

MEMO

TO: Ron Brean, Mayor City of Yachats

FROM: Nan Scott, Chair Yachats Planning Commission

RE: Yachats Zoning and Land Use Code Section 9.52.070 Shoreland Setbacks Draft Amendments

The rationale for the proposed amendments was to provide specific setbacks and protection for rivers, streams, and waterways within the City Limits and to bring the code in line with the City's Comprehensive Plan.

The current code provides specific setback requirements ONLY for the Yachats River and any fish bearing perennial streams. Two unnamed tributaries have been identified that have fish habitat and flow into the Yachats River.

Section 9.52.070 D. 2. States: The provisions of this subsection apply to the river, **fish bearing and perennial streams**, significant wetlands, and associated riparian areas. *(The punctuation of the highlighted phrase requires that a stream be BOTH fish bearing AND perennial)*

The 50' setback requirement is in keeping with state standards for a fish-bearing stream with an average annual stream flow that is less than 1,000 cubic feet per second (cfs) as per the "Safe Harbor" method.

The "Safe Harbor" method is only applicable on fish bearing rivers and streams, so to be able to set specific setback requirements for the other non-fish bearing streams within the City, the Commission has included justification based on Statewide Goals 5, 7, and 17. This was done upon the advice of the City Attorney and a contact at DLCD (Department of Land Conservation and Development). Otherwise we would have had to use the ESEE (Economic, Social, Environmental, and Energy) method which would have not only been time consuming, but would have likely generated minimal setbacks.

Other streams or creeks that intersect the shoreland but are not specifically mentioned are covered under the Comprehensive Plan Goal A. Protection of Natural Resources, Policy 13 which states:

Where streams and creeks intersect the Shoreland, a 25 ft. buffer shall be maintained; and where a stream and creek intersect the river edge, a 50 ft. buffer shall be maintained. The buffer is to be measured from the top of the bank; ...

One could argue that this covers "Gregory Creek" although this creek was not identified in the LWI. It does show on USGS maps but is located considerably north of the Crestview landslide.

The proposed amendments are far from perfect, but I believe that they are an improvement on the minimal stream protection that currently exists. Although we may want to provide greater protection in some areas, we have to be cognizant of existing development and property rights in those developed areas.

Unstable soils and landslide prone areas are not addressed in this ordinance, but that should be the subject of future discussion in the Planning Commission.