

CITY AND BOROUGH OF SITKA



Minutes

Thursday, July 26, 2018

7:00 PM

Harrigan Centennial Hall

Planning Commission

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

I. CALL TO ORDER AND ROLL CALL**II. CONSIDERATION OF THE AGENDA****III. CONSIDERATION OF THE MINUTES****A** Approve the minutes of the July 17, 2017 meeting

Moved/Seconded Darrell Windwor/Randy Hughey to approve the meeting minutes of July 17, 2018. Motion CARRIED 4-0.

IV. PERSONS TO BE HEARD**V. PLANNING DIRECTOR'S REPORT**

Planning Director's report July 26

VI. REPORTS**VII. THE EVENING BUSINESS****C** Public hearing and consideration of a conditional use permit for natural resource extraction and mining support facilities at 4660 and 4670 Halibut Point Road in the Industrial District. The properties are also known as Lot 1A USS 3670 Subdivision and Lots 61A and 62A S&S Subdivision. The request is filed by Roger Sudnikovich. The owners of record are Roger, John, and Judith Sudnikovich.

M/S Colvin Taylor/Randy Hughey to approve the conditional use permit for natural resource extraction and mining support facilities at 4660 and 4670 Halibut Point Road in the Industrial District, subject to the attached conditions of approval. The properties are also known as Lot 1A USS 3670 Subdivision and Lots 61A and 62A S&S Subdivision. The request is filed by Roger Sudnikovich. The owners of record are Roger, John, and Judith Sudnikovich.
Conditions of Approval:

1. Must comply with all applicable conditions of approval that run with the land
2. Operation is limited to processing of rock extracted via grading permits identified in this staff report and issued in 2017.
3. Hours of Operation:
 - a. March through October – 7:00 AM to 5:30 PM – Monday through Thursday
 - b. November through February – 7:30 AM to 4:30 PM – Monday through Friday
4. Reasonable efforts to minimize the impacts on adjacent properties

5. Use good faith efforts to respect other property uses, such as elimination of compression brake usage
6. Dust – install fog nozzle and keep it in good working order, use reasonable efforts to reduce dust. Some dust is inherent.
7. Rock crusher and all heavy equipment shall be moved away from highway and adjacent residential properties of neighbors, where feasible.
8. Drilling and blasting – such equipment shall have properly installed and maintained mufflers. Shall give at least 24 hours of notice to adjacent properties of any blasting.
9. Applicant agrees to adhere to all applicable US Dept. of Labor Mine Safety and Health Administration (MSHA) regulations concerning quarry activities.
10. Applicant obtains and adheres to the requirements of a Storm Water Pollution Prevention Plan as required by the Alaska Department of Environmental Conservation.
11. Shall comply with health and safety standards required by the US Bureau of Mines and OSHA.
12. Shall comply with applicable DEC and EPA standards.
13. A licensed geotech shall provide an operating plan, reclamation plan and mitigation plan that shall be provided within 3 months of commencing of rock crushing.
14. Traffic control during times of blasting or during any time reasonably needed shall be required.
15. Some form of fencing or roping off with warning signs around perimeter of quarry property in its entirety shall be installed prior to operations.
16. The Planning Commission may review the conditional use permit for compliance of all conditions of approval at any time.
17. The Conditional Use Permit shall sunset three years from the date of passage, July 26, 2021. Motion Carried 3-0.

M/S Taylor Colvin/Randy Hughey to find that

1. The granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare specifically, the conditions of approval and state and federal laws will protect the public health safety and welfare;
 - b. Adversely affect the established character of the surrounding vicinity specifically, the lot is already an exhausted quarry, open pit and the surrounding area is commercial in nature with limited residential use; 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 lot is already an exhausted quarry, open pit and the surrounding area is commercial in nature with limited residential use;
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, allows for the development of a rock source, while protecting adjacent properties through the conditions of approval;
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically that the Planning Commission may review the permit at any time for compliance with all conditions of approval;

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. Here, the conditions of approval mitigate any impact to adjacent properties.

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. Here, the conditions of approval, specifically traffic control requirements will protect the adjacent state right of way and traffic flow and the other conditions will protect the adjacent properties.

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. Here the applicant has provided the narrative and site plan. Motion Carried 3-0.

D

Public hearing and consideration for a review of an approved conditional use permit for an 8 guest lodge and commercial dock on Middle Island. The property is known as Lots 3, 4, and 5, Block 1, Middle Island Subdivision. The property is zoned LI Large Island. The request is filed by Michael Coady. The owner of record is Michael Coady.

M/S Randy Hughey/Taylor Colvin that the conditional use permit for the Coady Lodge CUP 17-21 be modified so that all stated conditions of approval allow flexibility in completing all pending permits within six months; and a review of progress in front of the Planning Commission be held seven months from today. Motion Carried 3-0.

E

Public hearing and consideration of an amendment to add “marijuana product manufacturing facility” and/or “marijuana product manufacturing facility, extract only” as a new use to an existing conditional use permit for a marijuana cultivation operation at 1210 Beardslee Way in the Industrial zoning district. The property is also known as Lot 1B Mick’s Resubdivision. The request is filed by Justin Brown for AKO Farms LLC. The owner of record is Martin Enterprises, Inc.

M/S Taylor Colvin/Randy Hughey to find that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval. Motion Carried 3-0.

M/S Taylor Colvin/Randy Hughey to approve the conditional use permit request filed by Justin Brown for AKO Farms, LLC for a “marijuana product manufacturing facility” and a “marijuana product manufacturing facility, extract only” at 1210 Beardslee Way, in the Industrial zoning district subject to the 13 attached conditions of approval. The property is also known as Lot 1B Mick’s Resubdivision. The owner of record is Martin Enterprises, Inc.

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 any 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 and traffic circulation plan.

9. Odor Control shall include charcoal filters and other best means to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received the Planning Commission may require additional odor control measures to mitigate any actual negative impacts.

10. The 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. The burden of complying with this condition is upon the applicant.

11. The permittee shall report, annually, to the planning commission on gross sales, sales tax amounts, 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. All concentrate extraction shall use a fume hood or other vacuum control and filtration feature to make all extraction processes and work areas free from any solvent, medium, fluid, or exhaust that would be noxious to workers or the general public. In addition, safety monitoring sensors, such as propane/butane sensors or other applicable sensors, shall be utilized in and around the extraction room to warn if there is a leak or rise in noxious exhaust. Motion Carried 3-0.

F

Public hearing and consideration of platting variance to subdivide a single lot into two lots at 415 DeArmond Street (R-1 zone) where the proposal does not meet current development standards including minimum lot size. The property is also known as Lot 12 and a portion of Lot 11 Block 26 Spruce Glen Subdivision. The request is filed by Sheila Finkenbinder. The owner of record is Sheila Finkenbinder.

M/S Randy Hughey/Taylor Colvin to approve the platting variance to split a single lot into two lots at 415 DeArmond (AKA 424 Andrews St.) in the R 1 single family and duplex residential district subject to conditions of approval. The property is known as Lot 12 and Portion of Lot 11 Block 26 Spruce Glen Subdivision. The request is filed by Sheila Finkenbinder. The owner of record

is Sheila Finkenbinder.

Conditions of Approval

1. That the rear setback be modified to allow for at least five feet from all existing structures and proposed property lines.
2. That all other subdivision code, specifically sections 21.12 and 21.40 be followed.
3. That all accessory structures be moved five feet from all property lines with in five years.

Motion Carried 3-0.

M/S Randy Hughey/Taylor Colvin to adopt the findings as found in the staff report:

1. **21.48.010 Requirements for platting variances.**

A variance from the requirements of this title may be granted only if the planning commission finds that:

- a. The granting of a platting variance will not be detrimental to the public safety, or welfare, or injurious to adjacent property. Specifically, in this case that the “comparable compatibility” with surrounding neighborhood of similar lot sizes and density are present.
- b. The tract to be subdivided is of such unusual size and shape or topographical conditions that the strict application of the requirements of this title will result in undue and substantial hardship to the owner of the property. Specifically, that adjacent blocks have all subdivided a comparable lot size, though this lot can’t under existing code.

Motion Carried 3-0.

G

Public hearing and consideration of minor subdivision to subdivide a single lot at 415 DeArmond Street (R-1 zone) into two lots. The property is also known as Lot 12 and a portion of Lot 11 Block 26 Spruce Glen Subdivision. The request is filed by Sheila Finkenbinder. The owner of record is Sheila Finkenbinder.

M/S Randy Hughey/Taylor Colvin to approve the preliminary plat for a minor subdivision that would subdivide a single lot into two lots at 415 DeArmond (AKA 424 Andrews St.) in the R 1 single family and duplex residential district subject to conditions of approval. The property is known as Lot 12 and Portion of Lot 11 Block 26 Spruce Glen Subdivision. The request is filed by Sheila Finkenbinder. The owner of record is Sheila Finkenbinder.

Conditions of Approval

1. That the rear setback be modified to allow for at least 5 feet from all existing structures and proposed property lines.
2. That all other subdivision code, specifically sections 21.12 and 21.40 be followed.
3. That all accessory structures be moved five feet from all property lines with in five years.

Motion Carried 3-0.

M/S Randy Hughey/Taylor Colvin I move to find that that proposed minor subdivision would not be injurious to the public’s health, safety, and welfare and that it comports with the goals, objectives, and actions of the Comprehensive Plan. Motion Carried 3-0.

H

Public hearing and consideration of a request for a concept proposal for a minor subdivision at 213 and 215 Shotgun Alley in a Single-family Low Density zoning district. The concept is to split two lots into 4 lots with a shared parking area that would require a variance. The request is filed by the owners Lisa Busch and David

Lubin. The property is described as portion of Lot 2, and Lot 1a, and Lot2a of US Survey 2571, of the Johnstone Subdivision.

M/S Randy Hughey/Taylor Colvin to approve the concept plat upon the conditions all required parking is provided on one lot as proposed, and subject to following the processes and standards as required by code (variance and minor subdivision). Motion Carried 3-0.

I

Public hearing and consideration for a request for a conditional use permit for a short-term rental at 2414 Halibut Point Road in an R-1 MH zoning district. The request is filed by the owners W. Gary & Coralyn Marie Oines. The property is described as a portion of Lot E, US Survey 2749, referred to as Tract 3 of the minor subdivision of Lot E (Tract ½ 2 & 3).

M/S Taylor Colvin/Randy Hughey to approve the conditional use permit for a short-term rental at 2414 Halibut Point Road in an R-1 MH zoning district. The request is filed by the owners W. Gary & Coralyn Marie Oines. The property is described as a portion of Lot E, US Survey 2749, referred to as Tract 3 of the minor subdivision of Lot E (Tract ½ 2 & 3).

Conditions of Approval:

1. Contingent upon a completed satisfactory life safety inspection.
2. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.
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, bed tax remitted, any violations, concerns, and solutions implemented. The report is due within thirty days following the end of the reporting period.
4. 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 upon receipt of meritorious complaint or evidence of violation of conditions of approval.
5. 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.
6. The property owner shall register for a sales account prior to the Conditional Use Permit becoming valid.
7. To mitigate 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 4 AM on trash collection day. Should this condition not be followed the CUP shall be revoked.
8. To mitigate 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.
9. Any signs must comply with Sitka General Code 22.20.090.
10. A detailed rental overview shall be provided to renters detailing directions to the unit, transportation options, appropriate access, parking, trash management, noise control/quiet hours, and a general admonition to respect the surrounding residential neighborhood.

11. 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.

12. Failure to comply with any of the above conditions may result in revocation of the conditional use permit. Motion Carried 3 -0.

M/S Taylor Colvin/Randy Hughey to find that:

1. The granting of the proposed conditional use permit will not:

a. be detrimental to the public health, safety, and general welfare specifically, conditions of approval require responsible garbage management and noise monitoring;

b. adversely affect the established character of the surrounding vicinity specifically, the rental would make use of an already developed unit of a duplex with on-site owner-managers to monitor for concerns; 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, on-site parking is provided.

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, that the proposal provides owners with incentives to develop higher density and additional dwelling units. Motion Carried 3-0.

J

Public hearing and consideration for a request to purchase a portion of the municipal right of way, approximately 1660 square feet along Eagle Way adjacent to 1318 Sawmill Creek Road (Grandma Tillie's Bakery). The applicant proposes to use this portion of ROW to provide on-site parking for the bakery. The property is described as a portion of the Eagle Way rights-of-way and improvements from Eagle Intersection at Sawmill Creek Road (Quitclaim Deed 2015-000105-0).

M/S Randy Hughey/Taylor Colvin to recommend approval of a sale of an approximate 1,660 square foot portion of the Eagle Way Right of Way adjacent to 1318 Sawmill Creek Road (Portion of US Survey 2355) subject to the following recommended conditions:

1. Approval of all existing and proposed utility easements by the Public Works Director, Electric Utility Director, and Municipal Attorney;

2. Maintaining access to Eagle Way Lift Station and associated force main (without paving over it until project is complete);

3. Applicant shall prepare a third party fair market appraisal to assist staff and the assembly in determining fair value for the purchase;

4. Applicant shall prepare a preliminary and final plat prepared by a licensed surveyor;

5. Portion of right of way to be purchased shall be unified with the existing lot (portion of US Survey 2355) and shall remain unified (should not be sold separate from main lot and this shall be noted on plat); and

6. Shall follow the appropriate process (see above for illustrative process, but note, process may change to meet needs and requirements of City).

7. Applicant shall provide a survey showing existing lot and proposed purchase that includes property lines (existing and proposed) and square footage of each area. As well as existing and proposed easements/utilities.

Motion Carried 3-0.

VIII. ADJOURNMENT