

# Adjustment Staff Report, Decision, and Conditions of Approval Case File ADJ 2022-01

**Date:** September 26, 2022

**Case File:** ADJ 2022-01 Taft Plane

**Project Contact:** Knottworks Construction

**Property Owners:** Nathan and Angie Knott Trust

**Situs Address:** Unaddressed Hwy 101

**Location:** West side of Hwy 101, approximately 1,100 feet north of SW 50<sup>th</sup> St

**Tax Map and Lot:** 07-11-27-CD-00107-00  
07-11-27-CD-10000-00

**Comprehensive  
Plan Designation:** General-Commercial District (G-C)

**Zoning District:** General Commercial (GC) Zone

**Site Size:** 62,291 square feet

**Proposal:** Request for adjustment from design standard 17.74.100.C.4.C

**Surrounding  
Land Uses  
and Zones:** North: Houses, Hotels; GC  
South: Apartments; GC  
East: Hwy 101, Commercial Buildings; GC  
West: Houses; R-1-5

**Authority:** Table 17.76.020-1 of Lincoln City Municipal Code (LCMC) 17.76.020 lists an adjustment to a design standard as a Type II procedure with the Planning and Community Development Director (Director) listed as the review authority. LCMC 17.76.040(A) states that Type II procedures apply to administrative permits and applications and that decisions on administrative applications are made by the Director, based on reasonably objective approval criteria that require only limited discretion.

**Procedure:** The application was received on August 30, 2022. The application was deemed complete on August 31, 2022. On September 1, 2022, pursuant to LCMC 17.76.040(E), the Planning and Community Development Department mailed a notice of application to property owners within 250 feet of the subject property.



**Applicable** LCMC Chapter 17.76.040 Type II Procedure  
**Substantive** LCMC Chapter 17.77.010 Adjustment – Design Standard  
**Criteria:**

### **BACKGROUND**

The subject property (site) is unaddressed. The site is in the G-C zone and the map and tax lot numbers are 07-11-27-CD-00107-00 and 07-11-27-CD-10000-00. The site is currently undeveloped.

Lincoln City's GIS mapping shows the site does not contain bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlays.

The site has development review approval through SPR 2021-01. When the applicant submitted the building permit application for the easternmost building, a minor change in the front façade of that building necessitated the request for an adjustment as part of the building permitting process. This application seeks to adjust the wall plane requirement in LCMC 17.74.100(C)(4)(C) in order to allow for a wall plane length over 12 feet.

### **COMMENTS**

No comments were received.

### **ANALYSIS**

*Chapter 17.76 Procedures  
 17.76.040 Type II procedure*

- A. General Description. Type II procedures apply to administrative permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.*
- B. When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed in Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required for Type II procedures.*

**Finding:** A pre-application conference is not required.

- D. Application Requirements. Type II applications shall:*
  - 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
  - 2. Be accompanied by the required fee as adopted by city council resolution.*
  - 3. Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

**Finding:** The required application form was completed and submitted, along with the other required materials and the application fee. The application was deemed complete in accordance with LCMC 17.76.110(D) and (E).

- E. Public Notice of Application and Comment Period. Type II applications require public notice of receipt of a complete application with an opportunity for area property owners and other interested parties to provide written comment prior to issuance of the decision.*
  - 1. After a Type II application has been accepted as completed under LCMC 17.76.110(E), the department shall mail a written public notice to the following:*
    - a. The applicant and applicant's representative;*

- b. *The owners of record of the subject property;*
- c. *Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record; and*
- d. *Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.*

**Finding:** The Planning and Community Development Department mailed the public notice of a complete application to the parties noted in LCMC 17.76.040(E)(1)(a) through (d).

- 2. *The written public notice shall include the following:*
  - a. *A brief description of the request;*
  - b. *The applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;*
  - c. *The street address or other easily understood geographical reference to the subject property;*
  - d. *Statement that failure of an issue to be raised in writing prior to the expiration of the public comment period, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA);*
  - e. *The name of a department staff member to contact and the telephone number where additional information may be obtained; and*
  - f. *Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*
- 3. *The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.*
- 4. *Public notices for receipt of complete Type II applications shall include a written comment period of 14 days from the date the notice was mailed for the submission of written comments before the decision is issued.*

**Finding:** The written public notice contained all the information required in LCMC 17.76.040(E)(2)(a) through (f). The written public notice included the written comment period of 14 days.

*F. Review Authority. The review authority for Type II applications shall be the director.*

**Finding:** The Director reviewed the submitted Type II application.

*G. Decision.*

- 1. *Based on the criteria and facts contained within the record, the director shall approve, approve with conditions, or deny the request. The decision shall address all relevant approval criteria and consider written comments submitted before the close of the comment period.*

**Finding:** The relevant approval criteria are addressed in detail throughout this staff report. Consideration of the written comments received, if any, is given at the beginning of this report.

- 2. *The decision is considered final for purposes of appeal on the date the notice of the decision is mailed. Within seven days after the director has issued the decision, a notice of the decision shall be sent by mail to the following:*
  - a. *The applicant and applicant's representative;*
  - b. *The owners of record of the subject property;*

- c. Any person, group, agency, association, or organization who submitted written comments during the comment period; and
- d. Any person, group, agency, association, or organization who submitted a written request to receive notice of the decision.

**Finding:** Within seven days after the Director has issued the decision, the notice of that decision shall be mailed by the Planning and Community Development Department, pursuant to LCMC 17.76.040(G)(2).

- 3. The notice of the decision shall include the following:
  - a. A brief description of the request;
  - b. A statement of the decision and the applicable approval criteria used in making the decision;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. A statement that the decision is final, unless appealed as provided in LCMC 17.76.180;
  - e. The requirements for filing an appeal of the decision, including a statement of the date and time by which an appeal must be filed;
  - f. A statement that the complete file is available for review; and
  - g. The name of a department staff member to contact and the telephone number where additional information may be obtained.

**Finding:** The Planning and Community Development Department will issue the notice of decision that shall contain all the information noted in subsection 17.76.040(G)(3)(a) through (g).

#### Chapter 17.77 Applications

##### 17.77.010 Adjustment – Design standard

###### A. Procedure.

- 1. Requests for design standard adjustments are only applicable to adjustments from the standards of Chapter 17.74 LCMC and must be concurrent with the development review application submittal. Adjustments may not be requested for any other portion of the code other than the items noted in Chapter 17.74 LCMC as being eligible for adjustment.

**Finding:** The original development review application was submitted and approved in 2021 as SPR 2021-01. The original application included adjustment requests to certain design standards, but an adjustment to wall plane width was not included. An amendment has been made to development review procedures in 17.77.070(F) to allow for processing of an adjustment request with the structural permit application (see Ordinance No. 2022-25, effective July 13, 2022). The request is for a design standard adjustment in Chapter 17.74, specifically 17.74.100(C)(4)(C).

- 2. Adjustment requests under this section are processed concurrently with the development review application using the same procedure type as the development review application.

**Finding:** The adjustment request is being processed as a Type II procedure. The original application for development review of this project (identified as SPR 2021-01) was processed as a Type II procedure. Accordingly, this adjustment request is being processed as a Type II procedure.

- B. Submittal Requirements. In addition to the submittal requirements of the primary application, requests for design standard adjustments shall include a narrative clearly identifying each applicable standard from which an adjustment is requested, citing the reasons for the request, and addressing compliance with the approval criteria in subsection (C) of this section.

**Finding:** The submittal included a letter that identified the standard from which an adjustment is being requested.

- C. *Approval Criteria. To approve a design standard adjustment, the review authority shall make additional findings of fact, based on evidence provided by the applicant, that all of the following criteria are satisfied:*
1. *The character types and guiding principles, as contained in LCMC 17.74.050, and the intent statement(s) under the standard to be adjusted can be better met through the proposed alternative design solution; or*

**Finding:** As described in the submitted narrative, the applicant seeks to balance the livability of the interior living room, while maintaining the connection to Highway 101. In the residential units, the wall plane has been expanded to 15 feet in order to accommodate adequate living room dimensions. When accounting for wall finishes, a 12-foot wide living room may not leave enough living space. The commercial space was designed to have a wall plane of 18 feet in length, which provides maximum flexibility for a future tenant and allows for increased pedestrian sheltering space. The building does provided recessed patios, pedestrian sheltering, and ample building articulation to meet the intent of the design standards in 17.74.050. This modification will better meet the needs of the future tenants while preserving the intent of the wall plane limitations. This standard has been met.

2. *Necessary characteristics of the allowed use present practical difficulties in meeting a standard. In such cases, the design must provide alternative features to meet the intent of the standard, along with an explanation of how the alternative features meet the intent of the standard being adjusted.*

**Finding:** The proposed project is a mixed-use development, which consists of both residential and commercial uses. In order to allow for adequate use of both types of occupancies, the applicant has expanded the individual wall plane lengths. For the residential units of the mixed-use building, the applicant has provided recessed patios that face Hwy 101 for an increased level of pedestrian connectivity. On the commercial portion of the mixed-use building, the 18-foot-wide recessed wall plane allows for increased pedestrian sheltering and better pedestrian circulation around the building. This standard has been met.

**DECISION**

Based upon an analysis of the submitted application and accompanying materials against applicable criteria, the Director concludes that all criteria have been or will be met, and thus **APPROVES WITH CONDITIONS** the adjustment request to increase the wall plane width to over 12 feet, subject to the following conditions:

**General**

1. This approval notwithstanding, the applicant/property owner/developer shall be responsible for knowledge of and full compliance with all applicable city, state, and federal codes, rules, regulations, codes, rules, standards, and policies, including but not limited to Lincoln City Municipal Code.
2. Structural permits shall not be issued until compliance with applicable codes, rules, regulations, standards, and policies is shown in the materials that accompany the structural permit applications.

Approved by:



Anne Marie Skinner, Director  
 Planning and Community Development

*October 10, 2022*

Date