

WENDY'S INTERNATIONAL

Issue: Doors swinging into the clear floor space for toilet rooms.

Analysis: The applicant is requesting a waiver as a matter of law. The building is undergoing a \$10,000 alteration to comply with the provisions of a settlement agreement entered by the federal court system which stipulated the repair work that must be done. The applicant cannot comply with both the settlement agreement and the requirement of Chapter 11, so the issue is being presented to the Commission,

Project Progress:

The project is under design and in plan review.

Items to be Waived:

Doors shall not swing into the floor space required for any fixture, as specified in Section 11-4.23.2.

11-4.23.2: Doors to accessible bathrooms shall comply with Section 11-4.13. Door shall not swing into the floor space required for any fixture.

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: Wendy's International

Address: 205 S. Miramar
Indialantic FL 32903

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: Bemmie Eustace c/o Interplan LLC

Applicant's Address: 933 Lee Road, Suite 120, Orlando FL 32810

Applicant's Telephone: 407-645-5008 FAX: 407-629-9124

Applicant's E-mail Address: BEustace@interplanorlando.com

Relationship to Owner: Architectural Consultant

Owner's Name: Jack Johnson, Construction Manager, Wendy's International

Owner's Address: 851 Trafalgar Court, Suite 300W, Maitland FL 32751

Owner's Telephone: 813-401-8547 FAX 407-629-0641

Owner's E-mail Address: Jack Johnson@Wendys.com

Signature of Owner: 

Contact Person: Bemmie Eustace

Contact Person's Telephone: 321-246-4715 E-mail Address: BEustace@interplanorlando.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.)

Single story Wendy's Quick service restaurant with a drive thru

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration): \$10,000 estimated

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 Building Official will not issue a building permit for the Settlement Agreement approved by the federal court for the Removal of Architectural Barriers.

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

Issue

1: 11-4.22.2 "All doors to accessible toilet rooms shall comply with 4.13. Doors shall not swing in to the clear floor space of any fixture."

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.

The scope of work for the removal of barriers is mandated by a federal court approved Settlement Agreement.

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. _____

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.

As required by the Settlement Agreement, we cannot fulfill the design mandates without the door swings impeding the clear floor space of the lavatories.

Ucraven
Signature

Louise Craver
Printed Name

Phone number 407-645-5008

(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 16th day of OCTOBER, 2007

BEK
Signature

Bemmie Eustace
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.

DUPLICATE

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. 11-4.23.2 Doors.
- 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 Doors swing into required clear floor space for fixtures.

Jurisdiction Town of Indialantic

Building Official or Designee Clifford P. Stokes
Signature

Clifford P. Stokes
Printed Name

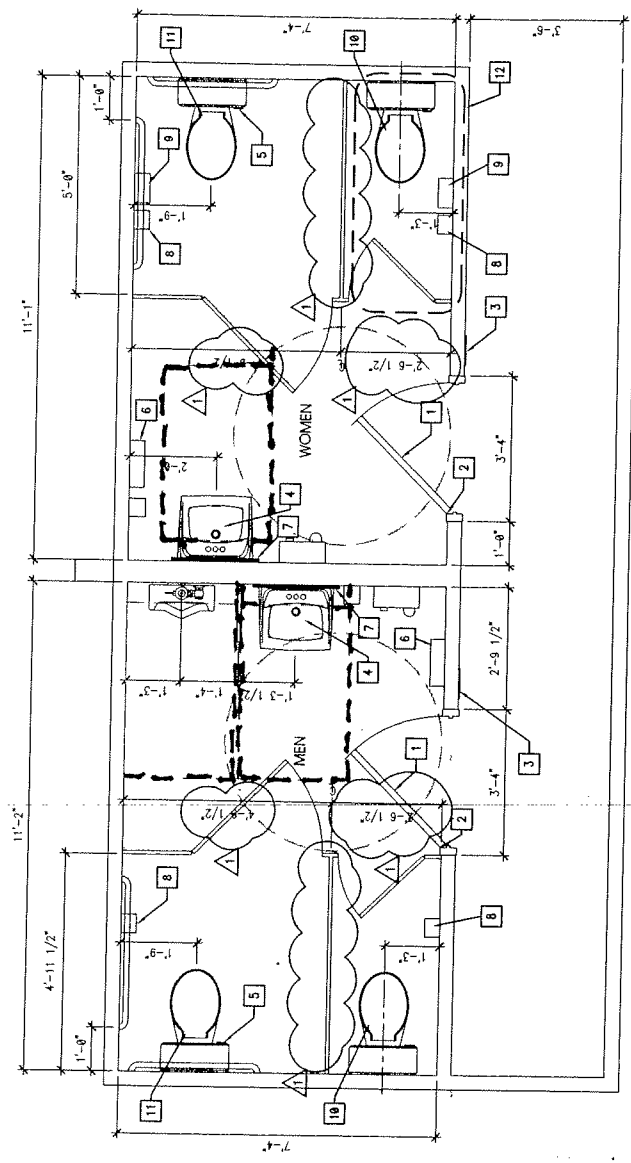
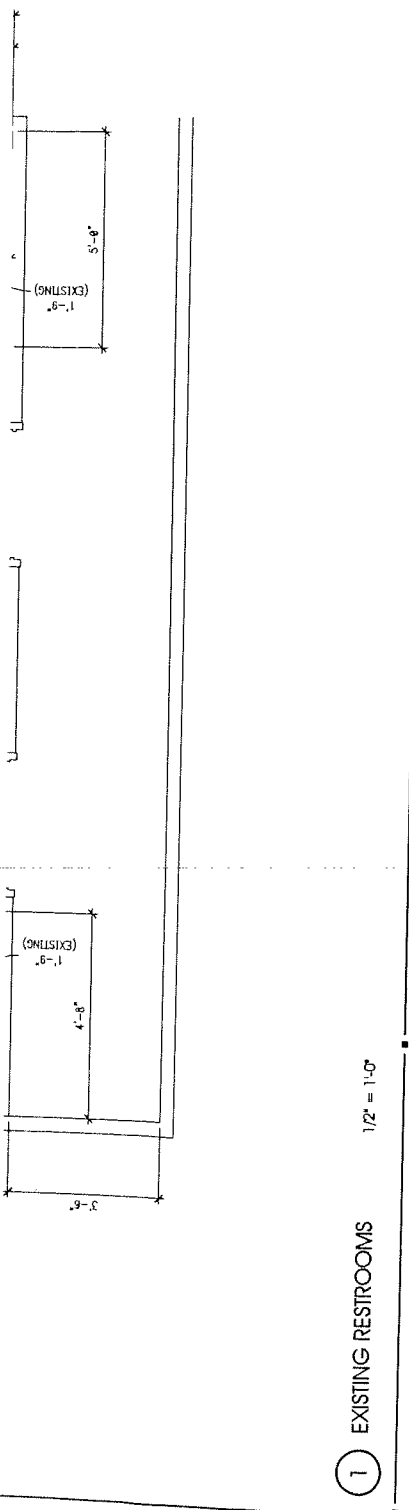
CBO License # BU 1521
Certification Number

321-727-3377 Fax#321-984-3867
Telephone/FAX

Address: Town of Indialantic
216 Fifth Ave. Indialantic, FL 32903

- KEY**
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