

Appeal

OF THE PLANNING DIVISION'S DETERMINATION REGARDING
STORAGE OF A VACANT RV ON APN 002-060-044

PLANNING COMMISSION: MARCH 16, 2023

Appeal Process

- Authorized under Mono County General Plan (MCGP) Land Use Element (LUE) Chapter 47.
- Appeal must be submitted within 10 days after Planning Division's determination.
- The Planning Commission may affirm, affirm in part, or reverse staff's determination provided relief is not granted via a variance or amendment.
- The Planning Division determination was made on January 12, 2023.
- The appeal form was received on January 20, 2023.
- The appeal must be agendaized for consideration within 60 days of filing.

Location & Setting

- 10041 US 395, Coleville; APN 002-060-044.
- Designated Rural Resort, existing restaurant (the Coachwhip Café) onsite.
- Adjacent parcels are Rural Resort (RU), Agriculture (AG), and Rural Residential (RR).
- A KOA campground/recreational vehicle (RV) park is located to the north.
- Property does not have a residential unit; owners were living in an RV.



Background: Notice of Violation (NOV)

- NOV issued in August 2022 for illegally living in an RV.
- NOV directive to remove the RV.
- The RV could be brought back if a building permit for a dwelling unit is submitted and a Director Review permit to live in the RV during construction is submitted and granted.
- Property owner contacted CAO Bob Lawton and Supervisor John Peters. Board of Supervisors had an opportunity to direct staff to develop a policy solution but did not do so.
- Staff was directed to continue the longer-term policy discussion for use of RVs as residences, which would not provide a timely solution for this situation.

Background: Citation

- The County's accessory dwelling unit (ADU) prescriptive designs were released.
- Property owners represented they could submit a building permit in 2-3 weeks.
- On Nov. 10, 2022, an email was sent providing until Nov. 28 to remove the RV, and they were advised to submit a building permit and DR permit application as soon as possible.
- No response was received. On Dec. 2, 2022, an administrative citation was sent via certified mail.
- The citation was not picked up; Community Development notified the property owners by email on Jan. 5, 2023.
- The property owners submitted an appeal of the citation in January 2023, which was deemed untimely by the Clerk's office.

Background: Policy Discussion

- Dec. 6, 2022: Board of Supervisors held a workshop to discuss allowing RVs to be used as residences.
- The Board received the staff presentation, provided input and preferences for policy changes, and directed staff to conduct public outreach with the Regional Planning Advisory Committees (RPACs) and Planning Commission.
- No specific direction was given regarding this compliance case.

Background

- January 6, 2023: Community Development received an email stating the RV is being stored vacant on the property.
- January 9, 2023: Property owners advised they could not meet the 2-3 week timeline to submit a building permit, but did not provide a new timeframe.

Decision Before the Commission

The only matter before the Planning Commission is the Planning Division's determination that the vacant RV cannot be stored on the property.

The administrative citation is subject to a different set of procedures under different authorities.

General Plan RV Regulations

- May be primary use in designated RV parks and as farm labor housing the Agriculture (AG) land use designation (LUD).
- **In all other LUDs, may only be stored on a property with no overnight use only if a primary use, such as a residence, is already established.**
- On vacant property, overnight RV use may be permitted during construction of a main building when a valid building permit has been issued for up to one year via a Director Review (DR) permit (MCGP LUE §04.040.B.).
- Long-term, temporary use as a residence may be permitted by DR in designated hazard zones (such as an avalanche area).
- RV use may be permitted for extenuating circumstances, such as supporting recovery and preventing displacement from disasters such as the Mountain View Fire in Walker.

Planning Division Determination

- Per MCGP LUE §01.040: “any use... not... listed in the land use designation is presumed to be prohibited...”
- The storage of RVs is not listed as an outright permitted use in any land use designation and therefore is presumed to be prohibited, unless subject to a planning permit.
- However, most LUDs, including RU, list “accessory buildings and uses” which allows for “...uses customarily incidental to any of the permitted uses...”
- The storage of unoccupied vehicles and RVs was deemed an accessory use customarily incidental to an overnight permitted use, such as a residence or hotel. (Result of policy discussions ca. 2000.)
- Therefore, storage of unoccupied RVs is permitted on properties with main uses that allow overnight occupation.

Planning Division Determination

- No overnight or residential use exists on this property; the restaurant is not an overnight use.
- Storage of an unoccupied RV is not related to the restaurant use.
- Therefore, the overnight storage of a vacant RV is not customarily incidental to any existing permitted use in the property and is determined not to be permitted.

Basis for Appeal

Fines accrued from 12/2/2022-1/5/2023 – letter of citation was not received.

- Response: The fines and citation are subject to a separate process and authority, and are not before the Planning Commission today.

RV has been vacant as requested.

- Response: The Notice of Violation required the RV to be removed from the property, not vacated.

Basis for Appeal

RV has not been moved due to winter storms and road closures. There was no knowledge the citation had been served.

- Response: The NOV was issued in August 2022, and the email sent on November 10, 2022, set a deadline of Nov. 28, 2022. All dates preceded the heavy winter storms in December. Significant breaks between storm cycles also occurred intermittently in January and February during which time US 395 north and south was open in Mono County. The citation was sent via certified mail to the address on record.

Letter of citation was not received. RV has been vacant to avoid citation, storage of RV was not understood to be issue. RV will be moved upon safe road conditions.

- Response: The Community Development Department did not receive any communication from the property owners between the November 28, 2022, deadline and the January 5, 2023, email notification of the citation. None of the documentation provided to the property owners indicated vacating the RV and storing it unoccupied was an acceptable solution.

Procedural Matters

- California Environmental Quality Act (CEQA): Project qualifies as an exemption under CEQA Guidelines §15270 – Projects Which are Disapproved.
- Public Notice: Published in The Sheet on March 4, 2023.
- Public Comment: No public comments received.

Appeal Decision

- The appeal body may render its decision at the conclusion of the hearing or at any time within 30 days.
- The Planning Commission may affirm, affirm in part, or reverse the Planning Division's determination that a vacant RV cannot be stored on APN 002-060-044, making appropriate findings.
- A draft resolution is provided should the Commission affirm the Planning Division's determination.