

Town of Oak Creek

Land Use Application

Staff Report

PETITIONER:	Joe Hragyil
PETITION:	Land Use Change of Minor Impact Build a duplex unit for residential uses, or as a live-work structure; and decrease the required side yard setback from 15-feet to 12-feet (Lots 21-21, Block 2 Third Addition to Town of Oak Creek)
PLANNING COMMISSION HEARING DATE:	August 24, 2022
TOWN BOARD HEARING DATE:	September 8, 2022
STAFF CONTACT:	David Torgler, Town Administrator/Clerk
ATTACHMENTS:	Cover letter (included in Application) Application Narrative and staff review Special Warranty Deed Maps (2) showing property location.

HISTORY AND PROJECT DESCRIPTION:

The property located at 217 Arthur Avenue is comprised of two, 25'x100' lots, and presently does not have any structures located on it; however there is an occupied fifth wheel mobile home temporarily located on the property. The property has previously had structures located on the site that have been removed. The petitioner is proposing to construct a metal building that is approximately 14'1" x 31'3.75" x 9'8" tall on this site. The structure is proposed to be divided into two spaces of equal size with two separate

August 24, 2022

entrances. One space is proposed to be a living space. The second space is proposed to be either a second living space or as a working space.

The total property is approximately 0.1 acres (5,000 sq. ft.) in size with Arthur Avenue on the west side and a public alley on the east side. A residence is located on the lot to the south and a vacant lot to the north.

COMPLIANCE WITH THE TOWN OF OAK CREEK COMPREHENSIVE PLAN

Section 17.01.03 (A) of the Land Use Code (Code) states that the Code is enacted to “[i]mplement the policy recommendations of the Town of Oak Creek Comprehensive Plan Update” (Plan.) Therefore any proposal should be considered in light of the applicable policies of the Plan. While the Plan contains numerous policies regarding land use, staff has selected the following checklist to highlight the policies most directly applicable to these applications. Interested parties are encouraged to review the Plan to determine if there are other policies that may be applicable to the review of these applications.

Chapter Two – Environment & Natural Resources

ENVIRONMENT - vegetation

Complies		Section	Policies
Yes	No		
<u> X </u>	<u> </u>	2.	Unless required for construction, vegetation shall not be removed from areas that may contribute to a landslide, mudflow or debris flow. Areas of vegetation removed for construction shall be reclaimed with new vegetation where possible. <i>Staff comment: Petitioner should be required to reclaim disturbed land not used for structures or parking with new vegetation.</i>

ENVIRONMENT – Visual Character

<u> X </u>	<u> </u>	Narrative	Although the condition of some of the Town’s structures and roads may be considered an aesthetic problem, there are residents who prefer the diversity inherent in Oak Creek’s character. A breadth of building material and signage provides an eclectic charm to the commercial district and residential neighborhoods, from old skis used as fence posts to antlers decorating a garage. <i>Staff comment: There is no policy or action</i>
--------------	---------------	-----------	--

Hragyil, Joe – Variance and Land Use Change – Minor Impact Requests

August 24, 2022

item adopted to address this narrative.

CHAPTER 3. ECONOMY, LAND USE & COMMUNITY CHARACTER

Housing

Complies		Section	Policies
Yes	No		
<u>X</u>	<u> </u>	Housing 1.	A balance and mix of different housing types of all income levels shall be encouraged within all new residential subdivisions. <i>Staff comment: The proposed development will provide either two residences or a live-work opportunity.</i>

Land Use & Community Character

Land Use Regulation

Complies		Section	Policies
Yes	No		
<u> </u>	<u> </u>	4.	The infill of vacant land within the town shall be encouraged. a. Maintain infill design standards to assure the stability of existing neighborhood and its character are not jeopardized. <i>Staff comment: Will the proposed design affect the stability or character of the existing neighborhood?</i>

COMPLIANCE WITH THE TOWN OF OAK CREEK LAND USE CODE

While the Land Use Code (Code) contains numerous regulations regarding land use, staff has selected the following checklist to highlight the regulations directly applicable to these applications. Interested parties are encouraged to review the Code to determine if there are other regulations that may be applicable to the review of these applications.

Chapter 17.03 – Development Applications, Review and Procedures

Section 17.03.06 – Land Use Changes of Minor Impact

These require one review each by the Planning Commission and the Board of Trustees and include:

Complies		Section	Standards
Yes	No		
<u>3</u>			

Hragyil, Joe – Variance and Land Use Change – Minor Impact Requests

August 24, 2022

<u> X </u>	<u> </u>	C.	Construction of any one single-family or duplex dwelling unit on a legal parcel if proposed for construction closer to the lot line than allowed by the setback requirements or if not in compliance with any other requirements of this code. <i>Staff comment: The proposed use of this property is construction of a duplex dwelling unit that encroaches into the side yard setback requirement. With the proposed encroachment this proposal falls into the Land Use Change of Minor Impact category.</i>
<u> X </u>	<u> </u>	D.	Construction of a duplex. <i>Staff comment: The proposed use of this property is construction of a duplex dwelling unit. With the proposed duplex construction this proposal falls into the Land Use Change of Minor Impact category.</i>
<u> X </u>	<u> </u>	H.	Construction of a live-work unit. <i>Staff comment: The proposed use of this property is construction of a duplex for residential uses or as a live-work unit. With the proposed live-work unit this proposal falls into the Land Use Change of Minor Impact category.</i>

Chapter 17.10 – Community Design Standards

Section 17.10.03 – Compatibility standards

Complies
Yes No

Section Standards

- A. Purpose. All industrial and commercial uses must conform to the following performance standards. The purpose of these standards is to permit potential industrial nuisances to be measured, factually and objectively; to ensure that all industrial or commercial uses will provide methods to protect the community from hazard and nuisances which can be prevented by control and nuisance elimination and to protect industries from arbitrary exclusion from the Town based solely upon the nuisance production by any particular type of industry in the past. *Staff comments: the petitioner proposes the possibility of a live-work unit without giving specific uses. So the ability to measure the compatibility standards of glare, heat, vibration, smoke, odor, noise, and fugitive dust cannot be measured. Recommendation is that the petitioner must review any non-residential use of either unit with the Planning Commission and Town Board prior to operating any such*

Hragyil, Joe – Variance and Land Use Change – Minor Impact Requests

August 24, 2022

industrial or commercial use.

Section 17.10.08 – Landscaping standards

<div style="display: flex; justify-content: space-between;"><div>_____</div><div>_____</div></div>	D. Performance Districts 2 thru 7 - Commercial, Institutional, Industrial and Office Landscape Standards. <i>Staff comment: The proposed use as a live-work unit may require additional landscaping. Recommendation is to address landscaping when a commercial or industrial use is proposed for either of the duplex units.</i>
--	---

Section 17.10.09 – Parking standards

Complies Yes	No	Section Standards
-----------------	----	-------------------

<div style="display: flex; justify-content: space-between;"><div><u> X </u></div><div>_____</div></div>	B. Paved off-street parking outside of Performance District 1 shall be provided according to the minimum requirements as specified below. <i>Staff comment: Parking standards vary depending upon use. Duplex's require 1 space per bedroom, up to 2 per unit. Recommendation is to require the site provide the higher standard for mixed uses of 1 space per residential unit and 1 space per every 500 square feet of gross commercial floor area.</i>
---	---

<div style="display: flex; justify-content: space-between;"><div><u> X </u></div><div>_____</div></div>	J. Residential Parking. Homes, not garages, should have the emphasis on residential streets. The intent is that residential streets have variety and that garages not dominate homes and streets. Alley accessed garages are strongly encouraged. <i>Staff comment: the site has an alley adjacent to it. Recommend that parking will off the alley.</i>
---	--

Section 17.10.010 – Lighting

Complies Yes	No	Section Standards
<div style="display: flex; justify-content: space-between;"><div><u> X </u></div><div>_____</div></div>	A. Exterior lighting, except for overhead street lighting, warning, emergency or traffic signals; sports field lighting; temporary holiday lighting; or lighting required by the building or fire code, shall be installed in such a manner that the light source will not detract from the dark sky enjoyed by the residents of Oak Creek. The following shall be required of all lighting fixtures: 1) fixtures shall be cast downward to prevent glare on public streets, walkways or into residential areas. Light shields shall be placed on fixtures to prevent light "spillage" to public or residential areas; 2) lights should use the lowest wattage	

Hragyil, Joe – Variance and Land Use Change – Minor Impact Requests

August 24, 2022

possible to sufficiently light the intended area. *Staff comment: The owner does not propose to add any lighting. Recommend that any future exterior lighting shall comply with the code requirements.*

Section 17.10.013 – Snow removal and accumulation

Complies		Section	Standards
Yes	No		
<u>X</u>	_____	A.	All land use changes governed by these regulations shall ensure that there is no increase in off-site snow accumulations as a result of the land use changes. Off-site snow storage and snow hauling may be permitted subject to a snow hauling plan indicating the haul route(s), receiving site(s), as well as the proposed frequency of snow hauling.. <i>Staff comment: No snow storage area is identified. Recommend that snow storage area is identified on this site.</i>

Chapter 17.11 – Performance Districts

Section 17.11.01 – Performance District Seven

The following regulations only govern land within Performance District One.

Complies		Section	Policies
Yes	No		
<u>X</u>	_____	A.	Character and Vision
			1. Current Use: Performance District Seven This area encompasses a mixture of single-family residential, commercial and light industrial uses.
<u>X</u>	_____		2. Vision for the Performance District: This district is intended to accommodate the light industrial businesses of Oak Creek, including warehouse uses. Particular attention should be placed on mitigating the transition between industrial and warehouse uses and residential homes. Outside storage of materials shall be screened from view from adjacent properties and public rights of way. <i>Staff comment: The proposed use is for a residential duplex unit or a live-work building.</i>
<u>X</u>	_____	B.1	Conditional uses: b. Duplex

Hragyil, Joe – Variance and Land Use Change – Minor Impact Requests

August 24, 2022

- e. Commercial
- i. Light industrial
- k. Live-work units

 X X C. Dimensional standards for properties within Performance District Seven: *Staff comment: All standards can be met on the lots as designed for a live-work facility. The site does not meet the minimum lot width or minimum lot area for a duplex. The developer proposes a residential duplex or a live-work space. Developer also requests a variance for the western lot side yard, reducing the setback from 15' to 12'. Developer believes the fence installed by the neighboring property owner will provide additional privacy for the neighbor. See table below.*

Performance District Seven	Duplex	Commercial uses
Minimum Floor Area/Dwelling Unit (square feet)	800	-
Residential Units per lot	2	
Setbacks (feet): Front Side Yard Rear Yard	15' min 8' 10'	15' min 15' 15'
Lot width (feet) Minimum Maximum	75' 100	50' 100
Minimum Lot Area (square feet)	6000	4000
Maximum Lot Coverage (%)	35%	50%
Maximum Building Height (feet)	35'	35'

OPTIONS

1. **Recommend approval as proposed** if it is determined that the proposal meets the standards of the Town of Oak Creek's Land Use Code and Comprehensive Plan.
2. **Recommend denial** if it is determined that the proposal changes do not meet the standards of the Town of Oak Creek's Land Use Code and Comprehensive Plan.
3. **Table action** if it is determined additional information is needed to evaluate the proposal. Specific direction must be given to applicant.
4. **Recommend approval** if it is determined that certain changes or conditions are necessary to ensure that the proposal meets the standards of the Town of Oak Creek's Land Use Code and Comprehensive Plan.

CONDITIONS OF APPROVAL: the following conditions are recommended to be included as part of the proposed Land Use Changes of Minor Impact for the variance and land use change subject to the following requirements:

1. Petitioner should be required to reclaim disturbed land not used for structures or parking with new vegetation.
2. Land owner must review any non-residential use of either unit with the Planning Commission and Town Board prior to operating any such industrial or commercial use.
3. A landscaping plan meeting the minimum Town requirements or better shall be presented when a commercial or industrial use is proposed for either of the duplex units.
4. Onsite parking will off the alley.
5. All exterior lighting on the site will be down cast and only provide illumination within the site.
6. Snow storage area shall be identified on this site plan.