

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

**Date:** April 3, 2023

**Case File:** ADJ 2023-01

**Project Contact:** Open Concept Architecture

**Property Owners:** Lincoln Sands Hotel Partners LLC

**Situs Address:** Unaddressed, unaddressed, unaddressed, 525 NW Inlet Ave

**Location:** Northwest corner of NW Inlet Ave/NW 5<sup>th</sup> Ct intersection

**Tax Map and Lot:** 07-11-15-AB-08800-00, 07-11-15-AB-10200-00, 07-11-15-AB-10300-00, and 07-11-15-AB-10400-00

**Comprehensive Plan Designation:** Commercial-Recreation District (R-C)

**Zoning District:** Recreation-Commercial (RC) Zone

**Site Size:** 18,500 square feet (Lots 5, 6, 7, and 8, Block 7, DELAKE)

**Proposal:** Request for adjustment from design standard 17.74.100.C for the south wall

**Surrounding Land Uses and Zones:**  
North: Lincoln Sands Oceanfront Resort; RC  
South: Lincoln Sands Oceanfront Resort; RC  
East: Residential; RM  
West: Lincoln Sands Oceanfront Resort; RC

**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 March 8, 2023. The application was deemed complete on March 9, 2023. On March 9, 2023, 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) comprises four tax lots in the Recreation-Commercial (RC) zone. Three of the four tax lots are unaddressed (07-11-15-AB-08800-00, 07-11-15-AB-10200-00, and 07-11-15-AB-10300-00) and the fourth tax lot (07-11-15-AB-10400-00) has an address of 525 NW Inlet Ave. The site is platted as Lots 5, 6, 7, and 8, Block 7, DELAKE, containing 18,500 square feet. The site is located at the northwest corner of the NW 5<sup>th</sup> Ct/NW Inlet Ave intersection, with the site's south boundary being NW 5<sup>th</sup> Ct, and the east boundary being NW Inlet Ave. The site is surrounded on three sides by Lincoln Sands Oceanfront Resort, all in the RC zone. The properties to the east and across from NW Inlet Ave are developed as residential uses in the RM zone.

Lincoln City's GIS mapping shows the site does not contain trails, aesthetic resource, floodway, flood hazard areas, or natural resource overlays. GIS mapping indicates the very western-most edge of the southwestern portion (07-11-15-AB-08800-00) of the site contains bluff erosion hazards.

The site has development review approval through DEV REV 2022-11. When the applicant submitted the building permit application for construction of the approved DEV REV 2022-11, it was discovered that an adjustment from one of the design standards was needed and inadvertently omitted from the development review application. Accordingly, the applicant is seeking the design standard adjustment as part of the building permit process as allowed pursuant to LCMC 17.77.010. This application seeks to adjust the minimum wall plane recess or projection in LCMC 17.74.100.C.4.b to more than 3 feet.

### **COMMENTS**

Comments were received from Shawna Leavitt, via email, on March 21, 2023. The comments stated the following: "My husband and I live across the street from Lincoln Sands (316 NW Inlet Ave) and am totally opposed to the addition as it would block our view of the ocean. Also, it would lower the value of our home. This is unacceptable. Not only my husband and I but my neighbors. This would devalue their property as well."

Staff notes that this application, ADJ 2023-01, is requesting approval of a design standard adjustment for a new building that is part of an existing resort. The site is in the RC zone and motels and resorts are allowed uses in the RC zone; therefore, no land-use approvals are needed for the use. New construction in the RC zone must obtain development review approval prior to submitting for a building permit. In this case, the property owner received development review approval for the design of the building through DEV REV 2022-11 on The notice of decision of approving DEV REV 2022-11 was mailed and no appeals were filed appealing the approval of the development review.

Staff notes that a design standard adjustment has criteria that must be met to be approved. The use of the property, views of the ocean, and property values are not criteria applicable to evaluating a request for a design standard adjustment.

### **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 should be concurrent with the development review application*

*submittal, but may be processed with the structural or site development permit application. 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 2022 as DEV REV 2022-11. The original application included adjustment requests to certain design standards, but an adjustment to minimum recesses was not included. The applicant subsequently applied for a structural permit and also submitted an application for a design standard adjustment to the minimum recess standard.

2. *Adjustment requests under this section are processed concurrently with the development review application using the same procedure type as the development review application. Adjustment requests that are submitted as part of the structure or site development permitting process are processed as a Type II procedure.*

**Finding:** The adjustment request was submitted as part of the structure permitting process and 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:** The intent of the minimum recess or projection requirement is to prevent the look of a large blank wall without any features or articulation. In this case, the project is providing the following to ensure articulation on the south wall: recess at the southeast corner greater than 3 feet to add articulation; open-air balconies extending to the south elevation to provide façade openings; belt trim at the 4<sup>th</sup> floor level that separates the wall plane in areas less than 800 square feet; and a pedestrian shelter extension along the entire length of the south frontage, which is greater than what is required. The project also provides the required ground floor window transparency on the south wall and four building entrances along the south façade. This criterion is satisfied.

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 applicant states that providing recesses or projections of 3 feet on the south wall of the proposed building presents difficulties due to the nature of the allowed use. Hotel rooms with straight walls are optimal, because recesses or projections interfere with the required furniture layout and room space requirements. Staff concurs. This criterion is satisfied.

**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 17.74.100.C in the south wall, 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:



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Anne Marie Skinner, Director  
Planning and Community Development

Date