City of Yachats

YACHATS PLANNING COMMISSION
December 17, 2019

Work Session Approved Minutes

Vice-Chair Lance Bloch called the December 17, 2019 work session of the Yachats Planning Commission to order at 2:00 pm in the Room 1 of the Yachats Commons. Members present: Doug Conner, Helen Anderson, Lance Bloch, Jacqueline Danos, Christine Orchard, Mary Ellen O'Shaughnessey, and Loren Dickinson. Absent: none. Staff Present: City Planner Dave Mattison. Also present: COG Planner Justin Petersen. Audience: 7.

I. Quasi-Judicial Hearing

Bloch noted the lighting discussion has been moved to later in the agenda.

Commissioner Anderson explained the memo in the packet was included to remind Commissioners that they are to only make decisions in quasi-judicial hearings based on what is presented at the hearing. Commissioner Orchard explained this memo arose from previous Commissions not being clear about what the basis for a decision was. She noted the sentence highlighting that decisions can only be made on current code requirements. Anderson elaborated on the concept that Commissioners act as jurors, noting that they can request that the Planner put certain information in the packet. She stressed the importance of correcting a staff report prior to the hearing, as the Planner could update the staff report prior to the hearing.

Anderson highlighted that once the public testimony is closed, the Commissioners are to deliberate among themselves and not ask the applicant or others in the audience questions. She noted she can reopen the public testimony for additional questioning if needed. Anderson suggested the structure of the hearing favors the applicant in that they cannot add information against the case unless someone in the audience testifies to such a matter. Commissioners Danos clarified that they can refer back to previous Commission decisions.

Planner Peterson reported the state can provide trainings on Planning 101 or more specific issues. He noted they could also conduct a mock hearing. Peterson added that a professor who teaches the land use at the University of Oregon was willing to conduct trainings at a cheaper rate than what the League of Oregon Cities can provide.

Bloch stated that training would be very helpful, especially for some of the newer Commissioners. Commissioner O'Shaughnessey stated that know the process was essential as that was more often the reason for successful lawsuits.

Bloch referred to the clause in the memo stating, "…regardless of public comments and regardless of Commissioners' own opinions, the Planning Commission must comply with already established policies and land use regulations." He noted the Commission operates under a policy of protecting the health and safety of citizens. He asked if someone testifies to a safety issue, could that be a basis for denial. Petersen stated there are normally standards and the staff report should provide an indication of whether standards are met. He suggested that the health and safety criteria does allow for some flexibility.

Anderson provided a hypothetical example of a conditional use where someone testifies that cars speed in the area, the road is dangerous, and children regularly cross the road in that area. She asked if health and safety could be applied to this situation. Petersen indicate that it could potentially be used and that might be an instance of when a continuance is used for the Planner to gather additional information. Petersen suggested it would be better to continue the meeting rather than making the decision on the testimony alone. Mattison stated the Commission can use information provided through public testimony can be used as a basis of a decision. He suggested that the appellant simply stating they do not like the proposal was not sufficient, but if they stated reasons for why it would be detrimental to their neighborhood could be considered. Commissioner O'Connor clarified that that the Commission can consider policies in the Comprehensive Plan in their decision making. Peterson suggested that the Comp Plan must be specifically mentioned in the conditional use criteria for the Comp Plan to be used.

Danos suggested the Commissioners could use training in the larger question of what planning encompasses.

Bloch noted that for variances, there were five criteria listed in the staff report and it does not mention the Comp Plan. Mattison noted that the code does state that for variances, the proposal must comply with any city plan or policy.

II. Conditional Use for Vacation Rentals

Anderson explained that the Council has asked the Commission to look into establishing a conditional use for vacation rentals in the residential zones. She noted the decision to proceed this way was not final and the Council has yet to provide any criteria upon which a decision could be made. Anderson suggested Council could ask the Commission to make recommendations about criteria or standards.

Bloch noted the discussion at the Council meeting included a discussion of unlimited vocational rentals in zones R-4 and C-1. Anderson noted the caps were considered in Title 4 and not Title 9. Bloch had concern about an interaction between zoning and allowing vacation rentals. Orchard clarified that currently vacation rentals can exist in residential zones as long as a license is available. Danos added that the criteria for vacation rentals are part of Chapter 4.08. Commissioners discussed items that could be part of a conditional use criteria. Conner clarified that a conditional use permit does not expire unless a property changes the conditions of the conditional use. Bloch noted a recent conditional use for a bed and breakfast when the house was for sale. Bloch suggested it was odd that a conditional use would remain with a property while a license would expire upon the sale of a property.

Orchard clarified that there were no regulations around long-term rentals.

Dickinson clarified that the annual review by the Planner on a conditional use was to determine if there were changes in the conditional use. Anderson asked Mattison how he conducted a conditional use review. Mattison indicated that if a conditional use was not operational for one year, the conditional use is void.

Mattison noted the attorney was looking at how the standards in Title 9 meshed with the standards for a vacation rental in Chapter 4.08. Conner suggested the workload of the Planner would be impacted if vacation rental conditional uses had to be reviewed annually. Commissioners discussed the possible areas where vacation rentals could be added to the R-4 zones.

Bloch adjourned the work session at 2:49 pm.

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Lance Bloch, Vice-Chair Date

Minutes prepared by H H Anderson on January 8, 2020.