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City of Yachats
PLANNING COMMISSION
Meeting and Public Hearing
June 21, 2022

PRESENT: Julie Bailey, Lance Bloch, Chair, Jacqueline Danos, Tod Davies, Loren Dickinson, Christine Orchard, John Theilacker, Co-chair, Katherine Guenther, City Planner, Dayna Capron, Rick McClung of Public Works, Jeff Weber, Chris Fletcher and Joanathan Fletcher of Agate Point Residences LLC, Community members

I. CALL TO ORDER

Bloch called the regular session to order at 3:04 pm. All seven commissioners are present as well as guests and staff.

I. ANNOUNCEMENTS AND CORRESPONDENCE

II. CITIZEN CONCERNS

III. PUBLIC HEARING

A. Case File #2-CU-PC21 Agate Point Residences, LLC Conditional Use Permit

(00:55) Bloch opened the Public Hearing on the Application by Agate Point Residences, LLC for a Conditional Use Permit.

(01:11) Bloch asked for objections to the jurisdiction of the Planning Commission to hear the matter. **No objections were made.**

(01:28) Does any commissioner wish to make any disclosure or abstain from participating or voting on this application because of:

- A. Possible financial gain resulting from this application;
- B. Own property within the area entitled to receive notice of this hearing;
- C. Direct private interest in the proposal; or
- D. You have determined you cannot be impartial.

(02:02) Davies indicated she is a new member to the Commission and has written letters regarding this issue. She is recusing herself from voting on the application.

(03:23) Bailey indicated she emailed a letter in opposition to the Agate Point project on October 8, 2021. She indicated since being a member of the Commission since April, 2022 she is able to make a decision based the Oregon Planning Commissioner's Handbook and can review facts and evidence and make decisions based on Yachats Code and the Yachats Comprehensive Plan.

(05:00) Theilacker read a summary of a site visit he had on March 11, 2022 as a board member of "View the Future", a local non-profit environmental organization, at the Dwellings Residential Plan Unit Development. He indicated he had no discussion of the Agate Point Conditional Use Application with anyone in attendance.

(27:24) Bloch summarized the above statements due to a 20-minute pause for technical difficulties.

- 1 • Does any Commissioner need to declare any contact written or oral or
2 otherwise prior to the hearing with the applicant, appellant or any other
3 party involved in this hearing or any other source of information outside of
4 staff regarding the subject of this hearing? If so, please state with whom
5 you had contact and what was said.
6 (28:26) Danos indicated her husband is on the board of View the Future
7 and did the site walk with Theilacker. She indicated his involvement will
8 not influence her in this matter.
9 (29:00) Dickinson indicated his spouse is also on the board of View the
10 Future but he has not had any discussion with her in respect to this
11 project.
- 12 • (28:47) Has the Commission been given all testimony that has been
13 submitted to date? **No commissioner indicated they did not receive**
14 **information.**
- 15 • (29:25) Does the Commission feel it has had adequate time to review all
16 of the testimony? **All Commissioners indicated affirmatively.**
17 (29:45) Bloch gave instruction of how public testimony would proceed.
18 (30:46) Guenther addressed some common questions that have been
19 asked. She also advised that although people might not be happy with the
20 Code, revising the Municipal Code is not the work for today. She also
21 explained the difference between a variance and conditional use. She
22 then highlighted the Staff Report that is included in the meeting packet.
23 She suggested items that the Commission consider certain questions:
24 (43:55) Bloch asked if any of the Commissioners had questions regarding
25 the Staff Report.
26 (44:05) Theilacker questioned the comprehensive plan designation of this
27 project listed as multi-family residential and advised he couldn't find that
28 anywhere on the website.
29 (44:33) Guenther advised to her R4 designation is multi-family residential,
30 she will research further and get that information. She went on to add that
31 in the packet there is a Revised Staff Report due to Dickinson pointing out
32 that the plot plan changed by removing a kitchen.
33 (45:37) Dickinson referred to the definition of how conditional use is
34 evaluated and asked if the site plan changes resulting from this meeting,
35 would the applicant have to file a new application.
36 (47:05) Guenther advised if there was a substantial change, then yes, a
37 new application would need to be filed. She further stated that Hui
38 Rodomsky of Department of Land Conservation and Development (DLCD)
39 is on the call and any procedural questions can be referred to her.
40 (48:46) Theilacker questioned reference in the plan to a land use map and
41 asked if there was such a map on file with the City that showed this
42 property as multi-family residential and if there was a description.
43 (49:26) Weber advised on the City website there is a Zoning Map showing
44 the designations. Discussion continued regarding the Zoning Map,
45 Comprehensive Plan and designations.

1 (50:19) Theilacker then referred to Ordinance #367 indicating it was
2 considered by the Planning Commission in 2020 and then the City Council
3 in 2021, but there is no record indicating if that Ordinance was ever
4 enacted by Council.

5 (51:02) Bloch clarified that #367 were the changes initiated by DLCD.
6 They were reviewed and approved by the Planning Commission and
7 forwarded to the Council. Council who also approved them but Bloch was
8 unsure if they have been integrated into the Code.

9 (51:34) Theilacker continued the discussion indicating there was a Natural
10 Resources Map in that packet of material and he asked if this property
11 was on that map. Bloch advised he did not have an answer.

12 (52:10) Theilacker asked Guenther if there were any transportation related
13 goals or policies in the Comprehensive Plan or related study that the
14 Planning Commission should be aware of with respect to use Yachats
15 Ocean Road and Shellmidden Lane.

16 (52:56) Guenther responded that she did not have anything regarding a
17 transportation goal. Discussion continued regarding the Comprehensive
18 Plan and a Village Circulation Plan. Guenther mentioned Goal M and
19 policies regarding transportation, especially safe passage and emergency
20 access She did mention that Yachats Ocean Road is not a city street.

21 (55:32) Theilacker then asked if the City had any plans to improve
22 Shellmidden Lane at this time. Guenther checked with Public Works and
23 was told "no". Discussion continued on streets and who is responsible for
24 improvements with new builds.

25 (57:10) Theilacker then asked if the City has the ability to require this
26 developer to build a cul-de-sac on their property. Guenther explained that
27 in all new developments the Fire District requires turn arounds, not
28 necessarily cul-de-sacs, but hammerheads and those are built at the
29 developer's expense to the specifications of the Fire District. Discussion
30 continued regarding access and offsite right away.

31 (1:00:06) Bailey asked for clarification on permitting requirements for the
32 different types of buildings, i.e.: hotel, motel, single-family residence
33 indicating that each one has different requirements.

34 (1:01:12) Guenther responded that is why she began her report by stating
35 the definition of what this development was would determine the specific
36 requirements and if they were being met.

37 (1:03:10) McClung indicated there is a six-inch (6") water line on Yachats
38 Ocean Road which is more than sufficient for that community. There is no
39 moratorium at this time so building can continue a 250K gallon reservoir to
40 help supply that area, there is also a wastewater main line on Yachats
41 Ocean Road.

42 (1:05:28) Bloch then advised the Applicants would present the description
43 on the application and any points they would like to make to the audience.

44 (1:05:48) Chris Fletcher was spokes person for Agate Point Residences
45 LLC talked of how he and his brother visited Yachats and enjoyed the
46 area. He then summarized the project proposal included in the package,

1 indicating that their small, high-quality cottages would address the needs
2 of the current demographic of traveler. He went on to say that all codes
3 have been met and all suggestions/requirements by Department of State
4 Lands (DSL) and Army Corps of Engineers have been met. Access of
5 Shellmidden Lane will alleviate traffic on Yachats Ocean Road.

6 (1:12:32) Danos questioned the meeting space being available to the
7 community. She asked if they would consider limiting the space to guests
8 only to cut down on the amount of cars that a large wedding or birthday
9 party might entail.

10 (1:13:08) Fletcher indicated that the meeting space for the community was
11 added later in the process because they thought that was what the
12 community wanted. They would be happy to keep the meeting space to
13 “guests only” and that the intent was not to make money on events.

14 (1:13:55) Theilacker asked about off street loading and parking
15 requirements the project parking lot is to have a five-foot (5’) site
16 obscuring fence between the parking lot and any adjoining residential or
17 owned property.

18 (1:14:38) Fletcher advised they would not be opposed to doing that.

19 (1:14:45) Theilacker then talked about the parking space size indicating
20 the size are to be nine-foot (9’) wide x eighteen foot (18’) deep and the
21 project’s parking spaces are sixteen-foot (16’) deep with a twenty-four-foot
22 travel aisle. He asked if it would present a problem if they were required to
23 meet the eighteen-foot (18’) depth.

24 (1:15:24) Weber indicated that would not pose a problem.

25 (1:15:31) Theilacker then referred to the letter from DSL and their hope
26 that wetlands wouldn’t be impacted. He indicated that the project plans
27 show elimination of the wetlands.

28 (1:16:22) Fletcher agreed with Theilacker’s statement and said they are
29 planning on doing offsite mitigation which is an alternative with DSL.

30 (1:16:44) Theilacker then questioned the parking lot; if it was to be paved,
31 concrete, gravel...

32 (1:16:54) Weber advised the current plan is for a gravel parking lot but if
33 Shellmidden will be paved then Agate Point is open to paving the parking
34 lot. They are trying to keep it environmentally friendly.

35 (1:17:34) Theilacker voiced his concern if the lot was paved how storm
36 water runoff from the parking lot and rooftops would be handled to avoid
37 contamination of the adjoining wetlands property.

38 (1:17:58) Weber indicated the common areas would be curbed or ground
39 cover, they are still working with their biologist on how to best deal with
40 those issues.

41 (1:18:37) Theilacker then asked what the plans were for signage.

42 (1:18:48) Weber advised the signage would be understated and probably
43 less than code required. Fletcher included that most of the marketing will
44 be online. Jonathan Fletcher continued by saying that there will be very
45 minimal directional signage.

1 (1:20:06) Bloch questioned Weber regarding the size of the parking
2 spaces and if that meant the size of the parking lot would increase.
3 (1:20:32) Weber said they would adjust the size to meet the 9' by 18' size
4 requirement.
5 (1:21:08) Orchard questioned Jeff Weber's role in the development.
6 (1:2) Fletcher explained that he and Jon have not done development
7 before and Jeff is their development consultant and he handles the
8 technical issues and keep them on track.
9 (1:21:53) Dickinson indicated he had several concerns regarding the
10 parking area and went on to outline them.
11 (1:25:42) Weber responded that in their first plan there was quite a bit of
12 pushback to the size and this time they made it a little smaller. He went on
13 to explain that they have contacted Lincoln County but have not heard
14 back. He referred to the plot plan.
15 (1:27:05) Guenther indicated that this questioning has become more
16 deliberation and should be saved for later on in the meeting.
17 (1:27:32) Bloch advised he felt the issues raised by Dickinson needed to
18 be addressed by the applicant before it could go to deliberation and he
19 recommended that Weber continue.
20 (1:28:16) Discussion was held regarding the deliberation process and it
21 was decided to save the answers to Dickinson's questions for that time.
22 (1:29:36) Bloch thanked the Fletchers and Weber for the application and
23 their presentation and indicated the meeting would proceed to public
24 comment. He gave instructions for comments indicating there were people
25 at the meeting via zoom.
26 The following individuals were speaking in opposition of the Application:
27 (1:32:47) David Cowden, 3501 Hwy 101 N
28 (1:34:02) Laura Raines, 434 Shellmidden Way, speaking for Richard
29 Ponting of 95 Surfside Dr., She read his statement.
30 (1:37:13) Linda Fitch, 431 Shellmidden Way, she referred to her ten-page
31 Letter
32 (1:41:55) Doug Connor, 490 Lemwick Lane
33 (1:43:27) Jude Toler, 74 Greenhill
34 (1:48:02) John Ayer, 20 Beargrass Court
35 (1:53:28) Jim Paul, 268 Yachats Ocean Road, speaking for himself and
36 his wife (Maggie)
37 (1:58:13) Geraldine Battistoli, The Dwellings, 380 Village Lane, advised
38 another resident gave her their 3 minutes also advised she was
39 speaking for Jeanette Bush of The Dwellings
40 (2:08:02) Chris Christianson, 23 Basalt Loop
41 (2:10:13) Jas Adams, 10 Beargrass Court
42 (2:18:16) JoDee Moine, 390 Yachats Ocean Road, turned her 3 minutes
43 over to Chris Kolvak, Esq.
44 (2:18:43) Chris Kolvak, Esq., 1125 NW Couch St., Portland
45 (2:25:23) Max Glenn, 1395 King Street
46 (2:26:57) JD Deriberprey, 788 King Street

1 (2:29:40) Betty Johnson, 542 West 6th Street

2 (2:31:03) Bloch asked if there were other people wanting to speak for or
3 against the project. There being none, he then asked Guenther if she had
4 been able to get someone from the Yachats Rural Fire District.

5 (2:31:30) Guenther advised she was unable to get anyone from the YRFD
6 but did give a summary of the conversations with them and discussions
7 with the Deputy State Fire Marshall. She did indicate there is an
8 application from Agate Point to be reviewed by the State Fire Marshall.

9 (2:32:48) Toler addressed Guenther indicating she spoke to Shannon
10 Miller and she (Toler) got a copy of the fire code and that someone needs
11 to come to the site to review it properly.

12 (2:33:14) Guenther agreed with Toler indicating much more information
13 was needed than what was available in the packet.

14 (2:33:35) Bloch called a short break.

15 (2:44:27) Bloch reconvened the meeting indicating that the Applicant will
16 be able to rebut any of the comments made.

17 (2:46:06) C. Fletcher responded for the Applicant.

18 (2:52:09) Weber further addressed public comments and referred to the
19 zoning map, speaking primarily about access from Shellmidden versus
20 Yachats Ocean Road. He indicated that using Shellmidden would be
21 much more work, but they felt it would be more beneficial for the
22 community traffic wise.

23 (3:00:49) Bloch then asked Commissioners for questions to the
24 Applicants.

25 (3:01:10) Bailey asked the Applicants to address the definitions of
26 hotel/motel, short-term vacation rental and manufactured dwelling.

27 (3:01:30) J. Fletcher responded with their thoughts on the different
28 definitions.

29 (3:03:15) Bailey responded that the plan of cottages seems to be more
30 single-family residences.

31 (3:03:58) J. Fletcher asked what specific concerns Bailey had so he could
32 address them.

33 (3:04:15) Bailey indicated a hotel is one building with many rooms and one
34 entrance, a motel is usually one dwelling with individual entrances and no
35 kitchens. This plan appears more like single family residences that would
36 be a short-term rental.

37 (3:05:03) C. Fletcher responded that the market has evolved over the
38 years and there are more people working while vacationing as well as
39 being more "contactless". J. Fletcher continued indicating the Applicant is
40 trying to create an upscale niche in Yachats that currently doesn't exist.

41 (3:07:32) Weber interjected that their type of project makes it easier for
42 families to gather together as a unit. He went on to say they did research
43 all over the US and this concept is new and doesn't fit the code. He further
44 stated that they know because this is a new concept there needs to be
45 more work done and they are willing to do that.

1 (3:10:04) Bailey inserted that the Applicant's explanation sounded more
2 like a short-term rental than a hotel.

3 (3:10:21) Weber reiterated that a short-term rental is a single-family
4 detached home and that is not what this is.

5 (3:10:49) J. Fletcher spoke to the popularity of Air B&Bs. He advised they
6 are taking the mindset of the Air B&B and taking it out of the
7 neighborhood. He felt they were trying to meet the short-term rental issue
8 head-on and create an environment to meet people's need but in an area
9 zoned for that usage. C. Fletcher continued indicating an office was
10 included for oversight of the facility which is something you don't have in a
11 short-term rental. Discussion continued regarding short-term rental, i.e.
12 Sweet Homes Management versus this project.

13 (3:16:52) Dickinson raised questions regarding the office and if it would be
14 manned 24/7.

15 (3:17:29) J. Fletcher responded that there will not be someone living on
16 site but someone will be there for check-ins and check-outs. He also
17 wanted to advise there is a door to the parking lot and no one would have
18 to walk through a rental unit.

19 (3:18:04) Dickinson then questioned the maintenance of the facility. i.e.
20 cleaning, laundry, deliveries, etc.

21 (3:19:15) J. Fletcher responded, indicating that Sweet Homes supplies the
22 linens and does their laundry offsite. He went on to describe how efficient
23 and professional Sweet Homes is.

24 (3:21:02) C. Fletcher returned to a question that Bailey asked that wasn't
25 answered, regarding details on manufactured homes. He indicated this is
26 a pre-fab home, not manufactured and went on to explain the process. J.
27 Fletcher continued by talking about the pre-fab company "Ideabox" that
28 they are using.

29 (3:24:19) Bloch asked for any other questions of the presenters. Seeing
30 none he asked the Planning Commission do you believe all necessary
31 evidence has been presented that you need in order to make a decision?
32 **There were no negative responses.** He thanked everyone and reminded
33 the Applicant and others that the Planning Commission may only consider
34 the evidence and testimony that pertains to the applicable criteria stated in
35 the Notice of Hearing and at the beginning of this hearing. Bloch closed
36 Public Testimony. He clarified that only the Commission and Staff will be
37 speaking during deliberations.

38 (3:26:21) Bloch asked the Commission to share any points to justify a
39 decision one way or another.

40 (3:26:55) Dickinson raised several concerns. First the application for hotel
41 rather than motel. Second is access, the traffic issue and Shellmidden
42 flowing out to Yachats Ocean Road. He then mentioned condominiums
43 versus hotel. Next he indicated the parking doesn't function and that there
44 is no input from the Fire Department or State Parks. Then he brought up
45 the wetlands and the mitigation aspect. He indicated he felt this facility
46 was not a good fit for the neighborhood.

1 (3:36:13) Theilacker agreed with Dickinson in that the Applicant has
2 provided a plan that indicates motel rather than hotel and went on to
3 discuss that.

4 (3:38:00) Bloch spoke to the issues raised beginning with the project
5 appearing to be short-term rental units. He went on to voice concerns
6 about emergency vehicle access and the description of the parking lot and
7 access to parking spots. He felt the central issue is that the Commission
8 is being asked to ignore the one-acre requirement with access to Highway
9 101.

10 (3:41:48) Danos disagreed with Bloch indicating the conditional use
11 request of less the one-acre removed the requirement for access to
12 Highway 101. She felt the issues were with ingress and egress and the
13 35-foot requirement that might require a design review. She indicated that
14 this is an R-4 zoned area but due to this becoming a more residential
15 area, access to the project becomes a problem.

16 (3:44:45) Orchard spoke about the conditional use permit for highway
17 access and also for having less than one acre. She indicated that even
18 without the overwhelming community opposition she doesn't see how this
19 Application could be approved.

20 (3:45:30) Theilacker clarified the vehicle access criteria and Bloch read
21 the excerpt from the Staff Report regarding that.

22 (3:46:49) Dickinson spoke to the issue of a cul-de-sac versus a turn
23 around requirement. He then talked about the zoning map and spoke
24 about the R-4 zoning on the south side of Yachats being accessible to
25 Highway 101.

26 (3:49:18) Theilacker asked Dickinson to clarify cul-de-sac versus the turn
27 around. Dickinson explained how he read the ordinance. Discussion was
28 held regarding vehicular turn around.

29 (3:51:13) Bloch indicated the Commission now had to make a decision
30 and then explain the rationale behind it. Bloch asked if there are
31 conditions that are not met and what does the majority agree upon.
32 Discussion was held on the various issues that the Commissioners
33 brought up.

34 (3:54:48) Guenther advised the Commission that they needed to make a
35 motion to approve or deny the Application and that the reasoning for the
36 decision does not need to be part of the motion.

37 (3:56:39) Bailey summarized: by definition this project appears to be a
38 motel not a hotel, no access to Highway 101 and there is less than one
39 acre.

40 (3:57:25) Orchard indicated that a motion needs to be made and the
41 reason(s) for each Commissioner's vote don't need to agree.

42 (3:57:47) Dickinson asked for clarification on whether the definition of
43 hotel versus motel is important when making the motion. Guenther
44 confirmed it was but in doing so it is being stated for the record what
45 information is being relied upon for the decision.

1 (3:59:46) Rodomsky interjected that the Commission makes a motion,
 2 each Commissioner votes and then they can each explain their reasoning
 3 after the vote. Upon further questions regarding hotel versus motel, she
 4 advised the motion should be made pursuant to the Application and if it
 5 meets the criteria of a hotel.

6 (4:01:47) Orchard made the **motion to deny the Conditional Use Permit**
 7 **on the less than one-acre and on the no access to the highway.**

8 Guenther advised there is only one permit requested and the motion
 9 doesn't need to specify.

10 (4:02:18) Danos asked about the analysis on the Staff Report indicating
 11 the Commission needing to determine the definition of hotel versus motel.

12 (4:03:09) Guenther reiterated that the motion is as simple as approving or
 13 denying the permit and then each Commissioner can explain their
 14 rationale. Discussion continued.

15 (4:06:25) Orchard restated her motion leaving out the specifics and she
 16 indicated the conditional use Permit should be denied.

17 (4:06:50) **Vote:** Orchard, no; she did not see any reason for granting this
 18 permit; Theilacker, no; indicated he is opposed to the motion to deny the
 19 Application because he believes the use is a motel not a hotel.

20 (4:10:30) Discussion held on the wording of the motion and how to vote
 21 denying the application.

22 (4:12:43) Bloch made a new motion: **An affirmative vote is approving**
 23 **the CUP (Conditional Use Permit), a negative vote is voting the CUP**
 24 **down.**

25 (4:13:38) Vote: Danos, no; indicating that although all the standards were
 26 met for a hotel, except for the fact that it is a dead end. Dickinson, no;
 27 indicating that whether it is a hotel or a motel there are some standards for
 28 each that aren't met and access. He also felt that there were many issues
 29 that would require an entirely new Application. Bailey, no; access and
 30 definition of the project being a hotel or motel. Bloch, no; primarily due to
 31 the access issues and quoted the Code. Theilacker, no; agreeing with
 32 Bloch and referring to vehicle access as well as some site plan
 33 deficiencies. Orchard, no; she has seen no reason to approve it. **The**
 34 **motion to deny the Application for CUP is carried 6/0 with one**
 35 **abstention.**

36 (4:19:51) C. Fletcher thanked the Commission for their time, consideration
 37 and deliberation. J. Fletcher concurred and indicated the hotel/motel
 38 definition tripped up the Application. He advised that they will look at it
 39 again and see if there is a different way to go.

40 (4:20:30) Bloch thanked all those who participated with testimony.

41 (4:20:40) Guenther advised she would prepare the findings for adoption at
 42 the next meeting and anyone who submitted testimony is entitled to a
 43 copy.

44 **IV. NEW BUSINESS**

45 **V. OLD BUSINESS**

46 **VI. PLANNER REPORT**

- 1 **VII. OTHER BUSINESS**
- 2 **A. From the Commission**
- 3 **B. From the Staff**

4

5 Meeting adjourned at 7:24 pm.

6 Transcribed by Contractor, L.F. Barrett, July 6, 2022

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DRAFT