

Town of Oak Creek

Land Use Application

Staff Report

PETITIONER:	Jacob Beck and Kelli Marks
PETITION:	Land Use Change of Minor Impact Conditional use for construction of a single family home in Performance District 1 at address to be determined (Lots 1 & 2 Block 15, First Addition to Oak Creek, Parcel ID 100115001), Performance District 1.
PLANNING COMMISSION HEARING DATE:	April 17, 2024
TOWN BOARD HEARING DATE:	April 25, 2024
STAFF CONTACT:	David Torgler, Town Administrator/Clerk
ATTACHMENTS:	Cover letter Application, including elevations Narrative and staff review Permission from owner representative to pursue conditional use permit Maps (3) showing property location, public notification and floodplain. Proposed Site Plan Deed and owners authorization to present application.

HISTORY AND PROJECT DESCRIPTION:

The property, located on the southwesterly corner of the intersection of E. First Street and N. Lincoln Avenue, Lots 1 & 2 Block 15 First Addition to Town of Oak Creek, Parcel ID 100115001, with a street address to be determined, is approximately 0.14 acres, and presently is a vacant. The petitioner is proposing to construct a single family home on this lot. The petitioners do not own the lot but have the owner's approval to seek this conditional use.

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

The total property is approximately 0.14 acres (6098.4 sq. ft.) in size with First Street (undeveloped) on the north side, residential property on the west side, alleyway and commercial properties on the south side and residential properties to the east and 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: This site is on a hillside with a single family home and garage/AUD located on the uphill side; the Petitioner shall abide by this regulation and shall be required to reclaim disturbed land not used for structures or parking with new vegetation.</i>

ENVIRONMENTAL CONSTRAINTS – Visual Character

<u> X </u>	<u> </u>	1.	Placement and height of new development within the Performance District 1 should be designed where feasible to avoid blocking scenic views from public rights of way, parks, and other public spaces. <i>Staff comment: This property lies next to other residential developments on four sides and per the applicant does not exceed the 35’ height limit.</i>
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**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

ENVIRONMENTAL CONSTRAINTS – Steep Slopes

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| <u> </u> | <u> X </u> | 2. | Development shall be avoided in areas where moderately steep slopes (16 to 30%) are combined with unstable soils to create potentially unstable slopes. If development in these areas is unavoidable, measures to mitigate the risks and impacts of such development shall be identified by a qualified professional and implemented by the developer <i>Staff comment: Developers shall retain qualified professionals to determine the full extent of potential hazard problems and implement identified mitigation recommendations.</i> |
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ENVIRONMENTAL CONSTRAINTS – Floodplains

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| <u> X </u> | <u> </u> | 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. <i>Staff comment: This property does not lie within a designated floodplain area.</i> |
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ENVIRONMENT – Air Quality

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| <u> X </u> | <u> </u> | 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. <i>Staff comment: Construction will be subject to the 2021 International Building Codes.</i> |
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**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

CHAPTER 3. LAND USE & COMMUNITY CHARACTER - Housing

Complies		Section	Policies
Yes	No		
<u>X</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 a new residential dwelling in a mixed use neighborhood.</i>

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

Complies		Section	Policies
Yes	No		
<u>X</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: Single family homes abut this property on the north, east and west sides.</i>
<u>X</u>	_____	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. <i>Staff comment: A residential dwelling unit is proposed to be built on an infill lot.</i>

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

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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:

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

Complies		Section	Standards
Yes	No		
<u> X </u>	<u> </u>	A.	Infilling. If the proposed development is infilling vacant and undeveloped properties in performance districts 1, 2, or <u>7</u> , standards may be waived to accommodate new construction. <i>Staff Comment: The proposed development is infilling, proposing to add a residential dwelling unit and possibly apply for an ADU at a future time.</i>

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> 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 land use change is construction of a residential dwelling. Performance District 1 allows residential uses pursuant to conditional use approval.</i>

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		Section	Standards
Yes	No		
<u> X </u>	<u> </u>	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 <u>Section 17.03.017</u> . 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

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

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		Section	Standards
Yes	No		
<u> X </u>	<u> </u>	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. <i>Staff comment: The conditional use requested is to construct a residential dwelling on a lot which may be used for residential purposes supporting the Comprehensive Plan's Land Use & Community Character - Housing policies.</i>
<u> X </u>	<u> </u>	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. <i>Staff comment: The conditional use requested is to construct a residential dwelling on a lot which may be used for residential purposes. Surrounding properties are used for residential, purposes.</i>

Chapter 17.10 – Community Design Standards

Section 17.10.09 – Parking standards

<u> X </u>	<u> </u>	A.	Commercial uses in Performance District 1 are exempt from these requirements. <i>Staff comment: The applicant proposes residential, not commercial, use(s) of this lot so staff has applied the parking standards for lots outside of Performance District 1 (see below for review).</i>
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Complies	Section	Standards
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**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

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| <div style="display: flex; align-items: center;"> <div style="text-align: center; width: 100px;"> <u> X </u> </div> <div style="border-bottom: 1px solid black; width: 100px; margin-left: 10px;"></div> </div> | <p>B. Paved off-street parking outside of Performance District 1 shall be provided for single-family detached dwellings equal to two (2) spaces per unit. <i>Staff comment: The applicant proposes a new garage to be placed below residential living space above; this space is shown on the Proposed Site Map to be approximately 25-feet x 25-feet. The applicant also shows a driveway on the same site map that is in excess of 20-feet x 25-feet.</i></p> |
| <div style="display: flex; align-items: center;"> <div style="text-align: center; width: 100px;"> <u> X </u> </div> <div style="border-bottom: 1px solid black; width: 100px; margin-left: 10px;"></div> </div> | <p>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. <i>Staff comment: The applicant proposes a new garage to be placed below residential living space above; this space is shown on the Proposed Site Map to be approximately 25-feet x 25-feet. The applicant also shows a driveway on the same site map that is in excess of 20-feet x 25-feet.</i></p> |
| <div style="display: flex; align-items: center;"> <div style="text-align: center; width: 100px;"> <u> X </u> </div> <div style="border-bottom: 1px solid black; width: 100px; margin-left: 10px;"></div> </div> | <p>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. <i>Staff comment: the site does have an alley adjacent to it. The applicant shows that the parking will be located off the alley on the lower level.</i></p> |

**17.10.010 - Lighting
Complies**

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| <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> Yes </div> <div style="text-align: center;"> No </div> </div> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="text-align: center; width: 100px;"> <u> X </u> </div> <div style="border-bottom: 1px solid black; width: 100px; margin-left: 10px;"></div> </div> | <p>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</p> |
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**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

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		Section	Standards
Yes	No		
<u> </u>	<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 meeting Town requirements is identified on this site.</i>

Chapter 17.11 – Performance Districts

Section 17.11.02 – Performance District One

The following regulations only govern land within Performance District One.

Complies		Section	Policies
Yes	No		
<u> X </u>	<u> </u>	A.	Character and Vision
			1. Current Use: Performance District One forms the heart of the Town of Oak Creek with a majority of its retail and commercial uses located on Main Street. The uses quickly transition to residential as one moves away from Main Street. <i>Staff comment: The proposed use is for a single-family dwelling for residential living with possibly a future ADU (to be approved separately). The lot is not located along Main Street and abuts residential development.</i>

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

<u> X </u>	<u> </u>	2. Vision for the performance district: Commercial uses are the preferred use for the first floor of all buildings along Main Street and Moffat and Sharpe Avenues. <i>Staff comment: The proposed use is for single-family dwelling for residential living with possibly a future ADU (to be separately approved). The lot is not located along Main Street and abuts residential development.</i>
<u> </u>	<u> X </u>	3.b. Building and Site Design: Upper Story Setbacks. Third stories or other elements of structures in Performance District One shall be set back a minimum of fifteen feet from the front façade of the structure's street level floor. <i>Staff comment: The proposed use is for single-family dwelling for residential living with possibly a future ADU (to be separately approved). Per 17-03-02 certain regulations may be waived on a case-by-case basis for infill developments. The petitioner proposes a third story and the provided elevations do not show any additional setback from the front façade. The upper story setback requirement may waived per 17-03-02.</i>
<u> X </u>	<u> </u>	B.2 Conditional uses: d. Residential uses <i>Staff comment: The applicant proposes to construct a single family residential home and possibly add an accessory dwelling space in the future. The ADU will require a separate application.</i>
<u> </u>	<u> X </u>	C. Dimensional standards for properties within Performance District One: <i>Staff comment: The Land Use Code does not include dimensional standards for residential development in Performance District One. In Performance District One setback distances are not required and there is no maximum lot coverage. However to meet the parking, snow storage requirements, slope stabilization and other code requirements the applicant will require setbacks. The applicant proposes 8' side yard setbacks, a 7.5' rear yard setback and a 12.5' front yard setback, all as shown on the Proposed Site Map. The lot is an approved existing lot. Per 17-03-02 certain regulations may be waived on a case-by-case basis for infill developments and the setbacks proposed might be considered as a condition of the residential use proposed. The application does not include the height of the structure; a 35-foot maximum height is a</i>

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

dimensional standard for all structures identified on the dimensional chart for Performance District One developments per Section 17.11.01. Approval is recommended to include a 35-foot height limit as applied to other Performance District One structures for the proposed development.

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 following requirements:

1. Construction and use of Lots 1 & 2, Block 15, First Addition to Oak Creek for residential use is approved subject to the conditions of approval stated herein and subject to the petitioners Proposed Site Map for LOTS 1 & 2, BLK 15, petitioners application for a Land Use Change – Minor Impact, and petitioners March 24, 2024 written narrative to the Planning Commission.
2. Per 17.03.014 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.

**Kelli Marks and Jacob Beck, LUC-Minor Impact – Conditional Use – Lots 1 & 2 Block
15 First Addition to Oak Creek, Address to be determined**

April 17, 2024

3. Petitioner is required to reclaim disturbed land not used for structures or parking with new vegetation.
4. A condition of approval is to provide on-site parking for the residential use proposed with access to the on-site parking to be from the alley as shown on the petitioner's Proposed Site Map for LOTS 1 & 2, BLK 15.
5. All exterior lighting on the site will meet the requirements of Section 17.10.10 of the Municipal Code.
6. Snow storage area shall be identified on this site plan per Section 17.10.013 of the Municipal Code.
7. The setbacks proposed on the Proposed Site Map for LOTS 1 & 2, BLK 15 shall be considered as a required minimum condition of approval for the residential use proposed, e.g. the proposed setbacks shall not be less than shown on the Proposed Site Map for LOTS 1 & 2, BLK 15.
8. The upper story setback requirement per Section 17.11.02 3.b of the Municipal Code shall be waived per Section 17-03-02 of the Municipal Code.
9. A condition of approval is to include a 35-foot height limit for the proposed development.