



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

MEMORANDUM

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

From: Samantha Pierson, Planner I
Maegan Bosak, Planning and Community Development Director *MB*

Subject: Zoning Text Amendment – Administrative Variances of up to two feet in C-1 General Commercial, C-2 General Commercial Mobile Home, Waterfront District, and Industrial Zones

Date: July 22, 2016

The request is for a Zoning Text Amendment of SGC 22.30.150, "Administrative approvals without notice." The Planning Commission is requesting that the Assembly consider allowing administrative variances of up to two (2) feet in the commercial, waterfront and industrial zones, in addition to the currently permitted administrative variances in residential zones, as proposed by Planning and Community Development Department staff.

Administrative variances go through the same review process as variance requests that go before the Planning Commission. A lengthy analysis, staff report and associated documents are required for approval. Code Section 22.30.170(A)(1) states that the Assembly may hear appeals of administrative approvals.

Code Section 22.30.150(A)(5) currently allows administrative approval of "minor adjustment to yard requirements in residential zones where the administrator may allow development to encroach up to two feet into a required yard setback when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties." Section 22.30.150(A)(6) allows "minor adjustment to yard requirements for residential structures in commercial zones where the administrator may allow development to encroach up to two feet in required setbacks adjacent to municipally owned upland tracts exceeding fifty acres when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties."

Staff believes that a small setback request could be approved based on the administrative approvals without notice code language and reported to the Commission under the Planning Director's Report as current administrative variances are.

Recommended Action: Approve the Zoning Text Amendment to allow administrative variances of up to two feet in the C-1 General Commercial, C-2 General Commercial Mobile Home, Waterfront District, and Industrial Zones.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2016-28

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, AMENDING SITKA GENERAL CODE TITLE 22 "ZONING" BY AMENDING SECTION 22.30.150 "ADMINISTRATIVE APPROVALS WITHOUT NOTICE"

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. SEVERABILITY. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. PURPOSE. The purpose of this ordinance is to allow administrative approvals of setback variances of up to two feet in the following zones: C-1 General Commercial, C-2 General Commercial Mobile Home, WD Waterfront, and I Industrial.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that SGC Section 22.30.150 is amended to read as follows (new language underlined; deleted language stricken):

Chapter 22.30
Zoning Code Administration

22.30.150 Administrative approvals without notice.

A. The administrator may approve, approve with conditions, or deny the following without notice:

1. Boundary (lot) line adjustments.

2. Extension of time for approval.

3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not (a) affect overall project character, (b) increase the number of lots, dwelling units, or density, or (c) decrease the quality or amount of open space.

4. Home occupations and other accessory uses in single-family zones.

5. Minor adjustment to yard requirements in residential zones, C-1 general commercial, C-2 general commercial mobile home, WD waterfront, and I industrial zones where the administrator may allow development to encroach up to two feet into a required yard setback when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.

6. Minor adjustment to yard requirements for residential structures in commercial zones where the administrator may allow development to encroach up to two feet in required setbacks adjacent to municipally owned upland tracts exceeding fifty acres when it is determined that strict

39 ~~application of the setback requirement may cause an undue hardship and there are not impacts~~
40 ~~on adjacent properties.~~

41 7. 6. Required Findings for Nonconforming Use Permits. The city shall grant a nonconforming
42 use permit if documentary evidence is provided by the applicant to support the planning
43 commission's findings that:

44 a. Granting a nonconforming use permit is necessary to adapt the nonconforming use and
45 associated structures to changes in technology, merchandising, or other generally recognized
46 trends which affect the utility of structures or the applicant's ability to compete;

47 b. Granting a nonconforming use permit will not introduce any (additional) hazards or
48 interfere with the potential development of nearby properties in accordance with present
49 zoning regulations;

50 c. The nonconforming use and associated structures will comply with the requirements of
51 Section 22.24.050(B);

52 d. The applicant's proposal will result in improvements in functionality or safety, or in
53 exterior appearance, screening, access and other features which will make the use or
54 structure more compatible with allowed uses; and

55 e. Granting a nonconforming use permit will not detract from the intent of the
56 comprehensive plan and any implementing regulation.

57 B. Administrator's decisions under this section shall be final on the date issued.

58
59 **5. EFFECTIVE DATE.** This ordinance shall become effective the day after the date of its
60 passage.

61 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,
62 Alaska this 23rd day of August, 2016.

63
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65
66 _____
Mim McConnell, Mayor

67 ATTEST:

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70 _____
71 Sara Peterson, CMC
72 Municipal Clerk

22.30.150 Administrative approvals without notice.

- A. The administrator may approve, approve with conditions, or deny the following without notice:
1. Boundary (lot) line adjustments.
 2. Extension of time for approval.
 3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not (a) affect overall project character, (b) increase the number of lots, dwelling units, or density, or (c) decrease the quality or amount of open space.
 4. Home occupations and other accessory uses in single-family zones.
 5. Minor adjustment to yard requirements in residential zones where the administrator may allow development to encroach up to two feet into a required yard setback when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.
 6. Minor adjustment to yard requirements for residential structures in commercial zones where the administrator may allow development to encroach up to two feet in required setbacks adjacent to municipally owned upland tracts exceeding fifty acres when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.
 7. Required Findings for Nonconforming Use Permits. The city shall grant a nonconforming use permit if documentary evidence is provided by the applicant to support the planning commission's findings that:
 - a. Granting a nonconforming use permit is necessary to adapt the nonconforming use and associated structures to changes in technology, merchandising, or other generally recognized trends which affect the utility of structures or the applicant's ability to compete;
 - b. Granting a nonconforming use permit will not introduce any (additional) hazards or interfere with the potential development of nearby properties in accordance with present zoning regulations;
 - c. The nonconforming use and associated structures will comply with the requirements of Section 22.24.050(B);
 - d. The applicant's proposal will result in improvements in functionality or safety, or in exterior appearance, screening, access and other features which will make the use or structure more compatible with allowed uses; and
 - e. Granting a nonconforming use permit will not detract from the intent of the comprehensive plan and any implementing regulation.
- B. Administrator's decisions under this section shall be final on the date issued.

(Ord. 04-60 § 4(J), 2004; Ord. 03-1746 § 4 (part), 2003; Ord. 02-1683 § 4 (part), 2002.)

22.20.030 Classification of new and unlisted uses.

Addition of uses which are not defined or regulated by this title shall be made by the following process:

- A. The administrator shall provide the planning commission with a staff report describing the proposed use addition in the form of an amendment to this title.
- B. The planning commission shall hold a public hearing and, subject to its review, shall recommend an appropriate code amendment to the assembly.
- C. Unless the assembly takes action otherwise within thirty days of the planning commission recommendation, the recommended amendment shall take effect.

(Ord. 11-04S § 4(B) (part), 2011: Ord. 02-1683 § 4 (part), 2002.)

**Table 22.20-1
Development Standards⁽²⁾**

ZONES	MINIMUM LOT REQUIREMENTS		MINIMUM SETBACKS			MAXIMUM HEIGHTS ⁽¹⁹⁾		MAXIMUM BUILDING COVERAGE	MAXIMUM DENSITY
	Width	Area ^(1, 18)	Front ⁽³⁾	Rear	Side	Principal Structures	Accessory Structures		
P	⁽⁴⁾	⁽⁴⁾	20 ft.	15 ft.	10 ft.	40 ft.	16 ft.	35%	
SF ⁽¹⁶⁾	80 ft.	8,000 s.f.	20 ft. ⁽⁸⁾	10 ft. ⁽⁹⁾	8 ft.	35 ft. ⁽¹⁰⁾	16 ft.	35%	
SFLD	80 ft.	15,000 s.f.	20 ft. ⁽⁸⁾	20 ft. ⁽⁹⁾	15 ft.	35 ft. ⁽¹⁰⁾	16 ft.	35%	
R-1 ^(6, 16)	80 ft.	8,000 s.f.	20 ft. ⁽⁸⁾	10 ft. ⁽⁹⁾	8 ft.	35 ft. ⁽¹⁰⁾	16 ft.	35%	
R-1 MH ^(6, 16)	80 ft.	8,000 s.f.	20 ft. ⁽⁸⁾	10 ft. ⁽⁹⁾	8 ft.	35 ft. ⁽¹⁰⁾	16 ft.	35%	
R-1 LD/ LDMH	80 ft.	15,000 s.f. ⁽⁵⁾	20 ft. ⁽⁸⁾	20 ft. ⁽⁹⁾	15 ft.	35 ft. ⁽¹⁰⁾	16 ft.	35%	
R-2 ^(6, 16)	80 ft.	8,000 s.f. for the first two units and 1,000 s.f. for each additional unit	20 ft. ⁽⁸⁾	10 ft. ⁽⁹⁾	8 ft.	40 ft.	16 ft.	50%	Maximum density = 24 DU/A
R-2 MHP ⁽⁶⁾	80 ft.	Same as R-2	20 ft. ⁽⁸⁾	10 ft. ⁽⁹⁾	8 ft.	40 ft.	16 ft.	50%	Same as R-2
CBD ⁽¹⁷⁾	None	None ⁽⁷⁾	⁽¹¹⁾	⁽¹¹⁾	⁽¹¹⁾	50 ft.	16 ft.	None	
C-1 ⁽⁶⁾	60 ft.	6,000 s.f. ⁽⁷⁾	20 ft. ⁽⁸⁾	10 ft.	5 ft.	40 ft.	16 ft.	None, except for setback areas	
C-2 ⁽⁶⁾	60 ft.	6,000 s.f. ⁽⁷⁾	20 ft. ⁽⁸⁾	10 ft.	5 ft.	40 ft.	16 ft.	Same as C-1	
WD ⁽⁶⁾	60 ft.	6,000 s.f. ⁽⁷⁾	20 ft. ^(8, 12)	5 ft. ⁽¹²⁾	10 ft. ⁽¹²⁾	40 ft.	16 ft.	Same as C-1	
GP	50 ft.	5,000 s.f.	10 ft.	5 ft. ⁽¹²⁾	10 ft. ⁽¹²⁾	50 ft.	50 ft.	Same as C-1	
I	100 ft.	15,000 s.f.	20 ft. ⁽⁸⁾	10 ft.	5 ft.	40 ft.	16 ft.	50% ⁽¹³⁾	
LI	None	1 acre ⁽¹⁴⁾	None ⁽¹⁵⁾	None ⁽¹⁵⁾	None ⁽¹⁵⁾	35 ft.	35 ft.	25%	
GI	None	1 acre	None ⁽¹⁵⁾	None ⁽¹⁵⁾	None ⁽¹⁵⁾	35 ft.	35 ft.	None	
R	⁽¹⁶⁾	⁽¹⁶⁾	20 ft.	10 ft.	5 ft.	35 ft.	20 ft.	50%	

ZONES	MINIMUM LOT REQUIREMENTS		MINIMUM SETBACKS			MAXIMUM HEIGHTS ⁽¹⁹⁾		MAXIMUM BUILDING COVERAGE	MAXIMUM DENSITY
	Width	Area ^(1, 18)	Front ⁽³⁾	Rear	Side	Principal Structures	Accessory Structures		
OS	None	1 acre	None ⁽¹⁵⁾	None ⁽¹⁵⁾	None ⁽¹⁵⁾	35 ft.	35 ft.	None ⁽¹⁵⁾	

(Ord. 13-14A § 4 (part), 2013; Ord. 11-04S § 4(B) (part), 2011; Ord. 06-06 § 4(C), 2006; Ord. 03-1746 § 4 (part), 2003; Ord. 02-1683 § 4 (part), 2002.)

22.20.035 Notes to Table 22.20-1.

1. Minimum lot area net of access easements.
2. All developed lots and parcels shall have access to a public street and circulation within the development to ensure adequate vehicular circulation for parking, freight, and emergency vehicles. Where lots or parcels do not front on and have direct access to streets, a minimum twenty-foot improved driveway with a minimum of a twelve-foot wide developed driveable surface on a legal easement shall provide access between the subject development and the street.
3. Front setbacks apply to all lot lines adjacent a public street. Corner lots have two front setbacks.
4. As determined by the specific use and its parking and loading requirements.
5. Duplex shall have a minimum of twelve thousand square feet of lot area per unit.
6. Zero lot line lots shall be a minimum of seven thousand five hundred feet in area.

Additional Note: The minimum square footages for each unit of a zero lot line shall be as follows:

- R-1 and R-1 MH 4,000 sq. ft.
- R-1 LD and R-1 LDMH 7,500 sq. ft.
- R-2 and R-2 MHP 4,000 sq. ft.
- C-1, C-2 and WD 3,000 sq. ft.

Zero lot lines may be allowed on existing lots of record in the R-1 and R-1 MH zones with square footages less than above if the planning commission finds that there is adequate density and parking.

7. Minimum lot area per dwelling unit shall be six thousand square feet for one and two-family dwellings with an additional one thousand square feet for each additional dwelling unit.
8. Front yard setback shall be ten feet when lots abutting street rights-of-way are equal to or greater than eighty feet.
9. Residential docks are exempt from rear yard setback.
10. Except as exempted by Section 22.20.050.
11. Subject to site plan approval.
12. No setbacks are required from property lines of adjacent filled, intertidal, or submerged tidelands.
13. Additional building coverage may be permitted subject to site plan approval.
14. Unless the subject use occupies the entire island.

15. Where island lots share common property lines, the minimum setback shall be fifteen feet.
16. The minimum site setback on lots in zones SF, R-1, R-1 MH, and R-2 shall be five feet for lots that are sixty feet wide or narrower; in all other cases in those zones, the minimum side setback shall be eight feet.
17. A five-foot setback shall be along any property line abutting a public street, alley, or deed access easement. The purpose of this setback shall be to assure that sidewalks, curb and gutter, power pole locations, or other public necessities can be accommodated.
18. Lot size variances may be allowed for subdivisions that include sidewalks or pathways.
19. Accessory dwelling units in residential zones shall be limited to a maximum height of twenty-five feet or the height of the existing principal dwelling unit on the property whichever is less.

(Ord. 13-14A § 4 (part), 2013; Ord. 06-06 § 4(C), 2006; Ord. 03-1746 § 4 (part), 2003; Ord. 02-1683 § 4 (part), 2002.)



CITY AND BOROUGH OF SITKA

Minutes - Final

Planning Commission

Chris Spivey, Chair
Darrell Windsor, Vice Chair
Tamie (Harkins) Parker Song
Debra Pohlman
Randy Hughey

Tuesday, July 19, 2016

7:00 PM

Sealing Cove Business Center

I. CALL TO ORDER AND ROLL CALL

Chair Spivey called the meeting to order at 7:01 PM.

II. CONSIDERATION OF THE AGENDA

Chair Spivey stated that he would need to recuse himself from Item I requested by Ida Eliason, and that a quorum for the item would not be met.

III. CONSIDERATION OF THE MINUTES

A Approval of the June 21, 2016 meeting minutes.

Pohlman/Parker Song moved to APPROVE the June 21, 2016 meeting minutes.
Motion PASSED 3-0.

IV. REPORTS

V. THE EVENING BUSINESS

B Planning Regulations and Procedures.

C Public hearing and consideration of a conditional use permit for a short term rental located on a boat in Crescent Harbor 1-24, 500 Lincoln Street, in the Public zone. The property is also known as a portion of ATS 15. The application is filed by Bruce and Ann-Marie Parker. The owner of record is the City and Borough of Sitka.

Item was not heard as applicants were not present.

D Public hearing and consideration of a conditional use permit for a short term rental located on a boat in Crescent Harbor 6-45, 500 Lincoln Street, in the Public zone. The property is also known as a portion of ATS 15. The application is filed by Tiffany Justice and Ben Timby. The owner of record is the City and Borough of Sitka.

Scarcelli explained the request for a short-term rental on a 24 foot sailboat.

Ultimately, conditional uses must not be detrimental to public health and safety. Scarcelli stated that the Fire Chief had some concerns for access in the event of an emergency. Spivey asked if the conditional use would run with the slip or the boat. Bosak stated that it would be similar to food truck approvals, and the permit is for this boat in this slip. Pohlman stated concern for parking near Crescent Harbor. Bosak stated that approvals are on a case-by-case basis. Bosak read a public comment from Marcia Strand against the proposal.

Tiffany Justice and Ben Timby stated that they want to offer a unique lodging experience through Airbnb. Justice stated that they have a fire extinguisher, carbon monoxide detector, and other safety items. Timby stated that they believe the majority of their renters will not rent cars, but that they will tell renters to park at Crescent Harbor. Timby stated that they will not leave candles or the stove on the boat. Timby stated that he has worked on boats since he was 18. Pohlman asked about emergency contacts for renters. Justice stated that they will make the rental unavailable when they are out of town. Timby stated that they will screen renters through Airbnb. Spivey asked about insurance. Timby stated that they do not currently have insurance, but he could add it to his policy.

Harbormaster Stan Eliason stated that there had previously been an agreement with Sheldon Jackson College to not allow liveaboards in Crescent Harbor, but liveaboards are now allowed. Eliason stated that this is a liveable boat. Pohlman asked about electrical usage. Eliason stated that electrical usage is under the jurisdiction of the Electric Department. Bosak stated that a condition of approval is that the boat is registered as a liveaboard and pay liveaboard fees.

Spivey stated that a condition should be that the owners get and maintain insurance. Parker Song asked if that is a condition for short-term rentals in homes. Bosak stated no, although owners typically have homeowners insurance. Municipal Attorney Brian Hansen stated that the city requires insurance when it contracts with outside entities. Hansen stated that he would need to conduct more research before determining if insurance can be a condition of approval. Parker Song stated that requirements for boat short-term rentals should be commensurate with short-term rentals on land. Pohlman stated that few short-term rentals are located on city property. Bosak recommended that the commission request that staff take another look at this request.

Peter Bradley stated that Airbnb requires that property owners have insurance. Timby stated that many boats are listed on Airbnb. Timby stated that he wants to do everything right.

Pohlman stated that she would like to see how other municipalities deal with boat short-term rentals before making a decision.

Parker Song/Pohlman moved to POSTPONE the item for staff and the applicants to provide additional information.

Motion PASSED 3-0.

E

Public hearing and consideration of a minor subdivision at 211 Shotgun Alley, zoned SFLD Single Family Low Density Residential. The subdivision would result in four lots. The property is also known as Lot 2

of Johnstone Subdivision Replat. The request is filed by Barth Hamberg. The owner of record is Barth Hamberg.

Scarcelli described the request for a four-lot subdivision. Covenants restrict subdivision of this lot to four lots, whereas zoning code would have allowed more lots. A drainage plan was provided, and CBS Public Works has approved the plan. US Army Corps of Engineers issued a de minimis waiver for wetlands. Spivey requested that CBS Municipal Engineer Dan Tadic explain the drainage findings in layman's terms. Tadic stated that the channel probably carried much more water in the past than it does today, and Sawmill Creek Road likely altered local drainage. Tadic stated that pre- and post-development drainage was calculated. Tadic stated that the drainage capacity on the applicant's property is more than sufficient. Tadic stated that the downhill property has created constraints with a manmade dam. Tadic stated that the report has met his requirements.

Barth Hamberg stated that he did not have anything to add. Spivey asked about housing sizes. Hamberg stated that he hasn't decided at this time. Bosak asked Hamberg to elaborate on the covenants. Hamberg stated that the previous owners wanted to ensure that the property was developed responsibly. Hamberg stated that the hydrologist who wrote the drainage report is very experienced and works for the US Forest Service. Pohlman stated concerns for responsible development. Hamberg stated that the deed restrictions would run with the land. Hamberg said that the property does not have an ocean or mountain view, but has a beautiful forest.

Lisa Busch stated that she lives directly below the proposed subdivision. Busch stated concern that a grading permit was granted before the subdivision process. Busch stated that the lots have already been developed and now it seems too late. Busch stated that code states that uphill developers needs to get an easement from the downhill owners. Busch asked the commission how they would protect property owners and preserve the character of the neighborhood.

Davey Lubin stated that he is a downhill property owner. Lubin believes the process is flawed, and that plans should be reviewed by licensed professionals before work can commence. Lubin stated that the drainage report was written by a non-engineer.

Pohlman asked if the drainage assessment was conducted before or after grading occurred. Tadic stated that the report considers the pre-development condition, but was conducted after grading. Pohlman asked if any similar data was conducted when preparing for the Benchlands. Tadic stated that assessments were conducted with different methodology, and this situation is much different than the Benchlands.

CBS Municipal Attorney Brian Hanson stated that the easement requirement only comes into play if the uphill owner develops an artificial drainage system. Hanson stated that the natural stream has not been altered. Hanson recommends that no drainage easement is required. Hanson stated that CBS staff required a drainage assessment and determined that no mitigation is required. Hanson stated that the proper procedure has been followed. Hanson stated that municipal code does not provide clear guidelines for what requires mitigation, but staff have used their professional opinions and past precedence. The uphill property owner has the right to use their property in a

way that does not unreasonably impact the downhill property.

Commission took a 5 minute break.

Scarcelli gave a recap of the proposed subdivision. Parker Song stated that she is inclined to grant the request. Pohlman stated a desire to reach a compromise between the property owners, although it seems that communications are constrained. Parker Song stated that she believes this proposal to be very different from the Benchlands area regarding topography and drainage. Spivey stated that some have said that the Benchlands development caused flooding issues on Sand Dollar Drive, although that has not been proven. Spivey stated that understood the drainage report to state that drainage concerns are caused by the downhill owners, not the applicant. Bosak stated that if an owner maintained the lot as a single-family property, development could impact drainage without a required drainage analysis.

Parker Song asked about requiring collaboration between the property owners. Spivey stated that the commission cannot require them to get along.

Pohlman/Parker Song moved to POSTPONE the item to a meeting when more commissioners are present.

Motion PASSED 3-0.

F

Public hearing and consideration of a conditional use permit application for a three-unit multiple-family structure and a short-term rental at 1715 Sawmill Creek Road, in the R-1 single family and duplex residential district. The property is also known as Lot 1A Corrective Plat of Knauss Lot Line Adjustment. The request is filed by Michael Knauss and Jacklynn Barmoy. The owners of record are Michael Knauss and Jacklynn Barmoy.

Scarcelli described the request for a triplex and a one-unit short-term rental. Both uses are conditional uses in the R-1 zone. The third unit has a complete kitchen and a separate entrance. The property has more than the six required parking spaces. The owners live in one unit, have long-term renters in the second unit, and plan to rent the third unit short-term. The applicants plan to use Airbnb to rent the unit, and will accept a maximum of two renters at a time.

Jacklynn Barmoy and Michael Knauss represented their request. Barmoy stated that she has consulted with the Building Official about occupancy requirements. Pohlman asked if neighbors had stated any concerns. Barmoy stated that the property is separated from neighbors by topography and trees.

No public comment.

Spivey stated that he has reservations due to traffic and creating precedence for triplex approvals. Bosak stated that at the last meeting, the commission approved an accessory dwelling unit with a duplex. Scarcelli stated that he had to be mindful to his speed when driving by the property, and that the commission could condition the installation of a mirror to improve visibility. Spivey asked who owns the property across the street, and Scarcelli confirmed that the applicants did. Knauss stated that there is good visibility both ways. Knauss said many people turn around on his property. Pohlman asked if there was enough space for a three-point turn for the short-term renters, and Barmoy stated that there is enough space. Spivey stated that he does not like lending

to common sense, and stated that future owners must be considered. Scarcelli stated that the Planning Commission can hold a hearing upon receipt of meritorious complaint.

Pohlman/Parker Song moved to APPROVE the required 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.
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.

Conclusion on Findings: That the proposed conditional use as conditioned would not be detrimental to the public's health, safety, or welfare; that the conditions of approval have satisfactorily mitigated any potential harm or impact to the surrounding land uses and properties; and that the required findings have been met.

Motion PASSED 3-0.

Pohlman/Parker Song moved to APPROVE the conditional use permit application for a three-unit multiple-family dwelling and a short term rental at 1715 Sawmill Creek Road, in the R-1 single family and duplex residential district subject to the nine conditions of approval. The property is also known as Lot 1A Corrective Plat of Knauss Lot Line Adjustment. The request is filed by Michael Knauss and Jacklynn Barmoy. The owners of record are Michael Knauss and Jacklynn Barmoy.

Conditions of Approval:

1. Contingent upon a completed satisfactory life safety inspection.
2. The facility shall be operated consistent with the application and plans that were submitted with the request.
3. The facility shall be operated in accordance with the narrative that was submitted with the application.
4. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation. The report is due within thirty days following the end of the reporting period.
5. The Planning Commission, at its discretion, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
6. Failure to comply with all applicable tax laws, including but not limited to remittance of all sales and bed tax, shall be grounds for revocation of the conditional use permit.
7. Failure to comply with any of the above conditions may result in revocation of the conditional use permit.
8. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.
9. Owners shall provide renters with a brief explanation of best traffic circulation patterns to mitigate any potential traffic impacts.

Motion PASSED 3-0.

G

Public hearing and consideration of a conditional use permit request for a daycare at 514 Halibut Point Road and 203 Lakeview Drive, in the R-1 zone. The property is also known as Lots 1, 2, 30, and 31 of Lakeview

Heights Subdivision. The request is filed by Emily Davis and Michelle Barker. The owner of record is First Baptist Church.

Parker Song/Pohlman moved to POSTPONE the item until the applicants commit to attending the hearing. Motion PASSED 3-0.

H

Public hearing and consideration of a conditional use permit major amendment request for a short-term rental at 304 Baranof Street, in the R-1 zone. The property is also known as Lot 1 Westover Subdivision. The request is filed by Island Institute. The owners of record are John and Karen Thielke.

Scarcelli stated that the application is for a major amendment to a nonconforming use permit. A long-term rental has been approved for the property. The applicant would now like to offer the unit as a short-term rental. Scarcelli stated that short-term rentals can increase long-term rental rates. Scarcelli stated that if this amendment is approved, one year must pass before another amendment can be considered, so that any concerns can be appropriately mitigated. Staff recommend approval with eight conditions.

Peter Bradley represented the Island Institute. Bradley stated that the unit is rented for a month or two at a time for artists in residence, which result in "awkward chunks of time."

No public comment.

Spivey stated that his only concern was for traffic, but the unit has already been operating as a long-term rental.

Parker Song/Pohlman moved to APPROVE the required 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.
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.

Motion PASSED 3-0.

Parker Song/ Pohlman moved to APPROVE the conditional use permit amendment request for a short-term rental subject to the eight attached conditions of approval. The property is also known as Lot 1 Westover Subdivision. The request is filed by the Island Institute. The owners of record are John and Karen Thielke.

Conditions of Approval:

1. Contingent upon a completed satisfactory life safety inspection.
2. The facility shall be operated consistent with the application and plans that were submitted with the request.
3. The facility shall be operated in accordance with the narrative that was submitted with the application.
4. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation. The report is due within thirty days following the end of the reporting period.
5. The Planning Commission, at its discretion, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating

adverse impacts on nearby properties.

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

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

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

Motion PASSED 3-0.

I Public hearing and consideration of a variance request for 216 Lakeview Drive, in the R-1 zone. The request is for the reduction in the northwesterly side setback from 5 feet to 1 foot for the construction of a garage to replace an existing carport. The property is also known as Lot 51 Lakeview Heights Subdivision. The request is filed by Ida Eliason. The owner of record is Ida Eliason.

Item was not heard due to lack of quorum. To be scheduled on next meeting's agenda.

J Public hearing and consideration of a variance request for substandard lot size at 204 Jeff Davis Street, in the R-2 zone. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.

Scarcelli stated that the applicant seeks to subdivide his property into two lot, and a code note states that development standard size is net of access easements. The total square footages of the lots meet development standards, but when the easements are subtracted, the lots do not meet minimum square footage requirements. Utilities currently exist on a portion of the access easement. If the properties were arranged side by side with no easements, the proposed lot sizes would not be problematic. The easement will act as a buffer and for parking. Scarcelli stated that the proposal is in line with the spirit of the code. Bosak read a comment of concern from Becky Martollo.

Randy Hitchcock stated that upon his purchase of the land, his intention was to build two structures on the property. He would like to subdivide into two lots. Hitchcock stated that he previously had concerns with the easement preventing parking, but he has decided to not request adjustments to the easements. Bosak asked if the new house would have a garage. Hitchcock said that it may have a small garage.

Pohlman/Parker Song moved to adopt as found in the staff report and APPROVE the findings of fact that state there are special circumstances that exist, the variance is necessary to preserve the enjoyment of property rights, the granting of the variance will not be materially detrimental to the public's welfare, health, or safety or nearby parcels or infrastructure; and comports with the Comprehensive Plan by providing substantial justice and equity in line with the spirit of the law.

Required Findings for Variances.

1. Required Findings for Variances Involving Major Structures or Expansions. Before any variance is granted, it shall be shown:

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

generally to the other properties. Special circumstances may include the shape of the parcel, the topography of the lot, the size or dimensions of the parcels, the orientation or placement of existing structures, or other circumstances that are outside the control of the property owner (here the existing large oversized easements and code section that reduces net area);

b. The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel; such uses may include the placement of garages or the expansion of structures that are commonly constructed on other parcels in the vicinity (here alternatives would allow identical development, but for the access easements);

c. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels or public infrastructure (again, alternatives would allow the same outcome, and the outcome is in harmony with surrounding land use); and

d. That the granting of such a variance will not adversely affect the comprehensive plan (A grant of a variance will consider relevant factors including spirit of the code section that applies and seeking substantial justice and equity).

Motion PASSED 3-0.

Pohlman/Parker Song moved to APPROVE the platting variance request for substandard lot sizes at 204 Jeff Davis Street, in the R 2 zone reducing the net size lot B to 5,097 s.f. and lot A to 5,596.87 s.f. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.

Motion PASSED 3-0.

K

Public hearing and consideration of a minor subdivision and easement change request for 204 Jeff Davis Street, in the R-2 zone. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.

Scarcelli stated that the proposal is to split an approximately 17,000 square foot lot into two lots. With the granted variance, the proposal meets development standards. The proposal would result in another lot that can be developed. The easement would not be changed. Staff recommend approval. Spivey stated concern for a potential front setback variance to be required to build on the new lot. Bosak clarified that the front lot would only have one front setback, and that the easement does not create another front setback.

Randy Hitchcock stated that the approval at the Historic Preservation Commission failed 3-1, but 3 were in favor. Scarcelli stated that staff and the applicant have reached out to a variety of interested parties, and feedback has been largely positive.

No public comment.

Spivey stated that it would be unrealistic to build two houses on each of the new two lots.

Pohlman/Parker Song moved to adopt the Senior Planner's analysis and APPROVE the findings of fact that the minor subdivision is not detrimental the public's health, safety, and welfare nor injurious to nearby parcels.

Motion PASSED 3-0.

Pohlman/Parker Song moved to APPROVE the minor subdivision request for 204 Jeff Davis Street, in the R 2 zone. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock

Motion PASSED 3-0.

L

Public hearing and consideration of a minor subdivision request filed for tidelands adjacent to 1 Lincoln Street, as required for the tideland lease process. The property is also known as a portion of ATS 15, and is in the Waterfront District. The request is filed by Petro Marine Services. The owner of record is the City and Borough of Sitka.

Bosak described the request. The subdivision is required for the 50 year tideland lease request. The proposed dock will streamline boat traffic and provide additional safety measures. An access easement should be a condition of approval. Staff is in support of the request.

Jerry Jacobs represented Petro Marine and stated that he didn't have anything additional to add.

No public comment.

Parker Song/Pohlman moved to APPROVE the findings as discussed in the staff report.

- 1) That the proposed minor subdivision complies with the Comprehensive Plan and Sitka General Code by delineating an area for a prospective tideland lease; and
- 2) That the subdivision would not be injurious to public health, safety, and welfare.

Motion PASSED 3-0.

Parker Song/Pohlman moved to APPROVE the preliminary plat of the minor subdivision for tidelands adjacent to 1 Lincoln Street with the condition that access is guaranteed. The property is also known a portion of ATS 15. The request is filed by Petro Marine Services. The owner of record is the City and Borough of Sitka.

Motion PASSED 3-0.

M

Public hearing and consideration of a zoning map amendment for ASLS 15-06. The proposal would change the property from unzoned to OS Open Space. The request is filed by the City and Borough of Sitka Planning Department. The owner of record is the State of Alaska.

Scarcelli stated that this is a follow-up item to the major subdivision on Nakwasina Sound. The property is not zoned. A zoning assignment would guide future development. Staff recommend that the Commission recommend OS Open Space zoning to the Assembly. Single family residential and recreational uses would be permitted. Lodges are not permitted. OS zoning is less intensive than other possibility zoning assignments, particularly since the

properties will not have municipal water and sewer service.

No public comment.

Spivey stated that the OS zoning makes sense for this parcel.

Pohlman/ Parker Song moved to APPROVE findings as discussed in the staff report.

1. That the granting of such zoning map amendment will not adversely affect the Comprehensive Plan, and it is consistent with Comprehensive Plan 2.4.1 which states, "To guide the orderly and efficient use of private and public land in a manner that encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations, specifically, by assigning OS zoning to preserve the property's rural character."

2. The zoning map change is consistent with the public purpose of developing commonsense zoning.

3. The zoning map change will not result in adverse effects on public health, safety, and welfare.

Motion PASSED 3-0.

Pohlman/Parker Song moved to RECOMMEND approval the zoning map amendment of ASLS 15-06 to assign OS Open Space zoning. The request is filed by the City and Borough of Sitka Planning and Community Development Department. The owner of record is the State of Alaska Department of Natural Resources Division of Mining, Land, and Water.

Motion PASSED 3-0.

N

Public hearing and consideration of a zoning text amendment to allow staff to approve administrative variances of up to two feet in C-1 General Commercial, C-2 General Commercial Mobile Home, Industrial, and Waterfront zones. The request is filed by the CBS Planning and Community Development Department.

Bosak explained the request, which would give an administrative authority to grant administrative variances of up to 2 feet in Commercial C-1, Commercial C-2, Waterfront WD and Industrial I zones. This can already be done in residential zones.

No public comment.

Pohlman asked how 2 feet was determined for this request. Bosak stated that administrative variances in residential zones are up to 2 feet.

Pohlman/Parker Song moved to RECOMMEND the zoning text amendment.

Motion PASSED 3-0.

VI. PLANNING DIRECTOR'S REPORT

Bosak reported that the next Comp Plan meeting is August 2 at ANB Hall. Bosak stated that Barb Sheinberg will be contacting commissioners and

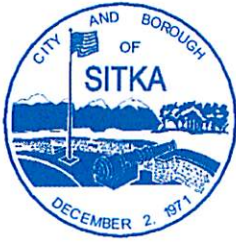
participating in the meeting. The meeting will include a walkability assessment.

VII. PUBLIC BUSINESS FROM THE FLOOR

VIII. ADJOURNMENT

Pohlman/Parker Song moved to ADJOURN at 10:07 PM. Motion PASSED 3-0.

Attest: _____
Samantha Pierson, Planner I



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Staff propose a zoning text amendment of 22.30.150 Administrative approvals without notice. We request that the Planning Commission consider allowing administrative variances of up to two (2) feet in the commercial, waterfront and industrial zones, in addition to the currently permitted administrative variances in residential zones.

Administrative variances go through the same review process as variance requests that come before the Commission. A lengthy analysis, staff report and associated documents are required for approval.

Staff believes that a small setback request could be approved based on the administrative approvals without notice code language and reported to the Commission under the Planning Directors report as current administrative variances are.

Recommendation: Approve the zoning text amendment.



CITY AND BOROUGH OF SITKA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
GENERAL APPLICATION FORM

1. Request projects at least **FOURTEEN (14)** days in advance of next meeting date.
2. Review guidelines and procedural information.
3. Fill form out **completely**. No request will be considered without a completed form.
4. Submit all supporting documents and proof of payment.

APPLICATION FOR: VARIANCE CONDITIONAL USE
 ZONING AMENDMENT PLAT

BRIEF DESCRIPTION OF REQUEST: Change to 22.30.150 Administrative approvals without notice
Allow administrative variance of up to two (2) feet in commercial, industrial and waterfront zones.
Currently only permitted in residential zones

PROPERTY INFORMATION:

CURRENT ZONING: _____ PROPOSED ZONING (if applicable): _____
 CURRENT LAND USE(S): _____ PROPOSED LAND USES (if changing): _____

APPLICANT INFORMATION:

PROPERTY OWNER: CBS- Planning and Community Development Department Maegan Bosak
 PROPERTY OWNER ADDRESS: _____
 STREET ADDRESS OF PROPERTY: _____
 APPLICANT'S NAME: _____
 MAILING ADDRESS: _____
 EMAIL ADDRESS: maegan.bosak@cityandboroughofsitka.org DAYTIME PHONE: 907.747.1824

PROPERTY LEGAL DESCRIPTION:

TAX ID: _____ LOT: _____ BLOCK: _____ TRACT: _____
 SUBDIVISION: _____ US SURVEY: _____

OFFICE USE ONLY			
COMPLETED APPLICATION		SITE PLAN	
NARRATIVE		CURRENT PLAT	
FEE		PARKING PLAN	

