

**BEFORE THE CITY COUNCIL
OF
YACHATS, OREGON**

**Request for Conditional Use Permit
Appeal of Planning Commission Decision**

Buel-McIntire, #1-CU-PC-10

FINDINGS AND CONCLUSION

Applicant: Steven & Crystal Buel-McIntire

Nature of the Application

The applicant requested a conditional use permit to park a recreational vehicle on their property for temporary living purposes.

Planning Commission Decision and Applicant Appeal

The applicant appealed the Planning Commission's decision to deny the conditional use permit.

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision.

- A. The subject property is located at 615 Lemwick Lane, and described on the Lincoln County Assessor's Map as 14-12-22DD, Tax Lot 1100.
- B. The lot size is 7,480 square feet with dimensions of 88'x85'.
- C. No structures are currently located on the subject property.
- D. The subject site is generally flat with no significant vegetation.
- E. Surrounding land uses consist of single family residential dwellings.
- F. No development constraints are identified.
- G. The applicant initially submitted the required application form and fee and the following material:
 - Narrative
 - Proposed Site Plan
 - 3 photographs of the recreational vehicle

Additional applicant submittals:

- Public Comments on (Planning Commission) Staff Report by Steven Buel-McIntire (received by the City 10/19/10)
- Supplemental Argument concerning Conditional Use Permit Application for 615 Lemwick Ln (received by the City 10/20/10)
- Nov. 28, 2010 Appeal Statement re Conditional Use Permit and fee
- January 4, 2010 Executive Summary re Conditional use Permit Application for 615 Lemwick Ln.

All applicant submittals are herein incorporated into the record.

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- I. Eight people submitted written testimony prior to or at the October 19, 2010 Planning Commission meeting. Seven people were in opposition to the request and one person was in favor of the request. The written testimony is hereby incorporated into the record.
- J. A public hearing was held before the Yachats Planning Commission on October 19, 2010 at 3:00 p.m., in order to consider the applicant's request. Due notice of the hearing was given and all interested parties were given an opportunity to present testimony.

The applicant presented written and oral testimony and answered questions at the public hearing which is herein incorporated into the record. Four people testified in opposition to the request at the October 19, 2010 Planning Commission meeting. The minutes of the October 19, 2010 Planning Commission meeting and all written and oral testimony are herein incorporated into the record.

- K. The Yachats Public Works Director stated that prior to any development on the property, a storm drainage plan needs to be submitted to the City and approved by the Public Works Director. The applicant has had conversations with the Public Works Director who has indicated that, at minimum, storm drain culverts will be required at driveway locations.
- L. A public hearing was held before the Yachats City Council on January 13, 2011 at 2:00 p.m., in order to consider the applicant's appeal of the Planning Commission decision. The applicant provided oral testimony and answered questions at the January 13, 2011 City Council meeting.

Three people provided oral testimony in opposition to the applicant's request and appeal.

The minutes of the January 13, 2011 City Council meeting and all testimony provided at the January 13, 2011 City Council meeting are herein incorporated into the record.

Relevant Criteria

a. Chapter 9.16 R-2 Residential Zone

Section 9.16.010 Purpose.

This residential zone is intended to provide a quality environment for medium density, urban single-family residential uses and other compatible land uses determined to be desirable and/or necessary.

Section 16.030 Conditional Uses

E. Recreational vehicle. See Chapter 9.68

b. Chapter 9.68 Manufactured Dwellings, Manufactured Dwelling Parks and Recreational Vehicles

Section 9.68.060 Recreational Vehicles

Recreational vehicles may be parked by an owner on his or her own land for temporary living purposes as follows:

- A. The vehicle and the use on the owner's lot must be approved as conditional use by the planning commission.
- B. A renewable yearly parking permit is obtained from the city recorder. Fees are set by the city council.
- C. The permit is effective for parking one hundred twenty (120) days per calendar year with no more than ninety (90) consecutive days for any one stay.
- D. The vehicle must be hooked up to city sewer and water.

- E. A lot owner may permit a visitor to park his or her recreational vehicle on the owner's lot for dwelling purposes provided:
 - 1. The duration of stay for parking and dwelling in the recreational vehicle does not exceed two weeks;
 - 2. Users of the recreational vehicle must use sanitation facilities within the lot owner's home.

c. Chapter 9.72 Conditional Uses (relevant sections)

Section 9.72.010 Authorization to grant or deny conditional use permits

- A. In taking action on a conditional use permit application, the Planning Commission may either permit or deny the application. The Planning Commission's action must be based on findings addressing the requirements of the comprehensive plan and zoning ordinance, as addressed in Chapter 9.88 (Administration).
- B. In permitting a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by the code, additional conditions which are considered necessary to protect the best interest of the surrounding city as a whole.
 - 1. Increasing the required lot size or yard dimensions;
 - 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 fencing, screening, landscaping, walls, drainage or other facilities to protect adjacent or nearby property;
 - 8. Designating sites for open space;
 - 9. Setting a time limit for which the conditional use is approved;
 - 10. Regulation of noise, vibration, odors and sightliness;
 - 11. Requiring surfacing of parking areas;
 - 12. Regulation of hours of operation and duration of use or operation;
 - 13. Such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purpose of the Yachats comprehensive plan;
 - 14. If at any time the standards or requirements for conditional use approval are not followed, a zoning violation will be considered to exist.

Section 9.72.040 Time limit on a conditional use permit.

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction pursuant thereto has taken place. However, the planning commission may extend authorization for an additional period not to exceed six months on request.

d. Comprehensive Plan Goal G. Control of Urban Growth and Form

Policy 7. The City shall encourage improvement of the community's visual character.

Findings

The following is a summary of the findings:

1. Section 9.16 Residential R-2 Residential Zone.

The City Council finds that the request (to park a recreational vehicle on their property for temporary living purposes) does not meet all applicable criteria cited in Yachats Municipal Code (YMC) Chapter 9.16 R-2 Residential Zone. A recreational vehicle is identified as a conditional use in the R-2 zone (YMC 9.16.030.E) in accordance with YMC Chapter 9.68 Recreational Vehicles. However, the City Council finds that the requested use does not adhere to the stated purpose of the R-2 zone (YMC 9.16.010), i.e. “This residential zone is intended to provide a quality environment for medium density, urban single-family residential uses and other compatible land uses determined to be desirable and/or necessary.” The temporary use of a recreational vehicle is not considered a single-family residential use and therefore does not provide a quality environment for medium density, urban single-family residential use, nor is it a compatible land use that is desirable or necessary.

The subject area is an established neighborhood consisting of single family dwellings. The temporary parking of a recreational vehicle on a vacant lot for temporary living purposes is not compatible with the established single family residential neighborhood. The requested use would disrupt the character of the neighborhood, i.e. the requested use would be the only lot in the neighborhood that is not used as a single family residential dwelling.

2. Section 9.68.060 Recreational Vehicles.

The City Council finds the intent of Section 9.68.060 is to allow the use of recreational vehicles for temporary living purposes in conjunction with a permanent residential dwelling. Although not explicitly stated, provisions of YMC 9.68.060 imply that a permanent residential dwelling is necessary to satisfy all standards required in YMC 9.68.060. This is particularly evident in standard E.2 which states “A lot owner may permit a visitor to park his or her recreational vehicle on the owner’s lot for dwelling purposes provided: Users of the recreational vehicle must use sanitation facilities within the lot owner’s home”. This clearly indicates that a home is needed to adhere to this standard. The applicant contended that this standard only applies to visitors, not the owner. However, there is no logic in allowing one person (the owner) to not use sanitation facilities within a home, and require another person (a visitor) to use sanitation facilities within a home.

The City Council finds that a permanent home on the subject property is necessary to satisfy all provisions of YMC 9.68.060. The requested use cannot adhere to all provisions of YMC 9.68.060 because the subject property does not have a permanent home.

3. Section 9.72 Conditional Uses.

A conditional use allows the city to consider uses that generally are not consistent with a particular zoning district, but which may be essential or desirable in specific circumstances. A conditional use permit can provide flexibility within a zoning ordinance. It also enables the city to control certain uses which could have detrimental effects on the community. Consideration of a conditional use permit is a discretionary act in which the hearing body has the ability to act or decide according to sound judgment.

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Based on findings that the proposed use does not satisfy all provisions of YMC 9.16 R-2 Residential nor YMC 9.68.060 Recreational Vehicles, the City Council finds the requested use of a recreational vehicle for temporary living purposes is not an essential or desirable use in the established single family neighborhood. The City Council finds the requested use would have detrimental effects on the neighborhood because it would be the only property in the neighborhood that is not used as a single-family residential use. The requested use would disrupt the visual character and the normal day-to-day activity of the established neighborhood.

4. Comprehensive Plan Goal G. Control of Urban Growth and Form Policy 7.

Policy 7 states that “The City shall encourage improvement of the community’s visual character.” Although the City Council desires that this policy apply to all land uses, this specific policy applies to land and uses associated with urban growth and form. Since the requested use is for property currently within the city limits and urban growth boundary, the policy does not apply to the requested use and subject property.

Conclusions

Based on the above facts and findings, the Yachats City Council finds:

- A. The requested use of a recreational vehicle for temporary living purposes does not meet all applicable criteria of the R-2 Residential Zone. The temporary use of a recreational vehicle is not in accordance with the purpose of the R-2 Residential Zone in that it is not a single-family residential use, it would not provide a quality environment for medium density, urban single-family residential use, nor is it a compatible land use with the established single family residential neighborhood that is desirable or necessary.
- B. The City Council finds that a permanent home on the subject property is necessary to satisfy all provisions of YMC 9.68.060 Recreational Vehicles. The requested use cannot adhere to all provisions of YMC 9.68.060 because the subject property does not have a permanent home.
- C. The City Council finds the requested use does not meet the provisions of a conditional use permit application. The requested use would have detrimental effects on the neighborhood because it would be the only property in the neighborhood that is not used as a single-family residential use. The requested use would disrupt the visual character and the normal day-to-day activity of the established neighborhood.

Order

It is ORDERED by the Yachats City Council that the decision of the Planning Commission to deny the request is hereby upheld.

This ORDER was approved by the Yachats City Council on January 13, 2011.

Ronald Brean, Mayor

Date