

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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Le Pain Quotidien- WAV # 16

Issue: Vertical accessibility to the second floor.

Project Type: Alteration to an existing building

Project Progress: In Plan Review

Compliance estimate + Amount spent on accessible features: \$229,269.05+\$10,500.00 = 239,769.05

Project Construction Cost + Construction Cost Over Past 3 Years: \$1000.00 + 970,482.75 = 971,482.75

Economic Hardship Threshold:

$$\frac{239,769}{971,482} = 24.7\%$$

Applicant alleges the hardship is caused by the substantial financial costs will be incurred by the owner if the waiver is denied.

Analysis: The applicant is requesting a waiver from providing vertical accessibility to the second floor. The project consists of restaurant that will be occupying an existing two story 1798 sf building on a site that contains other buildings containing retail and restaurant tenants. The proposed alteration consists of a small restaurant being constructed into an existing space that previously contained a small restaurant as well as modifying the existing restrooms to make them accessible. The project construction budget for the alteration is \$971,482.75. The project cost estimate for compliance was provided in an estimate from ThyssenKrupp of \$239,769.05 with an additional \$10,500.00 included with the estimate for the construction of the accessible bathrooms. The applicant asserts that the subject property is part of a "shopping center" as defined in the Title III regulations and therefore vertical accessibility, if provided, must be provided by an elevator and not a LULA or wheelchair lift. According to the applicant's registered design professional, the ADA does not impose the requirement of vertical accessibility on the project because in the proposed alteration the subject building is eligible for the ADA's elevator exemption. Furthermore, the cost of providing vertical accessibility to the areas containing primary functions on the second floor is disproportionate to the cost of the alteration to the areas containing primary functions served by the path of travel. The applicant is requesting a waiver based on the substantial economic hardship that will be incurred by the owner if the waiver is denied.

Uploaded Documents:

1. Licensed Design Professional Letter
2. Construction Plan
3. Elevator Construction Cost Estimates
4. Construction Cost Estimate
5. Disproportionate Cost Analysis

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STAFF RECOMMENDATION:

The compliance estimate and the amount spent on accessible features amount to 24.7% of the total cost of construction. Staff recommends granting the request for waiver on the grounds of economic hardship.

Items to be waived:

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

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

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for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

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.