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**CITY OF YACHATS**  
**PLANNING COMMISSION**  
January 20, 2015

Minutes

The January regular meeting of the Yachats Planning Commission was called to order by Lawrence Musial at 3:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Musial, Nan Scott, Ken Aebi, Ron Urban, Shelly Shrock and Christine Orchard. Absent: Katherine Guenther. Also present, City Planner Larry Lewis. Audience – 36.

**I. Election of Chair and Vice Chair**

Nan Scott and Katherine Guenther were nominated to serve as Chair.

The vote was a tie, so Aebi suggested that this be continued until next month when Guenther is present. A new vote will be taken at that time.

**II. Announcements and Correspondence – None.**

**III. Minutes – Work Session and Regular Meeting – December 16, 2014**

Motion to adopt the Minutes, Aye – 4, No – 0, Abstain – 2 (Orchard and Musial), Absent - 1.

**IV. Citizen's Concerns**

When asked about curbs for the Hwy 101 improvement project, Musial explained that the Planning Commission is not involved with the project. However the City Planner has been.

Lewis explained that the curbs will be the standard curbs required by ODOT.

**V. Public Hearing**

**A. Proposed Zoning and Land Use Amendment – Chapter 9.52.070 Shoreland Setbacks**

Musial said that the Planning Commission has received all of the written testimony and has reviewed it; and asked that if someone has submitted written testimony they are asked to not come up and read that written testimony. If they have additional testimony not contained in the written testimony they may present it at this time.

Musial said that if anyone agrees with something that was said earlier, it is not necessary to repeat what was said, just say that they agree.

Musial read off the names of those that have submitted written testimony.

Staff was asked to summarize the proposed amendments.

Lewis said that shortly before the meeting today the City received a notice of a Land Use Board of Appeals (LUBA) Appeal of the Ordinance adopting the Local Wetlands Inventory (LWI) in 2012, which could affect the proposed amendments.

1 Lewis said since the LWI was adopted there have been some things discovered:

- 2 • The Yachats River flow rate has been determined to be less than the amount that would  
3 require a 75 foot setback.
- 4 • The unnamed stream at the north end of town is not actually a fish bearing stream as  
5 was reported in the Wetlands Inventory, so the 50 foot setback will not apply to that  
6 stream.

7  
8 Lewis said that with these changes and all of the testimony received and the questions asked  
9 there is much for the Commission to consider.

10  
11 Musial asked for testimony and explained that people will be asked to keep that testimony to  
12 three minutes.

13  
14 Eric Scholbom said that he is in favor of riparian protection, but he feels that since his lot is in a  
15 subdivision and not out in the wilderness the proposed setbacks are excessive.

16  
17 Karen Lettiere said that with the proposed changes to the setback for the Yachats River from 50  
18 feet to 75 feet she sees her dream for building on her lots in Quiet Water vanishing.

19  
20 Robert Noble said that he appreciates the fact that the 75 foot setback on the Yachats River will  
21 not be adopted based on the flow rate.

22  
23 Noble said that he has joined the LUBA Appeal on the Ordinance adopted in 2012 because he  
24 did not receive any notice.

25  
26 Noble said that he does not understand why there was no staff report so that the public can  
27 understand why the proposed changes are being made.

28  
29 Noble said that he would like the record to remain open for at least 7 days.

30  
31 Mike Evans said that he and his partner Jerry Betz own property on the south side of the  
32 Yachats River. The setbacks proposed in the proposed amendments will eliminate any access  
33 to their property.

34  
35 Evans said that he also did not receive the notice for the Ordinance that was adopted in 2012,  
36 so he has joined the LUBA Appeal.

37  
38 Evans said that not everything is a one size fits all, and there are other methods to determine  
39 setbacks while still protecting the resource.

40  
41 Mia Nelson said that she owns property on Gender Creek. She said that Agency Creek and  
42 Gender Creek are not natural streams, so both the Ordinance adopted in 2012 and these  
43 proposed amendment are illegal. The State has a process for determining setbacks and the City  
44 has not followed that process.

45  
46 Nelson said that the City has not followed the Safe Harbor process, and the protections and  
47 restrictions placed on the homeowners are not legal.

48  
49 Candy Neville said that she owns property in town and if this Ordinance is adopted her lot will  
50 not be dividable or buildable.

1 Neville said that Agency Creek is not a natural creek; rather it is a concrete culvert on her  
2 property.  
3  
4 Neville said that she has joined the LUBA Appeal.  
5  
6 Robert Mac Oine said that Gender Creek is not natural in any sense because every property  
7 owner along that creek has made changes to the waterway.  
8  
9 Mac Oine said that the City of Yachats is a human environment, and the proposed amendments  
10 do not take that into account. The City needs to acknowledge that humans create and maintain  
11 the environment in which they live.  
12  
13 Jack Kerby said that he believed that Agency Creek was a drainage ditch when he purchased  
14 his property 48 years ago. It was not until about 15 years ago that he was told it was a creek.  
15  
16 Kerby said that he already does what he can do to protect and maintain the creek, and he thinks  
17 his neighbors do as well.  
18  
19 Michael Medford said when he bought the lot next door to his house so he could use it for his  
20 back yard he knew that Agency Creek ran through it, so they decided to uncover it and take it  
21 out for the culvert. Since that time they have maintained it and it has added to the beauty of his  
22 garden.  
23  
24 Drew Roslund said that he was involved with the development of the Overleaf Village and he  
25 knows what they would not have been able to do with that development if this Ordinance had  
26 been in effect at that time. When they bought the property the unnamed creek had already  
27 been modified by the previous owner and it was culverted.  
28  
29 Roslund said that the science needs to be done before an arbitrary and erroneous designation  
30 is given to that creek.  
31  
32 Lanny Harrison said that he is the President of the Overleaf Village and he has surveyed the  
33 homeowners. None of them can remember getting any notice about Ordinance 315 in 2012.  
34  
35 Harrison said that there are no fish in that stream.  
36  
37 Harrison said that the Homeowners Association rules are very strict and he believes the  
38 Homeowners can maintain that creek in a reasonable manner without the restrictions that are in  
39 place today.  
40  
41 Joni Bicksler said she is not sure if she has a problem because she has a drainage ditch  
42 between her property and the subdivision that she created and she has been asking the City to  
43 get the water off her property that comes down the hill onto her property.  
44  
45 Musial asked if there were any others that would like to speak. There were none.  
46  
47 Musial said that he would like to thank the speakers for holding to the three minutes they were  
48 given.  
49  
50 Musial closed the public testimony for today, however the record will be kept open for some  
51 time.

1  
2 Scott said that she believes the LUBA Appeal will have an effect on what the Commission does,  
3 and the Commission has a lot of work to do.  
4

5 In discussing continuing the hearing, it was agreed that it could be continued to a date certain,  
6 and then could be continued again if needed.  
7

8 Motion to continue the Public Hearing to the February 17, 2015 meeting, Aye – 6, No – 0,  
9 Absent – 1 (Guenther).  
10

11 **VI. Planner’s Report – None.**

12 **VII. New Business – None.**

13 **VIII. Other Business**

14 **A. From the Commission**

15  
16  
17  
18 Scott said that she thinks the people that have asked questions in their testimony that they be  
19 given a written response.  
20

21 It was agreed that the Commission will work with the City Planner to arrive at the answers to the  
22 questions.  
23

24 **B. From the Staff – None.**

25  
26 The meeting was adjourned at 4:05 p.m.  
27  
28

29 \_\_\_\_\_  
30 Lawrence Musial  
31

32 \_\_\_\_\_  
33 Nancy Batchelder, City Recorder  
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