

March 11, 2014

To: Yachats Planning Commission

From: Larry Lewis, City Planner

Re: Public Hearing Procedures

At the last work session the Planning Commission stated they would like to discuss some public hearing procedures. A few topics for discussion are identified below. Some statements provided in this memorandum were provided by the City Attorney and other statements are based on my experience. Please think about other topics you would like to discuss.

A. Land Use Application Submittals Less Than 20 Days Prior to the Public Hearing or Submitted at the Public Hearing

- The Planning Commission has the right (and obligation) to review and understand application submittals. The Planning Commission may continue a public hearing (to a future specified date and time) to review material that is submitted just prior to or at the public hearing. The decision to continue a public hearing is made by the Planning Commission (acting as one body).
- If an applicant submits additional material less than 20 days prior to the hearing a member of the public may request a continuance or request that the record be left open in order to have time to review the additional material.
- A staff report is available for review by the public 7 days prior to the public hearing. If the staff report is not available 7 days prior to the hearing or the staff report is amended less than 7 days prior to the hearing the public may request the Planning Commission to continue the hearing.

B. Ex-parte Contact

Site visits by commissioners prior to the public hearing are allowed. I encourage site visits because it provides commissioners with a much better understanding of the application and proposed development. Site visits need to be declared as ex parte contact and include a brief description of what they saw and when they saw it. Please be cognizant of trespassing on private property without permission.

C. Planning Commission Role in a Quasi-Judicial Land Use Process

In a quasi-judicial land use process Planning Commissioners are acting as judges. Although it is appropriate to visit a site, commissioners should not be out doing their own research or fact investigation. Their job is to respond to matters and materials that are brought before them, i.e. the record.

D. Revisiting a Tentative Decision

There is no “decision” until the Planning Commission decision is put to writing and signed by the chair. A Planning Commissioner may make a motion to revisit the Planning Commission’s tentative decision and reconsider an earlier motion. The Planning Commission would then discuss the motion and then vote on the motion. If the motion to reconsider passes, then the Planning Commission would re-visit the merits of the earlier motion and decision, and have a new motion and vote on the tentative decision previously made. If the motion to reconsider does not pass, then the Commission moves forward with finalizing the written findings and decision. If the Commission decides to re-visit a tentative decision, the consideration and decision must be based on evidence that is submitted into the record.