

ACCESSIBILITY ADVISORY COUNCIL

GROUNDS FOR APPROVAL

- **Economic Hardship**

- Does the cost of providing vertical accessibility meet or exceed 20% of the cost of the alteration to the primary function area?
- If the 20% threshold is met, the waiver SHALL be granted.
- Does not apply to new construction.
 - Fit-outs/Build-outs are considered new construction

- **Historic Nature**

- Has the applicant provided documentation of the historic significance of the building?
- Would the historic significance of the structure be negatively impacted by the alterations applicant would have to make to provide accessibility?
- Can be combined with Technical Infeasibility or Economic Hardship

- **Technical Infeasibility**

- Is the structure built in a way that would otherwise place unnecessary, unreasonable, or extreme hardship on the applicant, if they were required to provide accessibility?
 - Has the applicant provided comments from a licensed design professional?
 - Would have to rebuild, demolish, encroach on property lines, etc.

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Dennis Rodrigo Figueroa- WAV # 696

Issue: Vertical accessibility to the second floor.

Project Type: Addition to a building or facility

Project Progress: In Plan Review

Analysis:

The applicant is requesting a waiver from providing vertical accessibility to the second floor of a two-story restaurant with 3,400 square feet. The second floor will be used as overflow for the restaurant when the downstairs is at full capacity. The second floor was used as a storage space. The proposed alteration will consist of making the bathrooms ADA-compliant, drywall, paint, cabinetry, flooring and plumbing. The architect for the project stated that the existing building structural limitations and spatial constraints prevent any viable option for installation of a lift or elevator. The physical limitations of the stairwell along with the surrounding wall are incompatible with the installation of a lift. Installing a lift would necessitate major structural modifications to both interior walls adjacent to the seating booths and the external walls, which houses essential mechanical systems, including heating and plumbing. An elevator option would require construction through critical areas such as the kitchen and bathroom facilities, which would compromise life safety standards and technical integrity, as well as infringe upon essential functionality. Further, the architect stated, to ensure accessibility, substantial measures have been taken on the ground floor. All amenities, including ADA-compliant restrooms, seating, tables, and circulation pathways, are fully compliant with ADA guidelines. Additionally, all services provided on the upper floor are equally available on the first floor, ensuring that all patrons have access to the same offerings. The applicant alleges that the hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

Uploaded Documents:

1. Owner Authorization
2. Licensed Design Professional Comments
3. Plans/Pictures

STAFF RECOMMENDATION:

Staff recommends granting the request for waiver for vertical accessibility on the grounds of technical infeasibility.

Items to be waived:

Vertical accessibility to the structure, as required by section 553.509, Florida Statutes.

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553.509 Vertical accessibility. This part and the Americans with Disabilities Act Standards for Accessible Design do not relieve the owner of any building, structure, or facility governed by this part from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the standards require an elevator to be installed in such building, structure, or facility, except for:

- (a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
 - (b) 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
 - (c) 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.
 - (d) Theaters, concert halls, and stadiums, or other large assembly areas that have stadium-style seating or tiered seating if ss. 221 and 802 of the standards are met.
 - (e) All play and recreation areas if the requirements of chapter 10 of the standards are met.
 - (f) All employee areas as exempted in s. 203.9 of the standards.
 - (g) Facilities, sites, and spaces exempted by s. 203 of the standards.
- (2) However, buildings, structures, and facilities must, as a minimum, comply with the Americans with Disabilities Act Standards for Accessible Design.

206.2.4 Spaces and Elements. At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility which are otherwise connected by a circulation path unless exempted by 206.2.3 Exceptions 1 through 7.

402.2 Components Accessible routes shall consist of one or more of the following components: Walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4 and 208.3.1.

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.

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MOTIONS

- I move to recommend that the Florida Building Commission approve this request for waiver on the grounds of _____.
 - Economic Hardship
 - Historic Nature
 - Technical Infeasibility

- I move to recommend that the Florida Building Commission deny this application.
 - No rationale necessary.

- I move to recommend that the Florida Building Commission defer this request for waiver to the next meetings of the Council and the Commission for the purpose of allowing the applicant to _____:
 - Submit requested information
 - Contact building official or building department
 - Etc.