

Step 1.
CONVENE

I move to convene as the Board of Adjustment

Step 2.

I MOVE TO approve a Conditional use permit filed by Kristopher and Erica Pearson for operation of a year-round, short-term rental at Lot 15, Block 1 Middle Island Subdivision, and further, adopt the conditions and findings as recommended by the Planning Commission and request that they are listed in their entirety as they appear attached hereto as part of the official record.

Go to Step 3. Next

Required Findings

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, specifically 2.8 *Outlying Areas and Islands Goals and Policies* specifically 2.8.2 D. *While commercial and resort development may be appropriate in outlying areas, efforts shall be taken to ensure that they are well planned and have minimal impacts on nearby residential properties;*
 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.

The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

F. Evaluation and Approval or Denial of Conditional use Applications for Island Properties. It is the intent of this code to recognize the unique qualities of islands within Sitka Sound and the substantial differences that exist between individual islands and island groups.

1. Items to be considered in evaluating island conditional use permits include, but are not limited to, the following:
 - a. Location on the lot or island.
 - b. Generation of noise.
 - c. Numbers of guests and employees.
 - d. Visibility from adjacent uses including waterborne traffic.
 - e. Use of common access easements.
 - f. Availability of necessary moorage.
 - g. Use of natural or manmade screening or buffers.
 - h. Availability of municipal power.
 - i. Distance from adjacent parcels or islands.
 - j. Removal of excessive amounts of vegetation.

CONDITIONS

1. Applicant will maintain a DEC approved wastewater system.
2. There will be a one-year review before the Planning Commission.
3. Applicant will obtain a satisfactory Fire and Life Safety inspection from the Building Department prior to use as a rental.

Step 3.

SGC: 22.30.180 Procedures for Public Hearing

- A. Staff Presentation.** *Members may ask questions of the staff.*
- B. Applicant presentation.** *Members may ask questions of the applicant.*
- C. Testimony or comments by the public.** *Need to be germane to the matter*
- D. Rebuttal, response or clarifying statement by staff and the applicant.**
- E. Deliberation by the Board.** *Also known as the evidentiary portion of the public hearing and is closed.*

Step 4.

VOTE on any amendments and/or main motion

Step 5.

RECONVENE

**I MOVE TO RECONVENE AS THE ASSEMBLY IN REGULAR
SESSION**



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

MEMORANDUM

To: Mark Gorman, Municipal Administrator
Mayor McConnell and Members of the Assembly

From: Maegan Bosak, Planning and Community Development Director *MB*

Subject: Pearson- Short-term rental Conditional Use Permit

Date: April 6, 2015

The Planning Commission is recommending approval of a conditional use permit request for operation of a short-term rental filed by Kristopher and Erica Pearson at Lot 15, Block 1 Middle Island Subdivision. Action on this item was taken at the March 3, 2015 Planning Commission meeting. The recommendation to approve the request with conditions, based on the following findings, passed unanimously 3-0.

The Pearsons are requesting a conditional use permit to operate a year round short term rental. Guests will provide their own transportation and meals. A dock is available for guests. The applicants have stated that the cabin will mainly be for family use but they would like the option of renting it out if needed.

One neighbor comment was received and discussed at the Planning Commission meeting regarding gun safety on the island and trespassing.

The large island district, LI, is intended to replace the open rural low density district. Its goals include protecting the residential character of the larger subdivided islands. It is intended to cover islands such as Middle Island, Long Island, and Galankin Island. Islands with seven lots or more may be included in this zone. An objective of this zone is to have developments served by access easements built to a defined standard and to have potential moorage areas identified.

The proposed activity is in conformance with Comprehensive Plan 2.8 *Outlying Areas and Islands Goals and Policies* specifically 2.8.2 D. *While commercial and resort development may be appropriate in outlying areas, efforts shall be taken to ensure that they are well planned and have minimal impacts on nearby residential properties.*

Recommendation:

Approve the recommended request with the following conditions and findings.

MOTION: M/S POHLMAN/HUGHEY moved to approve the following findings:

C. Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

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, specifically 2.8 *Outlying Areas and Islands Goals and Policies* specifically 2.8.2 D. *While commercial and resort development may be appropriate in outlying areas, efforts shall be taken to ensure that they are well planned and have minimal impacts on nearby residential properties;*

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.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;

2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may

consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;

3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

F. Evaluation and Approval or Denial of Conditional Use Applications for Island Properties. It is the intent of this code to recognize the unique qualities of islands within Sitka Sound and the substantial differences that exist between individual islands and island groups.

Specific conditional uses may be fully appropriate in certain circumstances and on specific parcels. Uses that are well designed and/or have low impact may enhance surrounding properties and may not create any impacts. Examples may include structures that are built on larger lots away from exterior property lines, uses that are placed in the middle of parcels, uses that do not materially increase activity on easements or moorage, uses where there is a significant vegetative or terrain buffer between properties, and islands that are separated by substantial distances. In these cases, conditional use requests can and should be handled expeditiously.

Conditional uses on other properties may be totally inappropriate due to the concerns such as impacts on adjacent properties, lack of vegetative or distance buffers, noise generation, unmitigated increased usage of access easements, available moorage, location on parcels, and design.

1. Items to be considered in evaluating island conditional use permits include, but are not limited to, the following:

- a. Location on the lot or island.
- b. Generation of noise.
- c. Numbers of guests and employees.
- d. Visibility from adjacent uses including waterborne traffic.
- e. Use of common access easements.
- f. Availability of necessary moorage.
- g. Use of natural or manmade screening or buffers.
- h. Availability of municipal power.
- i. Distance from adjacent parcels or islands.
- j. Removal of excessive amounts of vegetation.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

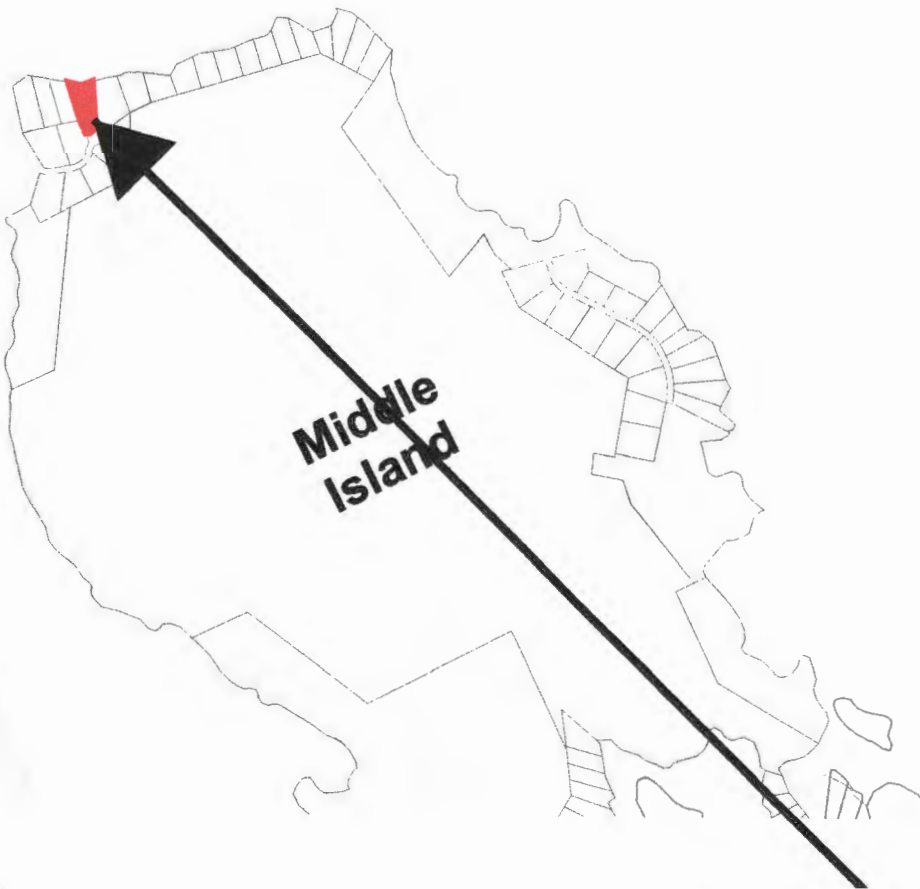
MOTION: M/S POHLMAN/HUGHEY moved to recommend approval to the Assembly of a short-term conditional use permit requested by Kris and Erica Pearson for the property: Lot 15, Block 1 Middle Island Subdivision with the following conditions:

1. Applicant will maintain a DEC approved wastewater system.

2. There will be a one-year review before the Planning Commission.
3. Applicant will obtain a satisfactory Fire and Life Safety inspection from the Building Department prior to use as a rental.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

Crow Island



**Middle
Island**



**Kasiana
Island**

A

Pearson
CUIP- Island Short-term Rental
Lot 15, Block 1 Middle Island .Sub



Pearson
CUP- Island Short-term Rental
Lot 15, Block 1 Middle Island Sub

Subject Photos

Property Address	Lot 15, Block 1, Middle Island Subdivision						
City	Sitka	County	City and Borough of Sitka	State	AK	Zip Code	99835



Subject Front

Lot 15, Block 1, Middle Island St



Subject Rear

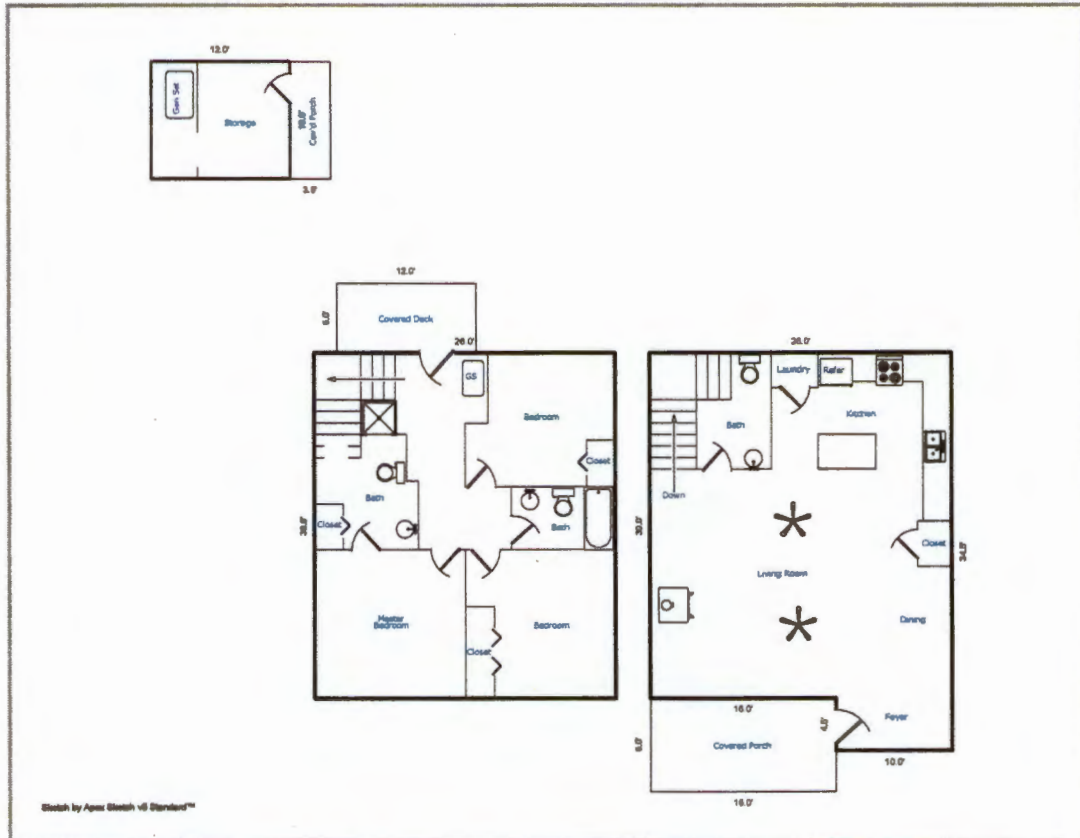


Subject Dock Area

Pearson
CUP- Island Short-term Rental
Lot 15, Block 1 Middle Island Sub

Building Sketch

Borrower	Pearson, Kriss & Erica				
Property Address	Lot 15, Block 1, Middle Island Subdivision				
City	Sitka	County	City and Borough of Sitka	State	AK Zip Code 99835
Lender/Client	ALPS Federal Credit Union				



Comments: Note: Interior walls are not to scale. All calculations are approximate.

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	780.00	780.00
GLA2	Second Floor	825.00	825.00
P/P	Front Cvd Porch	128.00	
	Covered Rear Deck	72.00	
	Gen Shed Cvd Deck	35.00	235.00
OTE	Generator Shed	120.00	120.00
Net LIVABLE Area		(rounded)	1605

LIVING AREA BREAKDOWN		
	Breakdown	Subtotals
First Floor		780.00
	26.0 x 30.0	
Second Floor		780.00
	26.0 x 30.0	
	4.5 x 10.0	45.00
3 Items	(rounded)	1605

Pearson
 CUP- Island Short-term Rental
 Lot 15, Block 1 Middle Island Sub

Interior Photos

Borrower	Pearson, Kriss & Erica						
Property Address	Lot 15, Block 1, Middle Island Subdivision						
City	Sitka	County	City and Borough of Sitka	State	AK	Zip Code	99835
Lender/Client	ALPS Federal Credit Union						



Living Room



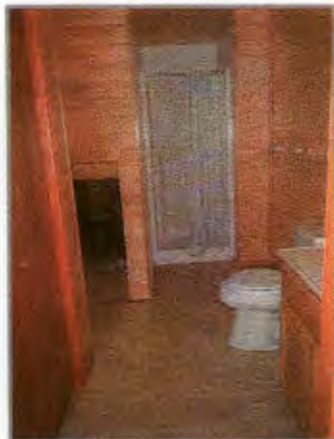
Kitchen



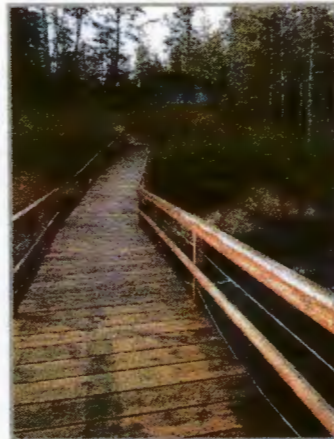
Half Bath



Main Hall Bath



Master Bath



Ramp from Dock to House

Subject Photo Page

Borrower	Pearson, Kriss & Erica						
Property Address	Lot 15, Block 1, Middle Island Subdivision						
City	Sitka	County	City and Borough of Sitka	State	AK	Zip Code	99835
Lender/Client	ALPS Federal Credit Union						



Generator Shed

Lot 15, Block 1, Middle Island Subdivision
 Sales Price 182,000
 Gross Living Area 1,605
 Total Rooms 6
 Total Bedrooms 3
 Total Bathrooms 2.1
 Location N;Middle Island;
 View B;Wtr;Mtn
 Site 1.75 ac
 Quality Q2
 Age 9



Alternate Front View



Crawl Space

Pearson
 CUP- Island Short-term Rental
 Lot 15, Block 1 Middle Island Sub

Subject Photo Page

Borrower	Pearson, Kriss & Erica					
Property Address	Lot 15, Block 1, Middle Island Subdivision					
City	Sitka	County	City and Borough of Sitka	State	AK	Zip Code 99835
Lender/Client	ALPS Federal Credit Union					

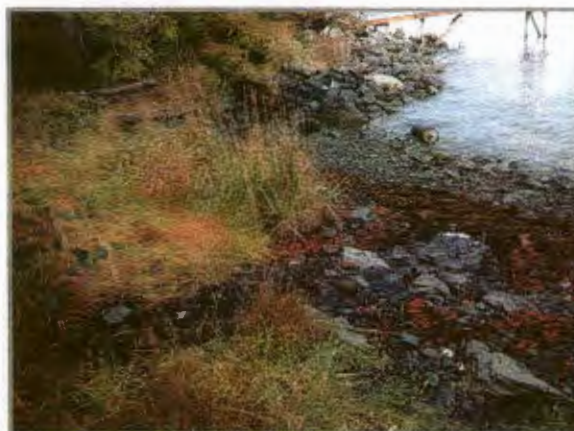


View & Ramp to Dock

Lot 15, Block 1, Middle Island Subdivision
 Sales Price 182,000
 Gross Living Area 1,805
 Total Rooms 6
 Total Bedrooms 3
 Total Bathrooms 2.1
 Location N;Middle Island;
 View B;Wtr;Mtn
 Site 1.75 ac
 Quality Q2
 Age 9



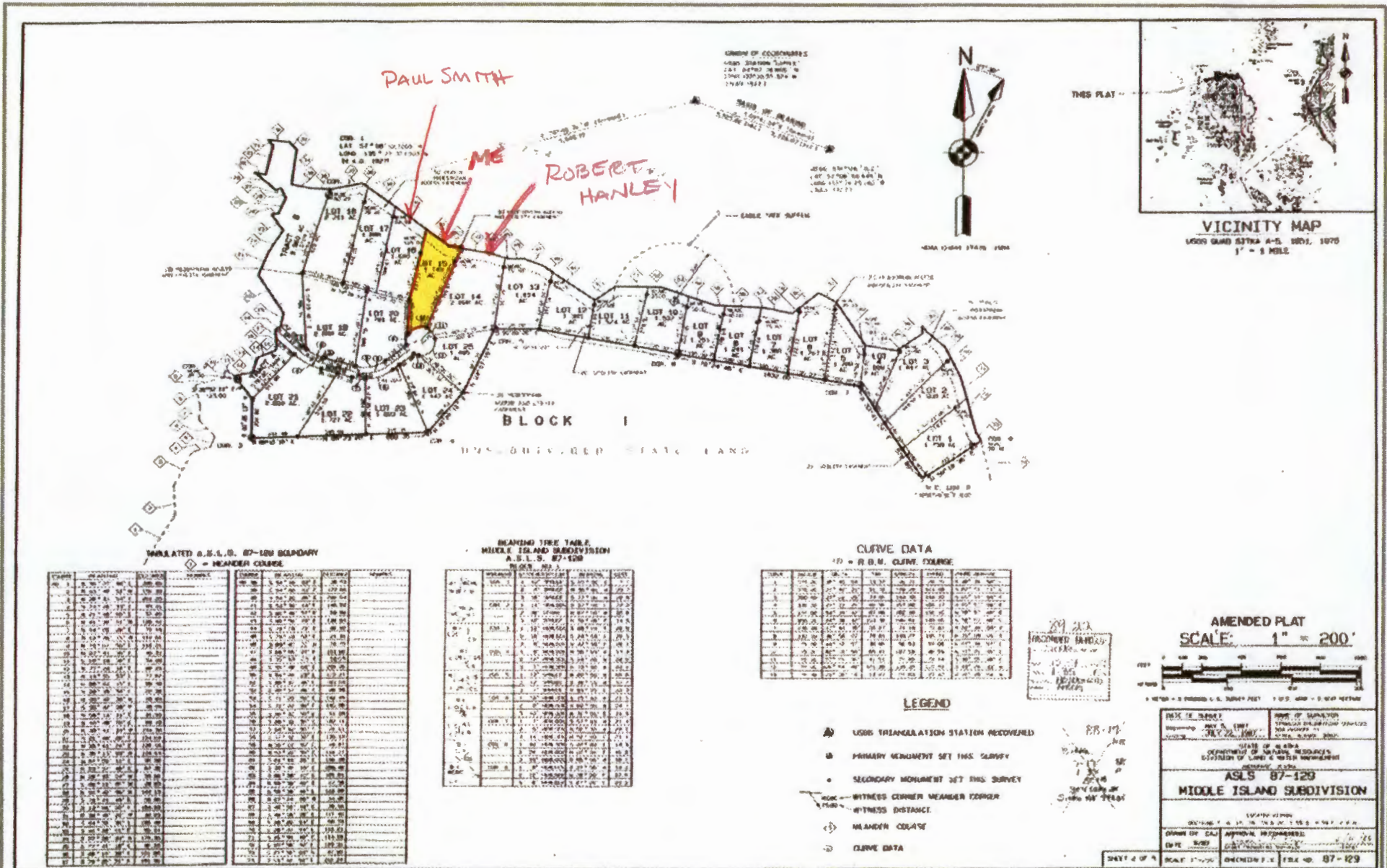
View



Beach Area

Pearson
 CUP- Island Short-term Rental
 Lot 15, Block 1 Middle Island Sub

C



Pearson
 CUP- Island Short-term Rental
 Lot 15, Block 1 Middle Island Sub

SINK PLAT 89-23. 88-17

**CITY AND BOROUGH OF SITKA
PLANNING DEPARTMENT
SHORT-TERM RENTAL &
BED & BREAKFAST APPLICATION**

Short-Term Rental Fee	\$100.00
Bed & Breakfast Fee	\$ 35.00
(per Guestroom)	
* plus current city sales tax *	

APPLICANT'S NAME: Kris & Erica Pearson
 PHONE NUMBER: 907. 747. 3837
 MAILING ADDRESS: PO BOX 2421 SITKA, AK 99835

OWNER'S NAME: Same
(If different from applicant)
 PHONE NUMBER: _____
 MAILING ADDRESS: _____

PROJECT ADDRESS: Legal Address only
 LEGAL DESCRIPTION Lot: 15 Block: 1
 Subdivision: Middle Island Subdivision
 U.S. Survey: _____ Zoning Classification: _____

State all reasons for justifying request: This will provide a unique opportunity for travelers & locals to experience Sitka while staying in our comfy "cabin" w/ great amenities. Strengthens our community by contributing to tourism & locals too!!

Describe how the facility will be operated, what meals will be served, and how guests will be transported. (This information may be provided on a separate sheet).
Short term cabin rental for independant travelers, fishing guests, & locals. Renters to provide their own meals. Renters to provide their own transportation, however, dock may be used. Cabin is furnished, basic linens/bedding provided, per night or flat rate charge depending on length of stay.

Anticipated start date: May 2015

D

Pearson
 CUP- Island Short-term Rental
 Lot 15, Block 1 Middle Island Sub

What months of the year the facility will be in operation: year round

- Drawing of the **interior** layout showing:
1. Size and location of rooms
 2. Types of facilities in the rooms
 3. Windows and exits
 4. Location of smoke alarms and fire extinguishers
 5. Guestrooms specifically delineated on the plans

See attached building sketch

- Drawing of the **exterior** site plan showing:
1. Dimensions of the home
 2. How the house sits on the lot
 3. Location of parking - n/a

See attached pictures

- Check if facility is not fully constructed at the time of the application
- Check if Life Safety Inspection has already been completed. If not, please contact the Building Department at 747-1832 to schedule an appointment. This Inspection is to certify that the residence complies with life and fire safety code aspects.

Bed and Breakfast applicants shall be aware that only limited cooking facilities such as small toaster ovens, microwaves, and refrigerators are allowed and those appliances must be outside of guestrooms.

In applying for and signing this application, the property owner hereby grants permission to Municipal staff to access the property before and after Planning Commission's review for the purposes of inspecting the proposed and/or approved structures.

SIGNATURE OF APPLICANT: Erica M. Pearson Date: 1/19/15

SIGNATURE OF OWNER: _____ Date: _____
(If different from the applicant)



City and Borough of Sitka

100 Lincoln Street Sitka, Alaska 99835

Coast Guard City, USA

Sitka Planning Commission Agenda

Tuesday, March 3, 2015

Held at Harrigan Centennial Hall

330 Harbor Drive, Sitka, Alaska

7:00pm

- I. CALL TO ORDER AND ROLL CALL
- II. CONSIDERATION OF THE AGENDA
- III. CONSIDERATION OF THE MINUTES FROM February 3, 2015
- IV. THE EVENING BUSINESS

A. Public hearing and consideration of a proposed zoning text amendment to modify SGC Ch 22.24.010 B allowing for a parcel with a principle unit and a second dwelling unit to also operate a B&B as a conditional use, currently prohibited by code. The zoning text amendment proposes to make this allowable so long as combined there are fewer than four guests/occupants. The applicant is Sheila Finkenbinder.

B. Public hearing and consideration of a variance requested by Adam and Kris Chinalski at 1318 Sawmill Creek Road. The variance requested is for a reduction in all property setbacks from 10 ft to 0 ft. The purpose of the setback reduction is to allow for demolition of the non conforming structure and construction of a new building to be used as a bakery. The property is also known as A tract of land in U.S. Survey 2355. The owner of record is Adam and Kris Chinalski.

C. Public hearing and consideration of a short term rental conditional use permit requested by Kris and Erica Pearson at Lot 15, Block 1 Middle Island Subdivision. The owner of record is Kris and Erica Pearson.

D. Public hearing and consideration of the proposed Historic Structures Survey Report and National Register of Historic Places Nomination Narrative for Lincoln Street, Sitka, Alaska by True North Sustainable Development Solutions, LLC.

E. Public hearing and consideration of a concept plat for a zero lot line subdivision at 720 Indian River Road. The request is filed by Timothy Bernard. The property is also known as Lot Eight A (8A), Indian River Land Subdivision. The owner of record is Timothy Bernard.

F. Public hearing and consideration of a Garden Stand conditional use permit requested by Tom Hart and Lisa Sadlier-Hart at 815 Charles Street. The property is also known as Lot 5, Block 2, Sirstad Addition No.4. The owner of record is Tom Hart and Lisa Sadlier-Hart.

- V. PLANNING DIRECTOR'S REPORT
- VI. PUBLIC BUSINESS FROM THE FLOOR
- VII. ADJOURNMENT

NOTE: Individuals having concerns or comments on any item are encouraged to provide written comments to the Planning Office or make comments at the Planning Commission meeting. Written comments may be dropped off at the Planning Office in City Hall, emailed to maegan@cityofsitka.com, or faxed to (907) 747-6138. Those with questions may call (907) 747-1814.

Publish: February 23 and 25

Providing for today ... preparing for tomorrow

RICHARD/MARJORI PARMELEE
HIS CABIN RETREAT, LLC
405 HEMLOCK DR
SITKA AK 99835

ROBERT/VIKKI HANLEY
HANLEY, ROBERT & VIKKI
104 HOOMES CIR
BOWLING GREEN VA 22427

KRISTOPHER/ERIC PEARSON
PEARSON, KRISTOPHER & ERICA
P.O. BOX 2421
SITKA AK 99835-2421

PAUL/LAMOYNE SMITH TRUST
SMITH TRUST, PAUL/LAMOYNE, K.
P.O. BOX 1006
SITKA AK 99835

KENNETH ELDER
ELDER, JR., KENNETH
19787 WILDWOOD DR
WEST LINN OR 97068

STEPHEN/RACHEL LEWIS/MYRON
MYRON, RACHEL/LEWIS, STEPHEN, W.
P.O. BOX 53
TENAKEE SPRINGS AK 99841

LAMAR/SUSAN JONSSON
JONSSON, LAMAR, P./SUSAN, H.
2406 EAST DELIA DR.
SALT LAKE CITY UT 84109

BOB GORMAN
GORMAN, BOB
P.O. BOX 6477
SITKA AK 99835

← mailed on 2/20/15

G

Pearson
CUP- Island Shcrt-term Rental
Lot 15, Block 1 Middle Island Sub



City and Borough of Sitka

100 Lincoln Street Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

Date: February 25, 2015

From: Scott Brylinsky, Temporary Planner

To: Planning Commission

Re: Pearson CUP 15-01 Short Term Rental Middle Island



GENERAL INFORMATION

Applicant: Kris and Erica Pearson

Property Owner: Kris and Erica Pearson

Property Address: Lot 15, Block 1 Middle Island

Legal Description: Lot 15, Block 1 Middle Island

Parcel ID Number: 49201015

Size of Existing Lot: approx 1.7 acres

Zoning: Large Island

Existing Land Use: Residential recreational cabin

Utilities: No city utilities. On-site wastewater treatment.

Access: Boat only

Surrounding Land Use: Residential

ATTACHMENTS

Attachment A: Vicinity map 1

Attachment B: Vicinity map 2

Attachment C: Vicinity map 3

Attachment D: Application

Attachment E: Site Photos

MEETING FLOW

- Report from Staff
- Applicant comes forward
- Applicant identifies him/herself – provides comments
- Commissioners ask applicant questions
- Staff asks applicant any questions
- Floor opened up for Public Comment
- Applicant has opportunity to clarify or provide additional information
- Comment period closed - brought back to the board
- Findings
- Motion of Recommendation

- Attachment F: Floor plan
- Attachment G: Public neighbor comment
- Attachment H: Mailing list
- Attachment I: Proof of ownership
- Attachment J: Proof of payment
- Attachment K: Neighbor comments

PROJECT DESCRIPTION

Applicant is requesting a conditional use permit to operate a year round short term rental. Target audience is out-of-towners as well as locals. Guests will provide their own transportation and meals. A dock is available for the use of guests.

BACKGROUND

At least one other property in the general vicinity operates a short term rental.

ANALYSIS

None.

Project Site: The site is suitable for the proposed activity.

Project Design: N/A

Traffic: N/A

Parking: N/A

Noise: Additional noise may be generated by guests. Persons at cabins sometimes use firearms recreationally. Firearm use and target practice makes more noise than would be generated by other recreational activities.

Public Health or Safety: Guests will put an additional load on the on-site wastewater system. Gun safety is potentially an issue.

Habitat: N/A

Property Value or Neighborhood Harmony: Effect on property values is probably neutral. Neighborhood harmony could be affected depending on number of, and behavior of, guests.

Flood zone: N/A, area not mapped.

Conformity with Comprehensive Plan: Proposed activity is in conformity with Comprehensive Plan 2.8 *Outlying Areas and Islands Goals and Policies 2.8.2 D. While commercial and resort development may be*

appropriate in outlying areas, efforts shall be taken to ensure they are well planned and have minimal impacts on nearby residential properties.

FINDINGS

Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

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. Specifically, the following conditions:
 - a) *Applicant will maintain a DEC approved wastewater system.*
 - b) *There will be a one-year review before the Planning Commission.*
 - c) *Applicant will educate guests as to firearm protocol, specifically limiting recreational firearm use to the hours of 9am-5pm, and to shoot only into an earth backstop. (This is not intended to apply to legal hunting activity in any way.) Also, guests will be advised to respect nearby private properties, and to not enter other properties without invitation.*

RECOMMENDATION

Approve CUP with findings and conditions.

February 26, 2015

RE: Pearson Short-term rental CUP request

Dear Planning Commissioners,

I am offering this comment as a private citizen landowner and part-time resident of Middle Island Lot 18, Block 1. Our lot is the westernmost lot along the north shore of Middle Island, just a few lots from the property before you for consideration as a short-term rental.

In the last couple of years there have been numerous evenings when my wife and I have heard prolonged gunfire originating from the lots east of us. That direction includes Lot 15, Block 1, Mr. Pearson's property, and several other lots. We don't know which lots the shots come from.

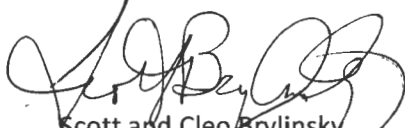
On those occasions we have shouted out to whoever was shooting to let them know people were nearby, but didn't hear a response. On at least one occasion the shots were fired when there was very little daylight left. When such shooting goes on we take refuge in the cabin.

I would request a condition of the permit be that guests be educated as to gun safety protocol and manners, and limit shooting to approximately 9am-5pm. Also that guests shoot only into an earth backstop, because there are trails in the woods behind the cabins that I and others occasionally walk. As a visitor, it would be all too easy to be unaware of those trails.

I would also ask that guests be educated that it is good "remote property manners" to not wander through neighbors' properties exploring.

In general, my wife and I support the applicant's CUP request.

Thank you,



Scott and Cleo Brylinsky
Block 1, Lot 18 Middle Island

Pearson
CUP- Island Short-term Rental
Lot 15, Block 1 Middle Island Sub

**CITY AND BOROUGH OF SITKA
Planning Commission
Minutes of Meeting
March 3, 2015**

Present: Chris Spivey (Acting Chair), Debra Pohlman (Member), Randy Hughey (Member), Carole Gibb (Planner I in Training), Scott Brylinsky (Temporary Planner), Dan Tadic (Municipal Engineer)

Absent: Richard Parmelee (Chair), Darrell Windsor, (Member)

Members of the Public: Sue Detwilz, Thad Poulson, Adam Chinalski, Kris Chinalski, Kris Pearson, Erica Pearson, Anne Pollnow, Tom Hart, Lisa Sadlier-Hart

Acting Chair Spivey called the meeting to order at 7:01 p.m.

Roll Call:

PRESENT: 3 – Spivey, Pohlman, Hughey

Consideration of the Minutes from the February 3, 2015 meeting:

MOTION: M/S POHLMAN/HUGHEY moved to approve the meeting minutes for February 3, 2015.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

The evening business:

**ZONING TEXT AMENDMENT TO SGC CH 22.24.010 B
ALLOW A B&B AS A CONDITIONAL USE ON A PARCEL ALREADY HAVING A SECOND DWELLING UNIT
SHEILA FINKENBINDER**

The applicant was not in attendance, and staff and the commission agreed to postpone the item until the applicant is present.

**VARIANCE REQUEST
1318 SAWMILL CREEK ROAD
ADAM AND KRIS CHINALSKI**

Public hearing and consideration of a variance requested by Adam and Kris Chinalski at 1318 Sawmill Creek Road. The variance requested is for a reduction in all property setbacks from 10 ft. to 0 ft. The purpose of the setback reduction is to allow for demolition of the non-conforming structure and construction of a new building to be used as a bakery.

STAFF REPORT: Brylinsky explained that two corners of this unusually small triangular shaped lot are encroaching on public right of way. One corner is encroaching onto SMC a few inches, and on the Eagle way side the encroachment is about two feet. On the back side of property, the building is five feet off the property line on one end, and seven feet off the property line on the other end. The applicant wants to demolish the building to remove the encroachment on two corners, to do that he is making the building two feet smaller, lengthwise, and is requesting a one-foot setback on the back property line, which would actually be a two foot setback from the building wall, but one foot for the eave.

He mentioned that with a non-conforming building that encroaches on the right of way, by code, if it is demolished it cannot be reconstructed without removing the encroachments. The applicant is trying to remove the encroachments by making the building smaller, and by reducing the setback on the back wall.

Brylinsky further explained that the applicant is proposing to have an apartment on top of the building, so this expansion will result in an increase in the parking requirements. The small size of the lot means there is only space for one parking spot within the boundaries of the property, but the on-side reality is that there is space for four parking spots. The Planning Department's research shows that there is ample parking on the right of way, and any prospect of further build out (which city engineer Dan Tadic would speak to) was not expected to adversely affect available parking. Brylinsky explained that although it is an unusual situation, these factors do indicate the parking requirements can be met. Making use of the right-of-way is the norm in that neighborhood. In fact, there is a section of right of way where one neighbor, Ken Helem, has erected a fence that encroaches on the right of way by at least eight feet.

The owner of Sitka Electric, Kenneth Helem, submitted a letter expressing his objections to granting the variance, but was not present at the meeting. He wrote of concerns with additional traffic and related issues on Eagle Way, and reducing the rear set back which would affect the safety of his property in the event of the fire.

The city is planning on paving in that area on Eagle Way and has done a survey of the area, which provides more detail than normal, and Dan Tadic, Municipal Engineer, was in attendance to address questions.

APPLICANT: Kris Chinalski stated that parking wouldn't be used very much, as there will be a drive-thru, rather than a scenario with people parking and staying for an extended time.

Brylinsky clarified that the code-required parking would be available without interfering with the drive thru.

Adam Chinalski stated that the measurements on that back lot line are to the fence which may seem misleading, because the fence isn't on the property line. The building is sitting only four feet to the property line already, so reducing it to two feet isn't making as large a difference as it may seem.

Spivey said he is giving consideration to the neighbor's concerns, especially concerning the rear setback reduction to zero, but he is also in favor of cleaning up non-conformities. He asked if the Chinalski's are open to adjusting their building plan to help appease the neighbor's concerns.

Adam Chinalski responded that he has already reduced the building size to make removing the encroachment feasible, and moving as close as possible to that back line is what will allow him to remove the encroachment. He explained that he spoke with Will Stortz, (City Building Official and Fire Marshal) and understands and will comply with the extra code requirements to provide proper fire barrier.

Brylinsky clarified that when building walls are close to a property line the building code requires extra fire-resistive construction to address that issue.

In addressing the traffic congestion question, Adam Chinalski pointed out that it has been a drive thru before and he doesn't expect an increase in congestion.

Pohlman asked for clarification about the application's mention of a walk up sales window, and wondered if that would be in addition to a drive thru.

Kris Chinalski said yes. The walk up window is on the same side of the building as the drive through, (on the Sawmill Creek Road side) but accommodates those on foot, and keeps them away from the cars.

Pohlman asked about data regarding how much traffic was there when old drive through was being used, and wondered if there was an increase in recent years in people using that route to ride their bikes to work, and in pedestrian traffic as well.

Brylinsky responded that the Planning Dept. does not have traffic info.

Spivey asked Municipal Engineer Dan Tadic to address how the city's planned paving of Eagle Way would change the area and affect this request.

Tadic reported that he agreed that the applicant's parking requirements would be met by ample space on the right of way, and paving the street wouldn't change that. Regarding traffic, the Alaska Dept. of Transportation keeps traffic counts locally. Tadic doesn't know if there is any data specific to the area but can try to find out.

Commissioners Spivey and Pohlman asked about impacts to traffic to and from the boat launch, especially in the summer. Tadic responded that they are considering a cul-de-sac to help with traffic flow to and from the boat launch.

Hughey asked if a car was waiting at the window, and there was one behind it, then would a third car be a possible obstruction, out onto Sawmill Creek Road?

Tadic responded that there could probably be three vehicles in a queue, if the window is in the same location as it was before.

PUBLIC COMMENT: None

COMMISSIONER DELIBERATION: Pohlman stated she would prefer not to move forward with just three commissioners present. She would like it to come before the commission at the next meeting to allow for more discussion.

Brylinsky asked if there were points the commission wanted staff to discuss with the applicant in the meantime.

Spivey said he would like a better understanding of traffic flow. He didn't anticipate that would pose a big problem, but it would help to have more explanation on that. He also stressed that it would help if they could the applicant could find a way to adjust their request on the rear setback.

Hughey said he expected the Eagle Way traffic to be quite low, but agreed that any data on that would be useful.

Pohlman said she wanted more information pertaining to fire safety, specifically with regard to the increase in height, whether that makes it more dangerous when there's a reduced setback.

MOTION: M/S POHLMAN/HUGHEY moved to postpone consideration of agenda item until the next meeting.

ACTION: Motion PASSED unanimously 3-0 on a voice vote.

**CONDITIONAL USE PERMIT - SHORT TERM RENTAL
Lot 15, BLOCK 1 MIDDLE ISLAND SUBDIVISION
KRISTOPHER AND ERICA PEARSON**

Public hearing and consideration of a short term rental conditional use permit requested by Kristopher and Erica Pearson at Lot 15, Block 1, Middle Island Subdivision.

STAFF REPORT: Brylinsky stated that because Planning Director Maegan Bosak is away for training, he is acting as Planning Director on her behalf, but wanted the record to reflect he is also a neighbor with a comment to submit regarding this case, and will step to the comment table at the appropriate time.

Applicant is requesting a conditional use permit to operate a year round short term rental. Target audience is out-of-towners as well as locals. Guests will provide their own transportation and meals. A dock is available for the use of guests. At least one other property in the general vicinity operates a short term rental.

Brylinsky stated that this is a straightforward conditional use application, and very reasonable given factors such as the neighborhood, topography, build-out on the island.

APPLICANT: Kris Pearson wanted to add that they are putting in a new dock in May. Their Army Corp of Engineers permit is approved.

Erica Pearson explained that it will be mostly for family use but wanted the option to rent it out, though it probably won't be very often.

PUBLIC COMMENT: Scott Brylinsky stepped out of his role as Planning Director and went to the comment table to state that as a nearby property owner he is looking forward to having the

Pearson's as neighbors. He submitted in a letter two main concerns. The first is that he and his wife have heard a fair amount of gunfire nearby, and sometimes close to dark when visibility is poor. They called out to let the shooters know they were close by, and never heard any response. They have felt unsafe as a result. Visitors to the island may not be aware how close the neighbors are, and so gun safety is a concern. The other concern is that visitors may also like to go exploring around and hopes that visitors are briefed on the importance of not trespassing on neighboring properties.

COMMISSIONER DELIBERATION: Pohlman asked if the Pearson's knew who was shooting off guns at night. Kris Pearson said they've never spent a night there so he doesn't know.

MOTION: M/S POHLMAN/HUGHEY moved to approve the following findings:

C. Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

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, specifically 2.7.1 *To maintain the superlative visual character of Sitka Sound and the City and Borough of Sitka as an overriding goal* and 2.7.2 *C Efforts shall be taken to ensure that commercial uses are well planned and have minimal impacts on nearby residential properties;*
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.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence

may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

F. Evaluation and Approval or Denial of Conditional Use Applications for Island Properties. It is the intent of this code to recognize the unique qualities of islands within Sitka Sound and the substantial differences that exist between individual islands and island groups.

Specific conditional uses may be fully appropriate in certain circumstances and on specific parcels. Uses that are well designed and/or have low impact may enhance surrounding properties and may not create any impacts. Examples may include structures that are built on larger lots away from exterior property lines, uses that are placed in the middle of parcels, uses that do not materially increase activity on easements or moorage, uses where there is a significant vegetative or terrain buffer between properties, and islands that are separated by substantial distances. In these cases, conditional use requests can and should be handled expeditiously.

Conditional uses on other properties may be totally inappropriate due to the concerns such as impacts on adjacent properties, lack of vegetative or distance buffers, noise generation, unmitigated increased usage of access easements, available moorage, location on parcels, and design.

1. Items to be considered in evaluating island conditional use permits include, but are not limited to, the following:
 - a. Location on the lot or island.
 - b. Generation of noise.
 - c. Numbers of guests and employees.
 - d. Visibility from adjacent uses including waterborne traffic.
 - e. Use of common access easements.
 - f. Availability of necessary moorage.
 - g. Use of natural or manmade screening or buffers.
 - h. Availability of municipal power.
 - i. Distance from adjacent parcels or islands.
 - j. Removal of excessive amounts of vegetation.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

MOTION: M/S POHLMAN/HUGHEY moved to recommend approval to the Assembly of a short-term stay conditional use permit requested by Kris and Erica Pearson for the property: Lot 15, Block 1 Middle Island Subdivision with the following conditions:

1. Applicant will maintain a DEC approved wastewater system.
2. There will be a one-year review before the Planning Commission.
3. Applicant will obtain a satisfactory Fire and Life Safety inspection from the Building Department prior to use as a rental.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

**CONSIDERATION OF THE NOMINATION OF LINCOLN STREET FOR THE NATIONAL REGISTER OF HISTORIC PLACES
TRUE NORTH SUSTAINABLE DEVELOPMENT SOLUTIONS, LLC
REPRESENTED BY ANNE POLLNOW.**

Public hearing and consideration of the proposed Historic Structures Survey Report and National Register of Historic Places Nomination Narrative for Lincoln Street, Sitka, Alaska, by True North Sustainable Development Solutions, LLC

STAFF REPORT: Brylinsky stated that Maegan Bosak has been the liaison on this but she was away for training. Anne Pollnow, grant administrator for the project, was there to represent True North.

APPLICANT: Anne Pollnow described this as an economic tool. True North contracted with the city to do a historic structures survey for the nomination, and to produce a nomination report for the potential Historic District. The report has been vetted by the City Historic Preservation Commission, plus the State's Office of History and Archeology. The district is Lincoln Street, from Petro Marine to St. Michaels Cathedral and it is historic in representing the build-up of Sitka's downtown business district in the post-World War II period.

Spivey asked how is this going to help Sitka.

Pollnow said it would help property owners attract grant money and also to create mitigation funding should there be state or federal projects that affect the historic district.

Brylinsky asked if Sitka residents will be faced with any mandatory requirements, architectural or otherwise, under this designation.

Pollnow said no, but if someone sees a neighbor destroying beautiful historic property, there could be pressure from the neighbors, because of the decrease in property value.

She explained that this district would be symbolic in nature, but it is the first stepping stone into creating design guidelines. Juneau for example, after getting this on this National Register of Historic Places, established local guidelines by city ordinance. So when anyone within the district does work on their property, they are required to comply with those guidelines.

Brylinsky said the report described 17 major buildings with architectural features that helped create the look for the district, and asked if an owner of one of those properties wanted to tear their façade down and change the look of their formally-designated historic building, would there be any prohibition?

Pollnow stated no, but the designation was based on having the majority of buildings in within the boundary on Lincoln St. from Metro Marine to St. Michael's Cathedral meet the criteria, so there was a threshold number of qualifying structures needed.

Brylinsky asked Pollnow to explain her earlier reference with regard to mitigation.

Pollnow said if there is an effect on a historic property by on the federal or state level – not at the city level – the government would have to do something to mitigate the effects. For example, if they change the view, they would have to mitigate. Sometimes that might be signage, or conservation easements.

Brylinsky reported that Maegan Bosak, as liaison, is in support of this nomination process.

A motion was initiated at this point but Thad Poulson pointed out the need to allow for public comment.

PUBLIC COMMENT: Thad Poulson, editor of the paper, attended as a reporter the paper and asked what the historic significance of this district would be. He observed that the discussion went into great detail on the economic benefits, but this is a nomination for a historic district, not an economic development project.

Pollnow responded that the lengthy report produced by True North goes into the details on the historic aspects, and how the district represents Sitka's downtown business district building up after World War II.

Spivey asked where the report was available to the public, and Pollnow said she believed it was at the city and at the library.

MOTION: M/S POHLMAN/HUGHEY moved to recommend the assembly approve the nomination.

ACTION: Motion PASSED unanimously 3-0 on a voice vote.

**CONCEPT PLAT FOR ZERO LOT LINE SUBDIVISION
720 INDIAN RIVER ROAD
TIMOTHY BERNARD**

The applicant was not in attendance, and staff and the commission agreed to postpone the item until the applicant is present.

**CONDITIONAL USE PERMIT – GARDEN STAND
815 CHARLES ST.
TOM HART AND LISA SADLIER-HART**

STAFF REPORT: Brylinsky noted that this application was a pleasing result of a process that began back in September when the commission was first considering the ordinance to allow garden stands as a conditional use permits. One unique aspect of this conditional use permit is that it does not go to the Assembly for approval, but rather, the permit is approved by the Planning Commission. It takes two meetings. This (first) meeting, was for public hearing and review of the application, and the findings and motions will come before the commission in the second meeting. This application does meet the criteria under the ordinance and staff position is favorable toward it.

APPLICANTS: Lisa Sadlier-Hart said she had a conversation with neighbors who got the packet, and their feedback was favorable. They expected to operate even fewer hours than they'd put in their application, at least at first.

COMMISSIONER DELIBERATION: Spivey said it was good that the neighbors appear to have a positive reaction to it. Brylinsky offered that the planning office has received no comments. Spivey further noted that the layout of the neighborhood is helpful to allow traffic flow.

Hughey commented that he likes that it is scheduled for a review in a year; his expectation is that it will be a positive thing.

PUBLIC COMMENT: None

PLANNING DIRECTOR'S REPORT: Brylinsky said Bosak is in Anchorage for flood plain training, and will be a certified flood plain manager when she gets back. He said there are three items for the March 17 meeting, the Chinalski property variance, a variance application for Lake St., and the second and final review of the garden stand conditional use permit.

Also, Maegan revised the staff report format, and seeks feedback on that from commissioners.

Spivey confirmed that the March 17 meeting would also include the two items from the applications weren't present that evening.

PUBLIC COMMENT: None.

MOTION: M/S POHLMAN/HUGHEY moved to adjourn at 8:45 pm.

ACTION: Motion PASSED unanimously 3-0 on a voice vote.

Chris Spivey, Acting Chair

Carole Gibb, Secretary



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Notice of Public Hearings

The Assembly of the City and Borough of Sitka will hold a public hearing during a regular meeting scheduled Tuesday, April 14, 2015 on the following items:

Public hearing and consideration of a short term rental conditional use permit requested by Kris and Erica Pearson at Lot 15, Block 1 Middle Island Subdivision. The owner of record is Kris and Erica Pearson.

The Assembly may take action on April 14, 2015. The Assembly meeting will begin at 6:00 pm in Harrigan Centennial Hall at 330 Harbor Drive in Sitka.

Interested residents are encouraged to make comments during the meeting and written comments can be submitted to the Municipal Clerk at 100 Lincoln Street.

Short-Term Rental Conditional Use Permit on Lot 15, Block 1 Middle Island

The applicants are requesting a conditional use permit to operate a year round short-term rental on Lot 15, Block 1 Middle Island. Target market is out-of-towners as well as locals. Guests will provide their own transportation and meals. A dock is available for guests to use. A short-term rental is defined as stays of fourteen days or less.

RICHARD/MARJORI PARMELEE
HIS CABIN RETREAT, LLC
405 HEMLOCK DR
SITKA AK 99835

ROBERT/VIKKI HANLEY
HANLEY, ROBERT & VIKKI
104 HOOMES CIR
BOWLING GREEN VA 22427

KRISTOPHER/ERIC PEARSON
PEARSON, KRISTOPHER & ERICA
P.O. BOX 2421
SITKA AK 99835-2421

PAUL/LAMOYNE SMITH TRUST
SMITH TRUST, PAUL/LAMOYNE, K.
P.O. BOX 1006
SITKA AK 99835

KENNETH ELDER
ELDER, JR., KENNETH
19787 WILDWOOD DR
WEST LINN OR 97068

STEPHEN/RACHEL LEWIS/MYRON
MYRON, RACHEL/LEWIS, STEPHEN, W.
P.O. BOX 53
TENAKEE SPRINGS AK 99841

LAMAR/SUSAN JONSSON
JONSSON, LAMAR, P./SUSAN, H.
2406 EAST DELIA DR.
SALT LAKE CITY UT 84109

BOB GORMAN
GORMAN, BOB
P.O. BOX 6477
SITKA AK 99835

CG marked on 4/3/15

G

Pearson
CUP- Island Short-term Rental
Lot 15, Block 1 Middle Island Sub

BOA – HEARING OUTLINE
Conditional Use Permit

- I. **Board of Adjustment** (BOA) - Assembly (*SGC 22.30.060A*)
- A. Quasi-judicial – avoid *ex parte* contacts
 - B. Authority to approve or deny conditional use permits -*SGC 22.30.060A*¹
 - C. Assembly’s Other Options - *SGC 22.30.170B.1*²
 - 1. Approve Planning Comm’n recommendation
 - 2. Approve with additional conditions
 - 3. Modify with or without applicant’s consent (some limitations)
 - 4. Deny application
 - 5. Remand –
 - a. Issues not covered
 - b. Procedural due process problems (new pertinent evidence)
- II. **Review Criteria**
- A. Assembly reviews Planning Comm’n recommended decision regarding conditional use permit applications – *SGC 22.30.050F*³

¹ *SGC 22.30.060 Board of adjustment.*

The assembly of the city and borough shall function as the board of adjustment with the authority to:

- A. *Approve or deny conditional use permits.*

* * *

² *SGC 22.30.170 Assembly actions.* (emphasis added)

* * *

B. *Decisions. The assembly shall make its decision by motion or ordinance as appropriate.*

1. An assembly decision on a planning commission recommendation or following a public hearing shall include one of the following actions:

- a. Approve as recommended.*
- b. Approve with additional conditions.*
- c. Modify, with or without the applicant’s concurrence; provided, that the modifications do not:*
 - i. Enlarge the area or scope of the project.*
 - ii. Increase the density or proposed building size.*
 - iii. Significantly increase adverse environmental impacts as determined by the responsible official.*
- d. Deny (reapplication or resubmittal is permitted).*
- e. Deny with prejudice (reapplication or resubmittal is not allowed for one year).*
- f. Remand for further proceedings.*

³ *SGC 22.30.050 Planning commission.*

The planning commission shall be constituted in accordance with Chapter 2.18 of this code and the Sitka Home Rule Charter and shall have the responsibility of reviewing and acting on the following:

* * *

B. Planning Comm'n decision and recommendation in this case regarding conditional use permit applications subject to Assembly review

C. Nature of the review by Assembly – review recommended Findings of Fact and General Approval Criteria Considerations and proposed conditions made by Planning Commission regarding each conditional use permit application

1. **FF criteria– All criteria must be met (SGC 22.30.160C)**
 - a. Not detrimental to public health, safety, general welfare;
 - b. Not adversely affect established character of surrounding vicinity;
 - c. Not injurious to uses, property or improvements adjacent to or in vicinity;
 - d. Not inconsistent with Comprehensive Plan;
 - e. Conditions to lessen impacts are monitorable & enforceable
 - f. No hazardous conditions that cannot be mitigated regarding adjacent & vicinity properties ; and
 - g. Not adversely affect public facilities & services, or imposed conditions mitigate impact.

2. **General Approval Criteria Considerations (SGC 22.20.160C)**
 - a. Effects of the conditional use on site (topography, slope and soil stability) and geophysical hazards (flooding, surface and subsurface drainage, water quality);
 - b. Utilities and service requirements (sewers, storm drainage, water, fire protection, access and electrical power);
 - c. Lot or tract characteristics (lot size, yard requirements, lot coverage and height of structures);
 - d. Use characteristics that affect adjacent uses and districts (operating hours; number of persons, traffic, parking and loading, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements); and
 - e. Community appearance (landscaping, fencing, screening).

3. **Proposed Conditions**

F. Recommendations on conditional use permit applications.

* * *

4. SGC 22.30.160C – Planning Comm’n decision requirements⁴

⁴ SGC 22.30.160 *Planning commission review and recommendation.* (emphasis added)
Planning commission decision and action authority is defined in Section 22.30.050.

* * *

C. *Required Findings for Conditional Use Permits.* *The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:*

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.*

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. *Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;*

2. *Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;*

3. *Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;*

4. *Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking*

III. BOA Procedure

A. Packet Review

1. Planning Comm'n FF and motions
2. Planning Comm'n minutes
3. Planning Comm'n record (written submissions)

B. Hearing (SGC 22.30.180)⁵

1. Follow Assembly procedures
2. Order
 - a. Staff
 - b. Applicant
 - c. Public
 - d. Rebuttal
 - i. Staff
 - ii. Applicant
 - e. Close evidentiary hearing – Deliberate
 - f. Make Findings of Fact & Decision
 - i. Planning Comm'n recommended Findings of Fact and conditions
 - ii. Modify FF and conditions (use *SGC 22.30.160C* criteria)

C. Burden of proof on Applicant (SGC 22.30.160C.6)⁶

and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;

5. *Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.*

⁵ *SGC 22.30.180 Procedures for public hearings.* (emphasis added)

Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The chair shall open the public hearing and, in general, observe the following sequence of events:

A. *Staff presentation*, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.

B. *Applicant presentation*, including submittal of any materials. Members of the hearing body may ask questions of the applicant.

C. *Testimony or comments by the public germane to the matter.* Questions directed to the staff or the applicant shall be posed by the chair at its discretion.

D. *Rebuttal, response or clarifying statements by the staff and the applicant.*

E. *The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it.*

⁶ *SGC 22.30.160 Planning commission review and recommendation.* (emphasis added)

* * *

D. Assembly Options – See Section I.B above

IV. Actions after Assembly Decision

A. Remand - SGC 22.30.200⁷

B. Reconsideration - SGC 22.30.190⁸

C. Judicial Appeal (Superior Court – Sitka) - SGC 22.30240A⁹

C. *Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:*

* * *

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.*

⁷ *SGC 22.30.200 Remand.*

In the event the assembly determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the assembly may remand the matter back to the hearing body. The assembly shall specify the items or issues to be considered and the time frame for completing the additional work. The assembly may hold a public hearing on a closed record appeal only for the limited purposes identified in the remand.

⁸ *SGC 22.30.190 Reconsideration.*

A party to a public hearing or closed record appeal may seek reconsideration only of a final decision by filing a written request for reconsideration with the administrator within fourteen calendar days of the oral announcement of the final decision. The assembly shall consider the request at its next regularly scheduled meeting. If the request is denied, the previous action shall become final. If the request is granted, the assembly body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals.

⁹ *SGC 22.30.240 Judicial appeal.*

A. *Appeals from the final decision of the assembly, or other city board or body involving Title 21 SGC, and for which all other appeals specifically authorized have been timely exhausted, shall be made to superior court within thirty days of the date the decision or action became final, unless another time period is established by state law or local ordinance.*

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