



CITY AND BOROUGH OF SITKA

Minutes - Draft

Planning Commission

Chris Spivey, Chair
Darrell Windsor, Vice Chair
Randy Hughey
Richard Parmelee
Taylor Colvin

Tuesday, August 15, 2017

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, Hughey, Parmelee, Colvin, Bean (Assembly liaison alternate)

Absent: Knox (Assembly liaison) - excused

II. CONSIDERATION OF THE AGENDA

III. CONSIDERATION OF THE MINUTES

A [PM-29](#) Approval of the August 1, 2017 meeting minutes.

Hughey/Windsor moved to **APPROVE** the August 1, 2017 meeting minutes.
Motion **PASSED 5-0**.

IV. PERSONS TO BE HEARD

No public comment.

V. PLANNING DIRECTOR'S REPORT

B [MISC 17-25](#) Director's Report - August 15

Planning and Community Development Department Director Michael Scarcelli reported on the August 2017 Economic Trends Newsletter, sharing that Sitka is seeing a slight increase in rental cost rates and a slight decrease in rental vacancy rates. Scarcelli reported that staff have looked at Sitka General Code 22.20.130 regarding large domestic animals, small domestic animals, and residential zoning. Staff intend to bring a code amendment forward at a later date to remedy issues with this current code. Scarcelli shared a draft site and floor plan document to guide applicants in preparing thorough applications. Windsor asked about the 7% rent increase, and Scarcelli clarified that the increase is from the previous year and includes utilities.

VI. THE EVENING BUSINESS

- C** [CUP 17-19](#) Public hearing and consideration of a conditional use permit request for up to 20 fowl housed outside at 2101 Sawmill Creek Road in the R-1 LDMH single-family low density manufactured home district. The property is also known as Lot 1 Anna Peterson Subdivision. The request is filed by Kathryn Petraborg. The owner of record is Kathryn Petraborg.

Scarcelli described the property and request for 20 fowl. Staff recommend that the Planning Commission postpone this item until February 20, 2017 because code does not give a specific path forward for the small animal conditional use permit. In the meantime, staff would work toward drafting a code amendment.

Spivey and Windsor stated that there should be discussion. Scarcelli clarified that Sitka General Code 22.20.130 does not allow for a small animal conditional use permit. Spivey stated that he doesn't see where a conditional use permit is prohibited for small animals. Scarcelli stated that he agrees, but the Municipal Attorney interprets this code strictly as not allowing for a small animal conditional use permit. Scarcelli stated that we can agree that this code section isn't clear, and Windsor stated agreement. Windsor stated that it is reasonable to wait until staff have better code with which to work. Spivey stated that he wants to clarify that if the item is postponed, the applicants will not be forced to get rid of their animals. Scarcelli stated that enforcement action could be taken, but it's not high on his enforcement priority list.

Hughey/Parmelee moved to POSTPONE until February 20, 2018 consideration of the conditional use permit application for up to 20 fowl housed outside at 2101 Sawmill Creek Road to allow for potential Sitka General Code amendment to clarify regulations for animals on residential properties. The property is also known as Lot 1 Anna Peterson Subdivision. The request is filed by Kathryn Petraborg. The owner of record is Kathryn Petraborg. Motion PASSED 5-0.

- D** [CUP 17-16](#) Public hearing and consideration of a conditional use permit request for a one-bedroom bed and breakfast at 2101 Sawmill Creek Road in the R-1 LDMH single-family low density manufactured home district. The property is also known as Lot 1 Anna Peterson Subdivision. The request is filed by Kathryn Petraborg. The owner of record is Kathryn Petraborg

Planner I Samantha Pierson described the request for one-bedroom bed and breakfast. The lot is large and has buffers and sufficient parking. The owners will occupy the home, so the rental will not detract from the long-term housing market. Pierson stated that staff recommend approval. Scarcelli stated that conditions of approval can mitigate any concerns.

Kate Petraborg and Ken DesRosiers stated that Mike has been good to work with on this.

Spivey stated that the application is straight-forward. Scarcelli stated this use should not impact rental rates since the owners will occupy the house, the unit will not leave the long-term housing market, and the rental will only provide

supplemental income. Windsor asked about Airbnb. Scarcelli stated that Airbnb is a website with which to market rental units. Scarcelli stated that city code distinguishes between bed and breakfasts and short-term rentals.

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

1. ...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, specifically, the property has on-site parking and foliage buffers.
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, specifically, conforms to Comprehensive Plan Section 2.6.2(K), which supports facilities to accommodate visitors that do not impact surrounding residential neighborhoods any more than typical residential uses.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically, through the provision of a rental overview.

Motion PASSED 5-0.

Windsor/Hughey moved to APPROVE the conditional use permit application for a one-bedroom bed and breakfast at 2101 Sawmill Creek Road subject to the attached conditions of approval. The property is also known as Lot 1 Anna Peterson Subdivision. The request is filed by Kathryn Petraborg. The owner of record is Kathryn Petraborg.

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. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.
8. To mitigate against the risk and impact of bears from the short term rental, the property owner shall assure all trash is deposited in trash receptacles that are stored in bear proof areas (whether enclosed garage or other bear proof area) and only placed on street for collection after 4am on trash collection day. Should this condition not be followed the CUP shall be revoked.
9. To mitigate against parking and traffic impacts, property owner shall provide detailed parking and traffic rules, and shall ensure all parking for all uses

(residential or short-term rental) shall occur off-street, on-site and further that should on-street parking occur at any time, the conditional use permit shall be revoked.

10. The property owner shall communicate to renters that a violation of these conditions of approval will be grounds for eviction of the short-term renters.

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

12. The concerns for small animals housed outside are remedied within 6 months through code amendment, conditional use permit, or other appropriate means.

Motion PASSED 5-0.

E [CUP 17-17](#)

Public hearing and consideration of a conditional use permit request for a short-term rental at 1605 Davidoff Street in the R-1 single family and duplex residential district. The property is also known as Lot 3 Block 9 US Survey 3303B. The request is filed by Dan Keck. The owner of record is Keck Living Trust.

Spivey stated that he has had business relations with the family but it does not concern this project.

Pierson described the request. The lot is in excess of square footage requirements. The structure is technically a duplex, with the primary unit on the second story and garage and apartment on the first story. The property has historically been used as a bed and breakfast with tax remitted, although staff did not find a conditional use permit for the property. The request is to allow the short-term rental of the downstairs apartment while the owner is out of town. A rental overview should be provided to include safe access to the property. Pierson stated that two other short-term rentals are on Davidoff Street. Staff recommend approval of the request.

Dan Keck stated that the staff report is tremendous.

No public comment.

Spivey stated concern that there are 3 short-term rentals on Davidoff Street, and stated that perhaps that should be the neighborhood's maximum. Parmelee stated that the unit is already being used as rental.

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

1. ...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, specifically, the property has on-site parking and buffers.
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, specifically, conforms to Comprehensive Plan Section 2.6.2(K), which supports facilities to accommodate visitors that do not impact surrounding residential neighborhoods any more than typical residential uses.

3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically, through the provision of a rental overview.

Motion PASSED 5-0.

Hughey/Windsor moved to **APPROVE** the conditional use permit application for a short term rental at 1605 Davidoff Street subject to the attached conditions of approval. The property is also known as Lot 3 Block 9 US Survey 3303B. The request is filed by Dan Keck. The owner of record is Keck Family Trust.

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. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.
8. To mitigate against the risk and impact of bears from the short term rental, the property owner shall assure all trash is deposited in trash receptacles that are stored in bear proof areas (whether enclosed garage or other bear proof area) and only placed on street for collection after 4am on trash collection day. Should this condition not be followed the CUP shall be revoked.
9. To mitigate against parking and traffic impacts, property owner shall provide detailed parking and traffic rules, and shall ensure all parking for all uses (residential or short-term rental) shall occur off-street, on-site and further that should on-street parking occur at any time, the conditional use permit shall be revoked.
10. The property owner shall communicate to renters that a violation of these conditions of approval will be grounds for eviction of the short-term renters.
11. Failure to comply with any of the above conditions may result in revocation of the conditional use permit.

Motion PASSED 5-0.

F [VAR 17-12](#)

Public hearing and consideration of a variance request filed for 815 Lake Street in the R-1 single family and duplex residential district. The request is for a reduction in the side setback from 8 feet to 3 feet and the rear setback from 10 feet to 5 feet for the construction of a garage. The property is also known as Lot 5 Block 11 Amended Plat Sirstad Addition No. 2. The request is filed by Serena Wild. The owners of record are Mary Jo Lord-Wild and James Wild.

Pierson described the request. A house is situated on the lot, and the applicant

seeks to construct a garage toward the rear corner of the lot. The lot is in excess of square footage requirements. Two sheds are currently situated where the garage would be constructed. Pierson stated that the proposal could be reconfigured to fit within setbacks, and staff recommend denial of the variance request. Scarcelli stated that lot tapering creates somewhat of a constraint. Scarcelli stated that the Planning Commission could choose to grant a modified variance, but cautioned against granting a variance within 5 feet of the property line. Windsor asked if a modification could be made tonight, and Scarcelli stated yes.

Serena Wild stated that they are open to modification. Hughey stated that it looks like a vehicle could pass through if the setbacks were modified to 8 feet on the rear and 5 feet on the sides. Parmelee asked about the minimum possible size and Wild stated that she didn't know of the minimum. Wild stated that the garage is intended to facilitate work on a 18 foot by 8 foot boat.

No public comment.

Spivey stated support for a friendly amendment to grant a modified setback.

Hughey/Windsor 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, here, that the house is pre-existing and the location limits development of allowed accessory structures;**
- 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, here, the development of covered parking;**
- 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 structure will be located away from the visibility of pedestrians and motorists; and**
- d) That the granting of such will not adversely affect the Comprehensive Plan: specifically, the variance is in line with Comprehensive Plan Section 2.4.1 which states, "To guide the orderly and efficient use of private and public land in a manner which maintains a small-town atmosphere, encourages a rural lifestyle, recognizes the natural environment, and enhances the quality of life for present and future generations," by allowing for the development of covered parking on a residential lot.**

Motion PASSED 5-0.

Hughey/Windsor moved to APPROVE the variance request for the reduction of the side setback from 8 feet to 5 feet and the rear setback from 10 feet to 8 feet for the construction of a garage at 815 Lake Street. The property is also known as Lot 5 Block 11 Amended Plat of Sirstad Addition No. 2. The request is filed by Serena Wild. The owners of record are Mary Jo Lord-Wild and James Wild. Motion PASSED 5-0.

G [CUP 17-18](#)

Public hearing and consideration of a conditional use permit request for marijuana cultivation at 4500 Sawmill Creek Road in the Gary Paxton Industrial Park. The property is also known as Lot 5 Sawmill Cove Industrial

Park Subdivision No.1. The request is filed by Green Leaf, Inc. The owner of record is Starwest Alaska, LLC.

Scarcelli gave an overview of the code change process that determined potential zoning for marijuana businesses. Gary Paxton Industrial Park Board recommended against allowing marijuana business at the Park, but the Marijuana Advisory Board and Planning Commission recommended that marijuana conditional use permits be allowed at GPIP. The Assembly passed the ordinance authorizing the existing zoning for marijuana business. Scarcelli reviewed the site plan and proposed operations plan. The application addresses odors, diversion, security, and staff training. Staff does not believe that the use would be incompatible with neighboring properties. Staff would like to see a detailed parking plan and site plan. Scarcelli stated concern that the building is large and recommended a condition that the Sitka Police Department approve the security plan. Scarcelli stated that the community has received the benefit of tax revenue from marijuana businesses. Scarcelli stated that there are no known sensitive uses in the 500 foot buffer zone, but the burden is on the applicant. Scarcelli recommended that the request be postponed until a more detailed site and floor plan can be provided.

Windsor asked about electrical usage. Scarcelli asked the applicant if he has been working with Electric Utility Director Bryan Bertacchi, and Aaron Bean stated yes. Windsor asked what is not detailed in the submitted site plan. Scarcelli stated that the plan needs to be to scale and needs to show how the proposed cultivation area fits in with the larger building and property. Hughey asked why GPIP was against marijuana, and Scarcelli stated that he did not know but the Assembly's decision is binding. Scarcelli cited 22.30.160 as stating that the burden is upon the applicant. Windsor asked why this wasn't caught during the application process before coming to the Commission for a postponement, and Scarcelli stated that the department has a quick turnaround. Parmelee asked who has the last word on this decision. Scarcelli stated that the Assembly had the last word on the legislative action in determining the zoning code amendment. Scarcelli stated that the Planning Commission has the last word on conditional use permit so long as appeals are not filed. Scarcelli stated that he would like to take the application to the Gary Paxton Industrial Park Board meeting.

Aaron Bean represented Green Leaf, Inc. Windsor asked if the postponement would slow down his state application, and Bean stated that the state board is now only meeting every other month. Bean stated that city staff's request for additional site plan information will also be required by the state. Bean stated that the public protest period ends August 20, and if the application is approved at this meeting, he could be on the state Alcohol and Marijuana Control Board's September agenda. Bean requested approval with the condition that staff approve the scaled site and floor plan. Bean stated that he has done due diligence on buffer requirements. Bean stated that he will not be changing occupancy rating initially, and he will provide 15 parking spaces. Bean stated that he has given the Police Department access to the facility's security monitoring system. Bean stated that the 8500 square feet is just the flowering area. Hughey asked about the timeline for Bean's site plan development, and Bean stated that

he will submit that by August 19th. Hughey asked about employment, and Bean stated that 11 new employees will be hired. Windsor asked if marijuana can be shipped out, and Bean stated that they have product in Fairbanks, Ketchikan, and Juneau. Scarcelli asked about the total square footage, and Bean stated that he would have the information to Scarcelli by the end of the week. Colvin clarified that Green Leaf will be the only business in the building, and Bean stated that he will be the only business in the building with intentions of expanding in the future. Bean stated that he may sublease portions in the building in the future. Hughey asked about the lease, and Bean stated that they will be paying 6% of gross after state excise tax. Scarcelli stated that he has a thorough understanding of the site, so he is open to the request to grant approval contingent upon staff approval of the detailed site and floor plan.

Richard Wein asked about the owner of record and the reuse or disposal of bottling equipment. Scarcelli clarified that Starwest LLC owns the property and building. Bean stated that there are pending negotiations with other bottling companies who wish to buy the equipment. Bean stated that the equipment has been inventoried and will be moved out during upcoming weeks.

Windsor stated support for allowing staff to approve the site and floor plans so the applicant can move forward with the state application. Scarcelli recommended a condition of approval that the site plan be approved by staff.

Windsor/Hughey moved to APPROVE findings that that the zoning code has been followed, that the comprehensive plan has consulted, and that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval for the proposed marijuana cultivation conditional use. Motion PASSED 5-0.

Windsor/Hughey moved to APPROVE the conditional use permit request for a marijuana cultivation facility at 4500 Sawmill Creek Road, in the Gary Paxton Industrial Park. The property is also known as Lot 5 Sawmill Cove Industrial Park Subdivision No. 1. The request is filed by Green Leaf, Inc. The owner of record is Starwest Alaska, LLC.

Conditions of Approval:

- 1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.**
- 2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.**
- 3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshal or their designee and the Building Official.**
- 4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.**
- 5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.**
- 6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish and associated municipal license or conditional use permit.**
- 7. All approved conditional use permits shall comply with all Sitka General**

Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit

8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including number of required parking and loading spaces to be approved by the Planning Director.

9. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. Should a meritorious odor complaint be received, the Planning Commission may require additional odor control measures to mitigate any actual negative impacts, such as additional advanced odor filtration systems.

10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. The permittee shall report, annually, to the planning commission on gross sales, sales tax amounts, electrical consumption, number of employees, hours of operation, complaints, police or other law or regulation enforcement activity, and summary of operations.

12. The permit is subject to review should there be a meritorious complaint, impact to public health safety or welfare, or violation of a condition of approval. The review may occur at the discretion of the Planning Director or by motion of the Planning Commission to address meritorious issues or complaints that may arise. During this review, based on the evidence provided, existing code and conditions of approval, the permit may be amended or revoked to address impacts to public health, safety, and welfare.

13. Prior to operation, the Sitka Police Department shall approve the security features as being reasonable security measures as outlined in the proposed operating plan submitted by applicant.

14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.

15. The applicant will provide a scaled site, floor, and parking plan to be reviewed for approval by staff.

Motion PASSED 5-0.

VII. ADJOURNMENT

Spivey adjourned at 8:25 PM

ATTEST: _____

Samantha Pierson, Planner I