



# CITY AND BOROUGH OF SITKA

## Minutes - Draft

### Planning Commission

*Chris Spivey, Chair*  
*Darrell Windsor, Vice Chair*  
*Randy Hughey*  
*Richard Parmelee*  
*Taylor Colvin*

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Thursday, February 22, 2018

7:00 PM

Harrigan Centennial Hall

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#### I. CALL TO ORDER AND ROLL CALL

Chair Spivey called the meeting to order at 7:00 PM.  
Present: Spivey, Windsor, Hughey, Colvin, Knox - Assembly liaison  
Absent: Parmelee (excused), Bean - Assembly liaison alternate

#### II. CONSIDERATION OF THE AGENDA

#### III. CONSIDERATION OF THE MINUTES

A [PM-38](#) Approval of the January 16, 2018 meeting minutes.

Windsor/Colvin moved to approve the January 16, 2018 meeting minutes.  
Motion passed 4-0.

B [PM-39](#) Approval of the February 8, 2018 meeting minutes.

Windsor/Colvin moved to approve the February 8, 2018 meeting minutes.  
Motion passed 4-0.

#### IV. PERSONS TO BE HEARD

#### V. PLANNING DIRECTOR'S REPORT

C [MISC 18-07](#) Director's Report - February 22

Director Michael Scarcelli outlined public outreach activities to garner comment for the Comprehensive Plan. Scarcelli gave a summary of the Municipal Clerk's memo regarding abstaining from voting and conflicts of interest.

#### VI. REPORTS

#### VII. THE EVENING BUSINESS

**D**     [P 17-09](#)

Public hearing and consideration of a subdivision replat request for properties at Baranof Warm Springs. The properties are known as Lot 2 and the Southerly Portion of Lot 1, Block 7, US Survey 3291 A&B and adjacent accreted tidelands. The request is filed by James Brennan. The owners of record are James Brennan and Mark and Dawn Young.

Scarcelli gave an overview of the request, and the interactions of isostatic rebound and accretion. The request would join accreted tidelands to two existing properties. The primary issue is preserving the community's interest in the easement rights of the boardwalk via a new easement noted on the plat and potentially an additional recorded document, possibly addressing maintenance if the municipality so desires. Scarcelli discussed the platted boardwalk and stated that work with the Municipal Attorney and applicants will be necessary after approval to craft an easement document. Staff recommend approval subject to conditions of approval.

James Brennan, owner of one of the lots, introduced Mark Young, owner of the other subject lot. Brennan gave an overview of the rights of uplands owners to claim accreted lands. Brennan stated that a quiet title action has been filed in state court, and stated that DNR currently has no problems with the proposal subject to local platting authority approval. Brennan stated that he is willing to grant a recordable easement to the city for the boardwalk. Brennan stated that the city has never had an easement or right-of-way of record for the falls. Brennan discussed prior issues with the boardwalk resulting in municipal legal action. Brennan stated a commitment to working with the Planning Director and Municipal Attorney on the easement. Scarcelli asked Brennan to clarify Brennan's concerns regarding chain of title. Brennan stated that the city has record of ownership in his name only, but he believes he has a deed granting ownership to himself and his wife. Hughey stated that it appears the boardwalk easement would go across the property, and Brennan stated that the easement that is correct, and that the easement is in the best interest of the property owners and the public.

No public comment.

Scarcelli clarified a typo, and stated that the applicant's name is spelled "Brennan."

**Hughey/Windsor moved to find that as modified and conditioned that the proposed replat with conditions requiring an easement for the boardwalk complies with all pertinent development codes, complies with the Comprehensive Plan, and also does not negatively impacts the public's health, safety, and welfare. Motion passed 4-0.**

**Hughey/Windsor moved to approve the subdivision replat request for properties at Baranof Warm Springs subject to the attached conditions. The properties are known as Lot 2 and the Southerly Portion of Lot 1, Block 7, US Survey 3291 A&B and adjacent accreted tidelands. The request is filed by James Brennan. The owners of record are James Brennan and Mark and Dawn Young.**

**Conditions of Approval:**

- i. The plat shall show note and detail an access easement for the boardwalk.**
- ii. If required by the municipality, documents detailing the access easement and any required maintenance rights or liabilities shall be approved by the municipality prior to recording and referencing on any final plat. Legal and**

administration will work with the application to meet this condition of approval. If documents are required, these shall also be noted on the plat.

iii. The plat shall follow all recording requirements including proper monumentation. Secondary monuments shall be placed at all angle points, and at least one primary monument shall be located along the boundary line.

iv. All applicable state, federal, and tribal permits, licenses, regulations, and statutes shall be followed in subdividing this land.

Motion passed 4-0.

**E**      [P 17-08](#)

Public hearing and consideration of a minor subdivision request to result in two lots for 218 Shotgun Alley in the SFLD Single Family Low Density Residential District. The property is also known as Lot 3 WR Resubdivision. The request is filed by Steve Reifentstahl. The owners of record are Steven Reifentstahl and Andrea Thomas.

Scarcelli stated that this is the final plat hearing. The request is to subdivide one lot into two. Scarcelli described lot dimensions and district standards. Scarcelli showed photos of utilities, encroaching structures, and parking outside the property lines. Scarcelli showed the plat, as-built survey, and utility plans. Topographic information was provided after the preliminary approval. Conditions of approval mitigate concerns for parking, utilities, and narrow dimensions of one proposed lot. Staff recommend approval subject to conditions of approval.

Steve Reifentstahl stated that most of his neighbors park on the edge of the road and encroach more than he does. Scarcelli stated that code requires on-site parking, and properties should be moving toward code conformity. Windsor asked if on-site parking was possible, and Reifentstahl stated "not really," but "anything is possible with enough money." Scarcelli stated that it may be unappealing to develop the Shotgun Alley frontage, and one option is to plat an easement through Lot 2. Windsor asked if the easement could only be platted and not developed, and Scarcelli stated that it just has to be platted to city standards. Reifentstahl stated that an easement through Lot 2 wouldn't allow for that lot to be developed. Scarcelli stated that two 9' by 18' spaces are required per dwelling unit. Reifentstahl asked how far cars must be off the pavement, and Scarcelli stated "both cars have to be parked on your property." Reifentstahl stated that the boat is parked on the right-of-way and asked if that space could be used, and Scarcelli stated no. Scarcelli stated that an encroachment permit is required from Public Works for any right-of-way encroachments.

No public comment.

Windsor asked about approving the proposal without parking, and Scarcelli stated that approvals should be compliant with code. Scarcelli stated that the parking concern was raised after flagging was completed. Scarcelli stated that there is a condition of approval to address parking. Spivey stated that there is on-street parking occurring on Shotgun Alley but we need to move toward conformity. Hughey agreed and stated that Shotgun Alley is already skinny. Hughey stated that solutions should be sought now before the second lot is developed. Colvin stated support for approving the final plat subject to conditions of approval.

**Colvin/Windsor moved to find that:**

- a. As modified and conditioned, the final plat does meet its burden of proof as to access, lot width, utilities, and parking.**
- b. As modified and conditioned, that the proposed minor subdivision final plat complies with the Comprehensive Plan Sections 2.4.19 and 2.5.7 by using the subdivision process as the primary tool to manage land and have orderly**

development and layout;

c. As modified and conditioned, that the proposed minor subdivision final plat may comply with the subdivision code; and

d. As modified and conditioned, that the minor subdivision final plat may not be injurious to the public health, safety, and welfare and further that the proposed plat notes and conditions of approval protect the harmony of use and the public's health, safety and welfare.

Motion passed 4-0.

Colvin/Windsor moved to approve the final plat (Reifenstuhl Subdivision), for a minor subdivision at 218 Shotgun Alley subject to the attached conditions of approval. The property is also known as Lot 3 WR Resubdivision. The request is filed by Steve Reifenstuhl. The owners of record are Steven Reifenstuhl and Andrea Thomas.

Conditions of Approval.

1. Prior to recording, all angle points shall have secondary monumentation and at least one primary monument recovered or placed along the boundary line of the subdivision.
  2. The applicant shall use all accessory structures as accessory structures and not as principal residential uses nor for temporary residential uses.
  3. On-site parking shall comply with code prior to recording the final plat (SGC 22.20.100.D.1: two 9'x18' parking spaces per residential lot shall be provided on site).
    - a. This can occur through a variety of means such as providing access to Lot 1 via Lot 2 (would require easement added to plat), or showing on-site parking on lot 1 that is readily accessible.
  4. Encroachments off- site by any temporary structure, such as the shed and off-site parking improvements, shall be corrected or receive proper permission of use within 3 months of approval.
  5. All utilities, including water, sewer, and electricity shall be required to have an approved permit from the municipality; and all utility permits and design shall comply with all applicable code and design polices including, but not limited to 15.04.100, 15.04.110, 15.04.240, and 15.04.250.
  6. This subdivision development and the final plat shall comply with all applicable Sitka General Code prior to recording.
  7. Note: there may be difficulty developing utilities through Yakobi Way.
  8. Please note: Minor errors, corrections, and language of plat notes, may be approved by the Planning Director that do not substantially and materially impact the nature of the subdivision.
  9. All applicable state, federal, and tribal permits, licenses, regulations, and statutes shall be followed in subdividing this land.
- Motion passed 4-0.

**F**      [CUP 18-02](#)

Public hearing and consideration of a conditional use permit request for a short-term rental at 1929 Dodge Circle in the R-1/ R-1MH Residential District. The property is also known as Lot 3 Ocean Heights Subdivision. The request is filed by Stephanie Brenner and Andrew Stoner. The owners of record are Stephanie Brenner and Andrew Stoner.

Planner I Samantha Pierson described the request for short-term rental of a 2 bedroom 1 bathroom portion of a single-family house. Sufficient parking exists on-site and foliage provides a buffer to the rear. The lot is more than twice the minimum lot size. Pierson showed a vicinity map showing three other short-term rentals nearby. Commissioners stated appreciation for this density information. Pierson stated that the rental would be professionally managed. Staff recommend approval subject to

conditions of approval.

Brenner stated that she is not in Sitka during the summer, and the rental would primarily be rented out short-term May - September. Sometimes friends stay at the house. The unit is not rented out otherwise. Brenner stated that the rental would be managed by Sitka Travel.

No public comment.

Hughey stated that it's easier to approve with professional management. Spivey stated that the commission should be mindful of increasing density of short-term rentals.

**Windsor/Hughey moved to find that:**

**1. ...The granting of the proposed conditional use permit will not:**

**a. Be detrimental to the public health, safety, and general welfare specifically, conditions of approval require responsible garbage management to minimize bear risk;**

**b. Adversely affect the established character of the surrounding vicinity specifically, sufficient parking exists on-site; nor**

**c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located, specifically, access is developed and managed through an access easement agreement.**

**2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation, specifically, conforms to Comprehensive Plan Section 2.2.1 which emphasizes supporting "economic activities which contribute to a stable, long-term, local economic base" by allowing local homeowners to launch a small business and participate in the tourism industry and Section 2.6.2(K), which supports "development of facilities to accommodate visitors" that do not negatively impact surrounding residential neighborhoods, by operating a short-term rental with requirements to mitigate concerns for traffic, odors, and noise.**

**3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically that provision of a detailed rental overview can address potential areas of concern as soon as the tenant arrives to the property, and violations may be grounds for eviction.**

**Motion passed 4-0.**

Windsor/Hughey moved to approve the conditional use permit application for a short term rental at 1929 Dodge Circle subject to the attached conditions of approval. The property is also known as Lot 3 Ocean Heights Subdivision. The request is filed by Stephanie Brenner and Andrew Stoner. The owners of record are Stephanie Brenner and Andrew Stoner.

**Conditions of Approval:**

**1. Contingent upon a completed satisfactory life safety inspection.**

**2. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.**

**3. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation, bed tax remitted, any violations, concerns, and solutions implemented. The report is due within thirty days following the end of the reporting period.**

**4. The Planning Commission, at its discretion, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties upon receipt of meritorious complaint or**

evidence of violation of conditions of approval.

5. Failure to comply with all applicable tax laws, including but not limited to remittance of all sales and bed tax, shall be grounds for revocation of the conditional use permit.

6. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.

7. To mitigate against the risk and impact of bears from the short term rental, the property owner shall assure all trash is deposited in trash receptacles that are stored in bear proof areas (whether enclosed garage or other bear proof area) and only placed on street for collection after 4 AM on trash collection day. Should this condition not be followed the CUP shall be revoked.

8. To mitigate against parking and traffic impacts, property owner shall provide detailed parking and traffic rules, and shall ensure all parking for all uses (residential or short-term rental) shall occur off-street, on-site, and further that should on-street parking occur at any time, the conditional use permit shall be revoked.

9. Any signs must comply with Sitka General Code 22.20.090.

10. A detailed rental overview shall be provided to renters detailing directions to the unit, appropriate access, parking, trash management, noise control, and a general admonition to respect the surrounding residential neighborhood.

12. The property owner shall communicate to renters that a violation of these conditions of approval will be grounds for eviction of the short-term renters.

13. Failure to comply with any of the above conditions may result in revocation of the conditional use permit.

Motion passed 4-0.

## **G**      [CUP 18-04](#)

Public hearing and consideration of a conditional use permit for a food truck at 331 Lincoln Street in the CBD Central Business District. The property is also known as Fractional Portion of Tract J US Survey 404. The request is filed by Youth Advocates of Sitka. The owner of record is Christopher Bowen.

Pierson described the request for a food truck/outdoor restaurant. The location is in front of the movie theater next to Ashmo's, which has a current conditional use permit. Pierson stated that this will be a youth workforce development program overseen by adult staff. Coffee and smoothies will be served. Odors and noise are not expected to exceed what is typical in the Central Business District. The applicants provided a marked-up photo to show that the food truck will not block the main entrance to the theater. The operation was located at Lakeside last year, and a DEC permit is active. Liquid and solid waste plans are provided. Proposed hours of operation are typical business hours, 9 AM to 5 PM. Staff recommend approval subject to conditions of approval.

Matthew Jackson represented Youth Advocates of Sitka. Jackson stated that he would appreciate flexibility to expand hours beyond what was proposed.

No public comment.

Spivey stated support. Scarcelli stated that the Central Business District is active throughout the day. Commissioners stated support for expanding hours of operation to allow for the applicant's flexibility.

**Hughey/Windsor moved find that:**

**1. ...The granting of the proposed conditional use permit will not:**

**a. Be detrimental to the public health, safety, and general welfare specifically, the operations have received appropriate DEC food safety permitting;**

- b. Adversely affect the established character of the surrounding vicinity specifically, the Central Business District is an area designated for a wide range of commerce; nor
  - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located, specifically, waste products will be handled in accordance with municipal utility programs;
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation, specifically, conforms to Comprehensive Plan Section 2.2.1 which emphasizes supporting “economic activities which contribute to a stable, long-term, local economic base” by allowing for an economic enterprise that simultaneously provides workforce development.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically that the Planning Commission may review the permit at any time upon receipt of meritorious complaint.

Motion passed 4-0.

Hughey/Windsor moved to approve the conditional use permit application for a food truck/outdoor restaurant at 331 Lincoln Street. The property is also known as a fractional portion of Tract J US Survey 404 subject to the attached conditions of approval. The request is filed by Youth Advocates of Sitka. The owner of record is Christopher Bowen.

**Conditions of Approval:**

- 1. All required permits, including but not limited to DEC Food Safety and Sanitation, shall
- 2. Operations shall not obstruct safe access to the theater entrance and shall not obstruct sidewalk passage.
- 3. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.
- 4. The Planning Commission, at its discretion and upon receipt of meritorious complaint, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
- 5. The Planning Commission authorizes greater flexibility for hours of operation beyond the hours outlined in the application.

Motion passed 4-0.

**H**      [CUP 18-05](#)

Public hearing and consideration of a conditional use permit for a marijuana cultivation facility at 224 Smith Street in the I Industrial District. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.

Scarcelli described the request and project site. The granted setback variance creates difficulty for establishing adequate parking. Scarcelli discussed the definition of “recreational uses” and the commission’s role in determining a sensitive use. In this case, that the ‘recreational uses’ in the vicinity did not equate to state protected “sensitive uses” and therefore not subject to the state 500 foot buffer; however, the Commission could decide that such recreation uses are not compatible with the proposed use and rule against the proposed use based upon disharmony of uses and impacts to public health safety and welfare. The property is zoned industrial. Scarcelli showed interior and exterior photos and floor plans. Scarcelli stated that conditions of approval require additional information regarding odor, waste, and security. Windsor stated that the parking pads shown in the photos aren’t actually parking pads but

access into the building.

Eric VanVeen stated he can do further work on the parking plan. VanVeen stated that he will have five employees. VanVeen stated that his engineer will have more odor plan details available soon. Hughey asked about the growing tension of growing development and federal intervention. VanVeen stated that it's dangerous but it's a booming business and he doesn't believe the federal government will intervene.

John McGraw stated that he lives 300 feet away from this building and is concerned for odor. McGraw stated that other operations are causing odors and he's concerned for concentrating these businesses in one area. Scarcelli stated that applicants must keep a log book of daily odor checks and he encourages applicants exceed the minimum filtration. McGraw stated concern for parking, and Scarcelli clarified that parking is a condition of approval. Hughey stated that the commission wants to hear input from neighbors, as this is a new industry. Spivey stated that the applicant has to prove that they can handle the responsibility of the conditional use permit.

Michelle Cleaver stated that she owns Weed Dudes. Cleaver stated that Alaska's Attorney General has vowed to protect legal marijuana enterprises and go after black market marijuana.

Spivey stated that it's a good idea to note the location and density of marijuana enterprises. Spivey stated that there have been times that he's detected odors in the neighborhood. Windsor asked what happens with the conditional use permit is revoked. Scarcelli stated that it is important to explore the reasons behind condition violations and offer an opportunity to correct prior to permit revocation if possible.

**Colvin/Windsor moved to adopt staff's finding in the written report and find that the zoning code has been followed, that the comprehensive plan has consulted, and that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval for the proposed marijuana cultivation conditional use.**

**Motion passed 4-0.**

**Colvin/Windsor moved to approve the conditional use permit for a marijuana cultivation facility at 224 Smith Street in the Industrial zoning district. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.**

**Conditions of Approval:**

- 1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.**
- 2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.**
- 3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshal or their designee and the Building Official.**
- 4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.**
- 5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.**
- 6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish and associated municipal license or conditional use**

permit.

7. All approved conditional use permits shall comply with all Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit

8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including number of required parking and loading spaces to be approved by the Planning Director. Spaces shall include 3 parking space for employees and one loading zone for the cultivation use, and one space for every 400 square feet of industrial use (outboard).

9. The applicant must provide more detail for an Odor Control Plan to be submitted and approved by the Planning Director prior to issuance of any occupancy permit.

a. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters for any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. The project must comply with the submitted odor control plan and odor control features. Should a meritorious odor complaint be received, the Planning Commission may require additional odor control measures to mitigate any actual negative impacts, such as additional advanced odor filtration systems.

10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. The permittee shall report, annually, to the planning commission on gross sales, sales tax amounts, electrical consumption, number of employees, hours of operation, complaints, police or other law or regulation enforcement activity, and summary of operations.

12. The permit is subject to review should there be a meritorious complaint, impact to public health safety or welfare, or violation of a condition of approval. The review may occur at the discretion of the Planning Director or by motion of the Planning Commission to address meritorious issues or complaints that may arise. During this review, based on the evidence provided, existing code and conditions of approval, the permit may be amended or revoked to address impacts to public health, safety, and welfare.

13. Prior to operation, the Sitka Police Department shall approve the security features as being reasonable security measures as outlined in the proposed operating plan and security plan submitted by applicant.

14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.

Motion passed 4-0.

BREAK 8:15 - 8:23

I [CUP 17-25](#)

Public hearing and consideration of a conditional use permit for a marijuana cultivation facility at 202 Smith Street for RTW, LLC in the C-2 General Commercial Mobile Home District. The property is also known as Lot 8 Sitka Projects Subdivision. The request is filed by Ronald T. Waldron. The owner of record is RTW, LLC.

Scarcelli outlined the proposal and pointed to the top concern is the compatibility of use of the gym across Smith Street from the proposed location. The gym does not meet the state definition of "Recreation Center" but meets the general understanding of a recreation center. The New Archangel Dancers are next door to the proposal. The project is zoned C-2 with high commercial and sports uses surrounding. Scarcelli showed photos, site plan, parking plan, and floor plans. Conditions of approval would require additional information on odor control, security, and waste management. Scarcelli read a letter of concern from Trisha Bessert of Sitka Gymnastics Academy/Kronos Gym/Sitka Cirque at 207 Smith Street outlining the close proximity between the gym and proposed cultivation location. Scarcelli stated that the primary concern will be odor, and the commission should consider if the concern can be adequately mitigated. While the state definition of "Recreation Center" isn't met by nearby uses, the common sense definition is met by these uses. Staff recommend approval subject to conditions of approval. Colvin clarified that state approval would follow this approval, and Scarcelli stated yes. Scarcelli stated that even beyond state marijuana regulations, the Planning Commission is charged to make decisions about harmony of use.

Ronald Waldron is the owner of the property. William Noel stated that he will be the facility manager. Spivey asked the applicant to explain odor controls. Waldron stated that they have hired a mechanical engineer from Juneau to plan the system. Waldron stated that daily walk-throughs will be conducted. Noel stated that an emergency generator will be installed. Waldron stated that signage will be small as it is not a retail outlet. Waldron stated that the building will not change except for the addition of a rear exit. Waldron stated that no additional staff will be added, as the property will be staffed by existing staff. Waldron stated that Safetec will continue to operate on the first floor with cultivation in the second floor. Waldron stated that the upstairs will be a sealed, secured facility.

Celeste Tydingco stated that her daughter is in gymnastics in the gym and karate in the New Archangel building. Access to the New Archangel building is on the side. Children as young as 5 participate in karate. Gymnastics ranges from toddlers to teenagers, 7 days per week.

Spivey stated that understands the concerns and stated that he has been approached by several concerned individuals. Spivey stated that he is torn as a parent. Colvin stated that there could be businesses in the area that could pose more danger to kids, such as forklifts, and the property is commercial. Hughey stated that he doesn't think cultivation poses a threat, the operation would be discrete, and it's tough to find commercial space. Spivey stated concern for density of marijuana businesses. Windsor stated that the market will weed out businesses.

**Windsor/Hughey to adopt staff's finding in the written report and find that the zoning code has been followed, that the comprehensive plan has consulted, and that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval for the proposed marijuana cultivation conditional use.**

**Motion passed 3-1, Spivey voting against.**

**Windsor/Hughey moved to approve the conditional use permit for a marijuana cultivation facility at 202 Smith Street for RTW, LLC in the C 2 General Commercial Mobile Home District. The property is also known as Lot 8 Sitka Projects Subdivision. The request is filed by Ronald T. Waldron. The owner of record is RTW, LLC.**

**Conditions of Approval:**

**1. Owners, operators, and staff of conditional uses shall comply with all state**

and municipal licensing regulations.

2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.

3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshal or their designee and the Building Official.

4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.

5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.

6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish and associated municipal license or conditional use permit.

7. All approved conditional use permits shall comply with all Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit

8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including number of required parking and loading spaces to be approved by the Planning Director. Spaces shall include 3 parking space for employees and one loading zone.

9. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters for any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. The project must comply with the submitted odor control plan and odor control features. Should a meritorious odor complaint be received, the Planning Commission may require additional odor control measures to mitigate any actual negative impacts, such as additional advanced odor filtration systems.

10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. The permittee shall report, annually, to the planning commission on gross sales, sales tax amounts, electrical consumption, number of employees, hours of operation, complaints, police or other law or regulation enforcement activity, and summary of operations.

12. The permit is subject to review should there be a meritorious complaint, impact to public health safety or welfare, or violation of a condition of approval. The review may occur at the discretion of the Planning Director or by motion of the Planning Commission to address meritorious issues or complaints that may arise. During this review, based on the evidence provided, existing code and conditions of approval, the permit may be amended or revoked to address impacts to public health, safety, and welfare.

13. Prior to operation, the Sitka Police Department shall approve the security features as being reasonable security measures as outlined in the proposed operating plan and security plan submitted by applicant.

14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.

Motion passed 3-1, Spivey voting against.

140 Granite Creek Road in the C-2 General Commercial Mobile Home District. The property is also known as Lot 2 Lower Granite Creek Subdivision. The request is filed by Pete Jones. The owner of record is Jones & White, LLC.

Pierson described the request for minor subdivision to result in 4 lots. Access and utilities are provided via proposed easements. All lots exceed minimum lot size. Currently, the entire property is approved as a 19-unit mobile home park, although staff only observed about 5 or 6 units upon the site visit. Proposed Lot 3 is intended to be an 8-unit manufactured home park complete with required play yard. Pierson noted that manufactured home parks must obtain a separate approval from the Planning Director and Building Official. Staff recommend approval of the preliminary plat. Scarcelli noted that Lot 4 cannot be split in the future as the easement can only serve up to 4 lots as outlined in code.

Pete Jones stated that he currently has a 19 space mobile home park. Lot 3 will become an eight-space manufactured home park, with five units currently placed. There is one home on Lot 2. The proposed subdivision would allow greater flexibility with lending. Jones stated that he will move the electrical easement so it doesn't overlap with the access and water/sewer utility easement. Jones stated that utilities have been installed to code. Hughey asked if lots will be rented or sold, and he stated that he isn't sure what the future will hold. Hughey stated appreciation that Jones is creating affordable housing.

No public comment.

Windsor asked if the individual manufactured home lots would be sold as separate lots would trigger a major subdivision. Scarcelli stated yes but that there are other vehicles such as a condominium agreement.

**Hughey/Windsor moved to find that:**

- a. The preliminary plat meets its burden of proof as to access, utilities, and dimensions;**
- b. That the proposed minor subdivision preliminary plat complies with the Comprehensive Plan Section 2.4.19 by going through the required subdivision process;**
- c. That the proposed minor subdivision preliminary plat complies with the subdivision code; and**
- d. That the minor subdivision preliminary plat is not injurious to the public health, safety, and welfare.**

**Motion passed 4-0.**

**Hughey/Windsor moved to approve the preliminary plat for a minor subdivision at 140 Granite Creek Road subject to the attached conditions of approval. The property is also known as Lot 2 Lower Granite Creek Subdivision. The request is filed by Pete Jones. The owner of record is Jones & White, LLC.**

**Conditions of Approval.**

- 1. All utilities, including water, sewer, and electricity shall be required to have an approved permit from the municipality; and all utility permits and design shall comply with all applicable code and design policies including, but not limited to 15.04.100, 15.04.110, 15.04.240, and 15.04.250.**
- 2. This subdivision development and the final plat, prior to recording, complies with all applicable Sitka General Code.**
- 3. Please note: Minor errors, corrections, and language of plat notes, may be**

approved by the Planning Director that do not substantially and materially impact the nature of the subdivision.

4. All applicable state, federal, and tribal permits, licenses, regulations, and statutes shall be followed in subdividing this land.

5. The plat shall clarify that where access easements overlap with utility easements, no structure shall impede access for the full extent of the platted access easement.

6. Access and utility easement maintenance agreements shall be recorded and referenced on the plat.

7. Manufactured home park must comply with all requirements of Sitka General Code, particularly Title 6, including but not limited to setbacks, parking, and play yard.

8. Manufactured home park must receive approval from the Building Official and Planning Director.

Motion passed 4-0.

**K**     [VAR 18-02](#)

Public hearing and consideration of a variance major amendment request for the reduction in the front setback from 20 feet to 8 feet for the construction of a carport at 205 Crabapple Drive in the R-1 single-family and duplex residential district. The property is also known as Lot 23 Lakeview Heights Addition. The request is filed by Aaron Routon. The owners of record are Aaron and Emily Routon.

Pierson described the request for front setback reduction from 20 feet to 8 feet for a carport. Pierson described the variance granted in 2017 for this property for front setback to 10 feet for a carport. The carport could have been constructed with the prior approved variance, but the house addition was expanded beyond plans submitted, including a second story, resulting in an expansion of building space by greater than 10%. At the time, staff advised the applicant that a major amendment to the initial variance would be required to construct the carport. Pierson acknowledged that the majority of the house was pre-existing and there is poor soil in the rear, but the variance would constitute an exception to the rules that neighbors have had to follow. Staff recommended denial of the initial variance and recommend denial of this variance.

Aaron Routon stated that excavation necessitated plan amendments. The second story apartment was added to help with the cost of renovations. Spivey clarified that the project is completed, and Routon stated that the exterior has been built. Pierson clarified that the house expansion is within setbacks but the proposed carport is not. Routon stated that they would like a 17' carport instead of 15' to cover a larger vehicle for their growing family.

No public comment.

Hughey stated that he doesn't believe this poses a real problem on this narrow street. Windsor pointed to the neighbor's carport. Spivey stated that he doesn't see a reason for it, and the applicant already has a variance for 10 feet. Colvin asked about the prevalence of 8 foot variances. Scarcelli stated that many of the historically granted variances could have been legally challenged. Spivey asked if a variance was granted for the neighbor's carport, and Pierson stated that she did not find record of any. Spivey stated that he voted against it the first time. Hughey appreciated Spivey's adherence to the rules, but the neighboring carport is still there even if it's illegal. Hughey stated that there's already a solid visual barrier, and the carport is a modest visual obstruction.

**Hughey/Colvin moved to adopt and approve the required findings:**

**a. That there are special circumstances to the intended use that do not apply**

generally to the other properties, here, that the lot's soil is of poor quality and restricts cost-effective development;

b. The variance is necessary for the preservation and enjoyment of a substantial property right of use possessed by other properties but are denied to this parcel, here, the ability to construct covered parking;

c. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels, or public infrastructure, specifically, that the open carport would minimize view impacts to pedestrians and motorists; and

d. That the granting of such will not adversely affect the Comprehensive Plan: specifically, the variance is in line with Comprehensive Plan Section 2.4.1 which states, "To guide the orderly and efficient use of private and public land in a manner which maintains a small-town atmosphere, encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations," by allowing for the cost-effective development of an accessory structure in the R-1 zone.

Motion failed 2-2, Spivey and Windsor voting against.

Windsor/Hughey moved to adopt and approve the required findings:

a. That there are special circumstances to the intended use that do not apply generally to the other properties, here, that the lot is relatively flat but has poor soil toward the rear;

b. The variance is necessary for the preservation and enjoyment of a substantial property right of use possessed by other properties but are denied to this parcel, here, the development of covered parking could have been constructed under the prior approval;

c. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels, or public infrastructure, specifically, that the open carport would minimize view impacts to pedestrians and motorists; and

d. That the granting of such will not adversely affect the Comprehensive Plan: specifically, the variance is in line with Comprehensive Plan Section 2.4.1 which states, "To guide the orderly and efficient use of private and public land in a manner which maintains a small-town atmosphere, encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations," by allowing for an exception from codified development standards.

Motion failed 2-2, Hughey and Colvin voting against.

Windsor/Hughey moved to deny a variance request for 205 Crabapple Drive.

The variance is for the reduction of the front setback from 20 feet to 8 feet for the construction of a carport. The property is also known as Lot 23 Lakeview Heights Subdivision. The request is filed by Aaron and Emily Routon. The owners of record are Aaron and Emily Routon.

Motion passed 3-1, Colvin voting against.

## **L**      [CUP 18-06](#)

Public hearing and consideration of a conditional use permit for a commercial lodge at Finn Island in the GI General Island. The property is also known as Lot 6 US Survey 3926. The request is filed by Allen Marine Tours, Inc. The owner of record is Misty Fjord Charters, LLC.

Scarcelli described the request for commercial lodge and subject property on Middle Island. Proposed excursions would include boat ride, food, and island experience. Construction would need to meet the requirements of the VE flood zone. Conditions of approval include pursuit of commercial dock, water and wastewater permitting, and building permitting. Scarcelli showed photos, as-built survey, and proposed site plan.

Boat traffic could result in impacts but the applicant has been working with owners on nearby Kasiana Island. Staff recommend approval subject to conditions of approval.

Jamie Cagle and Lonnie Greenaugh represented the request. They work with large cruise ships to provide excursions. It is anticipated that cruise passenger numbers will increase this year and there is a need for additional excursions to meet cruise passenger needs. Cagle stated that they have initiated permits with Army Corps of Engineers for two docks. Landscaping will be considered to mitigate noise concerns. There will be opportunities for locals or conventions to utilize the lodge for events. Cagle stated that they have a similar operation on a larger scale near Juneau. Scarcelli stated that he has had discussions with the applicants about having caretakers and allowing flexibility for possible year-round operations.

Jon and Yvette Martin introduced themselves as Kasiana Island owners and stated their only concern as increased boat traffic and number of people. J. Martin understands that the town-side dock will be the primary dock with the dock near Kasiana utilized during bad weather. Martin stated that the applicants were amenable to observing a speed limit. J. Martin stated concern with expanding operations beyond the proposal as written since he did not have time to consider that. J. Martin stated that a dock for use during the summer is different than a dock for year-round use. Y. Martin stated that this is their retirement home and is concerned about a commercial venture, although the applicant has been very accommodating. Spivey clarified that proposed operations are 6 AM - 5 PM primarily during the summer months. Windsor asked how close the Martins are to the subject property. J. Martin stated that they are directly across the cove from the property. Scarcelli stated that the structure-to-structure distance is approximately 700 feet.

Jenny McDonough joined via phone and identified herself as a Kasiana Island owner. McDonough stated concern with this becoming a major commercial venture with after-hours operations.

Deborah Corbell stated that she's in support of the operation as it will bring revenue to the city. She stated support for weddings and other events, and asked if the restaurant will be open to people other than excursion patrons.

Cagle stated that they are "only applying for what's in the packet," and their primary focus is cruise passengers. Cagle stated that crew will arrive at 6 AM and customers will arrive around 9 AM. Cagle stated that most cruise ships leave at 6 PM so most guests would leave at 4-5 PM. Cagle stated that the 10-guest Alaska Dream Cruises may have dinner at the lodge. The application includes up to two caretakers and five to seven employees. Scarcelli asked for clarification on operational months and possible community events. Cagle stated that the primary focus is on the summer months, May through the end of September or early October. He stated that he would like to be able consider a hypothetical October wedding event.

**Windsor/Colvin moved to find that:**

- 1. As presented, the applicant has not met their required burden of proof, but as modified and conditioned it can be shown that the project would:**
  - a. comply with the Comprehensive plan,**
  - b. comply with all applicable codes and regulations, and not negatively impact the public's health, safety, and welfare.**
- 2. As modified by the attached conditions of approval, if the applicant completes those, it can be found the applicant would meet their burden of proof regarding all applicable approval criteria.**
- 3. As modified by the attached conditions of approval, the proposed**

development would not be detrimental to the public's health, safety, and welfare.

4. As modified by the attached conditions of approval, the proposed development would not adversely affect established character of the surrounding vicinity.

5. As modified by the attached conditions of approval, the proposed development would not be injurious to the uses, property, or improvements adjacent to and in the vicinity of the proposed development.

6. As modified by the attached conditions of approval, the proposed development is consistent and comports with the Comprehensive Plan's goals, objectives, and policies, specifically various goals and objectives that support accommodation for visitors, promote economic development, direct balancing different uses through conditions, and protection of the public's health, safety and welfare.

7. As modified by the attached conditions of approval, all conditions necessary to lessen any impacts are conditions that can be monitored and enforced.

8. As modified by the attached conditions of approval, the proposed development will not introduce hazardous conditions that the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public, health, safety, and welfare of the community from such hazards.

9. As modified by the attached conditions of approval, the proposed development will be supported by and not adversely affect adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

Motion passed 4-0.

Windsor/Colvin moved to approve, subject to the attached conditions of approval, a conditional use permit for a commercial lodge and accompanying facilities (dock) at Finn Island in the GI General Island district. The property is also known as Lot 6 US Survey 3926. The request is filed by Allen Marine Tours, Inc. The owner of record is Misty Fjord Charters, LLC.

Conditions of Approval:

1. Contingent upon a completed satisfactory life safety inspection conducted by the Building Official/Fire Marshal. This must be completed and evidence submitted to the Planning Department before guests are housed.

2. The facility shall be operated consistent with the scope of the approval of the request including any modifications made by these conditions.

3. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation, number of guests, any complaints or issues, remittance of tax. The report is due within thirty days following the end of the reporting period.

5. The Planning Commission, at its discretion, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.

6. A 6-month Planning Commission review will be scheduled to assess progress toward initiating required conditions, acquiring required permits, and to address any impacts to neighboring properties. At this review, should a material condition not be met, it will be the intent of the Planning Commission to revoke the conditional use permit.

7. Failure to comply with all applicable tax laws, including but not limited to remittance of all sales and bed tax, shall be grounds for revocation of the

conditional use permit.

8. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.

9. The property owner shall register for and maintain a utility account for garbage disposal and submit written evidence to Planning Department.

10. The property owner shall maintain/install/upgrade water and sewage equipment to meet Alaska DEC standards and shall submit written evidence to Planning Department. This must be completed and evidence submitted to the Planning Department before guests are housed or building occupancy occurs. Specifically, the deficiency of the existing septic system including but not limited to the outfall pipe shall be remedied prior to any activation of the conditional use permit and granting of the required occupancy.

11. The property owner shall work with Alaska Department of Natural Resources and any other required state or federal jurisdiction (e.g. US Army Corp of Engineers) to get an approved, permitted, legal, commercial dock permit. This must occur before the conditional use permit is activated and commercial occupancy granted. Applicant shall submit written evidence to Planning Department of such permit prior to issuance of any local certificate of occupancy. Denial of the dock permit may be grounds for revocation of the conditional use permit for the lodge. The dock may be permanent or seasonal.

12. Commercial dock approval by all applicable jurisdictions must occur before the conditional use permit is activated and commercial occupancy granted.

13. Failure to comply with any of the above conditions may result in revocation and/or failure to activate the conditional use permit.

14. The site is currently within a V zone. The structures and support facilities (water, wastewater, etc.) shall comply with all required flood zone engineering, flood elevation design standards, and other applicable life and safety regulations of the structures.

Motion passed 4-0.

**M**      [VAR 18-03](#)

Public hearing and consideration of a variance request for the reduction in the front setback from 20 feet to 10 feet for the construction of a single-family house in the R-1 single-family and duplex residential district. The property is also known as Lot 4 McCoy Subdivision. The request is filed by Amy Zanuzoski. The owners of record are Brian Oberreuter and Amy Zanuzoski.

**Windsor/Hughey moved to postpone consideration of this item to a later meeting date. Motion passed 4-0.**

**N**      [P 18- 02](#)

Public hearing and consideration of a minor subdivision to result in two lots at 2310 Halibut Point Road in the R-1 MH District. The property is also known as a portion of Lot 13 US Survey 2418. The request is filed by John and Jamie Licari. The owner of record is JPJL, LLC.

**Windsor/Hughey moved to postpone consideration of this item to a later meeting date. Motion passed 4-0.**

**VIII.    ADJOURNMENT**

Chair Spivey adjourned at 10 PM.

ATTEST: \_\_\_\_\_  
Samantha Pierson, Planner I