

# BAI Architecture

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To: Department of Business and Professional Regulation  
Division of Hotels and Restaurants  
Elevator Waiver Review Board

From: Matthew Hyatt, AIA, IIDA, LEED AP BD+C  
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Date: July 9, 2025

Subject: Request for Accessibility Waiver – Cactus Restaurant, 850 Commerce Street, Miami Beach, FL. Submission  
Activity Number: 716-R1

To Florida Building Commission, DBPR,

We are requesting a waiver from Florida Statute, Section 533.509, as incorporated in section 201.1.1 of the Florida Accessibility Code, for vertical accessibility at a proposed small dining mezzanine within a restaurant due to spatial hardship and technical infeasibility described below:


- The proposed dining mezzanine where the waiver is requested is located in a dining area within a one-story, existing building undergoing an alteration (no change of use). It is 840 square feet, seats less than 50 occupants, and has a connecting stair to the dining area below. The mezzanine square footage is limited to ½ the footprint of the area below per Florida Fire Protection Code 8.6.10.2.2 and occupant load limited to 49 as mezzanine has one means of egress.

In compliance with ADA 2010 206.2.5: Restaurants and Cafeterias, the total proposed seat count is less than 25% of the total proposed seating capacity in the restaurant (330 seats) and the same services and decor are provided in the accessible spaces below and not restricted to use by people with disabilities, meeting both applicable exceptions 1 and 2. In addition, in compliance with ADA 2010 206.2.4, Exception 3, accessible routes shall not be required to connect mezzanines where buildings have no more than one story. The alteration impacts primary function areas as defined in 202.4 of the Florida Accessibility Code and the spatial conditions and impacts further detailed below, supplemented with visual illustrations. Section 553.509, F.S. as incorporated in section 201.1.1 of the Florida Accessibility Code, applies the path of travel upgrades required by 202.4. Per this section, Florida requirements may be waived down to the ADA Standard Requirements which is the basis of the waiver request given the proposed mezzanine complies with all applicable sections of the 2010 ADA Standards for Accessible Design.

Immediately below the proposed mezzanine is an employee break area with lockers and manager's office. Both spaces are required to be accessible as they are not considered "employee work areas" as defined 106.5 of the Florida Accessibility Code. Installing any vertical transportation and the associated required clearances to serve the small dining mezzanine above will not only conflict with the accessible program areas below but will also impact usable square footage to the point where does not make sense operationally to construct the mezzanine. Addition of vertical transportation, in order to prevent impact on required life safety components below (accessible exit), will disrupt the dining space and associated seating areas on the ground floor (where accessible seating is currently proposed) to make way for required clearances and allow for the reconfiguration of Manager's Office and Employee Break Room to maintain accessibility. The usable floor area of the mezzanine would be reduced to an extent that the total seat count necessary to justify the addition of the mezzanine would be diluted. See supplemental plan drawing illustrating the spatial conditions.

- Ceiling height at proposed mezzanine is 8'-3". Typical elevators have a taller minimum clearance required for overruns. TK Hydraulic Endura, for example, requires 12'-2" clearance from the finished floor. This would mean the elevator overrun would protrude past the existing pitched roof elevation and building height. It will require steel rework, new roofing, and drainage at roof level and visually change the hip roof form of the 1920's era building triggering additional DRB approvals. See supplemental section drawing for reference. While this is not a historically designated building, it will adversely impact the architectural form and experience for visitors and adjacent residential abutters.
- Installation of an elevator, in addition to the cost of the vertical transportation system itself, will require demolition of existing slab, temporary SOE for new pit, new grade beams and hydrostatic pit slab (within an existing confined space), new helical piles, new framing for hoistway, local demolition and reconfiguration of roof and associated roof structure to support overrun, and installation of new steel members and frame to support overrun. The existing building would also require extensive temporary shoring during this period. The amount of intensive work required to add a vertical transportation system at the proposed mezzanine is significant, involving substantial structural modifications and reinforcement. This includes not only the physical installation of the elevator system but also the complex and labor-intensive preparatory work necessary to accommodate the new infrastructure. We believe the combination of demolition, temporary support systems, foundation reinforcement, and structural framing to install vertical transportation to the small dining mezzanine meets the criteria set forth in 203.15 of the Florida Accessibility Code: Structural Impracticability, as it disproportionately impacts the alteration cost, construction timeline, building's stability, and overall project feasibility.

Due to these technical infeasibility and spatial hardships, we kindly request the vertical accessibility requirement be waived down to ADA 2010 requirements for the proposed mezzanine.

Submitted: 

Date: July 9, 2025

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