

CITY OF GEARHART PLANNING COMMISSION

City Staff Report

From: Carole Connell, AICP - City Planner

Re: Request for a Conditional Use Permit approval

July 1, 2021

City File: #21-02 CU

Application Purpose: An application for approval of a Conditional Use Permit to utilize an estimated 26% of a gallery business as a residence in a C-2 zone.

Public Hearing Date: July 8, 2021

Applicant: Cummins and Diane Speakman
201 South Cottage Avenue
Gearhart, Oregon 97138

Property Owner: Same as above

Location: 1368 Pacific Way; Tax Lot 201 Map 61010BA00201

Procedures: Application received: 5-14-21
Completeness: 5-25-21
Notice Mailed: 6-17-21
Notice Published: 6-17-21
120-day deadline: 9-23-21

Exhibits

- Gearhart Fire Chief, no concerns by email 6-15-21
- Gearhart Building Inspector, no concerns subject to code compliance by email 2-8-21
- Gearhart Police Chief, no concerns by email 6-15-21
- Gearhart Public Works, no concerns by email 6-21-21
- Gearhart City Manager, no concerns by email 6-16-21

Gearhart Zoning Code Review Criteria:

- GZO Section 3.5 General Commercial C-2 Zone
- GZO Section 3.14 Tsunami Hazard Overlay Zone
- GZO Article 4 Transportation Improvements & Access Management
- GZO Section 6.060 Off-Street Parking Requirements
- GZO Section 8.040 Conditional Use Review Criteria
- GZO Section 8.060 Additional Modification of Standards for CUP

- GZO Article 13 Administrative Application, Notice & Hearing Procedure

I. Background

- A. Site information: The subject parcel was previously the Gearhart Ironworks business owned by John Emmerling. The applicant worked at Ironwerks before purchasing the property for his daughter, an artist. She will use the space for a kiln, a workroom, storage, a showroom for clients, and if approved, a studio apartment. The residence will occupy an estimated 26% of the existing floor area. In the front of the building adjoining the street there is an established garden area, which is also the location of the building's septic system that was installed in 2003. The applicant said the septic system is regularly serviced under contract by Septech. The applicant anticipates the business will be open to the public 3 – 5 days a week (weekends) from 11 am to 5 pm.
- B. Agency Coordination: The proposal was referred to city departments. No objections were raised. If approved, Clatsop County Health Department approval of the existing septic system for the new use is required.

II. Gearhart Comprehensive Plan and Zoning Code (GZO) Provisions

- A. GZO Article 13 Administrative Provisions: The application for a Conditional Use Permit is a quasi-judicial decision of the Planning Commission. The applicant has submitted the required forms and materials. The public hearing was advertised at least 20-days before the hearing and notices were mailed to properties within 200 feet of the subject parcel. This report was made available no less than seven days before the hearing. The public hearing will be conducted in accordance with Section 13.050. A party to the decision by the Planning Commission may appeal the decision to the City Council.
- B. Applicable Comprehensive Plan and Zone Standards: The site is designated Commercial by the Gearhart Comprehensive Plan and is designated General Commercial C-2 by the Gearhart Zoning Ordinance.
- C. GZO Section 3.5 C-2 General Commercial Zone
The purpose of the C-2 zone is to provide for a broad range of commercial uses and activities to serve the needs of the city and its visitors, a broader definition than the C-1 zone.

FINDINGS: The City finds the C-2 Zone Section 3.520 Outright Uses Permitted 1. allows an outright or conditional use that is also allowed in the C-1 Zone. The C-1 zone allows an Arts and Crafts Gallery and Studio outright, and as a conditional use, a residence in conjunction with the permitted use where the residential use does not exceed 50% of the building's total floor area. The request is for approval of a Conditional Use

Permit to modify the existing interior space to accommodate an artist's residence. The applicant proposes interior improvements to accommodate the residence within 26% of the existing building footprint.

D. Section 3.530 C-2 Conditional Uses. This section of the code permits Planning Commission approval of a residential dwelling as a conditional use subject to the provisions of Article 7 Conditional Use, discussed below.

E. GZO Section 3.14 Tsunami Hazard Overlay Zone (THO)

The purpose of this section of the code is to increase community resilience from a Cascadia Subduction Zone tsunami by establishing standards, requirements, incentives and other measures applied in the review and authorization of land use and development activities impacted by the XXL magnitude source tsunami event, which is all of Gearhart.

Permitted, Conditional and Prohibited Uses

In the THO zone all permitted, conditional and prohibited uses in the underlying C-2 zone are subject to additional THO zone limitations and requirements if applicable.

FINDINGS: The City finds the proposed art workshop, gallery and residence are not affected by the group capacity limitations or the density limitations of the THO zone because the gallery is not a medical facility or a covered facility for public assembly with a capacity of great than 300 persons, and the residential density proposed does not exceed 10 dwelling units an acre. Per Section 3,1470 1. A new single-family residence is not required to incorporate evacuation route improvements as a part of new development.

F. GZO Article 4 Transportation Improvements and Access Management

Section 4.040 Transportation Improvement requirements are applicable to a new single-family dwelling if the development fronts a street segment that is planned for a sidewalk or trail. In the Gearhart Transportation System Plan (TSP), unless the City Manager waives, defers or requires a fee-in-lieu of the improvements per subsection 3 Improvements to Existing Streets.

FINDINGS: The subject property abuts Pacific Way for 115.59 feet. The Gearhart TSP designates Pacific Way a Collector Street with 60-feet of right-of-way. The street is planned to include a curb and 5-foot sidewalk on each side or a shared-use path on one side. A detailed street improvement plan does not exist. There is currently no sidewalk, curb, parking strip or landscape/drainage buffer as planned on any portion of Pacific Way in this location. But there is 60-feet of right-of-way. The City will determine the type of improvement feasible for the site's street frontage based on existing conditions and planned improvements. A walkway of natural material across the parcel's frontage is

possible with exception of one large Maple tree based on the applicant's measurements. In addition, a Waiver of Remonstrance Agreement for a full future upgrade to Pacific Way should be required.

G. GZO Article 6 Supplementary Provisions

1. Section 6.060 Off-street Parking: This section requires compliance when a use is changed in an existing structure. No existing parking spaces may be eliminated if it results in less parking than required by this section. This section requires two spaces per dwelling and one space per 200 square feet of retail area. An art gallery is not specifically identified in the parking space requirements of subsection 6.060 I.

The applicant's sketch illustrates two parking stalls in the existing garage, two spaces in the drive entryway and one handicapped space adjoining the garage. The public showroom gallery is an estimated 700 square feet.

FINDINGS: The gallery is a similar use to the prior Ironwerks business. The modified gallery of 700 SF requires 3 parking spaces. The proposed residential use is a change of use which requires two parking spaces. Two spaces in the garage have been designated for the new residential use.

III. GZO Article 8 Conditional Uses

A. Section 8.040 General Conditional Use Review Criteria

Before a conditional use is approved findings will be made that the use will comply with the following standards:

1. The proposed use is consistent with the policies of the Comprehensive Plan
The following Comprehensive Plan policies are relevant to the proposal to allow one dwelling unit in up to 50% of a commercial building:

- ***Residential Development and Housing Goal 10 Policies***
 - a. *It is a City goal to ensure decent, affordable housing and housing availability for all residents of the Gearhart area.*

PROPOSED FINDINGS: The City finds a new commercial policy was adopted in 2020 to permit housing within 50% of floor area of a C-1 and C-2 zoned business as a method to encourage affordable, workforce housing options for Gearhart businesses and residents. The proposal modifies an existing commercial building incorporating a dwelling in 26% of the existing space. The new dwelling provides a decent, affordable, and efficient housing opportunity for a tenant.

- b. The City will preserve and maintain the predominately residential character of Gearhart through appropriate zoning and land use development regulations.*

PROPOSED FINDINGS: The City finds approval of the conditional use permit to add a dwelling in a business will add an additional housing option not previously permitted, while also increasing the number of residential dwellings in the city and preserving the predominately residential character of Gearhart.

- c. The City, through provisions in the Zoning Ordinance shall allow for needed housing types such as manufactured dwellings, duplexes, multi-family dwellings, and residential care facilities and residential homes.*

PROPOSED FINDINGS: The City finds the 2020 Zoning Ordinance amendment to the C-1 and C-2 zones now allows a new needed housing type within a business that will help to meet the affordable housing needs of Gearhart businesses and residents.

• ***Commercial Development Policies***

- d. The City will limit commercial activity in the City, in terms of both land that is devoted to commercial uses and the types of uses permitted in commercial zones, to a level that is compatible with Gearhart's residential character.*

PROPOSED FINDINGS: The amount of land devoted to commercial zones will not change by the proposal because the site is already zoned commercial. The request for a residence within the existing building will not increase the level of commercial activity. The request provides a new housing option for the artist not otherwise available and adds a new dwelling compatible with Gearhart's residential character.

- e. The City will prevent the city from becoming a tourist destination. To achieve this policy the City, through its land-use regulations shall seek to accommodate only a limited level of tourist development.*

PROPOSED FINDINGS: The City finds the proposed residence within the existing building footprint decreases rather than increases the amount of commercial space in the building. The proposed residential use will not necessarily increase tourism any more than the prior gallery.

- f. The City will work to achieve a level of commercial development that supports the needs of the residents of Gearhart, rather than serving a regional commercial center role, or providing for major tourist destination facilities;*

PROPOSED FINDINGS: The City finds the proposed business will occupy a vacant commercial building. The remodel to provide a residence for the artist supports the owner who will be a new resident of Gearhart. The existing artist workshop/gallery space will not create a regional commercial activity or provide a major tourist attraction by adding a residence to the use.

- g. The City will establish Zoning ordinance standards to protect residential areas from adjacent commercial development.*

PROPOSED FINDINGS: The City finds the existing residential uses in the Pacific Way/McCormick Gardens Road area will continue to be adequately separated from commercial use of the building because no exterior additions or changes are proposed. The building has historically been occupied by commercial uses. The interior remodel will reduce the amount of commercial space in the building which is unlikely to create new commercial impacts on the adjoining residential area.

- ***Air, Water and Land Resource Quality Goal 6 Policies***

- h. The City will encourage the use of alternative modes of transportation to the automobile in an effort to decrease the overall levels of air pollution.*

PROPOSED FINDINGS: The City finds the proposal will allow the owner to walk rather than drive to work which will decrease the overall level of air pollution generated by the business owner.

- ***Economy & Energy Goals 9 & 11 Policies***

- i. It is a goal of the City to ensure a stable and healthy economy in Gearhart through all available resources, both human and natural resources.*

PROPOSED FINDINGS: The City finds the subject space has been vacant and for sale for some time. The reuse of an existing building for a business opportunity that will provide both a workplace and a residence will help to ensure a stable and healthy economy in Gearhart.

- j. Medium density developments, when appropriate, will be concentrated along high-capacity transportation corridors in order to achieve greater energy efficiency.*

PROPOSED FINDINGS: The City finds the addition of a residence within a business can be considered a “medium density” housing development. It is located within a half-block of Highway 101, the highest-capacity travel corridor in Gearhart. The “work/live” occupancy achieves energy efficiency by reducing travel by the business owner while maintaining an existing commercial space on the highway corridor.

- k. Future commercial, industrial and residential development within and adjacent to the City of Gearhart shall progress in the most energy efficient and logical manner possible.*

PROPOSED FINDINGS: The City finds the work/live business and residency proposal within an existing building designed and previously occupied for an artist workshop and gallery provides increased energy efficiencies and is ultimately the most logical land use for the site.

- ***Transportation Goal 10 Policies***

- l. Protect the existing function and planned roadways identified in the adopted Transportation System Plan (TSP) by ensuring that all development proposals, plan amendments and zone changes are consistent with the planned transportation system.*

PROPOSED FINDINGS: The City finds request for a Conditional Use Permit to add a tenant residence will maintain the existing traffic functionality of Pacific Way. Further, based on the TSP plan to improve Pacific Way for safe walking and biking, the frontage of the site will be improved or partially improved with a walkway per city specifications as a part of this project construction, or as may be deferred by legal agreement between the parties.

Plan Compliance Summary: The above findings indicate the proposed residence in a commercial space is compliant with the relevant Comprehensive Plan policies and the intent of the C-2 zone. The addition of a single dwelling for the business owner will decrease, not increase daily traffic trips. The workshop use for an artist will not create parking problems, odors, or noise in the area. The limited size of the space and the limited hours of operation would provide some assurance that the use will maintain compatibility with both commercial and residential uses in the neighborhood. Use of 26% of the business for a residence provides a new affordable housing option for the tenant.

2. A demand exists for the use at the proposed location. Several factors which shall be considered in determining whether or not this demand exists include accessibility for users (such as customers and employees), availability of similar uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitable zoned sites for the use.

PROPOSED FINDINGS: The City finds a demand exists for the use at the location as evidenced by the applicant's narrative for the request. The building is ideally suited for the proposed use. Further it can be found that:

- Accessibility: In its current configuration, the building space and residence will be accessible to employees and customers with the same on-street parking, loading and pedestrian access currently incorporated into the site for the previous gallery.
 - Other C-2 sites: This building can easily be modified for the owner to both live and operate the kind of business in which she has the experience. It is an ideal fit because of the prior Ironworks gallery use and the ability to stay within the existing building footprint while adding a residence for the artist.
 - Other commercial zones: The C-2 commercial zone allows the gallery use and conditionally the ability to add a dwelling into a floor plan. The building is perfectly suited to add a residence at a reasonable cost while providing the workshop/gallery space for the business. It is highly unlikely another building in another location in Gearhart is as perfectly matched for the planned use.
3. The location, size, design, and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties.

PROPOSED FINDINGS: The City finds the prior use and the proposed use are essentially the same. With the addition of a single living space for the artist who will not be driving to and from the site for work, there may be less traffic impact on surrounding properties. No outdoor lighting is planned, other than possible ground level landscape lighting.

4. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated.

PROPOSED FINDINGS: The City finds the commercial building has been historically zoned for commercial use and customer traffic. There are several uses permitted in the C-2 that would generate significantly more traffic than the proposal such as eating and drinking establishments and a building materials sales yard. Based

on the same gallery business planned by the applicant, in the same building space, and the added ability for the artist to live there, the City finds the amount of traffic on Pacific Way generated by the new use will be similar to or less than the prior use, and far less than other commercial uses allowed in the C-2 zone.

5. Public facilities and services are adequate to accommodate the proposed use:

PROPOSED FINDINGS: The City finds the subject building has existing utility connections and access to public facilities and services that will be re-established and re-permitted by the Building Dept. and Clatsop County Health prior to occupancy.

6. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use; and:

PROPOSED FINDINGS: The City finds the site has functioned appropriately for commercial artist activity for many years. The existing building and landscaping are attractive and well maintained. There is additional land area for a septic drain field for the residence. There are no known constraints related to topography or soil conditions on the parcel.

7. The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on site drives, parking area, loading areas, storage facilities, setbacks, buffers, utilities, or other facilities which are required by City ordinance or desired by the applicant.

PROPOSED FINDINGS: The City finds the site layout is developed and will remain the same and has previously been shown to have adequate area for the commercial use of an artist. The applicant is the owner, resident and the operator of the business providing full time management of the site. There is ample storage space, existing building setbacks, a landscape buffer from the street and adequate utilities with the inclusion of a bathroom and drain field for the residence. The building has historically operated effectively with the existing access onto Pacific Way, and off-street parking spaces. A bicycle rack near the entry may be an appropriate condition of approval.

B. Section 8.060 Additional Modifications of Standards for Conditional Uses

The Planning Commission may impose additional conditions if necessary to protect the best interest of the City as a whole. These additional conditions may include:

1. Increasing the required lot size or yard dimension.

FINDINGS: This criterion is not applicable because the existing lot size and building location remain unchanged by the new use.

2. Limiting the height of buildings.

FINDINGS: This criterion is not applicable because the existing building height will not change for the new use.

3. Controlling the location and number of vehicle access points.

FINDINGS: This criterion is not applicable because the location of the access point is established and not proposed to change for the new use.

4. Increasing the street width

PROPOSED FINDINGS: The City finds the Pacific Way right-of-way width is currently 60 feet as planned by the Gearhart TSP, no additional ROW is required to be dedicated to city street. However, a partial street improvement for a pathway on the north side which adjoins the parcel may be required in the form of a condition of approval with this request depending on site topography.

5. Increasing the number of required off-street parking space.

FINDINGS: The City finds the existing site layout provides two off-street parking spaces for the residence and three for the gallery business, as required.

6. Limiting the number, size, location, and lighting of signs.

FINDINGS: The applicant has not provided a signage plan but will be required to locate signage in accordance with C-2 sign regulations, as a condition of approval.

7. Requiring diking, fencing, landscaping, or other facilities to protect adjacent or nearby property.

FINDINGS: The City finds no diking, fencing or additional landscaping is required to protect adjacent or nearby property. The property is currently fully landscaped.

8. Designating sites for open space; and

FINDINGS: This criterion is not applicable because the subject use is not required to provide designated open space.

9. Hours of use or operation.

FINDINGS: The proposed hours of operation are expected to be from 11 am to 5 pm for three to five days a week.

IV. SUMMARY CONCLUSION

The City finds the proposed dwelling unit inside 26% of the existing artist business is a use suited for the site in compliance with the Comprehensive Plan policies, the intent of the C-2 zone and the Zone Code development standards, subject to conditions of approval.

V. MOTION OPTIONS AND RECOMMENDATION

The Planning Commission has three decision options:

- 1) Approve the Conditional Use Permit based on the findings in this report with conditions of approval as may be modified by the Commission.
- 2) Continue the public hearing to a time certain date if requested, by a party to the request or the Commission.
- 3) Deny the application stating why the proposal does not comply with the Conditional Use Permit approval criteria.

Staff Recommendation:

Based on the findings in this report, staff recommends approval of the Conditional Use Permit for a residence to occupy no more than 50% of the total floor area within the existing business facility, subject to the following conditions of approval:

1. Prior to issuance of an occupancy permit, if feasible as determined by the City, a 5-foot-wide walkway shall be constructed in the Pacific Way frontage (115') ROW in accordance with city specifications. This may be either a natural surface or hard surface as determined most practical for Pacific Way in this location. In addition, a Waiver of Remonstrance for the owner to participate in a future street improvement to Pacific Way shall be executed between the City and the applicant.
2. The applicant shall file a sign permit request with the City prior to installation of any signs.
3. The applicant is encouraged to provide a bicycle rack in the entry area.
4. Prior to issuance of a building permit or occupancy permit the applicant shall provide the City with a copy of the septic system approval from DEQ/Clatsop County Health Dept.