



# CITY AND BOROUGH OF SITKA

## Minutes - Final

### Planning Commission

*Chris Spivey, Chair*  
*Darrell Windsor, Vice Chair*  
*Debra Pohlman*  
*Randy Hughey*  
*Richard Parmelee*

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Wednesday, October 19, 2016

7:00 PM

Harrigan Centennial Hall

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#### I. CALL TO ORDER AND ROLL CALL

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

Present: Spivey, Windsor, Pohlman, Hughey, Knox (Assembly Liaison)

Absent: Parmelee - excused

#### II. CONSIDERATION OF THE AGENDA

#### III. CONSIDERATION OF THE MINUTES

##### A

Approval of the October 5, 2016 meeting minutes.

Windsor/Hughey moved to APPROVE the October 5, 2016 meeting minutes.

Motion PASSED 4-0.

#### IV. REPORTS

##### B

Planning Regulations and Procedures.

#### V. THE EVENING BUSINESS

##### C

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 reviewed the background of the code change allowing short-term rentals on boats in municipal harbors. The boat in this application feels like a home on water. Exterior windows are sealed for seaworthiness. The Planning Commission previously requested that staff do more collaboration with Building Department, Harbor Department, and US Coast Guard. Port and Harbors Commission would like to review for a recommendation before items go to Planning Commission. Port and Harbors Commission would also like to hold a joint work session with Planning Commission. Staff recommend to

postpone this item until these steps can take place.

Windsor stated that some boat owners shared concern that the notice wasn't posted until the day of the September meeting. Scarcelli stated that Planning staff will ensure that harbor notices are posted on time, and in the future, the department will require onsite notices. Spivey spoke in favor of sending mailings to nearby slip holders. Scarcelli stated that the department will look into the feasibility of sending mailings to slip holders.

Hughey/Windsor moved to **POSTPONE** the item.

**Motion PASSED 4-0.**

- D** Public hearing and consideration of a final 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.

**Item was PULLED.**

- E** Public hearing and consideration of a final 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 Lehmann and Eric Speck. The owners of record are Donald and Patricia Lehmann and Eric Speck.

**Item was PULLED.**

- F** Public hearing and consideration of a variance request for 109 Darrin Drive. The request is for the reduction of the front setback from 20 feet to 5 feet and the side setback from 8 feet to 2 feet for the construction of stairs and rails. The property is also known as Lot 5 Darrin Subdivision. The request is filed by Cory Picotte. The owners of record are Cory and Brenna Picotte.

**Scarcelli reviewed the request. No impacts identified and the structure only requires the lower threshold of findings for minor structures. The stairs trigger the variance process because of the required handrail. Staff recommend approval.**

**Cory Picotte stated that they just want one set of stairs on the side.**

**Spivey stated that it is straight-forward.**

**Hughey/Windsor moved to APPROVE and adopt findings as discussed in the staff report.**

**2. Required Findings for Minor Expansions, Small Structures, Fences, and Signs.**

- a. The municipality finds that the necessary threshold for granting this variance should be lower than thresholds for variances involving major structures or major expansions, specifically, that the proposed stairs are small in relation to the primary structure and the lot;**
- b. The granting of the variance is not injurious to nearby properties or improvements, specifically, that the stairs will be uncovered and will not result in significant additional rain runoff on the adjacent property;**

- c. The granting of the variance furthers an appropriate use of the property, specifically, by creating safe access for a single-family home.

Motion PASSED 4-0.

Hughey/Windsor moved to **APPROVE** a variance request for 109 Darrin Drive. The variance is for the reduction of the front setback from 20 feet to 5 feet and the side setback from 8 feet to 2 feet for the construction of stairs and rails. The property is also known as Lot 5 Darrin Subdivision. The request is filed by Cory and Brenna Picotte. The owner of record is Cory and Brenna Picotte.

Motion PASSED 4-0.

**G**

Public hearing and consideration of a tideland lease renewal application filed by Kevin McNamee for tidelands adjacent 4401 Halibut Point Road. The property is also known as a portion of ATS 979. The request is filed by Kevin McNamee. The owner of record is the City and Borough of Sitka.

Scarcelli reviewed the request for tideland lease renewal. The requested term is for 50 years. The lease payment would approximately triple from the current payment, according to a valuation provided by the municipal assessor. The lease renewal would allow a currently operating business to continue these operations.

Pohlman asked about the lease portion that is not being renewed. Pohlman stated concern that the unleased portion be protected and not polluted. Scarcelli stated that it would be unlikely that the unleased portion would be leased by another party, without the addition of an easement. Hughey stated that public access to the unleased portion would be limited. Scarcelli stated that a condition of approval could be the inclusion of a clause preserving public access to the tidelands. Pohlman stated that the land use and comprehensive plan process have addressed not disposing of land in a manner that leaves small unusable parcels left. Scarcelli stated that this is the process prescribed by code. While staff is working on a future policy and code process, absent a moratorium, this is the current process in effect. Hughey stated that the parcel should remain in one piece, and it is not logical to exclude the third portion.

Kevin McNamee pointed to the concept plan and explained the request. The portion that he requests to not rent was used by the prior owner to launch boats that he built. McNamee stated that he wanted to separate the residence from the business so that he could possibly sell the business in the future. McNamee stated that the surveyor followed the toe line.

Scott Saline stated that this request is similar to the Petro Marine lease. Petro is only leasing what their float sets on, and it could be argued that Petro's lease portion will block access to some municipal tidelands.

Hughey stated that he better understands the request. Pohlman asked if others along Halibut Point Road could stop paying for leases and still use the waterfront as a public access. Hughey stated that he doesn't believe there is useable land on the unleased portion, and does not see a need to ensure public access to that portion. Pohlman stated that environmental effects could still arise from the U-shaped lease. Pohlman stated that humans tend to take

better care of things that they buy or lease than when they do not have any vested interest. Spivey stated that boat owners are responsible for cleaning up spills they cause regardless of where the spills result.

Hughey/Windsor moved to RECOMMEND preliminary approval of the proposed tideland lease adjacent to 4401 Halibut Point Road by Kevin McNamee.

Motion PASSED 4-0.

H

Public hearing and consideration of a variance request for 424 Katlian Avenue. The request is for the reduction of the side setbacks from 8 feet to 0 feet, the reduction of the front setback adjacent Kogwanton Street from 20 feet to 8 feet, the reduction of the front setback adjacent Katlian Street from 20 feet to 18 feet, substandard parking, substandard lot size, and substandard lot width for the construction of a new house and ice shop. The property is also known as Lot 50 Block 2 US Survey 2542 A&B. The request is filed by Scott Saline. The owner of record is Scott Saline.

Scarcelli stated that the applicant received a variance approximately one year ago; however, substantial construction did not occur within one year and the site plan and gross square footage of the structure changed, requiring a new variance approval. The lot is zoned Waterfront but is surrounded on 3 sides by R-1 residential lots. Pierson stated that Historic Preservation Commission heard the item at last week's meeting and voted 4-0 to recommend the project. Scarcelli stated that the parking variance is a judgement call for the commission to make. Scarcelli read a letter of objection by Allen Bell, Sitka Tribe of Alaska's attorney, on behalf of a tribal citizen who owns a restricted deed property. Scarcelli stated that Bell did not identify any detrimental effects, but said that closer setbacks could result in impacts to noise, fire, and traffic. Scarcelli stated that building requirements are more strenuous when building within 5 feet of the property line. Scarcelli stated that staff recommend approval.

Scott Saline stated that he intends to have 19 feet along Katlian but he's requesting 18 feet in case of error when the foundation is poured. Hughey asked about the appearance of the building, and Saline stated that he intends to make it fit in with the neighborhood. Windsor asked about the height of the proposed structure. Scarcelli stated that it is 35 feet high, has a footprint of 28 feet by 18 feet, and results in a 33% building lot coverage on an approximately 1500 square foot lot.

Windsor stated that the proposed structure would be an improvement on the lot.

Windsor/Pohlman moved to APPROVE and adopt findings as discussed in the staff report.

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, that the lot is one-quarter of the minimum lot size in the zone;
- 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, specifically, the ability to economically develop a

residential/commercial structure on a small lot;  
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 structure would be safer to passersby than existing items on the lot; and  
d) That the granting of such will not adversely affect the Comprehensive Plan: specifically, the variance is in line with Comprehensive Plan 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 economically feasible development of a residential property on a small pre-existing lot while minimizing impacts on the right-of-way and adjacent properties.

**Motion PASSED 4-0.**

Windsor/Pohlman moved to **APPROVE** the variance request for 424 Katlian Avenue. The variance is for the reduction of the side setbacks from 10 feet to 0 feet, the reduction in the front setback adjacent to Katlian Avenue from 20 feet to 18 feet, the reduction in the front setback adjacent to Kogwanton Street from 20 feet to 8 feet, substandard lot size, substandard lot width, and substandard parking for the construction of a house and ice shop. The property is also known as Lot 50 Block 1 US Survey A&B. The request is filed by Scott Saline. The owner of record is Scott Saline.

**Motion PASSED 4-0.**

**I**

Public hearing and consideration of a final plat of a minor subdivision at 1402 Sawmill Creek Road. The subdivision would reconfigure three existing lots into three proposed lots. The property is also known as a portion of US Survey 1947, a portion of US Survey 2365, and ATS 511 Tract A. The request is filed by Thomas and Danine Williamson. The owners of record are Thomas and Danine Williamson.

Pierson explained that the property consists of 3 legal lots. The applicants seek to reconfigure the lots into 3 new lots. A house, commercial building, and open space are on the property. The zone is Waterfront. The subdivision would result in 3 lots having ocean access, while only 2 lots do now. Access and utility easements are along Sawmill Creek Road. All 3 lots exceed the 6000 square foot minimum lot size. The final plat should include a plat note stating that the city is a party to all easements. Staff recommend approval.

Tom Williamson stated that they want to clean up the lot lines to provide access and utilities without crossing property lines in case they would like to sell some of the lots.

Pohlman/Windsor moved to **APPROVE** the findings 1) that the proposed minor subdivision complies with the comprehensive plan by providing for the reconfiguring existing waterfront land to create water access for one additional parcel; and 2) that the minor subdivision would not be injurious to the public health, safety, and welfare.

**Motion PASSED 4-0.**

Pohlman/Hughey moved to **APPROVE** the preliminary plat of a minor subdivision of 1402 Sawmill Creek Road, also known as a portion of US Survey

2365, a portion of US Survey 1947, and ATS 511 Tract A, with the condition that a plat note be added to state that the city shall be a party to all easements. The request is filed by Thomas and Danine Williamson. The owners of record are Thomas and Danine Williamson.

Motion PASSED 4-0.

J

Public hearing and consideration of a conditional use permit request for a short-term rental at 1933 Dodge Circle. The property is also known as Lot 1 of Ocean Heights Subdivision. The request is filed by David and Janelle Lass. The owners of record are David and Janelle Lass.

Scarcelli gave an overview of the request. The applicants seek to rent out the house when they're out of town. Staff recommend approval.

David Lass stated that they would like to rent out the house during summer and other holiday breaks when they are out of town. Spivey asked about plans to address traffic and bear concerns. Lass stated that traffic would likely lessen as they will only be renting to single entities.

Spivey stated that this is the second short-term rental in the neighborhood, so this should be kept in mind if more applications are received. Scarcelli stated that planning journals have looked at dark streets and increasing long-term rental rates as a result of short-term rentals. Scarcelli stated that conditions of approval could be modified to include encouraging renters to respect residential character and manage refuse properly. Pohlman stated that human refuse management is primarily of an issue of enforcement.

Windsor/Pohlman moved to APPROVE findings 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.

Windsor/Pohlman moved to APPROVE the conditional use permit application for a short term rental at 1933 Dodge Circle, in the R 1 single family and duplex residential district. The property is also known as Lot 1 Ocean Heights Subdivision. The request is filed by David and Janelle Lass. The owners of record are David and Janelle Lass.

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.

#### **VI. PLANNING DIRECTOR'S REPORT**

Scarcelli reported that he and Pierson would be attending the Alaska Planning Association conference in November. Scarcelli stated that he was invited to participate in a marijuana panel discussion at the conference. Scarcelli recognized Knox as the new Assembly liaison to the Planning Commission. The next meetings are Wednesday, November 9th from 5-8 PM (housing fair) and Wednesday, November 16th. Spivey stated that he can't come at 5. Commissioners discussed that they prefer Tuesday meetings. Commissioners think that more public might attend an open house on a Saturday.

#### **VII. PUBLIC BUSINESS FROM THE FLOOR**

Pohlman stated that data should be kept on short-term rentals, and the commission should revisit short-term rentals and their impacts on long-term rental rates and neighborhoods. Scarcelli stated that this could be a discussion item at the next meeting. Commissioners requested that this topic be placed on the next agenda for discussion.

#### **VIII. ADJOURNMENT**

Windsor/Pohlman moved to ADJOURN at 8:27 PM.

Motion PASSED 4-0.

Attest: \_\_\_\_\_  
Samantha Pierson, Planner I