

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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VERSACE CASA CASUARINA HOTEL RENOVATION PROJECT - WAV # 549

Issue: Vertical accessibility to the second and third floors.

Project Type: Historical preservation (alteration)

Project Progress: In Plan Review

Analysis:

The applicant is requesting a waiver from providing vertical accessibility to the second and third floors. This is a historic hotel built in 1930 with 25,250 square feet. The hotel has eleven guest rooms of which one is an accessible guest room and is located on an accessible route on the first floor. The proposed alteration will consist of upgrading the toilet rooms and the hotel rooms and adding a sushi bar and a retail store. The project estimated construction cost is \$250,000. The Applicant stated that the City of Miami Beach Historic Preservation Board has denied the installation of an elevator in the courtyard west side of the property due to the historical significance of the property and recommended that an elevator should be located inside one of the hotel rooms. In order to install the elevator inside the hotel, the applicant indicated that alternate locations for the elevator (Hallway, in office area and inside any other interior area/rooms) were considered and it was determined that there is no room for vertical accessibility as there is a lack of space and installation of an elevator will affect the historical look of the original design of the building. In addition, the City of Miami Beach Planning Department has noted that placement of an elevator within the interior of the hotel has the potential for irreparable damage of the 1930's building resulting from the floors and ceilings being cut open to install an elevator. The applicant has provided documentation confirming the historic significance of the property.

Uploaded Documents:

1. Owner Authorization
2. Historical Documentation as affirmed by the City of Miami Beach Planning Department (Certified Local Government Program as listed by Florida Department of State)
3. Project Plans

STAFF RECOMMENDATION:

Staff recommends granting the request for waiver for vertical accessibility on the grounds of historical nature of the property.

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

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7th Edition (2020) Florida Building Code – Existing Building

CHAPTER 12 HISTORIC BUILDINGS

HISTORIC BUILDING. For the purposes of this code and the referenced documents, an historic building is defined as a building or structure that is:

1. Individually listed in the National Register of Historic Places; or
2. A contributing property in a National Register of Historic Places listed district; or
3. Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district; or
4. Determined eligible by the Florida State Historic Preservation Officer for listing in the National Register of Historic Places, either individually or as a contributing property in a district.

HISTORIC PRESERVATION. A generic term that encompasses all aspects of the professional and public concern related to the maintenance of an historic structure, site or element in its current condition, as originally constructed, or with the additions and alterations determined to have acquired significance over time.

HISTORIC SITE. A place, often with associated structures, having historic significance.

HISTORIC STRUCTURE. A building, bridge, lighthouse, monument, pier, vessel or other construction that is designated or that is deemed eligible for such designation by a local, regional or national jurisdiction as having historical, architectural or cultural significance.

7th Edition (2020) Florida Building Code – Accessibility

202.5 Alterations to Qualified Historic Buildings and Facilities. *Alterations to a qualified historic building or facility shall comply with 202.3 and 202.4 to the maximum extent feasible.*

EXCEPTION: Where the **State Historic Preservation Officer** or **Advisory Council on Historic Preservation** determines that compliance with the requirements for *accessible routes, 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.

Advisory 202.5 Alterations to Qualified Historic Buildings and Facilities Exception. State Historic Preservation Officers are State appointed officials who carry out certain responsibilities under the National Historic Preservation Act. State Historic Preservation Officers consult with Federal and State agencies, local governments, and private entities on providing access and protecting significant elements of qualified historic buildings and facilities. There are exceptions for alterations to qualified historic buildings and facilities for accessible routes (206.2.1, Exception 1 and 206.2.3, Exception 7); entrances (206.4, Exception 2); and toilet facilities (213.2, Exception 2). When an entity believes that compliance with the requirements for any of these elements would threaten or destroy the historic significance of the building or facility, the entity should consult with the State Historic Preservation Officer. If the State Historic Preservation Officer agrees that compliance with the requirements for a specific element would threaten or destroy the historic significance of the building or facility, use of the exception is permitted. Public entities have an additional obligation to achieve program accessibility under the Department of Justice ADA regulations. See 28 CFR 35.150. These regulations require public entities that operate historic preservation programs to give priority to methods that provide physical access to individuals with disabilities. If alterations to a qualified historic building or facility to achieve program accessibility would threaten or destroy the historic significance of the building or facility, fundamentally alter the program, or result in undue financial or administrative burdens, the Department of Justice ADA regulations allow alternative methods to be used to achieve program accessibility. In the case of historic preservation programs, such as an historic house museum, alternative methods include

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using audio-visual materials to depict portions of the house that cannot otherwise be made accessible. In the case of other qualified historic properties, such as an historic government office building, alternative methods include relocating programs and services to accessible locations. The Department of Justice ADA regulations also allow public entities to use alternative methods when altering qualified historic buildings or facilities in the rare situations where the State Historic Preservation Officer determines that it is not feasible to provide physical access using the exceptions permitted in Section 202.5 without threatening or destroying the historic significance of the building or facility. See 28 CFR 35.151(d).

The Accessibility Office at the National Endowment for the Arts (NEA) provides a variety of resources for museum operators and historic properties including: the Design for Accessibility Guide and the Disability Symbols. Contact NEA about these and other resources at 202-682-5532 or www.arts.gov.

ADA Title III Technical Assistance Manual

III-6.4000 Alterations: Historic preservation. Alterations to historic properties must comply with the historic property provisions of ADAAG, to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the building, alternative standards may be used. The decision to use alternative standards for that feature must be made in consultation with the appropriate advisory board designated in ADAAG, and interested persons should be invited to participate in the decision-making process.

What are "historic properties"? These are properties that are listed or that are eligible for listing in the National Register or Historic Places, **or properties designated as historic under State or local law.**

What are the alternative requirements? The alternative requirements provide a minimal level of access. For example --

- 1) An accessible route is only required from one site access point (such as the parking lot).
- 2) A ramp may be steeper than is ordinarily permitted.
- 3) The accessible entrance does not need to be the one used by the general public.
- 4) Only one accessible toilet is required and it may be unisex.
- 5) Accessible routes are only required on the level of the accessible entrance.

But what if complying with even these minimal alternative requirements will threaten or destroy the historic significance? In such a case, which is rare, structural changes

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need not be made. Rather, alternative methods can be used to provide access, such as providing auxiliary aids or modifying policies.

ILLUSTRATION: A historic house is being altered to be used as a museum. The architect designing the project concludes that most of the normal standards for alterations can be applied during the renovation process without threatening or destroying historic features. There appears, however, to be a problem if one of the interior doors is widened, because historic decorative features on the door might be destroyed. After consulting ADAAG, the architect determines that the appropriate historic body with jurisdiction over the particular historic home is the Advisory Council on Historic Preservation. The architect sets up a meeting with the Council, to which a local disability group is invited.

At the meeting the participants agree with the architect's conclusion that the normal alterations standards cannot be applied to the interior door. They then review the special alternative requirements, which require an accessible entrance. The meeting participants determine that application of the alternative minimal requirements is likewise not possible.

In this situation, the museum owner is not required to widen the interior door. Instead, the owner modifies the usual operational policies and provides alternative access to the activities offered in the inaccessible room by making available a video presentation of the items within the inaccessible room. The video can be viewed in a nearby accessible room in the museum.

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.

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- 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.