

1. Agenda Packet

Documents:

[COMPLETE_PLANNING_PACKET-2-16-16.PDF](#)

2. Meeting Materials

Documents:

[PUBLIC_HEARING_AMENDMENTS_2-16-16.PDF](#)

[PLANNERS_REPORT_2-16.PDF](#)

[PC_WS_MINUTES-2-16-16.PDF](#)

[PC_MINUTES-2-16-16.PDF](#)

[PC_AGENDA_2-16-16.PDF](#)

[MEMO_POTENTIAL_RECREATIONAL_MARIJUANA_STANDARDS_2-16.PDF](#)



CITY OF YACHATS
Planning Commission
February 16, 2016
Civic Meeting Room - Yachats Commons

WORK SESSION – 2:00 P.M.
Recreational Marijuana Standards
RV Parking (no material included in packet)

REGULAR MEETING – 3:00 P.M.

- I. Election of Chair and Vice Chair
- II. Announcements and Correspondence
- III. Minutes
 - Regular Meeting and Work Session –January 19, 2016
- IV. Citizen's Concerns
- V. Public Hearings
 - A. Proposed Yachats Municipal Code Amendment – Section 5.08.110 Noxious and Invasive Vegetation
 - B. Proposed Zoning and Land Use Amendment – Vacation Rentals
Chapter 9.04.030 Definitions and Chapters 9.12 – 9.28 Residential and Commercial Zones
 - C. Proposed Zoning and Land Use Amendment – Chapter 9.76 Nonconforming Lots and Uses
- VI. Planner's Report – Larry Lewis
- VII. New Business
- VIII. Other Business
 - A. From the Commission
 - B. From Staff

Next Meeting Date: March 15, 2016

This meeting is open to the public and all interested citizens are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be given to the City Office one-week prior to the meeting. Minutes of all public meetings are available for review in the City Office. The facility is handicap-accessible; individuals needing assistance please contact the City Recorder at (541) 547-3565, or Oregon Relay 1-800-735-2900 (T.D.D.) two days in advance. The City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.

Posted on February 10, 2016

Nancy Batchelder, City Recorder

February 9, 2016

To: Yachats Planning Commission
cc: Nancy Batchelder, City Recorder

From: Larry Lewis, City Planner

Re: Potential Recreational Marijuana Standards

The Yachats City Council has requested the Planning Commission discuss the State's legalization of recreational marijuana and discuss whether regulations should be established that would be in addition or more restrictive than State regulations.

The following excerpts are from the League of Oregon Cities *Local Government Regulation of Marijuana in Oregon*, August 2015. (see <http://www.orcities.org/Portals/17/A-Z/A%20to%20Z%20Documents/LocalRegulationMarijuana08-14-15.pdf>) This document is a guide to assist cities in evaluating local needs and concerns regarding medical and recreational marijuana.

Legalization of Recreational Marijuana

In November 2014, Oregon voters adopted Measure 91, legalizing the growing, distribution, possession and use of marijuana in certain amounts for non-medical use. In 2015, the state Legislature reforms Measure 91, primarily under HB 3400.

State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory "floor." In other words, although the courts generally have upheld a city's authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So, for example, where state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

Recreational Wholesalers and Retailers

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license.

Time, Place and Manner Regulations

HB 3400 provides that local governments may impose reasonable regulations on the time, place and manner of operation of marijuana facilities. The League believes that, under the home rule provisions of the Oregon Constitution, local governments do not need legislative authorization to impose time, place and manner restrictions, and that the Legislature's decision to expressly confirm local authority to impose certain restrictions does not foreclose cities from imposing other restrictions not described in state law.

HB 3400 provides that cities may regulate marijuana facilities by imposing reasonable restrictions on:

- The hours of operation of recreational marijuana retailers and medical marijuana grow sites, processing sites and dispensaries;
- The location of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between recreational marijuana retailers;
- The manner of operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and dispensaries; and
- The public's access to the premises of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries.

Summary

In summary, here are regulations that the Planning Commission may, or may not, want to consider:

Location: Wholesale and retail licenses may not locate in residential zones. Therefore, they may be located in the C-1 Retail Commercial zone. Should it be further restricted, e.g. only allow wholesale and retail licenses in C-1 zoned properties fronting Hwy 101?

Drive-Through: Should wholesale and retail licenses be restricted from having drive-through facilities?

Business License: This may be covered but consider stating that annual City of Yachats business license shall be maintained by all recreational facilities.

Hours and Rules of Operation: Does the City want to specify days and hours of operation. For example, the City of Waldport allows medical marijuana facilities to operate seven days a week, including holiday, between the hours of 9:00 a.m. and 8:00 p.m.

Other: Other considerations include additional security requirements, control of visibility of activities and control of emissions, no City liability-indemnification, and penalties.

CITY OF YACHATS
PLANNING COMMISSION
Work Session
January 19, 2016
Minutes

Vice Chair Christine Orchard called the January work session to order at 2:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Orchard, Nan Scott, Ron Urban and Ken Aebi. Absent: Shelly Shrock. Also present, City Planner Larry Lewis.

There was discussion about the Shoreland Setback amendments that were adopted by the City Council. The Commission discussed the one change the City Council made, i.e. setbacks apply *from either side* of stream. The Commission discussed the process for the City Council to make changes to the Planning Commission's recommendations. The Commission also discussed testimony that was forwarded from the public to the City Council.

The Commission discussed and agreed with the Commission's previous recommended amendment to YMC Section 5.08 Noxious and invasive vegetation.

The Commission discussed and agreed with the Commission's previous recommended amendment related to vacation rentals, i.e. adding a new definition and identifying Licensed Vacation Rentals as an outright use in the residential and commercial zones. Commissioner Orchard noted that editorial changes were needed in the proposed definition of 'vacation rental' which she will make and forward to the city planner and Commissioners.

The Commission discussed and agreed with the Commission's previous recommended amendment related to Nonconforming lots and uses, i.e. adding 'development activity' as a nonconforming use. Commissioner Urban noted that 'development' is well-defined in YMC Section 9.04.030 Definitions.

There was discussion that three separate public hearings will be held for the three above-identified amendments at the Planning Commission's February meeting.

The Planning Commission discussed the need to discuss potential recreational marijuana regulations at the February work session. City Planner Lewis will forward State regulations on recreational marijuana to Commissioners. Lewis will also research the possible 'RV parking' loophole that was identified by a former Commissioner.

The work session was adjourned at 2:50 p.m.

Christine Orchard, Vice Chair

Attest:

Nancy Batchelder, City Recorder

CITY OF YACHATS
PLANNING COMMISSION
January 19, 2016

Minutes

The January meeting of the Yachats Planning Commission was called to order by Chair Nan Scott at 3:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Scott, Christine Orchard, Ron Urban, and Ken Aebi. Absent: Shelly Shrock. Also present, City Planner Larry Lewis. Audience – 1.

I. Announcements and Correspondence

None.

II. Election of Chair and Vice Chair

The Commission decided to postpone the election of the Chair and Vice Chair until the February meeting when the two vacant positions are filled and the entire Commission is present.

III. Minutes – Regular Meeting and Work Session – September 15, 2015

Motion to adopt the Minutes of the Regular Meeting and the Work Session of November 17, 2015, Aye – 2, No – 0, Absent – 2 (Scott, Aebi) .

IV. Citizen's Concerns - None

V. Public Hearing - None

VI. Planner's Report – Larry Lewis – Attached, in writing.

VII. New Business

A. Planning Commission membership.

Commissioner Orchard stated that her membership expired and she is seeking reappointment. The Commission noted there are three applicants that have applied for the two vacancies. One applicant, John Deriberprey, was present and described his qualifications and interest in being appointed to the Planning Commission. Following discussion the following motions were made:

Motion to recommend to the City Council that John Deriberprey be appointed to the Planning Commission to complete the remaining 2-years of the 4-year term for one of the vacant positions, Aye - 4, No - 0.

Motion to recommend to the City Council that Commissioner Orchard be re-appointed to a new 4-year term, Aye – 4, No – 0.

1 Since the two other applicants were not present the Planning Commission made
2 the following motion:

3 Motion that the two remaining applications be forwarded to the City Council, and
4 that the City Council appoint one applicant to complete the remaining 2-years of the 4-
5 year term for the second vacant position, Aye – 4, No – 0. The Commission requested
6 staff to notify the three applicants to attend the February 8, 2016 City Council work
7 session to be interviewed for the vacant positions.
8

9 **VI. Other Business**

10 **A. From the Commission**

11
12 Commissioner Scott noted that, on the Shoreland Setback amendments, if any other
13 streams, not currently identified in Section 9.52.070, are identified that intersect the
14 shoreland, then required setbacks will be per Section 9.52.070.A Purpose - Streams
15 and Creeks that Intersect the Shoreland, which states that any other streams and
16 creeks that intersect the shoreland, shall be in accordance with Yachats
17 Comprehensive Plan Goal A. Protection of Natural Resources, Policy 13.
18

19 The meeting was adjourned at 3:37 p.m.
20
21

22 _____
23 Nan Scott, Chair
24
25

26 _____
27 Nancy Batchelder, City Recorder

January 12, 2016

To: Yachats Planning Commission

From: Larry Lewis, City Planner

Re: Proposed Amendment to Noxious and Invasive Vegetation Ordinance

Amendments to Yachats Municipal Code (YMC) Section 5.08.110 Noxious and Invasive Vegetation are proposed to coincide with proposed amendments to YMC Section 9.52.070 Shoreland Setbacks. The proposed change, having to do with 'riparian areas' is to replace the word "buffer" with "corridor".

Existing language to remain is shown in plain text.

Existing language to be deleted is shown in ~~red-strikethrough text~~.

New language is shown in **blue text**.

Section 5.08.110 Noxious and invasive vegetation.

- A. No owner or person in charge of real property shall permit, grow or allow noxious vegetation to grow on the property. Nor shall any owner or person in charge of real property permit listed invasive plants within a riparian ~~buffer~~ **corridor**, as described in Section 9.52.07 of this Code (hereafter riparian ~~buffer~~ **corridor**). Noxious vegetation and invasive plants within a riparian ~~buffer~~ **corridor** are declared a nuisance, and their presence is non-conforming with the Yachats Comprehensive Plan. Some species of noxious vegetation are declared public health hazards.
- B. The owner or person in charge of real property shall abate noxious vegetation from the property, or invasive plants within a riparian ~~buffer~~ **corridor** and do so in a manner that will prevent noxious vegetation from going to seed or propagating by other means. The owner and the person in charge shall be jointly and severally liable for the cost of abatement and may be liable for personal injury or damage resulting from the presence of noxious vegetation knowingly propagated on their property.
- C. For purposes of this section, “noxious vegetation” is defined as: introduced “weed” species and native vegetation that is, or is likely to become
1. A health hazard, including plants such as Scotch Broom and others that may seasonally cause severe allergic reactions, and plants such as Poison Hemlock which is extremely toxic if ingested. Any such vegetation shall be prima facie evidence of a health hazard:
 2. A fire hazard, including native and introduced grasses, bushes, weeds or other noxious vegetation allowed to grow in vacant lots or other open areas. Any such vegetation shall be prima facie evidence of a fire hazard:
 3. A traffic hazard, including the presence of trees, bushes, or other tall vegetation that impairs the view of the public thoroughfare, street corner, path, or trail making use of the thoroughfare hazardous. Any such vegetation shall be prima facie evidence of a traffic hazard:
 4. An invasive vegetation competitive with, and destructive to, native vegetation and desired landscape and garden plants; or
 5. A regionally abundant weed of economic importance and which is listed as a noxious weed by Oregon State Department of Agriculture Weed Control Board “B” list and other designated weeds. Of significance, or potential significance, in the Yachats area are the following:

a. Canada thistle	f. Poison hemlock
b. French broom	g. Purple loosestrife
c. Gorse	h. Scotch broom
d. Himalayan blackberry	i. Waterweed (Elodea)
e. Japanese knotweed	j. Tansy ragwort.
- D. For purposes of this section, “invasive plants within a riparian ~~buffer~~ **corridor**” are identified as the following
1. Common Fennel (*Foeniculum vulgare*)
 2. Policeman’s Helmet (*Impatiens glandulifera*)
 3. Knotweeds* *Polygonum* species *Elimination only by approved practices
 4. Old Man’s Beard and Silverlace Vine (*Clematis vitalba* and *Polygonum albertii*)
 5. Atlantic, Irish and English Ivy (*Cultivars Hedera hibernica* and *Hedera helix*)

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6. Yellow Flag Iris (*Iris pseudacorus*)
7. Purple Loosestrife and Garden Loosestrife (*Lythrum salicaria* & *Lysimachia vulgaris*)
8. Butterfly Bush (*Buddleja davidii*)
9. Reed Canarygrass (*Phalaris arundinacea*)

- E. No owner or person in charge of property shall allow noxious vegetation to be on property or in the right-of-way of a public thoroughfare abutting the property.
- F. An owner or person in charge of property, including any property in the right-of-way of a public thoroughfare abutting the property, shall cut down or destroy noxious vegetation determined by the city to be necessary if it is or to prevent it from becoming a health or fire hazard, or, in the case of weeds or other noxious vegetation, from invading an environment otherwise occupied by native vegetation or ornamental plants not listed as noxious vegetation by a County of State Weed Board.
- G. Questions regarding vegetation identification and methods for the control or eradication of noxious vegetation shall be referred to the Lincoln County Vegetation Management Committee or to the Oregon State Department of Agriculture weed control division, and to the Oregon Revised Statutes, Chapter 570.
- H. No owner or person in charge of property shall allow the uncontrolled growth and accumulation of dead or dormant weeds, brush, high grass, scotch broom, gorse, blackberries or pampas grass to become a fire hazard. This section shall not apply to any of the following:
 1. Any maintained landscaped area;
 2. Any crop grown and maintained for lawful agricultural purposes;
 3. Any natural area on publicly owned land of Yachats;
 4. Any property defined as wetlands by proper authority, if control of vegetation would violate federal, state, or county laws; or
 5. Any property defined as a riparian ~~buffer~~ **corridor**.

Such vegetation shall be removed or eliminated before July 1 of each year, or at any time the City Council declares a period of extreme fire danger, by cutting to a height of no more than 6 inches and mulching all cut materials. If any owner or person in charge of property does not comply with this subsection, the City may contract with a firm licensed to do business within the city limits to bring the property into compliance as provided in Section 5.08.250 Summary abatement. The City may recover all costs as provided in Section 5.08.240 Assessment of costs.

- I. Unless a part of a City approved natural conditions restoration project, within the first Thirty (30) feet of a riparian ~~buffer~~ **corridor**, non specific means, including, but not limited to chemical sprays, mowers or weed eaters shall not be used to control or remove vegetation.
- J. Any actual costs incurred by the City in enforcing this Section, including, but not limited to, summary or other abatement costs pursuant to Subsection B. and G., above, shall become a lien against the property and perfected and recorded as such according to state law.

December 29, 2015

To: Yachats Planning Commission

From: Larry Lewis, City Planner

RE: Proposed Amendment to Yachats Zoning & Land Use Code

VACATION RENTALS

In 2014, the City Council requested the Planning Commission consider an amendment to the Zoning & Land Use Code to add “vacation rental facility” as an outright permitted use in the Residential Zones (R-1 through R-4) and in the Retail Commercial Zone (C-1). The Planning Commission reviewed this request at their December 16, 2014 work session.

This is a legislative amendment that requires a public hearing conducted by the Planning Commission. The public hearing process was tabled until other amendment items were ready to proceed through the public hearing process.

The Planning Commission will conduct a public hearing and forward recommended amendments to the City Council.

The following amendments were recommended by the Planning Commission at the December 16, 2014 work session.

Add the following new definition:

9.04.030 Definitions

“Vacation rental” means as defined under Chapter 4.08 Vacation rental.

(Chapter 4.08.020 Definitions defines “Vacation rental” as follows:

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented or available for rent for a period of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A home which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental.)

9.12 R-1 Residential Zone

Add to 9.12.020 Permitted Uses

J. Licensed Vacation Rental

9.24 R-4 Residential Zone

Add to 9.24.020 Permitted Uses

P. Licensed Vacation Rental

9.16 R-2 Residential Zone

Add to 9.16.020 Permitted Uses

M. Licensed Vacation Rental

9.28 C-1 Residential Zone

Add to 9.28.010 Permitted Uses

Q. Licensed Vacation Rental

9.20 R-3 Residential Zone

Add to 9.20.020 Permitted Uses

O. Licensed Vacation Rental

9.04.030 Definitions “Vacation rental” means as defined under Chapter 4.08
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Chapter 4.08.020 Definitions defines “Vacation rental” as follows:

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“Vacation rental” means a single-family dwelling, duplex, or triplex which is rented or available for rent for a period of less than 30 days, such as by the day or week. Each individual unit of a vacation rental, whether it is separate or contiguous to others, is to be considered separately for licensing and regulation purposes. Some ways, but not limited to these, of identifying a vacation rental are: it is listed with an agent, advertised, or available by referral, word-of-mouth, commendation, or reputation.

Chapter 9.76 - Nonconforming Lots and Uses

Section 9.76.010 Purpose.

There were lots, structures, ~~and uses,~~ and development activity that were lawful before the ordinance codified in this title was adopted or amended, but which have become either prohibited, regulated or restricted under the new terms and conditions of this title. They shall hereafter be referred to as pre-existing, nonconforming lots, structures, ~~and uses,~~ and development activity.

It is recognized that significant expenditures of personal and financial energy may have been invested in the development of such uses, ~~and structures~~ and development activity and that to dismiss these expenditures as no longer relevant would be harmful to the public welfare, both in regards to the community harmony and with respect to support that will be needed to improve the quality, aesthetics and functional aspects of the community.

It is therefore the intent of this title to allow these structures, ~~and uses~~ and development activity that existed prior to the adoption of the ordinance codified in this title to continue, including normal maintenance, repair or replacement in case of damage due to disaster or any means of destruction. (Ord. 73E § 11.010, 1992)

Section 9.76.020 Continuation of nonconforming use or structure.

Subject to the provisions of ORS 215.130 and subsequent provisions of this chapter, a lawful nonconforming structure, ~~or use~~ or development activity may be continued. ~~The extension of a lawful nonconforming use to a portion of a structure which was arranged or initiated for the lawful nonconforming use at the time of passage of the ordinance codified in this title is not considered an enlargement or expansion of a nonconforming use.~~ (Ord. 73E § 11.020, 1992)

Section 9.76.030 Discontinuance of nonconforming use.

A. If a nonconforming use involving a structure is discontinued or if a nonconforming trailer house is removed for a period of one year, further use of the property shall conform to this title.

B. If a nonconforming use or development activity not involving a structure is discontinued for a period of six months, further use of the property shall conform to this title. (Ord. 73E § 11.030, 1992)

Section 9.76.040 Change of nonconforming use.

A. If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this title.

B. If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this title unless the planning commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced. (Ord. 73E § 11.040, 1992)

Section 9.76.050 Destruction of nonconforming use.

If a nonconforming structure or structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty (80) percent of its fair market value as indicated by the records of the county assessor and is not returned to use within one year from the date of destruction, a future structure or use on the site shall conform to this title except that replacement of nonconforming signs shall be in accordance with the provisions of this title. (Ord. 73E § 11.050, 1992)

Section 9.76.060 Expansion of nonconforming uses.

A nonconforming use existing at the time that zoning was or is adopted in the area of such use, or changed in the area, may be expanded if such expanded use does not result in an increase in the degree to which a structure or use is nonconforming. (Ord. 175, 1995; Ord. 73E § 11.060, 1992)

Section 9.76.070 Discontinuance of nonconforming uses.

A nonconforming use [or development activity](#) determined by the planning commission to be detrimental to the public health, safety or welfare shall be discontinued after a period of time determined by the planning commission to be the amortized life of the use. (Ord. 73E § 11.070, 1992)

Section 9.76.080 Undersized lots of record.

A. Any lot having an area or dimension less than the minimum shall be designated a building site provided the following criteria are met:

1. The lot is shown on an officially approved and recorded subdivision map; and
2. The lot was of legal area and dimension for a building site or was a legal nonconforming building site at the time the ordinance codified in this title was adopted.

B. No lot, or combination of contiguous lots, either vacant or containing a single-family dwelling, shall be replatted so that an undersized lot is created, nor shall a lot be replatted if setbacks or dimensions less than the minimum would result. (Ord. 73E § 11.080, 1992)

City of Yachats

2016 LAND USE / BUILDING PERMIT ACTIVITY

For the Period January 1, 2016 through February 8, 2016

Date	Application/ Activity	Owner/Applicant	Tax Map/Lot Location	Zoning	Description	Status
1/19/16	Building Permit	Mike Ruare	14-12-26CC/9800 141 Combs Cir Quiet Water PD	R-1	Remove walls and install joists over flat roof	Approved 1/19/16
1/26/16	Building Permit	Howard & Jill Asch	14-12-26BB/3500 3500 Windsong Hts	R-1	New single family dwelling	Pending revised plans with reduced lot coverage. Rec'vd/approved 2/2/16
1/25/16	Building Permit	Linda Hetzler	14-12-27DA/3700 260 E 2 nd St	C-1	Convert single family dwelling to hotel rooms	Approved per #1-CU- PC-14 conditions
2/2/16	Building Permit	John May	14-12-26BC/7500 1040 Hanley St Blackstone Subdiv.	R-1	New single family dwelling	Approved 2/2/16
2/2/16	Building Permit	David Johnson	14-12-27AD/501 71 9 th St	R-3	Addition to single family dwelling	Approved 2/2/16

January 12, 2016

To: Yachats Planning Commission

From: Larry Lewis, City Planner

Re: Proposed Amendment to Noxious and Invasive Vegetation Ordinance

Amendments to Yachats Municipal Code (YMC) Section 5.08.110 Noxious and Invasive Vegetation are proposed to coincide with proposed amendments to YMC Section 9.52.070 Shoreland Setbacks. The proposed change, having to do with 'riparian areas' is to replace the word "buffer" with "corridor".

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- B. The owner or person in charge of real property shall abate noxious vegetation from the property, or invasive plants within a riparian ~~buffer~~ **corridor** and do so in a manner that will prevent noxious vegetation from going to seed or propagating by other means. The owner and the person in charge shall be jointly and severally liable for the cost of abatement and may be liable for personal injury or damage resulting from the presence of noxious vegetation knowingly propagated on their property.
- C. For purposes of this section, “noxious vegetation” is defined as: introduced “weed” species and native vegetation that is, or is likely to become
1. A health hazard, including plants such as Scotch Broom and others that may seasonally cause severe allergic reactions, and plants such as Poison Hemlock which is extremely toxic if ingested. Any such vegetation shall be prima facie evidence of a health hazard:
 2. A fire hazard, including native and introduced grasses, bushes, weeds or other noxious vegetation allowed to grow in vacant lots or other open areas. Any such vegetation shall be prima facie evidence of a fire hazard:
 3. A traffic hazard, including the presence of trees, bushes, or other tall vegetation that impairs the view of the public thoroughfare, street corner, path, or trail making use of the thoroughfare hazardous. Any such vegetation shall be prima facie evidence of a traffic hazard:
 4. An invasive vegetation competitive with, and destructive to, native vegetation and desired landscape and garden plants; or
 5. A regionally abundant weed of economic importance and which is listed as a noxious weed by Oregon State Department of Agriculture Weed Control Board “B” list and other designated weeds. Of significance, or potential significance, in the Yachats area are the following:

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b. French broom	g. Purple loosestrife
c. Gorse	h. Scotch broom
d. Himalayan blackberry	i. Waterweed (Elodea)
e. Japanese knotweed	j. Tansy ragwort.
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- E. No owner or person in charge of property shall allow noxious vegetation to be on property or in the right-of-way of a public thoroughfare abutting the property.
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- G. Questions regarding vegetation identification and methods for the control or eradication of noxious vegetation shall be referred to the Lincoln County Vegetation Management Committee or to the Oregon State Department of Agriculture weed control division, and to the Oregon Revised Statutes, Chapter 570.
- H. No owner or person in charge of property shall allow the uncontrolled growth and accumulation of dead or dormant weeds, brush, high grass, scotch broom, gorse, blackberries or pampas grass to become a fire hazard. This section shall not apply to any of the following:
 1. Any maintained landscaped area;
 2. Any crop grown and maintained for lawful agricultural purposes;
 3. Any natural area on publicly owned land of Yachats;
 4. Any property defined as wetlands by proper authority, if control of vegetation would violate federal, state, or county laws; or
 5. Any property defined as a riparian ~~buffer~~ **corridor**.

Such vegetation shall be removed or eliminated before July 1 of each year, or at any time the City Council declares a period of extreme fire danger, by cutting to a height of no more than 6 inches and mulching all cut materials. If any owner or person in charge of property does not comply with this subsection, the City may contract with a firm licensed to do business within the city limits to bring the property into compliance as provided in Section 5.08.250 Summary abatement. The City may recover all costs as provided in Section 5.08.240 Assessment of costs.

- I. Unless a part of a City approved natural conditions restoration project, within the first Thirty (30) feet of a riparian ~~buffer~~ **corridor**, non specific means, including, but not limited to chemical sprays, mowers or weed eaters shall not be used to control or remove vegetation.
- J. Any actual costs incurred by the City in enforcing this Section, including, but not limited to, summary or other abatement costs pursuant to Subsection B. and G., above, shall become a lien against the property and perfected and recorded as such according to state law.

December 29, 2015

To: Yachats Planning Commission

From: Larry Lewis, City Planner

RE: Proposed Amendment to Yachats Zoning & Land Use Code

VACATION RENTALS

In 2014, the City Council requested the Planning Commission consider an amendment to the Zoning & Land Use Code to add “vacation rental facility” as an outright permitted use in the Residential Zones (R-1 through R-4) and in the Retail Commercial Zone (C-1). The Planning Commission reviewed this request at their December 16, 2014 work session.

This is a legislative amendment that requires a public hearing conducted by the Planning Commission. The public hearing process was tabled until other amendment items were ready to proceed through the public hearing process.

The Planning Commission will conduct a public hearing and forward recommended amendments to the City Council.

The following amendments were recommended by the Planning Commission at the December 16, 2014 work session.

Add the following new definition:

9.04.030 Definitions

“Vacation rental” means as defined under Chapter 4.08 Vacation rental.

(Chapter 4.08.020 Definitions defines “Vacation rental” as follows:

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented or available for rent for a period of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A home which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental.)

9.12 R-1 Residential Zone

Add to 9.12.020 Permitted Uses

J. Licensed Vacation Rental

9.24 R-4 Residential Zone

Add to 9.24.020 Permitted Uses

P. Licensed Vacation Rental

9.16 R-2 Residential Zone

Add to 9.16.020 Permitted Uses

M. Licensed Vacation Rental

9.28 C-1 Residential Zone

Add to 9.28.010 Permitted Uses

Q. Licensed Vacation Rental

9.20 R-3 Residential Zone

Add to 9.20.020 Permitted Uses

O. Licensed Vacation Rental

9.04.030 Definitions “Vacation rental” means as defined under Chapter 4.08
Vacation rental.

Chapter 4.08.020 Definitions defines “Vacation rental” as follows:

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented or available for rent for a period of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A home which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental.

“Vacation rental” means a single-family dwelling, duplex, or triplex which is rented or available for rent for a period of less than 30 days, such as by the day or week. Each individual unit of a vacation rental, whether it is separate or contiguous to others, is to be considered separately for licensing and regulation purposes. Some ways, but not limited to these, of identifying a vacation rental are: it is listed with an agent, advertised, or available by referral, word-of-mouth, commendation, or reputation.

Chapter 9.76 - Nonconforming Lots and Uses

Section 9.76.010 Purpose.

There were lots, structures, ~~and uses,~~ and development activity that were lawful before the ordinance codified in this title was adopted or amended, but which have become either prohibited, regulated or restricted under the new terms and conditions of this title. They shall hereafter be referred to as pre-existing, nonconforming lots, structures, ~~and uses,~~ and development activity.

It is recognized that significant expenditures of personal and financial energy may have been invested in the development of such uses, ~~and structures~~ and development activity and that to dismiss these expenditures as no longer relevant would be harmful to the public welfare, both in regards to the community harmony and with respect to support that will be needed to improve the quality, aesthetics and functional aspects of the community.

It is therefore the intent of this title to allow these structures, ~~and uses~~ and development activity that existed prior to the adoption of the ordinance codified in this title to continue, including normal maintenance, repair or replacement in case of damage due to disaster or any means of destruction. (Ord. 73E § 11.010, 1992)

Section 9.76.020 Continuation of nonconforming use or structure.

Subject to the provisions of ORS 215.130 and subsequent provisions of this chapter, a lawful nonconforming structure, ~~or use~~ or development activity may be continued. ~~The extension of a lawful nonconforming use to a portion of a structure which was arranged or initiated for the lawful nonconforming use at the time of passage of the ordinance codified in this title is not considered an enlargement or expansion of a nonconforming use.~~ (Ord. 73E § 11.020, 1992)

Section 9.76.030 Discontinuance of nonconforming use.

A. If a nonconforming use involving a structure is discontinued or if a nonconforming trailer house is removed for a period of one year, further use of the property shall conform to this title.

B. If a nonconforming use or development activity not involving a structure is discontinued for a period of six months, further use of the property shall conform to this title. (Ord. 73E § 11.030, 1992)

Section 9.76.040 Change of nonconforming use.

A. If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this title.

B. If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this title unless the planning commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced. (Ord. 73E § 11.040, 1992)

Section 9.76.050 Destruction of nonconforming use.

If a nonconforming structure or structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty (80) percent of its fair market value as indicated by the records of the county assessor and is not returned to use within one year from the date of destruction, a future structure or use on the site shall conform to this title except that replacement of nonconforming signs shall be in accordance with the provisions of this title. (Ord. 73E § 11.050, 1992)

Section 9.76.060 Expansion of nonconforming uses.

A nonconforming use existing at the time that zoning was or is adopted in the area of such use, or changed in the area, may be expanded if such expanded use does not result in an increase in the degree to which a structure or use is nonconforming. (Ord. 175, 1995; Ord. 73E § 11.060, 1992)

Section 9.76.070 Discontinuance of nonconforming uses.

A nonconforming use [or development activity](#) determined by the planning commission to be detrimental to the public health, safety or welfare shall be discontinued after a period of time determined by the planning commission to be the amortized life of the use. (Ord. 73E § 11.070, 1992)

Section 9.76.080 Undersized lots of record.

A. Any lot having an area or dimension less than the minimum shall be designated a building site provided the following criteria are met:

1. The lot is shown on an officially approved and recorded subdivision map; and
2. The lot was of legal area and dimension for a building site or was a legal nonconforming building site at the time the ordinance codified in this title was adopted.

B. No lot, or combination of contiguous lots, either vacant or containing a single-family dwelling, shall be replatted so that an undersized lot is created, nor shall a lot be replatted if setbacks or dimensions less than the minimum would result. (Ord. 73E § 11.080, 1992)

City of Yachats

2016 LAND USE / BUILDING PERMIT ACTIVITY

For the Period January 1, 2016 through February 8, 2016

Date	Application/ Activity	Owner/Applicant	Tax Map/Lot Location	Zoning	Description	Status
1/19/16	Building Permit	Mike Ruare	14-12-26CC/9800 141 Combs Cir Quiet Water PD	R-1	Remove walls and install joists over flat roof	Approved 1/19/16
1/26/16	Building Permit	Howard & Jill Asch	14-12-26BB/3500 3500 Windsong Hts	R-1	New single family dwelling	Pending revised plans with reduced lot coverage. Rec'vd/approved 2/2/16
1/25/16	Building Permit	Linda Hetzler	14-12-27DA/3700 260 E 2 nd St	C-1	Convert single family dwelling to hotel rooms	Approved per #1-CU- PC-14 conditions
2/2/16	Building Permit	John May	14-12-26BC/7500 1040 Hanley St Blackstone Subdiv.	R-1	New single family dwelling	Approved 2/2/16
2/2/16	Building Permit	David Johnson	14-12-27AD/501 71 9 th St	R-3	Addition to single family dwelling	Approved 2/2/16

CITY OF YACHATS
PLANNING COMMISSION
Work Session
February 16, 2016
Minutes

Nan Scott called the February work session to order at 2:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Scott, Ken Aebi, Ron Urban, Shelly Shrock, Helen Anderson and John Deriberprey. Absent: Christine Orchard. Also present, City Planner Larry Lewis.

Scott said that the Chair and Vice Chair were not elected last month and Christine Orchard is not here so she will be running the work session this month.

Scott said that there are two things on the agenda for today: Recreational Marijuana Standards and RV Parking. And, a Councilor has asked the Commission to consider a definition for Industrial vs. Commercial use.

I. Recreational Marijuana Dispensary Standards

Scott said that one of the State regulations is that dispensaries must be 1,000 foot from a school; and, a school is defined as K-12 so the Preschool at the Commons would not fall under those rules.

The Commission discussed the various restrictions and requirements the State already has in place and the possible restrictions for Yachats.

The main discussion revolved around the distance from a school and if that buffer should be applied to the Commons.

This discussion will be continued at the March work session as well as the other topics on the agenda.

The work session was adjourned at 2:55 p.m.

Nan Scott, Chair

Attest:

Nancy Batchelder, City Recorder

CITY OF YACHATS
PLANNING COMMISSION
February 16, 2016

Minutes

The February meeting of the Yachats Planning Commission was called to order by Chair Nan Scott at 3:00 p.m. in the Civic Meeting room of the Yachats Commons. Members present: Scott, Ken Aebi, Ron Urban, Shelly Shrock, Helen Anderson, and John Deriberprey. Absent: Christine Orchard. Also present, City Planner Larry Lewis. Audience – 12.

I. Election of Chair and Vice Chair

Scott said that her term expires at the end of this year and she does not plan to continue on the Commission, but she is willing to serve as Chair if no one else wants to.

Urban said that he is willing to serve as Vice Chair.

Anderson said that she is willing to serve as Chair.

Urban was voted unanimously to serve as Vice Chair.

Motion for Anderson to serve as Chair, Aye – 2 (Scott, Anderson), No – 4 (Urban, Aebi, Deriberprey, Shrock), Absent – 1 (Orchard). Motion failed.

Motion for Scott to serve as Chair, Aye - 4 (Urban, Aebi, Deriberprey, Shrock), No – 2 (Scott, Anderson), Absent – 1 (Orchard). Motion carried.

II. Announcements and Correspondence - None.

III. Minutes

• Regular Meeting and Work Session –January 19, 2016

Motion to adopt the minutes, Aye – 4, No – 0, Absent – 1 (Orchard), Abstain – 2 (Shrock, Anderson).

IV. Citizen's Concerns – None.

V. Public Hearings

A. Proposed Yachats Municipal Code Amendment – Section 5.08.110 Noxious and Invasive Vegetation

Scott opened the Public Hearing and asked if there was any testimony.

Joni Bicksler said that her property is bordered by ODOT's Hwy 101 and the County's Yachats River Road and she wants to know if the City has any plans for controlling the invasive vegetation that is now on her property that is coming up from both of those sources.

Scott said that the Planning Commission has no plans for controlling invasive species on private property and that would have nothing to do with this amendment.

Scott said that the proper contact would be the Code Enforcement Officer.

City Recorder Batchelder said that the City Council and the Lincoln County Commissioners would be having their annual joint meeting on March 9 at 6:00 p.m. and one of the topics that the Council asked to have the agenda was invasive vegetation control, so that would be an opportunity for Bicksler to ask the Commissioners for their plans.

1
2 There was no further testimony and Scott closed the Public Hearing.

3
4 Motion to recommend the amendment to City Council for adoption, Aye – 6, No – 0, Absent – 1
5 (Orchard).

6
7 **B. Proposed Zoning and Land Use Amendment – Vacation Rentals Chapter 9.04.030**
8 **Definitions and Chapters 9.12 – 9.28 Residential and Commercial Zones**
9

10 Scott explained that Vacation Rentals are not identified as permitted uses in any of the zones.

11
12 Scott opened the Public Hearing.

13
14 Stewart Meyers said that when he purchased his home it was his intention to have it as his vacation
15 home and to rent it out. In the five months since he has had his home he has not seen any disruption to
16 the neighborhood and renters are a boost to the economy.

17
18 He said that this type of activity has been taking place for quite some time and he believes that this
19 amendment should be adopted so that it can continue.

20
21 Scott read the second option for the definition as drafted by Planning Commission member Christine
22 Orchard after the notice was published.

23
24 Tom Lauritzen said that until recently he was the Chair of the Finance Committee, so he knows how
25 important vacation rentals are to the City, so he is not interested in doing away with them. However,
26 vacations rentals are much different now than they were years ago when people bought homes to be
27 used as vacation homes and they would rent them to family and friends to help pay the bills. Now the
28 vacation homes are managed by professionals and they are actually businesses being run in residential
29 zones.

30
31 Lauritzen said that B&Bs are highly regulated and he believes that Vacations Rentals should be treated
32 equal to B&Bs through the Conditional Use Permit Process.

33
34 Lauritzen said that many of the Vacation Rentals are also operating in the City in violation of the CC&Rs
35 for the neighborhood in which they are located.

36
37 Lauritzen said that he believes that vacation rentals should be treated as Conditional Uses and should be
38 required to go through a hearing process, so he is asking that the Planning Commission not adopt this
39 amendment.

40
41 The Commission discussed whether the City could enforce CC&Rs and if the Planning Commission
42 should consider a Conditional Use Permit Process.

43
44 Meyers said that CC&Rs are a private party contract and neighbors will enforce the violations.

45
46 Meyers said that a Conditional Use Permit Process would mean that there is no guarantee of the
47 outcome and it could mean that they would be required to sell their home because they could not afford
48 the second mortgage if it were decided that they could not rent their home as a vacation rental for some
49 reason now.

50
51 Bicksler said this City has made its own problem with its zoning and that zoning has not changed since it
52 was originally zoned. This town needs to be rezoned.

53
54 Keith Perkins said that he has been fighting this issue for years, perhaps longer than anyone else. He no
55 longer has any neighbors, all he has is vacation rentals and he wants to know what other business he can
56 have in a residential zone. It is time to get some control over this.

1
2 Perkins said that there are nine homes in his neighborhood that have CC&Rs that say you cannot have a
3 business, but it would cost at least \$25,000 to take any of those vacation rentals to court.
4

5 Greg Scott said that the Planning Commission has the ability to search the property database to find how
6 many vacation rentals there are by neighborhood.
7

8 Scott asked if the Planning Commission is ready to vote on the amendment. There was consensus that
9 the members were not.
10

11 Motion to continue the Public Hearing to June 23, Aye – 6, NO – 0.
12

13 **C. Proposed Zoning and Land Use Amendment – Chapter 9.76 Nonconforming Lots and Uses**
14

15 Scott opened the Public Hearing and asked Lewis to explain the purpose for the Hearing.
16

17 Lewis said that anything that has been lawfully placed on a lot before this amendment is adopted will be
18 allowed, and property owners will be allowed to maintain anything that is in place now.
19

20 There was no testimony and Scott closed the Public Hearing.
21

22 Motion to recommend the amendment to City Council for adoption, Aye – 6, No – 0, Absent – 1
23 (Orchard).
24

25 **VI. Planner's Report – Larry Lewis, attached in writing.**
26

27 Anderson asked the Planner questions about when a Geo-Tech report is required, what such a report
28 would contain, and if there are any slopes on which construction is not allowed.
29

30 There were some questions about the available parking related to the Conditional Use for Hetzler' s
31 development shown on the Planner's report.
32

33 **VII. New Business - None.**
34

35 **VIII. Other Business**
36 **A. From the Commission**
37

38 Anderson said that she believes the Planning Commission should come with some Goals.
39

40 **B. From Staff - None.**
41
42

43 The meeting was adjourned at 4:37 p.m.
44
45

46 _____
47 Nan Scott, Chair
48
49

50 _____
51 Nancy Batchelder, City Recorder



CITY OF YACHATS
Planning Commission
February 16, 2016
Civic Meeting Room - Yachats Commons

WORK SESSION – 2:00 P.M.
Recreational Marijuana Standards
RV Parking (no material included in packet)

REGULAR MEETING – 3:00 P.M.

- I. Election of Chair and Vice Chair
- II. Announcements and Correspondence
- III. Minutes
 - Regular Meeting and Work Session –January 19, 2016
- IV. Citizen's Concerns
- V. Public Hearings
 - A. Proposed Yachats Municipal Code Amendment – Section 5.08.110 Noxious and Invasive Vegetation
 - B. Proposed Zoning and Land Use Amendment – Vacation Rentals
Chapter 9.04.030 Definitions and Chapters 9.12 – 9.28 Residential and Commercial Zones
 - C. Proposed Zoning and Land Use Amendment – Chapter 9.76 Nonconforming Lots and Uses
- VI. Planner's Report – Larry Lewis
- VII. New Business
- VIII. Other Business
 - A. From the Commission
 - B. From Staff

Next Meeting Date: March 15, 2016

This meeting is open to the public and all interested citizens are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be given to the City Office one-week prior to the meeting. Minutes of all public meetings are available for review in the City Office. The facility is handicap-accessible; individuals needing assistance please contact the City Recorder at (541) 547-3565, or Oregon Relay 1-800-735-2900 (T.D.D.) two days in advance. The City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.

Posted on February 10, 2016

Nancy Batchelder, City Recorder

February 9, 2016

To: Yachats Planning Commission
cc: Nancy Batchelder, City Recorder

From: Larry Lewis, City Planner

Re: Potential Recreational Marijuana Standards

The Yachats City Council has requested the Planning Commission discuss the State's legalization of recreational marijuana and discuss whether regulations should be established that would be in addition or more restrictive than State regulations.

The following excerpts are from the League of Oregon Cities *Local Government Regulation of Marijuana in Oregon*, August 2015. (see <http://www.orcities.org/Portals/17/A-Z/A%20to%20Z%20Documents/LocalRegulationMarijuana08-14-15.pdf>) This document is a guide to assist cities in evaluating local needs and concerns regarding medical and recreational marijuana.

Legalization of Recreational Marijuana

In November 2014, Oregon voters adopted Measure 91, legalizing the growing, distribution, possession and use of marijuana in certain amounts for non-medical use. In 2015, the state Legislature reforms Measure 91, primarily under HB 3400.

State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory "floor." In other words, although the courts generally have upheld a city's authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So, for example, where state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

Recreational Wholesalers and Retailers

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license.

Time, Place and Manner Regulations

HB 3400 provides that local governments may impose reasonable regulations on the time, place and manner of operation of marijuana facilities. The League believes that, under the home rule provisions of the Oregon Constitution, local governments do not need legislative authorization to impose time, place and manner restrictions, and that the Legislature's decision to expressly confirm local authority to impose certain restrictions does not foreclose cities from imposing other restrictions not described in state law.

HB 3400 provides that cities may regulate marijuana facilities by imposing reasonable restrictions on:

- The hours of operation of recreational marijuana retailers and medical marijuana grow sites, processing sites and dispensaries;
- The location of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between recreational marijuana retailers;
- The manner of operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and dispensaries; and
- The public's access to the premises of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries.

Summary

In summary, here are regulations that the Planning Commission may, or may not, want to consider:

Location: Wholesale and retail licenses may not locate in residential zones. Therefore, they may be located in the C-1 Retail Commercial zone. Should it be further restricted, e.g. only allow wholesale and retail licenses in C-1 zoned properties fronting Hwy 101?

Drive-Through: Should wholesale and retail licenses be restricted from having drive-through facilities?

Business License: This may be covered but consider stating that annual City of Yachats business license shall be maintained by all recreational facilities.

Hours and Rules of Operation: Does the City want to specify days and hours of operation. For example, the City of Waldport allows medical marijuana facilities to operate seven days a week, including holiday, between the hours of 9:00 a.m. and 8:00 p.m.

Other: Other considerations include additional security requirements, control of visibility of activities and control of emissions, no City liability-indemnification, and penalties.