

**KAMAKURA, INC. d.b.a. NAOE**

**Issue:** Providing an accessible entrance to an existing building undergoing an alteration.

**Analysis:** The applicant is requesting a waiver from providing accessibility to the main entrance of a building located on a zero lot line site. The building is undergoing a \$20,000-30,000 alteration for conversion to a restaurant, which will contain approximately 400 square feet. The issue is not disproportionate cost, but rather the technical infeasibility of providing the entrance given the site constraints. This is confirmed by the local building department.

**Project Progress:** The project is under design.

**Items to be Waived:**

An accessible public entrance as required by Section 11.4.1.

Exception: Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance with the requirements of this code are structurally impracticable, a person or entity shall comply with the requirements to the extent it is not structurally impracticable.

Technically Infeasible: With respect to an alteration of a building or facility, it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load bearing member which is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

**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.

Council will provide recommendations to the Florida Building Commission. The Commission will review the application. You will have another opportunity to answer questions and/or give a short presentation **not to exceed 15 minutes**. The Commission will consider all information and the Council's recommendation before voting on the waiver.

This application is available in alternate formats upon request.

**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: \_\_\_\_\_ Kamakura Inc, d.b.a. NAOE \_\_\_\_\_

Address: \_\_\_\_\_ 333 W 47 Street, Miami Beach, FL 33140 \_\_\_\_\_

**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: \_\_\_\_\_ Kevin Cory \_\_\_\_\_

Applicant's Address: \_\_\_\_\_ 1100 NE 196 Street, Miami, FL 33179 \_\_\_\_\_

Applicant's Telephone: \_\_\_\_\_ 305-522-1808 \_\_\_\_\_ FAX: \_\_\_\_\_ 305-468-6579 \_\_\_\_\_

Applicant's E-mail Address: \_\_\_\_\_ kc@naoemiami.com \_\_\_\_\_

Relationship to Owner: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Telephone: \_\_\_\_\_ FAX \_\_\_\_\_

Owner's E-mail Address: \_\_\_\_\_

Signature of Owner: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Kevin Cory \_\_\_\_\_

Contact Person's Telephone: \_\_\_\_\_ 305-522-1808 \_\_\_\_\_ E-mail Address: \_\_\_\_\_ kc@naoemiami.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.)

\_\_\_Commercial-Mixed Use, 2 floors, 1<sup>st</sup> floor is commercial, 2<sup>nd</sup> floor is apartments, 18,962 square feet. Lot Size 10,166 square feet. Built in 1930

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**5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):** \_\_\_\$20,000 - \$30,000\_\_\_\_\_

**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.

\_\_\_The City of Miami Beach Chief Accessibility Inspector, Gladys Salas said, its not feasible to build an ADA entrance for my business; there is no space. She said, I must get a waiver from the State of FL\_\_\_.

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

**Issue**

1: \_\_\_ There's no space to build an ADA entrance. Its a zero lot building up against the City's sidewalk which is up against the asphalt for cars. Section 11-4.1.6(2), Florida Building Code

**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.

\_\_\_ There's no space to build an ADA entrance. Its a zero lot building up against the City's sidewalk which is up against the asphalt for cars.

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

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.

**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. \_\_\_\_\_ it is not hardship due to disproportionate cost, but technical infeasibility.

\_\_\_\_\_

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.

\_\_\_\_\_

\_\_\_\_\_

Signature

Printed Name

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

(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 23 day of MAY, 2008

JBL Coy  
Signature

Kevin Coy  
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.

**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.

a. Florida statutes 553.509 Vertical Accessibility to all levels requirement. / 2004 FBC 11-4.1.3(5)

b.

\_\_\_\_\_

c.

\_\_\_\_\_

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

Yes  No      Cost of Construction: \_\_\_\_\_

**Comments/Recommendation** The design has not being submitted by the City for permit. However we had pre-design meetings in which we find that due to existing constrains it will be technically infeasible to provide vertical accessibility from the sidewalk to the space of proposed restaurant. The space has a gross area of about 400 sq ft and it is against the \_\_\_\_\_ property line.

Jurisdiction      City Of Miami Beach

Building Official or Designee \_\_\_\_\_  
Signature

Gladys N. Salas, PE  
Printed Name

PX0001401

Certification Number

305-673-7610 ext. 6888/ 786-394-4087

Telephone/FAX

Address: 1700 Convention Center Dr. Miami Beach, FL 33139, 2<sup>ND</sup> Floor.



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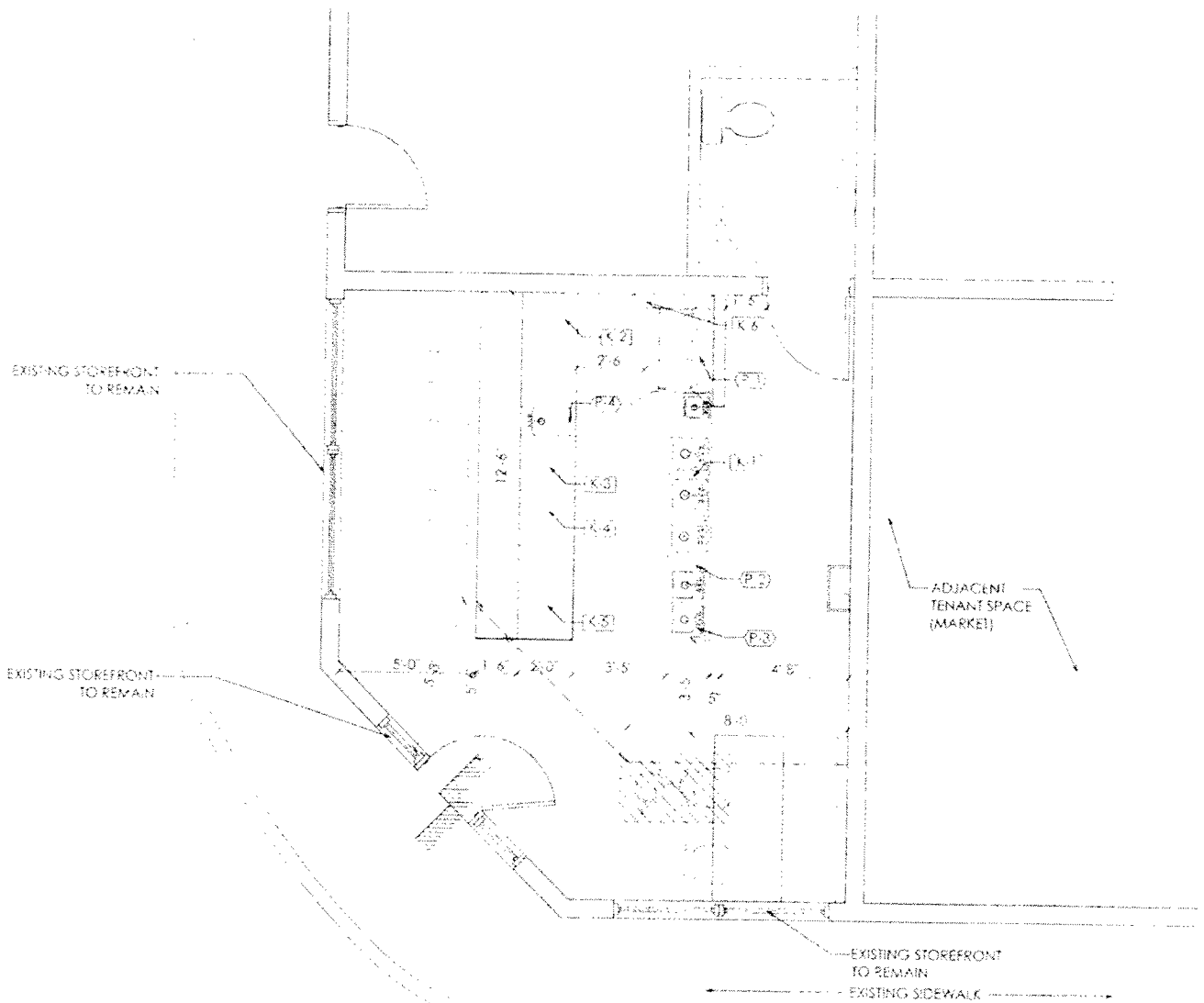
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kc@naoemiami.com  
06/26/2008 01:00 PM

To : Mary-Kathryn.Smith@dca.state.fl.us  
cc  
bcc  
Subject : NAOE - 333 W 47th Street, Miami Beach, FL 33140 -  
Historical Building

Dear Mary-Kathryn Smith,

The City of Miami Beach, Senior Planner, Deborah Tackett gave me the following information. Please confirm if this is what the Florida Building Commission Accessibility requested to finalize my waiver.

Mr. Cory:

Please be advised that the structure located at 335 W 47th Street in Miami Beach, is classified as a 'Contributing' (historic) structure within the Flamingo Waterway Historic District. The Miami Beach Historic Properties Database indicates that the structure was designed in the 'Mediterranean Revival' style of architecture by architect Charles Inscho and built in 1926. The Flamingo Waterway Historic District was designated by the City of Miami Beach on April 20, 2005 (City of Miami Beach Ordinance No. 2005-3481).

I trust this provides the necessary information with regard to the status of this historic property. Please do not hesitate to contact me should you require any further information. Thank you for your inquiry

## MIAMIBEACH

**Debbie Tackett**, *Senior Planner*

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7000 Ext 6467/ Fax: 305-673-7559 / [www.miamibeachfl.gov](http://www.miamibeachfl.gov) http:><http://www.miamibeachfl.gov/>  
<http://www.miamibeachfl.gov/>" href="blocked::http://www.miamibeachfl.gov/" target=\_blank>[www.miamibeachfl.gov](http://www.miamibeachfl.gov/)

Will I receive a document that shows my waiver was approved that I give to the City of Miami Beach?

Sincerely,

**Kevin Cory**

Kamakura, Inc.

**NAOE™ Restaurant**

PO Box 800608

Aventura, FL 33280

Cel: (305) 522-1808

Fax: (305) 468-6579

*its not fresh.. its Alive.™*

[kc@naoemiami.com](mailto:kc@naoemiami.com)

[www.naoemiami.com](http://www.naoemiami.com)