

STAFF REPORT

Conditional Use Application

APPLICANT: Agate Point Residences LLC

A. REPORT OF FACTS

1. Property Location: The subject site is located at 358 Yachats Ocean Road and described on the Lincoln County Assessor's Map 14-12-34-AA as Tax Lot 1601.
2. Applicant's Request: The applicant is requesting a conditional use permit for development of a hotel in the R-4 Residential Zone on less than 1 acre with no direct access from Highway 101. The proposed development consists of 7 detached single-level lodging units. Two of the units are duplexes, making for a potential total of 9 guest units. Following submission of the original application, an office and meeting room have been added to the proposal.
3. Zoning: R-4 Residential
4. Plan Designation: Multi-family Residential
5. Lot Size and Dimensions: The Lincoln County Assessor's Office property tax information states that the subject property totals 0.57 acre, or 24,829.2 square feet. The Lincoln County Assessor's Office map shows the subject property with dimensions of approximately 100 x 246 feet, or 24,600 square feet. The applicant's narrative states that the lot size is 24,698.97 square feet. For purposes of this report, the lot size used for all calculations is 0.57 acre, or 24,829 square feet. No calculations are close enough to be affected by the discrepancy.
6. Existing Structures: None.
7. Topography: The subject site is generally flat.
8. Surrounding Land Use: Surrounding land uses include a mix of vacant land, single-family residential dwellings, condominium developments and a hotel (Yachats Inn). The Yachats Ocean Road State Natural Site is directly to the west.
9. Utilities:
Water & Sewer: City of Yachats
Electricity: Central Lincoln PUD
10. Development Constraints: The Oregon Statewide Wetlands Inventory identifies PEM1C and PSS1A wetlands on and adjacent to the site. Any development shall be in accordance with the guidelines dictated by Oregon Department of State Lands (DSL) and Army Corps of Engineers.

B. EVALUATION OF REQUEST

1. **Applicant's Proposal:** The applicant submitted the required application form and fee and the following information:
 - Site Plan
 - Floor Plans and Building Elevations
 - Aerial Photograph
 - Narrative describing the request and addressing some relevant Yachats Municipal Code Standards
 - Conceptual Exterior Design Photographs
 - Wetland Delineation Report as submitted to and approved by DSL

The applicant provided the following description, taken verbatim, of the proposal. Staff comments are shown in italics.

We are requesting a Conditional Use Permit for hotel operations of the proposed seven-unit cottage complex.

Staff Response: Cottages 6 and 7 each have 2 kitchens. YMC Section 9.04.030 (Definitions) defines a single family dwelling as "a building designed or used exclusively for the occupancy of one family and having kitchen facilities for only one family". Under the same section, "Two-family dwelling" means one building containing two (2) dwelling units (duplex). For the purposes of this report, the application will be considered to be seven structures comprised of nine guest units.

Section 9.24.020 Permitted Uses allows for a motel, hotel or resort of 1.0 acre with direct access provided from U.S. Highway 101 and only with accessory commercial uses. We are requesting a Conditional Use Permit because the project does not meet the 1.0 acre minimum and does not directly access U.S. Highway 101.

Staff Response: YMC Section 9.24.030 (P) (Conditional Uses) allows for a "motel, hotel or resort on less than 1.0 acre with accessory commercial uses".

Section 9.72.050 (A) requires hotels and resorts to have a minimum of one thousand five hundred (1,500) square feet of open space per guest unit. The project provides three thousand five hundred twenty-eight (3,528) square feet of open space per unit.

Staff Response: This standard does not address open space. A minimum lot area per guest unit of one thousand five hundred is required. Open space requirements are governed by lot coverage standards. In the R-4 zone, 55% of the property is required to remain as open space.

Section 9.64.020 Private Streets. The project proposes to use existing public streets to access the parking lot at the east side of the property.

Section 9.48.010 (L3). Requires one space for each guest accommodation. The project provides 2.28 guest parking spaces for each accommodation or a total of sixteen (16) spaces.

Staff Response: This calculation is based on the assumption of seven guest units. Two of the proposed units are duplexes, making for a total of nine units.

Plot Plan. Provided

Existing and Proposed structures: There are no existing structures on the property. We propose to install Seven (7) high quality prefabricated modular units.

Total Floor Area: 6,342 s.f.

Staff Response: This total does not include the proposed office and meeting room, but setbacks and lot coverage standards are still met.

Height: Fourteen (14')

Proposed use for these structures: is cottage rentals

Operating Characteristics: The operation of these cottages will be managed by Sweet Homes. Located in Yachats. These units will be rented for a duration as chosen by the Client. Maid service will be provided. Management will be provided on a 24/7 basis.

Location, extent, arrangements for proposed improvements and loading facilities: All of this is provided on site.

State or County Road Approach Permit: Both permits may be required for the sewer, water connection.

R 4 Ordinance Standards.

1. Minimum Lot Size: 20,000 s.f. requirement met 24,698.97 s.f.

Staff Response: Not relevant. Refers to minimum lot size when an R-4 lot is not served by City water or sewer.

2. Maximum Density: 12 DU per acre. This site is 0.57 acres which allows 6.84 buildings. We propose seven (7) buildings

Staff Response: Not relevant. Refers to maximum density for multifamily development. Hotel, motel or resort is 1,500 square feet per unit.

3. Minimum lot width and depth all comply with the Zoning Code

Staff Response: Not relevant. Only applies to lots platted after adoption of the YMC.

4. Front Yard setback is twenty (20').

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5. Side Yard setback: Five (5’).

Staff Response: Proposed structures may be up to 15 feet in height with a 5 foot side yard setback. #8 below suggests a maximum proposed height of 16 feet. Difference in the required side yard setbacks would be a matter of inches.

6. Street Side yard Setback N/A
7. Rear Yard Setback: ten (10’).
8. Maximum Building Height: thirty (30’). The proposed buildings have a maximum height of Sixteen (16’).
9. Lot Coverage maximum 45%. The proposed project has a lot of coverage of twenty-six (26%).

Staff Response: With the addition of an office and meeting room, lot coverage is slightly higher than 26%, but still well below the 45% allowed in the R4 zone.

Environmental review

In May 2021, a Jurisdictional Wetlands Delineation report was prepared by Schott & Associates (copy attached) to determine any areas of Jurisdictional Wetlands. Two areas were identified as potentially sensitive. These areas total 1,743 s.f.

This report was submitted to DSL and Army corps in May 2021.

On July 13, Army Corps was on site to determine the drainage area located along the west boundary of this property, is tributary to Gregory Creek which is located on the north side of the adjacent parcel. It was determined, they were not connected.

DSL is reviewing the report and will make a determination if a site visit is necessary.

The Applicant proposes to offset any environmental impacts with the payment of mitigation fees to a Conservation Bank.

A community meeting was conducted on July 15. Twenty-Four notices were sent to the adjoining neighbors. Thirteen attended the meeting. A presentation of the project was given followed by a question-and-answer session. It was explained to the attendees, we are seeking a CUP approval for hotel operations. Sweet Homes, located in Yachats, will be the day-to-day manager.

The attendees had a few items that need clarification / guidance from the city.

Will Shell Street be paved or gravel?

Who will maintain the street?

What are the limits of the improvements?

What are the lighting requirements for the parking lot? Bollards will be used within the cottages.

How will overrenting be managed. . Sweat Homes check in the renting party to verify there is no overrenting. They also perform daily checks of the cottages.

What are the construction hours?

2. **Relevant Yachats Municipal Code Criteria:**

Relevant Yachats Municipal Code (YMC) criteria are identified below by title only. Complete descriptions of relevant criteria are provided in the Analysis section of this staff report.

YMC Chapter 4 Business Licenses and Regulations

YMC Chapter 9.04.030 Definitions

YMC Chapter 9.24 R-4 Residential Zone

YMC Chapter 9.48 Off-Street Parking and Loading

YMC Chapter 9.72 Conditional Uses

3. **Public Testimony Received:** At the time this staff report was prepared the City had received over 100 letters regarding the conditional use request.

4. **Public Agency Comments:**

The City of Yachats Public Works Department has reviewed the request and confirmed that water and sewer service is available to the subject property. At the time a building permit is submitted, the Public Works Department request review and approval of street, water, sewer and storm drainage improvement.

The Yachats Rural Fire Protection District (YRFPD) will likely require an additional hydrant. The State Fire Marshal, in conjunction with the YRFPD, will have to approve the proposed access, turning radius and water flow. The Oregon Fire Code allows for access roads at 20 feet minimum when there is no parking allowed in the roadway. Required turning radius is typically a minimum of 28 feet.

C. **ANALYSIS**

The following analysis of the relevant YMC criteria is offered to guide the Planning Commission's deliberations.

1) Is the proposed use a hotel, motel or vacation rental(s)?

The Yachats Municipal Code provides the definitions below. The code provides two slightly conflicting definitions for "hotel". When considering the two, note that one definition is intended for zoning and land use decisions and the other for business licensing.

YMC Section 9.04.030 Definitions. (Zoning and Land Use)

"Hotel" means any building containing guest rooms which are rented or hired out to be occupied for sleeping purposes for guests, excluding any facility which meets the definition of "bed and breakfast facility."

"Motel" means a series of sleeping units, each having a separate entrance, composed of one or more bedrooms and bathroom, excluding any facility which meets the definition of "bed and breakfast facility."

YMC Section 4.04.020 Definitions. (Business Licenses Generally)

“Hotel” and “motel” includes any single structure or multiple combination of two (2) or more structures, operated as a single business venture where one or more units, rooms or apartments are hired out to the public for rent on less than a monthly rental basis, exclusive of any unit, room or apartment that is occupied by the owner, contract vendee or manager.

YMC Section 4.08.020 Definitions. (Business Licenses and Regulations)

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented, or held out as available for rent, for periods of less than thirty (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 dwelling 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. It shall be a rebuttable presumption that a dwelling unit is a vacation rental if it is visited overnight by at least four (4) different vehicles over the course of a month, for three (3) consecutive months. The exchange of consideration is not necessary to meet the definition of a vacation rental if the dwelling otherwise is held out as available for occupancy for periods of less than thirty (30) days.

2) If the proposed use is a hotel/motel, does it meet the R4 standards?

A) Hotel/motel as a Conditional Use in the R-4 Zone

YMC Section 9.24.020 Permitted uses. (R-4 Residential Zone)

K. Motel, hotel or resort on a minimum of 1.0 acre with direct access provided from U.S. Highway 101 only and with accessory commercial uses.

YMC Section 9.24.030 Conditional uses. (R-4 Residential Zone)

P. Motel, hotel or resort on less than 1.0 acre with accessory commercial uses.

Staff Analysis: A motel, hotel or resort on less than 1.0 acre is not an outright permitted use in the R-4 zone, but it is an allowed conditional use.

B) Density

YMC Section 9.24.040 Standards. (R-4 Residential Zone)

4. The minimum lot area per resort, hotel or motel guest unit shall be one thousand five hundred (1,500) square feet with a public water and sewer system.

YMC Section 9.72.050 Standards and procedures governing conditional uses.

A. Hotels or resorts in an R-4 zone shall have a minimum lot area per guest unit of one thousand five hundred (1,500) square feet.

Staff Analysis: The subject property is 0.57 acre or 24,829 square feet. The applicant is proposing 9 guest units or 1 guest unit per 2,758 square feet. This standard is met.

However, if the conditional use is discontinued and the property reverts to multifamily use, the proposed structures would be nonconforming. Per YMC Section

9.24.040 A1, Cottages 1 through 5 would require 6000 square feet of lot area each and Cottages 6 and 7 would require 7500 square feet each.

C) Lot Coverage

YMC Section 9.24.040 Standards. (R-4 Residential Zone)

D. Lot Coverage. Structures, including, but not limited to, buildings, porches and decks shall not occupy more than forty-five (45) percent of the total lot area.

Staff Analysis: Total lot coverage allowed is 11,173 square feet. The site plan shows:

Cottages 1, 2, 3 and 5 at 558.6 square feet each for a total of 2234.4 square feet

Cottage 4 at 1412.2 square feet

Cottages 6 and 7 at 1244.6 square feet each for a total of 2489.2 square feet

Total shown = 6135.9 sf vs applicant's 6,342 sf

*Dimensions for decks, the office and the meeting room are not shown on the site plan but **this standard has or can be met.***

D) Setbacks

YMC Section 9.24.040 Standards. (R-4 Residential Zone)

B. Yards. The minimum yard requirements in the R-4 zone shall be as follows:

1. Front yard shall be a minimum of twenty (20) feet.
2. Each side yard shall be a minimum of either five (5) feet or one foot for each three (3) feet of building height, whichever requirement is greater. Corner side yards shall not be used for clotheslines, incinerators, permanent storage of trailers, boats and recreational vehicles nor shall said yard be used for the regular or constant parking of automobiles or other vehicles.
3. The street side yard shall be a minimum of twenty (20) feet.
4. The rear yard shall be a minimum of ten (10) feet, except that on a corner lot it shall be a minimum of either five (5) feet or one foot for each three (3) feet of building height whichever requirement is the greater.
5. All patio structures and swimming pools shall be a minimum of five (5) feet from any side or rear property line.

*Staff Analysis: **This standard is met.***

E) Building Height

YMC Section 9.24.040 Standards. (R-4 Residential Zone)

C. Building Height. No building in the R-4 zone shall exceed a height of thirty (30) feet from finished grade or from natural grade, see Chapter 9.52.180.

*Staff Analysis: All proposed structures are under 16 feet in height. **This standard is met.***

F) Off-Street Parking

YMC Section 9.48.010 General requirements. (Off-Street Parking and Loading)

L3. Motel, hotel or resort: one space for each guest accommodation.

*Staff Analysis: Nine parking spaces are required at a minimum. The YRFPD is requesting a reasonable turning radius in the parking area. Based on the site plan, **this standard has not but could be met.***

G) Vehicular Access

YMC Section 9.24.040 Standards. (R-4 Residential Zone)

G. Vehicle Access. Ingress or egress to a multifamily dwelling or to a motel shall not be allowed from less than a thirty-five (35) foot right-of-way and a twenty-five (25) foot all weather travel surface, accessible to emergency vehicles. In the event that a thirty-five (35) foot right-of-way is not possible, a minimum of ten (10) foot easement (five (5) feet on each side of the travel surface) shall be dedicated to the City for utility purposes and pedestrian use. Commercial uses and multifamily dwellings shall not have vehicles access to or from a cul-de-sac.

*Staff Analysis: Shellmidden Way is the proposed access. The platted right-of-way is 30' wide and dead ends at the subject property. **If the Planning Commission determines that the proposed use falls under the definition of "motel" or determines that "hotel" is synonymous with "motel", the 35' standard has not been met. If the Planning Commission determines that Shellmidden is a cul-de-sac, this standard has not been met.***

From YMC Section 9.04.030 (Definitions):

"Minor street" means a street designed to provide access to abutting residential property with only incidental service to through traffic.

"Cul-de-sac or dead end street" means a minor street with only one outlet which provides a vehicular turn-a-round.

3) Does the proposed use satisfy other standards for a conditional use permit?

Section 9.72.010 Authorization to grant or deny conditional use permits.

Conditional uses listed in this title may be permitted, enlarged, altered or denied by the Planning Commission in accordance with the standards and procedures set forth in this chapter.

A. In taking action on a conditional use permit application, the Planning Commission may either permit or deny the application. The Planning Commission's action must be based on findings addressing the requirements of the comprehensive plan and zoning ordinance, as addressed in Chapter [9.88](#).

B. In permitting a conditional use or the modification of a conditional use, other than a manufactured dwelling, manufactured dwelling park or multifamily dwelling, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this title, additional conditions which are considered necessary to

protect the best interests of the surrounding City as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimensions;
2. Limiting the height of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location and lighting of signs;
7. Requiring fencing, screening, landscaping, walls, drainage or other facilities to protect adjacent or nearby property;
8. Designating sites for open space;
9. Setting a time limit for which the conditional use is approved;
10. Regulation of noise, vibration, odors and sightliness;
11. Requiring surfacing of parking areas;
12. Regulation of hours of operation and duration of use or operation;
13. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Yachats comprehensive plan;
14. If at any time the standards or requirements for conditional use approval are not followed, a zoning violation will be considered to exist.

C. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use or a nonconforming use, a change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

D. The Planning Commission may require that the applicant for a conditional use furnish the City with a performance bond of up to the value of the cost of the improvement to be guaranteed by such bond, in order to assure that the conditional use is completed according to the plans as approved by the Planning Commission.

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is approved, staff offers the following recommended conditions of approval, which may be added to or amended at the Commission's discretion:

- 1) Any development shall be in accordance with the guidelines dictated by the Department of State Lands and the Army Corps of Engineers..
- 2) The final plan shall be subject to review and approval of the Yachats Rural Fire Protection District, the State Marshal and Yachats Public Works.

3) A minimum of 9 off-street parking places shall be provided.

Submitted by,

Katherine Guenther
City Planner