



City and Borough of Sitka

PROVIDING FOR TODAY...PREPARING FOR TOMORROW

A Coast Guard City

Planning and Community Development Department

AGENDA ITEM

Case No: CUP 22-10
Proposal: Personal use dock – perimeter of dock and float exceed 300 linear feet
Applicant: John Hardwick, Ral West, and Kris Pearson
Owner: John T. Hardwick Revocable Living Trust, and Ral West Revocable Living Trust, Kris Pearson
Location: 1401 and 1403 Halibut Point Road
Legal: Lots 1 and 2 Borhauer Subdivision
Zone: R-1 Single-Family/Duplex District
Size: Tidelands use approximately 36,000 square feet
Parcel ID: 1-5760-000, 1-5761-000
Existing Use: Residential
Adjacent Use: Residential
Utilities: Existing
Access: Halibut Point Road

KEY POINTS AND CONCERNS

- Tidelands permit considered and recommended for approval by the Ports and Harbors Commission on 9/11/19, Planning Commission on 9/18/19, and approved by the Assembly on 3/22/22.
- Assembly approval of tidelands permit conditional on obtaining this conditional use permit
- Dock facilities are to be built as a joint venture between the upland property owners.
- Personal use docks with perimeters exceeding 300 linear feet are a conditional use in the R-1 zoning district.
- US Army Corps of Engineers permit has been obtained for the proposed dock.

ATTACHMENTS

Attachment A: Aerial
Attachment B: Site and Dock Plans
Attachment C: Photos
Attachment D: RES 94-580
Attachment E: Planning Commission Minutes 9/18/19
Attachment F: Applicant Materials

BACKGROUND/PROJECT DESCRIPTION

The upland owners at 1401 and 1403 Halibut Point Road each acquired their properties within 2019, with the hopes of utilizing adjacent tidelands for personal use docks. The request originally arose in 2019, which is when Planning Commission and Ports and Harbors reviews for the tidelands permit took place. The applicants put the request on hold until early March of this year and would like to continue forward with the project.

Given the shallow nature of this area, a 200' pier and 70' gangway will be needed to access submerged tidelands with adequate depth for a fixed dock structure. There are two floats proposed, one measuring 12' x 40' and another measuring 12' by 100'. The owners of these two properties have decided to share in the costs of this undertaking and build a dock to accommodate both property owners' needs. A dock association is proposed as the legal instrument to ensure shared access and maintenance, especially in the event that one or both upland properties transfer ownership. Properties are located within the breakwater of the harbor system.

SGC 22.08.258 defines a personal use dock as *“a fixed or floating structure, including moorings, for the purpose of berthing floating vessels owned by the upland property owner, lessees of uplands, family members of upland property owners, or others utilizing the dock without compensation. Commercial fishing vessels owned by the upland property owner are allowed. Personal use docks shall not include, or accommodate, covered or uncovered lease slips, seafood processing, sale of seafood, float houses, liveaboards, or float planes unless specifically allowed elsewhere in this title, or any other commercial activity including the loading and off-loading of charter clients. The maximum perimeter of the dock and float shall not exceed three hundred linear feet. Gangways and ramps are not included in this limitation.”*

SGC Table 22.16.015-2 lists *“Personal use docks – perimeter of dock and float exceed 300 linear feet”* as a conditional use in the R-1 zone. Staff also analyzed whether it would be more appropriate to characterize this proposal as a *“community personal use dock”* but given that the proposal serves only the upland property owners and not “property owners in the area” more broadly as described in the community dock definition, the personal use dock designation was deemed most appropriate. Examples of community personal use docks in Sitka include the docks at Galankin and Kasiana Islands.

A resolution passed by the Assembly in 1994 when Thomsen Harbor improvements were taking place, RES 94-580, made provisions for tidelands use within the breakwater. Pertinent to this request, it states *“Northward of 913 Halibut Point Road, only upland owners may apply to use Municipal tidelands seaward of their property for placement of mooring buoys or construction of private docks. Only vessels owned by upland owners, occupants, or family members of upland owners, not to exceed four vessels, may be moored at such private facilities.”* The proposed use complies with the provision of this resolution.

ANALYSIS

1. CRITERIA TO BE USED IN DETERMINING THE IMPACT OF CONDITIONAL USES.¹

a. Amount of vehicular traffic to be generated and impacts of the traffic on nearby land uses:

No additional vehicular traffic is expected to be generated (post construction). Marine traffic to the area will increase.

b. Amount of noise to be generated and its impacts on surrounding land use: Some additional noise generation from marine vessels is anticipated, however there will be considerable distance between the dock and nearby residences. Users of the docks are upland property owners and intend to make the properties their primary residences and can therefore monitor noise generation.

c. Odors to be generated by the use and their impacts: Potential odor impacts are minimal and in line with nearby harbor uses. Garbage shall be disposed of in a municipal container and in accordance with Sitka General Code requirements

d. Hours of operation: Proposed use year-round.

e. Location along a major or collector street: Upland properties accessed from Halibut Point Road, a State highway. Dock accessed from the channel within the breakwater, a heavily used marine thoroughfare.

f. Potential for users or clients to access the site through residential areas or substandard street creating a cut-through traffic scenario: No anticipated cut-through scenarios.

g. Effects on vehicular and pedestrian safety: No significant changes or impacts expected.

h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site: Properties have adequate access for emergency services.

i. Logic of the internal traffic layout: Adequate parking space on the property to meet parking needs, dock at the rear of the properties.

j. Effects of signage on nearby uses: No signage proposed.

k. Presence of existing or proposed buffers on the site or immediately adjacent the site: There is vegetation between neighboring properties, significant distance between the dock and residences in the area, and the curvature of the shoreline serves as a buffer for neighboring properties.

l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan: Both property owners intend to develop primary residences on the upland properties. Though 1401 has a structure, it is in need of extensive rehabilitation. 1403

¹ § 22.24.010.E

was vacant when purchased and currently under development for residential use. This development of housing/housing stock rehabilitation is consistent with the housing actions in the comprehensive plan.

m. Other criteria that surface through public comments or planning commission review: Not applicable at this time.

RECOMMENDATION

The Planning Department recommends that the Planning Commission approve the conditional use permit application for a personal use dock – perimeter of dock and float exceed 300 linear feet subject to the recommended conditions of approval.

CONDITIONS OF APPROVAL

1. Contingent upon a completed satisfactory life safety inspection of dock and related facilities by the City and Borough of Sitka's Building Department.
2. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.
3. The applicants shall remain timely with annual payments and all other terms of the tideland permit associated with this request. This conditional use permit shall terminate if the tideland permit is terminated or expires unless an appropriate replacement such as a new tideland permit, lease, or other CBS approval mechanism as appropriate is in place.
4. The applicants shall provide a copy of the dock association agreement/provisions regarding the access to, and maintenance of, the dock and related facilities to the Planning Department prior to beginning construction of the dock and related facilities.
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 upon receipt of meritorious complaint or evidence of violation of conditions of approval.
6. Failure to comply with all applicable permitting, laws, and regulations shall be grounds for revocation of the conditional use permit.
7. Failure to comply with any of the above conditions may result in revocation of the conditional use permit.

Motions in favor of approval

- 1) **“I move to approve the conditional use permit for a personal use dock – perimeter of dock and float exceed 300 linear feet at 1401 and 1403 Halibut Point Road in the R-1 single-family and duplex residential district subject to the attached conditions of approval. The properties are also known as Lots 1 and 2, Borhauer Subdivision. The request is filed by Kris Pearson, John Hardwick, and Ral West. The owners of record are Kris Pearson, John T. Hardwick Revocable Living Trust, and Ral West Revocable Living Trust.”**
- 2) **“I move to adopt and approve the required findings for conditional use permits as listed in the staff report.”**

The Planning Commission shall not approve a proposed development unless it first makes the following findings and conclusions:²

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare;
 - b. Adversely affect the established character of the surrounding vicinity; 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.
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,
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
5. The conditional use 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.
6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

² §22.30.160(C)—Required Findings for Conditional Use Permits