# Town of Oak Creek
# Land Use Application
# Staff Report

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| **PETITIONER:** | Robert Gotshall and Dillon Gotshall |
| **PETITION:** | Land Use Change of Minor Impact<br>Conditional Use application to convert a garage into an accessory dwelling at 709 Lillian Lane (Lot 9 Highland View Addition to Town of Oak Creek, Parcel ID 130100009), Performance District 2 |
| **PLANNING COMMISSION HEARING DATE:** | March 27, 2024 |
| **TOWN BOARD HEARING DATE:** | April 25, 2024 |
| **STAFF CONTACT:** | David Torgler, Town Administrator/Clerk |
| **ATTACHMENTS:** | Notice – Land Use Change of Minor Impact<br>Cover letter<br>Application<br>Narrative and staff review<br>Map showing property location<br>Improvement Site Plan, aka Vicinity Map<br>Elevation drawings showing proposed structure.<br>Deed |

**HISTORY AND PROJECT DESCRIPTION:**

The property, Lot 9 Highland View Addition to Town of Oak Creek, Parcel ID 130100009, with a street address of 709 Lillian Lane, is approximately 0.21 acres, and presently has a single-family home with a detached garage located on it. The petitioner is proposing to convert the garage into an accessory dwelling on the east side of the property. The petitioners own the lot.

The total property is approximately 0.21 acres (9147.6 sq. ft.) in size with Lillian Lane on the west side, Oak Ridge Circle on the south side, Bell Avenue on the east side and residential properties on the north side and generally surrounding the property.

## 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 Yes | Complies No | Section | Policies |
|---|---|---|---|
| X | | 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. *Staff comment: Petitioner should be required to reclaim disturbed land not used for structures or parking with new vegetation.* |

### ENVIRONMENTAL CONSTRAINTS – Floodplains

| | | | |
|---|---|---|---|
| X | | 1. | Development in designated floodplain areas shall be discouraged. Where development is unavoidable, all construction shall be designed to prevent damage due to flooding in accordance with FEMA guidelines. In no event shall development in designated floodplains be permitted to raise the flood elevation of upstream or downstream property. Staff c*omment: This property does not lie within a designated floodplain area.* |

### ENVIRONMENT – Air Quality

| | | | |
|---|---|---|---|
| X | | 4. | The Town shall encourage residents to increase the energy efficiency of their homes to conserve energy and reduce emissions. The Town shall work with the Governor's Energy Office, the Northwest Colorado Council of Governments, and others to develop strategies for increasing energy efficiency of residential, |

commercial, and government buildings. *Staff comment: Construction will be subject to the 2021 International Building Codes.*

**CHAPTER 3. LAND USE & COMMUNITY CHARACTER - Housing**

| Complies Yes | Complies No | Section | Policies |
|---|---|---|---|
| X | | Housing 1. | A balance and mix of different housing types of all income levels shall be encouraged within all new residential subdivisions. *Staff comment: The proposed development will provide an accessory dwelling in a residential use neighborhood.* |

**Land Use & Community Character - Housing**
**Land Use Regulation**

| Complies Yes | Complies No | Section | Policies |
|---|---|---|---|
| X | | 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. *Staff comment: Single family homes abut this property on the north and west sides.* |
| | | Narrative | Increased Diversity and Availability of Housing Stock – Encouraging supply to keep up with demand by promoting infill of vacant units, income based restrictions, vertical mixed use, accessory units (aka granny flats) and higher density single and multi-family. *Staff comment: An accessory dwelling unit is proposed.* |

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 17.03.02 – Regulations waived**
If it is deemed by the board that the regulations found in this chapter cause an undue hardship on a property, it can waive said regulations on a case by case basis if one or more of the following findings are met by the proposed development, or if warranted by other extenuating circumstances as determined by the board:

| Complies Yes | Complies No | Section | Standards |
|---|---|---|---|
| X | | A. | Infilling. If the proposed development is infilling vacant and undeveloped properties in performance districts 1, 2, or 7, standards may be waived to accommodate new construction. *Staff Comment: The proposed development may be considered infilling per the Town's Comprehensive Land Use Plan since it proposes to add a residential accessory 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 | | G. | Construction of an accessory dwelling unit. *Staff comment: The proposed land use change is redevelopment of a garage into an accessory dwelling with bed, bath and kitchen. Performance District 2 allows accessory dwelling development pursuant to conditional use approval. A condition might be that the accessory dwelling will include a bed, bath and kitchen meeting currently adopted building codes and providing utility tap fees to the Town.* |

**Section 17.03.012 – Review procedure for 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 | | C. | Planning Commission public hearing on application: After receipt of application materials required by this code for a |

complete application by the Town, the Town Clerk shall set the matter for public hearing before the Planning Commission. The planning commission shall consider the application and other information and materials submitted for their consideration at the public hearing and forward its recommendation to approve, deny or approve subject to conditions. Conditions and limitations as the Town may prescribe should consider the conditional use criteria listed in Section 17.03.017. As part of an approval, the Planning Commission may recommend that the board grant the approval for a limited time period and/or require periodic reviews of the development once completed to ensure compliance with the approved conditions. *Staff comment: Public Hearing notice was provided as required.*

**Section 17.03.017 – Conditional use review criteria.**
The Town shall use the following criteria to evaluate applications for conditional uses:

| Complies Yes | Complies No | Section | Standards |
|---|---|---|---|
| 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 comment: The conditional use requested is to construct an accessory dwelling on a lot used for residential purposes supporting the Comprehensive Plan's* ***Land Use & Community Character - Housing*** *policies.* |
| 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 comment: The conditional use requested is to convert an existing garage into an accessory dwelling on a lot used for residential purposes. Surrounding and nearby properties are used for residential and governmental purposes.* |

## Chapter 17.10 – Community Design Standards

**Section 17.10.09 – Parking standards**

| Complies Yes | Complies No | Section | Standards |
|---|---|---|---|
| X | | B. | Paved off-street parking outside of Performance District 1 shall be provided for single-family detached use equal to two (2) spaces per unit; accessory dwellings equal to one |

| | | | |
|---|---|---|---|
| | | | (1) space per bedroom up to two (2) spaces per unit. *Staff comment: The applicant proposes to convert an existing garage to a single bedroom ADU and to retain the existing on-site parking. A condition of approval might be considered to require three parking spaces of 20'x10', totaling 20'x30' be located where the existing driveway is shown on the Vicinity Map and said driveway expanded as necessary to meet this minimum requirement.* |
| X | | C. | All parking spaces shall be approximately twenty feet by ten feet, exclusive of the requirements of snow storage listed in this section. In all cases, the parking requirements in this section are minimum standards, and may be increased by the Board of Trustees upon a finding that the public convenience and necessity require additional parking spaces in association with the new use. *Staff comment: A condition of approval might be considered to require three parking spaces of 20'x10', totaling 20'x30' be located where the existing driveway is shown on the Vicinity Map and said driveway expanded as necessary with a similar paving material to meet this minimum requirement. Space is available in the side yard and rear yard setbacks for snow storage.* |
| X | | 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. For those homes that are not accessed by alleys, garages shall be recessed five feet from the front door or side loaded. *Staff comment: the site does not have an alley adjacent to it and the site is adjacent to streets on three sides. The applicant is using existing structures. The applicant shows there is an existing driveway off of Oak Ridge Circle. The Commission may recommend waiver of this requirement.* |

**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: 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 Yes | Complies No | Section | Standards |
|---|---|---|---|
| | | 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.. *Staff comment: No snow storage area is identified. Recommend that snow storage area is identified on this site.* |
| ____ | X | | |

## 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 |
|---|---|---|---|
| X | ____ | A. | Character and Vision |
| | | | 1. Current Use: Performance District Two. 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. Staff c*omment: The proposed use is for an accessory dwelling for residential living.* |
| X | ____ | | 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. Staff c*omment: The proposed use is for an accessory dwelling for residential living.*

__X__ ____ B.2 Conditional uses:
d. Accessory dwellings

____ __X__ C. Dimensional standards for properties within Performance District Seven: *Staff comment: The lot is an approved existing lot with an existing shed that does not meet the rear yard setback requirement, but was placed where it is at prior to the current owners purchase. The proposed rear yard setback for the existing garage, aka the new accessory dwelling, meets/exceeds the 10-foot rear yard setback. Front and side yard setbacks are met. The developer should provide a lot coverage calculation for presentation to the Town Board. See table below.*

| Performance District Seven | Single Family | Proposal |
|---|---|---|
| Minimum Floor Area/Dwelling Unit (square feet) | | |
| Residential Units per lot | 2 – Maximum of one principal structure and one accessory dwelling. | 2 units |
| Setbacks (feet):<br>Front<br>Side Yard<br>Rear Yard | <br>15' min<br>8'<br>10' | Meets setback req. for side and front yards. Existing shed is within the 10-foot rear yard setback. |
| Lot width (feet) Minimum | 37.5' | Existing lot; width ranges 36.31' – 76.62' |
| Minimum Lot Area (square feet) | 4000 | 9147.6 sq. ft. |
| Maximum Lot Coverage (%) | 35% | Calculation not provided. |

| | | |
|---|---|---|
| Maximum Building Height (feet) | 35’ | 12.5’ |

## 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.

## FINDINGS OF FACT:

The Planning Commission/ Town Board find that the proposed land use change is in:

A. Conformance of the proposed land use change with the policies and principles in the Oak Creek Comprehensive Plan Update, pursuant to C.R.S., 1973, Section 31-23-206;
B. Conformance with the requirements and performance standards established in this code;
C. Preservation 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 variance and land use change subject to the Per 17.03.014

1. The approval expires three (3) years from approval by the Town Board of this application unless application for renewal is obtained pursuant to the Oak Creek Land Use Code.
2. The accessory dwelling will include a bed, bath and kitchen meeting currently adopted building codes, utility connections per approval of the Town’s Public Works Director, and payment of any additional utility tap fees for this accessory dwelling as required by the Town’s Public Works Director.
3. Petitioner is required to reclaim disturbed land not used for structures or parking with new vegetation.
4. Petitioner is required to build and maintain three parking spaces of 20’x10’, totaling 20’x30’, to be located where the existing driveway is shown on the Vicinity Map and said driveway expanded as necessary to meet this minimum requirement of Section 17.10.09 of the Municipal Code. following requirements:

5. Inasmuch as this is a conversion of an existing structure the application of Section 17.10.09 J is waived.
6. All exterior lighting on the site will meet the requirements of Section 17.10.10 of the Municipal Code.
7. Snow storage area shall be identified on this site plan per Section 17.10.013 of the Municipal Code.
8. Petitioner shall provide a lot coverage calculation for consideration of this application by the Town Board.