

ACCESSIBILITY ADVISORY COUNCIL

GROUND'S 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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Superblue Miami, LLC - WAV # 721

Issue: Vertical accessibility to the mezzanine.

Project Type: Alteration to an existing building or facility

Project Progress: Completed

Analysis:

The applicant is requesting a waiver from providing vertical accessibility to the mezzanine of a one-story building with 5,175 square feet. The alteration for the project consisted of converting an existing distribution warehouse to a mixed occupancy (art gallery, retail of goods, restaurant and place of assembly), installation of ADA compliant entry ramps and restrooms, construction of new wall partitions, upgrades to the mechanical, electrical, and plumbing systems, and structural reinforcements to support the change of use. According to the applicant, upon completion of the required renovations, a certificate of occupancy was issued for the facility on June 2, 2023, and a temporary special use permit was issued for the mezzanine level ("Es Devlin" exhibit.) The building is fully ADA accessible. The "Es Devlin" exhibit is 694 square feet which serve as a continuation of the immersive experience. The Architect for the project stated that the "Es Devlin" exhibit installation is a site-specific experience comprised of mirrored tunnels and a maze-like configuration with projection-based immersive sequences reflecting human and environmental biology. The "Es Devlin" exhibit layout is intentionally continuous and curvilinear, with a mirrored ceiling that highlights all openings from above the small footprint of the second level which greatly limits placement of a lift just outside the Exhibit area. Furthermore, the architect stated that placement of a lift in the few available spots would impede life-safety infrastructure, fire suppression, critical emergency egress corridors and interfere with adjacent programming and programmatic flow of the experience". The applicant alleges that the hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

Uploaded Documents:

1. Owner Authorization
2. Construction Cost
3. Building Official Recommendation
4. Licensed Design Professional Comments
5. Plans/Pictures

STAFF RECOMMENDATION:

Staff recommends granting the request for waiver for vertical accessibility on the grounds of technical infeasibility.

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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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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.