



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## MEMORANDUM

**To:** Mayor McConnell and Members of the Assembly  
**From:** Maegan Bosak, Planning and Community Development Director *MB*  
Michael Scarcelli, Senior Planner *MS*  
**Subject:** Short-Term Rental Operations in the Public Lands Zone  
**Date:** March 2, 2016

The Planning Commission is recommending approval of a Zoning Text Amendment request, which would allow short-term rental operations as conditional uses in the Public Lands Zoning District for the purpose of renting out boats in Harbors. The request was filed by Tim Fulton. Action on this item was taken at the February 16, 2016 Planning Commission Meeting. The recommendation to approve the request passed unanimously 4-0.

Planning staff and the Harbormaster worked together to address concerns with Port and Harbors commission and the Planning Commission. Ultimately, staff believes this proposal would support community development by providing for a unique business catering to tourism with a memorable experience, which has been noted to increase return tourism. Such a use would increase the opportunity to receive a bed tax for each short-term rental. In addition, it would be a means to alleviate impacts on the existing rental market by offering alternative short-term rentals without affecting more traditional long-term rentals on land. Existing Harbor regulations and conditions of approval would be tools to mitigate any impacts to the public's health, safety, and welfare, while also providing oversight and enforcement power should any issue arise.

**MOTION: M/S HUGHEY/POHLMAN** moved to approve the staff findings that 1) The proposal does not impact public health, safety, and welfare; 2) The proposal is consistent with the comprehensive plan as discussed in the staff report; and; 3) The proposal would promote tourism, alleviate some burdens on the housing market, promote economic development, and utilize existing resources for the betterment of the public, health, and safety of the community.

**ACTION:** Motion **PASSED 4-0** on a voice vote.

**MOTION: M/S POHLMAN/HUGHEY** moved to recommend approval of a zoning text change request filed by Tim Fulton to permit boats as short-term rentals and Bed and Breakfast operations in harbors in the Public Zone as a conditional use.

**MOTION: M/S HUGHEY/POHLMAN** moved to amend the motion to remove "Bed and Breakfast operations" from the motion.

**ACTION:** Motion **PASSED 4-0** on a voice vote.

**ACTION:** Main motion as amended **PASSED 4-0** on a voice vote.

**RECOMMENDATION:** Approve the request for a zoning text amendment.

*Providing for today...preparing for tomorrow*

**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
February 16, 2016**

**Present:** Darrell Windsor (Vice-Chair), Debra Pohlman (Member), Randy Hughey (Member), Tamie Parker Song (Member), Maegan Bosak (PCDD), Michael Scarcelli (Senior Planner), Samantha Pierson (Planner I)

**Absent:** Chris Spivey (Chair) - Excused

**Members of the Public:** Krystina Scheller, Frances Brann, Erik de Jong, Dana Pitts, Margie Esquiro, Pete Esquiro, Judy Bigsby, Jennifer Alley, Mark White, Tim Fulton, Sharon Romine, David Moore

Vice-Chair Windsor called the meeting to order at 7:01 p.m.

**Roll Call:**

**PRESENT:** 4 –Windsor, Pohlman, Hughey, Parker Song

**Consideration of the Minutes from the February 2, 2016 meeting:**

**MOTION: M/S HUGHEY/POHLMAN** moved to approve the meeting minutes for February 2, 2016.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**The evening business:**

**COMPREHENSIVE PLAN PRESENTATION – MARKETING PLAN  
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT STAFF**

*Comprehensive Plan discussion and direction on marketing plan presented by Planning and Community Development Department staff.*

Bosak led an interactive visioning exercise, asking commissioners and attendees to brainstorm words to describe Sitka and the Comprehensive Plan process. Bosak stated that the Planning staff would use this brainstorm information to develop logos and other marketing materials, and would bring those to the Commission for approval.

When asked to describe Sitka in one word, participants responded: Home, Community, Tlingit, Beautiful, Close-knit, Unique, Independent, Incredible, Historical, Coastal, Complex, Vibrant.

When asked to describe the Comprehensive Plan in one word, participants responded: Guiding, Vision, Framework, Progressive, Collaboration, Inclusive, Comprehensive, Sustainable.

When asked to describe Sitka in one image, participants responded: Tlingit People, Town Panorama, Mt. Edgecumbe, Islands, Fish, Whales, Children, Boats.

**COMMISSIONER DELIBERATION:** Parker Song stated concern that the Commission should be making more decisions about Comprehensive Plan details, and would like to be involved with coming up with the options. Bosak stated that the Assembly indicated that the Comprehensive Plan would be staff-facilitated, so staff will gather public input and provide Commissioners with options. Bosak stated that she envisions focusing on one topic per month. The first Planning Commission meeting of the month would include a public workshop, then the staff will present a draft for approval at the second meeting of the month. Hughey stated that he wants to invite public participation, but has concern with spending too much time on a logo. Pohlman reported that she spoke to art teachers from Sitka High and Mt. Edgecumbe, and they were open to involving their students in a time-limited logo contest. Windsor stated that he would prefer to choose among several logo options. Parker Song stated concern for the process by which decisions are made. Pohlman stated that this is a public process, and the Commission needs to move forward with a logo. Commissioners agreed to give an open call for participation to schools and local artists.

#### **ZONING TEXT CHANGE**

#### **LICENSED MARIJUANA ACTIVITY AS PERMITTED USE IN I, CBD, & GP ZONES, AND AS A CONDITIONAL USE IN WD, C-1, C-2, GI, & LI ZONES CBS MARIJUANA ADVISORY COMMITTEE**

*Public hearing and consideration of a zoning text amendment filed by the City and Borough of Sitka Marijuana Advisory Committee. The amendment would allow licensed marijuana activities (retail, cultivation, manufacturing, and testing) as a permitted use in the Industrial District, Central Business District, and Gary Paxton Special Zone, and as a conditional use in the Waterfront District, General Commercial C-1 District, General Commercial Mobile Home District, General Island District, and Large Island District.*

**STAFF REPORT:** Scarcelli explained the proposal. Standardized conditions of approval would be attached by default for approved marijuana conditional use permits. These conditions largely mirror state regulations. Designating some districts as permitted use may help to funnel businesses to those districts. Permitted uses would still go through a lengthy state-level process, including a public comment period. Hughey asked if businesses in permitted zones would be vested in the right to maintain that business, and Scarcelli stated that they would be vested as long as they continued to state and local regulations. Bosak stated that the Assembly approves leases for the Gary Paxton zone. Hughey asked about the status of a request to reduce the buffer to 200 feet. Windsor stated that the Assembly requested that the state reduce the buffer, but the state did not make the change. Scarcelli stated that the proposal is supported and opposed by various sections of the Comprehensive Plan.

**COMMISSIONER DELIBERATION:** Pohlman expressed concern for enforcement and safety of businesses, and wanted to hear input from the police. Pohlman asked “what kind of response and what kind of good faith evaluations would happen” by the police in the event of break-ins or robberies. Scarcelli stated that the MAC has not heard from local police. Pohlman stated that regulation without enforcement is not helpful. Windsor stated that the Marijuana Advisory Committee initially wanted to recommend permitted across the board, and conditional use permits

were introduced as an enforcement tool. Windsor stated that the state security regulations are extensive. Pohlman stated that in some urban cities, police response is delayed to domestic violence calls in comparison to other emergency calls. Windsor stated that there weren't any special rules and regulations guiding the police response to the recent break-in at Harry Race Pharmacy, so the argument is that marijuana businesses should not need a special set of law enforcement rules and regulations. Pohlman wants to know if there would be the same response for a break-in at a marijuana business. Pohlman stated that neighbors get uneasy when nearby houses are experience break-ins. Bosak recommended that Pohlman's question is a conversation that should occur between the MAC and police. Hughey asked what harm would be done to new business owners if they had a conditional use permit versus a permit. Scarcelli stated that the extra conditional use permit fee is minimal compared to state fees. Hughey stated that across-the-board conditional use permits would allow the community to assess as businesses. Scarcelli shared some statistics from the staff report. Pohlman urged caution in using statistics, explaining that "marijuana-related" was not defined in the cited reports.

**PUBLIC COMMENT:** Margie Esquiro stated preference for the conditional use permit process. Dana Pitts stated that she didn't want marijuana businesses to be located downtown and visible to tourists. Krystina Scheller asked if the expectation is that the bulk of marijuana income will come from locals or tourists. Bosak stated that the expectation is that income will come from both groups. Pete Esquiro stated preference for the conditional use permit, and warned against moving too fast. Pete Esquiro stated that he wouldn't mind if Gary Paxton Industrial Park is a permitted use. Judy Bigsby stated concern for recovery groups that meet downtown, and stated that marijuana smoke and visibility could trigger individuals recovering from addiction.

**MOTION: M/S HUGHEY/POHLMAN** moved to refer this item back to the City and Borough of Sitka Marijuana Advisory Committee for further discussion concerning law enforcement, and to recommend that all licensed marijuana activities be conditional uses in all zones.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

8:13-8:20 – Break

#### **VARIANCE REQUEST**

**LOTS 2 AND 3, BLOCK 2, US SURVEY 2542 A & B, SITKA INDIAN VILLAGE; LOT 56, BLOCK 2, AS SHOWN ON THE SUPPLEMENTAL PLAT OF SITKA INDIAN VILLAGE  
JENNIFER ALLEY**

*Public hearing and consideration of a variance request filed by Jennifer Alley for 208 Kogwanton Street. The variance is for the reduction of the westerly side setback of Lot 2 from 5 feet to 0 feet, the reduction of the easterly side setback of Lot 3 from 5 feet to 0 feet, the reduction in the rear setback of Lot 3 from 10 feet to 0 feet, and the reduction of the southwesterly and southeasterly side setbacks of lot 56 from 5 feet to 0 feet for the construction of a new house. The new house will cross internal lot lines of Lots 2, 3, and 56. The variance is also for a reduction in the westerly external side setback of Lot 3 from 5 feet to 2 feet for the construction of a covered stairway. The property is also known as Lots 2 and 3, Block 2, U.S. Survey 2542 A*

*& B, Sitka Indian Village, and Lot 56, Block 2, as shown on the supplemental plat of Sitka Indian Village. The request is filed by Jennifer Alley. The owner of record is Jennifer Alley.*

**STAFF REPORT:** Scarcelli described the property and the request. The three legal lots have historically been held in common ownership. A recently demolished house crossed the adjoining lot lines of Lots 2 and 3. The proposed house would cross the adjoining lot lines of Lots 2, 3, and 56. Scarcelli stated that a replat would be the appropriate process. Scarcelli stated that approval is based on plans submitted, and cited neighbor concerns with building orientation. The prior owner of the property granted an easement to CBS, which resulted in street improvements. Concerns were raised at the February 2<sup>nd</sup> meeting that property markers may have been removed or covered by the city during construction, but there is no way to know that these markers were in place prior to road construction. Scarcelli stated that the "lot merger" described in Title 22 is a misnomer, and is not a legal lot merger process. State law states that variances cannot be granted solely for pecuniary or convenience reasons.

**APPLICANT:** Jennifer Alley shared pictures of the lot and proposed house. Hughey asked how much the survey would cost. Alley stated that a survey would be \$2000-3000. Alley stated that without a variance she might build a smaller house on one of the lots. Alley stated that she may move the house back further on the lot, which would give more space between the neighboring house.

**PUBLIC COMMENT:** Neighbor Mark White stated that he is satisfied with the site plan.

**COMMISSIONER DELIBERATION:** Pohlman stated that the plat process provides clarity, and a variance would be inconsistent. Bosak stated that staff are supportive of the construction of a new home; however, fairness requires adherence to the Municipal Code. Hughey stated a preference for a replat. Windsor stated a preference for a replat. Scarcelli recommended that if the commission is leaning toward denial, a postponement to allow for amendment could expedite the process and save the applicant money. The amendment would change the application to a variance from development standards.

**MOTION: M/S POHLMAN/HUGHEY** moved to postpone this item to allow for amendments to the application.

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

**ZONING TEXT CHANGE  
SHORT TERM RENTALS AND BED AND BREAKFAST OPERATIONS IN PUBLIC ZONE  
TIM FULTON**

*Public hearing and consideration of a zoning text change request filed by Tim Fulton. The proposed zoning text change would permit Bed and Breakfast operations and Short-Term Rentals in the Public Zone. The request is filed by Tim Fulton.*

**STAFF REPORT:** Scarcelli reviewed the request. Administration requested that this proposal be considered again by the Planning Commission. The applicant would like to see short-term rentals

allowed on boats in municipal harbors. This proposal could result in unique experiences for tourists. Planning and Harbors staff believe that previous concerns can be mitigated by harbor regulations and the conditional use process. Hughey asked about the Harbormaster's previously stated concerns. Bosak replied that the Harbormaster is supportive if approvals state that a proposed boat short-term rental is in conformance with Title 13, which addresses sewage. Bosak stated that prospective applications would go before Ports and Harbors Commission before coming to the Planning Commission. Windsor asked which other areas in town are zoned Public, which would also be impacted by the change. Scarcelli stated that staff could include language which specifies that Public zone short-term rentals are limited to boats in harbors.

**APPLICANT:** Fulton stated that this proposal is a good opportunity for the community. Fulton stated that he has used AirBnB across the world, and it has granted him the opportunity to experience the community more fully. Pohlman asked about sewage processing. Bosak stated that harbor regulations require that boats have a sewage containment system aboard, or that boat owners pay to have sewage pumped out. Pohlman clarified that any boat that did not conformed would not be approved for a permit, and Bosak confirmed this statement.

**PUBLIC COMMENT:** None.

**COMMISSIONER DELIBERATION:** Pohlman stated support for the amendment if the approval clearly indicates that the conditional use is for boats in harbors.

**MOTION: M/S HUGHEY/POHLMAN** moved to approve the staff findings that 1) The proposal does not impact public health, safety, and welfare; 2) The proposal is consistent with the comprehensive plan as discussed in the staff report; and; 3) The proposal would promote tourism, alleviate some burdens on the housing market, promote economic development, and utilize existing resources for the betterment of the public, health, and safety of the community.

**ACTION:** Motion **PASSED 4-0** on a voice vote.

**MOTION: M/S POHLMAN/HUGHEY** moved to recommend approval of a zoning text change request filed by Tim Fulton to permit boats as short-term rentals and Bed and Breakfast operations in harbors in the Public Zone as a conditional use.

**MOTION: M/S HUGHEY/POHLMAN** moved to amend the motion to remove "Bed and Breakfast operations" from the motion.

**ACTION:** Motion **PASSED 4-0** on a voice vote.

**ACTION:** Main motion as amended **PASSED 4-0** on a voice vote.

**CONDITIONAL USE PERMIT REQUEST  
LOT 27 OF US SURVEY 3302  
FRANCES ANNE BUDYNGE AND KRISTINA ANN SCHELLER**

*Public hearing and consideration of a conditional use permit request filed by Frances Brann and Krystina Scheller for a short-term rental at 2116 Sawmill Creek Road. The property is also known as Lot 27 of US Survey 3302. The request is filed by Frances Brann and Krystina Scheller. The owners of record are Frances Anne Budyng and Krystina Ann Scheller.*

**STAFF REPORT:** Scarcelli described the property and the conditional use permit request. The lot is greater than four acres with ample space for parking and foliage for privacy. The owners will rent the unit when they are out of town. Neighbor David Moore has expressed concerns for access. Scarcelli stated that access concerns could be mitigated with directional signs and clear directions. Neighbors Steve and Cathy Shaffer and Barth Hamberg have stated support in writing.

**APPLICANT:** Krystina Scheller stated that the property is their home most of the year, and they want to earn rental income while they are out of town. Scheller stated that she has spoken to several neighbors who are in support. Scheller stated that Clyde Shaffer has organized for the neighbors to update the access and utilities. Scheller stated that concerns have been raised about trash, and the property manager has a strict trash management policy. Scheller stated that she will be talking with the neighbors to negotiate locations for signage. Sharon Romine of Welcome Home Vacations stated that she will be managing this rental. Romine stated that for properties that are hard to find, her company meets renters at the airport to guide them to the property. Romine stated that she posts trash management guidelines in all of her rentals, stating that no food is to be put in the trash. Romine stated that her company calls Stragier to pick up trash if it piles up before the designated trash day.

**PUBLIC COMMENT:** David Moore stated that access easements are to be limited to 4 residences, but this neighborhood has 6 residences. Moore stated that people get lost and end up at his house. Moore stated that the road is only wide enough for one car in some places. Moore stated that trash has attracted bears. Moore stated that he is opposed to having a short-term rental in the subdivision. Parker Song clarified that traffic issues are not only related to an existing rental in the vicinity, and Moore replied that 90 percent is related to the existing rental. Romine suggested erecting a "Private Drive" sign. Scheller stated that their signs would primarily need to be placed on the Reifenstuhl property. Windsor asked which seasons the rental would be active, and Scheller replied that it would mainly function in the summer. Pohlman asked if the bear problem has increased during the last two years, and stated that it only takes one person to start a bear problem. Moore stated that he believes the bear situation has worsened. Parker Song asked if Moore knew that the renters were the ones putting the trash in the cans early, and stated that we shouldn't base a decision on conjecture. Frances Brann stated that long-term renters are also in the neighborhood.

**COMMISSIONER DELIBERATION:** Parker Song stated that she didn't see any reasons to deny the permit, and that Moore's concern is primarily with a different property. Windsor stated that Romine has a great track record of managing properties. Hughey stated that Moore's concerns do not rise to the level to deny the permit. Windsor asked about the 6-lot subdivision sharing an access easement. Bosak stated that this is a great example of the need to follow code. Bosak stated that the subdivision should not have been approved.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the required findings for conditional use permits:

**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 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.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the conditional use permit request filed by Frances Brann and Krystina Scheller for a short-term rental at 2116 Sawmill Creek Road, subject to nine conditions of approval. The property is also known as Lot 27 of US Survey 3302. The request is filed by Frances Brann and Krystina Scheller. The owners of record are Frances Anne Budyng and Krystina Ann Scheller.

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 following the first nine months of operations 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. An approved access plan that details efforts to mitigate disturbance to adjacent and surrounding land uses shall be submitted to and approved by the Planning and Community Development Department.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**DIRECTORS REPORT:** Bosak reminded commissioners to submit their financial disclosure forms to the Municipal Clerk, and stated that the landslide report is available on the city's website. Pierson reminded commissioners that beginning in March, the first meeting of the month will be dedicated to the comprehensive plan, while the second meeting of the month will be available for other planning actions.

**MOTION:** M/S HUGHEY/POHLMAN moved to adjourn at 9:33 p.m.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

---

**Darrell Windsor, Vice-Chair**

---

**Samantha Pierson, Secretary**

**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
December 1, 2015**

**Present:** Chris Spivey (Chair), Darrell Windsor (Vice-Chair), Tamie Parker Song—via phone (Member), Debra Pohlman (Member), Randy Hughey (Member), Maegan Bosak (PCDD), Michael Scarcelli (Senior Planner), Samantha Pierson (Planner I)

**Absent:** None

**Members of the Public:** Kevin Knox, Stan Eliason (Harbormaster), Forrest Dodson (via phone), Mary Holzman (via phone), Michael Tisher, Kelly Pellett, Cliff Richter, Jay Stelzenmeller

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

**Roll Call:**

**PRESENT:** 5 – Spivey, Windsor, Parker Song (via phone), Pohlman, Hughey

**Consideration of the Minutes from the November 3, 2015 meeting:**

**MOTION: M/S POHLMAN/WINDSOR** moved to approve the meeting minutes for November 3, 2015.

**ACTION:** Motion **PASSED unanimously 5-0** on a voice vote.

**The evening business:**

**ZONING TEXT CHANGE  
SHORT TERM RENTALS AND BED AND BREAKFAST OPERATIONS IN PUBLIC ZONE  
TIM FULTON**

*Public hearing and consideration of a zoning text change request filed by Tim Fulton. The proposed zoning text change would permit B&B's and Short-Term Rentals on boats in municipal harbors, in the Public Zone. The request is filed by Tim Fulton.*

**STAFF REPORT:** Scarcelli reviewed the request, which would permit B&B's and short-term rentals in all properties zoned Public Lands District. Scarcelli stated that the Port and Harbors Commission had some positive and some negative thoughts about the request. Scarcelli stated concerns for sewage dumping and safety. Scarcelli noted that the applicant was currently at another board where he serves as chair, but can answer questions via phone if commissioners wished. Scarcelli read a letter submitted by the applicant.

**COMMISSIONER DELIBERATION:** Commissioners did not have questions for the applicant. Windsor asked for clarification on Public zoning. Scarcelli clarified that if the zoning text change was enacted, bed and breakfast operations and short-term rentals would be permitted or

conditional in all lands zoned Public Lands, beyond the harbors. Hughey asked about infrastructure and sewage concerns.

**PUBLIC COMMENT:** Port and Harbors Commission Chair Kevin Knox and Harbormaster Stan Eliason expressed concerns for sanitation, safety, traffic, and increased workload of harbor staff. Knox acknowledged that the request is interesting, and short-term rentals are permitted in harbors in other states. Eliason stated that boats must currently be taken to a dump station, since sewage pipes are not run to all boats.

**MOTION: M/S HUGHEY/WINDSOR** moved to approve the staff findings that 1) the proposal negatively impacts the public's health, safety, and welfare due to the anticipated impact to public infrastructure, the impacts resulting from sewage, the anticipated cost of enforcement and oversight; 2) is inconsistent with the comprehensive plan as discussed in the staff report; and 3) involves the broad impacts that a zoning text change would have on lands zoned Public.

**ACTION:** Motion **PASSED 5-0** on a voice vote.

**MOTION: M/S HUGHEY/WINDSOR** moved to recommend denial of a zoning text change request filed by Tim Fulton for a zoning text change to permit short-term rentals and Bed and Breakfast operations in the Public Zone as a permitted or conditional use.

**ACTION:** Motion **PASSED 5-0** on a voice vote.

7:25—Parker Song stated that she was having a hard time hearing discussion via phone. Commissioners agreed that since a quorum could be met without her, Parker Song could leave the meeting.

#### **VARIANCE REQUEST**

**263 KATLIAN AVENUE, LOT 14, BLOCK 5, SITKA INDIAN VILLAGE, U.S. SURVEY 2542  
FORREST DODSON AND MARY HOLZMAN**

*Public hearing and consideration of a variance request filed by Forrest Dodson and Mary Holzman for 263 Katlian Avenue and the adjacent tidelands. The variance request is for a reduction in lot size from 6,000 square feet to 4,428 square feet. The property is also known as Lot 14, Block 5, Sitka Indian Village, U.S. Survey 2542. The request is filed by Forrest Dodson and Mary Holzman. The owners of record are Forrest Dodson and Mary Holzman.*

**STAFF REPORT:** Scarcelli reviewed the request. The variance would permit the creation of an undersized lot. The current lot is undersized, and the proposal would approximately double the lot size. This proposal would move the lot toward compliance. Scarcelli stated that the Historic Preservation reviewed the project and made a motion to approve, which failed.

**APPLICANT:** Forrest Dodson and Mary Holzman joined via phone, and stated that there was no new information.

**COMMISSIONER DELIBERATION:** Hughey asked staff why the Historic Preservation Commission denied approval for the project. Scarcelli stated that the HPC wanted to seek input from the Tribe and was concerned that moving the structure would make it ineligible for historic status. Bosak reminded the Commissioners that the HPC is a recommendation board, and the HPC's recommendations cannot prevent a project.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the required findings for variances involving major structures or expansions:

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, *specifically the small lot size*;
- b) The variance is necessary for the preservation and enjoyment of a substantial property right of use possessed by other properties but are denied to this parcel;
- 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;
- d) That the granting of such a variance will not adversely affect the Comprehensive Plan, *specifically, it is in line with Comprehensive Plan 2.4.1, which states, "To guide the orderly and efficient use of private and public land in a manner that maintains a small-town atmosphere, encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations without infringing on the rights of private landowners," and conditions of approval mitigate any harm and the proposal enhances the quality of access for current and future homeowners.*

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the variance request filed by Forrest Dodson and Mary Holzman for 263 Katlian Avenue and the adjacent tidelands. The variance request is for a reduction in lot size from 6,000 square feet to 4,428 square feet. The property is also known as Lot 14, Block 5, Sitka Indian Village, U.S. Survey 2542. The request is filed by Forrest Dodson and Mary Holzman. The owners of record are Forrest Dodson and Mary Holzman.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MINOR SUBDIVISION  
263 KATLIAN AVENUE, LOT 14, BLOCK 5, SITKA INDIAN VILLAGE, U.S. SURVEY 2542  
FORREST DODSON AND MARY HOLZMAN**

*Public hearing and consideration of a minor subdivision request filed by Forrest Dodson and Mary Holzman for 263 Katlian Avenue and the adjacent tidelands. The property is also known as Lot 14, Block 5, Sitka Indian Village, U.S. Survey 2542. The request is filed by Forrest Dodson and Mary Holzman. The owners of record are Forrest Dodson and Mary Holzman.*

**STAFF REPORT:** Scarcelli reviewed the request. While the proposal would create an undersized lot, the proposal would move the lot toward code compliance. The proposal would mitigate traffic and parking concerns. Scarcelli proposed standards conditions that followed current code.

**APPLICANT:** Forrest Dodson and Mary Holzman joined via phone, and stated that there was no new information.

**COMMISSIONER DELIBERATION:** Hughey asked staff why the Historic Preservation Commission denied approval for the project. Scarcelli stated that the HPC wanted to seek input from the Tribe and was concerned that moving the structure would make it ineligible for historic status. Bosak reminded the Commissioners that the HPC is a recommendation board, and the HPC's recommendations cannot prevent a project.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S WINDSOR/HUGHEY** moved to approve the staff findings that 1) the proposal positively impacts the public's health, safety, and welfare due to the anticipated impact to the proposed increase of space between the house and the front property line, newly created parking, and preservation of a historic structure; and 2) is consistent with the comprehensive plan as discussed in the staff report.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MOTION: M/S WINDSOR/HUGHEY** moved to approve with staff's four conditions the final plat for a minor subdivision filed by Forrest Dodson and Mary Holzman for 263 Katlian Avenue and the adjacent tidelands. The property is also known as Lot 14, Block 5, Sitka Indian Village, U.S. Survey 2542. The request is filed by Forrest Dodson and Mary Holzman. The owners of record are Forrest Dodson and Mary Holzman.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MINOR SUBDIVISION  
213 PRICE STREET, LOT 1 OF MICK'S SUBDIVISION, U.S. SURVEY 3695  
MICHAEL TISHER**

*Public hearing and consideration of a final plat for a minor subdivision at 213 Price Street. The subdivision would create two lots. The property is also known as Lot 1 of Mick's Subdivision, U.S. Survey 3695. The request is filed by Michael Tisher. The owner of record is Michael Tisher.*

Chair Spivey stated that he has a professional relationship with the applicant, with no financial gain from this proposal. Commissioners allowed him to continue participating in the proceedings.

**STAFF REPORT:** Scarcelli reviewed the request and the property's history. The minor subdivision would create two lots, both zoned Industrial. Both proposed lots will be in excess of minimum dimension requirements. Bosak stated that Industrial property is in high demand in Sitka.

**APPLICANT:** Michael Tisher stated that he had no additional information to share.

**COMMISSIONER DELIBERATION:** Hughey stated that the request was very straightforward.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S HUGHEY/WINDSOR** moved approve the staff findings that 1) the proposal positively impacts the public's health, safety, and welfare by providing space in the Industrial Zone; and 2) is consistent with the comprehensive plan as discussed in the staff report.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MOTION: M/S HUGHEY/WINDSOR** moved to approve the final plat for a minor subdivision at 213 Price Street. The subdivision would create two lots. The property is also known as Lot 1 of Mick's Subdivision, U.S. Survey 3695. The request is filed by Michael Tisher. The owner of record is Michael Tisher.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**VARIANCE REQUEST  
121 MOLLY LANE, LOT 6 OF MOUNTAINVIEW PHASE II SUBDIVISION  
PELLETT ENTERPRISES**

*Public hearing and consideration of a variance request filed by Pellett Enterprises for 121 Molly Lane. The variance request is for a reduction in the front setback from 20 to 10 feet for the construction of a home. The property is also known as Lot 6 of Mountainview Phase II Subdivision. The request is filed by Pellett Enterprises. The owner of record is Mountain View Estates, LLC.*

Chair Spivey stated that he had professional relationships with the applicant and the property owner. Hughey stated that he had a professional relationship with the applicant. Commissioners agreed to allow full participation by Spivey and Hughey.

**STAFF REPORT:** Scarcelli reviewed the request, highlighting the steep topography. Scarcelli stated that a 10 foot front setback was granted for the property directly across the cul-de-sac. Scarcelli stated that the Fire Department did not have concerns for the undersized cul-de-sac. Scarcelli stated that without a variance, additional excavation would be required to create an

acceptable building site. Scarcelli recommended a condition that the variance be measured as 10 feet from the property line to the drip line of eaves and no further.

**APPLICANT:** Kelly Pellett stated that the rear of the property has large rocks. The proposal would result in an elevation change of 12 feet from cul-de-sac to the lot level. Pellett stated that he also planned a rock wall to strengthen the lot.

**COMMISSIONER DELIBERATION:** No deliberation.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the required findings for variances involving major structures or expansions:

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

- e) That there are special circumstances to the intended use that do not apply generally to the other properties, *specifically, the steep lot topography;*
- f) The variance is necessary for the preservation and enjoyment of a substantial property right of use possessed by other properties but are denied to this parcel, *specifically, the ability to develop the property without extensive excavation;*
- g) 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, *specifically, that emergency vehicles will be able to properly access the cul-de-sac and that the front setback will not impact any adjacent property owners;*
- h) That the granting of such a variance will not adversely affect the Comprehensive Plan, *specifically, it is in line with Comprehensive Plan 2.4.1, which states, "To guide the orderly and efficient use of private and public land in a manner that maintains a small-town atmosphere, encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations without infringing on the rights of private landowners," and conditions of approval mitigate any harm and the proposal enhances the quality of access for current and future homeowners.*

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**MOTION: M/S POHLMAN/HUGHEY** moved to approve the variance request filed by Pellett Enterprises for 121 Molly Lane, subject to the condition that the variance only be 10 feet as measured from property to drip-line of eaves and no further. The variance request is for a reduction in the front setback from 20 to 10 feet for the construction of a home. The property is also known as Lot 6 of Mountainview Phase II Subdivision. The



request is filed by Pellett Enterprises. The owner of record is Mountain View Estates, LLC.

**ACTION:** Motion **PASSED** unanimously 4-0 on a voice vote.

Chair Spivey stated that he had a business relationship with the applicant. Commissioners agreed to allow him to continue full participation.

**MAJOR AMENDMENT TO PLANNED UNIT DEVELOPMENT  
100 INDIAN RIVER ROAD, LOT 3AA, INDIAN RIVER SUBDIVISION NO. 2  
BARANOF ISLAND HOUSING AUTHORITY**

*Public hearing and consideration of a major amendment to a planned unit development subdivision permit requested by the Baranof Island Housing Authority (BIHA) at 100 Indian River Road. The property is also known as Lot 3AA, Indian River Subdivision No. 2. The owner of record is the Baranof Island Housing Authority.*

**STAFF REPORT:** Scarcelli reviewed the request and the previously approved Planned Unit Development. This major amendment would change the proposed location and orientation of the buildings, and join them by a fire wall across a property lot line. Parking requirements remain the same. The proposed amendment will result in the same number of dwelling units as the original plan, but a reduced number of bedrooms.

**APPLICANT:** Cliff Richter explained that a professional estimate showed that the project was a million dollars over budget. This proposed amendment is one piece of BIHA cutting back the project expenditures. Richter stated that BIHA has a waiting list for one-bedroom apartments, and this property will help alleviate the demand. Richter stated that the Section 184 loan requires no more than 4 units per lot, which makes the two-lot design necessary. Richter thanked the planning staff for being helpful throughout the process.

**COMMISSIONER DELIBERATION:** Pohlman stated that the proposal was straightforward.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the staff findings that 1) the proposed amendment complies with the comprehensive plan by providing for the enhancement of the quality of life in Sitka through the development of affordable housing options; 2) the major amendment, though creative and unique, is in line with the prior approved Planned Unit Development Subdivision; and 3) the major amendment would not be injurious to the public's health, safety, and welfare.

**ACTION:** Motion **PASSED** unanimously 4-0 on a voice vote.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the plat for a major amendment to a planned unit development subdivision permit requested by the Baranof Island Housing Authority (BIHA) at 100 Indian River Road. This approval is subject to the access and utility easements being slightly modified to incorporate the parking and utilities that cross

lots 3AA-1 into lots 3AA-2 and 3AA-3; and a binding plat note stating no lot may be sold independently of the other lots. The property is also known as Lot 3AA, Indian River Subdivision No. 2. The request is to allow a multiplex residential structure across lot lines. The owner of record is the Baranof Island Housing Authority.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

8:15—Commissioners took a 5 minute break.

**ZONING TEXT CHANGE  
LICENSED MARIJUANA ACTIVITY AS PERMITTED USE IN CBD, WD, I, C-1, C-2, GP ZONES  
CBS MARIJUANA ADVISORY COMMITTEE**

*Public hearing and consideration of a zoning text change request filed by the City and Borough of Sitka Marijuana Advisory Committee. The request would allow licensed marijuana activity as a permitted use in the Central Business District, Waterfront District, Industrial Zone, Commercial C-1 and C-2 zones, and the Gary Paxton Special Zone.*

**STAFF REPORT:** Scarcelli reviewed the request and summarized marijuana regulation in Alaska. Scarcelli stated that state regulations are still evolving, and the state now allows cafes for consumption. Scarcelli stated that the application is broad, but state regulation addresses several specific categories of legal activity. Scarcelli cautioned the commissioners from moving too quickly, and encouraged the crafting of careful and thoughtful legislation. Bosak recommended that commissioners just start the discussion at this point.

**COMMISSIONER DELIBERATION:** Hughey asked if locations for marijuana would be more restrictive than alcohol. Bosak stated that marijuana would be more restrictive than alcohol, and referred to Drug Safe Schools. Bosak encouraged a joint meeting between the Planning Commission and Marijuana Advisory Committee. Bosak stated her preference for deliberating on the location of each category of marijuana use. Hughey stated that commissioners should be clear on the different legal activity categories before making an educated decision. Windsor stated that extensive public notice is required before opening a facility. Spivey stated that marijuana businesses cannot have business bank accounts since marijuana is federally illegal. Scarcelli stated that he has spoken to professionals from other localities who wish they would have rolled out local legislation more carefully. Windsor stated that the state will begin issuing licenses in May. Hughey expressed concern that if fees are too expensive, some individuals will still find illegal marijuana trade to be more profitable.

**PUBLIC COMMENT:** Jay Stelzenmeller, a member of the Marijuana Advisory Committee, stated that he primarily came to the meeting to hear the thoughts of Planning Commissioners. Stelzenmeller stated that he seeks to see marijuana move from the illegal realm to the legal realm. Stelzenmeller stated that marijuana businesses are not eligible for business tax benefits.

**MOTION: M/S WINDSOR/POHLMAN** moved to continue public hearing and discussion at the next scheduled Planning Commission meeting to allow for further study of negative impacts and the development of a zoning text change that would comply with newly

modified state regulations. The zoning text change request is filed by the City and Borough of Sitka Marijuana Advisory Committee. The request would allow licensed marijuana activities as a permitted use in the Central Business District, Waterfront District, Industrial Zone, Commercial C-1 and C-2 zones, and the Gary Paxton Special Zone.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**ZONING TEXT CHANGE  
LICENSED MARIJUANA ACTIVITY AS CONDITIONAL USE IN LI AND GI ZONES  
CBS MARIJUANA ADVISORY COMMITTEE**

*Public hearing and consideration of a zoning text change request filed by the City and Borough of Sitka Marijuana Advisory Committee. The request would allow licensed marijuana activity as a conditional use in the Large Island and General Island zones.*

**STAFF REPORT:** Scarcelli reviewed the request and summarized marijuana regulation in Alaska. Scarcelli stated that state regulations are still evolving, and the state now allows cafes for consumption. Scarcelli stated that the application is broad, but state regulation addresses several specific categories of legal activity. Scarcelli cautioned the commissioners from moving too quickly, and encouraged the crafting of careful and thoughtful legislation. Bosak recommended that commissioners just start the discussion at this point.

**COMMISSIONER DELIBERATION:** Hughey asked if locations for marijuana would be more restrictive than alcohol. Bosak stated that marijuana would be more restrictive than alcohol, and referred to Drug Safe Schools. Bosak encouraged a joint meeting between the Planning Commission and Marijuana Advisory Committee. Bosak stated her preference for deliberating on the location of each category of marijuana use. Hughey stated that commissioners should be clear on the different legal activity categories before making an educated decision. Windsor stated that extensive public notice is required before opening a facility. Spivey stated that marijuana businesses cannot have business bank accounts since marijuana is federally illegal. Scarcelli stated that he has spoken to professionals from other localities who wish they would have rolled out local legislation more carefully. Windsor stated that the state will begin issuing licenses in May. Hughey expressed concern that if fees are too expensive, some individuals will still find illegal marijuana trade to be more profitable.

**PUBLIC COMMENT:** Jay Stelzenmeller, a member of the Marijuana Advisory Committee, stated that he primarily came to the meeting to hear the thoughts of Planning Commissioners. Stelzenmeller stated that he seeks to see marijuana move from the illegal realm to the legal realm. Stelzenmeller stated that marijuana businesses are not eligible for business tax benefits.

**MOTION: M/S POHLMAN/HUGHEY** moved to continue public hearing and discussion at the next scheduled Planning Commission meeting to allow for further study of negative impacts and the development of a zoning text change that would comply with newly modified state regulations. The zoning text change request is filed by the City and Borough of Sitka Marijuana Advisory Committee. The request would allow licensed marijuana activities as a conditional use in the Large Island and General Island zones.

**ACTION:** Motion **PASSED** unanimously 4-0 on a voice vote.

**DIRECTORS REPORT:** Scarcelli reported that he and Bosak had attended the Alaska Planning Association meeting. Scarcelli noted that the next Commission agenda would include marijuana discussion, a Comprehensive Plan presentation by staff, and two variances.

**COMMISSIONER DISCUSSION:** Spivey asked about public attendance at Marijuana Advisory Committee meetings. Windsor stated that the Committee has not had much public attendance, and is considering holding a Town Hall meeting. Pohlman stated that there are potential benefits to legal marijuana activity that are not being discussed, such as marijuana cultivators using leftover planting pots that would otherwise be sent to the landfill.

**MOTION: M/S WINDSOR/POHLMAN** moved to adjourn at 8:53 pm.

**ACTION:** Motion **PASSED** unanimously 4-0 on a voice vote.

---

**Chris Spivey, Chair**

---

**Samantha Pierson, Secretary**



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## Planning and Community Development Department

Date: 2/11/2016

From: Michael Scarcelli, Senior Planner, and Samantha Pierson, Planner I

To: Planning Commission

Re: ZTC 15-10 To Allow Short-term Rentals and Bed and Breakfasts in the Public Lands Zone

### GENERAL INFORMATION

Applicant: Tim Fulton  
Property Owner: City and Borough of Sitka  
Property Address: N/A  
Legal Description: N/A  
Parcel ID Number: N/A  
Size of Existing Lot: N/A  
Zoning: Public  
Existing Land Use: Public  
Utilities: N/A  
Access: Varies  
Surrounding Land Use: Varies

### 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

### ATTACHMENTS

Attachment A: Previous Staff Report  
Attachment B: Application  
Attachment C: Multiple Code Pages  
Attachment D: Harbormaster Memorandum  
Attachment E: Payment

Providing for today...preparing for tomorrow

## **PROJECT DESCRIPTION**

The request is for a zoning text change to allow as conditional uses for short-term rentals and Bed and Breakfast operations in the Public Zone for the purpose of renting out boats for short-term and vacation accommodations. The applicant is specifically seeking the ability to have short-term rentals and bed and breakfasts on boats in municipal harbors.

## **BACKGROUND AND ANALYSIS**

One code section would need to be amended for this application. Table 22.16.015-1 would need "C" added to the Bed and Breakfast and Short-Term Rental portions of the Residential Land Use section. Port and Harbors code may need to be amended as well.

Senior Planner, Michael Scarcelli, presented this proposal to the Port and Harbors Commission on November 18, 2015. There was mixed discussion in support and also some concerns against. At that time, Harbormaster, Stan Eliason was in support of this creative idea. And overall, it appeared that all staff would recommend at limited conditional use of the proposal. After further study, however, both the Harbormaster and Planning and Community Development Department were unanimously against this proposal.

After further direction and reflection, staff is requesting to revisit this proposal under a new light that addresses past concerns with solutions that mitigate those concerns. If necessary, existing harbor regulations and enforcement would address any impacts to the harbor system. At the Planning Commission level, conditions of approval could address compliance with such regulations, impose conditions on water safety pursuant to Coast Guard programs and regulations, impose life and safety conditions similar to other STR permits, and address any other impacts that came up in review.

Ultimately, in these economic times, any business can be good business. It is our Department's opinion to recommend projects that provide economic development while ensuring the Community's best interest. Right now, economic development trickles in to many different avenues of the community's best interests.

**Project Site:** varies

**Project Design:** varies

**Traffic:** varies

**Parking:** varies

**Noise:** While not always the case, tourists can be jovial and celebratory, which can result in increased noise from voices and music.

**Public Health or Safety:** After discussion with staff, concerns regarding safety, sanitation, and harmony of harbor system can be adequately addressed through conditions of approval and existing harbor regulations.

**Habitat:** After discussion with staff, concerns regarding environment, sanitation, and harmony of harbor system can be adequately addressed through conditions of approval and existing harbor regulations.

**Property Value or Neighborhood Harmony:** varies

**Conformity with Comprehensive Plan:** The proposed ZTC would be consistent with the Comprehensive Plan section 2.6.2.K., which states “Encourage the development of facilities to accommodate visitors, such as bed and breakfasts, hotels, restaurants, and recreation areas, however, short term rentals and bed and breakfasts proposed to be located in residential areas should be designed and developed such that noise, traffic, lighting, and visual impacts from the facilities are no more significant than impacts from ordinary residential uses in neighborhoods where they will be located.” Here, conditions of approval and existing regulations would mitigate any impacts.

In addition, the proposal is consistent with 2.3.12 that states, “To plan for and maintain quality harbor facilities and services that will enhance marine commerce and accommodate the needs of residents, transient boats, the charter fleet, and cruise ship tenders, and to carry out the following policy and objective: A. Harbor facilities shall be maintained and supported, in so far as possible, by the revenues generated by harbor operations. While reasonable moorage is a goal; more of the load may need to be taken in fees. B. A long-range plan and financial strategy should be developed to address the future need to replace harbors. C. Develop sewage waste disposal system or policy for harbor facilities.” This is due to the impact upon the harbor environment and the cost of enforcement in relation to projected income.

Conditions to address any potential impacts is further supported by section 2.2.4 that states to minimize impacts on diversity and integrity of the ecosystem; and that support protection of public infrastructure, proper sewage disposal, and protection of publics’ health, safety, and welfare.

**FINDINGS**

Staff suggests the following findings:

- 1) That the proposal does not impact public health, safety, and welfare;
- 2) That the proposal is consistent with the comprehensive plan as discussed in the staff report; and
- 3) That the proposal would promote tourism, alleviate some burdens on the housing market, promote economic development, and utilize existing resources for the betterment of the public, health, and safety of the community.

**RECOMMENDATION**

It is recommended that the Planning Commission adopt the Senior Planner’s analysis and recommend approval of the requested zoning text change.

**RECOMMENDED MOTIONS (two motions)**

Move to adopt the findings as stated in discussion and staff report;

Move to recommend approval of the zoning text change.



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## Planning and Community Development Department

Date: 11/16/15

From: Michael Scarcelli, Senior Planner, and Samantha Pierson, Planner I

To: Planning Commission

Re: ZTC 15-10 To Allow Short-term Vacation Rentals and Bed and Breakfasts in the Public Zone

### GENERAL INFORMATION

Applicant: Tim Fulton  
Property Owner: City and Borough of Sitka  
Property Address: N/A  
Legal Description: N/A  
Parcel ID Number: N/A  
Size of Existing Lot: N/A  
Zoning: Public  
Existing Land Use: Public  
Utilities: N/A  
Access: Varies  
Surrounding Land Use: Varies

### 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

### ATTACHMENTS

Attachment A: Application  
Attachment B: Multiple Code Pages  
Attachment C: Harbormaster Memorandum  
Attachment D: Payment



## **PROJECT DESCRIPTION**

The request is for a zoning text change to short-term rentals and Bed and Breakfast operations in the Public Zone. The applicant is specifically seeking the ability to have short-term rentals and bed and breakfasts on boats in municipal harbors.

## **BACKGROUND AND ANALYSIS**

One code section would need to be amended for this application. Table 22.16.015-1 would need “P” or “C” added to the Bed and Breakfast and Short-Term Rental portions of the Residential Land Use section. Port and Harbors code may need to be amended as well.

Senior Planner, Michael Scarcelli, presented this proposal to the Port and Harbors Commission on November 18, 2015. There was mixed discussion in support and also some concerns against. At that time, Harbormaster, Stan Eliason was in support of this creative idea. And overall, it appeared that all staff would recommend at limited conditional use of the proposal. However, after further study both the Harbormaster and Planning and Community Development Department are unanimously against this proposal.

**Project Site:** varies

**Project Design:** varies

**Traffic:** varies

**Parking:** varies

**Noise:** While not always the case, tourists can be jovial and celebratory, which can result in increased noise from voices and music.

**Public Health or Safety:** Tourists who are unfamiliar with boating safety could harm themselves and others with unsupervised access to boats. In addition, sewage disposal, use of existing restroom infrastructure, and impact to all of the land areas also zoned Public Facilities could be negatively impacted.

**Habitat:** Increased concerns for sewage dumping by tourists, potentially impacting aquatic ecosystems.

**Property Value or Neighborhood Harmony:** varies

**Conformity with Comprehensive Plan:** The proposed ZTC would be inconsistent with the Comprehensive Plan section 2.6.2.K., which states “Encourage the development of facilities to accommodate visitors, such as bed and breakfasts, hotels, restaurants, and recreation areas, however, short term rentals and bed and breakfasts proposed to be located in residential areas should be designed and developed such that noise, traffic, lighting, and visual impacts from the facilities are no

more significant than impacts from ordinary residential uses in neighborhoods where they will be located.”

In addition, the proposal is inconsistent with 2.3.12 that states, “To plan for and maintain quality harbor facilities and services that will enhance marine commerce and accommodate the needs of residents, transient boats, the charter fleet, and cruise ship tenders, and to carry out the following policy and objective: A. Harbor facilities shall be maintained and supported, in so far as possible, by the revenues generated by harbor operations. While reasonable moorage is a goal; more of the load may need to be taken in fees. B. A long-range plan and financial strategy should be developed to address the future need to replace harbors. C. Develop sewage waste disposal system or policy for harbor facilities.” This is due to the impact upon the harbor environment, the cost of enforcement in relation to projected income. This is further supported by section 2.2.4. Minimize impacts on diversity and integrity of the ecosystem; and is further inconsistent with general Comprehensive Provisions that support protection of public infrastructure, proper sewage disposal, and protection of publics’ health, safety, and welfare.

### **FINDINGS**

Staff suggests the following findings:

- 1) That the proposal negatively impacts the publics’ health, safety, and welfare due to the anticipated impact to public infrastructure, the impacts resulting from sewage, the anticipated cost of enforcement and oversight;
- 2) Inconsistency with the comprehensive plan as discussed in the staff report; and
- 3) The broad impacts that zoning text change would have to land areas zoned Public Facilities.

### **RECOMMENDATION**

It is recommended that the Planning Commission adopt the Senior Planner’s analysis and deny the requested zoning text change.

### **RECOMMENDED MOTION**

Move to deny the request filed by Tim Fulton for a zoning text change to permit short-term rentals and Bed and Breakfast operations in the Public Zone as a permitted or conditional use.

# MEMORANDUM

---

To: Michael Scarcelli, Senior Planner

Cc; Planning Commission

Kevin Knox, Harbor Commission Chairman

From: Stan Eliason, Harbormaster

Date: November 19, 2015

Subject: Short term rental/Airbnb

---

The Port and Harbor Commission met on November 12<sup>th</sup>. Tim Fulton presented his idea of an Airbnb to be allowed on his future boat. The Commission was favorable with his idea, but determined further discussion with the Planning Commission was needed to address insurance and sewage regulations.

I was also favorable to his presentation. However, at this point in time, I'm against this proposal. If we were to allow Airbnb's with *strict regulation's* pertaining to sewage. This very well could lead to regulating all users of our harbor system, including visiting vessels. I do not have the manpower to accomplish this.

## Samantha Pierson

---

**From:** Michael Scarcelli  
**Sent:** Thursday, November 19, 2015 10:54 AM  
**To:** Stan Eliason; Dan Tadic  
**Cc:** Samantha Pierson  
**Subject:** RE: P&Z In Your Neighborhood...Planning Commission Agenda December 1st

I go back and forth too on this one. I am down the middle. But I agree that sewage is going to be the main negative impact, and will only be addressed with increased enforcement, which would become burdensome, especially if it goes to limited rentals: the return on investment would be negative. I was originally very much against it, then sorta for it, sorta against it. But now, with more detail presented from Stan, I am against it.

A formal staff report or memo would be helpful from PW and Port and Harbors to present the different Department concerns to the Planning Commission and potentially the City Assembly. If I received one, I would cite it in my own staff report and attach it to the packets.

Thank you,

Mike

---

**From:** Stan Eliason  
**Sent:** Thursday, November 19, 2015 10:29 AM  
**To:** Dan Tadic <dan.tadic@cityofsitka.org>; Michael Scarcelli <michael.scarcelli@cityofsitka.org>  
**Cc:** Samantha Pierson <samantha.pierson@cityofsitka.org>  
**Subject:** RE: P&Z In Your Neighborhood...Planning Commission Agenda December 1st

My fear is this sewage regulation towards STR/BB could include other users, through the public process. All's it will take is someone saying "if they have to abide by this regulation, so should live a boards" then the can of worms is opened to regulate everyone. If this were to occur, see the following.

- 1) We'd have to put dye tabs in holding tanks. If one were to dump illegally, the waters around the boat would turn to a florescent color.
- 2) Seal the "Y" valve. We'd have to seal the valve, so only waste could go into the holding tank and not overboard.

This would be a management nightmare. I'd have to form an environmental department within the harbor department.....that won't happen.

I certainly want the waters of our harbors to be safe and clean. However, at this point in time, I'm leaning towards not allowing this. Convince me otherwise, I might bite.

This topic needs more discussion.

*Stan Eliason, Harbormaster  
City and Borough of Sitka  
Coast Guard City, USA*

**New email:** [stan.eliason@cityofsitka.org](mailto:stan.eliason@cityofsitka.org)

<http://www.cityofsitka.com/government/departments/harbor/index.html>

---

**From:** Dan Tadic  
**Sent:** Thursday, November 19, 2015 8:33 AM  
**To:** Michael Scarcelli  
**Cc:** Stan Eliason; Samantha Pierson  
**Subject:** RE: P&Z In Your Neighborhood...Planning Commission Agenda December 1st

Glad to hear that the discussions have already started. I think the sewage issue is a big one that we could get in trouble for if ADEC were to discover somehow that we did nothing to stop raw sewage from being dumped into the ocean. I think getting the applicants for a STR/BB to sign off that they will not do this or allow this to occur would at least be one step we have taken to discourage this illegal activity from occurring in our harbors.

---

**From:** Michael Scarcelli  
**Sent:** Thursday, November 19, 2015 8:20 AM  
**To:** Dan Tadic <[dan.tadic@cityofsitka.org](mailto:dan.tadic@cityofsitka.org)>  
**Cc:** Stan Eliason <[stan.eliason@cityofsitka.org](mailto:stan.eliason@cityofsitka.org)>; Samantha Pierson <[samantha.pierson@cityofsitka.org](mailto:samantha.pierson@cityofsitka.org)>  
**Subject:** RE: P&Z In Your Neighborhood...Planning Commission Agenda December 1st

Already did that.

Port and Harbors were very supportive. They had concerns, similar to those I presented upon (safety, restrooms, sewage, liability, harmony of life, enforcement, etc)- . Overall though, they supported recommending limited STR/BB in a harbor - with further study and collaboration between Departments.

STR/BB are not currently permitted by code, but are prohibited uses – from a strict interpretation. However, I am certain they exist. Because I looked at several when I arrived in Sitka as living options. There are float homes, but they expressly do not allow STR.

---

**From:** Dan Tadic  
**Sent:** Wednesday, November 18, 2015 5:27 PM  
**To:** Stan Eliason <[stan.eliason@cityofsitka.org](mailto:stan.eliason@cityofsitka.org)>  
**Cc:** Michael Scarcelli <[michael.scarcelli@cityofsitka.org](mailto:michael.scarcelli@cityofsitka.org)>; Samantha Pierson <[samantha.pierson@cityofsitka.org](mailto:samantha.pierson@cityofsitka.org)>  
**Subject:** FW: P&Z In Your Neighborhood...Planning Commission Agenda December 1st

Seeing Planning Commission agenda item #1 for a zoning text change to allow B&Bs and short term rentals in the harbor system got me wondering if this should be presented to the P&H Commission before going to Planning. I think they will want to weigh in on this topic.

Stan - How is sewage handled for live-aboards in our harbors now??? As I understand it, there is nobody who pumps holding tanks locally. I'd imagine some live-aboards just use the harbor restrooms and not onboard toilets. How many use the pumpouts regularly? There are pump outs at Eliason, Thomsen and Crescent, right? The reason I ask is, I suspect some unscrupulous owners may allow the sewage to dump into the ocean. Part of the process for approving a particular B&B or short term rental in a harbor, should be asking whether it has an onboard restroom or not and if it does require them to use the pumpout as a condition of the permit.

Also, aren't live-aboards only permitted in certain harbors? It seems if a harbor does not permit live-aboards it should not permit B&Bs or short term rentals.

CITY AND BOROUGH OF SITKA  
PLANNING DEPARTMENT  
ZONE CHANGE APPLICATION

ZONE MAP AMENDMENT FEE	\$100.00
ZONE TEXT AMENDMENT FEE	\$100.00
<i>Plus current city sales tax</i>	

Applicant's Name: TIM FULTON  
Phone Number: 738-0740  
Mailing Address: 225 Lakeview Drive Sitka AK 99835  
Applicant's Signature: \_\_\_\_\_ Date Submitted \_\_\_\_\_

Provide information or data, as necessary, to fully outline the reasons and justifications for the request. Attach additional sheets as necessary.

For official map amendments, the application shall contain:

1. A legal description of *each* subject property along with the owner's name, address, and contact person for *each* subject property;
2. An analysis showing the public benefit of the proposed amendment;
3. An analysis showing the proposal's consistency with the Comprehensive Plan;
4. A map of the area to be rezoned.

**LIST SPECIFIC REQUEST:** I am requesting a variance to allow a boat that is moored in one of Sitka's harbors to be used as a short-term vacation rental or B&B.

**EXPLANATION OF REQUEST:** Having a boat as a short-term rental is not currently done in Sitka. However, utilizing boats as short-term vacation rentals is done successfully in other places & is a growing niche in the travel & vacation market. With Sitka's new branding emphasizing the uniqueness of our town & location, a boat as vacation rental can meet two needs. First, according to the Sitka Convention & Visitors Bureau, often there is not enough bed space in Sitka to accommodate traveler demand. Second, a boat vacation rental can successfully fill a void for those vacationers looking for a unique travel experience. Television shows such as "Deadliest Catch" fuels the world's fascination with Alaska in general & Alaska fishing in particular. Staying overnight on a boat in a working harbor in Alaska's most beautiful city can be a dream come true for world travelers. This vacation rental opportunity can contribute significantly to Sitka's economy both through taxes & spending revenue. It is an opportunity for Sitka to say "yes" to a unique avenue of economic growth in a controlled manner.

*After the application and supporting materials has been determined to be complete by the Planning Office, the request will be placed on the next available Planning Commission agenda.*

Members of the Sitka Planning Commission and Supporting Staff,

My name is Tim Fulton.

Thank you for considering my request for a zoning text change. I regret not being able to attend in person. I do have a prior commitment that I cannot change. My hope is that this letter can help answer some questions. I set it up with Michael Scarcelli to call if I can answer any further questions.

My wife and I have been using the new concept of Airbnb for the last couple of years. We are pleasantly surprised as to how it welcomes you into what ever experience we choose.

The concept of Airbnb is a natural fit for Sitka. It would be an easy sell for those who are looking for a little uniqueness to add to their Alaska experience. I want to be clear that at this point we are still working with just an idea. It seems prudent to first work with the City of Sitka and get all the necessary permissions before proceeding with the actual business plan. However, in my preliminary number crunching it is a viable business model.

I know you have many things to consider before you make your decision. I would like to address a few that I see;

1. Regarding the economic benefit to Sitka, the direct taxes from this venture would not be enormous. However, a significant benefit would be in the new money it can bring into Sitka via the support given to our other small businesses. I have investors who are interested in part for the contribution it can make to the local economy.
2. I believe that this idea is forthcoming, and right now you have an opportunity to address it in a positive way that will help control the development of this business idea. As a city, we have been successfully using lands based zoning laws to address usage for years.
3. Supporting the language change should help keep short term rentals in our Harbors above ground and working with our Harbor department to address safety concerns and other issues.
4. If this zoning text change is moved forward it allows us an opportunity to work together and address everyone's concerns, allowing for good policy construction that will benefit Sitka.
5. Airbnb is working on boats in other port cities in the United States and around the world. It can work here.

Thank you for your time,  
Tim J Fulton

City and Borough of Sitka, AK  
100 Lincoln St  
Sitka, AK 99835

11/04/2015  
2016-00024073  
Front Counter  
TIM FULTON

Date:  
Receipt:  
Cashier:  
Received From:

PLAN - Planning Permits/Zo	100.00
ning	5.00
STI - Sales Tax 4th quarte	-----
r CY	105.00
Receipt Total	-----
Total Other	105.00
Total Remitted	-----
Total Received	105.00

\$ 105.00

Customer Copy