

## 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.

## **ACCESSIBILITY ADVISORY COUNCIL**

### **Cactus Club Cafe - WAV # 716**

**Issue:** Vertical accessibility to a proposed mezzanine

**Project Type:** Alteration to an existing building or facility

**Project Progress:** In Plan Review

**Analysis:**

The applicant is requesting a waiver from providing vertical accessibility to a mezzanine in a restaurant with 8,984 square feet. The proposed alteration will consist of constructing a new dining area, kitchen area, accessible ramp, and dining mezzanine. The floor area of the new mezzanine will be 840 square feet. The seating layout for the restaurant will be located at the ground level and the mezzanine level. The project cost is \$3,257,085 for the alteration with \$37,650 towards accessibility. The Architect for the project stated that several different options for vertical accessibility were explored (an elevator, machine room without elevator, and a LULA lift) and that all three options would require substantial modifications to the existing building structure and envelope. The modifications would require new pile foundations, roof slab, footers, beams, shear walls to support the elevator, new masonry for the elevator shaft walls, dewatering and waterproofing at the elevator pit, temporary shoring, concrete removal and extensive roof modifications. Additionally, the architect states that the addition of vertical accessibility and the required accessible clearances would disrupt key programmatic components that are required to be accessible (i.e. manager's office and employee lockers) and would impact the usable square footage to the point where it would not make sense operationally to construct the mezzanine. All items provided on the mezzanine level are also provided at the ground level. 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. Cost for Compliance
4. Licensed Design Professional Comments
5. Plans/Pictures

**COUNCIL RECOMMENDATION (May 29, 2025):**

The Council recommended denying the request for waiver for vertical accessibility on the grounds of not being able to account for vertical accessibility to the mezzanine.

**COMMISSION ACTION (June 10, 2025):**

The Commission voted to defer the decision on this waiver to allow the applicant to submit additional information.

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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.