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CITY OF YACHATS
PLANNING COMMISSION
March 17, 2015

Minutes

Chair Nan Scott called the March 2015 meeting of the Yachats Planning Commission to order at 3:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Scott, Katherine Guenther, Ken Aebi, Lawrence Musial, Ron Urban, Shelly Shrock and Christine Orchard. Also present, City Planner Larry Lewis. Audience – 25.

I. Announcements and Correspondence

None.

II. Minutes

- **Regular Meeting and Work Session – February 17, 2015**
- **Work Session – February 24, 2015**

Motion to adopt the Minutes of the Work Session and Regular Meeting of February 17, 2015, Aye 7, No – 0.

Motion to adopt the Minutes of the Special Work Session of February 24, 2014, Aye – 7, No – 0.

III. Citizen's Concerns

None.

IV. Public Hearing

A. Case File #1-CU-PC-15 Tryon Conditional Use Application

Scott opened the Public Hearing for the **Tryon Conditional Use Application – Case File 1-CU-PC-15.**

Scott explained that the purpose of the hearing is to consider the application made by **Chris Tryon.** Scott asked if anyone wished to object to the jurisdiction of the Commission to hear this matter.

None.

Scott asked if any Commissioner wished to make any disclosure, or abstain from participating or voting on this application because: of possible financial gain resulting from this application, because you own property within the area entitled to receive notice of this hearing; because you have a direct private interest in the proposal; or because you have determined that you cannot be impartial?

None.

Scott asked if any Commissioner needs to declare any contact, written, oral or otherwise, prior this hearing, with the applicant, appellant, any other party involved in this, or any other source of

1 information (outside of staff) regarding the subject of this hearing? If so, please state with whom
2 you had contact and what was said.
3
4 Urban said that he had spoken with the former owner of the property, but since they no longer
5 owned the property, it had no influence on how he would vote.
6
7 Aebi said that Betty Johnson, who lives in the neighborhood called him to ask questions. He told
8 her that he had not read all of the documents yet and that he was not comfortable discussing
9 the matter and invited her to attend the public hearing.
10
11 Scott asked if the Commission has been given all testimony that has been submitted to date.
12
13 Lewis said that they have been, including the letter that was received this morning.
14
15 Scott asked the Commissioners if they felt that they have had adequate time to review all the
16 testimony.
17
18 They agreed that they have.
19
20 Scott asked if anyone objected to any Commissioner hearing this case.
21
22 There were none.
23
24 Scott said that the public hearing process would be as follows:
25 a. Staff will identify the relevant criteria and summarize the staff report.
26 b. The applicant will have the opportunity to present the request and address
27 questions.
28 c. Proponent, then opponents, then people who are neutral will have opportunity to
29 speak.
30 d. The applicant will then have the opportunity to rebut any opponent testimony.
31
32 Scott asked the City Planner to summarize the staff report.
33
34 Lewis briefly described the key points in the application and the staff report.
35
36 Scott opened the public testimony portion of the hearing. Scott asked everyone addressing the
37 Planning Commission to come forward and complete the sign-in sheet.
38
39 Scott asked the applicant to provide any additional information.
40
41 Chris Tryon said that he is a long time Waldport resident and he introduced his planner, Jay
42 Sennewald.
43
44 Sennewald said that the proposed development is a small-scale one, which will be marketed to
45 couples who arrive in one vehicle and who want to enjoy a quiet weekend on the coast.
46
47 The property currently has two old singlewide mobile homes, which are non-conforming use, as
48 they would not meet current code.
49
50 Sennewald said that the fire pit would be a gas one so there will not be any smoke.
51

1 Sennewald said that there will be a manager who makes daily visits but there will not be any
2 live-in manager.
3
4 Scott asked if there were any proponents that wished to testify.
5
6 There were none.
7
8 Scott asked if there were any opponents that wished to speak.
9
10 Jo McDow said that they purchased their property in 1983 and have worked to improve that
11 property since that time. Every time she is in Yachats and is outside people, stop and say that
12 her property is their favorite place in Yachats.
13
14 McDow said that she knows that it is in a commercial zone and she realizes that any business
15 could be there but she doesn't want a motel there. She said that there would be nothing to
16 prevent friends from renting the entire place and have a really big party.
17
18 Bonnie Jean McVay said that she lives next door to the proposed motel and she operates tattoo
19 pallor. The City made her have six parking spots but she can only work on one customer at a
20 time.
21
22 McVay said that she already has one motel next to her; she is worried about the noise if there is
23 another one built in the area.
24
25 Peggy Speer said that she lives in the neighborhood. She would like to see some development
26 there that would better foster the community.
27
28 Speer said that she does not know how they are going to limit the number of people who stay
29 there or the vehicle they drive.
30
31 Speer said that she would also like to know if pets will be allowed.
32
33 Scott asked if there were any that wished to provide neutral testimony.
34
35 Kathy Kuck said that she would like to know how they are going to limit the number of people
36 who are staying there, and who would be responsible for responding if there are complaints.
37
38 Paul Thompson said that he has complained about the parking at Transient Rentals and the
39 City has not done a good job of enforcing the rules, so he is concerned about the parking and
40 traffic that will be associated with the motel.
41
42 Thompson said that if there is a sign on the Hwy for the motel more people will be driving down
43 that street to see the motel, which will increase the traffic in the area.
44
45 Ron Vil asked if there could be an issue if the use is changed in the future to transient rentals or
46 long-term rentals.
47
48 Vil said that he is also concerned about the fact that there will be no onsite manager.
49
50 Scott asked if the applicant would like to provide any rebuttal.
51

1 Sennewald said that the type of concerns voiced today are normal every time there is a
2 proposed development because people are not sure of what will happen and they are afraid of
3 how they will be impacted.
4
5 Sennewald said that they could build a mini-mart selling beer and wine there without any special
6 type of permit since it is commercially zoned.
7
8 Sennewald said that they do not intend to allow pets.
9
10 Sennewald said that they are proposing parking spaces which are in excess of the City's
11 requirements.
12
13 Sennewald said that the units will not have any kitchens, only a sink and refrigerator so they will
14 not ever be rented by the month.
15
16 Tryon said he intends the exterior lighting to be low and non-obtrusive.
17
18 Sennewald said that he anticipates the building permits will be submitted in the spring.
19
20 Sennewald said that the City Code does not allow for off-site signs.
21
22 Spears asked if Tryon was tied into the five units. She said that three would seem to be a better
23 number of units for the property.
24
25 McDowell asked how they can keep five couples from renting the five units so they can have a
26 big party.
27
28 Scott said that neither of those questions were anything the Planning Commission should be
29 discussing nor consider when making a decision.
30
31 Scott asked if any of the Commissioners had any questions they would like to ask of the
32 applicant before the public testimony portion of the hearing is closed.
33
34 There were none.
35
36 Scott asked the Planning Commission if they believe they have all the necessary evidence they
37 will need to make a decision.
38
39 They agreed that they have.
40
41 Scott asked if there were any requests to leave the record open for additional information.
42
43 There were none.
44
45 Scott closed the public testimony portion of the public hearing and opened the deliberations.
46
47 Guenther said that it seems to her that there are two different issues: the structures and the use
48 of the structures.
49
50 Guenther said that if the use were to change to long-term rentals the units would be a non-
51 conforming use because they would exceed the density for the zone and the parking would not

1 meet the requirements for long-term rentals. Although they are not planning to rent them long-
2 term, things may change in the future. If the use were changed, the fifth unit would exceed the
3 standards for residential use in a commercial zone.

4
5 Musial said that he understands Guenther's concern he believes the Planning Commission
6 should make the decision based on the information in the application.

7
8 Urban said that according to the current Code if there are four or more connected parking
9 spaces they must be serviced with a driveway so they are not backing into the street.

10
11 It was noted that the parking spaces are separated so that there are not four contiguous spaces.

12
13 Musial asked if the parking would take away any on-street parking. Lewis said that it would on
14 3rd Street.

15
16 Shrock asked if there is a requirement for an onsite manager. Batchelder explained that there is
17 no such requirement.

18
19 Urban asked if there should be a performance bond required.

20
21 Scott said that performance bonds are only required when there is a subdivision with utilities
22 that would be dedicated to the City upon completion.

23
24 Aebi said that while he understands the concerns voiced today, but he believes that the
25 proposed development will be good for the community and will be an improvement over what is
26 on that property now.

27
28 Orchard reminded him that the Planning Commission cannot make a decision based on
29 personal options.

30
31 Motion to approve the Conditional Use with the conditions Lewis proposed in his staff report,
32 Findings and Order to be prepared for the Chair to sign, Aye – 6, No – 1 (Guenther).

33
34 **B. Proposed Zoning and Land Use Amendment – Chapter 9.52.070 Shoreland**
35 **Setbacks**

36
37 Scott explained that the public hearing on this has been continued, and will be continued again,
38 but the record has been kept open and she asked if there was anyone that would like to provide
39 testimony.

40
41 Mike Evans said that he believes that the Planning Commission should go back to the beginning
42 by rescinding Ordinance 315, get a corrected LWI as the first step and then start working on a
43 new Ordinance.

44
45 Evans said that he is one of the LUBA appellants and he is requesting the Planning
46 Commission recommend to the City Council that they rescind Ordinance No. 315 because there
47 was not enough public involvement in developing the original Ordinance.

48
49 Scott said that the City is in the process to correct the LWI, which involves the flow rate for the
50 Yachats River and determining if there are fish in the unnamed stream at the north end of town.

1 Dennis Schelke said that he is a resident in Quiet Water and he is concerned that they will not
2 be allowed to maintain the vegetation and the walking path along the river.
3
4 Scott explained that at the special Work Session on February 24, 2015 the Planning
5 Commission went through and answered all of the questions raised in the testimony, including
6 those very questions. A copy of the answers will be sent to all those that asked the questions.
7
8 Robert Nobel said that he would like to request the Planning Commission hold off on making
9 any amendments to Ordinance No. 315 until the LUBA appeal has run its course or the City
10 Council rescinds Ordinance No. 315.
11
12 Nobel said that if he had received his notice he would have objected to the use of the LWI,
13 which is flawed.
14
15 Lanny Harrison said that he is the Chair of the Overleaf Homeowners Association and he sees
16 that there are some definite flaws in the current Code and the proposed amendments. He
17 believes that it would be best to rescind Ordinance No. 315 and begin again with the proper
18 notice and more public involvement.
19
20 Scott asked of those that have spoken if there were specific objections to the 2012 Ordinance.
21
22 Harrison said that as for the Overleaf Village their concern is that the un-named creek did not
23 even exist until development of the home sites. The stream was created when the development
24 was created. There are CCRs in place to protect that stream. If the setback were even 25' that
25 would be in the middle of the living rooms of many of the homes. The home owners can
protect 26 that stream whether there are fish in it or not.
27
28 Scott said that the proposed setbacks are in the current amendment, and not in the 2012
29 Ordinance.
30
31 Harrison said that he understands that, however if the 2012 Ordinance is found to be invalid
32 because of lack of notification, then the amendments are moot.
33
34 Harrison said that if the LUBA appeal runs its course it could be very expensive for both sides.
35
36 Scott said that the Commission is trying to work things out to avoid the necessity of going to
37 LUBA and it may be possible to do so with the amendments the Commission is working on now.
38
39 Candy Neville said that she has owned her property since 1998. She is requesting that the City
40 look at Agency Creek because she does not believe it is a creek. She believes that it starts on
41 her property but it cemented and until the hillside above her was clear-cut there was just a
42 trickle of water.
43
44 Neville asked the Planning Commission to rescind Ordinance No. 315 and start over.
45
46 Richard Staats said that he does not believe Agency Creek should be on that list. On his
47 property, it is underground for much of its run.
48
49 Scott announced that the public hearing is continued to the April 21, 2015 meeting.
50

1 Harrison requested that the Planning Commission make a decision on rescinding Ordinance
2 315 earlier than next month.

3
4 Scott said that the Commission is not prepared to make a decision at this time. However, the
5 Planning Commission would discuss the request and if necessary may schedule a special
6 meeting.

7
8 **V. Planner's Report – Larry Lewis – Attached.**

9
10 **VI. Other Business**
11 **A. From the Commission**

12
13 There was discussion regarding the request to rescind the Ordinance. There was consensus
14 that it is not up to them to make this decision – it should be the City Council. And, there was
15 consensus that they would not feel comfortable making any recommendation until the City
16 Attorney is asked for advice.

17
18 Lewis was asked to continue working on getting the corrections to the LWI and a determination
19 regarding fish in the un-named stream.

20
21 Aebi said that he believes that if the City and the appellants were to work together a good
22 Ordinance could be drafted.

23
24 It was noted that many of the issues being brought up now regarding Ordinance No. 315 are
25 issues that were not even changed in Ordinance No. 315.

26
27 There was consensus to wait to schedule any special meeting until the City Attorney's advice is
28 received and that the Planning Commission will make the decision based on that advice.

29
30 **B. From Staff - None.**

31
32 The meeting was adjourned at 5:30 p.m.

33
34
35 _____
36 Nan Scott, Chair

37
38
39 _____
40 Nancy Batchelder, City Recorder