



CITY AND BOROUGH OF SITKA

Minutes - Final

Planning Commission

Chris Spivey, Chair
Darrell Windsor, Vice Chair
Debra Pohlman
Randy Hughey

Tuesday, September 20, 2016

7:00 PM

Harrigan Centennial Hall

I. CALL TO ORDER AND ROLL CALL

Chair Spivey called the meeting to order at 7:00 PM.

Present: Spivey, Windsor, Pohlman, Hughey
Absent: Parker Song - excused

II. CONSIDERATION OF THE AGENDA

Chair Spivey reported that items F and L had been pulled from the agenda.

III. CONSIDERATION OF THE MINUTES

A Approval of the minutes from the September 6, 2016 meeting.

Hughey/Pohlman moved to **APPROVE** the September 6, 2016 meeting minutes.
Motion **PASSED** 4-0.

IV. REPORTS

B Planning Regulations and Procedures.

V. THE EVENING BUSINESS

C Six-month review of a conditional use permit request granted 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 Terry Bartolaba. The owners of record are Gene and Terry Bartolaba.

Pierson explained the history of the request. The permit was approved in April 2016 with a condition of approval that the Commission would conduct a 6 month review to assess progress toward occupancy requirements. The speed of work has been satisfactory, and the only remaining task is to install panic doors. The Building Official has allowed the school to move into the facility. Staff recommend approval with the condition of another 6 month review.

Windsor/Pohlman moved to **APPROVE** the 6-month review of the conditional use permit granted to Terry Bartolaba for a specialized instruction school at 213 Harbor Drive, with the condition that a review will occur in 6 months to

assess progress toward occupancy. The property is also known as Lot 2 Wilmac Resubdivision. The owners of record are Gene and Terry Bartolaba.

Motion PASSED 4-0.

D

Public hearing and consideration of the final plat of a minor subdivision at 211 Shotgun Alley, zoned SFLD Single Family Low Density Residential. The subdivision would result in four lots. The property is also known as Lot 2 of Johnstone Subdivision Replat. The request is filed by Barth Hamberg. The owner of record is Barth Hamberg.

Scarcelli explained the request. Scarcelli stated that he visited the downhill property after a rain event, and the drainage system was not overflowing, although some runoff did occur. The application complies with existing subdivision codes and the Comprehensive Plan. The increase to runoff is reasonable. Staff recommend approval.

Barth Hamberg stated that his application has been covered thoroughly.

No public comment.

Scarcelli stated that Hamberg is following the code. Pohlman stated that she has problems with the findings of fact, and the covenants were to protect the downhill property. Pohlman stated concern with the findings of fact statement that the harm experienced by the downhill property is caused by the downhill owners' action.

Hughey/Windsor moved to AMEND item E in the recommended staff findings to state that the proposal "Is a reasonable use of the property and existing natural drainage system."

Motion PASSED 4-0.

Hughey/Windsor moved to APPROVE the findings of fact for the final plat for the Cedars Subdivision, subject to the attached condition of approval, for a 4 lot minor subdivision at 211 Shotgun Alley, zoned Single Family Low Density Residential. The property is currently legally described as Lot 2 of Johnstone Subdivision Replat. The request is filed by Barth Hamberg. The owner of record is Barth Hamberg. It is found that the project:

- a. Complies with all applicable zoning regulations, specifically because minimum lot size and dimensions have been met by providing lots that range from 15,029 square feet to 80,796 and on average exceed the width of 80 feet, which further the intent of the zone for less density;
- b. Complies with subdivision regulations, specifically because those criteria addressed in Section 21.40 have been surpassed, and the drainage assessment has been approved by the Municipal Engineer as compliant with the 2013 Stormwater Management Plan;
- c. Does not pose a negative impact to the public's health, safety, or welfare because the proposal as set forth in the application, final plat, recorded covenants, and drainage assessment complies with the subdivision code and it is a reasonable development of a minor subdivision;
- d. Has not caused any apparent unreasonable or substantial direct harm, and further that any potential for harm has been adequately and reasonably addressed in the drainage report, the condition of approval, existing

restrictions and covenants, and/or through development standards and permit review;

e. Is a reasonable use of the property and existing natural drainage system; and

f. Follows the objectives in the Comprehensive Plan by providing for conflict resolution, orderly development of residential land of adequate size and access without adversely impacting surrounding land uses.

Motion PASSED 4-0.

Pohlman/Windsor moved to **APPROVE** the final plat for the Cedars Subdivision, subject to the attached condition of approval, for a 4 lot minor subdivision at 211 Shotgun Alley, zoned Single Family Low Density Residential. The property is currently legally described as Lot 2 of Johnstone Subdivision Replat. The request is filed by Barth Hamberg. The owner of record is Barth Hamberg:

a. Condition of Approval: All subject lots, future sales, and development comply with recorded restrictive covenants of record that state to effect that lots shall not be further subdivided; further, the main stream shall not be filled or otherwise impacted to prevent it from flowing in a free state or would impact natural water levels of such stream; development shall be done with a trained soil scientist, hydrologist, or engineer to prevent soil wasting or erosion to insure no adverse erosion will occur to properties located below said parcel; development shall strive to maintain the natural character of the land with an effort to emphasize the natural landscape with locally appropriate flora; and all of these conditions shall run with the land.

Motion PASSED 4-0.

E

Public hearing and consideration of the final plat of a minor subdivision at 204 Jeff Davis Street, in the R-2 Multifamily Residential District. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.

Scarcelli described the request for the subdivision to result in 2 lots. The property has received a variance for substandard lot size. The property currently has a 40 foot access and utility easement, and this easement will remain after the subdivision is complete. Scarcelli showed photos of flagging. Staff recommend approval.

Randy Hitchcock stated that he believes all the information has been presented.

No public comment.

Hughey/Windsor moved to **APPROVE** the findings of fact that the final plat for a minor subdivision request for 204 Jeff Davis Street, in the R 2 zone, is not detrimental the public's health, safety, and welfare nor injurious to nearby parcels and that it complies with all applicable development standards and the comprehensive plan. The property is also known as Lot 17 Sheldon Jackson Campus Subdivision. The request is filed by Randy Hitchcock. The owner of record is Randy Hitchcock.

Motion PASSED 4-0.

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

Motion PASSED 4-0.

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

Item **PULLED** by applicant.

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

Scarcelli stated that short-term rentals on boats have had much discussion in the public process over the past year. Scarcelli stated that staff have tried to receive input from Port and Harbors, but the last meeting was cancelled due to quorum. Conditions of approval would allow Port and Harbors to have input. The harbor is on city infrastructure on ATS 15. Scarcelli stated that, during a site visit, the boat felt just like a home with full-sized appliances. Informational signs were posted. First aid supplies and an AED were available. The applicants have insurance on the vessel. Staff recommend approval.

Hughey asked about life safety issues, as concerns were previously raised for egress in tiny homes. Hughey asked specifically how the building department will evaluate the safety of bedrooms. Scarcelli stated that the building department has not devised review guidelines. Scarcelli stated that the direction from Administration, Assembly, and Port and Harbors Commission was to move forward a standard that is not too onerous on applicants. Hughey stated that he understands Scarcelli as stating that the Fire Marshal will use his best judgement in review. Scarcelli stated that is correct. Spivey stated that Coast Guard guidelines may be included in review. Spivey stated that he is somewhat uncomfortable moving forward without the item being approved by Port and Harbors. Scarcelli stated that the liveaboard status complies with Harbor regulations. Scarcelli stated that Port and Harbors does not meet in the summer, and sometimes has difficulty gathering a quorum. Pohlman stated that the boat is not a home, as it does not have windows that can be pushed out like a home. Pohlman stated that Coast Guard approval should be required. Windsor stated discomfort with approving an item with standards to come later.

Ann-Marie Parker stated that her vessel is 5 star certified by the Coast Guard, which is the highest level of safety rating. The vessel has 5 doors for escape routes. Stateroom windows do not open for water-related reasons. Parker stated they use the vessel primarily 6 months out of the year, and plan to rent to one entity at a time. Parker stated that she has not received any specific

support or opposition from other boat owners. Parker stated that they would not rent when they are out of town. Hughey stated that he believes this is a marvelous thing to try, and if this boat does not meet standards, few will.

No public comment.

Spivey stated that he does not see people staying on a boat if they aren't comfortable with boats. Spivey stated concern with the open-ended nature of building department review and review from Port and Harbors. Spivey would like the building department to use Coast Guard review. Hughey asked about Coast Guard, Fire Chief, Harbormaster, and Fire Marshal coming together to talk to the commission about safety review. Spivey stated that the building department knows building code, but we are not dealing with buildings. Scarcelli stated that he will coordinate a meeting with relevant parties regarding safety review.

Hughey/Windsor moved to POSTPONE until more information can be gathered on safety review and Port and Harbors Commission can provide input.

Motion PASSED 4-0.

Commission took a 5 minute break.

H

Public hearing and consideration of a preliminary plat of a minor subdivision on Whale Island, zoned GI General Island. The request would result in 3 lots. The property is also known as Lot 2 Tract A US Survey 3556. The request is filed by David Russell. The owner of record is John W. Williams.

Pierson described the request for a 3 lot minor subdivision on Whale Island. The lots are of sufficient size, all have ocean access, and no easements are involved. Staff recommend approval of the preliminary plat.

David Russell stated that the request is straight-forward. Pohlman clarified that Russell's reason for buying two lots is to have ease in selling in the future. Russell stated yes.

No public comment.

Spivey stated that it is cut and dry.

Pohlman/Hughey moved to APPROVE the findings 1) that the proposed minor subdivision complies with the comprehensive plan by providing for the development of additional housing options; and 2) that the minor subdivision would not be injurious to the public health, safety, and welfare.

Motion PASSED 4-0.

Pohlman/Windsor moved to APPROVE the preliminary plat of a minor subdivision of a portion of Whale Island, also known as Lot 2 Tract A US Survey 3556. This approval is contingent upon the correction of plat note one. The request is filed by David Russell. The owner of record is John W. Williams.

Motion PASSED 4-0.**I**

Public hearing and consideration of a preliminary plat of a minor subdivision on Whale Island, zoned GI General Island. The request would result in 2 lots. The property is also known as Lot 5 Tract A US Survey 3556. The request is filed by Donald and Patricia Lehman and Eric Speck. The owners of record are Donald and Patricia Lehman and Eric Speck.

Spivey stated that he knows the applicants. Commissioners did not ask him to step down.

Pierson described the request for a 2 lot minor subdivision. The proposed lots are in excess of the minimum lot size. Both lots would have ocean access. Easements are platted for utilities and beach access. Staff recommend approval of the preliminary plat.

Donald Lehmann, Patricia Lehmann, and Eric Speck made themselves available for questions.

No public comment.

Windsor/Pohlman moved to APPROVE the findings 1) that the proposed minor subdivision complies with the comprehensive plan by providing for the development of additional housing options; and 2) that the minor subdivision would not be injurious to the public health, safety, and welfare.

Motion PASSED 4-0.

Windsor/Pohlman moved to APPROVE the preliminary plat of a minor subdivision of a portion of Whale Island, also known as Lot 5 Tract A US Survey 3556. The request is filed by Donald and Patricia Lehmann and Eric Speck. The owners of record are Donald and Patricia Lehmann and Eric Speck.

Motion PASSED 4-0.**J**

Public hearing and consideration of a conditional use permit request for a daycare at 514 Halibut Point Road and 203 Lakeview Drive, in the R-1 Single Family and Duplex Residential District. The property is also known as Lots 1, 2, 30, and 31 of Lakeview Heights Subdivision. The request is filed by Emily Davis and Michelle Barker. The owner of record is First Baptist Church.

Pierson described the request for a daycare at 514 Halibut Point Road and 203 Lakeview Drive. The conditional use permit is required because the church is a legal nonconforming use, and the daycare constitutes an amendment to that use. The facility has sufficient parking and has passed a fire and life safety inspection. As the church property includes 4 lots, the parking for this permit should be tied to all 4 lots. Pierson stated that property tax and utility costs would increase for the church with the addition of this commercial use. Scarcelli stated that this approval would give a stamp of approval to the nonconforming use of the church.

Michelle Barker stated that she is the new owner of Pacific Learning Center. Barker stated that PLC is committed to absorbing the costs of increased tax and utility bills. Enrollment is currently 24.

No public comment.

Spivey stated that he can't think of a better place for this use.

Pohlman/Hughey moved to APPROVE the findings that the proposed conditional use as conditioned: 1) would not be detrimental to the public's health, safety, or welfare because traffic, parking, licensing, and occupancy requirements have been met; 2) complies with the Sitka General Code by seeking a non-conforming use permit for a pre-existing non-conforming use; and 3) complies with the Comprehensive Plan section 2.1.12 supporting "access to high-quality education at all levels" by continuing the operations of a daycare facility to serve the developmental and educational needs of Sitka's youngest residents.

Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare;
 - b. Adversely affect the established character of the surrounding vicinity; nor
 - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. **Burden of Proof.** The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible

- or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
 3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
 4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
 5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

Motion PASSED 4-0.

Pohlman/Windsor moved to **APPROVE** the conditional use permit request filed for a daycare at 514 Halibut Point Road and 203 Lakeview Drive subject to conditions of approval. The property is also known as Lots 1, 2, 30, and 31 of Lakeview Heights Subdivision. The request is filed by Emily Davis and Michelle Barker. The owner of record is First Baptist Church.

Conditions of Approval:

1. The facility shall be operated consistent with the application and plans that were submitted with the request.
2. The facility shall be operated in accordance with the narrative that was submitted with the application.
3. The Planning Commission, at its discretion, may schedule a public hearing at any time to mitigate any identified adverse impacts on public's health, safety, and welfare.
4. Failure to comply with all applicable tax laws, including but not limited to remittance of all sales tax, shall be grounds for revocation of the conditional use permit.
5. Failure to comply with any of the above conditions may result in revocation of the conditional use permit.
6. The property owner shall update the sales account prior to the Conditional Use Permit becoming valid.
7. Parking must be maintained, and is tied to Lots 1, 2, 30, and 31 of Lakeview Heights Subdivision.

Motion PASSED 4-0.

K

Public hearing and consideration of a conditional use permit for a short-term rental and bed and breakfast at 1948 Dodge Circle, in the R-1 Single Family and Duplex Residential District. The property is also known as Lot 2 of Dodge Circle Estates. The request is filed by Brock and Patricia Bauder. The owners of record are Brock and Patricia Bauder.

Spivey stated that he has a business relationship with the applicants. The commission allowed him to participate and vote on the item.

Scarcelli described the request. The property will operate as a short term rental

at some times and a bed and breakfast at other times. Staff is in support. Scarcelli read an email of support from Laurinda Marcello, and emails of concern from Lynne Ciolli and Mary Todd Andersen.

Spivey asked how many homes use the access easement. Scarcelli stated that three lots use the easement. Hughey wanted be sure that the short-term rental and bed and breakfast would not be operated simultaneously. Scarcelli stated that this is simply packaging the two conditional use permits in one process. Hughey stated that with 4 beds and 3 baths, 3 short term rentals could operate at once. Scarcelli stated that a short-term rental is rented to one entity.

Patricia Bauder thanked staff for their work. Bauder stated that she understands neighbor's concerns for traffic; however, this will result in less traffic than when they had 3 teenagers at home. They previously had 4 cars. Spivey asked about easement maintenance. Bauder stated that there is no formal agreement, but they and neighbors put their own money into repairs.

Mary Todd Andersen from 1937 Dodge Circle stated that the road is in horrible shape, and 5 new neighbors have recently moved in. People regularly park on the knoll. There are a lot of bears in the neighborhood. There are a lot of children in the neighborhood, and traffic is dangerous. Andersen stated that the road was never meant to have so many side easements.

Scarcelli stated that an informational overview could help potential renters to safely access the property. Scarcelli stated that a condition of approval is that review can occur upon meritorious complaint.

Spivey sees concerns for parking; however, concerns are related to parking unrelated to the applicant. Spivey asked how staff will determine if traffic is due to this use or other uses. Scarcelli stated that staff would investigate upon receipt of complaints. Scarcelli stated that the Bauders would need to keep track of nights rented, and staff could compare those notes to the complaints. Windsor stated that he does not see someone parking on Dodge Circle and walking up to this property. Hughey stated that there is adequate space for parking and turning around. Hughey does not see this use as the straw that breaks the camel's back. Pohlman stated concern for late notification mailings. Scarcelli stated that staff followed the normal procedure, but the commission could pursue a change in procedure. Pohlman asked about snowy conditions on Dodge Circle. Windsor stated that he could see that some residents might park on Dodge Circle when it is icy.

Mary Todd Andersen stated that the road is very dangerous when icy, and people do park on Dodge Circle.

Patricia Bauder stated that the McClouds and Bauders share responsibility for plowing their easement. Bauder stated that trees provide protection from sliding downhill.

Spivey stated that he would be surprised if the property was rented out when weather is snowy and icy.

Hughey/Windsor moved to **APPROVE** the required findings for conditional use permits as discussed in the staff report.

Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare;
 - b. Adversely affect the established character of the surrounding vicinity; nor
 - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. **Burden of Proof.** The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;

5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

Conclusion on Findings: The required findings of fact have been met as the conditional use as conditioned would not be detrimental to the public's health, safety, or welfare; that the conditions of approval have satisfactorily mitigated any potential harm or impact to the surrounding land uses and properties through the conditions of approval, by meeting all applicable SGC regulations, and by being in support of the Comprehensive Plan regarding transient housing supply.

Motion PASSED 4-0.

Hughey/Pohlman moved to **APPROVE** the conditional use permit application for a short term rental and bed and breakfast at 1948 Dodge Circle, in the R 1 single family and duplex residential district. The property is also known as Lot 2 Dodge Circle Estates. The request is filed by Brock and Patricia Bauder. The owners of record are Brock and Patricia Bauder.

Conditions of Approval:

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

Motion PASSED 4-0.

L

Public hearing and consideration of a variance request for 1415 Davidoff Street in the R-1 Single Family and Duplex Residential District. The request is for the reduction of the front setback from 20 feet to 2 feet, the reduction of the easterly side setback from 8 feet to 2 feet, and substandard lot width. The property is also known as Lot 3 of Clyde Franks Subdivision. The request is filed by Sam Smith. The owner of record is Venneberg Family Trust.

Item PULLED by applicant.

M

Public hearing and consideration of a variance request for 702 Etolin Street in the R-1 Single Family and Duplex Residential District. The request is for the reduction of the side setback from 5 feet to 4 feet, the rear setback from 10 feet to 4 feet, the front setback from 20 feet to 5 feet, substandard lot size, and substandard lot width. The property is also known as a Portion of Lot 7 Block 13 of Sitka Townsite, US Survey 1474. The request is filed by Justin Olbrych. The owners of record are Justin Olbrych and Willow Moore-Olbrych.

Scarcelli reviewed the variance request. The lot is constrained by small lot size and a public infrastructure. Without the large utility easement through the middle of the lot, the applicant would be able to build within setbacks. Staff support approval. Pohlman asked about the fence issue raised by the adjacent property owner. Scarcelli stated that a condition of approval of the conditional use permit item could address this concern; however, the applicant makes the case that the fence involves 700 Etolin, not 702 Etolin. Scarcelli read 5 letters of support. Scarcelli stated that 1 letter of concern was included in the packet.

Justin Olbrych stated that the sewer line was unrecorded and they didn't know when they bought the property. Olbrych stated that the city has offered to buy an easement for \$20,000. Olbrych stated that he sees the project as an investment in his neighborhood. Spivey asked if staff have discussed the neighbor issues with him. Olbrych stated that they have. Hughey asked about style. Olbrych stated that he plans to use yellow cedar. Hughey stated that he thinks Olbrych does nice work.

Wendy Alderson stated that Olbrych worked on 409 Degroff and it cheered up the Degroff neighborhood. Alderson stated that Olbrych has a good sense of aesthetic. Alderson stated that Olbrych and his wife are good neighbors, and there is a lot of support for the Olbrych family in the neighborhood.

Nancy Yaw Davis stated that her concerns are legitimate. Davis stated that a cement property marker was moved, and Olbrych's fence bulges over Dog Creek. Davis stated that she has been intimidated while taking steps to address trespassing. Davis stated that the variances are too close to her property, and Olbrych has dumped trash and feces on her property. Spivey called point of order.

Hughey thinks it is a good project, and it's a relatively high density neighborhood. Spivey stated the property was a mess, and Olbrych is attempting to clean it up and do the best with what he has.

Pohlman/Hughey moved to APPROVE the required findings for major structures or expansions as discussed in the staff report.

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, specifically, the legally subdivided lot is below existing development standards in regards to width, size, and has infrastructure running diagonally through the property constraining development;
- 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, because here there is the inability to build in the middle of the lot

due to municipal infrastructure, and but for that, the property could have been developed with similar structures;

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, specifically, that the proposed structures and existing lot size would be inline with character of the neighborhood; and

d) That the granting of such will not adversely affect the Comprehensive Plan: specifically, the proposed variance for the reduction of the front setback from 20 feet to 5 feet, the rear setback reduced from 10 to 4, the easterly side setback from 5 feet to 4 feet, and the variance from standard lot width and size conforms to the Comprehensive Plan Section 2.4.19(A) by considering all the relevant factors for applying a variance.

Motion PASSED 4-0.

Pohlman/Windsor moved to APPROVE the variance request for 702 Etolin subject to condition of approval. The variance is to grant the variance from standard lot size and width, and the reduction of the front setback from 20 feet to 5 feet, the easterly side setback from 5 feet to 4 feet, and the reduction of the rear setback from 10 feet to 4 feet for the construction of a house and detached accessory dwelling unit above a garage.. The property is also known as Pt. Lot 7, Block 13 USS 1474. The request is filed by Justin Olbrych. The owners of record are Justin and Willow Olbrych.

a. That the existing rear 10 foot wide drainage easement running parallel to rear property line is vacated.

Motion PASSED 4-0.

N

Public hearing and consideration of a conditional use permit application for an accessory dwelling unit at 702 Etolin Street, in the R-1 Single Family and Duplex Residential District. The property is also known as a Portion of Lot 7 Block 13 of Sitka Townsite, US Survey 1474. The request is filed by Justin Olbrych. The owners of record are Justin Olbrych and Willow Moore-Olbrych.

Scarcelli explained the conditional use permit request for an accessory dwelling unit. In the R-1 zone, a CUP is required for an ADU when variances are involved. Staff recommend approval.

Justin Olbrych stated that they may not build all the way to the setback variances granted.

Spivey stated it is a high density spot, and parking is available.

Hughey/Pohlman moved to APPROVE the required findings for conditional use permits for accessory dwelling units as discussed in the staff report.

Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare;

- b. Adversely affect the established character of the surrounding vicinity; nor
- c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
- 2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation.
- 3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
- 4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.
- 5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
- 6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

- 1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
- 2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
- 3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
- 4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
- 5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

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

Comprehensive Plan sections regarding ADUs and variances, and affordable housing while protecting the character of the neighborhood and the public's health, safety, and welfare.

Motion PASSED 4-0.

Hughey/Pohlman moved to APPROVE the conditional use permit request for 702 Etolin subject to the attached conditions of approval. The conditional use permit is to grant a detached accessory dwelling unit above a garage that required a variance. The property is also known as Pt. Lot 7, Block 13 USS 1474. The request is filed by Justin Olbrych. The owners of record are Justin and Willow Olbrych.

a. Conditions of Approval:

- i. Applicant specifically acknowledges and shall follow all applicable development standards and zoning regulations such as required parking and height limits for structures;
- ii. ADU shall be no greater than 800 square feet, comply with setbacks as proposed on site and approved by variance, and shall meet all applicable building codes regarding dwelling units;
- iii. Applicant does not impede, damage, or encroach upon any existing or future easements or municipal infrastructure.

Motion PASSED 4-0.

VI. PLANNING DIRECTOR'S REPORT

Scarcelli reported that staff would continue working on concerns related to short-term rentals on boats. Scarcelli reported that staff is working on a grant application for Smart Growth America technical assistance. Pierson stated that the next two meetings would be held on Wednesdays: October 5 and October 19. Spivey stated his preference for holding comprehensive plan meetings at Centennial Hall, although he liked the setup of the meeting at Sheldon Jackson Campus.

VII. PUBLIC BUSINESS FROM THE FLOOR

Richard Parmelee stated that he had submitted an application for the vacant seat on the Commission.

VIII. ADJOURNMENT

Windsor/Pohlman moved to ADJOURN at 9:52 PM.

Motion PASSED 4-0.

ATTEST: _____
Samantha Pierson, Planner I