

To: CITY OF GEARHART PLANNING COMMISSION

From: Garrett Phillips, City Planner

Re: Conditional Use 25-02 CU

Date: February 3, 2025

City File: #25-02 CU

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Application Purpose: The applicant requests approval of a Conditional Use Permit to establish a variety store in an existing building.

Applicant: Megan & Thomas Atkins,  
PO Box 2337, Gearhart, OR 97138,  
meganlathins@gmail.com  
215-499-8384  
215-499-6173

Property Owner: Linda Shook Mailing Address:  
731 North 12th Court  
lindashook@gmail.com  
360-904-1270

Location: 95-A South Cottage Avenue, Gearhart  
Taxlot 61010BB05600

Completeness: January 21, 2025

Notice Mailed, Published Blogged: January 23, 2025

Revised Notice Blogged: January 27, 2025

Revised Notice Mailed & Published: January 30, 2025

120-day deadline: May 21, 2025

Public Hearing Date: March 12, 2025

**Exhibits:**

- Applicant's Application

**Review Criteria:**

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

## **FINDINGS**

### **Background:**

The applicant proposes to establish a variety store that sells candy, chocolate, and ice cream, called Ziggy's Sweets and Treats, in an existing commercial space currently or recently used as professional office space, apothecary, barber, animal pharmacy, and store selling a variety of items. This application seeks to establish a new or obtain approval for an existing variety store use under a Conditional Use Permit. Staff are not aware of plans requiring a building permit. No modifications to the building footprint, parking or circulation, signage, or lighting have been proposed.

### **Site Information:**

The property is located at 95-A S Cottage Avenue, at the southwest corner of S Cottage Avenue and A Street, within the C-1 Neighborhood Commercial Zone. There is an existing commercial building with parking accessed from Cottage Avenue and from A Street.



### **Plan and Zone Standards:**

The site is designated Commercial by the Gearhart Comprehensive Plan and falls under the Neighborhood Commercial C-1 zoning designation. A variety store is listed as a conditional use in the C-1 zone.

### **Agency Coordination:**

The application was referred to city departments. No objections or concerns were raised.

### **GZO Section 3.4 C-1 Neighborhood Commercial Zone**

Variety stores are a conditional use in the C-1 zone. Variety stores are defined as: A neighborhood or community retail store or gift shop selling a variety of household (including home & garden items, antiques) and personal use items including apparel. Limited food sales allowed for take-out, as long as it is not the primary business, including coffee/tea, baked goods made off premises, ice cream and similar items. Outdoor on-site seating is unlimited. Public sidewalk seating is permitted in accordance with safety and ADA requirements.

### **GZO Section 8.040 Overall Conditional Use Review Criteria**

1. The proposed use is consistent with the policies of the Comprehensive Plan.

#### **FINDINGS:**

The Commercial Development policies on Page 4 of the Comprehensive Plan were found to be relevant to the proposal.

The proposal aligns with the Comprehensive Plan's policies in that the business will serve some local residents, utilizes an existing building that is not out of scale with surrounding buildings, utilizes land that is already zoned for commercial use instead of using land that is zoned for residential use, and does not propose to build a large tourist oriented facility.

The Transportation System Plan identifies Cottage Avenue as a Collector Street that would have sidewalks in the future at this location, and project G23 identifies Cottage Avenue as a shared street for bicycles and vehicles that would have bicycle markings and signage. It appears that in practice the site's nose in parking accessed from Cottage Avenue partially occupies the ROW, potentially where a future sidewalk will be located. Therefore the conditional use decision should assume that parking from Cottage Avenue will not be available in the future and a recommended condition of approval is that a conditional use permit is not a permit or license to occupy the right of way.

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:** Staff are not aware of similar store concepts failing. Otherwise staff do not have demand information. The several factors that this criterion suggests using to determine demand do not speak to demand, but rather other issues like supply, accessibility, and available alternative sites. Staff understand that other stores in the area may be selling some candy and ice cream. This may indicate that there is more demand rather than less demand for these products. The site is located in downtown Gearhart and is accessible to local residents. Staff do not have information on alternative available sites where a variety store is a permitted 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.

**FINDINGS:** The proposed use is not anticipated to negatively impact surrounding properties. The business will operate within the building without exterior modifications proposed in the application. Approving the conditional use is an approval of the use within the existing site conditions. Expansion of the building or use would require a new conditional use permit.

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 proposed variety store is expected to generate traffic comparable to existing and previous uses. The site is accessible by vehicle, bicycle, and foot traffic.

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

**FINDINGS:** Existing public utilities and services are sufficient to support the proposed use. No additional infrastructure is required.

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

**FINDINGS:** The site's physical characteristics, including topography and existing infrastructure, are suitable for the proposed use. The proposal does not include building expansion.

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 areas, loading areas, storage facilities, setbacks, buffers, utilities, or other facilities which are required by City ordinance or desired by the applicant.

**FINDINGS:** The site layout supports the proposed use with existing access points, parking, and other necessary facilities. The proposed business will fit within the current commercial footprint without requiring additional land or modifications.

#### **GZO 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:** The existing lot size and yard dimensions are adequate to support the proposed use.

2. Limiting the height of buildings.

**FINDINGS:** The proposal does not involve changes to the height of the existing building. The current one story structure height is consistent with zoning requirements.

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

**FINDINGS:** The existing vehicle access points are sufficient for the proposed use. No additional access points are required. City of Gearhart's preference is to limit the number of vehicular access points for commercial sites in order to minimize pedestrian vehicle conflicts, however this is an existing development and the applicant is not proposing any parking or driveway improvements. Similarly,

4. Increasing the street width;

**FINDINGS:** The current street width is adequate to support the proposed use. No changes are necessary.

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

**FINDINGS:** There is no minimum parking requirement in the C-1 zone. The use has several parking spaces accessed from Cottage Avenue and A Street.

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

**FINDINGS:** The proposal does not include changes to existing signage. Any future signage must comply with applicable city regulations.

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

**FINDINGS:** The current site conditions are sufficient to protect adjacent properties. No additional protective measures are needed.

8. Designating sites for open space.

**FINDINGS:** The proposed use does not require designated open space. The current site configuration is adequate.

9. Regulating hours of use or operation.

**FINDINGS:** The applicant has not proposed specific hours of operation. If necessary, conditions may be imposed to limit operating hours to mitigate potential impacts on neighboring properties.

**RECOMMENDED CONDITIONS:**

1. The conditional use approval is specific to the current site configuration and proposed use described in the application. Expansion of outdoor seating, reconfiguring entrances, or expansion of the building or use require a new conditional use permit.
2. The Conditional Use Permit is not a permit, license or approval to exclusively use the City's Right of Way or restrict public use of the right of way.
3. The Conditional Use Permit shall be void after one year if not exercised.

**SUMMARY CONCLUSION:**

The proposed variety store is consistent with the Comprehensive Plan and C-1 zone intent. The application meets the conditional use criteria with the recommended conditions.

**DECISION OPTIONS:**

- Approve City File #25-02CU with the recommended conditions of approval.
- Deny the conditional use application based on alternate findings.
- Continue the hearing to a later date if additional information is required.

