



CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

Planning and Community Development Department

AGENDA ITEM

Case No: CUP 26-05
Proposal: Short-term rental
Applicants: Maggie and Kai Malicoat
Owner: Maggie (Malicoat) Dunlap
Location: 2406 B Halibut Point Road
Legal: Lot C-7, Kuhnle Subdivision
Zone: R-1 MH - Single-Family/Duplex/Manufactured Home District
Size: 7,800 SF
Parcel ID: 2-5290-00
Existing Use: Residential
Adjacent Use: Residential
Utilities: Existing
Access: Halibut Point Road

KEY POINTS AND CONCERNS

- Request for the ADU to be used as a short-term rental
- Additional STR parking not available on property
- Rental will be owner-operated, owner lives on site

ATTACHMENTS

Attachment A: Aerial
Attachment B: Plat
Attachment C: Site Plan
Attachment D: Floor Plan
Attachment E: Photos
Attachment F: Density Map
Attachment G: Renter Handout
Attachment H: Applicant Materials
Attachment I: Affidavit
Attachment J: Public Comment

BACKGROUND/PROJECT DESCRIPTION

The applicants/owners would like to utilize their Accessory Dwelling Unit (ADU) above their garage as a short-term rental (STR). The applicant received approval for the ADU under case file CUP 23-10 and VAR 23-03 at the April 19, 2023 Planning Commission meeting. The applicants are requesting to waive the requirement of long-term rental to use the ADU as a STR during the summer season, June through August. The applicants plan to manage the rental be onsite when in use. Access to the property is from Halibut Point Road.

The home is located in the R-1 MH single-family/duplex/manufactured home district on a lot of 7,800 square feet (SF). The ADU is 616 SF and has one bedroom, one bathroom, a storage loft, and kitchen/living/dining room area. The applicant has requested a 4-guest maximum to utilize both the bedroom and loft, though they expected 2 guests for most bookings. Based on the certificate of occupancy for this unit, the loft is only approved for storage, not as a sleeping space. Staff has added a condition of approval that the guest maximum shall be 2 unless the loft receives approval for use as a sleeping area by the Building Department in which case the guest maximum shall be 4.

CODE CONFORMITY ANALYSIS

SGC 22.20.160, contains zoning regulations for ADUs.

- Section A outlines the intent of ADUS
 - Subsection 2 states, “Provide additional affordable options for long-term rental housing.”
- Section B outlines how ADUS are created
- Section C has the 14 ADU requirements
 - Subsection 2 states, “ADUs are intended for long-term rental use only. Rental of an ADU for a period of less than 90 consecutive days is prohibited. ADUs shall not be used for short-term vacation rentals and/or bed and breakfast purposes.”
- Section D states, “Conditional use permits may be sought if the above requirements cannot be met. Conditional use permits must be in conformance with Chapter 22.25 SGC.”

The ADU code section makes a clear policy preference/intent that ADUs should not be used for short-term rentals or as a bed and breakfast. However, the outright prohibition of STR/B&B use is in the list of requirements in Section C that can potentially be waived through a conditional use permit per Section D.

SGC 22.25.010(C)(1)(f) contains the provisions for the STR primary residence requirement in residential zones.

- Subsection ii. states, “Dwelling units on the property eligible for a permit include a single-family home, a mobile or manufactured home, or the nonowner-occupied unit within a two-family or multifamily unit.”

ADUs are not explicitly listed as an eligible dwelling unit.

In reviewing previous cases, a previous request to use an ADU as an STR (CUP 23-14) was denied on the basis that it was contrary to the stated intent for ADUs. A different request (CUP 24-09) was for the applicants to live in their ADU and short-term rent the main house (though a distinction made was that the ADU in question predated the ADU code and at time of construction was considered a second unit in a duplex); that request was approved by the Commission.

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:

Applicant does not anticipate any significant increase in vehicular traffic versus long-term residential use. The application states only one vehicle will be permitted for short-term renters. However, given parking constraints on the property (see items g and i), there may be safety impacts that should be addressed.

b. Amount of noise to be generated and its impacts on surrounding land use: STR's have the potential to create noise from transient guests, though it is anticipated that noise generated by guests will be similar to long-term residential use. Quiet hours are listed from 9pm to 8am, and the property owners are on site to monitor noise levels. The property is also well buffered, mitigating noise disturbance to surrounding properties.

c. Odors to be generated by the use and their impacts: Potential odor impacts are in line with similar residential uses. Rental handout instructs guests on garbage handling, and no fish processing is allowed. Garbage will be stored in the garage and managed by the owners. Garbage shall be disposed of in municipal containers and in accordance with Sitka General Code requirements; public comment was received regarding current compliance concerns.

d. Hours of operation: Applicant will use the house as a STR June through August.

e. Location along a major or collector street: Accessed from Halibut Point Road, a major/arterial street.

f. Potential for users or clients to access the site through residential areas or substandard street creating a cut-through traffic scenario: Access is from Halibut Point Road. There are no other cut-throughs to the property.

g. Effects on vehicular and pedestrian safety: Visitors will be unfamiliar/less experienced with the road which can have mixed results (some may be more cautious, others less aware). A concern was raised in public comment regarding the safety of egress; the property is located on a curve with visibility constraints. Additionally, the speed limit on this portion of HPR is 45 miles/hour. Without

¹ § 22.10.160 C.

adequate space maintained on the property/undeveloped portion of the right-of-way, vehicles are forced to back into the road which can be particularly hazardous for vehicles and bicyclists. Staff added a condition of approval stating that the applicant must maintain clear space to accommodate a T-turn such that vehicles can pull forward on to HPR for property egress, and that the renter handout be modified to provide this instruction to renters.

h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site: Site is accessible to emergency services. Applicant does not anticipate a change from the current ability of emergency services personnel to access the site.

i. Logic of the internal traffic layout: The property has limited space for vehicles. Owners received a parking variance (VAR 23-03) to reduce parking requirements to two vehicles for both the single-family home and ADU. This was also modified for the parking to be in the garage. Renter handout limits STR parking to one vehicle located directly in front of the rental unit. This will place parking in the Department of Transportation (DOT) Halibut Point Road right-of-way.

j. Effects of signage on nearby uses: Applicant has proposed a parking sign. All signs shall comply with Sitka General Code.

k. Presence of existing or proposed buffers on the site or immediately adjacent the site: The property is buffered by a rock wall at the rear of the property, trees and vegetative bushes at the sides. The applicant has not proposed any additional buffers.

l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan: Consistent with ED 6.5 of the comprehensive plan to, *“support growth of Sitka’s independent, cruise-related, and heritage tourism work and enterprises.”* An STR can help support the existing and growing tourism industry by providing transient guests with short-term housing options that allow the potential for more visitors to visit Sitka, bringing in money and creating opportunities for job creation and economic development. STRs also encourage housing redevelopment with the incentive of short-term rental income. However, STRs correlate with negative impacts to available housing stock for residents, long-term rental rates, and increased purchase prices for housing.

m. Other criteria that surface through public comments or planning commission review: Additional conditions of approval proposed through public comment include:

- No more than 4 vehicles shall be parked on the property or the undeveloped portion of the abutting right-of-way at any time, inclusive of storage containers and trailers.
- The applicant shall ensure that vehicles used to access the property do not park on the paved shoulder of the abutting right-of-way.
- The applicant and/or property owner’s use of the undeveloped portion of the abutting right-of-way, including but not limited to storage use, shall be constrained to that portion between the open drainage ditch and the front property line; use of this area shall not extend beyond

the projected boundaries of the side property lines. This condition shall not be construed as authorization for use of the right-of-way that would otherwise require authorization from the State of Alaska DOT/PF.

RECOMMENDATION

While we can certainly appreciate the basis of this request and share the applicant's sentiments regarding housing affordability for year-round and young-family Sitkans, staff cannot recommend approval under the plain-language of the zoning code and given past permit history. However, the Commission may choose to interpret/apply the zoning code provisions pertinent to this request differently.

Should the Commission wish to consider this request, staff has a few options/recommendations:

- If the permit were to be approved, staff recommends limiting the permit duration to a set period of time (perhaps 3-5 years) such that the ADU is guaranteed to return to long-term rental housing stock in line with zoning code's intent for ADU use. Were this to be done, staff would also recommend offering this option to the applicants for CUP 23-14.
- The Commission could also move to postpone consideration of this request indefinitely until such time that the zoning code can be modified such that this type of request could be accommodated. Postponing this request indefinitely would allow the item to come back if the code is changed without requiring re-application.

CONDITIONS OF APPROVAL

1. Short-term rental use of the property is limited to the months of June, July, and August.
2. The permit may not be activated until passing a fire, life, and safety inspection from the CBS Building Department.
3. The guest maximum shall be 2 unless the loft receives approval for use as a sleeping area by the Building Department, in which case the guest maximum shall be 4.
4. The applicant shall resubmit the site plan to the Planning Department which identifies space in the undeveloped portion of the right-of-way that will be adequate to accommodate a T-turn such that passenger vehicles can pull forward on to the right-of-way for property egress. The renter handout shall be modified to instruct renters to egress the property in this manner. The Planning Department must approve the modified site plan and renter handout prior to permit activation. The applicant shall keep the area identified clear of vegetation, parked vehicles, or other stored items at all times during permit use.
5. Only one guest vehicle shall be allowed on the property or in the undeveloped portion of the abutting right-of-way in conjunction with short-term rental use.
6. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.
7. The applicant shall submit an annual report beginning in 2027, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve-month period starting with the date the facility began operation, bed tax remitted, any violations, concerns, and solutions implemented. The report is due within thirty days following the end of the reporting period.

8. 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.
9. Failure to comply with all applicable tax laws, including but not limited to remittance of all sales and transient lodging tax, shall be grounds for revocation of the conditional use permit.
10. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.
11. To mitigate the impact of odor from the short-term rental and comply with bear attraction nuisance requirements, the property owner shall assure all trash is deposited in appropriately secured trash receptacles and only placed on street for collection after 4:00 a.m. on trash collection day.
12. To mitigate parking and traffic impacts, property owner shall provide detailed parking and traffic rules and shall ensure all parking for all uses (residential or short-term rental) shall occur off-street, on-site, and further that should off-site parking occur at any time, the conditional use permit shall be revoked.
13. Any signs must comply with Sitka General Code 22.20.090.
14. A detailed rental overview shall be provided to renters detailing directions to the unit, transportation options, appropriate access, parking, trash management, noise control/quiet hours, and a general condition to respect the surrounding residential neighborhood. The renter handout shall include an advisory note to tenants to be mindful of vehicle and especially pedestrian traffic in the area, and to exercise caution coming and going from the property in motor vehicles.
15. The property owner shall communicate to renters that a violation of these conditions of approval will be grounds for eviction of the short-term renters.
16. 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 short-term rental at in the R-1 MH - Single-Family/Duplex/Manufactured Home District subject to the attached conditions of approval. The property is also known as Lot C-7, Kuhnle Subdivision. The request is filed by Maggie and Kai Malicoat. The owner of record is Maggie Dunlap.”**
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;

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

- 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; *because the property will retain its primary use as a residence and be monitored by the property owners to ensure that there are no resulting impacts or disturbances that would negatively affect health, safety, welfare, neighborhood character, or properties in the surrounding vicinity.*
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, Action ED 6.5 and goals to promote housing affordability, in this case, for the homeowner.*
 3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced; *because the property will be monitored by the property owners and property manager to ensure that there are no resulting impacts, and opportunities for redress to the Planning Department and/or Planning Commission.*
 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; *because no hazardous conditions are expected from the use of the property as a short-term rental.*
 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; *because the property is located off a state right-of-way and is served by municipally operated utilities, no adverse impacts on such facilities or services are expected.*
 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; *because the applicant has met the burden of proof through information provided in their application packet.*