NOTICE TO WAIVER APPLICANTS

Please make certain you comply with the following:

❖ The person submitting the waiver request application as the Applicant MUST sign the application. Should you fail to do so, your application will be returned.

❖ If a licensed design professional (architect or engineer) has designed the project, his or her comments MUST be included as a part of this application.

❖ Be as explicit as possible. The more information provided to the Florida Building Commission, the more informed its decisions can be. If you are claiming financial hardship, please specify why and to what degree.

❖ If at all possible, PLAN TO ATTEND the Accessibility Advisory Council and the Florida Building Commission meetings. Sometimes pertinent facts are inadvertently omitted, or information provided/presented in the Request for Waiver application is not clear. Your attendance at the meetings to answer questions will enhance the possibility of the waiver being approved, since the Council and the Commission will receive the most complete information – from you. When we receive the completed application, we will send you a notice of the time, date, and place for both the Council and the Commission meetings.

Enclosed is a List of Required Information and the Request for Waiver application.

If you have any questions or would like additional information, please call the Codes and Standards Section at (850) 487-1824.

Please mail this application to the Department of Community Affairs at the address above. As well as a hard copy, please include a copy of the application and drawings or plans on a CD in PDF format. NOTE: Please do not send CAD files, but rather scan the CAD files and save as a pdf. Must be in Microsoft Compatible format.

NOTE: Failure to submit electronically will not have any bearing on whether your petition is heard by the Commission, however, electronic filing will facilitate the Commission's movement toward utilizing CD technology to display the waiver application and attached floor plans to the Counsel and Commission.
LIST OF REQUIRED INFORMATION:

1. X______ Drawings that will clearly present your project and that identify the issue(s) that relate to the waiver you are requesting. As a minimum, the following drawings must be submitted:
   a. Project site plan
   b. 24" x 36" minimum size drawings
   c. Building/project sections (if necessary to assist in understanding the waiver request)
   d. Enlarged floor plan(s) of the area in question

2. X______ One set of reduced scale (11" x 17") versions of the drawings submitted in item one above.

3. X______ One set of overhead transparencies (8 ½" x 11") of the drawings submitted in item one above. When numerous features are shown on the drawings, please designate the location of the waiver items by highlighting or outlining in color the affected areas.

4. X______ When substantial financial cost of compliance is alleged, supporting cost estimates with quotes from at least two vendors or contractors and catalog information.

5. ________ If you feel photographs and/or renderings are necessary for your presentation, provide 40 legible color photocopies of the photographs and/or renderings. If color photocopies of photographs are provided, use a minimum size of 4" x 6" photographs with a maximum of two photographs per photocopied page.

6. X______ Please submit a hard copy of this application to the Department of Community Affairs. PLEASE NOTE: Although not required by Rule 9B-7, F.A.C., in addition to the hard copy please include a copy of the application and drawings or plans on a CD in PDF format.

General Information:

a. Equipment: A CD projector is provided at the Accessibility Advisory Council and Florida Building Commission meetings. Any other equipment necessary for your presentation, such as an overhead projector, TV/VCR, slide or LCD projectors, etc., is the responsibility of the applicant.

b. Verbal Descriptions: Presentations may be to sight or hearing impaired persons; visual presentations should consider adequate verbal and text descriptions of charts and pictures.

Your application will be reviewed by the Accessibility Advisory Council. You will have the opportunity to answer questions and/or make a short presentation not to exceed 15 minutes. The 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: Holiday Surf & Racquet Club Condominium

Address: 510 Gulfshore Drive

Destin, FL 32541

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: Daniel B. Smith, PE Cornerstone Facilities Engineering

Applicant's Address: 216 South Tarragona, Suite D

Applicant's Telephone: 850-438-3449 FAX: 850-438-9376

Applicant’s E-mail Address: dbsmith2@bellsouth.net

Relationship to Owner: Home Owners Association's Engineer

Owner's Name: Holiday Surf & Racquet Club Owners Association, Mr. Kent Lungstrom, Manager

Owner's Address: 510 Gulfshore Drive, Destin, FL 32541

Owner's Telephone: 850-654-0220 FAX (850) 654-0219

Owner’s E-mail Address: klungstrom@comcast.net

Signature of Owner: ____________________________ for the Owners

Contact Person: Daniel B. Smith

Contact Person’s Telephone: 850-438-3449 E-mail Address: dbsmith2@bellsouth.net
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.  
   Specifically the Rebuilding of a Dune Walkover following Dune Nourishment Work

[ ] 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.)

   Residential Condominium, seven floors, approx. 202,000 gross sq.ft.

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

   $40,534.00

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*  
   Note: Construction expected to begin 2-18-13

   [ ] In Plan Review [ ] Completed*

   * Briefly explain why the request has now been referred to the Commission.

   After review with the City of Destin Building Official, he concurs that equality of access by means other than 1:12 ramps is the appropriate method to be used but believe that only the proscriptive use of ramps can be used and therefore a request for waiver of the ramps in favor of alternate means is being forwarded to the Commission.
7. **Requirements requested to be waived.** Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived.

**Issue**

1: Use of ramps to provide handicapped access from the landward point to the discharge of the dune walkover. (Chapter 4 FL Accessibility 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.

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

Based on bids from three contractors the 1:12 ramps would add over $79,600.00 to the cost of the $40,534.00 Dune Walkover construction. (See drawing S1A for ramp geometry and length.)

[ ] 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.

See attached Bid Tab. Costs noted in cover letter extrapolated from these bids.
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. See attached drawings and Bid Tab

   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. The Owner is not attempting to deny equality of access. The Owner will provide persons seeking access to the end of the dune walkover a dune capable wheelchair provided by a licensed company that provides beach services in Destin, FL. The will allow the person who has problems traveling steps to be assisted in getting to the beach and then once there the person will be able to travel about on the sand in the dune capable wheelchair. This seems preferable as the ramps only allow access to the edge of the sand and the travel ends there.

   Signature
   
   Printed Name  
   Daniel B. Smith, PE  
   850-438-3449

   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 7th day of February, 2013

Signature

Daniel B. Smith, PE

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. ____________________________________________________________________________

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 _______________________________________________________

____________________________________________________________________________

Jurisdiction ____________________________________________________________________

Building Official or Designee _________________________________________

Signature

__________________________

Printed Name

__________________________

Certification Number

__________________________

Telephone/FAX

Address: _____________________________________________________________________
Morning Dan,

The Building Division will accept as outlined below for Holiday Surf and Racquet, so that they can move forward. We request that the client (Holiday Surf & Racquet) submit in writing on letterhead also stating the conditions of waiver application submitted and if waiver is not granted the accessible ramp of the Dune Walkover will be provided per approved plans submitted to the City of Destin within 6 months of the date original permit was issued.

To: Noell Bell and Larry Ballard

Date: 1-24-13

Re: Dune Walkovers

From: Dan Smith, Cornerstone Facilities Engineering

I spoke with Chip Sellers at the accessibility committee section of DPBR this afternoon. He concurs that you are within your department’s bounds to state that in your opinion the questions of “equivalent facilitation” and “technical infeasibility” be determined by others in order to approve my plans for the dune walkover as presented to you.

He also notes that the staff level folks like him cannot make that determination and a
submittal of the waiver is the method to gain the “yes” or “no” answers to the questions. That much I understand and can appreciate.

I do have some questions for you two though on how do we go forward, stay in compliance with the FBC’s Accessibility requirements and not have a riot break out in the next few weeks. As you know sand is about to spew forth. The Florida Department of Environmental Protection have their own requirements on how dune walkovers be built. It is impossible with the way those regulations are written to build a set of ramps that go from landward to the seaward side of the seaward dune. However I do have, in-hand, a permit to build the type of dune walkover I have shown to you and FDEP.

I have until 2-19-13 to get the waiver request to DPBR for the meeting that will decide the fate of the requests on 4-9-13. Obviously I cannot wait that long to allow a condo of 160 units to gain a permit to build a dune walkover. Even if I agreed to build the ramps, FDEP would not give me a permit to build such without a similar “waiver” process as the ramps violate about a half-dozen provisions of theirs for beach construction.

So here is my thought:

1) I submit an application asking for construction of the dune walkover as shown with the handicap ramps dashed in with the note “construction of this phase held in abeyance until DBPR and FDEP considerations are resolved.”

2) I submit the waiver submittal to DBPR and copy this to you with my building permit request to the City of Destin

3) You permit the construction of the basic dune walkover and withhold the completion certificate until I present that we received a waiver or some form of final decision making based on the DBPR and FDEP working this out.

That way the permit allows the tourists to get to the beach and my client will supply the other means of having folks with beach accessible wheel chairs ready to help those who need them. Then we will get the ramps-or-no-ramps issue settled as soon as possible.

What say you? Are you going to enforce this on all dune walkovers built on Holiday Isle after the beach nourishment? Please let me know as I am going out for bids and having access to the beach is a vital commodity and I hate it when my clients riot...the are such an unruly lot! Chip Sellers over at DBPR also agreed with the logic of providing equivalent facilitation and the pointlessness of building many thousands of dollars of ramps that will get washed away in the first summer thunderstorm...but like you he says I must make my appeal move up the ladder....so it goes.....

Thankx,

Dan Smith

Cornerstone Facilities Engineering, Inc.
850/438-3449 (office)
850/438-9376 (fax)
850/232-1759 (cell phone)
dbsmith2@bellsouth.net
Morning Dan,

I understand the mentality that you speak, but in order to meet the intent of the Accessibility Code and comply with the FBC requirements, Surf and Racquet must then apply for an accessibility waiver to the Department of Community Affairs, Florida Building Commission, and if approved would then be legal and would avoid any kind of lawsuit for non-compliance with accessibility. See the link below for waiver information and application. The waiver if approved must be submitted at the time of application for permitting.

http://www.floridabuilding.org/FBC/committees/accessibility/aac/aac_waiver_form/1_aac_waiver_form.htm

---

From: Dan Smith [mailto:dbsmith2@bellsouth.net]
Sent: Thursday, January 24, 2013 6:49 AM
To: Noell Bell
Subject: Holiday Surf & Racquet Club

To: Noell Bell

Date: 1-24-12

Re: Accessibility Information for Dune Walkover

From: Dan Smith, Cornerstone Facilities Engineering, Inc.

Sorry to waste your time with me trying to send –emails from my newly acquired “smart phone.” In my case the devise is a “show how not smart I am phone.”

What I was attempting to say is that as I read the Florida Department of Environmental Protection requirements, the Florida Building Code, Federal Emergency Management Agency and just practical observations from building things on the beach for the last 31 years, I feel my client would be in conformance with all required standards of accessibility, the requirements for proper beach protection and long term best outcome to not build a series of ramps in order to
provide access to the beach.

The ramps have the following problems:

1. They are in conflict with the Dune Walker guidelines set forth by the FDEP
2. They contribute to floating debris that is dangerous to upland buildings which is in conflict with how FEMA recommends beach access structures be built.
3. They add exorbitant costs (in the case of Holiday Surf & Racquet the added costs of the ramps is about $76K compared to the $55K to build the dune walkover due to how the beach nourishment grade (elevation) is going to be built.
4. They become buried in sand and have to be modified as the beach changes.

I note the ADA allows for a few exceptions. I also note there are alternate means available.

As to the exceptions:

- Structural impracticality – Since dune walkovers are expected to have a fairly long useful life if we add 1:12 ramps to these structures it becomes structurally impractical for the joint structure to be feasible as the ramps, when impacted by even minor storms, will produce stresses on the main structure therefore rendering it less useful and perhaps even causing its destruction.
- Readily Achievable – My professional opinion is that a 1:12 series of ramps does not make for a readily achievable compliance with the ADA requirements as they will require constant removal of sand and then resetting elevations of ramps as the sand changes.

The ADA allows for building Owners to provide alternate means of compliance. In the case of a football stadium we all can understand that not every part of the stadium is accessible by someone with physical limitations. The same could then be construed to apply to any public accommodation.

Therefore the Board of Directors will provide beach access to those in need by utilizing firms who can bring beach accessible wheelchair to the site (such as 30-A Bike Rentals and DeBug Beach Wheel Chairs) to assist anyone who has trouble navigating the dune walkover and assist the person to the desired access point of the beach. I feel this is a much better solution as even if the ramps were provided, what does the handicapped person do then? They are not likely to be able to go out to the beach without some form of transport as even canes and walkers are not much good in sand let alone the average wheelchair.

I propose to have this note on the drawing which in my professional opinions complies with the applicable portions of the Florida Building Code and ADA provisions:

“Due to structural impracticality and the fact ramps along the beach conditions are not readily achievable, handicapped access will be provide by alternate means including but not limited to beach capable wheelchair with staff capable of assisting handicapped persons.”

By designing the dune walkover with this in mind I feel I comply with the FDEP requirements and the FBC requirements fully.

Please review and see if the City of Destin can agree.

Thankx,

2/7/2013
Dan Smith

Cornerstone Facilities Engineering, Inc.
850/438-3449 (office)
850/438-9376 (fax)
850/232-1759 (cell phone)
dbsmith2@bellsouth.net

"Please Note: Florida has a very broad public records law. Most written communications to or from the City of Destin officials are public records available to the public and media upon request. Your e-mail address and communications may therefore be subject to public disclosure."

"Please Note: Florida has a very broad public records law. Most written communications to or from the City of Destin officials are public records available to the public and media upon request. Your e-mail address and communications may therefore be subject to public disclosure."

2/7/2013
February 7, 2013

Department of Community Affairs
FLORIDA BUILDING COMMISSION
2555 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Request for Waiver to Permit Improved Equality of Access for Beach Activity
Holiday Surf & Racquet Club, 510 Gulfshore Drive, Destin, FL 32541

Ladies and Gentlemen:

As the engineer for the Owner, I have been directed to provide you the attached documentation in order to request clarification, in form of a waiver from your office, in order that Holiday Surf & Racquet Club can provide beach access to persons with physical handicaps in a rationale and effective manner.

Please find attached the completed, "Notice to Waiver Applicants", project drawings, and bid tabulation from competitive bidding from marine contactors.

The new dune walkover is a necessity at the site due to a beach nourishment project. Statutes require the Owner to provide a walkway that will not compromise the dune system. As such the old dune walkover is neither high enough nor long enough to properly access the beach once the nourishment project is completed. The nourishment project is currently underway.

At present the Florida Department of Environmental Protection (FDEP) has issued a permit for the Owner to construct a dune walkover as shown on drawing S1. This drawing was submitted to the City of Destin Building Official for review. It is noted that the Owner will provide to anyone requesting assistance in negotiating the stairs of the dune walkover in order to get to the beach with assistance from a licensed service firm who will provide a dune capable wheelchair and assistance to the persons to get to and from the beach.

This seems to be a more complete "accessibility" than would be provided by a series of 1:12 ramps. If the 1:12 ramps were provided (see drawing S1A for geometry) then at the end of the ramp, a person needing the ramp has no where to go. Using the proposed access assistance it seems that the beach experience would be made both better and simpler for those who might need the ramps.
There are other considerations also in regards to the ramps. First this particular construction on the nourished beach’s topography makes it impossible for ramps to be constructed in a manner consistent with the Florida Department of Environmental Protection’s guidelines for improvements seaward of the Coastal Construction Control Line. Also the ramps at the seaward portion of a ramp access will be in violation of the Florida Fish and Wildlife Conservation Commission in regards to negative impacts on nesting sea turtles’ habitat.

In regards to cost, the ramps nearly triple the cost of constructing the dune walkover ($40,534.00 without ramps and the ramps add $79,600.00 to this figure.) The ramps near the seaward end are going to be vulnerable to even modest storms as well as accretion of sand on top of the ramps. So the ramps constitute a very heavy initial cost as well onerous ongoing maintenance costs. It is inevitable that if the ramps were built, that much of the time they would be out of service due to damage from either storm waters or being covered in sand.

As a professional engineer who has been involved with beachside condominiums and hotels since 1982, I would state without hesitation that access to the beach via a dune accessible wheelchair and having the assistance to get to and from the beach is a far superior experience than having 250 feet of ramp that leads to a dead end. The Owner of Holiday Surf and Racquet Club are committed to providing the guests with the best possible experience on any given day of visitation. Construction of the proscriptive ramps does not assure access, imposes a costly and worthless burden on the Owner and does not further the cause of equality. This feature is not within a building or part of any egress. So for all the reasons above, I request you permit the Owner to provide for the beach access capable wheelchairs to those who request it. This facility has a fully staffed front desk and can arrange the desired services in a timely and professional manner.

I appreciate your consideration. If there are any questions please feel free to contact me.

Daniel B. Smith, PE
Principal

Attachments

C- Mr. Kent Lungstrom, Holiday Surf & Racquet Club
<table>
<thead>
<tr>
<th>Bidder/Item</th>
<th>Alford &amp; Sons Marine Construction</th>
<th>C. Sharpe Company</th>
<th>Lewis Cooper</th>
<th>RBM Contracting Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Bid for Treated 2X6 Decking</td>
<td>$44,675.00</td>
<td>$40,534.00</td>
<td>No Bid</td>
<td>$41,377.00</td>
</tr>
<tr>
<td>Base Bid for Trex Type Decking</td>
<td>$55,100.00</td>
<td>$50,749.00</td>
<td>No Bid</td>
<td>$51,723.00</td>
</tr>
<tr>
<td>Unit for adding one foot of level walkway, treated 2X6</td>
<td>$389.00/foot</td>
<td>$336.95/foot</td>
<td>No Bid</td>
<td>$357.73/foot</td>
</tr>
<tr>
<td>Unit for adding on foot of level walkway, Trex</td>
<td>$455.00/foot</td>
<td>$405.49/foot</td>
<td>No Bid</td>
<td>$447.70/foot</td>
</tr>
<tr>
<td>Unit for adding a bent of 2 pilings + 2X10 supports</td>
<td>$436.00/each</td>
<td>$360.36/each</td>
<td>No Bid</td>
<td>$427.70/each</td>
</tr>
<tr>
<td>Unit for adding on tread+ riser to stairs, treated 2X6 wood</td>
<td>$365.00/location</td>
<td>$265.00/location</td>
<td>No Bid</td>
<td>$363.17/location</td>
</tr>
<tr>
<td>Unit for adding one tread+riser Trex decking</td>
<td>$417.00/location</td>
<td>$335.00/location</td>
<td>No Bid</td>
<td>$453.11/location</td>
</tr>
<tr>
<td>Days to begin work after award</td>
<td>10 days</td>
<td>7 days</td>
<td>No Bid</td>
<td>7 days</td>
</tr>
<tr>
<td>Days to complete work after starting</td>
<td>28 days</td>
<td>14 days</td>
<td>No Bid</td>
<td>30 days</td>
</tr>
</tbody>
</table>

NOTE: Unit costs can also be subtracted if actual work decreases amounts required.