

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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Swim Tech Gainesville - WAV # 581

Issue: Vertical accessibility to the swim spa.

Project Type: Alteration to an existing building or facility

Project Progress: Complete

Compliance estimate + Amount spent on accessible features: \$29,575 + \$5,000= \$34,575

Project Construction Cost + Construction Cost Over Past 3 Years: \$55,000

Economic Hardship Threshold:

$$\frac{34,575}{55,000} = 63\%$$

Analysis:

The applicant is requesting a waiver from providing vertical accessibility to the swim spa of a gym with a floor area of 3,500 square feet. The proposed swim spa is a special purpose pool which has been added to an existing Swim Tech Gainesville facility. According to the applicant, Swim Tech Gainesville, LLC, is a business classified as a "private club" under the Civil Rights Act of 1964 (42 U.S.C. 2000a(e)), and which would ordinarily be exempt from accessibility requirements under the Americans with Disabilities Act Title III. However, pursuant to section 553.505, Florida Statutes and section 101.1.3 of the 7th Edition (2020) Florida Building Code – Accessibility, the facility in question, including the special purpose pool, fall within the scope of the Florida Accessibility Code (FAC) and are subject to the Florida specific requirements of the FAC.

According to the applicant, Swim Tech Gainesville has already received variances from the Florida Department of Health specifically because the spa and facility are not open to the public; a condition of this variance is that users can only be in the spa and facility when a certified coach is present. A pool lift will be present at the facility if a member required assistance to get in or out of the pool. The project cost is \$55,000 for the alteration with \$5,000 have been spent towards accessibility. The alteration consists of the pool, decking, stairs and railings. The applicant has submitted two cost estimates of \$29,575 and \$37,200 for a lift and the associated cost for installing the lift. The applicant alleges substantial financial costs will be incurred by the owner if the waiver is denied.

Uploaded Documents:

1. DOH Letter
2. Cost for Compliance
3. Licensed Design Professional Comments
4. Plans/Pictures

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STAFF RECOMMENDATION:

Staff recommends granting the request for waiver for vertical accessibility on the grounds of economic hardship.

7th Edition (2020) Florida Building Code - Accessibility

101.1.3 This code establishes standards for accessibility to *places of public accommodation* and *commercial facilities* by individuals with disabilities. This code shall also apply: to state and local government *facilities* pursuant to Section 553.503, F.S.; to *private clubs* pursuant to Section 553.505, F.S.; and to residential *buildings* pursuant to Section 553.504(2), F.S., and the ADA Standards for Accessible Design. It is to be applied during the design construction and *alteration* of such *buildings* and *facilities* as required by this code.

Florida Statutes

553.505 Exceptions to applicability of the Americans with Disabilities Act.—Notwithstanding the Americans with Disabilities Act of 1990, *private clubs* are governed by this part.

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

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