

CHARLOTTE COUNTY CULTURAL CENTER THEATER

Issue: Vertical accessibility at two stage exits.

Analysis: The applicant is requesting a waiver from providing access via ramps instead of three steps at two exits from an existing stage to the exterior of the building. The two exits in question are at the front of the auditorium and an additional two accessible exits are provided elsewhere in the building. According to the applicant, the project is in litigation for continuing to have barriers in place and the plaintiff agreed that if a waiver were granted, no further action would be required by the court. The project is undergoing a \$260,300 alteration and to make the exits accessible via ramp, it would not only be disproportionate but structurally impracticable because of the wide of existing corridors and load bearing walls.

Project Progress:

The project is complete.

Items to be Waived:

Vertical accessibility to stage exits via ramp, as required by Section 553.509, Florida Statutes.

553.509 Vertical accessibility. Nothing in Sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level regardless of whether the guidelines require an elevator to be installed in such building, structure or facility, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
- (2) 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
- (3) 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.

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: Charlotte County Cultural Center Theater

Address: 2280 Aaron Street

Port Charlotte, Florida 33952

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: Charlotte County, FL [Owner]

Applicant's

Address: 18500 Murdock Circle, Port Charlotte, FL 33948

Applicant's Telephone: 941 743 1330 FAX: 941 743 1550

Applicant's E-mail Address: Thomas.rapp@charlottefl.com

Relationship to Owner: Assistant County Attorney

Owner's Name: Charlotte County, Florida

Owner's Address: 18500 Murdock Circle, Port Charlotte, FL 33948

Owner's Telephone: 941 743 1330 FAX 941 743 1550

Owner's E-mail Address: Thomas.rapp@charlottefl.com

Signature of Owner: s/Thomas Rapp

Contact Person: Thomas Rapp, Esq.

Contact Person's Telephone: 941 743 1330

E-mail Address: Thomas.rapp@charlottefl.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.)

The Cultural Center theater is a one storey building with 418 seats and a maximum capacity of 520.

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):

\$260,300.00

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 Cultural Center Theater predates October 1, 1997, and the exits to the right and left of the stage require the patron to climb three steps to reach the outside. There are 2 other fully accessible exits. If Sec. 553.504(15) applies, such barriers as the steps in the stage R & L exits would have to be removed and entire new exits cut through the walls at the site, at a cost of over \$260,000.00. There is currently ADA litigation regarding the theater, which is why the issue came up now. A waiver is acceptable to the plaintiffs and would end the litigation.

Title II, which governs here, does not require the removal of all barriers. But the program must be accessible, as it is in this case.

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

Issue

1: If Section 553.504(15), Florida Statutes applies, County requests that it be waived as to two exits from the theater that have steps to the outside of the building, because costs to totally replace the two exits would be an unreasonable hardship and would be not readily achievable

And, we believe, would not be required under Title II.

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.

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. The report of Dan Rolph, Charlotte County Project Management:

Project: Cultural Center Theatre – Front Two Exit Modification

Justification: Alleviate “A.D.A. Advisory Group of Charlotte County” concern of non-compliance of the front two exits in the theatre.

Description: Modify the front left and right exits adjacent to the stage from stairs to ramp access.

Scope: Due to the nature of theatric performances, and the visibility requirements; both ramps must begin outside of the stage viewing area. Both exits must ascend approximately 44-inches; thus requiring an access ramp of 44-feet (1:12 slope), plus a 5-foot landing, totaling the ramp length of 49-feet. Existing exit corridors are currently only 40-inches wide at the narrowest point. Required clearway must be 36-inches plus three-inches on each side for hand railing, making a total space requirement of 42-inches. The confining wall are also load bearing, and must major structural components added to extend the width of the walls.

Right Exit: (Illustrated in attachment “A”) Must have approximately 7-feet of structural wall removed, most likely completed with a structural steel arch tied to the existing footers. Stage must be cut back approximately one-foot to accommodate ramp. Stairs and approximately 30-feet of slab must be removed to accommodate ramp slope. Structural footers must be re-poured to accommodate sub-slab stabilization, most likely monolithic slab with footers. Side wall construction shall include structural steel connecting the at-grade slab to the ramp, poured concrete side walls. Install approximately 130-feet of handrail. Finish shall be provided as to match surrounding décor.

Estimate: Right Exit

- Structural & Architectural design - \$15,000 +/-
- Permitting and on-site coordination - \$2,000 +/-
- 130-feet of handrail (to include wall-mount and self-standing) - \$6,500+/-
- Demolition - \$5,000+/-
- Installation of structural steel to include all necessary equipment - \$10,000+/-
- All concrete, form, and reinforcement work - \$20,000+/-
- Rework stage to accommodate ramp way - \$2,000+/-
- Finishing to match décor and clean - \$3,000+/-
- Contractor profit and contingency - \$11,500+/-

Total Estimated construction cost for Right Exit- \$75,000+/-

Left Exit: (Illustrated in attachment "B") Must have approximately 20-feet of structural wall removed, most likely completed with a structural steel arch tied to the existing footers. Must remove two interior doors, located in the removed walls and one exterior door to be replaced at ramp elevation. Stage must be cut back approximately one-foot to accommodate ramp. Stairs and approximately 30-feet of slab must be removed to accommodate ramp slope. Structural footers must be re-poured to accommodate sub-slab stabilization, most likely monolithic slab with footers. Side wall construction shall include structural steel connecting the at-grade slab to the ramp, poured concrete side walls. Install approximately 100-feet of handrail. Build a 20'x12' expansion to house ramp, to accommodate for the sub-grade construction of the ramp. Expansion structure shall be of CMU block with a poured concrete roof deck, finished with FiberTite roofing. Install approximately 20-feet of sidewalk with a curb-cut. Finish shall be provided as to match surrounding décor. Expansion must be structurally tied to main building and have emergency lighting provided.

Estimate: Left Exit

- Structural & Architectural design - \$30,000 +/-
- Permitting and on-site coordination - \$5,000 +/-
- 100-feet of handrail (to include wall-mount and self-standing) - \$5,000 +/-
- Demolition - \$15,000 +/-
- Installation of structural steel to include all necessary equipment - \$20,000+/-
- All concrete, form, and reinforcement work to include sidewalk - \$20,000+/-
- Exterior expansion to house ramp well, including all wiring - \$55,000+/-
- Rework stage to accommodate ramp way - \$2,000+/-
- Finishing to match décor and clean - \$5,000+/-
- Contractor profit and contingency - \$28,300+/-

Total Estimated construction cost for Left Exit - \$185,300+/-

Total Estimated construction cost for both Right and Left Exits- \$260,300+/-

Summary:

This estimate illustrates a best guess, as to the true feasibility and scope of construction cannot be fully determined until it is provided by a licensed design professional. It is my opinion that the estimate and scope of work provided is reasonable and abides by all know building and accessibility codes. It is assumed that all footers located in this facility are currently at an adequate dept to accommodate the grade changes. In the event that these footers do obstruct construction, all estimates and scopes will be nullified due to the unpredictable scope of work.

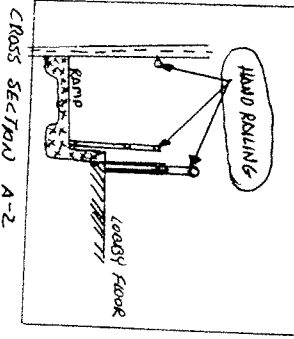
Estimate, Work Scope, and Schematic Designs provided by:

Daniel E. Rolph
Project Manager
Charlotte County Project Management

Attachment Drawing:

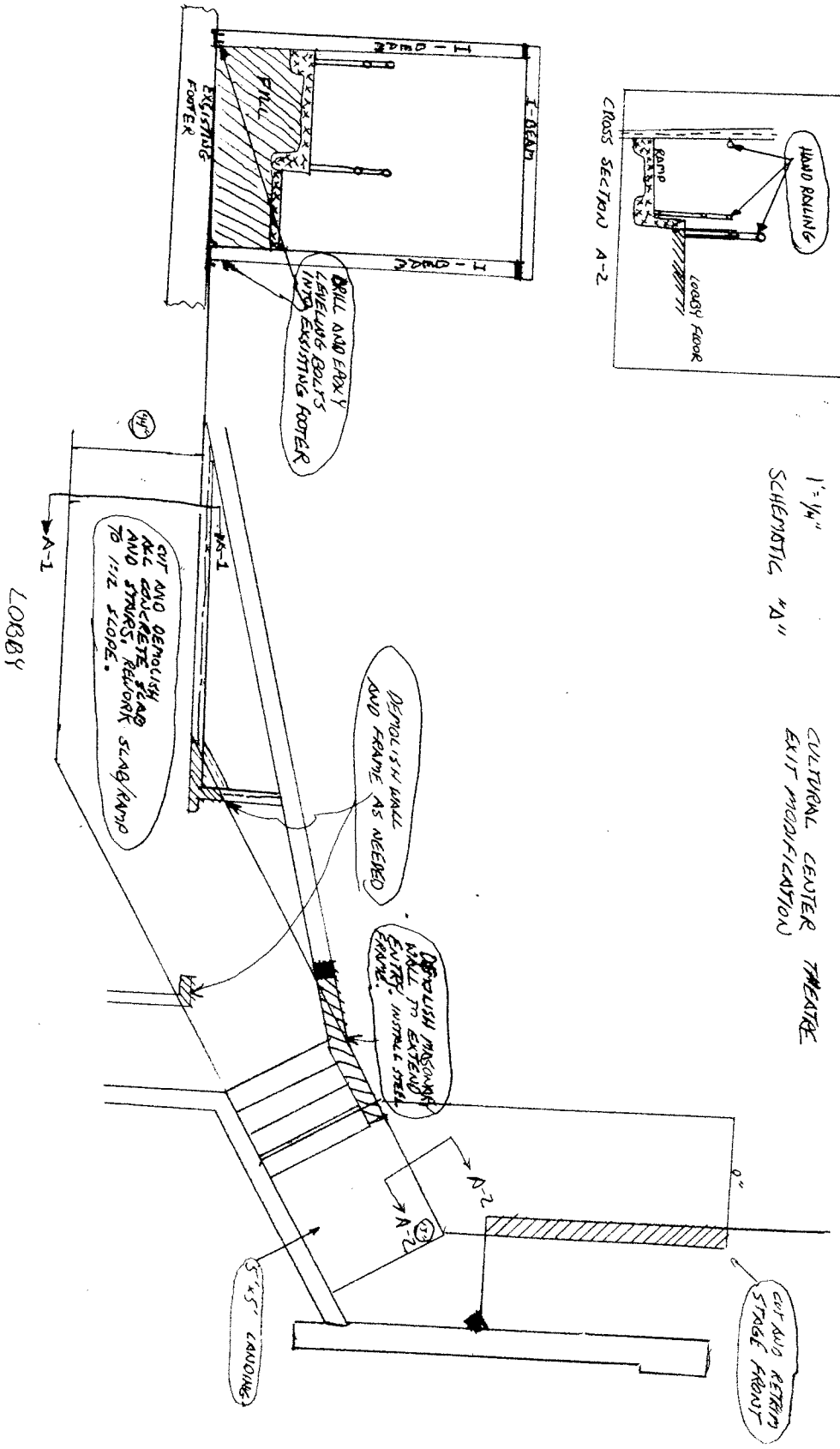
Attachments: Cult Ctr Theatre rt exit prop..tif

CROSS-SECTION A-1



1" = 1/4"
SCHEMATIC "A"

CULTURAL CENTER THEATRE
EXIT MODIFICATION





Cult Ctr Theatre rt
exit prop....

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.

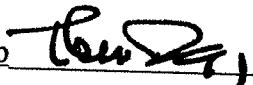
Dated this 20th day of July, 2007

s/ Thomas Rapp 
Signature

Thomas Rapp
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.

The Form for Review and Recommendation of Local Building Department has been delayed by the heavy work schedule in County right now. I would point out that the person who made the cost estimates is himself a member of the Charlotte County Building Department, so that the veracity that is guarded by having such Review is not in question as it might be were the applicant a private commercial entity. The Form should be available to forward to you next week.

s/ Thomas Rapp 
Thomas Rapp
Assistant County Attorney
Charlotte County, Florida



JANETTE S. KNOWLTON
COUNTY ATTORNEY

County of Charlotte

Office of the County Attorney
18500 Murdock Circle
Port Charlotte, FL 33948-1094
Phone: (941) 743-1330 Fax: (941) 743-1550
www.charlottecountyfl.com
"To exceed expectations in the delivery of public services"

July 20, 2007

Department of Community Affairs
Florida Building Commission
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Re: Waiver Application to Accessibility Advisory Board
For AUGUST 20 Meeting
[This Application was also electronically mailed to
mary-kathryn.smith@dca.state.fl.us].

Dear Ms. Smith:

Enclosed is Charlotte County, Florida's Request for Waiver from Accessibility Requirements. As explained in the body of the Application, County wishes a Waiver from the dictates of Sec. 553.504 (15), F.S., if, in fact, this statute applies. County is in ADA litigation regarding a County owned theater that has two fully accessible exits for wheelchair users, and two exits that cannot be used by wheelchair users because of steps to the outside. We believe that, under Title II, we have met our obligations. Plaintiff believes that Sec. 553, above, applies, and will accept either a complete closure of the two non-wheelchair exits (which we will not do), or leaving them as is, with signage notifying of their inaccessibility, *if* County receives a waiver based on the extreme cost of completely reconstructing the two non-wheelchair exits at \$260,000.

The "Review and Recommendation by Local Building Department" has been delayed and will be sent separately, both electronically and by USPS. I note that in this situation the person estimating the costs is himself a member of the Building Department, so that the safeguards of veracity that the Review and Recommendation exists to serve is less necessary.

Thank you for your time and attention to this matter

Sincerely yours,

Thomas Rapp
Assistant County Attorney
Counsel for Charlotte County

TR/pr
w/attach.