

# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

### Planning and Community Development Department

Case No:	CU 18-06
Proposal:	Commercial Day Use Lodge and Accompanying Facilities
Applicant:	Allen Marine Tours, LLC and Misty Fjords Charters, LLC
Owner:	Misty Fjords Charters, LLC
Location:	NW Finn Island
Legal Desc.:	Lot 6, US Survey 3926
Zone:	General Island
Size:	approx. 4.46 acres
Parcel ID:	49170000
Existing Use:	Residential/Recreational
Adjacent Use:	Residential/Recreational, Undeveloped
Utilities:	Private: Generator, Septic, Water Catchment System
Access:	Water - no current dock or permit/lease

### **KEY POINTS AND CONCERNS:**

- Impacts to neighbors/public noise, boat traffic, moorage/dock
  - $\circ~$  Hours of Operation up to 6 tours, 60 people each and 6 am to 5pm
- Flood Elevation V zone: Building, water, and wastewater requirements
  - o Building and systems will need to be engineered.
- No proof there is adequate and legally approved moorage or commercial dock US Corps of Engineers, Alaska DNR, CBS Building Department
  - Beach Landing Impacts
- Required Permits and Design for water, waste water with DEC
- All life and safety regulations and building code must be followed

### **RECOMMENDATION:**

It is recommended that the Planning Commission adopt staff's analysis and findings as found in the written staff report and approve the conditional use permit subject to the attached conditions of approval. Further, it is conditioned that all of the material public health and safety conditions regarding potable water, building life and safety requirements (including and especially building in V zones), septic or wastewater system, and any state and federal requirements for the dock, water, or wastewater occur prior to occupancy.

#### **BACKGROUND**

Finn Island is adjacent to Kasiana Island. Finn Island is zoned General Island and it is subdivided into two lots. The proposed location for this permit is lot 6 of US Survey 3926, which is approximately 4.46 acres. A subdivided General Island property requires a conditional use permit for a lodge and associated facilities (such as a dock), whereas an unsubdivided General Island lot could host a lodge as a matter of right (see table 22.16.015-1).

The property has received a demolition permit to remove all existing structures.

Kasiana had a rock quarry CUP denied in 2010 and approved in 1994. No other known conditional uses are within the area.

The General Island district is intended to replace the open general district. One of its goals is to protect the residential character of small subdivided islands while providing for commercial uses on small unsubdivided islands (6 lots or less).<sup>1</sup> In this case, while the island is subdivided it only shares it with 1 other owner (mental health trust).

The intent of code for Island Conditional Use Permits<sup>2</sup> is to recognize the unique qualities and substantial differences that exist between individual islands and island groups. Such uses may be appropriate where they are well designed, have low impact, built on larger lots away from exterior property lines, placed in the middle of parcels, do not materially increase activity on easements or moorage, and there is sufficient buffering otherwise the use may not be inappropriate. **If adequate mitigation cannot be accomplished or items such as necessary infrastructure are not available, applications may be denied.**"

#### **PROJECT DESCRIPTION**

The request is to approve the concept and conditional use permit subject to fulfilling all conditions of approval prior to occupancy.

The proposal is for a "commercial use day lodge and accompanying facilities." This would occupy lot 6 of US Survey 3926. The lot is approximately 4.46 acres in size. The other lot on Finn Island is over 6 acres and is owned by the Alaska Mental Health Trust.

The commercial day use lodge would include a 20'x80' (1,600 s.f.) main hall/room with 4 12' large window/doors, with an attached 45'x20' (900 s.f.) support facility that would house the kitchen,

<sup>&</sup>lt;sup>1</sup> Sitka General Code 22.16.120 GI general island district

<sup>&</sup>lt;sup>2</sup> Sitka General Code 22.24.010.F

bathrooms (including ADA), kitchen, and dressing room. The main building plans show an additional 20' x80' deck off the main hall, and a 10' x20' deck off the support structure.

Proposed hours of operation would be up to 6am to 5pm, with up to 6 tours at 60 people each, though there may be smaller zodiaks, too. Staff would include 5-7 employees including 1-2 full-time caretakers.

The tours would focus on a two part package: wildlife viewing plus island lodge dining experience. In addition, the grounds (beachcombing, etc.) would be part of the package. The site would also be used for events, weddings, etc.

The proposal includes either beach landing and/or temporary seasonal dock.

All required dock, water, wastewater, and building permits are pending and need to be initiated.

#### ANALYSIS

# 1. ITEMS TO BE CONSIDERED IN EVALUATING ISLAND CONDITIONAL USE PERMITS INCLUDE, <u>BUT ARE NOT LIMITED TO</u>: <sup>3</sup>

**a.** Location on the lot or island: NW area of Finn Island. Lot 6 of subdivided US Survey 3926. Adjacent to Kasiana.

**b.** Generation of noise: Tours, parties, events, boat traffic, and unloading could create noise for adjacent island.

**c. Numbers of guests and employees:** Up to 6 tours daily, up to 60 per tour, 5-7 staff and 1-2 FTE caretakers.

d. Visibility from adjacent uses including waterborne traffic: It appears that it would be visible.

e. Use of common access easements: None proposed at this time.

**f. Availability of necessary moorage:** Will need to receive and design proper dock and get all necessary permits.

g. Use of natural or manmade screening or buffers: Natural foliage provides some buffering and screening.

<sup>&</sup>lt;sup>3</sup> Sitka General Code 22.24.010(F)

#### h. Availability of municipal power: No

**i. Distance from adjacent parcels or islands:** Closest point is about 450 linear feet away. Most of the island is over 675 feet away, and most of the proposed structures are over a 750 feet from any structure on Kasiana Island.

**j. Removal of excessive amounts of vegetation:** Property is already developed. No additional vegetation clearing is proposed at this time.

# Additional Criteria Taken from Review of Impacts, Provided Documentations or Lack Thereof, and Comments Received.

- 1. <u>Septic System</u>: Wastewater system could have impacts to the health and safety of occupants and adjacent properties. A proper septic or wastewater system will need to be approved by the DEC.
- 2. <u>Potable Water</u>: The potable water system could have impacts to the health and safety of occupants. An approved water catchment system will need to be approved and completed prior to occupancy by the DEC.
- 3. <u>Building Requirements/ V Zone:</u> The property is within a V zone and will need to engineer their structures, water system, and waste water system to account for the increased building and design requirements.
- 4. <u>Dock:</u> repeated beach landing could be impactful to the environment. A temporary seasonal dock or permanent dock will be required and will need to have all necessary local, state, and federal permits (ADNR, USACE) prior to occupancy.
- 5. <u>Kasiana Island</u>: The proposed use could impact the low density, remote, small island residential character of Kasiana.
- 6. <u>Past Precedent:</u> recently approved Middle Island Lodge (different scale and use schedule).

4

#### **FINDINGS<sup>4</sup>**

The Sitka General Code states required findings for conditional use permits at SGC 22.30.160(C). The section also presents an overview of the scope of approval or denial including criteria to consider, modification as well as examples of types of modifications and conditions. In addition it establishes the burden of proof. Further, SGC Sections 22.24.010(E)(1) &(F) further provide general criteria for consideration for evaluation of conditional use permits (Subsection F is unique to small island properties). Please see above in staff report for analysis of those criteria and concerns.

It can be found that:

- 1. As presented, the applicant has not met their required burden of proof, but as modified and conditioned it can be shown that the project would:
  - a. comply with the Comprehensive plan,
  - b. comply with all applicable codes and regulations, and not negatively impact the public's health, safety, and welfare.
- 2. As **modified** by the attached conditions of approval, if the applicant completes those, it can be found the applicant **would meet their burden of proof** regarding all applicable approval criteria.
- 3. As **modified** by the attached conditions of approval, the proposed development would not be detrimental to the public's health, safety, and welfare.
- 4. As **modified** by the attached conditions of approval, the proposed development would not adversely affect established character of the surrounding vicinity.
- 5. As **modified** by the attached conditions of approval, the proposed development would not be injurious to the uses, property, or improvements adjacent to and in the vicinity of the proposed development.
- 6. As **modified** by the attached conditions of approval, the proposed development is consistent and comports with the Comprehensive Plan's goals, objectives, and policies, specifically various goals and objectives that support accommodation for visitors, promote economic development, direct balancing different uses through conditions, and protection of the public's health, safety and welfare.
- 7. As **modified** by the attached conditions of approval, all conditions necessary to lessen any impacts are conditions that can be monitored and enforced.
- 8. As **modified** by the attached conditions of approval, the proposed development will not introduce hazardous conditions that the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public, health, safety, and welfare of the community from such hazards.

<sup>&</sup>lt;sup>4</sup> SGC 22.30.160(C) Required Findings for Conditional Use Permits.

9. As **modified** by the attached conditions of approval, the proposed development 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.

#### **RECOMMENDATION**

It is recommended that the Planning Commission adopt the staff analysis and findings as found in the staff report and approve the requested conditional use permit for a lodge and commercial dock, as modified, with the attached conditions of approval.

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

1) I move to adopt the following findings as attached in the written staff report:

2) I move to **approve, subject to the attached conditions of approval,** a conditional use permit for a commercial lodge and accompanying facilities (dock) at Finn Island in the GI General Island district. The property is also known as Lot 6 US Survey 3926. The request is filed by Allen Marine Tours, Inc. The owner of record is Misty Fjord Charters, LLC.

Conditions of Approval:

1. Contingent upon a completed satisfactory life safety inspection conducted by the Building Official/Fire Marshal. This must be completed and evidence submitted to the Planning Department before guests are housed.

2. The facility shall be operated consistent with the scope of the approval of the request including any modifications made by these conditions.

3. 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, number of guests, any complaints or issues, remittance of tax. 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. A 6-month Planning Commission review will be scheduled to assess progress toward initiating required conditions, acquiring required permits, and to address any impacts to neighboring properties. At this review, should a material condition not be met, it will be the intent of the Planning Commission to revoke the conditional use permit.

7. 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.

8. The property owner shall register for a sales account prior to the Conditional Use Permit

becoming valid.

9. The property owner shall register for and maintain a utility account for garbage disposal and submit written evidence to Planning Department.

10. The property owner shall maintain/install/upgrade water and sewage equipment to meet Alaska DEC standards and shall submit written evidence to Planning Department. This must be completed and evidence submitted to the Planning Department before guests are housed or building occupancy occurs. Specifically, the deficiency of the existing septic system including but not limited to the outfall pipe shall be remedied prior to any activation of the conditional use permit and granting of the required occupancy.

11. The property owner shall work with Alaska Department of Natural Resources and any other required state or federal jurisdiction (e.g. US Army Corp of Engineers) to get an approved, permitted, legal, commercial dock permit. This must occur before the conditional use permit is activated and commercial occupancy granted. Applicant shall submit written evidence to Planning Department of such permit prior to issuance of any local certificate of occupancy. Denial of the dock permit may be grounds for revocation of the conditional use permit for the lodge. The dock may be permanent or seasonal.

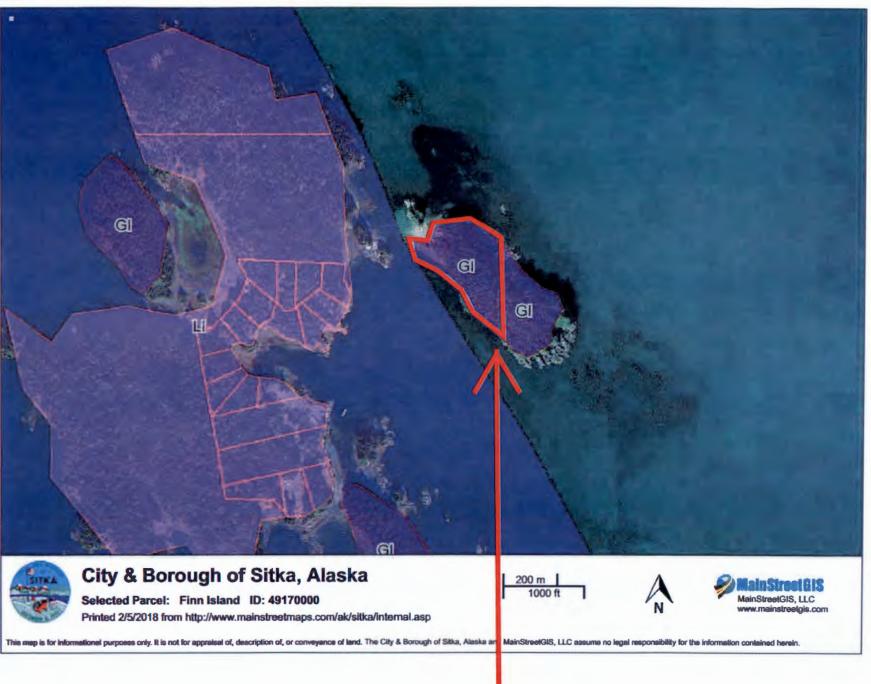
12. Commercial dock approval by all applicable jurisdictions must occur before the conditional use permit is activated and commercial occupancy granted.

13. Failure to comply with any of the above conditions may result in revocation and/or failure to activate the conditional use permit.

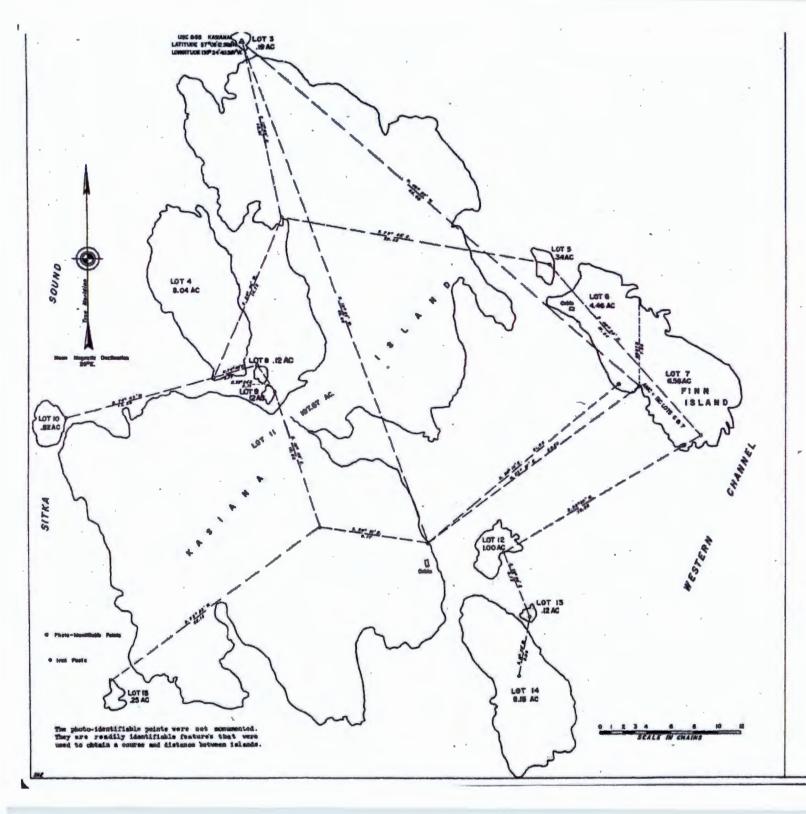
14. The site is currently within a V zone. The structures and support facilities (water, wastewater, etc.) shall comply with all required flood zone engineering, flood elevation design standards, and other applicable life and safety regulations of the structures.

#### ATTACHMENTS

- I. Staff Maps
- II. Applicants Material
  - i. Application
  - ii. Narrative
  - iii. Site plans / as-built
  - iv. Floor Plan
  - v. Photos







#### U.S. SURVEY No. 3926, ALASKA

This short outraces lots 3 through 15.

For survey information and relationship of this short to others, see Short No. 1.

UNITED STATES DEPARTMENT OF THE DREEKOR BURGAU OF LAND MARAGEMENT Washington, D. C. Outober 5, 1965

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hareby accepted.

For the Munortee

Chief, Division of Engineering

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CITY AND BOROUGH OF SITKA PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT GENERAL APPLICATION FORM						
<ol> <li>Request projects at least TWENTY-ONE (21) days in advance of next meeting date.</li> <li>Review guidelines and procedural information.</li> <li>Fill form out <u>completely</u>. No request will be considered without a completed form.</li> <li>Submit all supporting documents and proof of payment.</li> </ol>						
APPLICATION FOR:		CONDITIONAL USE				
	ZONING AMENDMENT					
BRIEF DESCRIPTION OI	FREQUEST: Permit	for the construction				
facilities.	nercial-43e d	ay lodge and accompanying	1			
PROPERTY INFORMAT	ION:					
CURRENT ZONING:G	TPROPOSED ZON	ING (if applicable): <u>GI</u>				
		DSED LAND USES (if changing): Commercial-43e				
		day lodge				
APPLICANT INFORMAT	ΓΙΟΝ:					
PROPERTY OWNER: Misty Fjord Charters, LLC						
PROPERTY OWNER ADDRESS: 1512 Sawmill Creek Rd Sitka, AK 99835						
STREET ADDRESS OF PROPERTY: $n/a$						
APPLICANT'S NAME: Allen Marine Tours, Inc						
MAILING ADDRESS: PO BOX 1049 SITKA, AK 99835						
EMAIL ADDRESS: jcagle @ allenmorine com DAYTIME PHONE: 907-747-8100						
0 0		LONNY - 738-2648				
PROPERTY LEGAL DESC	CRIPTION:					
		BLOCK: n/a TRACT: n/a				
TAXID: 49170000	DLOT:G	BLOCK: <u>n/a</u> TRACT: <u>n/a</u> US SURVEY: <u>3926</u>				
TAXID: 49170000	DLOT:G					
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TAXID: 49170000	)LOT:G	US SURVEY: 3926				
TAX ID: 49170000 SUBDIVISION: 3920	)LOT:G	US SURVEY: <u>3926</u>				

#### **REQUIRED SUPPLEMENTAL INFORMATION:**

For All Applications:	For Conditional Use Permit:
Completed application form	Parking Plan
Narrative	Interior Layout
<ul> <li>Site Plan showing all existing and proposed structures with dimensions and location of utilities</li> <li>Proof of filing fee payment</li> <li>Proof of ownership</li> <li>Copy of current plat</li> </ul>	For Plat/Subdivision: Three (3) copies of concept plat Plat Certificate from a title company Topographic information Proof of Flagging
	If Pertinent to Application:

#### **CERTIFICATION:**

I hereby certify that I am the owner of the property described above and that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application, and does not ensure approval of the request. I understand that public notice will be mailed to neighboring property owners and published in the Daily Sitka Sentinel. I further authorize municipal staff to access the property to conduct site visits as necessary. I authorize the applicant listed on this application to conduct business on my

behalf.

1-31-18 Date

Owner

I certify that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application, and does not ensure approval of the request.

Applicant (If different than owner)

all

Date



#### Allen Marine -- Fin Island Lodge Narrative

Allen Marine, Inc. recently purchased the northern portion of Finn Island (Lot 6 Finn Island) and is making preparations for the construction of a day-use lodge. The building will be marketed under the name Fin Island Lodge and will be primarily utilized as part of two combination wildlife viewing and island dining tours for cruise line guests calling in Sitka. One of the tours will be conducted via an Allen Marine-built vessel, while the other will employ a small fleet of up to six Zodiacs (see attached tour descriptions). The venue may also be used for local charters and events (i.e. weddings, community nights, retreats, etc.) Guests of our small ship cruise line, Alaskan Dream Cruises, may have evening events at the lodge as part of their cruise itinerary.

We anticipate Fin Island Lodge will be staffed by 5-7 employees and potentially one or two fulltime care takers. These employees will prepare the daily meals, perform routine maintenance on the property, tend the grounds, and ensure the safety of the property.

Our typical day tours will allow for a maximum guest capacity of 60 people at a given time (when all Zodiacs and the catamaran are full). Days may consist of up to 6 tours. Crew will arrive to open the lodge around 6 AM, with guests arriving between 8 AM and 9AM. The last tour will usually leave the island between 4 PM and 5 PM.

On atypical days with late cruise ship port calls we may add additional tours, which would extend our hours of operation into the evening hours. In addition, on select dates with public events, as mentioned in the opening paragraph, our hours may be extended from 6AM until midnight.

The company will be utilizing vessels equipped for beach landings. Crew on these vessels are trained to safely and efficiently perform loading and unloading operations. We are also working on plans with the United States Army Corps of Engineers for a temporary dock, which would be anchored and used seasonally.



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#### Wildlife Quest & Fin Island Lodge

The ultimate Alaska experience begins as soon as you board our Alaskan-built expedition vessel in Sitka. While you settle into the comfortable cabin, our knowledgeable captain and crew will provide a safety briefing and orientation. Once underway, feel free to move about the vessel, including the spacious outside viewing deck. An onboard naturalist will provide narration regarding the remarkable ecosystem of the area and point out places of interest and wildlife throughout the voyage. Sea otters, whales, harbor seals, brown bears, Sitka black-tailed deer, bald eagles, and a variety of marine birds are all commonly seen in the tour area. Our captains have the local knowledge and experience to deliver the best possible viewing experience on any given day throughout the season.

At Fin Island Lodge, you'll have the opportunity to indulge in a delicious Alaska feast! Alaska king crab, wild salmon cooked over an alder wood-fired grill, prime rib, homemade side dishes, and dessert are all-inclusive with the tour. In addition, coffee, tea, cocoa, lemonade and water are complimentary. Alaskan-brewed beers, wine, and soft drinks are available for purchase. A breakfast twist on our signature Fin Island feast is featured for guests arriving before 10am. *Vegan and gluten free options are available, regardless of tour time.* 

After the meal, you may beachcomb, explore the beautiful grounds of the exclusive island, or relax next to the cozy beach fire. When the adventure concludes, your vessel will await to provide the short cruise back to Sitka.



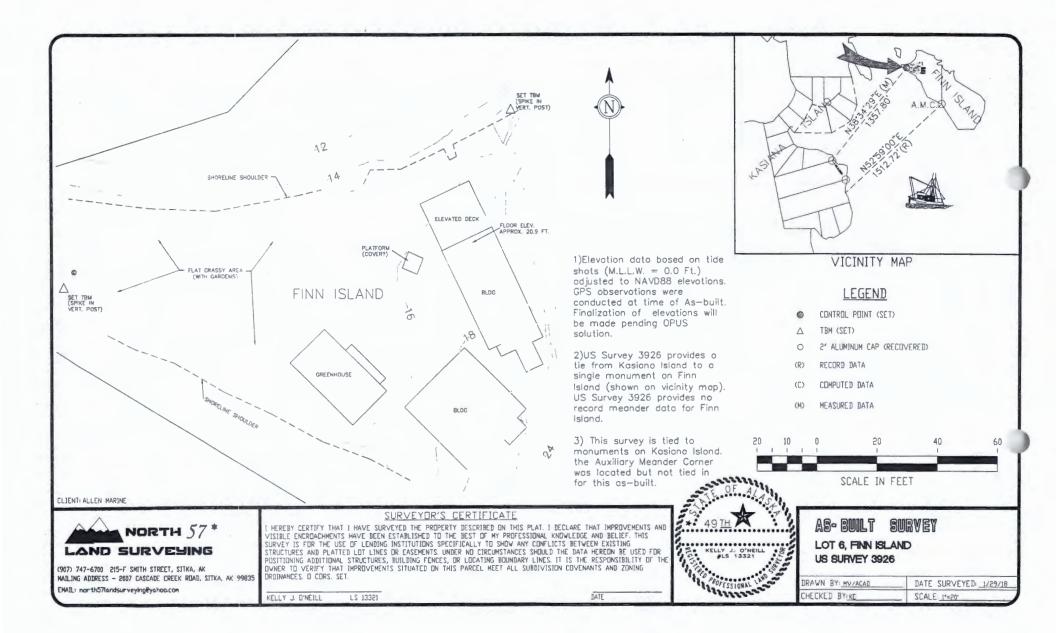
#### Alaska Zodiac Adventure & Fin Island Lodge

Before embarking on this true Alaska adventure, our shore support team will outfit you in waterproof gear to help keep you dry during the expedition. This gear is not insulated, so we recommend dressing in warm layers of synthetic materials or wools, regardless of weather. After a brief safety speech, the expedition begins. Adjacent to Sitka lies a network of dozens of picturesque islands that provide a barrier from the swell of the open Pacific Ocean. As your captain skillfully navigates these island groups, you'll see reefs and rock pinnacles that jet out of the water and provide lookout perches for bald eagles and a myriad of beautiful seabirds. A look downward will reveal rapidly growing kelp forests that disappear into the depths of the sound. In shallow water areas, inaccessible to larger craft, you may even notice sea stars, anemones, and other invertebrates.

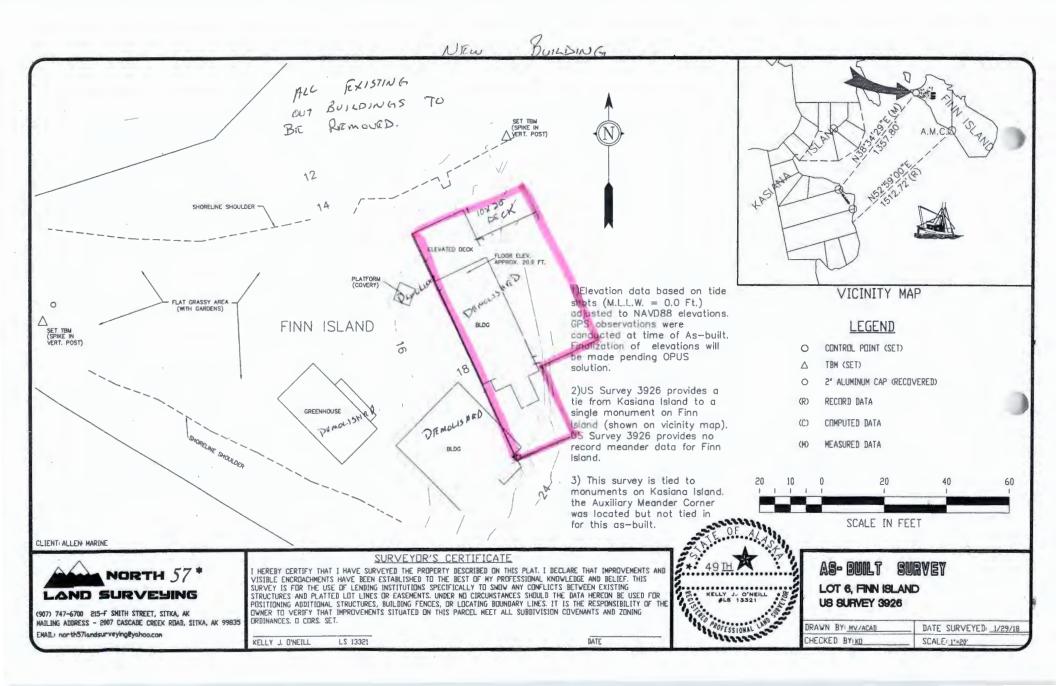
This area is teeming with wildlife, including sea otters, whales, and sea lions. Your captain is trained to approach animals in a way that will not disturb their natural behavior, providing excellent photography and viewing opportunities.

At Fin Island Lodge, you'll have the opportunity to indulge in a delicious Alaska feast! Alaska king crab, wild salmon cooked over an alder wood-fired grill, prime rib, homemade side dishes, and dessert are all-inclusive with the tour. In addition, coffee, tea, cocoa, lemonade and water are complimentary. Alaskan-brewed beers, wine, and soft drinks are available for purchase. A breakfast twist on our signature Fin Island feast is featured for guests arriving before 10am. *Vegan and gluten free options are available, regardless of tour time.* 

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## Allen Marine Finn Island Lodge Location Lot 6 Finn Island

