



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, March 15, 2016

7:00 PM

Sealing Cove Business Center

I. CALL TO ORDER AND ROLL CALL

Chair Spivey called the meeting to order at 7:02 PM.

II. CONSIDERATION OF THE AGENDA

Planner I Pierson stated that items E and K were pulled from the agenda.

III. CONSIDERATION OF THE MINUTES

Approval of the minutes for the March 1, 2016 meeting.

Windsor/Pohlman moved to approve the March 1, 2016 minutes with the amendment to correct Jerry Neel's name. Motion PASSED 5-0.

IV. REPORTS

A Letter to the Commission from Planning and Community Development Department staff.

This item was NO ACTION TAKEN.

B Annual report submitted by Corrie Bosman for a bed and breakfast at 629 Degroff Street. No action required.

This item was APPROVED.

V. THE EVENING BUSINESS

C Discussion and direction of municipal hazard mapping, presented by Planning and Community Development Department staff.

Bosak shared the pros and cons of road system-wide hazard mapping. The commission will make a recommendation to the Assembly.

Spivey asked if an RFP should have went out to the expenditure. Bosak stated that the \$150,000 cost is an approximation. Gorman stated that the completed hazard mapping was \$45,000. Windsor and Spivey stated concern that the

\$150,000 estimate is accurate. Dave Bruce stated that there may be efficiencies of scale when doing a larger project. Bruce said that the FEMA submission was made without CBS approval, and the DGGs could move forward regardless of city approval. Pohlman reiterated that we could be collaboratively involved, or it could happen anyway. Windsor asked if the city is open to liability, and Bruce said that he doesn't think so. Spivey asked why proceed if FEMA will do the mapping anyway. Bosak stated that the FEMA grant is not guaranteed. Bruce stated that collaboration would likely result in FEMA and CBS both contributing financially. Hughey stated that the commission should guide the where the community wants to go.

Clyde Bright recommended that the commission recommend road system-wide mapping to the Assembly for peace of mind. Nancy Davis said that something needs to be done, and people are scared. Susan Jensen asked why we wouldn't do it. Kyle Schull said that the city should not decide for individuals, and that individuals can elect to pay for their own surveys. Scarcelli reminded commissioners of the economy of scale, and that it is cheaper per parcel to do a larger scale study. Clyde Bright stated that the study recommended that no future development be made in the study area, and many parts of the city have the potential to be affected. Nancy Davis stated that we should not put emphasis on property values, but on lives. Richard Parmelee reminded the commissioners that other landslides have caused damage, and he believes that landslides will continue. Parmelee stated that people need to know their risk.

Parker Song wondered how efficacious a study would be, since the data cannot predict when a landslide will occur. Spivey stated that there are no zero-risk zones. Windsor stated that it would be negligent to not undertake the study. Pohlman stated support for community hazard mapping. Parker Song said that she didn't feel like she knew enough to proceed in either direction. Hughey stated that we should try to keep people safe. Commissioners discussed deferring the item to the next meeting to allow for more public comment. Spivey asked if the commission could place this item on the next agenda. Parker Song stated that the meeting will be set up specifically for the comprehensive plan. Parker Song stated that she would be open to having another meeting on this item. Hughey asked if the FEMA study would assess tsunamis. Bosak stated that the FEMA study would be multi-hazard. Hughey recommended that the commission move forward with the recommendation to the Assembly.

Hughey/Windsor moved to RECOMMEND that the Assembly undertake a community-wide hazard mapping, with or without FEMA involvement. Motion PASSED 5-0.

D

Discussion and direction of state land requests, presented by Planning and Community Development Department staff.

Bosak reported that the municipality has the opportunity to ask the state for land. She described three desired properties: Indian River, Millersville, and Starrigavan/Katlian Bay. Windsor asked if there are any downsides, and Bosak stated that there are no downsides. Bosak stated that it is good to have options for future development. Hughey stated that these parcels are good land. Bosak stated that there are no guarantees.

Steven Eisenbeisz stated that this would be a massive haul for the city. Eisenbeisz recommended looking to SEDA and other groups for letters of support. Matthew Jackson stated that the proposal is a no-brainer, and encouraged the commission to pursue this aggressively.

Hughey/Parker Song moved to RECOMMEND the request for state land. Motion PASSED 5-0.

E PULLED - Public hearing and consideration of a variance request filed by Jennifer Alley for 208 Kogwanton Street. The variance is for the reduction in the southerly and easterly side setbacks from 5 feet to 0 feet for the construction of a new house. The property is also known as 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.

F Public hearing and consideration of a variance request filed by Richard Parmelee for 405 Hemlock Street. The variance is for the reduction in the side setback from 8 feet to 2 feet for the construction of a carport. The property is also known as Lot 11 of Tower Heights Subdivision. The request is filed by Richard Parmelee. The owners of record are Richard J. Parmelee and Marjorie A. Parmelee.

Pierson explained the request. The applicant seeks to build a carport with one corner within two feet of the side property line. Staff recommended that the request be modified to a three foot setback. Pierson read a letter of concern from William Adickes, the adjacent property owner.

Richard Parmelee stated that he spoke to Mr. Adickes several times about this proposal and didn't expect the comment. Parmelee stated that the carport will only come 4 inches past the current canopy. Parmelee stated that he can park a vehicle beside the carport, and space is still available for the neighbor to drive past. Parmelee stated that the driveway is primarily on his property, and the neighbors have used the driveway through an informal agreement. Parmelee stated that he wants to clean the area up. Bosak stated that a condition of approval could be that Parmelee and the neighbor reach an agreement on the project.

Spivey stated that Mr. Adickes had spoken to him of his concerns with the carport. Windsor asked if he could wait another month to allow for discussion with the neighbor.

Pohlman/Hughey moved to POSTPONE the variance request filed by Richard Parmelee for 405 Hemlock Street to the next meeting. The variance is for the reduction in the side setback from 8 feet to 2 feet for the construction of a carport. The property is also known as Lot 11 of Tower Heights Subdivision. The request is filed by Richard Parmelee. The owners of record are Richard J. Parmelee and Marjorie A. Parmelee. Motion PASSED 5-0.

G Public hearing and consideration of a variance request filed by Clyde Bright for 402 Degroff Street. The variance is for the reduction in the front setback along Degroff Street from 20 feet to 8 feet for the conversion of a single-family home to a duplex. The property is also known as Lot 2 of the Amended Portion of Block 19, Sitka Townsite. The request is filed by

Clyde Bright. The owners of record are Clyde and Valerie L. Bright.

Pierson explained the request, and stated that staff recommend a modification to the site plan which would allow the creation of a duplex while eliminating the need for a variance along Degroff Street. Scarcelli stated that he has seen helical piers installed. Windsor asked why staff did not catch this before the helical piers were installed. Scarcelli stated that the building permit has not been approved.

Clyde Bright stated that the building permit had been filed, but the contractor was already in town so he had the contractor install the helical piers. Bright stated that the helical piers can be removed. Bright stated that the building will actually be 22 feet from Hollywood Way. Bright said that the lot is undersized, and he wants to preserve parking in the rear. Bright said that the alley has traditionally been the access to the property. Hughey asked for clarification regarding the applicant's proposal versus staff's modified proposal. Scarcelli explained the diagrams. Bright stated that you don't always want shared walls and shared parking spaces in a duplex. Bright stated plans to install fencing for aesthetic purposes. Bright stated that the staff proposal would not give the required ground clearance per building code. Spivey suggested digging to provide for the foundation. Windsor stated that the water table is high in that area. Bright stated that the garage will be removed. Bright stated that he plans new windows, doors, and roofing. Pohlman asked if he is gutting the entire interior, and Bright said that he was. Bright said that with the staff's proposal, entrances and parking would be next to each other. Scarcelli state that building has stated concerns with the structure as a mobile home. Bright stated that the building is modular, and an engineer has approved the plans.

Kyle Schull stated that he lives at 403 Degroff, and stated that Bright was considerate in his design. Judson Thomas stated that he lives at 420 Lake Street, and stated concerns for respecting the property lines in regard to fencing.

Hughey stated that there are many solutions, and that he would rather not grant a deep variance when it is not necessary. Spivey stated that Bright stated that he was not previously aware of the staff proposal. Spivey asked Bright if deferring the item for a modification would cause difficulty. Bright stated that the modification would cause difficulty, and building in the rear would impact alley access. Windsor stated that the parking in the rear is more important than the front setback. Spivey stated concern that a variance is approved and the applicant will need to come back to the planning commission because of building concerns. Spivey stated that a variance is to be granted when alternative options do not exist. Pohlman stated a preference to defer the item. Windsor asked if the deferral would require a deferral on the conditional use permit. Bosak stated that it would, as approvals are based on plans submitted.

Hughey/Pohlman moved to POSTPONE the variance request filed by Clyde Bright for 402 Degroff Street to the next month. The variance is for the reduction in the front setback along Degroff Street from 20 feet to 8 feet for the conversion of a single family home to a duplex. The property is also known as Lot 2 of the Amended Portion of Block 19, Sitka Townsite. The request is filed by Clyde Bright. The owners of record are Clyde and Valerie L. Bright. Motion PASSED 5-0.

H

Public hearing and consideration of a conditional use permit request filed

by Clyde Bright for 402 Degroff Street. The conditional use permit would allow two short-term rental units. The property is also known as Lot 2 of the Amended Portion of Block 19, Sitka Townsite. The request is filed by Clyde Bright. The owners of record are Clyde and Valerie L. Bright.

Pierson explained the request. The applicant seeks to rent both sides of a duplex as short term rental units. Scarcelli stated research findings that short term rentals can increase long-term rent rates. Staff recommended that the applicant only rent one unit as a short term rental.

Clyde Bright stated that the property has been owner-occupied in the past. Bright stated that he is not opposed to one unit being a short term rental and one unit being a long term rental.

Pohlman/Parker Song moved to POSTPONE the conditional use permit request filed by Clyde Bright for 402 Degroff Street. The conditional use permit would allow two short term rental units. The property is also known as Lot 2 of the Amended Portion of Block 19, Sitka Townsite. The request is filed by Clyde Bright. The owners of record are Clyde and Valerie L. Bright. Motion PASSED 5-0.

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 activities as a conditional use in the Central Business District, Waterfront District, Industrial Zone, Commercial C-1 and C-2 zones, Gary Paxton Special Zone, Large Island Zone and General Island Zones.

Scarcelli stated that this proposal has come back to the Planning Commission three times. After discussion, the Marijuana Advisory Committee has decided to move forward with conditional use for marijuana businesses. Staff supports the recommendation of this amendment to the Assembly. Spivey asked about time limits for public comment. Bosak stated that each commenter is allowed 3 minutes.

Steven Eisenbeisz stated that he is a member of the MAC, but is not speaking on behalf of the board. Eisenbeisz stated concern that the commission has not asked input of the Gary Paxton board. Eisenbeisz stated that horticulture is a permitted use in several zones, and stated that he can't see the difference between growing one plant and several plants. Eisenbeisz stated that the facts stated in the staff report appeared to be cons, and would like to have seen more to address the pros. Bright recommended that any marijuana businesses should have to go through the planning commission, as growing marijuana is not the same as growing carrots. Mike Dailey stated that he plans to open a retail and cultivation facility at Sawmill Plaza. Hughey asked Dailey if the conditional use process causes undue difficulty, and Dailey stated no, that the conditional use permit is redundant in regard to the state process. Dailey stated that he is in support of the conditional use process. Dailey stated that he knows of three other proposed marijuana businesses.

Windsor stated that the conditional use permit provides a means of control. Parker Song spoke in favor of the conditional use.

Hughey/Pohlman moved to APPROVE the factual findings that the proposed zoning text change to adequately protect the public's health, safety, and

welfare because the conditional use process allows us to move slowly; and that each proposed use is compatible with the potential surrounding land uses; and that the proposal is consistent with the Comprehensive Plan. Motion PASSED 5-0.

Pohlman/Hughey moved to RECOMMEND to the City Assembly to allow all licensed marijuana activities as conditional uses in the Central Business District (CBD), Gary Paxton Special District (GP, aka Gary Paxton Industrial Park), Industrial zoning districts (I), General Commercial (C-1), General Commercial Mobile Home (C-2), Waterfront (WD), Large Island (LI), and General Island (GI) zoning districts. Motion PASSED 5-0.

J

Public hearing and consideration of a conditional use permit request filed by Michelle Barker for a specialized instruction school at 213 Harbor Drive. The property is also known as Lot 2 of Wilmac Resubdivision. The request is filed by Michelle Barker. The owner of record is Island Fever Diving & Adventures, LLC.

Scarcelli explained the request. All educational services in the CBD require a conditional use permit. Drop-off and pick-up would occur during three time ranges. This proposal is on the lower end of other businesses in regard to parking. The proposal does not include outdoor activities. Approximately 18 letters of support were received. Staff supports the proposed conditional use permit.

Michelle Barker stated that she is the current owner, and Terry Bartolaba plans to buy the building. Barker stated that Bartolaba's business is a benefit to the community, as parents spend time in the downtown area. Barker stated that Bartolaba has operated her education business in the building before, and they were days away from closing when they were notified of the conditional use permit requirement. Barker stated that she renovated approximately three years ago as a glass studio. Barker stated that Bartolaba has been a business owner for 15 years.

Terry Bartolaba clarified that some tutoring services are offered on Fridays, and she sticks to the school schedule. Nancy Davis stated that she represents Bartolaba, and the planning commission previously advised Bartolaba to look for a commercially zoned property. Mary Magnuson said that approval would be an erosion of the downtown business district. Magnuson stated that this proposal impacts her prospects for opening a liquor retail store and expanding her bar area. Steven Eisenbeisz stated that is the renter of 208 Lincoln Street, and said that 208 Lincoln Street owns the alleyway between Mean Queen and 205 Harbor Drive. Eisenbeisz asked that if an approval is made, that the alleyway not be blocked. Eisenbeisz stated that the issue is larger than a single permit. Eisenbeisz stated that marijuana businesses are measured from the front door of the establishment, and there are potential marijuana locations on Harbor Drive. Gene Bartolaba stated that the alleyway is also blocked by patrons of other businesses, and stated that Terry has spoken to parents about not blocking the alleyway. Robin Bahna stated that her daughter has attended Terry's school, stated that it is a great school, and said that the location makes it easier to go shopping. Ryan Harris identified himself as Barker's son, and stated that Terry's school makes it easier to distribute parking and other information to patrons in comparison with a bar. Celeste Tydingco stated that the community wants Terry's school, and Sitka has various uses in close proximity. LacyAnne Ward stated that her 3 children attend Terry's school, and

that Terry has told parents to not block the alley. Lori Johnson stated that two of her children attend Terry's school, and stated that Terry has been looking for a location for years. Jeanette Foss stated that Terry is an asset to the town, and that the town has enough bars. Foss stated that we want to present a good face for tourists. Linda Barker-Olson stated that she is Barker's aunt, and stated that the letters of support were from business owners, not parents. Barker-Olson stated that parking in the alley has always been an issue. Barker-Olson stated that the location is convenient for working parents, and brings people into the business district. Barker-Olson stated that Bartolaba runs a business. Susan Jensen encouraged approval, as this is an established ongoing business, as opposed to a potential idea.

Parker Song asked if it would be impossible for Magnuson to get a liquor license. Spivey stated that Magnuson could still apply for a license. Bosak stated that staff are not clear on state liquor regulations, but could research if the commission requested. Hughey stated that Magnuson raises a valid concern for her business prospects. Windsor stated that he wanted to know more about state liquor regulations.

Parker Song/Hughey moved to POSTPONE the conditional use permit request and instruct staff to provide additional information on state liquor regulations. The conditional use permit request filed by Michelle Barker for a specialized instruction school at 213 Harbor Drive. The property is also known as Lot 2 of Wilmac Resubdivision. The request is filed by Michelle Barker. The owner of record is Island Fever Diving & Adventures, LLC. Motion PASSED 5-0.

K Public hearing and consideration of a minor subdivision at 211 Shotgun Alley filed by Barth Hamberg. 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.

L Discussion and direction of the Comprehensive Plan logo, presented by Planning and Community Development Department staff.

Pierson presented the two logos that were submitted for the Comprehensive Plan logo contest.

Commissioners discussed utilizing both images in the Comprehensive Plan. Commissioners discussed seeking tribal input on Henshaw's logo in regard to the use of formline design.

Henshaw's logo received 3 votes and Richter's logo received 2 votes.

VI. PLANNING DIRECTOR'S REPORT

Staff has a third of the land use inventory completed. Scarcelli explained the next agenda.

VII. PUBLIC BUSINESS FROM THE FLOOR

Steven Eisenbeisz clarified that a school can move in next door to a bar, but not vice versa. Eisenbeisz stated that the same is true for marijuana.

VIII. ADJOURNMENT

Pohlman/Hughey moved to adjourn at 10:35 PM. Motion PASSED 5-0.

**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 2nd 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 Budyngge 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

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

Date: March 8, 2016

From: Michael Scarcelli, Senior Planner

To: Planning Commission

Re: ZTC 15-08—To allow all licensed marijuana activities as conditional uses in the Central Business District (CBD), Gary Paxton Special District (GP, aka Gary Paxton Industrial Park), Industrial zoning districts (I), General Commercial (C-1), General Commercial Mobile Home (C-2), Waterfront (WD), Large Island (LI), and General Island (GI) zoning districts.

GENERAL INFORMATION

Applicant: Marijuana Advisory Committee,
City and Borough of Sitka

Property Owner: N/A

Property Address: N/A

Legal Description: N/A

Parcel ID Number: N/A

Size of Existing Lot: N/A

Zoning: CBD, I, GP, WD, C-1, C-2, GI, & LI

Existing Land Use: N/A

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

Providing for today...preparing for tomorrow

Attachment A: Proposed Zoning Text Amendment

BACKGROUND AND ANALYSIS

Through voter initiative, the State of Alaska approved recreational use of marijuana. In addition, this law created a process for local municipalities to opt-in to self-regulate whether or not to allow certain licensed marijuana uses such as retail sales, commercial cultivation, manufacturing, and testing facilities. The City and Borough of Sitka has “opted in” to self-regulation of these licensed marijuana activities, giving local control via the local regulatory authority as approved on November 24, 2015 by the City Assembly.

Regarding the proposed zoning text change, the Marijuana Advisory Committee (MAC) had presented two prior versions of a proposed zoning text amendment. After considering the Planning Commission’s concerns, that MAC has again amended their proposal to one that reflects prior Planning Commission and staff recommendations.

Discussion at the MAC on this item centered on a general overview of Planning, the conditional use process, and other items relating to review by the Planning Commission and Planning and Community Development Department. Specific topics included treating licensed marijuana uses similar to uses such as bars, retail, horticulture, pharmacies, or other uses that could be argued to have similar qualities. In addition, promotion of a business that could contribute to the economy was central in how to craft appropriate regulations. Buffers and how the state proposed buffers restrict the ability of such business to potentially locate within certain distances to state identified sensitive uses was also central to the discussion regarding this zoning text amendment proposal. Other items raised through public comment were mixed: some were in support, others were against. Some provided information about the impacts to the community in Colorado following the commercialization of marijuana. Prospective marijuana business operators provided the majority of public comment. Finally, though the Marijuana Advisory Committee sees argument to support having permitted uses, they defer to the conditional use proposal to move this zoning text forward as a compromise in the best interests of the community and the prospective businesses awaiting a final ordinance allowing commercial marijuana activities.

On the topic of allowing licensed marijuana uses as conditional uses in the CBD, I, and GP zoning districts, several major points were in support for this proposal. First, the CBD zone is a business zone. In addition, this is the place where tourists and visitors will come first. It is most walkable, accessible, and visible. On the other side, there are current sensitive uses within the existing state five-hundred foot (500) buffers. Therefore, even if potentially allowable under a conditional use permit, in reality it would be difficult to locate within that district unless state regulations were loosened or sensitive uses moved location. Also, for the Industrial and Gary Paxton Special District zones, these areas would protect more sensitive uses. In other words, by allowing a conditional use in these areas, it would funnel away the impactful uses from areas that would be more sensitive such as single-family residential zones. In regard to limits on retail sales at GPIP, a code amendment allowing a conditional use for the GP zone, subject to existing municipal regulations found in Chapter 2.38 regulating uses and lease at the Gary Paxton Industrial Park.

PROJECT DESCRIPTION

Request is a zoning text change filed by the City and Borough of Sitka Marijuana Advisory Committee. The request would allow all licensed marijuana activities as conditional uses in the Central Business District (CBD), Gary Paxton Special District (GP, aka Gary Paxton Industrial Park), Industrial zoning districts (I), General Commercial (C-1), General Commercial Mobile Home (C-2), Waterfront (WD), Large Island (LI), and General Island (GI) zoning districts.

Project Site: varies

Project Design: varies

Traffic: Could have potential impacts that vary greatly from site to site and on a case by case basis, where all variables cannot be adequately addressed at this time. Uses such as cultivation, manufacturing, and testing facilities would be anticipated to have less traffic impacts than retail use.

Parking: Could have potential impacts that vary greatly from site to site and on a case by case basis, where all variables cannot be adequately addressed at this time. Uses such as cultivation, manufacturing, and testing facilities would be anticipated to have less parking demand and thus less impacts than retail use.

Noise: Could have potential impacts that vary greatly from site to site and on a case by case basis, where all variables cannot be adequately addressed at this time. However, noise tends to not be noted in other states and municipalities review. In addition, any conditional use permit review would adequately address these type of concerns.

Public Health or Safety: The potential for impacts to public health, safety, and welfare are possible - some findings from Colorado are alarming. On the other side, some feel that Alaskans and Sitkans have preapproved the opening of all recreational use and commercial activities by the voter initiative. Some others feel differently. Careful consideration of this area should occur. Some research from Colorado is summarized, cited, and attached for further review. Please note: some cited statements from these Colorado studies are opinion or qualitative statements, some statistics are taken out of context, and *some* math is clearly erroneous.

To sum: The Rocky Mountain High Intensity Drug Trafficking Area through data collected from thirty-four agencies stated these following findings, among many other findings, in their September 2015 report, *The Impact of Legalization of Marijuana in Colorado*:¹

¹ Pp. 1-5, 14-15, 35-36, 62-63, 75-77, 89-90, 97, 102-103, 123-124, 134, 137-160

1. Impaired Driving:

- a. When retail marijuana business began operating, there was a **32 percent** increase in marijuana-related traffic deaths in just one year from 2013.
- b. Colorado marijuana-related traffic deaths increased **92 percent** from 2010-2014. During the same time period all traffic deaths only increased **8 percent**.

2. Youth Marijuana Use:

- a. In 2013, 11.16 percent of Colorado youth ages 12 to 17 years old were considered current marijuana users compared to 7.15 percent nationally. Colorado ranked 3rd in the nation and was 56 percent higher than the national average.

3. Adult Marijuana Use:

- a. In 2013, 29 percent of college age students (ages 18 to 25 years old) were considered current marijuana users compared to 18.91 percent nationally. Colorado, ranked 2nd in the nation, was 54 percent higher than the national average.
- b. In 2013, 10.13 percent of adults age 26 years old and over were considered current marijuana users compared to 5.45 percent nationally. Colorado ranked 5th in the nation, was 86 percent higher than the national average.

4. Emergency Room Marijuana and Hospital Marijuana-Related Admissions

- a. In 2014, when retail marijuana business began operating there was 29 percent increase in the number of marijuana related emergency room visits in only one year.
- b. In 2014, when retail marijuana business began operating, there was a 38 percent increase in the number of marijuana-related hospitalizations in only one year.

In addition, to these findings there are findings on treatment, diversion, extraction labs, crime, revenue, environmental impacts, homelessness, suicide, THC potency, marijuana and alcohol consumption correlation, and related material, sources, and additional resources.

Reference Material for Further Review:

Latest Results from Colorado on Youth and Adult Marijuana Use, January 2016:

<http://www.rmhidta.org/html/FINAL%20NSDUH%20Results-%20Jan%202016%20Release.pdf>

The Impact of Legalization of Marijuana in Colorado, Volume 3 September 2015:

<http://www.rmhidta.org/html/FINAL%20NSDUH%20Results-%20Jan%202016%20Release.pdf>

Planning for Marijuana – The Cannabis Conundrum, Winter 2014

https://jeremynemeth.files.wordpress.com/2011/10/japa_nemethross.pdf

Cannabusiness Comes to Town, March 2011

<http://www.procon.org/in-the-news-pdfs/planning-cannabusiness-comes-to-town.pdf>

Evaluating Medical Marijuana Dispensary Policies: Spatial Methods for the Study of Environmental-Based Interventions:

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3683594/pdf/nihms-473371.pdf>

Exploring the Ecological Association between Crime and Medical Marijuana Dispensaries:

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3364319/pdf/jsad523.pdf>

More info can be found at:

<http://www.ncbi.nlm.nih.gov/pubmed/26748438>

State of Alaska Chapter 17.38 - The Regulation of Marijuana (use Legislative tool to find Chapter 17.38):

<http://www.legis.state.ak.us/basis/folio.asp>

Habitat: varies

Property Value or Neighborhood Harmony: Could have impacts upon property values of residential uses. Arguably, a marijuana business could increase commercial value of a property. However, it would impact a residential property. Either way, harmony of uses would be a substantial concern.

Conformity with Comprehensive Plan:

There is a split of support and opposition, arguably, in the Comprehensive Plan. Overall, there are directions to support economic development, resolve conflicts between commercial and residential land uses, promote healthy living, address substance abuse, crime, homelessness, and safety, and promote tourism. This proposal engages a discussion on many items. To name a handful of Comprehensive Plan Goals and Policies that give direction, please refer to section 2.1.1 Economic Growth; 2.2 Economic Goals, 2.4.1, 2.4.4, and 2.4.24 for General Land Use; 2.6.2 Encourage Commercial and Industrial Development; 2.6.5 Promote Commercial Use at Sawmill Industrial Complex; and 2.11 Health Goals. To sum, it is about balancing economic growth with high living standards, harmony of existing use, and community health. A conditional use process and the proposed standard conditions and criteria for review would be tools to mitigate any potential harm or negative impacts, while also providing mechanisms to craft conditions allowing future enforcement should issues arise.

Vesting

If the proposal is approved as presented and impacts that were not adequately addressed in this zoning text change emerged, any business that started a license marijuana activity would arguably vest its right to continue and may lead to the inability to further impose conditions to protect public health, safety, and welfare. However, any vesting issue would be limited by state, local, and other regulations that the licensed activity would have to comply with that would act as limits to the vesting of a specific marijuana

use making it conditioned upon compliance with certain regulations. In effect, even a licensed, permitted use would have conditions with which to comply.

FINDINGS

Staff suggests recommending approval of the proposed zoning text change. Any motions should be accompanied by detailed findings explaining the facts that supported the decision, and this can occur on the record through motion, discussion, and debate.

RECOMMENDATION

Staff recommends careful consideration of the information provided in the staff report, commissioner deliberation, and reflection on public comment. Staff has provided the suggested motion for recommending approval.

Recommended Motions - Two Motions: 1) Findings; and 2) Recommendation

1. Motion for Findings:

For support of the Proposed Amendment (recommend approval): Motion to approve the factual findings that the proposed zoning text change is found to adequately protect the public’s health, safety, and welfare because _____; and that each proposed use is compatible with the potential surrounding land uses; and that the proposal is consistent with the Comprehensive Plan specifically_____.

2. Motion to recommend approval of the zoning text change to the City Assembly to allow all licensed marijuana activities as conditional uses in the Central Business District (CBD), Gary Paxton Special District (GP, aka Gary Paxton Industrial Park), Industrial zoning districts (I), General Commercial (C-1), General Commercial Mobile Home (C-2), Waterfront (WD), Large Island (LI), and General Island (GI) zoning districts.