

STAFF REPORT

Conditional Use Application

APPLICANT: Anahid and Eric Bertrand

A. REPORT OF FACTS

1. **Property Location:** The subject property is located at 167 East 3rd Street and described on the Lincoln County Assessor's Map 14-12-27-DA as Tax Lot 2100.
2. **Applicant's Request:** The applicant is requesting a conditional use permit to operate a two-bedroom Bed & Breakfast within a single-family dwelling.
3. **Zoning:** Residential Zone R-1
4. **Plan Designation:** Residential
5. **Lot Size and Dimensions:** The subject property is 50' x 100' (5,000 square feet), or 0.11 acres.
6. **Existing Structures:** There is one single-family dwelling on the property.
7. **Topography and Vegetation:** The subject property is gently sloped. The property is landscaped with grass, trees and shrubs.
8. **Surrounding Land Use:** Surrounding land uses consists of a 10-foot wide pedestrian path/utility easement and commercial establishments to the west, an undeveloped City right-of-way (Center Way) to the north and single-family residential units to the south and east.
9. **Utilities:**
Water & Sewer: City of Yachats
Electricity: Central Lincoln PUD
10. **Development Constraints:** None

B. EVALUATION OF REQUEST

1. **Applicant's Proposal:** The applicant submitted the required application form and fee, and a sketch showing off-street parking and proposed signage.
2. **Relevant Yachats Municipal Code (YMC) Criteria:**

YMC Section 9.04.030 Definitions

"Bed and breakfast facility" means a single-family dwelling containing rooms for rent in accordance with Section [9.72.050](#).

"Parking Space, Off-Street". "Off-street parking space" means a parking space located outside of public right-of-way with minimum dimensions of eighteen (18) feet long and nine (9) feet wide. Off-street parking spaces shall have surfaces such as gravel, pavement, tile, brick or concrete suitable for parking a vehicle. Required off-street parking spaces shall not be located in a required yard that abuts a street.

YMC Section 9.12.030 R-1 Residential

Zone Conditional Uses

In an R-1 zone the following uses and their accessory uses may be permitted subject to the provisions of Chapters [9.44](#), [9.48](#), [9.52](#) and [9.72](#) where applicable:

- A. Governmental structure or use of land; and public utility facility;
- B. Home occupation;
- C. Temporary real estate office offering residential property in the immediate vicinity for sale;
- D. Private boat dock;
- E. Bed and breakfast facility. (Ord. 175, 1995; Ord. 73I, 1994; Ord. 73E § 2.010(2), 1992)

YMC Section 9.52.160 General exceptions of yard requirements.

The following exceptions to the yard requirement for a lot in any zone:

- A. The required front or rear yard for a dwelling need not exceed the existing or probable average depth of the nearest front or rear yards of dwellings on all lots within one hundred (100) feet on both sides of the proposed dwelling.

YMC Chapter 9.72 Conditional Uses

Section 9.72.010 Authorization to grant or deny conditional use permits.

Conditional uses listed in this title may be permitted, enlarged, altered or denied by the Planning Commission in accordance with the standards and procedures set forth in this chapter.

- 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](#).
- B. In permitting a conditional use or the modification of a conditional use, other than a manufactured dwelling, manufactured dwelling park or multifamily dwelling, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this title, additional conditions which are considered necessary to protect the best interests of the surrounding City as a whole. These conditions may include, but are not limited to, the following:
 - 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;

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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.
- C. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use or a nonconforming use, a change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.
- D. The Planning Commission may require that the applicant for a conditional use furnish the City with a performance bond of up to the value of the cost of the improvement to be guaranteed by such bond, in order to assure that the conditional use is completed according to the plans as approved by the Planning Commission.

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.

Section 9.72.050 Standards and procedures governing conditional uses.

- E. Standards for Bed and Breakfast Facilities.
1. A bed and breakfast facility must be in a one-family dwelling.
 2. A maximum of five (5) bedrooms may be rented.
 3. The facility shall be the residence of the operator, who is the owner or lease holder of the building.
 4. A resident relief manager may be employed for no more than five (5) months per year, unless approved by the Planning Commission.
 5. Rooms may not be rented for more than seven (7) consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.
 6. The exterior of the building shall maintain a residential appearance.
 7. A morning meal must be served on premises and included within the room charge for guests of the facility and shall be the only meal provided.
 8. The facility must meet applicable County and State health, safety (including, but not limited to, the Uniform Building Code requirements concerning maximum occupancy) and liability requirements.
 9. An externally illuminated sign will be permitted on premises with a maximum area of three (3) square feet, subject to approval by the Planning Commission.
 10. One off-street parking space will be required for each rented bedroom, in addition to the number of spaces required for each dwelling unit.
 11. A conditional use permit approved for a bed and breakfast facility will be reviewed by the City Planner at the end of each calendar year and the permit renewed for an additional year if permit conditions have been met. The permit may be withdrawn by the Planning Commission if it is determined that the conditions of the permit have been violated after reviewing written complaints and the staff report. The operator of a facility will be notified by the City in writing prior to the Planning Commission determination to allow the operator to appear and show cause why the

conditional use permit should not be withdrawn.

12. An increase in the number of rooms rented, over those previously permitted, will require a new conditional use permit with the conditional use fee as provided in Section [9.88.050](#) reduced to one-half.

3. **Public Testimony Received:** At the time this staff report was prepared, the City had received no written testimony.

C. STAFF ANALYSIS

1. The Request and the R-1 Residential Zone

The applicant is requesting a conditional use permit to operate a two-bedroom Bed & Breakfast within a single-family dwelling in an R-1 Residential Zone. Bed & breakfast facilities are allowed as a conditional use in the R-1 zone.

2. Conditional Use

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. In permitting a conditional use the Planning Commission may impose conditions which are considered necessary to protect the best interests of the surrounding city as a whole.

YMC Chapter 9.72.050.E describes standards for Bed & Breakfast facilities. The standards are identified below and followed by a response in italics from staff or from the applicant.

- a. A bed and breakfast facility must be in a one-family dwelling.

APPLICANT RESPONSE: The residence is a single-family dwelling.

- b. A maximum of five bedrooms may be rented.

APPLICANT RESPONSE: Number of bedrooms to be rented: 2

- c. The facility shall be the residence of the operator, who is the owner or lease holder of the building.

STAFF RESPONSE: The applicant is the owner of the building.

- d. A resident, relief manager may be employed for no more than five months per year, unless approved by the Planning Commission.

- e. Rooms may not be rented for more than seven consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.

APPLICANT RESPONSE: Guest stays will be limited to no than seven consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.

- f. The exterior of the building shall maintain a residential appearance.

APPLICANT RESPONSE: The exterior of the building will not be altered.

- g. A morning meal must be served on premises and included within the room charge for guests of the facility and shall be the only meal provided.

APPLICANT RESPONSE. A morning meal will be provided.

- h. The facility must meet applicable county and state health, safety (including but not limited to the Uniform Building Code requirements concerning maximum occupancy) and liability requirements.

- i. An externally illuminated sign will be permitted on premises with a maximum area of three square

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feet, subject to approval by the Planning Commission.

APPLICANT RESPONSE: A sketch of the proposed sign is included with the application.

- j. One off-street parking space will be required for each rented bedroom, in addition to the number of spaces required for each dwelling unit.

APPLICANT RESPONSE: A sketch of the proposed parking is included with the application.

STAFF RESPONSE: Four parking spaces are required for a 2-bedroom B & B (2 parking spaces for the dwelling and 1 parking space per rented bedroom). Two spaces are available in the attached garage and two additional cars could be accommodated in the driveway.

By YMC definition, an off-street parking space is 18 feet long and 9 feet wide. The front yard is currently 28 feet deep as measured from the property line to the foundation. Therefore, parking spaces located in the driveway would extend from the foundation to the 10-foot setback from the property line.

In most circumstances, the required front yard extends to the 20-foot setback from the property line and YMC Section 9.04.030 Definitions says "Required off-street parking spaces shall not be located in a required yard that abuts a street". However, YMC Section 9.52.160 (A) (General exceptions of yard requirements) says "The required front or rear yard for a dwelling need not exceed the existing or probable average depth of the nearest front or rear yards of dwellings on all lots within one hundred (100) feet on both sides of the proposed dwelling". If the Planning Commission finds that the required front yard for the subject property could or should be calculated according to YMC Section 9.52.160 (A), additional data are attached to this staff report.

In 2015, the Planning Commission took a different approach to the issue of required parking for a Bed and Breakfast. In Case File #2-CU-PC-15, the Planning Commission approved a B & B application with 2 parking spaces located in the required front yard/right-of-way for a property on King Street. The reasoning they applied was that unlike the 2 spaces required for the primary residence, the additional spaces would only be required while the B&B was in operation. If the additional spaces proved problematic or circumstances changed, the conditional use permit could be revoked. The Findings and Conclusions included the following language:

Two-garage parking spaces shall be maintained for the resident of the facility. A minimum of two parking spaces shall be maintained in the driveway for the two rented bedrooms. If the King Street right-of-way (where the driveway is located) is needed in the future and the parking is eliminated, the B&B will not have adequate parking and therefore would need to cease operation unless approved by the Planning Commission through a variance procedure.

- k. A conditional use permit approved for a bed and breakfast facility will be reviewed by the City Planner at the end of each calendar year and the permit renewed for an additional year if permit conditions have been met. The permit may be withdrawn by the Planning Commission if it is determined that the conditions of the permit have been violated after reviewing written complaints and the staff report. The operator of a facility will be notified by the city in writing prior to the Planning Commission determination to allow the operator to appear and show cause why the conditional use permit should not be withdrawn.
- l. An increase in the number of rooms rented, over those previously permitted, will require a new

conditional use permit with the conditional use fee as provided in Section [9.88.050](#) reduced to one-half.

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is approved, staff offers the following recommended conditions of approval, which may be added to or amended at the Commission's discretion:

1. The B&B shall have a maximum of 2 rooms that can be rented.
2. A resident relief manager may be employed for no more than five months per year.
3. No room shall be rented for more than seven consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.
4. The exterior of the building shall maintain a residential appearance.
5. A morning meal shall be served on premises and included within the room charge for guests of the facility.
6. The owner shall retain a City of Yachats business license.
7. Any exterior sign shall comply with all provisions of the YMC sign ordinance and shall not exceed three square feet in size.
8. A minimum of two parking spaces shall be maintained for the residents of the facility. A minimum of one additional off-street parking space shall be maintained for each rented bedroom.
9. An increase in the number of rooms rented, over those previously permitted, will require a new conditional use permit with the conditional use fee as provided in Section [9.88.050](#) reduced to one-half.

Submitted by,
Katherine Guenther
City Planner