Town of Oak Creek
Land Use Application
Staff Report

PETITIONER:	Paula and Lawrence Jaconetta
PETITION:	Land Use Changes of Minor Impact Subdivision of parcel into two (2) lots, separating Lupita's and the log cabin onto individual lots.
PLANNING COMMISSION HEARING DATE:	December 21, 2022
TOWN BOARD HEARING DATE:	January 12, 2022
STAFF CONTACT:	David Torgler, Town Administrator/Clerk
ATTACHMENTS:	Cover letter Application Description Sketch/map showing location for "property separation" Warranty Deed

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HISTORY AND PROJECT DESCRIPTION:

The property located at 222 E. Main Street is part of the Original Town of Oak Creek, comprised of five parcels, and includes a restaurant/warehouse, stage and a log cabin with parking at the rear. The proposed land subdivision will retain two existing commercial operations, but on separate parcels. The existing uses are the Lupita's taco stand, with restaurant, stage, restrooms, warehouse space; e.g. a restaurant; and the Creative Cabin, a commercial rental unit. The applicant is proposing to a) separate the taco stand property from the cabin property; b) remove the existing outdoor bar and replace it with a covered stage; and, c) move and re-install poles to hold sunshades and add flower boxes. A site sketch with Topography shows the property located at the intersection of Main Street and Lincoln Avenue as it currently exists as described above; and, steep terrain between existing site structures and the alley to the south.

The property is approximately 0.25 acres (10,890 sq. ft.) in size.

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 Three: Economy, Land Use & Community Character

Land Use Regulation

Complies Yes	Complies No	Section	Policies
X		6.c	Within Performance District 1, street frontage on Main Street shall be occupied by retail or those types of institutional uses frequented by the public, such as museums, libraries, galleries or community services. Other commercial uses may be constructed in the rear, non-street-frontage portion of the buildings or upper levels. New development on street frontage in Performance District 1 not located on Main Street shall be retail, office or institutional uses. Residential uses shall be limited to the 2nd level, non-street frontage portion of buildings in Performance District 1. *Staff comment: The existing uses are retail, e.g. restaurant, and short term housing; these uses are not proposed to change.*

Land Use & Community Character
Land Use Regulation

Complies Yes	Complies No	Section	Policies
X		8.	Commercial development shall be encouraged to locate within Performance District 1. **17.02.075 Commercial use.** "Commercial use" means a use of property with its primary purpose to produce income from the sale directly to the public or indirectly to other establishments of goods or services in commerce. *Comment: This proposal is to provide a commercial space for customers and is located in Performance District 1.*

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 Yes	Complies No	Section	Standards
X		F.	Subdivision of no more than two parcels. Staff *comment: The proposed commercial use falls into the Land Use Change of Minor Impact category.*

Chapter 17.04 – Public Service Standards

Section 17.04.03 – Water

Applicants for all land use changes must demonstrate that a reliable supply of water, both in terms of quality and quantity, is or will be available and adequate to serve the total needs of the development, to the degree required by C.R.S. 29-30-301. All new developments must connect to the Town water system.

Complies Yes	Complies No	Section	Standards
X		E.	Construction Specifications. Engineering plans and specifications of all extensions, booster stations, etc., shall be approved by the Town Public Works Director. Engineering plans and specifications of all extensions, booster stations, etc., shall comply with the guidelines of and be approved by the Town Public Works Director. *Staff comments: Town provided water service is to each new property and metered separately.*

Section 17.04.04 – Sewer

All new developments within performance districts 1, 2 and 7 must connect to the Town's sewage treatment system.

Complies Yes	Complies No	Section	Standards
X		C.	Construction Specifications. Engineering plans and specifications of all extensions, booster stations, etc., shall be approved by the Town Public Works Director. Engineering plans and specifications of all extensions, booster stations, etc., shall comply with the guidelines of and be approved by the Town Public Works Director. *Staff comments: Town provided sewer service is to each new property and metered separately.*

Section 17.04.05 – Electric system

Complies Yes	Complies No	Section	Standards
X		B.	Underground Installations. For all new electrical hook-ups and extensions, whether supplied by power from the Town electric system or a private supplier of electrical power, all service lines, etc. must be installed underground in performance districts 3, 4, 5, and 6 where possible. Within performance districts 1, 2, and 7 undergrounding of service lines will be required at the discretion of the Public Works Director. *Staff comments: Town provided electric service is to each new property and metered separately.*

Chapter 17.10 – Community Design Standards

Section 17.10.08 – Landscaping Standards

Complies Yes	Complies No	Section	Standards
		C.	Performance District One – Commercial, Institutional, Office and Mixed Use Landscape Standards.
X		1.	Downtown landscaping is intended to provide an attractive environment for people to walk and shop. A town-approved landscape plan shall be required of all new developments in Performance District One to include one or more of the following: window boxes, planters, parking lot landscaping, street trees, sidewalk improvements or benches as appropriate to the site to enhance building entries and the streetscape. *Staff comment: No new development is proposed.*

Section 17.10.09 – Parking standards

Complies Yes	Complies No	Section	Standards
X		A.	Commercial uses in Performance District 1 are exempt from these requirements. *Comment: This property is located in Performance District 1. However this is often used as a short term rental property and renters will need a place to park which is not allowed overnight on public streets. Staff recommends that a condition that the cabin property retains the existing parking area located at the rear of the cabin, adjacent to the alley, for two vehicles is required.*

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: These are existing uses and owner did not provide a lighting plan. Staff recommends that when exterior lighting changes for either property that the owners provide a lighting plan for exterior and interior lighting that shows compliance as required by the land use codes, Section 17.10.10 A and B.*

Chapter 17.11 – Performance Districts

Section 17.11.01 – Performance District One
The following regulations only govern land within Performance District One.

Complies Yes	Complies No	Section	Policies
		A.	
X		2.	Vision for the Performance District: This district should work to achieve an active, pedestrian-oriented, retail district. Auto-oriented commercial uses shall only be allowed in Performance District One as a conditional use. Auto oriented uses permitted within Performance District One shall locate parking and automobile drive-thru facilities to the rear or side of the primary structure. Commercial uses are the preferred use for the first floor of all buildings along Main Street and Moffat and Sharp Avenues. Staff c*omment: First floor commercial use is proposed. There are no parking requirements for Performance District One for the types of uses proposed.*
	X	C.	Dimensional standards for properties within Performance District One: *Staff comment: The undivided lot size is approximately 0.25 acres (10,890 sq. ft.) in size. The petitioner proposes to create two (2) lots in approximately as shown on the submitted sketch. Staff recommends approval is subject to the condition that the subdivision will be made in accordance with the sketch and that neither new lot can be less than 2400 square feet.*

Performance District 1	Commercial
Minimum Floor Area/Dwelling Unit (square feet)	-
Setbacks (feet): Front Side Yard Rear Yard	 0 min 10 max 0 0
Lot width (feet) Minimum Maximum	 25 100
Minimum Lot Area (square feet)	2400
Maximum Lot Coverage (%)	No max.
Maximum Building Height (feet)	35

OPTIONS – for consideration to approve or deny this development proposal.

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.

FINDINGS OF FACT:

1. The proposal meets the standards of the Town of Oak Creek's Land Use Code and is general conformance with the intent and purpose of the Town of Oak Creek Comprehensive Plan Update subject to the following conditions of approval:

CONDITIONS OF APPROVAL: the following conditions are recommended to be included as part of the proposed Land Use Changes of Minor Impact for the Jaconetta land division, 222 E. Main Street:

1. A plat of the land division showing existing improvements including structures and parking area, prepared by a licensed surveyor or engineer, shall be prepared and submitted to the Town for approval in substantially the division as submitted by the petitioner and that neither new lot can be less than 2400 square feet. The approved plat shall be recorded at the Routt County Clerk and Recorders Office.
2. The cabin property retains the existing parking area located at the rear of the cabin, adjacent to the alley, for a minimum of two vehicles (10'x20' per Town code) is required.
3. When exterior lighting changes for either property that the owners provide a lighting plan for exterior and interior lighting that shows compliance as required by the land use codes, Section 17.10.10 A and B.
4. The approval expires three (3) years from the date of final Town approval unless application for renewal is obtained pursuant to the Oak Creek Land Use Code.