

TO: Yachats City Council

FROM: Betty Reed

RE: Proposed Amendments to Section 9.52.070

I am writing to urge the city to reject the proposed amendments to Section 9.52.070, Shoreland Setbacks, and leave in place, the riparian corridor for streams contained in current code.

This proposal is yet another attempt by the city to weaken current environmental protections - all started by a single developer's desire to build a spec house at the end of Windy Way adjacent to Gender Creek after the property owner threatened litigation. At their core, these rules still seem to seek to achieve the same goal - allow a house at the end of Windy Way too close to the stream and too close to the ocean bluff.

The city spent nearly a year insisting Gender Creek is not a perennial stream. When that failed, a new proposal was made to eliminate the "perennial stream" label and instead "designate" certain streams for only half the protection contained in current code. This too gave rise to threats of litigation from property owners in the Overleaf Development and the city rescinded their new rule, promising a "fix" for those folks.

Now this proposed rule comes, which has something for everyone – except of course, the environment.

In this proposed rule, Agency Creek is declared a "drainage way" reducing the protection from 50 feet to 10 feet. The unnamed stream to the north is left entirely in the hands of the Overleaf Village and Fistera Planned Developments. Gender Creek is stripped of its 50 foot riparian corridor and declared "worthy of a 25 foot buffer." Other waterways listed in the LWI are ignored.

It is clear to me that the new provisions relating to Gender Creek are inconsistent with the rest of the code and are intended to give the illusion of compliance with the Statewide Goals. Simply referencing the goals does not create compliance. These new rules are still in conflict with the Yachats Comprehensive Plan and Statewide Goals.

The Planning Commission assumes the power to "designate" streams and re-classify named streams to "drainage ways" to suit its own purposes. At the same time it attempts to delegate responsibility to development groups.

The new proposal also gives the Planning Commission broad authority to make exceptions to all these rules and specifically cites as a justification to intrude into the riparian corridor the following: "*Adherence to requirements would result in a building footprint less than the norm of the neighboring properties.*" No definition is included for the "norm of the neighboring properties." This provision will authorize the planning commission to grant exceptions whenever it is expedient to do so.

The proposed rules are internally inconsistent, in violation of the Yachats Comprehensive Plan and Statewide Goals. They reduce important environmental protections, ignore real hazards from flooding, landslides and erosion.

Please reject them out of hand and leave intact the rules adopted in 2012 with the passage of Ordinance 338.