



CITY AND BOROUGH OF SITKA

Minutes - Final

Planning Commission

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

Tuesday, June 20, 2017

7:00 PM

Harrigan Centennial Hall

I. CALL TO ORDER AND ROLL CALL

Chair Spivey called the meeting to order at 7:01 PM.

Present: Spivey, Windsor, Hughey, Knox - Assembly Liaison

Absent: Parmelee (excused)

II. CONSIDERATION OF THE AGENDA

III. CONSIDERATION OF THE MINUTES

- A [PM-26](#) Approval of the May 16, 2017 meeting minutes.

Hughey/Windsor moved to APPROVE the May 16, 2017 meeting minutes.

Motion PASSED 3-0.

IV. PERSONS TO BE HEARD

No persons to be heard.

V. PLANNING DIRECTOR'S REPORT

- B [MISC 17-17](#) Director's Report for June 20, 2017.

Scarcelli gave a summary of the articles attached to the packet, addressing such topics as food security, parking, and historic preservation. Scarcelli stated that the Critical Areas Ordinance, Trani's vacation request, and the harbor zoning map amendment all will be moving forward to the Assembly for approval on second reading.

VI. REPORTS

C [MISC 17-19](#) Report on marijuana businesses.

Scarcelli gave an overview of a complaint letter received regarding operations at 1321 Sawmill Creek Road. Concerns included odor impacts, neighborhood harmony, and hours of operation. Odor impacts were from Northern Lights related to a power surge, and the operators have taken steps to mitigate negative impacts.

Windsor stated that he visited a cultivation operation in Juneau with no noticeable odors. Scarcelli stated that he will do more research on odor mitigation. Hughey thanked Scarcelli for the report.

D [CUP 16-10](#) Annual report for a conditional use permit for a short-term rental at 3001 Mikele Street granted to Kristy and Levi Hunt. No action required.

E [CUP 16-13](#) Annual report for a conditional use permit for marijuana cultivation at 3872 Halibut Point Road granted to Jeremy Erickson. No action required.

F [16-00](#) Planning Regulations and Procedures.

VII. THE EVENING BUSINESS

G [CUP 16-06](#) 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 gave an overview of the history of the conditional use permit. The permit was granted in April 2016, and a six-month review was held in September 2016 to assess progress toward occupancy requirements. Work was still ongoing so the Planning Commission requested another six-month review. While some work is still ongoing, the Building Official has approved the use of the second story so long as the first story remains unoccupied until work is complete. Staff recommend approval with the condition that the first story remains unoccupied until authorized by the Building Official.

Terry and Gene Bartolaba came forward. Gene stated that a 2 hour fire separation is required between the floors in order to use the first floor, and stated that his contractor is currently working on the project. Gene stated that he has been working with the Building Official and hopes to be finished by August.

Hughey/Windsor moved to APPROVE the 6-month review for the conditional use permit granted to Terry Bartolaba for a specialized instruction school at 213 Harbor Drive with the condition that the first floor is not occupied until approved by the Building Official. The property is also known as Lot 2 Wilmac Resubdivision. The owners of record are Gene and Terry Bartolaba.

Motion PASSED 3-0.**H [VAR 17-11](#)**

Public hearing and consideration of a variance request for the reduction in required lot size for a four-plex from 10,000 square feet to 9791 square feet at 720 Indian River Road. The property is also known as Lot 8A Indian River Land Subdivision. The request is filed by Timothy Bernard. The owner of record is Timothy Bernard.

Pierson gave an overview of the request for reduction of lot size required for a fourplex. The lot is large enough to construct a single-family dwelling, a duplex, or a triplex. The reduction would be 2% of the required size. The proposed structure meets setback, lot coverage, and parking requirements. The property is zoned for multi-family use. Scarcelli stated that the findings given in the 2011 decision for 728 Indian River Road are not found in code. Scarcelli stated that if the commission believes that 10,000 square feet is too stringent of a requirement, the appropriate path would be to change development standards.

Hughey asked if fourplexes and triplexes exist in the neighborhood, and Scarcelli stated not to his knowledge.

Tim Bernard stated that the second story would be one unit, with a two bedroom unit and two studios on the first floor. Bernard stated that he would like to house his aging father in a studio. Bernard stated that if he can only build a triplex, the first floor will be two two-bedroom apartments, resulting in the same number of bedrooms.

Spivey stated that he doesn't like variances, but long-term planning discussions have included the need for additional affordable housing. Hughey shared the same concerns, and stated that even a triplex would be a step up in density for the neighborhood. Spivey stated that although neighbors have raised concerns, a triplex could be built without coming to the Planning Commission. Spivey stated that if the comprehensive plan process results in the reduction of development standards, the applicant could convert the triplex into a fourplex. Hughey stated that two two-bedrooms on the first floor could result in more people on the property than his proposed layout. Windsor asked Bernard about his intention for the lot, and he stated that he was originally going to build a single-family home with his ex-wife. Bernard stated that he plans to live in the upstairs unit. Spivey stated that having the homeowner upstairs could mitigate concerns for impacts. Hughey stated that approving or denying doesn't make a clear change to the neighborhood, so he is in favor of leaning toward the applicant's private property rights.

Hughey/Windsor move to APPROVE findings 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 lot is zoned for multifamily housing but lacks the square footage for a four-plex according to development standards;**
- 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 multifamily housing;**
- 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 could be built within setback and lot coverage requirements; 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 additional housing units.**

Motion PASSED 3-0.

Windsor/Hughey moved to **APPROVE** the variance request for the reduction in required lot size for a four plex from 10,000 square feet to 9791 square feet at 720 Indian River Road. The property is also known as Lot 8A Indian River Land Subdivision. The request is filed by Timothy Bernard. The owner of record is Timothy Bernard.

Motion PASSED 3-0.

I [CUP 16-21](#)

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 gave an overview of the procedure for short-term rentals on boats agreed upon by Planning Commission and Port and Harbors Commission at a joint meeting. Scarcelli reviewed the request for short-term rental on a boat at Crescent Harbor 1-24. Port and Harbors Commission recommended approval with conditions of limiting occupancy to 8 renters and not requiring inspection by the Building Department. Scarcelli reviewed the 5 star safety designation. Scarcelli stated that the harbormaster is limiting short-term rentals to two boats per harbor. Staff recommend approval with the conditions recommended by Port and Harbors Commission.

Ann-Marie Parker stated that parking has been brought up, and stated that the police department informed her of the option to rent a parking space

through the tour permit process. Parker stated that they would be willing to do so if necessary but they don't believe parking will be a problem. Windsor asked about insurance, and Parker stated that they will have the required insurance. Scarcelli stated that US Coast Guard requirements are out of the Planning Commission's jurisdiction.

Paul Blankenship stated that he has a boat two stalls down from the request, and stated that he's uncomfortable with the proposed rental. Blankenship stated that it is a noisy working harbor and doesn't want to get complaints. Blankenship stated that his boat is tied to his livelihood and is concerned for fire risk. Blankenship stated that rental guests might not be boat savvy and parking is a concern.

Windsor stated that the applicant has gone through all the hoops. Hughey stated acknowledgment of Blankenship's concerns, and stated that the conditional use allows for review as deemed necessary. Scarcelli pointed to condition of approval 8 which provides for review by Planning Commission and/or Port and Harbors Commission upon receipt of meritorious complaint. Spivey stated that he has concern as a boat owner. Knox stated that crime went down at Crescent Harbor when liveaboards became permitted. Windsor stated that there were covenants tied to Crescent Harbor that disallowed liveaboards. Scarcelli pointed to condition of approval 14 which states that a 6 month review will be conducted.

Windsor/Hughey moved to APPROVE findings that 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 3-0.

Windsor/Hughey moved to APPROVE the 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.

Conditions of Approval:

- 1. Notification of renter on board vessel to Port and Harbor Department**
- 2. Must pay live aboard harbor fees**
- 3. \$100 Port and Harbors Annual short term rental fee**
- 4. The facility shall be operated in compliance with harbor regulations concerning sewage disposal and all other matters.**
- 5. The facility shall be operated consistent with the application and plans that were submitted with the request.**
- 6. The facility shall be operated in accordance with the narrative that was submitted with the application.**
- 7. The applicant shall submit an annual report every year to the Planning**

Commission and the Port and Harbors Commission, 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.

8. The Planning Commission and/or the Port and Harbors Commission, at their discretion and upon receipt of a meritorious complaint, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.

9. 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.

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

11. The property owner shall provide orientation information to all renters, which shall cover boat and water safety, ingress and egress, and proper waste disposal.

12. The boat must be approved by the CBS Harbor Department as a live aboard, and appropriate live aboard fees must be paid.

13. Shall comply with all applicable United States Coast Guard regulations regarding pleasure craft.

14. Permit to be reviewed by the Planning Commission after 6 months to address any impacts, concerns, and to allow Port and Harbors Commission the opportunity to review and comment on the permit.

15. Occupancy shall be limited to a maximum of 8 guests.

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

Motion PASSED 3-0.

J [P 17- 03](#)

Public hearing and consideration of a replat request for 210 Lake Street and 404 Oja Way. The properties are also known as Portion Lot 1, 2, 3, and C82 Block 10 US Survey 1474, Tract A. The request is filed by Western Steel, Inc. The owner of record is Sitka Residences, LLC.

Scarcelli reviewed the replat request. Some concern has been raised for parking. As the building was built close to the property line, the owners decided to replat the three lots at 210 Lincoln Street with the lot at 404 Oja Way and to use the extra space for parking. Scarcelli showed a photo of a boundary fence, and stated that the neighbor is concerned for impacts to his fence. Scarcelli stated that the project foreman agreed to erect a new fence and is willing to work with the neighbors. Scarcelli reminded commissioners that the properties are zoned Central Business District, which is not intended for single family residences. Staff recommend approval.

Project foreman Aaron Murray came forward and stated that he is willing to work with the neighbors but does not want an annual expense for upkeep. Scarcelli stated that the zone allows fences for up to 20 feet in commercial zones.

Roy and Rhonda Anderson introduced themselves as the neighbors and stated support for development. Anderson stated concern for light shining

into the house and noises of late arriving guests. Anderson stated that he would want the fence to be upkept and to be a condition of approval. Anderson stated that the foreman may be gone six months from now. Windsor asked about proper procedure regarding conditions of approval. Scarcelli stated concern about the legality of requiring a condition of approval on the replat. Hughey stated that he didn't think Aspen would take the city to court to get out of building a fence. Windsor suggested that the neighbors shake hands and make an agreement. Spivey stated that the commission cannot require the applicant to put up a fence, but they can strongly recommend that the fence is constructed.

Hughey/Windsor moved to APPROVE findings that the proposed replat complies with the Comprehensive Plan and Sitka General Code Titles 21 and 22 by facilitating the creation of on-site parking for a hotel; and that the replat would not be injurious to public health, safety, and welfare.

Motion PASSED 3-0.

Hughey/Windsor moved to APPROVE the replat request for 210 Lake Street and 404 Oja Way. The properties are also known as Portion Lot 1, 2, 3, and C82 Block 10 US Survey 1474, Tract A, with the strong recommendation that the neighbors work together to resolve the fence issue. The request is filed by Western Steel, Inc. The owner of record is Sitka Residences, LLC.

Motion PASSED 3-0.

K [MISC 17-16](#)

Discussion and direction regarding amendments to public notice requirements and Sitka General Code 22.30.

Scarcelli stated that he would like to make mailing distances more uniform, which will require a thorough code review. This proposal will come back to the commission as it continues to develop. Scarcelli spoke about alternative methods of notice that are not currently included in code, such as on-site postings. Multi-modal notice hits different demographics. The proposal adds provision for emergency meetings. Scarcelli requested a motion to direct staff to continue developing this code amendment.

Hughey stated appreciation for the inclusion of multi-modal notice. Windsor stated that he would like to get notification to renters. Spivey stated that the proposal is good and has been needed.

Hughey/Windsor moved to direct staff to continue to work on revising public notice code.

Motion PASSED 3-0.

L [MISC 17-18](#)

Discussion and direction regarding zoning interpretation.

Scarcelli stated that municipal responsibilities are delegated by the administrator, and the Planning Department's functions come from several code titles. There is some overlap in individual titles and collaboration

among departments. For example, the Planning Department and Police Department are both involved with regulating food carts. Scarcelli stated that the Building Official is charged with overseeing mobile home park functions. Scarcelli stated that in other places he has worked, the Building Department is under Planning. In Sitka, Building is under Public Works. Planning and Building staff refer applicants to each other as warranted.

Windsor stated that the Building Official told him that he couldn't put a storage container in his mobile home park. Scarcelli stated that there are places in code that could use consolidation. Spivey asked why mobile home parks aren't under Planning's jurisdiction. Scarcelli stated that some states have determined that cities cannot discriminate between manufactured homes and stick built homes, although Alaska hasn't made such a decision. Scarcelli stated that distinguishing between manufactured, mobile, and stick built homes is best determined by Building staff. Scarcelli stated that he is not able to make that change. Scarcelli stated that the Planning Commission can make a recommendation to the Assembly, per the Charter. Scarcelli stated that we can turn a blind eye or accept reality and try to make it the best that we can. Hughey stated that the placement of mobile homes is more of a zoning question. Scarcelli stated that staff will report back.

BREAK 8:40-8:49

VIII. EXECUTIVE SESSION

M [MISC 17-20](#) Legal matter - McGraw, Diaz, Friske lawsuits

IX. ADJOURNMENT

Chair Spivey adjourned the meeting at 8:50 PM.

ATTEST: _____
Samantha Pierson, Planner I