

## **XIXON CAFÉ RESTAURANT**

**Issue:** Vertical accessibility to raised and sunken dining areas in a restaurant.

**Analysis:** The applicant is requesting a waiver from providing vertical accessibility to a 502 square foot sunken dining area and a 707 square foot elevated dining area in a restaurant that also has 936 square feet of accessible dining at grade. The restaurant is undergoing a \$63,289 renovation and according to the applicant, it is both technically infeasible and disproportionately expensive to make all levels of the restaurant accessible. To access the raised and lower levels by ramp would reduce the number of seats available, jeopardizing the restaurant's liquor license. Estimates of \$31,629 and \$40,365 to install lifts were submitted.

### **Project Progress:**

The project is in plan review.

### **Items too be Waived:**

Vertical accessibility to raised and lowered dining areas, 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.

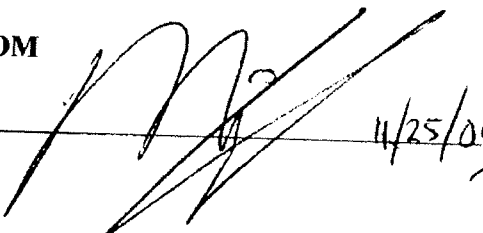
**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS  
OF CHAPTER 553, PART V, FLORIDA STATUTES**

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:** Xixon Café Restaurant  
**Address:** 2103 Coral Way  
City of Miami, 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:** 2103 Coral Way Assocs., LLP  
**Applicant's Address:** 2663 Upper Park Road  
Baldwin Park  
Orlando, Florida 32814  
**Applicant's Telephone:** 407-385-0664 **FAX:** 407-540-9630  
**Applicant's E-mail Address:** MIKE@MMI.COM  
**Relationship to Owner:** Owner  
**Owner's Name:** Michael Wright  
**Owner's Address:** 2663 Upper Park Road  
Baldwin Park  
Orlando, Florida 32814  
**Owner's Telephone:** 407-385-0664 **FAX:** 407-540-9630  
**Owner's E-mail Address:** MIKE@MMI.COM  
**Signature of Owner:**  4/25/09  
**Contact Person:** Michael Wright  
**Contact Person's Telephone:** 407-385-0664 **E-mail Address:** MIKE@MMI.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.)

**This project is a remodel (including no structural changes) of an existing 5,350 s.f. gross restaurant space which is located on the ground floor of an existing multistory office building. In addition to a 936 s.f. net main level dining area at grade, the restaurant space has a 502 s.f. net sunken dining area, and a 707 s.f. net raised dining area, both of which are currently accessed by stairs.**

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

**\$63,289.00**

**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: The existing 502 s.f. sunken dining area is currently served by a stairway. The stairway is being remodeled to make it wider and more user friendly and to accommodate carrying a wheelchair down the stairs by people on either side. The depth of the recess is 43" and the use of a ramp or ramps is not feasible due to the configuration of the structural framing for the raised dining area located directly above. The use of a ramp would substantially reduce the overall seating capacity to the sunken area which would impair the operators ability to meet minimum seating requirements required to get a liquor license. As a result of the limited cross sectional space the required minimum headroom of 80" for the ramp will not be available thus install a vertical chair lift or elevator. Both the structural configuration for the raised dining area directly above, and the costs to install a vertical lift, create a situation which makes providing accessibility to the sunken area not feasible therefore requiring the State Statute 553.509 to be waived.

**Issue**

2: The existing 707 s.f. raised dining area is currently served by two stairways. The height of the raised area is 68" and the use of a ramp or ramps is not feasible due to the configuration of the main dining area located at grade level (i.e. it would require a substantial amount of floor space which would eliminate the areas currently planned as Tapas bars and would also eliminate a substantial amount of dining room area, which is and will be currently handicap accessible. As a result of the limited floor area available required for the installation of ramps and landing areas for the ramp, a vertical chair lift or elevator would be the only other option. Both the limited area available for a ramp system and the costs to install a vertical lift create a situation which makes providing accessibility to the raised area not feasible due to location of a dedicated area and cost, therefore requiring the State Statute 553.509 to be waived.

**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.

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

The waiver is necessary due to cost and physical location and structural constraints in a building over 30 years old. To install a lift to the sunken area would require a dedicated space (which does not exist and would require substantial and costly structural changes to the ground floor slab of an 8 story office building.

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

Substantial financial costs, which simply cannot be afforded due to economic considerations and financing unavailability to provide funds could prevent the entire project from proceeding, if the substantial costs were imposed on a fairly modest remodeling job of an existing restaurant.

[X] 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.

**See Attached Cost Estimates.**

**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. **Please see attached bids for the costs of installing vertical lifts.**
- b. **Please see attached cost estimate breakdown for the interior work.**
- 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.

This project complies with F.B.C. section 11-5.4 which states: *"In alterations, accessibility to raised or sunken dining areas, or to all parts of outdoor seating areas is not required provided that the same services and décor are provided in an accessible space usable by the general public and are not restricted to use by people with disabilities."* It is my professional opinion that if this project is required to provide accessibility to all levels under State Statute 553.509 then a waiver from these requirements is necessary for this existing restaurant space due to the following factors.

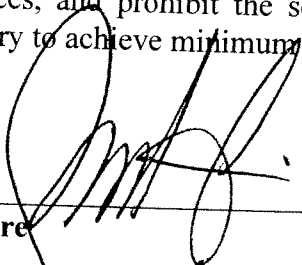
One of the factors affecting this restaurant space is the existing limited floor area necessary to

add a ramp or system of ramps and landings to reach the raised dining area. The total rise of the ramp needed to reach the raised dining area is 68 inches thus a minimum of 68 feet of ramp would be required and at least one 60 inch long landing area. If this ramp were a minimum of the required 36 inches the minimum required floor area for a ramp and one landing would be 2,628 square feet which is larger than the total net square footage of all three dining levels. As a result a vertical chair lift would be the only alternative which would not be able to access the lower level due to the existing structural framing system for the raised level dining area and the existence of a substantial concrete structures supporting an 8 storied office building's ground floor. Although these vertical lifts have limited footprint, substantial structural modifications to the existing structure will be necessary to properly accommodate the installation of a lift. No other structural changes to the existing space are planned or needed.

Another one of the factors affecting this restaurant space in addition to the existing limited floor area necessary to add a ramp or system of ramps and landings to reach the recessed dining area is limited vertical clearance available for providing the required 68 inch headroom for the ramp. As a result a vertical chair lift would be the only alternative which would not be able to access the lower level due to the existing structural framing system for the raised level dining area. Although these vertical lifts have limited footprint substantial structural modifications to the existing structure including demolition and excavation of the main level floor slab will be necessary to create a recessed floor area outside the footprint of the raised dining area.

In general due to the two factors previously mentioned it is my professional opinion and finding that the installation of a vertical lift that has a 3 stop function for accessing both the raised and sunken dining area from the main level dining area would require extensive demolition and reconfiguring of both the existing and proposed interior layout. The installation of such a lift would not only create extensive monetary expenditures substantially in excess of the remaining remodeling budget and other ADA upgrades, but also result in a reduction of the net usable area of all three levels to allow for the footprint of the lift itself as well as proper maneuvering clearances, and prohibit the service of alcoholic beverages due to the elimination of the are necessary to achieve minimum seating requirements.

Signature



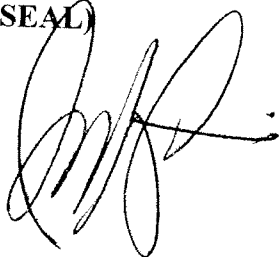
Printed Name

RICHARD SIMON

Phone number

954-566-7298

(SEAL)



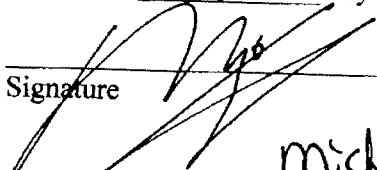
**CERTIFICATION OF APPLICANT:**

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 25<sup>th</sup> day of November, 2009

Signature

Printed Name

  
Michael E. Wright

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.

# Ketterbuilt

CBC1253672  
 619 Sunrise Ave  
 Winter Springs, FL 32708

## QUOTATION

Date	Estimate #
9/28/2009	620

Name / Address
2103 Coral Way Associates, LLP 2663 Upper Park Rd Orlando, Fl 32814

Project

Item	Description	Qty	U/M	Rate	Total
	XIXON CAFE' -INTERIOR-				
General Condi...	Safety and Security				
29 Supervision	Supervision			2,500.00	2,500.00
02.10 Demo	Demo			9,600.00	9,600.00
25 Cleanup	Debris/Dumpsters			5,800.00	5,800.00
04 Concrete	Saw Cuts, Pours & Ceiling Patches*			2,500.00	2,500.00
13 Windows & ...	Windows - Clean, Scrape Or Remove All Dirt, Paint, Films, Etc.			5,250.00	5,250.00
07 Wall Frame	Metal Framing - Soffits, Walls, Columns, Furring			1,140.00	1,140.00
07 Wall Frame	Wood Framing - Rebuild Headroom Area Above Lower Stairs			18,150.00	18,150.00
16 Electrical & ...	Electrical & Lighting*			3,800.00	3,800.00
14 Plumbing	Plumbing*			18,500.00	18,500.00
22 Specialty	Restroom Accessories - Mirrors, Dispensers, Grab Bars, Faucets			9,870.00	9,870.00
15 HVAC	Heating & Cooling*			2,120.00	2,120.00
15 HVAC	Wine Cooler System*			28,300.00	28,300.00
22 Specialty	Fire Sprinklers & Extinguishers*			1,600.00	1,600.00
22 Specialty	Phone & Data - Conduit Only*			11,463.00	11,463.00
22 Specialty	Steel, Welding & Fabrication*			4,000.00	4,000.00
22 Specialty	Stairs To Lower Level - New, Build To Specs, Include Tile Backing			3,860.00	3,860.00
22 Specialty	Stairs To Upper Level (2) - Rebuild to Code, Include Tile Backing			5,150.00	5,150.00
18 Interior Walls	Drywall - New & Existing Repair, Firewalls			3,850.00	3,850.00
				18,500.00	18,500.00
<b>Total</b>					

Owner \_\_\_\_\_ Date \_\_\_\_\_  
 Ketterbuilt \_\_\_\_\_ Date \_\_\_\_\_



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CBC1253672  
 619 Sunrise Ave  
 Winter Springs, FL 32708

## QUOTATION

Date	Estimate #
9/28/2009	620

Name / Address
2103 Coral Way Associates, LLP 2663 Upper Park Rd Orlando, Fl 32814

Project

Item	Description	Qty	U/M	Rate	Total
24 Paint	Interior Painting & Stain - Ceilings, Walls, Soffits Wall and Floor Tile Installation (Tile not Included)*			14,800.00	14,800.00
31 Tile				8,000.00	8,000.00
19 Ceilings & C...	Reflective Ceilings - Kitchen and Side Rooms According to Drawing A-2*			6,400.00	6,400.00
20 Millwork & ...	Millwork & Trim			2,350.00	2,350.00
12 Doors & Trim	ADA Door, Bi-Fold, Wine Gate, Suspended Door			1,300.00	1,300.00
25 Cleanup	Cleanup & Restoration*			2,600.00	2,600.00
21 Cabinets & ...	Tapas Bar, Side Deli, Granite Tops* -EXTERIOR-			14,606.00	14,606.00
12 Doors & Trim	Store Front Entry Doors (2) - 8FT Double & 7FT Double*			8,300.00	8,300.00
12 Doors & Trim	Store Front Entry Doors (1) - 7FT Single*			900.00	900.00
05 Masonry	Stucco & Paint*			3,800.00	3,800.00
16 Electrical & ...	Underground Electric & Light Pole Refurbish			1,200.00	1,200.00
02 Site Work	Covered Area - Fill, Compact, Pavers to Match* -SUBTOTAL-			1,650.00	1,650.00
PROFIT & OH	Contractor Profit & Overhead @20%			44,372.00	221,859.00
				<b>Total</b>	<b>\$266,231.00</b>

Owner

Ketterbuilt

Date

Date

XIXON CAFÉ COST BREAKDOWN FOR ADA COST ALLOCATION PURPOSES		
total proposed cost of work		\$266,231.00
contractor profit	grand total:	
exterior work-NOT part of interior permit		\$44,372.00
kitchen area work and/ or non customer service area refurbishment		\$15,850.00
other incidental repairs/ project costs not necessarily attributed to CSA improvements only		\$40,163.00
new interior ONLY costs minus kitchen and refurb work		\$65,912.00
ADA costs including portions for completing ada restroom	adjusted total:	\$99,934.00
accessibility costs including portions for completing stair rebuilding		\$19,985.00
new interior ONLY costs minus ADA and stair refurb work		\$16,660.00
percentage of adjusted total qualifying for waiver	further adjusted total:	\$63,289.00
	20% of adjusted total:	
		\$12,657.80
		36.7%
		\$36,645.00

# Ketterbuilt

CBC1253672  
 619 Sunrise Ave  
 Winter Springs, FL 32708

# Estimate

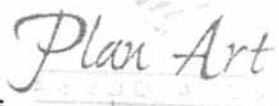
Date	Estimate #
11/5/2009	09-622

Name / Address
2103 Coral Way Associates, LLP 2663 Upper Park Rd Orlando, Fl 32814

Project

Item	Description	Qty	U/M	Rate	Total
	VERTICAL CHAIR LIFT -Purchase and Install lift with a three stop function from lower level to main level to upper level dining floors.				
02.10 Demo	Cut & demo area on main level slab			480.00	480.00
03 Excavation	Excavate and relocate any utilities (known 3' sanitary)			3,200.00	3,200.00
04 Concrete	Concrete slab at lower floor level and retaining walls to main level			2,720.00	2,720.00
18 Interior Walls	Modify and rebuild affected wall areas			2,460.00	2,460.00
Equipment	Purchase and Install three stop function lift			16,318.00	16,318.00
16 Electrical & ...	Provide serviceable electric wiring to unit and battery backup			1,180.00	1,180.00
PROFIT & OH	Contractor P&O @ 20%			5,271.00	5,271.00
<b>Total</b>					<b>\$31,629.00</b>

Ketterbuilt \_\_\_\_\_ Date \_\_\_\_\_  
 Owner \_\_\_\_\_ Date \_\_\_\_\_  
 Tenant \_\_\_\_\_ Date \_\_\_\_\_



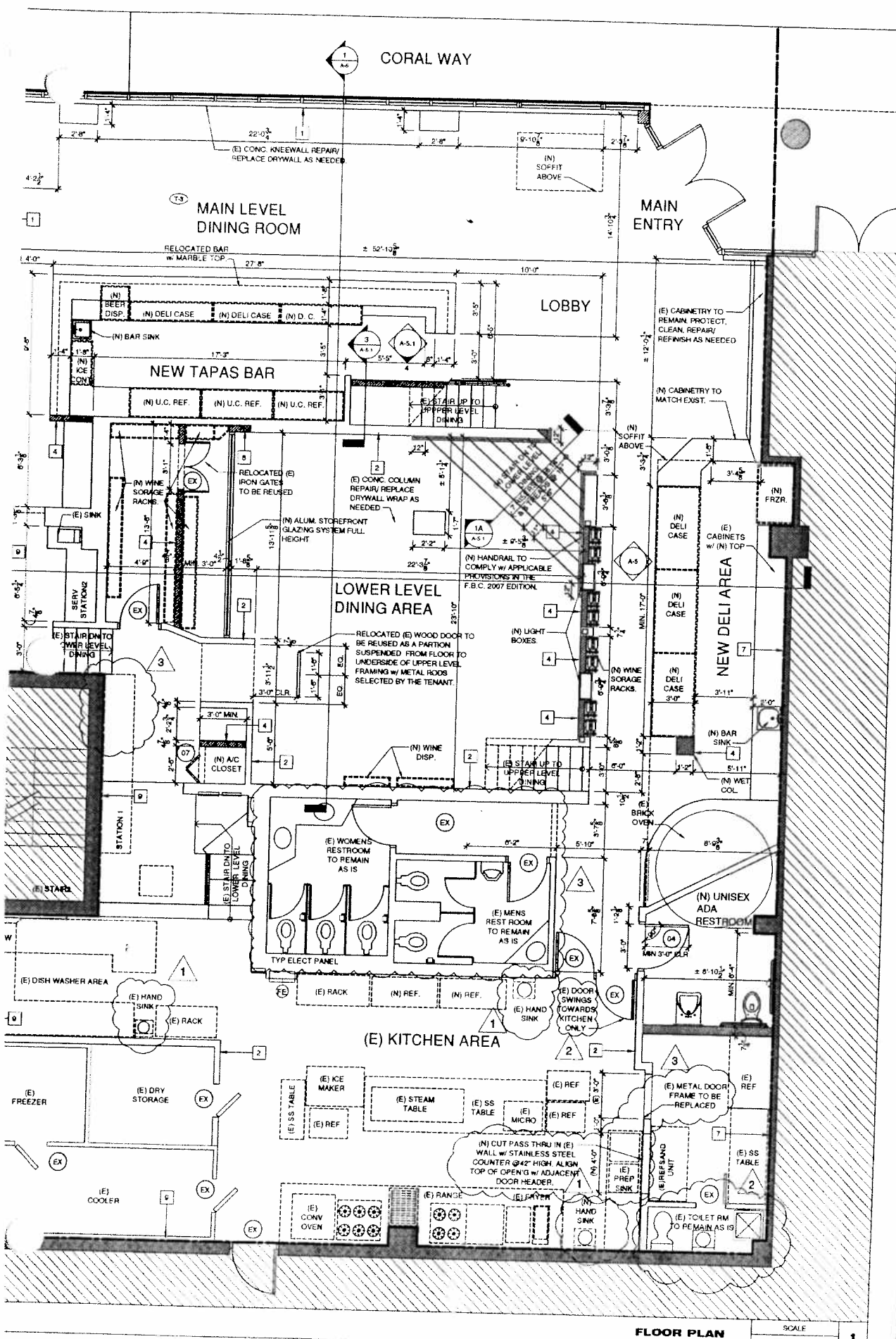
General Contractors  
 CGC060015  
 Insured

DATE \_\_\_\_\_  
 CLIENT NAME: **2103 Coral Way Associates LLP**  
 PROJECT NAME: **Xixon**  
 LOCATION: **2103 Coral Way Miami, Fl**

**PROPOSED CONSTRUCTION COST BREAKDOWN**

CATOG	DESCRIPTION	DIV. TOTAL	%	QTY	UM	\$	TOTAL S.F.	1	
							TOTAL	\$/GSF	
0202	Demolition water hold back equipment and sheet piling.			1	LS	3,500.00	\$3,500.00	#####	
0330	Concrete water proffing membrane			1	LS	7,500.00	\$7,500.00	#####	
0540	Steel			1	LS	500.00	\$500.00	500.00	
0650	Carpentry / Framing			1	LS	1,000.00	\$1,000.00	#####	
0925	Framing / Drywall / Finish			1	LS	1,000.00	\$1,000.00	#####	
1085	paint			1	LS	500.00	\$500.00	500.00	
1100	railing adjustment			1	LS	400.00	\$400.00	400.00	
1248	Lift			1	LS	15,000.00	\$15,000.00	#####	
1610	Electrical Systems			1	LS	1,000.00	\$1,000.00	#####	
		30,400.00							
<b>GENERAL CONDITIONS</b>									
1700	General Conditions							\$1,824.00	#####
General Conditions include the following but not necessarily all of the items:									
1700.1	Day Laborers								
1700.2	Field Office Supply								
1700.3	Field Equipment (PC)								
1700.4	Permit (Not In Contract)								
1700.5	Survey / Layout								
1700.6	Testing Concrete								
1700.7	Cell Phone								
1700.8	Temporary Toilets								
1700.9	Temporary Water								
1700.10	Temporary Power								
1700.11	Job Sign								
1700.12	First Aid								
1700.13	Documents Reproduction and Delivery								
1700.14	Equipment Rentals								
1700.15	Dumpsters								
1700.16	Daily Cleaning								
1710	Final Cleaning			1	LS	0.00	\$0.00	0.00	
		1,975.00		Sub-Total: 32,224.00					
<b>JOB SUPER/PROJ. MANAGER</b>									
1720	Job Superintendent			1	Wks	1,600.00	\$1,600.00	#####	
1725	Project Manager			5	Hrs	75.00	\$375.00	375.00	
				Sub-Total: \$34,199.00					
<b>INSURANCES</b>									
1730	General Liability Insurance	598.48							\$598.48 598.48
				Sub-Total: 34,797.48					
<b>OVERHEAD/PROFIT</b>									
1790	Overhead & Fees	\$5,567.60							\$5,567.60 #####
<b>CONSTRUCTION COST TOTAL</b>							<b>\$40,365.08</b>	<b>#####</b>	

**DIV 17A GENERAL CONDITIONS AND TERMS**  
 1 Permit fees, impact fees, environmental fees, meters, are not included in the budget estimate.  
 2 Should at any time, due to no fault of Plan Art Assoc., be required to stop the work, a remobilization fee for the delay will be submitted. This fee shall consist of all on going costs such as and not limited to temporary facilities, utility, supervisor, insurance costs and O/P on the costs incurred.



**FLOOR PLAN** SCALE 1/4" = 1'-0" 1

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 Ft. Lauderdale, FL 33308  
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 architects - engineers - construction managers



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PROJECT

**XIXON CAFE**  
 2103 CORAL WAY  
 MIAMI, FL

REVISIONS DATES:  
 07-14-09 HEALTHY COPY  
 08-04-09 PERMIT COORDINATE  
 10-08-09 CLIENT PRESENTATION

PROFESSIONAL SEAL

RICHARD TARKES SIMON #00001404  
 REGISTERED ARCHITECT STATE OF FLORIDA

ISSUE DATE: 07.27.09  
 PROJECT #: 114.0909  
 DRAWN BY: GAN  
 CHECKED BY: RHS

FLOOR PLANS

A-1



### FLOOR PLAN NOTES

- A. ALL PARTITIONS ARE DIMENSIONED FROM FACE OF DRYWALL TO FACE OF DRYWALL UNLESS OTHERWISE NOTED.
- B. ALL DIMENSIONS MARKED 'CLEAR' OR 'CLR.' SHALL BE MAINTAINED AND SHALL ALLOW FOR THICKNESS OF ALL WALL FINISHES, UNLESS OTHERWISE NOTED.
- C. ALL EXPOSED GYPSUM BOARD EDGES TO HAVE METAL EDGE TRIM UNLESS OTHERWISE NOTED.
- D. ALL WORK SHALL BE ERECTED AND INSTALLED PLUMB, LEVEL, SQUARE AND TRUE, AND IN PROPER ALIGNMENT.
- E. ANY ITEM SCHEDULED TO BE REUSED MUST BE REFINISHED AND MAINTAINED TO A 'LIKE NEW' CONDITION, NO EXCEPTIONS.
- F. TRIM THE BOTTOM OF DOORS TO CLEAR THE TOP OF ALL FINISHED FLOORS AS APPLICABLE BY 1/2" MAXIMUM, UNLESS OTHERWISE NOTED. VERIFY SLAB CONDITIONS, TRIM EACH DOOR TO FIT CONDITIONS. WHERE RADICAL VARIATIONS IN FLOOR ELEVATION OCCUR EXIST, DOORS SHALL BE ORDERED WITH BOTTOM STILE SIZED TO ACCOMMODATE THESE UNDERCUT CONDITIONS.
- G. ALL MILLWORK TO BE FASTENED TO THE PARTITION THEY ADJOIN. PROVIDE BLOCKING FOR ALL MILLWORK NOT SUPPORTED BY SLABS.
- H. ALL CONCEALED LUMBER AND BLOCKING TO BE FIRE TREATED. SILL COVER TO SUPPORT MINIMUM LIVE LOAD OF 300 LBS.

### NOTE:

ALL PENETRATIONS INTO OR THROUGH FIRE WALLS, FIRE BARRIERS, SMOKE BARRIER WALLS, AND FIRE PENETRATIONS SHALL COMPLY WITH SECTION 712 OF FLORIDA BUILDING WALL SUPPLEMENTS.

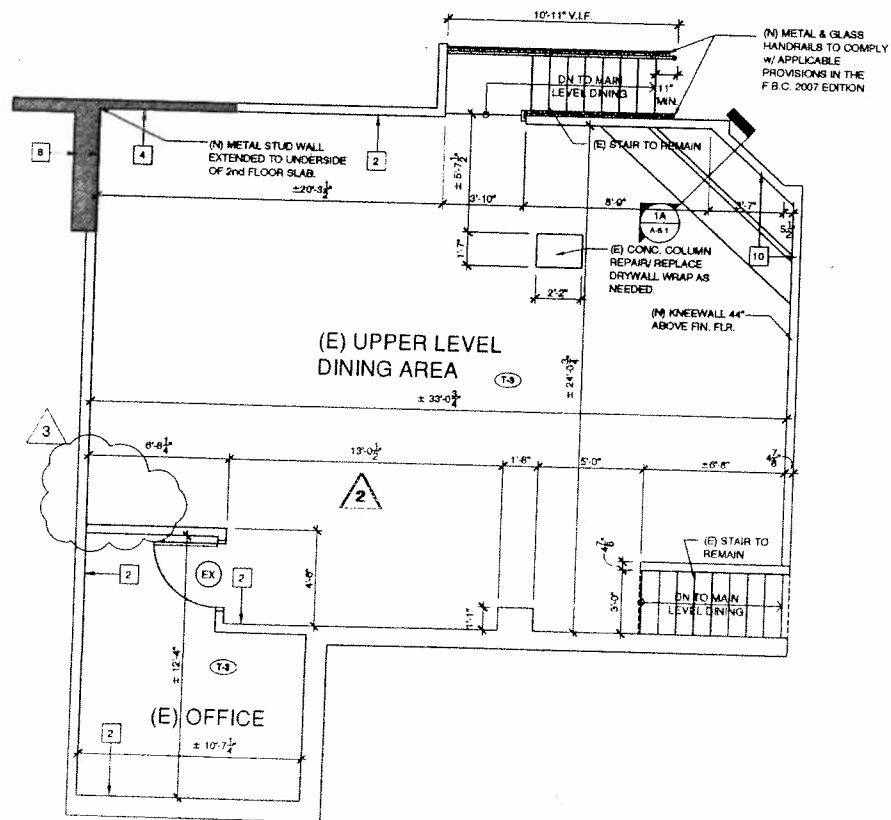
### WALL PARTITION LEGEND

-  (N) PARTITION WALL, SEE WALLTYPE LEGEND FOR DETAILS.
-  (E) WALL TO REMAIN, MAINTAIN REQUIRED RATINGS.

### ACCESSIBILITY NOTE:

ACCESS TO BOTH THE LOWER AND UPPER DINING AREAS SHALL COMPLY WITH SECTION 11-5.4 OF FLORIDA BUILDING CODE WALL SUPPLEMENTS. UNDER THE CATEGORY OF ALTERATIONS IT IS NOT NECESSARY TO PROVIDE ACCESSIBILITY TO RAISED OR SUNKEN DINING AREAS PROVIDED THAT THE SAME LEVEL OF SERVICES AND DECOR ARE PROVIDED IN AN ACCESSIBLE SPACE USABLE BY THE GENERAL PUBLIC AND ARE NOT RESTRICTED TO USE BY PEOPLE WITH DISABILITIES.

PATIO DINING NOT INCLUDED  
EXTERIOR MODIFICATION UNDER SEPERATE PERMIT



UPPER LEVEL DINING AREA FLOOR PLAN

SCALE  
1/4" = 1'-0"

2

P:\PROJECTS\54201 - 1100 Green Pkwy\54201 - 1100 Green Pkwy.dwg, 2/18/2010 11:00:00 AM, 11/20/2010 11:00:00 AM, 11/20/2010 11:00:00 AM