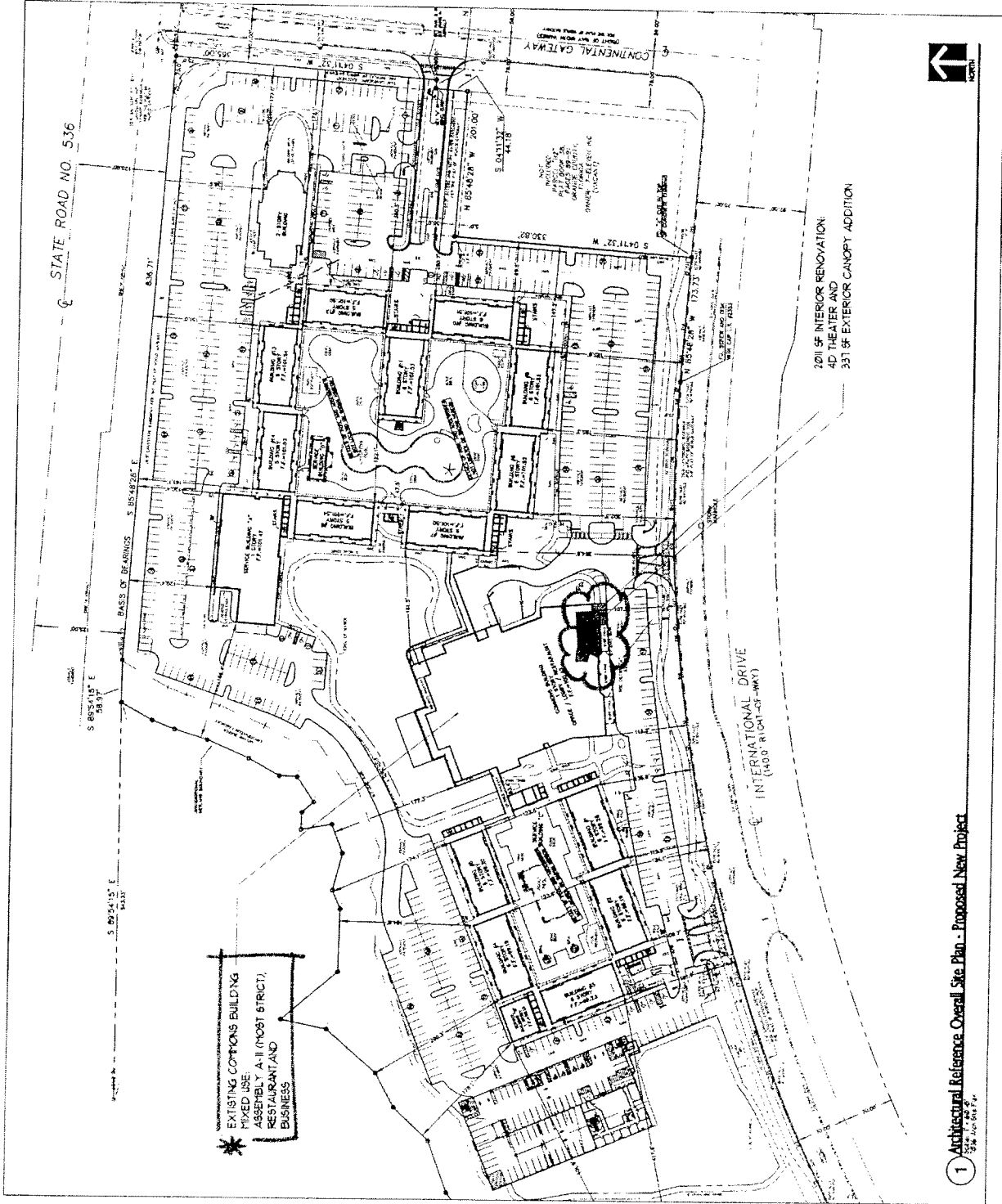
2007036  
Project Number

AS1.1  
Architectural Reference Site Plan



1 Architectural Reference Overall Site Plan - Proposed New Project

SELECTIVE KEYNOTES



Nickelodeon 4D Theater  
Orlando, Florida

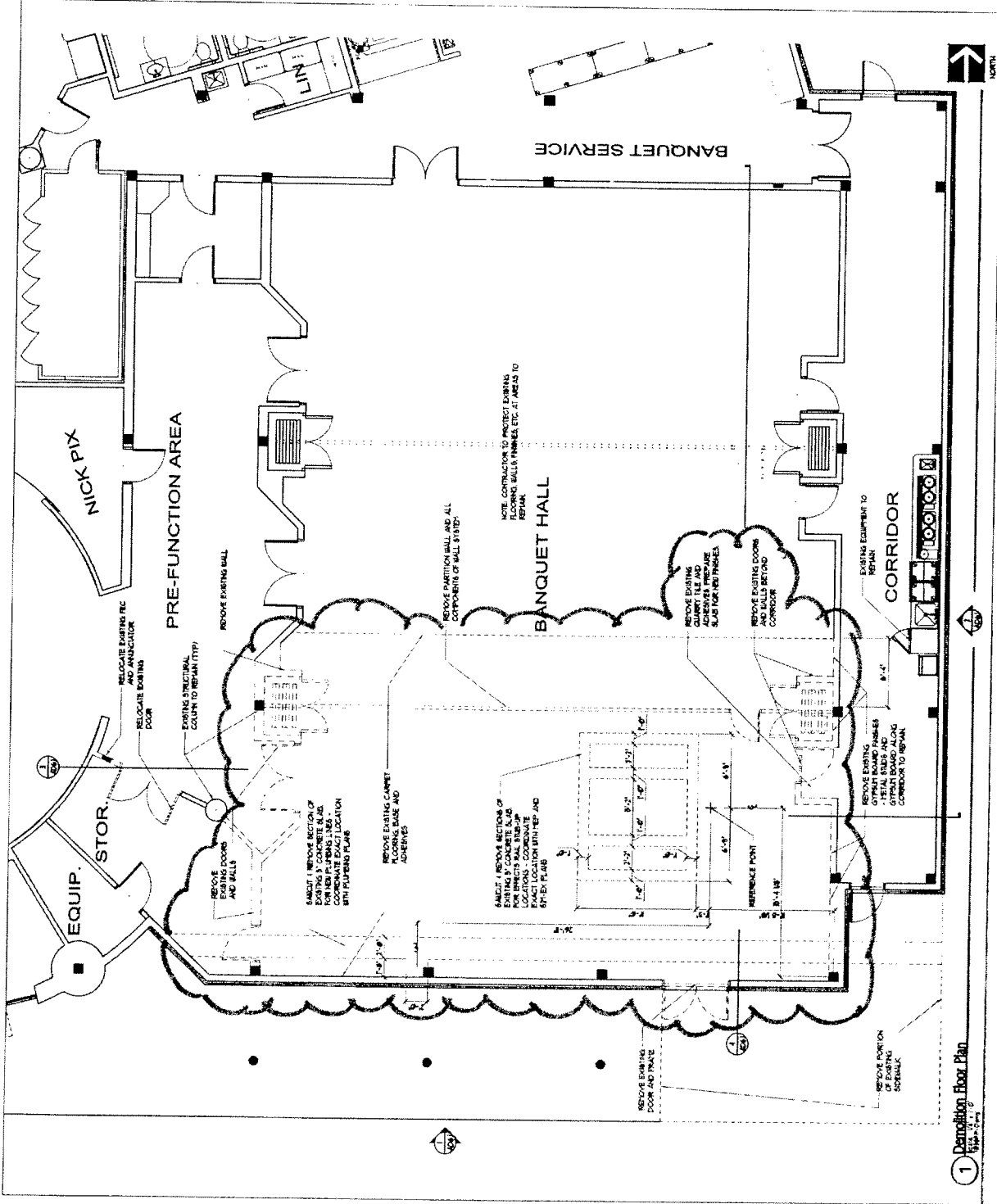
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ARCHITECTURAL REFERENCE SITE PLAN

AS1.1



1 Architectural Reference Overall Site Plan - Proposed New Project

SELECTIVE KEYNOTES



DEMOLITION NOTES

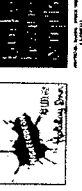
1. CONTRACTOR TO REMOVE ALL CEILING FROM ALL SPACES. CONTRACTOR TO FIELD VERIFY SCOPE OF EXISTING DEMOLITION ITEMS.
  2. SEE MECHANICAL, PLUMBING AND ELECTRICAL DRAWINGS FOR ANY ADDITIONAL DEMOLITION NOTES.
  3. PATCH AND REPAIR ALL SURFACES, APPROXIMATIONS TO ORIGINAL FINISH.
  4. CONTRACTOR TO FIELD VERIFY SCOPE OF ALL ITEMS TO BE DEMOLISHED. CONTRACTOR TO PROVIDE REPRESENTATIVE DRAWING SHOWING DEMOLITION ITEMS.
- GENERALLY OUT BY THE INTERIOR INCLUDING:
1. REMOVE ALL EXISTING GUMMET TILE, RESILIENT TILE, ADHESIVES, AND BASE TO RECEIVE NEW FLOOR FINISHES.
  2. BASE, WOOD, VINYL CARPET TILE.
  3. WALLS, METAL AND PARTITION IN THIS AREA, METAL, CARBON STEEL, AND STAINLESS STEEL, FOR USE BY OWNER.
  4. DOORS, MOVABLE WALL PARTITIONS, DOORS, PARTITIONS, PARTITION WALLS, PARTITION FRAMES, FIRE PARTITIONS TO RECEIVE NEW DOORS AND PARTITIONS (WHERE INDICATED).
  5. CEILING, SUSPENDED ACoustic CEILING (SUSPENDED), SUPPORT STRUCTURE (WHERE INDICATED).
  6. ADDITIONAL REQUIREMENTS:
1. ELECTRICAL/MECHANICAL, ALL ROOMS, ALL AREAS, DATA PORTS, OFFICE EQUIPMENT, ETC. TO BE REMOVED AND DISPOSED WITH THE DEMOLITION ON SAME CONCRETE WITH THE DEMOLITION.
  2. FIRE PROTECTION, ALL FIRE EXTINGUISHERS, ALARMS, ANNUNCIATORS, SMOKE EXHAUSTION, ETC. TO BE CAREFULLY REMOVED AND STORED FOR REUSE OR RECYCLED IN ACCORDANCE WITH THE PROTECTION ORDINANCE.

**Nickelodeon 4D Theater**  
Orlando, Florida

PROJECT NAME  
PROJECT NUMBER  
DATE  
DRAWN BY  
CHECKED BY  
DATE

2007036  
PROJECT NUMBER

**AD2.1**  
DEMOLITION FLOOR PLAN



1 Demolition Floor Plan