

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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Centerra Townhomes - WAV # 258

Issue: Vertical accessibility to the second floors of the townhomes.

Project Type: New Construction

Project Progress: In Plan Review

Compliance estimate + Amount spent on accessible features: N/A

Project Construction Cost + Construction Cost Over Past 3 Years N/A

Economic Hardship Threshold: N/A

Applicant alleges the hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

Analysis: The applicant is requesting a waiver from providing vertical accessibility from the lobby to the second floors of the townhomes. The project consists of an affordable housing community of fifteen two-story townhome-type units in a multifamily building development. According to the applicant, affordable housing units are typically smaller, sometimes much smaller, than market rate apartments, and virtually all of them receive financial assistance. Additionally, this project is the recipient of federal financial assistance and so is subject to Section 504 and the accessible units were originally designed to meet the Section 504 standards (i.e., UFAS). Subsequently, HUD's Section 504 Standards do not require vertical accessibility within the accessible unit when certain prescribed elements are located on the accessible entrance floor. According to the applicant's registered design professional, the impact of providing vertical accessibility in the townhouse style accessible units provides hardship to the developer/owner by increasing costs to construction and to the residents by causing a loss of a significant amount of usable living space on both levels due to the presence of an elevator. The applicant is requesting a waiver based on a condition or set of conditions affecting the owner which does not affect owners in general.

Uploaded Documents:

1. Licensed Design Professional Letter
2. Proposed Construction Plans
3. Grounds for Waiver Letter

Background Information:

5th Edition (2017) Florida Building Code, Accessibility

233.2 Residential Dwelling Units Provided by Entities Subject to HUD Section 504 Regulations.

Where facilities with residential dwelling units are provided by entities subject to regulations issued by the Department of Housing and Urban Development (HUD) under Section 504 of the Rehabilitation Act of 1973, as amended, such entities shall [provide residential dwelling units with mobility features complying with 809.2 through 809.4 in a number required by the applicable HUD regulations.](#) Residential dwelling units required to provide mobility features complying with 809.2 through 809.4 shall be on an

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accessible route as required by 206. In addition, such entities shall provide residential dwelling units with communication features complying with 809.5 in a number required by the applicable HUD regulations. Entities subject to 233.2 shall not be required to comply with 233.3.

Advisory 233.2 Residential Dwelling Units Provided by Entities Subject to HUD Section

504 Regulations. Section 233.2 requires that entities subject to HUD's regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended, **provide residential dwelling units containing mobility features and residential dwelling units containing communication features complying with these regulations in a number specified in HUD's Section 504 regulations.** Further, the residential dwelling units provided must be dispersed according to HUD's Section 504 criteria. In addition, Section 233.2 defers to HUD the specification of criteria by which the technical requirements of this code will apply to alterations of existing facilities subject to HUD's Section 504 regulations.

809 RESIDENTIAL DWELLING UNITS

809.1 General. Residential dwelling units shall comply with 809. Residential dwelling units required to provide mobility features shall comply with 809.2 through 809.4. Residential dwelling units required to provide communication features shall comply with 809.5.

809.2 Accessible Routes. Accessible routes complying with Chapter 4 shall be provided within residential dwelling units in accordance with 809.2.

EXCEPTION: Accessible routes shall not be required to or within unfinished attics or unfinished basements.

809.2.1 Location. At least one accessible route shall connect all spaces and elements which are a part of the residential dwelling unit. Where only one accessible route is provided, it shall not pass through bathrooms, closets, or similar spaces.

809.2.2 Turning Space. All rooms served by an accessible route shall provide a turning space complying with 304.

EXCEPTION: Turning space shall not be required in exterior spaces 30 inches (760 mm) maximum in depth or width.

809.3 Kitchen. Where a kitchen is provided, it shall comply with 804.

809.4 Toilet Facilities and Bathing Facilities. At least one bathroom shall comply with 603. No fewer than one of each type of fixture provided shall comply with applicable requirements of 603 through 610. Toilet and bathing fixtures required to comply with 603 through 610 shall be located in the same toilet and bathing area, such that travel between fixtures does not require travel between other parts of the residential dwelling unit.

2010 ADA Standards for Accessible Design

206.2.3 Multi-Story Buildings and Facilities. At least one *accessible* route shall connect each *story* and *mezzanine* in multi-story *buildings* and *facilities*.

4. In residential *facilities*, an *accessible* route shall not be required to connect *stories* where *residential dwelling units* with mobility features required to comply with 809.2 through 809.4, all *common use* areas serving *residential dwelling units* with mobility features required to comply with 809.2 through 809.4, and *public use* areas serving *residential dwelling units* are on an *accessible* route.

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Unit subject to HUD's Section 504 (24 CFR Part 8)

§8.22 New construction—housing facilities.

(a) New multifamily housing projects (including public housing and Indian housing projects as required by §8.25) shall be designed and constructed to be readily accessible to and usable by individuals with handicaps.

(b) Subject to paragraph (c) of this section, a minimum of five percent of the total dwelling units or at least one unit in a multifamily housing project, whichever is greater, shall be made accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in §8.32 is accessible for purposes of this section. An additional two percent of the units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments.

(c) HUD may prescribe a higher percentage or number than that prescribed in paragraph (b) of this section for any area upon request therefor by any affected recipient or by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data (including a currently effective Housing Assistance Plan or Comprehensive Homeless Assistance Plan), or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without handicaps

STAFF RECOMMENDATION:

Staff recommends denial of the waiver application on the basis of this project being new construction.

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.

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- (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.

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 _____:

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- Submit requested information
- Contact building official or building department
- Etc.