

February 2, 2026

Sara Peterson, Municipal Clerk
City & Borough of Sitka
clerk@cityofsitka.org
100 Lincoln Street
Suite 306
Sitka, AK 99835

Re: Appeal to the Sitka Assembly of the Sitka Planning Commission's Denial of Conditional Use Permit 25-17

Dear Ms. Peterson,

Our firm represents Sitka Dock Company, LLC (“Sitka Dock”), which submits this appeal pursuant to Sitka General Code 22.10.230 of the Sitka Planning Commission’s (“Commission”) January 21, 2026 denial of Conditional Use Permit 25-17 (the “CUP”). The Commission’s written findings are unsupported by substantial evidence,¹ are inconsistent with the intent of the Central Business District (“CBD”) and the Sitka comprehensive plan goals, rely on speculative and unsupported “findings” untethered to any defined criteria or standards, fail to acknowledge and weigh the benefits of the CUP, and fail to properly consider proposed mitigations. The decision also fails to reconcile conditions at the public transportation facility at Harrigan Centennial Hall and the City’s application of Sitka General Code (“SGC”) requirements to its own facility. For the reasons discussed below, the Assembly should vacate Planning Commission’s CUP denial and require the Commission to fairly evaluate Sitka Dock’s application.

Sitka Dock’s proposed use will not increase the number of visitors arriving in Sitka. What it will do is allow them to be safely and efficiently transported, in an organized and predictable manner to the CBD, minimizing traffic, jaywalking, and allowing visitors to patronize small businesses in the exact place and manner that the comprehensive plan calls for.

I. The record is devoid of evidence supporting the Commission’s pollution findings

The Commission’s finding that the CUP would be detrimental to public health and the environment due to exhaust and particulate pollution relies on speculative testimony without reference to current pollution levels in the CBD, how the proposed use would impact pollution levels in the CBD, or whether any purported increase would cause pollution to exceed “acceptable levels.” The Commission’s findings speculate that “the proposed use may introduce hazardous

¹ *South Anchorage Concerned Coalition v. Coffey*, 862 P.2d 168, 173 (Alaska 1993).

conditions at the site, namely unacceptable levels of particulate pollution from busing operations.”² Under this standard any proposed use that involves vehicles in the CBD could not be approved, regardless of whether the use would create pollution beyond a threshold that is actually hazardous.

Neither the record nor the Commission’s findings contain any air quality analysis, information related to emissions levels or thresholds established by the Environmental Protection Agency (“EPA”) or other authority, expert analysis, or any other standard by which a conclusion could be reached that Sitka Dock’s proposed use would be detrimental to public health or the environment. Thus, there is no evidence in the record – much less substantial evidence – by which the Commission could conclude that the proposed use would create “unacceptable” levels of pollution. The Commission’s findings regarding pollution are, effectively, that buses cause pollution and pollution is bad.

The Commission’s findings completely ignore the most salient aspect of the CUP related to vehicle emissions and pollution: granting the CUP would *reduce* the number of buses traveling to downtown Sitka, and thus reduce emissions and particulate matter. As explained in Sitka Dock’s application,³ the round-trip driving time between the Sitka Sound Cruise Terminal and Oja Way is shorter than the current shuttle route through downtown. This not only reduces congestion and pedestrian-vehicle conflicts, it also allows the shuttle system to move the same number of passengers with fewer buses.

If the Commission decided it did not have enough information about how the proposed use would impact pollution levels, it could have approved the use conditionally upon the applicant producing a study showing that the use would not increase pollution beyond an objective standard, such as the EPA’s National Ambient Air Quality Standards for Particulate Matter. But the record does not support the Commission’s denial of the CUP on the grounds articulated in the Commission’s findings.

II. The application of undefined “acceptable levels” not found in the SGC or by reference to any objective criteria is not a reasonable basis for denial of the CUP

Commission findings 4 and 6 fault the applicant for failing to prove “particulate pollution from busing operations would be within acceptable levels” and repeatedly reference “unacceptable levels of particulate pollution.”⁴ The Sitka General Code does not define “acceptable levels” for emissions, nor did the Commission identify any objective threshold or adopted metric. Requiring an applicant to prove its use meets an undefined standard – “acceptable levels” – improperly creates a burden no applicant could possibly meet. SGC 22.10.160 requires the Commission to evaluate an application for consistency with the “city’s comprehensive plan, code, and other

² January 21, 2026 Commission Findings (hereafter, “Commission Findings”), pg. 3 (emphasis added).

³ November 26, 2025 CUP Application, ppg. 2-3.

⁴ Commission Findings, ppg. 3-4.

adopted plans and regulations,” not to deny permits based on vague and completely undefined standards. For the Commission’s findings to be supported by substantial evidence, the findings must relate to objective standards, not the Commission’s subjective feeling about what pollution levels are “acceptable.”

III. The Commission’s decision did not even consider the intent of the central business district and failed to fairly weigh the goals of the comprehensive plan

a. Intent of the CBD

Sitka Dock’s proposed use is within the CBD, which “is designed specifically for concentrated retail, personal, and business services of all kinds satisfying residents in one central location.”⁵ The SGC provides that “[m]any of the permitted and conditional uses in the CBD. . . generate traffic, noise, odor, and general impacts to a higher level and greater degree than permitted and conditional uses in residential districts. Owners of residential uses must be aware of and accepting of all the permitted uses in these districts.”⁶

The Commission’s findings do not even reference the intent of the CBD established in SGC 22.16.070. This is telling, and should by itself be grounds for reversal of the Commission’s decision. A land use decision that does not discuss the intent established in city code for the zoning district where a proposed use would occur by definition does not fairly evaluate the proposed use. Nor do the findings acknowledge the SCG’s requirement that residential owners within the CBD must be accepting of greater traffic, noise, odor, and general impacts caused by concentrated commercial activity.

Instead, the findings treat the CBD as a residential district and the “quiet enjoyment” of residential uses as the only consideration: “testimony submitted by the public, and in particular, from owners of nearby properties, which detailed the increased traffic, noise, odor, and pollution that would result from the proposal would significantly and negatively impact the quiet enjoyment of their residences.”⁷ The Commission’s findings contain no acknowledgment of the intent of the CBD to allow concentrated commercial activities, no acknowledgement that residential owners must tolerate the impacts that come with these uses, and no attempt to weigh these factors. The CBD is not zoned residential and treating it as if it were is plainly contrary to the analysis required for proposed uses in the CBD.

⁵ SGC 22.16.070.

⁶ SGC 22.16.015.

⁷ Commission Findings, pg. 3.

a. The objectives of the comprehensive plan were largely ignored by the Commission

The Commission found the CUP inconsistent with land use objective two, maintaining the CBD’s walkable charm.⁸ This finding ignores the substantial benefits to pedestrian safety and the reduction in jaywalking associated with the current city bus drop off at Harrigan Centennial Hall, as well as reducing congestion (which has myriad benefits to efficiency, safety, and commerce). Improving the flow of pedestrians to signalized intersections and reducing vehicular-pedestrian conflicts would enhance rather than detract from the CBD’s walkable charm. However, even if this finding had support, the Commission’s decision fails to acknowledge or weigh other comprehensive plan objectives that are furthered by the proposal. These include economic development objective 6.5, supporting cruise-related tourism and enterprises, which the CUP would clearly advance, including support of retail and other visitor-serving businesses in Sitka’s retail and commercial hub. The proposal would also further land use objective 2.1 – promoting multi-story development in the CBD with retail and commercial uses on the lower floors and residential uses upstairs – by developing a new multi-use building at 402 Etolin Way with retail businesses in the first floor and 20 new apartments in the upper floors.

The December 17, 2025 report issued by the Commission’s staff evaluating the CUP noted that the Commission needed to “thoroughly weigh the trade-offs” of the proposal and that the Commission’s “weighing” of different objections would be critical.⁹ However, the Commission’s findings fail to even acknowledge how the CUP would further the intent of the CBD and goals of the comprehensive plan, let alone weigh those benefits against perceived drawbacks.

IV. The decision contains no meaningful analysis of mitigation measures

Not only do the findings by the Commission fail to discuss the intent of the CBD or weigh the goals of the comprehensive plan, they contain no meaningful analysis of mitigation measures proposed by the applicant. The Commission made a conclusory finding that “conditions necessary to lessen the impacts of the proposed use could not be monitored or enforced,” but provided no analysis why the applicant’s on-site staff would not enforce the proposed mitigation measures. The CUP application discussed extensive mitigation measures not mentioned in the Commission’s findings, including:

- A controlled pedestrian pathway from the shuttle drop-off to a signalized intersection;
- Fencing and landscaping to maintain separation from adjacent properties;
- Physical barriers to ensure pedestrians remain within the planned route;
- Visual and noise buffers, including 8-foot-tall fencing with acoustic panels;
- A connector shuttle to eliminate independent tour operators from loading or unloading near the drop-off;

⁸ Commission Findings, pg. 3.

⁹ CUP 25-17 Staff Report for December 17, 2025 (hereafter “CUP Staff Report”), p. 9.

- Shuttle routing adjustments to eliminate conflicts with school pick-ups and drop-offs at the elementary school;
- Continuous staffing during all operational hours to ensure pedestrian compliance with routing and prevent trespass, ensure orderly arrival and departure of shuttles to prevent queuing on public streets, respond promptly to any concerns from neighboring property owners, and ensure operational safety and efficiency with minimal impact.

SGC 22.10.160(C)(3) requires that the Commission find that “[a]ll conditions of the proposed conditional use are conditions that can be monitored and enforced,”¹⁰ and contemplates the issuance of a CUP with conditions, modifications, or both (“The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit”¹¹). But the Commission’s findings fail to analyze the applicant’s proposed conditions in any meaningful way.

V. The CUP denial relies on speculative off-site impacts and third-party behavior

The Commission’s findings attribute broader downtown congestion, speculative future third-party behaviors (tour operators, taxis), and potential future parking changes to the proposal. CUP findings must be based on impacts caused by the proposed use, not generalized community conditions or hypothetical future redevelopment. Staff acknowledged these elements were speculative and discussed conditions (connector shuttle to Harrigan Centennial Hall; easements; signage; coordination with DOT on signal timing if needed). A denial based on non-project impacts and speculation is improper under SGC 22.10.160(C).

VI. The street adequacy and traffic findings are conclusory and contradicted by longstanding use

The Commission’s findings conclude that Oja Way is not adequate for shuttle activity, and cite increased traffic volumes as a reason to deny the CUP. These conclusions are contradicted by longstanding real-world use, including decades of school bus operations using similar vehicle sizes and movements, and the function of Oja Way as access for major civic and commercial uses (the courthouse, police station, and adjacent businesses). The findings do not cite objective evidence of any site-specific safety deficiency (such as turning infeasibility, crash history, or a sight distance deficiency tied to an identified standard). As written, the street adequacy finding is unsupported and conclusory.

The findings also ignore historical traffic patterns, which demonstrate the proposed use would keep the traffic on Oja Way significantly lower than historical traffic levels recorded in the 1990s and 2000s. Even on the largest cruise passenger days, the total traffic on Oja Way under the applicant’s proposal would be approximately 478 vehicles, which is substantially less than

¹⁰ SGC 22.10.160(C).

¹¹ SGC 22.10.160.

weekday vehicle counts from the 1990s for Oja Way (612 vehicles in July 1992) and from the 2000s (616 vehicles in July 2000).

VII. The Commission’s decision should have compared the CUP to existing conditions at the City-run shuttle bus drop-off at Harrigan Centennial Hall

A reasonable analysis of the CUP would address the fact that shuttle buses that would come to the applicant’s site at Oja Way are going to travel into downtown Sitka one way or another. The City-run shuttle drop-off at Harrigan Centennial Hall currently accommodates tour and other buses traveling to downtown Sitka, including the applicant’s, and the Commission’s analysis should have compared Sitka Dock’s proposal against the current conditions at Harrigan Centennial Hall. As the December 17, 2025 staff report notes, the proposal “greatly reduces pedestrian–vehicle conflicts as compared to the existing location, Harrigan Centennial Hall, and significant jaywalking volumes across Harbor Drive that have resulted.”¹² The CUP would also substantially reduce vehicular congestion in the core downtown area, including the Lake Street-Lincoln Street intersection and Harbor Drive and the Centennial Hall entrance, directly benefiting the public, commercial operations, and public safety. Moreover, not traveling into the downtown core allows Sitka Dock to use fewer shuttle buses to move the same number of passengers, thus *reducing* vehicle emissions.

More fundamentally, if the applicant’s proposed shuttle drop-off actually would create the hazardous conditions found by the Commission, the findings do not reconcile why the City’s existing shuttle drop-off at Harrigan Centennial Hall, an active civic facility with significant pedestrian volumes and additional bus activity beyond just tour buses, has not been treated as a similar health hazard or incompatible use.

The Sitka zoning code treats public transportation facilities as a conditional use in both the CBD zone and the Public zone, and Centennial Hall is zoned Public. Under the City’s interpretation that a shuttle operation constitutes a “public transportation facility,” the City would be required to obtain a CUP for the existing Centennial Hall operation under the same code

¹² CUP Staff Report, p. 6. As explained in the CUP application, the “high rate of jaywalking across Harbor Drive, particularly between the shuttle loading zones and downtown commercial areas, has been repeatedly identified as one of the most significant pedestrian and vehicular safety issues in Sitka. Local residents, business owners, and public safety personnel routinely cite this as a major hazard and point of frustration. The current configuration creates substantial conflict between vehicle traffic, tour buses, local drivers, and pedestrians dispersing throughout the downtown corridor.” November 26, 2025 CUP Application, pg. 8.

framework.¹³ If the City does not have a CUP for the Harrigan Centennial Hall bus drop-off,¹⁴ this underscores the inconsistency in classification and code application and calls into question the validity of the rationale used to deny Sitka Dock's CUP.

VIII. Conclusion

The adopted findings for CUP 25-17 are not supported by substantial evidence, apply undefined standards, and fail to acknowledge – much less fairly evaluate – how the CUP would advance the intent of the CBD and the goals of the comprehensive plan. The findings summarily dismiss the mitigation measures proposed by the applicant without analysis. More fundamentally, the findings do not evaluate the CUP in the proper context: against the alternative in which more shuttle buses come to downtown Sitka and travel farther through the downtown core, increasing congestion and pollution and reducing safety and efficiency. Sitka Dock requests reversal of the Commission's decision and remand with instructions to the Planning Commission to evaluate the CUP applying defined standards, analysis of appropriate conditions, the intent of the CBD and all aspects of the comprehensive plan, and in the context of shuttle buses traveling to Harrigan Centennial Hall.

Sincerely,



Chris W. Carpeneti
Of Counsel
for Holland & Hart LLP

¹³ SGC 22.05.050 requires the City to “submit plans and receive approvals in conformance with the requirements outlined in this title,” so if a conditional use permit were required to operate a bus drop-off, the City should have obtained a permit.

¹⁴ It is unclear to Sitka Dock whether the City has obtained a CUP for the Harrigan Hall site; Sitka Dock has submitted a public records request for this information and is awaiting responsive records from the City.



Sitka Dock Company, LLC
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Sitka, Alaska 99835

February 18, 2026

Assembly & Mayor
City and Borough of Sitka
100 Lincoln Street
Sitka, AK 99835

RE: Appeal from the Denial of Conditional Use Permit 25-17

Dear Assembly Members and Mayor,

I am Chris McGraw, owner of Sitka Dock Company, LLC ("Sitka Dock") and the property owner of the parcels at 408 and 410 Oja Way ("Permit Site"). I write on behalf of my company, Sitka Dock, in advance of the hearing scheduled for February 24, 2026 on the Planning Commission's denial of Conditional Use Permit No. 25-17.

As you all likely know, Sitka Dock operates a cruise ship terminal at the Sitka Sound Cruise Terminal, and provides free shuttle bus service to cruise passengers from the terminal into downtown Sitka.

Our free shuttle bus is a critical service to the community. Not only do we bring thousands of customers directly into Sitka's downtown core (where they shop, eat at restaurants, and learn about our wonderful community), but we do so in an organized and safe manner that reduces pedestrian-vehicle conflicts and directs tourists to the part of downtown that has services and facilities to accommodate them.

The purpose of our requested CUP is simple: it would allow Sitka Dock to change the location of **existing shuttle drop-off** to a new site, zoned as Central Business District, which is closer to the terminal than the existing site at Harrigan Hall.

I am aware that, for many of our neighbors, the relationship between Sitka and the tourists that arrive here on cruise ships is a complicated one. However, if approved, the CUP would not increase the total number of tourists being brought into the CBD. What it **would** do is shorten the total distance that these buses drive through downtown streets. This, in turn, would: (1) reduce the number of shuttle buses that need to be operating to transport the same number of passengers; (2) reduce congestion at key downtown intersections by reducing total traffic; and (3) reduce pedestrian-vehicle conflicts in the core downtown area by delivering tourists to a controlled site where there is ready access to safe, walkable businesses and shops.

Unfortunately, when the Planning Commission denied the CUP, it went beyond the criteria stated in Borough Code and made findings that lacked basic factual support. For example, the Planning Commission's findings state that the proposal "may introduce hazardous conditions at the site, namely unacceptable levels of particulate pollution from busing operations."

However, this finding is not supported by substantial evidence for the following reasons:

1. The total number of buses operating in downtown Sitka would be reduced if the CUP was approved (leading to *less* particulate matter, not more).
2. There was no evidence that any additional "particulate matter" would be produced or introduced into the local environment (and no opportunity to rebut such claims); and
3. There were no standards identified by the Planning Commission (and none in code) that would allow the Planning Commission to make consistent, fair decisions on this basis.

The remainder of this letter is intended to provide additional context and background for the hearing, and I look forward to being present on February 24 to answer any questions or additional concerns that you might have.

I. Shuttle Operations are Already Occurring and the CUP Would Improve the Status Quo

The Planning Commission's findings treat this conditional use permit as if it would introduce an entirely new activity to Sitka. This misunderstands the fundamental nature of what we are proposing.

Sitka Dock currently provides free shuttle bus service to cruise passengers from our terminal to downtown Sitka. These shuttle buses are already traveling through downtown Sitka, and these passengers are already visiting downtown businesses. In other words, this transportation service is already part of Sitka's cruise season operations.

If the CUP is approved, the only change will be the location where passengers are dropped off and picked up. Instead of using the City's facility at Harrigan Centennial Hall, we would use our own private property at Oja Way. In fact, the CUP **would reduce:**

- Total distance buses travel through the core downtown area
- The number of shuttle buses needed to transport the same number of passengers (because the route is shorter and more efficient)
- Pedestrian-vehicle conflicts in the core downtown area
- Congestion at key downtown intersections

The Planning Commission's findings failed to acknowledge this fundamental reality. The CUP is not creating new shuttle bus operations—it is relocating a drop-off point in a manner that actually reduces negative impacts.

Unfortunately, the Planning Commission's findings do not compare our proposed facility to the existing shuttle operations at Harrigan Centennial Hall, and thus incorrectly treat our operations as something that would be new to downtown – rather than something that has existed for years. This omission is significant because it means the Commission failed to evaluate whether the proposal is actually an improvement over the status quo.

Currently, multiple vendors and operators use Harrigan Centennial Hall as a drop off and pickup point. This increases congestion because of the multiple uses require additional idling and queuing of buses, and leads to extremely high volumes of pedestrian traffic cross Harbor Drive. Despite these high volumes of tourists, there is no dedicated infrastructure for bus queuing or passenger management.¹

By contrast, Sitka Dock's proposal for the Oja Way site would include:

- Controlled site with on-site staff management
- A dedicated pedestrian pathway from drop-off to signalized intersection
- Physical barriers and fencing to channel pedestrian traffic safely
- Acoustic panels and visual buffering for adjacent properties
- On-site staff during all operational hours
- "Strict no idle" policy to minimize emissions and noise

If the City truly believed that shuttle drop-off operations at Oja Way require a CUP and create unacceptable impacts, the same logic must apply to Harrigan Hall. Yet Harrigan Hall operations continue without apparent concern for pedestrian safety impacts, emissions from idling buses, noise impacts on nearby properties, or traffic congestion in the downtown core.

This inconsistency undermines the Commission's rationale for denying Sitka Dock's CUP. If Harrigan Hall can accommodate shuttle operations without a concern for public safety, then my private property in the CBD—a district specifically designed for concentrated commercial activity—should certainly be able to do so, especially with the enhanced mitigation measures we have proposed.

II. The Comprehensive Plan and Site Zoning Support this Use.

Sitka Dock's proposed CUP supports several of the objectives in Sitka's comprehensive plan. These include:

1. **Economic Development (Objective 6.5).** Our proposal supports cruise-related tourism and enterprises. The passengers using my shuttle service patronize

¹ We note also that under the City's interpretation of the Code, a drop-off location at Harrigan Hall would require a CUP. To our knowledge, none exists.

downtown businesses, restaurants, and shops. By providing organized, efficient transportation directly to Oja Way, I help ensure that visitors can easily access Sitka's retail and commercial hub.

2. **Multi-Story Development in the CBD (Objective 2.1).** Our proposal includes development of a new multi-use building at 402 Etoin Way with retail businesses on the first floor and 20 new apartments on upper floors. This promotes the comprehensive plan's goal of promoting multi-story development in the CBD.
3. **Supporting Downtown Vibrancy.** Efficient shuttle service that delivers passengers directly to the edge of the downtown core supports downtown businesses by making it easy for visitors to access shops and restaurants.

Notwithstanding, the Planning Commission found that our proposal is inconsistent with the comprehensive plan, specifically with "land use objective two, maintaining the CBD's walkable charm" and the "intent of the CBD."

This finding reflects a misunderstanding of both the comprehensive plan and the nature of the proposal. Specifically, the Commission's finding that the proposal would harm the CBD's "walkable charm" is contradicted by the following facts, which were not disputed at the hearing:

- Sitka Dock's proposal includes a controlled pedestrian pathway from the shuttle drop-off to a signalized intersection.
- Sitka Dock's proposal would reduce the number of buses traveling through the downtown core, and thus would reduce vehicle-pedestrian conflicts.
- Sitka Dock's proposal would be preferable to no shuttle operation, which result in passengers arranging private transportation via individual tour operator vans and taxis scattered throughout downtown—and which would thus create far more pedestrian safety issues.

Moreover, the CBD zoning district, unlike other parts of Sitka, is **designed** for concentrated commercial activity. The Commission's findings treat the CBD as if it were a residential district where quiet residential uses must be protected from commercial impacts. This misapprehends the fundamental purpose of the CBD zone. The Sitka General Code is explicit:

"Many of the permitted and conditional uses in the CBD, C-1, C-2, and WD zones generate traffic, noise, odor, and general impacts to a higher level and greater degree than permitted and conditional uses in residential districts. Owners of

*residential uses in the CBD, C-1, C-2 and WD districts must be aware of and accepting of all the permitted uses in these districts."*²

This provision expressly acknowledges that CBD uses generate higher levels of traffic, noise, odor, and general impacts than residential districts. This is expected and acceptable in the CBD and residential property owners in the CBD must accept these impacts.

Unfortunately, the Commission's findings impermissibly inverted this standard. Instead of recognizing that residential owners in the CBD must tolerate commercial impacts, the Commission's findings prioritized residential quiet enjoyment over commercial activity (contrary to the Code) and treated testimony from residential property owners about noise, traffic, and odor as dispositive without evidence of what the proposal would actually do.

Finally, the Commission's findings expressed concern that the use would be seasonal rather than year-round, as if this somehow makes it incompatible with the CBD character. This reasoning is backwards.

Sitka's tourism economy is seasonal by nature. Many downtown businesses operate primarily or exclusively during cruise season, hire seasonal employees, adjust hours based on cruise ship schedules, and depend on visitor spending for their economic viability.

A seasonal shuttle operation that brings paying customers to these seasonal businesses is entirely consistent with the CBD's character and purpose.

III. The Planning Commission's Decision Lacked an Evidentiary Basis and Failed to Consider Proposed Mitigation Measures Fairly.

A. Pollution Concerns.

The Planning Commission's findings state that Sitka Dock's proposal "may introduce hazardous conditions at the site, namely unacceptable levels of particulate pollution from busing operations." This finding is not supported by substantial evidence for the following reasons:

- 1. No baseline standard established.** The Commission's findings contain no information about: (1) current air quality in the CBD, current particulate levels from existing traffic on Oja Way; (2) any threshold for "acceptable" versus "unacceptable" pollution levels; or (3) how our proposal would change pollution levels from current conditions. Without any form of baseline standard, what was Sitka Dock's proposal being measured against?
- 2. No comparative Analysis.** The findings do not compare:

² SGC 22.16.015. SGC 22.16.070 also establishes that the CBD is "designed specifically for concentrated retail, personal, and business services of all kinds satisfying residents in one central location."

- Pollution from buses under our proposal versus pollution from buses currently traveling through downtown to Harrigan Hall
- Total emissions under our proposal (shorter route, fewer buses needed) versus total emissions under current operations
Pollution impacts of concentrated shuttle service versus dispersed tour operator vans

B. Sitka Dock's Proposed Mitigation Measures Were Not Fairly Evaluated.

The CUP application included extensive, detailed mitigation measures specifically designed to address the concerns that the Commission ultimately used to deny the permit. The Commission's findings contain no meaningful analysis of these mitigation measures and provide no explanation for why they would be insufficient.

MITIGATION MEASURES PROPOSED:

- **Controlled Pedestrian Pathway:** Dedicated pathway from shuttle drop-off to signalized intersection that eliminates uncontrolled jaywalking and directs pedestrians to safe crossing location.
- **Physical Barriers:** Fencing and landscaping to separate the site from adjacent properties, maintain privacy for neighboring residences, and create a visual buffer.
- **Acoustic Panels:** 8-foot-tall fencing with acoustic panels to reduce noise transmission to adjacent properties with professional-grade noise attenuation.
- **On-Site Staffing:** Continuous staffing during all operational hours to ensure pedestrian compliance with designated routes, prevent trespassing, ensure orderly arrival and departure of shuttles, eliminate queuing on public streets, promptly respond to any neighbor concerns, and maintain operational safety and efficiency with minimal impact.
- **Strict No Idle Policy:** Buses arrive, turn off their engines, passengers disembark, turn on their engines, buses depart immediately; no queuing with engines running and minimal on-site emissions.
- **Connector Shuttle:** Eliminates need for independent tour operators to load/unload at the site, reduces total vehicle trips, and consolidates transportation more efficiently.
- **School Coordination:** Shuttle routing adjusted to eliminate conflicts with school pick-up/drop-off times to ensure student safety at elementary school.

The Commission found that "conditions necessary to lessen the impacts of the proposed use could not be monitored or enforced." This finding is conclusory and does not explain why on-site staff cannot monitor compliance, why City code enforcement cannot enforce conditions, what specific mitigation measures are unenforceable, or what alternative conditions might work.

Conditional use permits routinely include conditions that are monitored and enforced: operating hours restrictions, noise limits, parking requirements, landscaping maintenance, and lighting standards.

The proposed conditions are, if anything, MORE enforceable than typical CUP conditions because I will have staff on-site during all operations, the site is private property under my control, I have strong economic incentives to operate responsibly, violations would be immediately visible and documentable, and the City can inspect and enforce at any time.

I am not proposing these mitigation measures as empty promises. I am a long-term business operator in Sitka with a substantial investment in my terminal facility. I have every incentive to be a good neighbor and operate responsibly.

IV. Impacts To Public Infrastructure: Oja Way

The Commission found that "the site was located on a local or minor street rather than a major or collector street, which was not adequate to support the proposal, and conditions could not be imposed to lessen the adverse impacts on said public infrastructure."

This finding mischaracterizes both the street and the impacts.

A. Oja Way's Actual Characteristics And Use

Oja Way serves as access to the State Courthouse (a major local facility), the Sitka Police Station (a critical public safety facility), parking for one of Sitka's largest hotels, and a historic access road for the elementary school for over 40 years.

These are not low-intensity uses and the size and construction of the roadway is in line with all other municipal streets in the CBD. The planning commission did not provide any facts as to why this was a minor street and the fact that they determined it to be a minor street was purely speculative as a reason for denial of the CUP.

Oja Way has historically accommodated higher traffic counts in the past. Historical traffic counts show:

- 612 vehicles per day in July 1992
- 616 vehicles per day in July 2000
- These counts are from the busiest cruise season months

B. Projected Traffic Under Sitka Dock's Proposal

Even on the largest cruise passenger days, total traffic on Oja Way under the proposal would be approximately 478 vehicles per day. This is LESS than the historical traffic levels from the 1990s and 2000s, when Oja Way successfully functioned with these traffic volumes.

The Commission's conclusory finding that Oja Way is "not adequate" is contradicted by:

- Decades of historical use at similar or higher traffic levels
- The street's function as access to major civic facilities
- No evidence of any site-specific deficiency (turning radius problems, sight distance issues, crash history, etc.)
- No objective standard cited for what makes a street "adequate" or "inadequate"

Under current operations, shuttle buses travel through the downtown core, impacting Lake Street and Lincoln Street intersection (high pedestrian and vehicle activity), Harbor Drive (waterfront area with tourists and pedestrians), and Centennial Hall entrance area (congestion and queuing).

By comparison, Oja Way is on the edge of downtown not in the core, has lower baseline pedestrian activity, provides direct access without traveling through congested areas, and can accommodate shuttle operations without affecting core downtown pedestrian zones.

The proposal includes on-site improvements that actually reduce impacts on the public street: controlled pedestrian pathway (keeps pedestrians off the street), on-site management (prevents queuing on the public right-of-way), and connector shuttle (reduces total vehicles needing to access the site).

The Commission's finding that "conditions could not be imposed to lessen adverse impacts on public infrastructure" is unsupported. In fact, the proposal includes specific design features intended to protect the public street system.

V. Inconsistency In City's Own Operations

The Commission's denial raises significant questions about consistency and equal treatment under Sitka's zoning code. The City operates a shuttle bus drop-off at Harrigan Centennial Hall. This facility accommodates tour buses and shuttle buses, is zoned Public, and under SGC 22.05.050, public facilities require CUP review and approval.

To my knowledge, no CUP exists for Harrigan Hall's shuttle operations. I have submitted a public records request to the City to determine whether a CUP was obtained for Harrigan Hall. As of this writing, I have not received a response.

A. If No Cup Exists For Harrigan Hall

This raises fundamental questions about equal treatment:

- Why does the City require me to obtain a CUP for shuttle operations but not require itself to do so?
- If shuttle operations create the "unacceptable" pollution, traffic, and safety impacts described in the Commission's findings, why do these impacts not disqualify Harrigan Hall operations?
- How can the City deny my CUP on the basis of impacts that it tolerates or ignores at its own facility?

B. If A Cup Exists For Harrigan Hall

If the City did obtain a CUP for Harrigan Hall, this demonstrates that shuttle drop-off operations can be approved under Sitka's zoning code. The question then becomes: why can Harrigan Hall receive a CUP but my privately owned property cannot?

The conditions at Harrigan Hall are, if anything, more impactful than my proposal: higher pedestrian-vehicle conflicts on Harbor Drive, more buses (because downtown routing is longer and less efficient), more congestion in the core downtown area, and less controlled site management.

VI. Planning Commissioners Voted Based On Improper Criteria

Two of the four Planning Commissioners who voted to deny my CUP application based their votes on factors that are not consideration criteria under SGC 22.10.160(C). This is a fundamental procedural error that undermines the validity of the Commission's decision.

A. The Planning Department's Determination

Before I submitted my CUP application, I consulted with the Planning Department to determine the appropriate classification for my proposed shuttle drop-off facility. The Planning Department provided me with a written determination that my proposed use best fit the definition of a public transportation facility (public bus depot) in the zoning code and therefore required a conditional use permit in the CBD zone.

Based on this official determination from the City's own planning staff, I prepared and submitted my CUP application for a public transportation facility.

i. Commissioner's Statements At The December 17 Meeting

At the December 17, 2025 Planning Commission meeting, one Commissioner stated that the application before the Commission was for a private shuttle bus drop-off, which

is not a permitted or conditional use in the public facilities use table in the code, and therefore should not be allowed. The Commissioner explicitly indicated that this was the basis for her vote to deny.

This reasoning is fundamentally flawed. The Planning Department had already determined that my use fits the definition of a public transportation facility. If the Commissioner disagreed with this classification, the proper course would have been to direct staff to reconsider the classification, not to deny the CUP on the basis that the use doesn't fit anywhere in the code.

ii. Commissioner's Statement At The January 21 Meeting:

At the January 21, 2026 Planning Commission meeting (where the Commission adopted findings), a different Commissioner noted that one of the reasons she voted to deny was because it was a private bus depot and the CUP was for a public facility, and she felt that since it was private it didn't fit anywhere in the zoning code.

This Commissioner's reasoning suffers from the same fundamental problems as the December 17 statement. More importantly, it reveals that two of the four Commissioners who voted to deny did so based on a threshold classification issue, not on the actual consideration criteria established in SGC 22.10.160(C).

iii. The Proper Consideration Criteria:

SGC 22.10.160(C) establishes the required findings for conditional use permits. The Commission must find that:

1. The use will not be detrimental to the public health, safety, and general welfare;
2. The use will not adversely affect the established character of the surrounding vicinity;
3. The use will not be injurious to the uses, property, or improvements adjacent to and in the vicinity of the site;
4. The use is consistent with the intent of the comprehensive plan; and
5. All conditions of the proposed conditional use can be monitored and enforced.

Notably absent from this list: "The use must fit within a specific zoning classification."

That determination was already made by the Planning Department when they classified my use as a public transportation facility and advised me to apply for a CUP. The Commission's role was to evaluate whether the use meets the five criteria listed above—not to second-guess the Planning Department's classification.

When two out of four Commissioners vote to deny based on improper criteria—criteria not established in the code and not part of the required findings—the decision cannot stand. The vote was 4-0 to deny, but if two Commissioners voted based on improper considerations, those votes should not count toward the majority required for denial.

This is not a minor procedural irregularity. This goes to the fundamental fairness of the process. I prepared my application in good faith reliance on the Planning Department's determination. I addressed the five consideration criteria in my application. I proposed mitigation measures to address the legitimate concerns raised by those criteria.

Then, at the hearing, two Commissioners voted against my application not because I failed to meet the consideration criteria, but because they disagreed with the Planning Department's classification of my use—a classification issue that should have been resolved before the application was even accepted for processing, and which is not one of the "required findings" under SGC 22.10.160(C).

The Commission's findings do not reflect or address the improper basis for two Commissioners' votes. The findings attempt to justify the denial based on the proper consideration criteria, but they cannot cure the fundamental problem that two of the four votes for denial were based on criteria outside the scope of SGC 22.10.160(C).

This procedural error alone warrants reversal of the Commission's decision and remand for a new hearing where the Commission evaluates my application solely on the basis of the proper criteria.

VII. Conclusion

The Planning Commission's denial of the conditional use permit application is not supported by substantial evidence and is inconsistent with the intent and purpose of Sitka's zoning code and comprehensive plan.

I respectfully request that the Assembly:

1. Reverse the Planning Commission's denial of CUP 25-17
2. Remand the matter to the Planning Commission with instructions to:
 - Evaluate the proposal solely on the basis of the proper consideration criteria in SGC 22.10.160(C)
 - Compare the proposal to current Harrigan Hall operations
 - Evaluate the proposal against objective, defined standards
 - Acknowledge the intent and purpose of the CBD zone
 - Give meaningful consideration to proposed mitigation measures
 - Apply the comprehensive plan's goals fairly and completely
3. Alternatively, approve CUP 25-17 with appropriate conditions

I appreciate the Assembly's time and consideration. I am committed to operating as a responsible member of Sitka's business community and being a good neighbor to surrounding properties. I respectfully submit that the Planning Commission's denial was based on speculation, undefined standards, and improper consideration criteria rather

than evidence and applicable law, and that the proposal deserves fair consideration under the actual requirements of Sitka's zoning code.

Respectfully submitted,

A handwritten signature in black ink that reads "Chris McGraw". The signature is written in a cursive style with a large initial "C" and "M".

Chris McGraw
General Manager
Sitka Dock Company, LLC