## STONEHENGE, LLC

Issue: Vertical accessibility to second floor offices.

Analysis: The applicant is requesting a waiver from providing vertical accessibility to the second floor of a 7,500 square foot building with a restaurant on the first floor and offices on the second. The structure is a qualified historic building, which was constructed in 1940. A waiver was previously issued to its former owner with the rationale that it would be technically infeasible to install an elevator or other form of vertical accessibility. Documentation was submitted that it would negatively impact the structural integrity of the building if a mechanical lift were installed.

# **Project Progress:**

The project is in plan review.

### Items to be Waived:

Vertical accessibility to the second floor, 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: Stonehenge, LLC

Address:115 East Park Avenue, Tallassee, Florida 32301

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: Stonehenge, LLC

Applicant's Address: 200 West College Ave, Suite 311B, Tallahassee, FL 32301

**Applicant's Telephone**: 850-681-1029 FAX: 208-248-9038

Applicant's E-mail Address: nfenner@rcoateslaw.com

Relationship to Owner:

Owner's Name: Stonehenge, LLC

Owner's Address: 200 West College Ave, Suite 311B, Tallahassee, FL 32301

Owner's Telephone: 850-681-1029 FAX 208-248-9038

Owner's E-mail Address: <u>nfenner@rcoateslaw.com</u>

Signature of Owner:

Contact Person: Noreen Fenner

Contact Person's Telephone: 850-681-1029\_E-mail Address: nfenner@rcoateslaw.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).
[x] Historical preservation (alteration).
4. <b>Type of facility.</b> Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)
Facility is a two story brick building with approximately 7500 square feet. It is a registered historic building, built in 1940. The lower level is a restaurant. The upper level will be utilized for private office space.
5. Project Construction Cost (Provide cost for new construction, the addition or the \$350,000
6. <b>Project Status:</b> Please check the phase of construction that best describes your project at the time of this application. Describe status.
[ ] Under Design [ ] Under Construction*
[ X In Plan Review [ ] Completed*
* Briefly explain why the request has now been referred to the Commission.
A Final Order granting a vertical accessibility waiver and the state of the state o

A Final Order granting a vertical accessibility waiver was issued on October 18, 2005 to the building's previous owner, Cool Grindz Coffee, LLC. Stonehenge, LLC has been informed by DCA Staff that because of a building change of ownership a waiver must also be granted in the name of the new building owners.

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

#### Issue

1: Section 553.509, Florida Statutes. Because of the age of the building and its design, installation of an elevator or chairlift could compromise the structural integrity of the building as well as being prohibitively expensive.

#### Issue

2: The owners have obtained an opinion from Architect Kevin Sossong (copy enclosed) stating that the building structure could be negatively impacted if a elevator or chairlift were attempted to be installed. The owners have also obtained an opinion from the Project Manager, Clain Zimmerman (copy enclosed), stating that the installing an elevator or chairlift would negatively impact the structural framing of the building as well as the historic significance.

#### Issue

- 3: The previous owner also obtained an estimate to install a lift in excess of \$100,000. This amount is prohibitively expensive, even if it were structurally feasible.
- 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 building structure does not meet the requirements necessary to support an elevator or chairlift.

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

As evidenced by the attached quote received in 2005, the cost of attempting to retrofit the building with an elevator or chairlift is prohibitive.

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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. Please see the attached quote.
- 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.

Please see attached architect letter.

# **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.

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.

According to the June 6, 2000 memorandum from Kathy Butler, Assistant General Counsel DCA, the federal disproportionate cost exception may not be applied to the Florida vertical accessibility requirement. Therefore, the renovation of the 2<sup>nd</sup> floor is considered an alteration to an area containing a primary function. Vertical Accessibility must be provided unless waived by the Florida Building Commission.

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

[x] Yes

[ ] No

Cost of Construction

\$13,800 minor modification restaurant

# Comments/Recommendation

Except for attesting to the accuracy of the cost figures as presented, to the best of my knowledge, all information stipulated herein is true and accurate.

Building Official or Designee

Signature

Signature

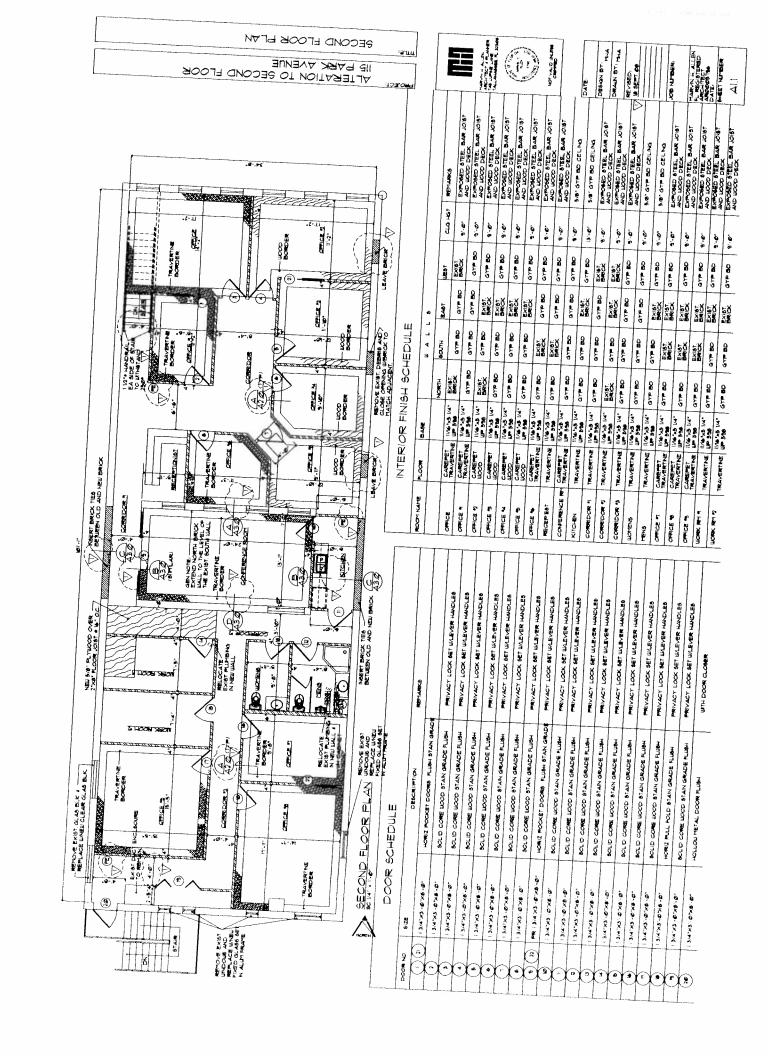
### Printed Name

### B1230 Certification #

### Telephone/Fax

Address

Dex Bold Tallahassee, FC 32301



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20 October 2008

Stonehenge, LLC
Attn: Noreen Fenner
200 West College Avenue #311B
Tallahassee, FL 32301

Re: 115 East Park Avenue

Dear Ms. Fenner,

On July 19<sup>th</sup>, 2005, I reviewed the existing conditions of the two-story building at 115 East Park Avenue, in Tallahassee, Florida to determine if modifications necessary for the installation of a new elevator or wheelchair lift was possible. The elevator would be required to achieve ADA access to the second floor. Unfortunately, installation of a new elevator would also require significant alterations to the existing structure.

Modifying the existing load-bearing brick with bar joist structure to incorporate an elevator or vertical wheelchair lift would be somewhat risky, regardless of cost or the ability to physically locate a shaft and associated equipment room within the existing restaurant. Modifying the floor structure to create a new shaft opening and recessed pit will change the load bearing distribution to the load bearing three-wythe brick walls. Because of the age of the structure, the wall reinforcing and foundation conditions cannot be determined through visual observations. Any significant changes to the structure could have a negative effect on other parts of the building.

I have recently visited the site and find no changes to the existing building structure that would change my original opinion. I do not recommend modifying the existing building structure to accommodate a new elevator or wheelchair lift.

Kevin Sossong, AIA

10.20.08

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1022 Holland Drive Tallahassee, Florida 32301 Phone/Fax 850-878-8639 sossong@architecturebydesign.com



NOVEMBER 6, 2008

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NOREEN A. FENNER TIDEWATER CONSULTING, INC. 200 WEST COLLEGE AVE. SUITE 308 TALLAHASSEE, FL 32301 PHONE: 850.681.6400 FAX: 850.681.7080

RE: 115 E. PARK AVE. VERTICAL ACCESS

Ms. FENNER.

I FEEL THAT IT IS TECHNICALLY INFEASIBLE TO INCORPORATE VERTICAL ACCESS INTO THE SPACE; PER THE REQUIREMENTS OF §503.509 FL STATUTES AND FBC- CHAPTER 11: ACCESSIBILITY. DUE TO THE EXISTING STRUCTURAL CONDITIONS; THE INCORPORATION OF AN ELEVATOR/LIFT WOULD REQUIRE THE REMOVAL OR ALTERATION OF LOAD-BEARING MEMBERS, WHICH ARE AN ESSENTIAL PART OF THE STRUCTURE'S FRAMING DESIGN. ALSO, DUE TO THE FACT THAT THE BUILDING IS CLASSIFIED AS AN HISTORIC BUILDING AND IS IN COMPLIANCE WITH FBC SECTION 11-4.1.7 (1)(b.); THE ADDITION OF AN ELEVATOR/LIFT WOULD THREATEN AND/OR DESTROY THE HISTORIC SIGNIFICANCE OF THE BUILDING.

CORDIALLY,

CLAIN ZIMMERMAN PROJECT MANAGER

GENERAL CONTRACTOR

CONSTRUCTION MANAGEMENT

**DESIGN BUILD** 

19 July 2005

Mr. Troy Lee, CEO Cool Grindz on Park 115 Park Avenue Tallahassee, Florida

Reference:

Wheel Chair Lift Addition

Sent Via Facsimile

Facsimile Number: 850.205.0298

Dear Mr. Lee:

Attached is a Conceptual Budget Estimate for the installation of an Elevator in the

We acknowledge receipt of drawing A-1, by "By Design Inc.", dated 10 June 2005 as the basis of information to delineate the current downstairs floor plan and the desired upstairs floor plan. This drawing lacks certain required information to allow for an accurate lump sum estimate for the installation of the wheel chair lift.

The Conceptual Budget Estimate for the installation of the elevator system is an amount of One Hundred Six Thousand Eight Hundred and Eighty-One Dollars and No Cents (\$106,881.00).

The following assumptions have been made to provide for the Conceptual Estimate value

- Allowances for Selective Demolition, Concrete, Masonry, Gypsum Board Assemblies, Acoustical Ceiling Systems, Painting, Electrical Systems and Alarm Systems are a part of this Conceptual Budget Estimate.
- Structural and Geotechnical Engineering design information will be provided to determine a final construction value.
- Architectural detailed drawings and specification will be provided for determining a final construction value.
- Electrical Engineering design information will be provided to determine a
- An elevator will be is required for the installation the wheel chair lift.

This budget is Conceptual and reflects those values that are assumed to be required for the installation of an elevator. A more accurate construction value may be determined provided that additional information is received.

If you have any questions concerning the information contained in this letter do not hesitate to contact me at your earliest convenience.

> 1126 Thomasville Road Talahassee, Florida 32303-6272
> http://www.emo-arc.com
> e-mail: emo@emo-arc.com
> Telephone: 850.222.8007
> Facsimile: 850.222.8007
> FLV CGC010787

ArC MASTERBUILDERS, INC

Mr. Troy Lee, CEO Cool Grindz on Park Page 2 of 2 19 July 2005

We appreciate the opportunity to be of service to Cool Grindz and we are hopeful to be of service in the future.

Respectfully, ArC/MASTERBULEPERS, INC.

William H. Moore Vice President

John Jackson CC:

### STATE OF FLORIDA BUILDING COMMISSION

In the Matter of COOLGRINDZ COFFEE, LLC,	)	
Petitioner.	) ) )	No. DCA05-HC-184
	)	

### FINAL ORDER

The Application for Waiver COOLGRINDZ COFFEE, LLC, came for consideration before the State of Florida Building Commission ("the Commission") in accordance with Section 553.512(1), Florida Statutes, and Chapter 9B-7, Florida Administrative Code, at the meeting of the Commission on August 22, 2005, upon a recommendation by the Accessibility Advisory Council ("the Council"). At that meeting, the Commission made the following findings of fact:

- 1. Troy A. Lee, owner of Coolgrindz Coffee, LLC, appeared before the Council.
- 2. Petitioner seeks a waiver for the planned alteration of a restaurant.
- 3. The restaurant is located at 115 East Park Avenue, Tallahassee, Florida 32301.
- 4. The requirements from which the Petitioner seeks a waiver are those in Section 553.509, Florida Statutes, which require the Petitioner to provide vertical accessibility to all levels above and below the occupiable grade level of a building, structure, or facility.
- 5. Petitioner asserts that providing vertical accessibility to all levels of the restaurant would compromise the structural integrity of the building housing the restaurant.
- 6. Based on consideration of the foregoing information, the description of the construction, the representations of the Petitioner, and the applicable legal requirements, the Council recommended that the Application for Waiver of vertical accessibility be approved under the

provisions of Section 553.512, Florida Statutes, based on technical infeasibility, but on condition that the Petitioner dedicate accessible seats on the first level of the facility.

7. The waiver is to take effect upon the Petitioner filing modified plans and the requested materials with the Florida Department of Community Affairs staff demonstrating compliance with the above conditions.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with the Council's recommendations, and concludes that action on the Application for Waiver be, and hereby is, APPROVED, conditioned on the Owners satisfying the above identified condition.

This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, Section 553.501 et seq., Florida Statutes, 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 permitted authority for the project. §553.513, Fla. Stat. 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., or other applicable regulations. Any 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), Florida Statutes, and Florida Rules of Appellate Procedure 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), Florida Statues.

DONE AND ORDERED this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 2005 in Coral Gables, Miami-Dade County, State of Florida.

Chairman

Florida Building Commission Department of Community Affairs

Sadowski Building

2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100

Copies To:

Mr. Neil Melick Chairman, Accessibility Advisory Council City of West Palm Beach P.O. Box 3366 West Palm Beach, Florida 33402-3366

Troy A. Lee Coolgrindz Coffee, LLC 1717 Valley Road Tallahassee, Florida 32301 Hamid Dolikhani, Building Official, City of Miami Beach 1700 Convention Center Drive, 2nd Floor Miami Beach, Florida 33139

# **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent to the following recipient(s) by United States Mail on this \_ day of October, 2005.

Coolgrindz Coffee, LLC Tallahassee, Florida 32301

Troy A. Lee

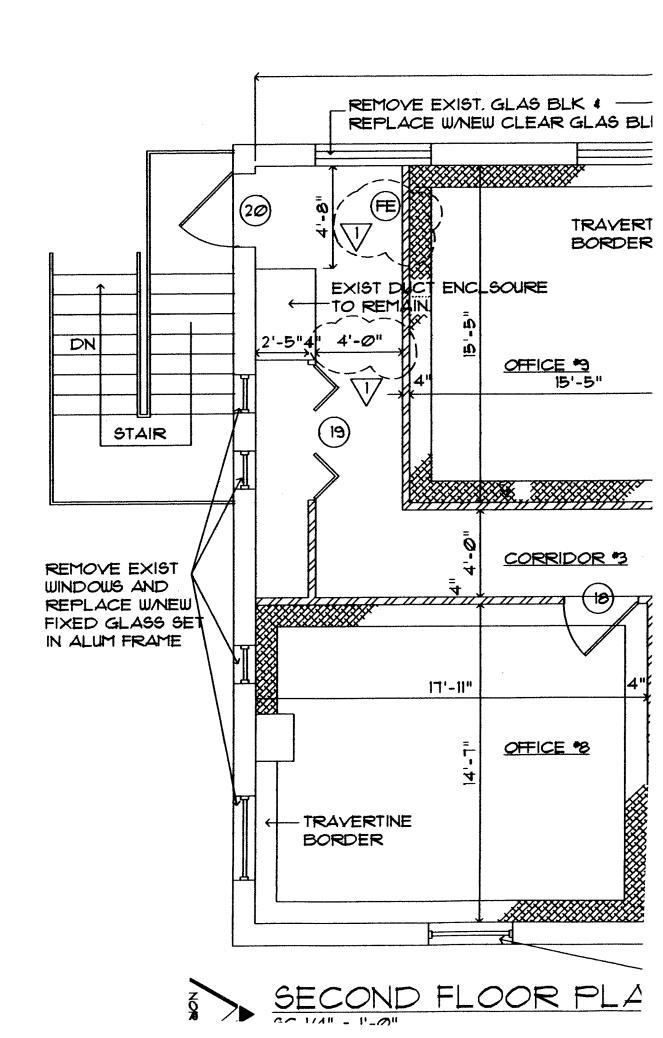
1717 Valley Road

FILING AND ACKNOWLEDGEMENT FILED, on this date, with the designated

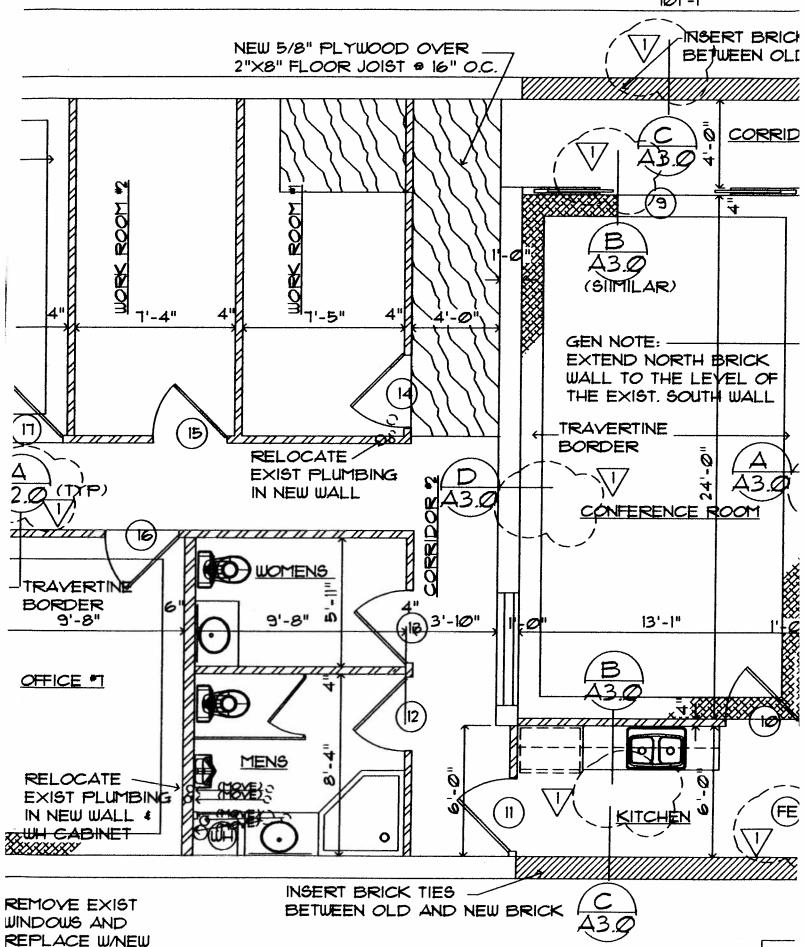
Paula P. Ford Commission Clerk

Agency Clerk, receipt of which is hereby acknowledged.

Minam Snipes / Deputy Agency Clerk



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