

## **Hotel Atlantic Princess (Generator Miami) - 3120 Collins Avenue, Miami Beach**

This project is the conversion of a historic residential/condominium to a historic lodging which is considered an alteration to a historic building under the FBC.

Request for vertical accessibility waiver on the grounds of Historical Exemption

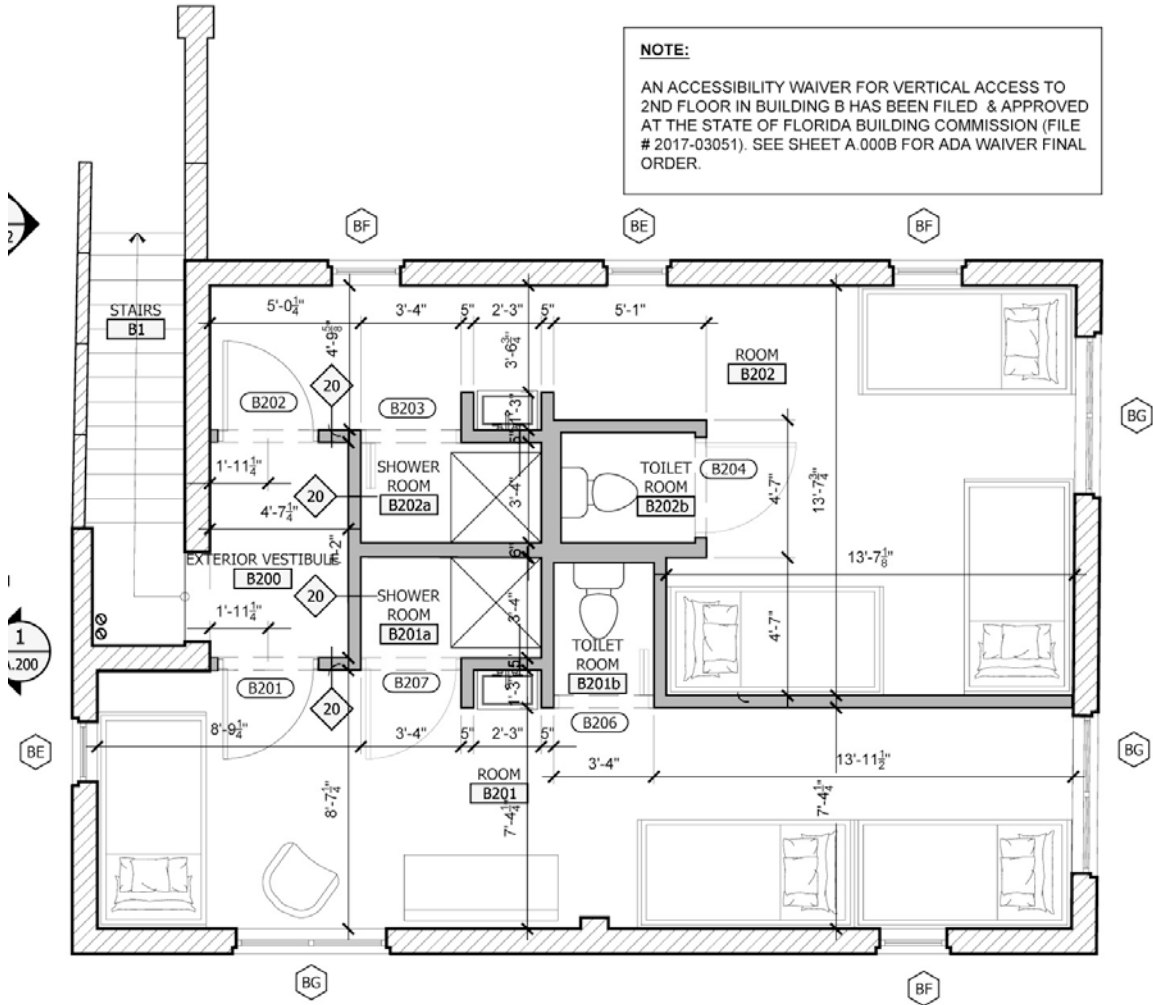
### **Area: Building B –Second Floor**

Building B is a 2 story historic building currently used as residential to be converted into restaurant on the first floor and guest rooms on the second floor. The first floor has 774 sf and the second floor has 755 sf. The building does not have an elevator, and the second floor can only be reached via exterior stairs (B1) from the Ground Floor (please refer to Architectural Floor Plans A.100 and A.101). The extent of the scope of work and proposed use for the first floor of the building is a restaurant that will be open to the public, and the Second Floor implies converting residences into guest rooms that are open for the public. The property is comprised of Buildings A, B and C, has a total of 103 guest rooms of which 1 accessible guest room with mobility features is provided in Building A and 6 are in building C; and 2 guest rooms with communication features are in Building A and 9 in Building C.

The only alternative to provide access to the Second Floor is by installing an exterior elevator or an outdoor inclined chair lift. The issue with installing an exterior elevator is that it requires creating an exterior structure to house the elevator and elevator equipment room attached to the existing historic structure that would totally change the historic appearance of the property. The issue with installing an outdoor inclined chair lift is that it would reduce the clear width of the stairs B1 (currently 38” wide) and threaten the historic value of the corridor of Building B.



**NOTE:**  
 AN ACCESSIBILITY WAIVER FOR VERTICAL ACCESS TO 2ND FLOOR IN BUILDING B HAS BEEN FILED & APPROVED AT THE STATE OF FLORIDA BUILDING COMMISSION (FILE # 2017-03051). SEE SHEET A.000B FOR ADA WAIVER FINAL ORDER.



**FBC 201.1 Vertical Accessibility** Sections 553.501-553.513, F. S., and the ADA Standards for Accessible Design do not 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 Standards 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.
- (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.
- (4) Theaters, concert halls, and stadiums, or other large assembly areas that have stadium-style seating or tiered seating if sections 221 and 802 are met.
- (5) All play and recreation areas if the requirements of chapter 10 are met.
- (6) All employee areas as exempted by 203.9.
- (7) Facilities, sites and spaces exempted by section 203. Buildings, structures and facilities must, at a minimum, comply with the requirements of the ADA Standards for Accessible Design.

**Advisory 201.1 Scope.** These requirements are to be applied to all areas of a facility unless exempted, or where scoping limits the number of multiple elements required to be accessible. For example, not all medical care patient rooms are required to be accessible; those that are not required to be accessible are not required to comply with these requirements. However, common use and public use spaces such as recovery rooms, examination rooms, and cafeterias are not exempt from these requirements and must be accessible. Florida vertical accessibility requires all levels in all new buildings, structures and facilities and all altered areas of existing buildings, structures and facilities to be accessible to persons with disabilities. All new and altered areas must comply with the ADA Standards for Accessible Design including requirements for accessible routes. Where the ADA Standards do not require an accessible route to each and every level, the Florida requirement may be waived down to the requirement of the ADA Standards.

**FBC 202.3 Alterations.** Where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements of Chapter 2 and section 201.1.1. See Section 208.1 for existing parking.

**EXCEPTIONS:** 1. Unless required by 202.4, where elements or spaces are altered and the circulation path to the altered element or space is not altered, an accessible route shall not be required.

**202.4 Alterations Affecting Primary Function Areas.** In addition to the requirements of 202.3, an alteration that affects or could affect the usability of or access to an area containing a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area, including the rest rooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by

individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost pursuant to 202.4.1. Alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

**Advisory 202.4 Alterations Affecting Primary Function Areas.** An area of a building or facility containing a major activity for which the building or facility is intended is a primary function area. Department of Justice ADA regulations state, “Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.” (28 CFR 36.403 (f)(1)). See also Department of Transportation ADA regulations, which use similar concepts in the context of public sector transportation facilities (49 CFR 37.43 (e)(1)).

There can be multiple areas containing a primary function in a single building. Primary function areas are not limited to public use areas. For example, both a bank lobby and the bank’s employee areas such as the teller areas and walk-in safe are primary function areas.

Also, mixed use facilities may include numerous primary function areas for each use. Areas containing a primary function do not include: mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, or restrooms.

DOJ regulation 28 CFR 36.403(c) gives the following examples of alterations that effect the usability of or access to an area containing a primary function. Such areas include but are not limited to: remodeling merchandise display areas or employee work areas in a department store; replacing an inaccessible floor surface in the customer service or employee work areas of a bank; redesigning the assembly line area of a factory; or, installing a computer center in an accounting firm.

Florida vertical accessibility requirements of s.553.509, F.S., as incorporated in section 201.1.1 of the code, apply to the path of travel upgrades required by 202.4. Florida requirements may be waived down to the ADA Standards requirements.

**202.4.1 Disproportionate Cost.** Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area. Costs that may be counted as expenditures required to provide an accessible path of travel may include: (i) costs associated with providing an accessible entrance and an accessible route to the altered area; (ii) costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls; (iii) costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY); (iv) costs associated with relocating an inaccessible drinking fountain.

**202.5** Where the State Historic preservation Officer or Advisory Council on Historic Preservation determines that compliance with the requirements for accessible route, entrances, or toilet facilities would threaten or destroy the historic significance of the building or facility, the exceptions for alterations to qualified historic buildings or facilities for that element shall be permitted to apply.

**FBC Advisory 206.2.3 Multi Story Buildings and Facilities Exceptions** 206.2.3 (1-7) are preempted by Florida vertical accessibility requirements of s. 553.509, F. S. as incorporated in section 201.1.1. Florida requirements may be waived down to ADA standards requirements.

**ADA 206.2.3**

**Exception 1.** In private buildings or facilities that are less than three stories or that have less than 3,000 square feet per story, an accessible route shall not be required to connect stories provided that the building or facility is not a shopping center, a shopping mall, the professional office or a health care provided, a terminal, depot or other station used for specialized public transportation, an airport passenger terminal, or any other type of facility as determined by the Attorney General.

**Exception 2.** Where a two story building or facility has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected to the story above.

**Exception 5.** Within multi-story transient lodging guest rooms with mobility features required to comply with 806.2, an accessible route shall not be required to connect stories provided that spaces complying with 806.2 are on an accessible route and sleeping accommodations for two persons minimum are provided on a story served by an accessible route.

**206.2.1 Exception 1.** Where exceptions for alterations to qualified historic buildings or facilities are permitted by 202.5, no more than one accessible route from a site arrival point to an accessible entrance shall be provided.