

CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

June 20, 2011

Ankrom Moisan Architecture
Attn: Mario Espinosa
6720 SW Macadam Ave
Portland, OR 97219

RE: Conditional Use Application # 11-001CU and Variance Application #11-002V

Dear Mario:

Enclosed find two (2) copies of your approved Conditional Use and Variance applications and associated documentation reaffirming approval of your requests to develop and operate a 21 unit *hotel, motel or other tourist accommodations* at 1157 N Marion and further described as Assessors Plat 6 10 3, Tax Lot 100, and granting relief from Section 6.130 Off Street Parking Requirements to allow one parking space per unit.

Authorization of the Conditional Use and Variance shall be void after one year unless substantial construction has taken place. I have included a copy of Sections 7.090 and 8.090 for your information.

Sincerely,
CITY OF GEARHART

Cheryl A. Lund
Planning Commission Secretary

GEARHART, OREGON PLANNING COMMISSION
NOTICE OF DECISION AND FINDINGS OF FACT FOR APPLICATIONS
#11-001CU Conditional Use and #11-002V Variance to Off-Street Parking

I. APPLICATION INFORMATION:

Applicant: Mario Espinosa of Ankrom Moisan Architects, Mike McMenamin
Property Owner: Tim Boyle
Location: 1157 North Marion in the City of Gearhart, Oregon
Tax Assessor Map: 6N10W3, Tax Lot 100
Development Zone: C-2 Commercial Zone

II. DESCRIPTION OF REQUEST:

The Conditional Use request is to add and operate overnight 21 guest accommodations within the existing building. The Variance request requests that these 21 new guest rooms are allowed to provide only one parking space per guest room.

III. APPLICABLE CRITERI:

Gearhart Comprehensive Plan
Gearhart Zoning Ordinance
Article 3.5 C-2 Commercial Zone
Section 6.130 Off-Street Parking Requirements
Section 6.150 Off-Street Parking and Off-Street Loading, General Provisions
Article 7 Conditional Uses
Article 8 Variances
Section 8.040 Variance of Off-Street Parking and Loading Facilities
Article 11 Administrative Provisions

IV. PLANNING COMMISSION DECISION: Approval with Conditions 3-2

The Planning Commission held a public hearing on June 9, 2011. Planning Commissioner Dan Jesse made a motion for the approval of both applications #11-001CU and #11-002V with the adoption of the findings of fact and the imposition conditions of approval presented in the City Planner Staff Report. Planning Commissioner Stephanie White seconded the motion. In a roll call vote, Planning Commissioners Stephanie White, Richard Owsley, and Dan Jesse voted in favor of the motion and Planning Commissioners Sarah Nebeker and Todd Schultz voted against the motion.

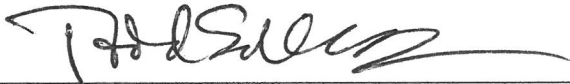
CONDITIONS OF APPROVAL:

1. Parking for the uses shall be assigned through appropriate signage as identified on the site plan for parking submitted with application. The spaces for the hotel use shall be assigned one space for each room each with a number and appropriate signage.
2. Striping and curbs shall be improved consistent with city standards and to the satisfaction of the City Fire Chief, the City Police Chief, and the City Public Works Administrator.

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APPEAL

The decision of the Planning Commission may be appealed to the City Council by filing an appeal within 15 days of the date that the final order was signed. An appeal may only be filed concerning criteria that were addressed at the initial public hearing. The complete case, including the final order is available for review at the City. The notice of appeal shall contain the information outlined in Section 11.050(3). The City Council may determine at a non-public hearing that the scope of review will be one of the following: (a) Restricted to the record made in the decision being appealed; (b) Limited to the presentation of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter; (c) a de novo hearing; (d) a remand of the matter to the hearing body for additional consideration.



Todd Schultz, Chair

6-13-11

Date

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V. FINDINGS OF FACT:

Section 3.5 C-2: General Commercial Zone

Section 3.510 Purpose

The purpose of the C-2 General Commercial Zone is to provide for a broad range of commercial uses and activities to serve the needs of the City and its visitors. The General Commercial Zone shall provide for a broader range of commercial development than may be located in the C-1 zone.

Section 3.520 Outright Uses Permitted

In a C-2 Zone the following uses and their accessory uses are permitted outright.

- 1. An outright or conditional use in the C-1 Zone.*
- 2. Personal business service establishments such as barber or beauty shop, clothes*
- 3. cleaning or funeral home.*
- 4. Professional, financial, business and medical offices.*
- 5. Retail business establishments excluding new and used car, boat, recreational vehicle or*
manufactured dwelling sale.
- 6. Technical, professional, vocational and business schools.*
- 7. Membership organizations such as union, lodge hall, club or fraternal buildings.*
- 8. Eating and drinking establishments.*
- 9. Automobile repair establishment.*
- 10. Building materials sales yard.*
- 11. Cabinet, carpenter, woodwork, sheet metal shops or similar establishments.*
- 12. Mini-storage warehouses or similar storage areas.*
- 13. Wholesale storage and distribution facilities including cold storage.*
- 14. Non-public recreation facilities.*
- 15. Public service and public utility use.*
- 16. Veterinary hospital: including grooming and in-facility boarding, with no outside*
kennels.
- 17. Feed Store/Garden Center.*
- 18. Single family dwelling, duplex, or Manufactured Dwelling in accordance with Section*
6.210.
- 19. Home occupation (see Section 6.120).*
- 20. Family day care center or day care center.*
- 21. Residential home and Residential care facility.*
- 22. Manufactured dwelling, recreation vehicle or a construction office used during the*
construction period of a permitted or conditional use for which a building permit has
been issue, but not to exceed one year.

Section 3.530 Conditional Uses Permitted

In a C-2 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 7 and standards in Section 3.540.

- 1. Church or other religious structures.*
- 2. Amusement enterprises such as theater or bowling alley.*

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3. *Commercial recreation such as driving range or miniature golf course.*
4. *Primary, elementary, junior or senior high schools; or a higher education institution.*
5. *Community meeting buildings.*
6. *Government facilities.*
7. *Hospital, sanitarium, rest home, nursing or convalescent home.*
8. *Hotel, motel or other tourist accommodations.*
9. *Triplex or multi family dwelling.*

FINDINGS OF FACT: Section 3.5 C-2 General Commercial Zone

1. The stated purpose of the C-2 General Commercial Zone is to provide for a broad range of commercial uses and activities to serve the needs of the City and its visitors.
2. The General Commercial Zone shall provide for a broader range of commercial development than may be located in the C-1 zone.
3. Hotel, motel or other tourist accommodations are permitted as a conditional use subject to the provisions of Article 7 and standards in Section 3.540.

Section 6.130 Off-Street Parking Requirements

...

1. *At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone in the City, off-street parking spaces shall be provided in accordance with the requirements of this section and zone designation standards listed in Article 3 unless greater requirements are otherwise established.*
2. *If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this section.*
3. *Where square feet are specified the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading.*
4. *Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season.*
5. *Fractional space requirement shall be counted as a whole space.*
6. *Parking spaces shall be a minimum of nine (9) feet by eighteen (18) feet for standard spaces, and eight (8) feet by sixteen (16) feet for compact spaces.*
7. *For uses requiring four or more spaces, up to fifty percent (50%) of the spaces may be compact in size.*

PARKING SPACES REQUIRED FOR EACH USE:

RESIDENTIAL:

- A. *Dwelling: Two spaces per dwelling unit.*
- B. *Motel, tourist court rooming or boarding house: One and one-half spaces per guest accommodation plus one additional space for the owner or manager.*
- C. *Trailer or mobile home parks: One and one-half spaces per trailer or mobile home.*

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- D. *Convalescent, nursing and other health homes and institutions, homes for the aged, children's homes and welfare or correctional institutions: One space per 3 beds for patients.*

PUBLIC AND SEMI-PUBLIC BUILDINGS AND USES:

- A. *Auditorium, church, or meeting room (other than a school): One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space per 4 seats or 8 feet of bench length.*
- B. *Club, lodge or association: Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.*
- C. *Library: One space per 400 square feet of reading room plus one space per employee.*
- D. *Kindergarten, pre-school nursery, equivalent private or parochial schools: Two spaces per teacher.*
- E. *Elementary, junior high or equivalent private or parochial school: One and one-half spaces per class room, plus 1-1/2 spaces per administrative employee plus one space per 60 square feet or 4 seats or 8 feet of bench length in the auditorium or assembly room.*
- F. *Post office: One space for each 1,000 square feet of floor area.*

COMMERCIAL

- A. *Retail store, except as provided in subsection (b) below: One space for each 200 square feet of gross floor area.*
- B. *Service or repair shop or retail store handling bulky merchandise such as automobiles or furniture: One space for each 600 square feet of gross floor area.*
- C. *Bank or office except medical or dental: One space for each 400 square feet. employee.*
- D. *Medical or dental office or clinic: One space per 300 square feet of floor area.*
- E. *Eating or drinking establishment: One space per 200 square feet of floor area.*
- F. *Mortuary: One space per 2 chapel seats or 4 feet of bench length.*
- G. *Storage or wholesale use: One space per 700 square feet of patron serving area.*

COMMERCIAL RECREATION

- A. *Bowling alley: Four spaces for each alley.*
- B. *Dance hall, skating rink, or gymnasium: One space per 50 square feet of patron area.*
- C. *Outdoor arena or theater: One space per 50 square feet of patron area.*
- D. *Golf course: Two spaces per hole.*
- E. *Swimming pool: One space per 100 square feet of pool.*
- F. *Tennis court: Two spaces per court.*

Section 6.140 Off-Street Loading Requirements

At the time a structure is erected or enlarged, or the use of a structure or parcel of land changed within any zone in the City, off-street loading spaces shall be provided in accordance with the requirements of this section and Section 6.150 unless greater requirements are otherwise established....

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Section 6.150 Off-Street Parking and Loading, General Provisions

The following general provisions shall govern the application of off-street parking and loading requirements.

1. *The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Should the owner or occupant of a lot or building change the use to which the lot or buildings is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.*
2. *Requirements for types of buildings and use not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable uses listed.*
3. *In the event several uses occupy a single structure or parcel of land, the total requirements for off street parking shall be the sum of the requirements of the several uses computed separately.*
4. *Owner of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City in the form of deeds, leases, or contracts to establish the joint use.*
5. *Off-street parking spaces for one or two-family dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 200 feet from the building or use they are required to serve, measured in a straight line from the building.*
6. *Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.*
7. *A Plan drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany an application for a building permit.*
8. *Design requirements for parking lots and loading areas shall be as follows:*
 - A. *Areas used for standing and maneuvering of vehicles shall have graveled or paved surfaces maintained adequately for all-weather use and so drained as to avoid flow of water across public sidewalks.*
 - B. *Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence, screen or hedge of not less than 5 or more than 6 feet in height except where vision clearance is required.*
 - C. *Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent resident dwelling located in a non-residential zone.*

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- D. On parking lots having 4 or more parking spaces, such spaces shall be clearly marked in a permanent manner.*
- E. Service drives to off-street parking area shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.*
- F. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection.*

FINDINGS OF FACT: 6.130 Off-Street Parking Requirements, 6.150...General Provisions

- 1. The site provides for one parking space for each guest room accommodation. This figure is based on the proposed variance to the number of required off-street parking spaces.
- 2. The applicant provides one off-street parking for each 200 square feet of eating and drinking establishment.
- 3. The site provides for one space for each 200 feet of gross floor area for the retail use.
- 4. The site provides for 36 spaces to serve the 18-hole golf course.
- 5. The Off-Street Parking and Loading Facility has been designed to provide off-street parking consistent with the design standards of Section 6.130 and 6.150.
- 6. The site plan provides the number of spaces required to serve the golf course, retail use and eating and drinking establishment and for the guest rooms where the applicant request for a variance to reduce the number of off-street parking spaces from 1.5 to 1 is approved.
- 7. Parking for the uses shall be assigned through appropriate signage. One space shall be assigned for each guest room.
- 8. Striping and curbs shall be improved consistent with city standards and to the satisfaction of the City Fire Chief, the City Police Chief, and the City Public Works Administrator.

ARTICLE 7 CONDITIONAL USES

Section 7.010 Purpose

In certain districts, conditional uses may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics or special characteristics of the area in which they are to be located, conditional uses require special considerations, so they may be properly located with respect to the Comprehensive Plan and to the objectives of this Ordinance.

Section 7.020 Planning Commission Authority

The Planning Commission shall have the authority to approve, approve with conditions, or disapprove Conditional Use Permits in accordance with the standards and procedures set forth in this Article.

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Section 7.030 Standards Governing Conditional Uses

Standards for Conditional Uses are the same as standards listed in Article 3. In addition, the overall conditional use standards of Section 7.040 and the specific conditional use standards of Section 7.050 are also applicable. The Planning Commission also has authority to add additional conditions in recommending a new conditional use as specified in Section 7.060.

Section 7.040 Overall Conditional Use Review Criteria

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

- 1. The proposed use is consistent with the policies of the Comprehensive Plan.*
- 2. A demand exists for the use at the proposed location. Several factors which shall be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitable zoned sites for the use.*
- 3. The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties;*
- 4. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated;*
- 5. Public facilities and services are adequate to accommodate the proposed use;*
- 6. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use; and*
- 7. The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on site drives, parking area, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by City Ordinance or desired by the applicant.*

FINDINGS OF FACT: Section 7.040 Overall Conditional Use Review Criteria

1. The proposal to add residential use within the existing structure to improve the financial viability of the Gearhart Golf Course and to serve as needed residential guest accommodations for users of the existing golf course use is consistent with the goals and policies of the Gearhart Comprehensive Plan including specifically:
 - (a) General Development Goal "To ensure that development occurs in a manner that is in harmony with the sensitive coastal environment that defines Gearhart";
 - (b) Open Space, Scenic Areas, Historic and Natural Resources Goal 5 Policy (1) "The City will encourage the preservation of the Gearhart Golf Course, not only to preserve a recreational asset to the community, but also to ensure the existing of open space amid future development north of Gearhart";
 - (c) Recreation Goal 8 Policy (1) "To encourage indoor and outdoor recreation facilities, both private and public attractive to visitors and residents";
 - (d) Recreation Goal 8 Policy (2) "The City will work to ensure that the Gearhart Golf Course, the second oldest in Oregon, remain a viable recreation resource;

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- (e) Economy and Energy Goal 9 “To guide land use decisions in such a way so as to make a more efficient use of energy resources”;
 - (f) Economy and Energy Policy (9) “The majority of residential development will occur in urban areas where it is less expensive and where less energy is consumed in providing public facilities and services”.
2. A demand exists for the use at the proposed location. Several factors which shall be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitable zoned sites for the use, specifically:
- (a) The City Comprehensive Plan and users of the Gearhart Golf Course provide a strong demand for the proposed housing within this 24,310 square foot existing building that will improve the financial viability of this large property that has a significant overhead cost to run.
 - (b) The Gearhart Golf Course is the second oldest golf course in Oregon according to the Gearhart Comprehensive Plan and the City is directed by the Comprehensive Plan to ensure that this recreational asset to the community remains a viable recreation resource. Users of the golf course are often visitors to Gearhart and have a need for housing.
 - (c) Although housing is available in Gearhart, golf course users currently have to drive to such housing and then drive back to the golf course.
 - (d) Housing available at the site will reduce the number of vehicular trips for visitors to Gearhart who have come to golf at this historic site.
 - (e) The proposed use is not comparable to any other use in Gearhart as there is no similar existing use where sleeping accommodations are available at a historic golf course to serve historic golf course users.
 - (f) Employees already visiting the site for work are available to serve the use.
 - (g) The use is consistent with the Gearhart Zoning Ordinance C-2 Zone purpose “to provide for the needs of the City and its visitors”.
 - (h) This use provides for both the needs of the City to efficiently accommodate visitors, to encourage recreation facilities attractive to visitors and residents, and to direct residential development to urban areas where less energy is consumed in providing public facilities and services.
 - (i) This use provides for the historic residential needs of Gearhart visitors to this historic resource.
 - (j) There is no site in Gearhart that would allow tourist accommodations without a conditional use approval.

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3. The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties, specifically:
 - (a) The proposed use will be wholly accommodated within the existing structure and site.
 - (b) The proposed use will have less impact than uses that would be allowed outright such as the existing offices, an expansion of the retail use of the site, or an expansion of the existing eating and drinking establishment, all uses that would be allowed outright without Planning Commission approval.
 - (c) The size of each room is designed to accommodate one to two persons and perhaps a baby or toddler in a crib.
 - (d) Rooms are designed to allow a family to adjoin and connect multiple rooms when serving a family so that even small children can be in a second room adjacent to their parent or guardian.
 - (e) Providing residential accommodations at the golf course that is designed to be the most useful to golf course users will reduce traffic impacts from golf course users coming and going from the surrounding area.
4. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated, specifically:
 - (a) Additional parking will be added within the existing developed area by re-striping and adding signage to the existing parking lots.
 - (b) The site plan has been designed to accommodate the parking needs as proposed consistent with city standards and the recommendations of city staff.
 - (c) The adjacent street is a collector street and has the capacity to accommodate the use.
 - (d) The proposed use will have a significantly less traffic impact than an outright use would have at the same site: In one example: In the C-2 Zone, the entire 24,310 square foot structure is allowed outright to be an eating and drinking establishment and retail structure such as an "REI" and as such would require 114 parking spaces at a rate of one with a parking requirement of one space per 200 square feet plus 36 spaces for the adjacent golf course would require would require a total of 150 required parking spaces, more than could be required for this proposed use.
5. Public facilities and services are adequate to accommodate the proposed use, specifically:
 - (a) The structure is currently allowed as an office, retail and restaurant use.
 - (b) The proposed use is not anticipated to exceed the public facilities and services required for its current operation.
 - (c) Although the applicant has already checked out the public facilities and services including the septic system and feels confident about its capacity, as part of the standard building permit process, the building official will ensure that septic capacity is deemed sufficient in writing by the Department of Environmental Quality.

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- (d) The public works superintendent, fire chief, and police chief have reviewed the use and assisted the applicant in the design of the parking and on-site drives. Although City Staff have determined that the proposed use has adequate public facilities and services to accommodate the proposed use, the installation of the approved site plan will be required as part of the standard building permit process.
- 6. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use, specifically:
 - (a) The proposed use will take place entirely within and on the existing developed site and no disturbance of topography and soils is proposed.
- 7. The site has adequate area to accommodate the proposed use, and the site layout has been designed to provide appropriate access points, on site drives, parking area, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by City Ordinance or desired by the applicant, specifically:
 - (a) The site layout has been designed to provide adequate access points, on-site drives, parking areas, loading areas storage facilities, setbacks, buffers, utilities, and other facilities required by City Ordinance or desired by the applicant.
 - (b) To ensure that off-parking for the hotel use is continuously available, the city planner recommends that the spaces for the hotel use are assigned with a number and appropriate signage one space for each room.
 - (c) Striping and curbing is required to be installed consistent with approved plans, applicable criteria and to the satisfaction of the City.

Section 7.060 Additional Modification of Standards for Conditional Uses

In recommending a new conditional use or the alteration of an existing conditional use that involves a use other than a needed housing type (e.g. multi-family, manufactured dwelling park), the Planning Commission may impose, in addition to those standards and requirements expressly specified in this ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the City as a whole. These additional conditions are:

- 1. *Increasing the required lot size or yard dimension.*
- 2. *Limiting the height of buildings.*
- 3. *Controlling the location and number of vehicle access points.*
- 4. *Increasing the street width.*
- 5. *Increasing the number of required off-street parking spaces.*
- 6. *Limiting the number, size, location and lighting of signs.*
- 7. *Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.*
- 8. *Designating sites for open space.*
- 9. *Hours of use or operation.*

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FINDINGS OF FACT: Section 7.060 Additional Modification of Standards for Conditional Uses

1. Because the proposed use will take place within an existing structure on existing developed land, City staff recommends that use impacts from the existing and proposed use do not warrant additional conditions as necessary to address the best interest of the City as a whole.
2. The city planner recommends that the spaces for the use are assigned and that spaces for guest rooms are reserved one space for each room.

Section 7.070 Conditional Use Procedure

The following procedures shall be followed in applying for and acting on a conditional use:

1. *A property owner may initiate a request for a conditional use by filing an application with the City pursuant to Section 11.010.*
2. *Notice of a public hearing by the Planning Commission shall begin as provided for in Section 11.020.*
3. *The City Auditor shall make or cause to be made an investigation to provide necessary information on the consistency of the proposal with the criteria of Sections 7.040 and 7.050.*
4. *The Planning Commission shall review the Conditional Use application in accordance with Section 11.030 - 11.040.*
5. *The Planning Commission decision shall be in accordance with Section 11.040(6).*
6. *Notification of the Planning Commission decision shall be in accordance with Section 11.040(8).*
7. *The decision of the Planning Commission may be appealed in accordance with Section 11.050.*

Section 7.080: Compliance with Conditions of Approval

Compliance with conditions established for a conditional use and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance.

Section 7.090: Time Limit on a Permit for a Conditional Use

Authorization of a conditional use shall be void after one year unless substantial construction pursuant thereto has taken place. However, the City may, at its discretion, extend authorization for an additional six (6) months upon request, provided such request is submitted in writing at least 10 days prior to expiration of the permit.

Section 7.100: Reapplication for a Conditional Use.

No application for a conditional use which has been denied wholly or in part by the City shall be resubmitted for a period of one year after such a denial. The Planning Commission may permit a new application if in the opinion of the Planning Commission substantial new evidence or a change of circumstances warrants reconsideration.

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Section 7.110: Existing Conditional Uses

In the case of a use existing prior to its present classification by this Ordinance as a conditional use, any change in use or in the lot area or any alteration of a structure shall conform with the requirements applicable to conditional uses.

ARTICLE 8 VARIANCES

Section 8.010 Purpose

The purpose of a variance is to provide relief when a strict application of the zone requirements would impose unnecessary hardships on the applicant.

Section 8.020 Conditions

Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood, and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.

...

Section 8.040 Variance of Off-Street Parking and Loading Facilities

Variance to requirements of this ordinance with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation, and the evidence submitted by the applicant, all three (3) of the following expressly written findings are made:

- 1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance; and*
- 2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and*
- 3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan.*

Where a variance request is being reviewed under Section 8.040, only the criteria of Section 8.040 shall be addressed. The criteria of Section 8.030 are not applicable.

FINDINGS OF FACT: Section 8.040 Variance to Off-Street Parking and Loading Facilities

1. Neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance, specifically:
 - (a) The applicant proposes to provide one space for each guest room.
 - (b) The other uses of the site, the eating and drinking establishment, the retail use and the golf course, will have off-street parking consistent with ordinance requirements.

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- (c) The size of each room is designed to accommodate one to two persons and perhaps a baby or toddler in a crib and not anticipated to generate traffic greater than one vehicle per room.
 - (d) Rooms are designed to allow a family to adjoin and connect multiple rooms when serving a family so that even small children can be in a second room adjacent to their parent or guardian.
 - (e) The use has a history of having more than adequate off-street parking available on the site and has on-street parking available adjacent to the use, so overflow parking is available.
2. The granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets, specifically:
- (a) The use has been designed to be consistent with City Standards for parking and loading. Curbing and striping shall be completed consistent with City Standards and to the satisfaction of the City.
3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan, specifically:
- (a) The use has been reviewed and designed with the recommendations of the City Fire Chief and the City Public Works Superintendent.
 - (b) These findings of fact find support for the proposed use in the Gearhart Zoning Ordinance stated purpose for the C-2 Zone "*The purpose of the C-2 General Commercial Zone is to provide for a broad range of commercial uses and activities to serve the needs of the City and its visitors. The General Commercial Zone shall provide for a broader range of commercial development than may be located in the C-1 zone.*" and finds no ordinance to which the use is inconsistent.
 - (c) These findings of fact find support for the proposed use in the Gearhart Comprehensive Plan and find no goal or policy to which the use is inconsistent.

Section 8.050 Application

Application for a variance shall be filed with the City offices on the form prescribed by the City, by any person with a legal interest in the property, and shall include the following:

1. *Name and address of applicant.*
2. *Statement of applicant's legal interest in the property.*
3. *Address and legal description of the property.*
4. *Four(4) copies of a plot plan drawn to scale, illustrating the size, and location, of existing uses and structures on the property and describing the proposed variance. (1"=20' scale will fit on an 8-1/2" x 11" sheet of paper.)*
5. *A statement explaining the intended request and other information as required.*
6. *The fee required to defray the cost of processing the application. Additional costs may be incurred as a result of staff time investigating and/or writing of staff report.*

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7. *Information on adjoining properties' use shall accompany the application as well as any other material or information deemed necessary.*
8. *The applicant may find it beneficial to consult with the planning staff before or after making application.*

Section 8.060 Variance Procedure

The following procedures shall be followed in applying for and acting on a variance:

1. *A property owner may initiate a request for a variance by filing an application with the City pursuant to Section 11.010.*
2. *Notice of a public hearing by the Planning Commission shall be given as provided for in Section 11.020.*
3. *The City Auditor shall make, or cause to be made, an investigation to provide necessary information on the consistency of the proposed variance with the criteria of Section 8.030 or 8.040.*
4. *The Planning Commission shall review the variance application in accordance with Section 11.030 - 11.040.*
5. *The Planning Commission decision shall be in accordance with Section 11.040(6).*
6. *Notification of the Planning Commission decision shall be in accordance with Section 11.040(8).*
7. *The decision of the Planning Commission may be appealed in accordance with Section 11.050.*

Section 8.070 Compliance with Conditions of Approval

Compliance with conditions imposed in the variance, and adherence to the submitted plans, the approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance.

Section 8.080 Vested Interest in Approved Variances

A valid variance supersedes conflicting provisions of subsequent re-zonings or amendments to this ordinance unless specifically provided otherwise by the provisions of this section or the conditions of approval to the variance.

Section 8.090 Time Limit on a Permit for a Variance

Authorization of a variance shall be void after one (1) year, unless substantial construction pursuant thereto has taken place. However, the City may in its discretion extend authorization for an additional six (6) months upon request.

Section 8.110 Reapplication for a Variance

No application for a variance which has been denied wholly or in part by the City shall be resubmitted for a period of one year after such a denial. The Planning commission may permit a new application if in the opinion of the Planning Commission substantial new evidence or a change of circumstances warrants reconsideration.

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Section 11.040 Public Hearing Procedure and Requirements

...

- (7) *The decision of the Planning Commission may be appealed to the City Council by filing an appeal within 15 days of the date that the final order was signed. An appeal may only be filed concerning criteria that were addressed at the initial public hearing. The complete case, including the final order is available for review at the City.*

Section 11.050 Appeals

...

- (2) *...The notice of appeal shall contain the information outlined in Section 11.050(3). (3) The City Council may determine at a non-public hearing that the scope of review will be one of the following: (a) Restricted to the record made in the decision being appealed; (b) Limited to the presentation of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter; (c) a de novo hearing; (d) a remand of the matter to the hearing body for additional consideration.*

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