

CITY OF GEARHART PLANNING COMMISSION

From: Garrett Phillips, City Planner

Re: Conditional Use 24-08 CU

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CITY STAFF REPORT

November 23, 2024

City File: #24-08 CU

Application Purpose: An application for approval of a Conditional Use Permit to expand an existing conditional use that was approved in File 14-002 CU

Public Hearing Date: December 12, 2024

Applicant: Linda Goldfarb  
PO Box 2716  
lkgoldfarb@icloud.com  
503-738-2716

Property Owner: Craig Weston  
PO Box 2825  
cweston@windermere.com  
503-738-2850

Location: 588 Pacific Way and 576 Pacific Way  
Taxlots 61009AA00600 and 61009AA00700  
Lots 10, 11, 12 Block 1 Lucas Golf Course Addition

Completeness: 11-01-24  
Notice Mailed: 11-21-24  
Notice Published: 11-21-24  
120-day deadline: 03-01-24

Exhibits: Applicant's application  
Staff Report and Notice of Decision for File 14-002CU

Review Criteria: GZO Section 3.4 Neighborhood Commercial C-1 Zone  
GZO Article 8 Conditional Use Review Criteria



Approximate existing use

Approximate expansion

I. FINDINGS

A. Background: The applicant proposes to expand a variety store approved by Conditional Use Permit 14-002 CU. The present conditional use decision does not include whether to continue or terminate the existing conditional use, but rather will only decide whether it can be expanded. The expansion proposal is to occupy additional floor area within the existing building, and does not include expansion of the building. Probable physical changes associated with the conditional use approval include interior layout modifications and changes to exterior signs.

B. Site information: The proposed interior expansion area is a leasable vacant space within the existing commercial building located at Pacific Way and Cottage Ave. The existing approved conditional use for a variety store occupies about 1,252 square feet in the westernmost portion of the building, with a street entrance and an exit into a common hallway in the rear of the building. Handicapped access and restrooms are located in the common hallway. The proposed conditional use expansion would add an additional approximately 1,200 square feet expansion to the existing variety store, within the same building, in floor areas to the east of the existing variety store.

C. Plan and Zone Standards: The site is designated Commercial by the Gearhart Comprehensive Plan and is designated Neighborhood Commercial C-1 by the Gearhart Zoning Ordinance. A variety store is specifically listed as a conditional use in the C-1 zone.

D. Agency Coordination: The proposal was referred to city departments. No objections or concerns about the expanded use were raised. The building and fire officials have been in communication with the applicant about interior alterations. The planning department has been in communication with the applicant about compliance with exterior sign standards.

E. GZO Section 3.4 C-1 Neighborhood Commercial Zone

The purpose of the C-1 zone is to provide the location of needed small businesses and services in the City for the convenience of nearby residents. Businesses are intended to fit into the residential character of the neighborhood and not create either architectural or traffic conflicts.

Section 3.420 Conditional Uses. This section of the code permits a variety store as a conditional use subject to compliance with the provisions of Article 8 Conditional Use.

F. GZO Section 8.040 Overall 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 Comprehensive Plan and the Zoning Code designate the subject property for neighborhood commercial use. The following Plan policies are relevant and supportive of a variety store at the subject location:

#### Existing Plan Policies

1. *The City will limit commercial activity in the City, in terms of both land devoted to commercial uses and the types of uses permitted in commercial zones, to a level that is compatible with Gearhart's residential character.*
2. *The City will prevent the City from becoming a tourist destination. To achieve this policy the City, through its land-use designations, shall seek to accommodate only a limited level of tourist development.*
3. *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.*
4. *The City shall not designate additional property for commercial development.*
6. *The City will maintain a commercial Zone in the center of the City that provides for the needs of residents.*
7. *The City will limit the number of business uses in the C-1 zone so that the zone does not become a destination for tourists.*
8. *The City will achieve a compact town center in the vicinity of Pacific Way and Cottage Avenue.*

FINDINGS: In response to the above Plan policies, the City limits the uses in the C-1 zone so as to seek to accommodate only a limited level of tourist development. The zone narrowly identifies outright commercial uses for a grocery, drug, barber and beauty shops. Similarly the zone specifies only two conditional uses, including a neighborhood cafe and a variety store. The proposal is expansion of a variety store. The proposal will reuse an existing commercial space, maintaining the compact character and occupying a storefront. The existing building was approved and constructed to protect adjacent residential areas from negative impacts. The proposal is in compliance with the Comprehensive Plan and the intent of the C-1 zone.

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;

FINDINGS: It is not apparent that demand does not exist for an expanded variety store. The store owner's willingness to incur costs to expand and the property owner's willingness to accept the expansion instead of whatever other options they have suggest that there is demand for more variety store use. There is not a history of other variety stores opening and then closing their businesses around this location. Therefore it is reasonable to find that there is demand for the use. It is not apparent how to use the GZO's several factors that should be used to determine whether or not a demand exists. These factors relate to accessibility, supply, and relative site suitability. The building space is accessible to all customers with parking, pedestrian and ADA access adjoining the store. The C-2 zone permits a variety store as an outright use, but there is no C-2 zoning in the city center designed for the convenience of nearby residents and with a building that has previously proven to fit into the residential character of the neighborhood with no architectural or traffic conflicts. Therefore it is also reasonable to find that the proposed use is accessible, a variety store exists, and that the site is suitable.

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;

FINDINGS: That the existing use does not have a history of impacting surrounding properties is evidence that the location, size and operating characteristics of the proposed use will have minimal impact on surrounding properties. Surrounding property interests have not provided testimony identifying impacts as of this report's completion.

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.

FINDINGS: The site and floor area to be occupied by the expanded variety store were originally designed for a retail or office business with provisions for adequate street capacity and parking at Pacific Way and Cottage Avenue. The use will accommodate and encourage foot traffic and bicycle traffic as well as vehicle traffic to the store.

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

FINDINGS: The vacant space has existing connections and access to public facilities and services that will be re-established when the space is occupied. City staff did not identify concerns.

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

FINDINGS: The site was determined appropriate for limited commercial activity when the building was originally approved and constructed, and staff are not aware of issues with the current variety store use in regards to the criteria site characteristics.

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.

FINDINGS: The site has previously been shown to have adequate area for the proposed use. The building walkways, parking and loading area, storage and garbage facilities and perimeter landscaping is well managed and maintained. The proposal does not include exterior modifications. Interior modifications to connect the spaces require building permits.

G. Section 7.060 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 are:

1. Increasing the required lot size or yard dimension;

FINDINGS: An approval to expand the conditional use is specific to the requested square footage in the application. This CU decision does not need to anticipate future use or structure expansions, as they would require separate approvals.

2. Limiting the height of buildings;

FINDINGS: The City finds the one story building is already constructed and there are no proposed exterior structural changes.

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

FINDINGS: The City finds that the location and number of access points has been established and there is no need for changes.

4. Increasing the street width;

FINDINGS: The City finds the street width is established and adequate for the proposed use.

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

FINDINGS: The City finds the original building approval required construction of on and off-street parking. There are no changes required by the City or proposed by the applicant for additional parking. While changes of use typically require a review of parking and parking standards, even when a conditional use permit is not required (for example, just for a building permit), The GZO does not require minimum parking in the C-1 zone.

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

FINDINGS: The GZO includes standards for the location and design of signs, and compliance with those standards or a variance to those standards is required regardless of this CU decision. Staff have identified discrepancies between GZO sign requirements and signs existing in recent months. A recommended condition of approval is that an approved CU expansion not be considered valid and building permits to effect the expansion should not be issued so long as any sign is not in compliance with the GZO.

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.

8. Designating sites for open space; and

FINDINGS: The subject use is not required to provide designated open space.

9. Hours of use or operation.

FINDINGS: The application does not propose particular hours of operation. The prior conditional use approval for the existing variety store stated “the applicant indicates the hours of operation will likely be from 10 am to 6 pm seven days a week.”

II. SUMMARY CONCLUSION

The proposal with recommended conditions is consistent with the Comprehensive

Plan and the intent of the C-1 zone. Negative impacts are not anticipated.

III. RECOMMENDED CONDITIONS

1. The conditional use approval is not effective and a building permit to enable the expansion shall not be issued until all signs are permitted by a City sign permit.
2. A building permit is required for interior modifications.
3. Authorization of a conditional use shall be void after one year unless substantial construction pursuant thereto has taken place.

IV. DECISION OPTONS

1. Based on the findings in the Staff Report approve City File #24-08CU with the recommended conditions of approval:
2. Based on alternate findings, deny the conditional use application.
3. Continue the hearing to January 9<sup>th</sup> at 6:00 PM.