Town of Oak Creek
Land Use Application
Staff Report

PETITIONER:	Melissa and Ryan Dobbins dba South Routt Collective or S.R.C.
PETITION:	Land Use Changes of Minor Impact Cottage Industry, e.g. use of basement as a yoga studio and creative arts classrooms at 301 S. Sharp Street.
PLANNING COMMISSION HEARING DATE:	December 21, 2022
TOWN BOARD HEARING DATE:	January 12, 2023
STAFF CONTACT:	David Torgler Town Administrator/Clerk
ATTACHMENTS:	Cover letter Application Narrative and staff review Parking plan Basement sketch

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HISTORY AND PROJECT DESCRIPTION:

The applicants, Melissa and Ryan Dobbins, dba South Routt Collective, aka S.R.C., have applied for a land use change of Minor Impact by proposing to create a cottage industry, aka commercial, space in the basement of their single family residence for use as a yoga studio and creative arts classes, on the property located at 301 S. Sharp Street.

The site is 0.15 acres (6,534 sq. ft.) in area. The property is developed with a single large structure used as a single family home, and formerly as a church. Surrounding property uses include single- and multi-family residential uses.

The S.R.C. space in the single-family residence's basement is proposed to be accessed by an existing rear entrance from the back alley. The space S.R.C. will utilize includes a full bathroom, full kitchen, laundry room and three primary rooms (as shown on the sketch attached to their application). The three rooms will serve as space for a yoga studio, creative arts rental space and a private office.

The creative arts rental and yoga studio are two spaces, accessible to each other through a door. The walls separating the spaces are constructed with sound barrier and fire proofing insulation, and extra layers of drywall. The yoga studio will be equipped with a variety of yoga props for teacher and student use; the creative arts space includes the use of tables, chairs, television, computer and kitchen.

Per the applicant's summary, yoga classes will not exceed 15 students, which is a higher number than S.R.C. yoga's two-year average class participation. The applicant proposes to require a pre-registration system and cap participation at 15 students. Creative arts programing will also use a pre-registration system and is proposed to not exceed 24 students.

The applicant proposes using on-site and on-street parking space, and encouraging students to walk to classes. S.R.C. proposes to dedicate four spots of alley accessed parking on their lot. S.R.C. proposes to ask students to utilize parking spaces on the public street R-O-W adjacent to 301 S. Sharp Street, or on the public street R-O-W adjacent to 219 S. Sharp Street as shown on the parking sketch attached to their application.

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 3. ECONOMY, LAND USE & COMMUNITY CHARACTER

Historic Sites

Complies Yes	Complies No	Section	Policies
X		4.	The Town shall encourage owners of historic properties to rehabilitate their historic structures. Staff c*omment: This site has previously been used as a church. The owners live in the upper area of the structure and are seeking to rehabilitate this structure for use by the community.*

CHAPTER 3. ECONOMY, LAND USE & COMMUNITY CHARACTER

Economy

Complies Yes	Complies No	Section	Policies
X		3.	The Town shall continue to work to support existing businesses and to identify and attract new businesses needed to meet local needs for a balanced level of commercial and light industrial activities. Staff c*omment: The proposed use will help address the lack of space provided locally for physical fitness and creative arts.*

Land Use & Community Character
Land Use Regulation

Complies Yes	Complies No	Section	Policies
X		1.	All new development shall be considered in light of compliance with existing master plans, adopted policies and guidelines. *Staff comment: The Comp Plan's Land Use Regulation for Performance District 2 states "Commercial, institutional and multi-family developments would continue to be considered as conditional uses if accompanied by measures to ensure compatibility with the surrounding neighborhood. The applicants propose to limit class sizes for yoga and art classes; and, they propose ways to encourage class participants to be respectful of the neighborhoods parking needs by directing class participants to certain parking areas. A suggested condition for the conditional use is if parking use in the neighborhood becomes a problem for neighbors then the Town Board may limit class sizes to reduce parking needs for the proposed uses, e.g. yoga and art classes.*
X		9.	Cottage industry may be permitted in residential areas as home businesses with requirements to insure that any impacts on neighborhood character are sufficiently mitigated. Encourage development of food related cottage industries to support urban agriculture and local health and wellness as well as small scale art studio and teaching spaces. *Comment: This proposal is located in Performance District 2. Approval of this conditional use may include mitigating requirements such as limiting hours/days of operation, limiting class sizes, restricting on-site activities to the classrooms, or restricting types of art classes, example is to restrict music lessons to certain hours/days.*

Chapter Five – Human Services, Health & Wellness, Arts and Recreation

Recreation

Complies Yes	Complies No	Section	Policies
X		6.	The Town shall work to expand its recreation programming offerings. *Staff comment: The proposed uses will provide yoga classes for community members.*

Arts and Culture

Complies		Section	Policies
X		2.a.	The Town should develop and support local arts and cultural facilities. Work with the local arts and culture community to identify appropriate locations for arts and cultural facilities *Staff comment: The proposed uses will provide arts classes for community members. Consideration might be considered what types of arts classes will or will not be allowed since this is a residential neighborhood. Music classes might be disruptive and painting or sculpturing may not be disruptive.*

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 17.01 – General Provisions

Section 17.01.03 – Purpose

Complies Yes	Complies No	Section	Standards
X		A.	Implement the policy recommendations of the Town of Oak Creek Comprehensive Plan Update. *Staff comment: See notes above related to the Comp Plan.*
X		H.	Preserve the character and important existing historic, cultural, scenic and social values of the Town. *Staff comment: The site is developed with the structure formerly a church transitioning into a single family residence with recreation and art uses in a separate part of the structure.*
X		Q.	Regulate the use of land on the basis of the impact thereof on the community. *Staff comment: The*

proposed use may need to be examined to reduce noise and parking impacts on the surrounding residential uses.

Section 17.02.085 – Conditional use

Complies Yes	Complies No	Section	Standards
X			"Conditional use" means a use allowed in the indicated performance district that is evaluated under the conditional use review criteria and that may be subject to additional conditions, requirements and standards imposed by the Town as part of the review process pursuant to Section 17.03.017. *Staff comment: See review below.*

Section 17.02.090 – Cottage industry

Complies Yes	Complies No	Section	Standards
	X		"Cottage industry" means a commercial business occupation conducted within a single-family residence, where such occupation is clearly secondary to the main residential character of the dwelling unit or the neighborhood, provided that: (2) Not more than twenty-five percent of the gross floor area of the dwelling unit or thirty-five percent of a single outbuilding is for cottage industry use, *Staff comment: The applicant calculates the proposed use will occupy approximately 27% of the dwelling unit.*

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 Yes	Complies No	Section	Standards
X		I.	Changes in use of existing commercial, institutional or industrial developments Performance Districts 2 or 7, if: 1. The proposed development will be located in an existing structure; and 2.c The proposed use substantially differs from the previous use of a building or land or where such change in use may result in different parking requirements, access or

circulation patterns, traffic impacts, drainage patterns, building configurations, lighting, or generation of noise, heat, glare, vibration, smoke, odor, dust, or lighting. Staff c*omment: The existing institutional development, e.g. a church, is now used as a single-family residence, and the proposed recreation and art classes will be located in the existing structure. The proposed use is substantially different as classes may have a greater impact on parking use and noise impacts then the previous church use had. As noted above, as a conditional use, conditions to address these impacts to parking and noise can mitigate the impacts.*

Section 17.03.17 – Conditional use review criteria
The Town shall use the following criteria to evaluate applications for conditional uses:

Complies Yes	Complies No	Section	Standards
X		A.	The conditional use will satisfy all applicable provisions of the land use code unless a variance or exception is being requested. Staff c*omment: No variance or exception is being requested.*
X		B.	The conditional use will conform with or further the goals, policies and strategies set forth in the Town of Oak Creek Comprehensive Plan Update. Staff c*omment: See review above.*
X		C.	The conditional use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district. Staff c*omment: The conditional use will be adequately served and not impose an undue burden on the districts.*
X		D.	The use shall comply with all applicable Town, county and state environmental laws. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained. Staff c*omment: There are no known environmental laws applicable to the proposed yoga and arts classes.*
X		E.	The conditional use is compatible with existing uses in the area and permitted uses in the district and will not substantially alter the basic character of the

			district in which it is in or jeopardize the development or redevelopment potential of the district. Staff c*omment: The proposed class use of a portion of the existing institutional structure is allowed under the Performance District 2 Conditional Uses as Cottage industry and Commercial.*
X		F.	The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site. The amount and configuration of on-site parking is appropriate to the conditional use. Staff c*omment: Section 17.10.09 – Parking standards, require 1 space per 500 square feet of gross floor area. The applicants will provide four parking spaces.*
X		G.	Site lighting will provide adequate security, which does not negatively impact adjacent properties and is not excessive. Staff c*omment: Section 17.10.010 – Lighting, addresses lighting requirements that are downcast and full cutoff to prevent detracting from the dark sky. A condition below is proposed that the owners are required to submit a lighting plan for approval prior to adding any exterior lighting to the property.*
X		H.	Outdoor activity and storage areas are screened from public view and are oriented away from any existing adjacent uses that would be negatively impacted. Staff c*omment: No outdoor activity or storage areas are proposed. A condition below is proposed that the owners are required to submit outdoor activity and storage area development for approval prior to adding outdoor activity and storage areas.*
X		I.	Service areas, such as trash, loading docks and delivery areas, are screened from public view, oriented away from adjacent uses that would be negatively impacted and are not the visual focal point of a driveway or parking area. Staff c*omment: No service areas are proposed. A condition below is proposed that the owners are required to submit any service areas for approval prior to adding outdoor activity and storage areas.*
X		J.	Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping,

site arrangement or other methods including those identified in Section 17.03.018 of this Code. The applicant shall satisfactorily address the following impacts, as applicable: traffic, parking, snow storage, activity levels, intensity of use, light, noise, odor, building type, style and scale, hours of operation, emission of dust, hear, glare, vibration, smoke and odors, and erosion control. *Staff comment: see notes within this report addressing these concerns.*

Chapter 17.10 – Community Design Standards

Section 17.10.07 – Preservation of historic structures.

Complies Yes	Complies No	Section	Standards
X			For all developments, the applicant shall identify all historic structures, buildings, or other site features and must demonstrate the extent to and manner in which they will be preserved. *Staff comments: No exterior changes to this structure are proposed.*

Section 17.10.09 – Parking standards

Complies Yes	Complies No	Section	Standards
	X	A.	Commercial uses in Performance District 2 require two parking spaces per 500 square feet of commercial space. *Comment: The proposed commercial space is X square feet.*

Section 17.10.010 – Lighting

Complies Yes	Complies No	Section	Standards
X		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 possible to sufficiently light the intended area. *Staff comment: A condition below is proposed that the owners are required to submit a lighting plan for approval prior to adding any exterior lighting to the property.*

Chapter 17.11 – Performance Districts

Section 17.11.02 – Performance District Two
The following regulations only govern land within Performance District Two.

Complies Yes	Complies No	Section	Policies
√		A.	Character and Vision
			1. Current Use: This section of Oak Creek holds the bulk of the residential housing stock. The homes are predominantly small former miner's cottages on small lots connected by a gridded network of streets and alleys. Small commercial uses and/or cottage industries are interspersed within the residential neighborhoods.
√			2. Vision for the Performance District: This district should work to encourage residential infill on the several vacant lots throughout Town. Infill homes shall be compatible in both character and size and scale to the existing homes. Commercial, institutional and multi-family developments are allowed as conditional uses if accompanied by measures to ensure compatibility with the surrounding neighborhood.
√		B.2	Conditional uses: e. Cottage industries f. Commercial
√		C.	Dimensional standards for properties within Performance District Two: *Staff comment: All standards can be met on the lots as designed. See table below.*

Performance District 2	Commercial
Minimum Floor Area/Dwelling Unit (square feet)	-
Setbacks (feet): Front Side Yard Rear Yard	 15' min 15' min 15' min
Lot width (feet) Minimum	50
Minimum Lot Area (square feet)	4,000
Maximum Lot Coverage (%)	50%
Maximum Building Height (feet)	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.

SUGGESTED FINDINGS OF FACT:

Subject to the Conditions of Approval:

1. The proposed land use change is consistent with the policies and principles in the Oak Creek Comprehensive Plan Update, pursuant to C.R.S., 1973, Section 31-23-203.
2. The proposed land use change is in conformance with the requirements and performance standards established in the Town's land use code.
3. The proposed land use change will preserve of the health, safety and welfare of the citizens of the Town of Oak Creek, Colorado.

CONDITIONS OF APPROVAL: the following conditions are recommended to be included as part of the proposed Land Use Changes of Minor Impact for the L3&P – Commissary Kitchen Addition:

1. If parking use in the neighborhood becomes a problem for neighbors then the Town Board may limit class sizes to reduce parking needs for the proposed uses, e.g. yoga and art classes..
2. That the owners are required to submit a lighting plan for approval prior to adding any exterior lighting to the property.
3. That the owners are required to submit outdoor activity and storage area development for approval prior to adding outdoor activity and storage areas.
4. That the owners are required to submit any service areas for approval prior to adding outdoor activity and storage areas.