



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

Date: July 14, 2016

From: Michael Scarcelli, Senior Planner

To: Planning Commission

Re: V 16-12 Platting Variance for Minor Subdivision at 204 Jeff Davis Street

GENERAL INFORMATION

Applicant: Randy Hitchcock

Property Owner: Randy Hitchcock

Property Address: 204 Jeff Davis Street

Legal Description: Lot 17 Sheldon Jackson Campus Subdivision

Parcel ID Number: 1-8562-013

Size of Existing Lot: 17,165 square feet

Zoning: R-2

Existing Land Use: Residential

Utilities: Full city services

Access: Jeff Davis Street

Surrounding Land Use: Residential and Public

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 to approve

ATTACHMENTS

Attachment A: Vicinity Map

Attachment B: Aerial Vicinity Map

Attachment C: Parcel Pictures

Attachment D: Application

Attachment E: Proposed Plat

Attachment F: Current Plat

Attachment G: Zoning Map
Attachment H: Flood Zone Map
Attachment I: Mailing List
Attachment J: Proof of Payment
Attachment K: Proof of Ownership

BACKGROUND AND OVERVIEW OF ANALYSIS

The lot is part of the Sheldon Jackson Subdivision and has numerous plats and agreements that govern development, access, and utilities. Ultimately, these are private issues; however, due to the historic nature and the importance to the community, staff has taken great care to respect those interests. Staff has reached out to various parties and also requested the applicant do as well. In addition, the item was brought in front of the Historic Preservation Commission. The motion to recommend approval failed 3-1, with three members absent. The vote against was about concern the cemetery would be impacted. It is important to note, the subdivision does not allow further impact to the cemetery that is not already allowable without the subdivision.

Table 22.20-1, Development Standards, requires a minimum lot size of 8,000 s.f. per lot; and per Note 1, under Section 22.20.035, Notes to Table 22.20-1, the minimum lot area is net of access easements. Accordingly, this note would reduce the calculated lot size to below the required minimum, though in all other regards the lot is adequate. It is important to note, that if this exact same proposal was oriented side by side, instead of stacked up, and there was no easement, the same land use would occur, and a different outcome would result that would not require a variance. Further, the exact same building design that Mr. Hitchcock envisions, would not require a variance as long as he did not split the lot. By comparing and contrasting these alternatives, the wisdom of the net reduction is difficult to appreciate in this case. With the easement, all that is happening that is different than other locations without easements, is one parcel will have a very occasional emergency access use, and the other parcel will have the same plus a daily residential user using the same driveway.

PROJECT DESCRIPTION

The applicant is requesting a major variance from the development standards. The requested reduction is for lot B to be reduced to a net area of 5,097 s.f. (gross area of 8,401.34 s.f.); and lot A to be reduced to 5,596.87 s.f. (gross area of 8,763.82 s.f.). A variance, pursuant to Section 22.24.020 is a means to provide relief in a case where strict application would deprive a property of privileges enjoyed by others in similar zones due to unique features or constraints. A variance may be granted where it is in line with the spirit of the code, public safety and welfare secured, and substantial justice done. Findings shall comport with Section 22.30.160(D).

ANALYSIS

Project / Site: The site is subject to a 40 foot wide access and utility easement. The 2007 agreement expressly reserve the right to the grantor for parking over the easement and development of the property. In the 2007, the rights of the Grantee (CBS) the right of access is more akin to entry to effectuate the purpose of maintaining utilities than for ordinary ingress and egress. The 2009 agreement envisions access for ingress and egress and also gives rights to lots

1, 9, 12 and 13 in connection with emergency access. Utility boxes have already been placed in the second half of the access easement which would hamper ingress and egress. Otherwise, adequate open space, access, and utilities. Note: that this is a planner's opinion and not a legal opinion, and counsel from a licensed attorney is prudent.

Traffic: Driveway will be served by rear of lot B and Jeff Davis.

Parking: Two spaces are required for a single-family dwelling unit.¹ And will be able to be provided

Noise: No concerns.

Public Health or Safety: No concerns for public health and safety.

Habitat: No concerns for habitat.

Property Value or Neighborhood Harmony: In line with character of surrounding land uses.

Conformity with Comprehensive Plan: The proposal conforms to Comprehensive Plan Section 2.4.19 where it is directed to consider all relevant facts when deciding a variance. In this case, in line with Section 22.24.020, enforcing the net access easement would not lead to substantial justice and equity nor be in line with the spirit of the code; however, granting a variance would. The key factor for staff is the several alternatives that call into question the equitable application of the code in this case and the existing easements that really operate like additional setbacks by preserving open space.

FINDINGS²

D. Required Findings for [Variances](#).

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

- a. That there are special circumstances to the intended use that do not apply generally to the other properties. Special circumstances may include the shape of the parcel, the topography of the [lot](#), the size or dimensions of the parcels, the orientation or placement of existing [structures](#), or other circumstances that are outside the control of the property owner (here the existing large oversized easements and code section that reduces net area);
- b. The [variance](#) is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel; such uses may include the placement of [garages](#) or the expansion of structures that are

¹ Section 22.20.100.G.1—Off-Street Parking Requirements

² Section 22.30.160(D)

commonly constructed on other parcels in the vicinity (here alternatives would allow identical development, but for the access easements);

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

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

RECOMMENDATION

It is recommended that the Planning Commission adopt the Senior Planner's analysis and suggested findings, and approve the requested platting variance for the creation of a substandard sized lots at 204 Jeff Davis (currently described as Lot 17 Sheldon Jackson Campus Subdivision).

Recommended Motions: (two motions - read and voted upon separately)

- 1) I move to adopt as found in the staff report and approve the findings of fact that state there are special circumstances that exist, the variance is necessary to preserve the enjoyment of property rights, the granting of the variance will not be materially detrimental to the public's welfare, health, or safety or nearby parcels or infrastructure; and comports with the Comprehensive Plan by providing substantial justice and equity in line with the spirit of the law.
- 2) I move to approve the platting variance request for substandard lot sizes at 204 Jeff Davis Street, in the R-2 zone reducing the net size lot B to 5,097 s.f. and lot A to 5,596.87 s.f. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.