

**CITY AND BOROUGH OF SITKA
Planning Commission
Minutes of Meeting
February 16, 2016**

Present: Darrell Windsor (Vice-Chair), Debra Pohlman (Member), Randy Hughey (Member), Tamie Parker Song (Member), Maegan Bosak (PCDD), Michael Scarcelli (Senior Planner), Samantha Pierson (Planner I)

Absent: Chris Spivey (Chair) - Excused

Members of the Public: Krystina Scheller, Frances Brann, Erik de Jong, Dana Pitts, Margie Esquiro, Pete Esquiro, Judy Bigsby, Jennifer Alley, Mark White, Tim Fulton, Sharon Romine, David Moore

Vice-Chair Windsor called the meeting to order at 7:01 p.m.

Roll Call:

PRESENT: 4 –Windsor, Pohlman, Hughey, Parker Song

Consideration of the Minutes from the February 2, 2016 meeting:

MOTION: M/S HUGHEY/POHLMAN moved to approve the meeting minutes for February 2, 2016.

ACTION: Motion **PASSED unanimously 4-0** on a voice vote.

The evening business:

**COMPREHENSIVE PLAN PRESENTATION – MARKETING PLAN
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT STAFF**

Comprehensive Plan discussion and direction on marketing plan presented by Planning and Community Development Department staff.

Bosak led an interactive visioning exercise, asking commissioners and attendees to brainstorm words to describe Sitka and the Comprehensive Plan process. Bosak stated that the Planning staff would use this brainstorm information to develop logos and other marketing materials, and would bring those to the Commission for approval.

When asked to describe Sitka in one word, participants responded: Home, Community, Tlingit, Beautiful, Close-knit, Unique, Independent, Incredible, Historical, Coastal, Complex, Vibrant.

When asked to describe the Comprehensive Plan in one word, participants responded: Guiding, Vision, Framework, Progressive, Collaboration, Inclusive, Comprehensive, Sustainable.

When asked to describe Sitka in one image, participants responded: Tlingit People, Town Panorama, Mt. Edgecumbe, Islands, Fish, Whales, Children, Boats.

COMMISSIONER DELIBERATION: Parker Song stated concern that the Commission should be making more decisions about Comprehensive Plan details, and would like to be involved with coming up with the options. Bosak stated that the Assembly indicated that the Comprehensive Plan would be staff-facilitated, so staff will gather public input and provide Commissioners with options. Bosak stated that she envisions focusing on one topic per month. The first Planning Commission meeting of the month would include a public workshop, then the staff will present a draft for approval at the second meeting of the month. Hughey stated that he wants to invite public participation, but has concern with spending too much time on a logo. Pohlman reported that she spoke to art teachers from Sitka High and Mt. Edgecumbe, and they were open to involving their students in a time-limited logo contest. Windsor stated that he would prefer to choose among several logo options. Parker Song stated concern for the process by which decisions are made. Pohlman stated that this is a public process, and the Commission needs to move forward with a logo. Commissioners agreed to give an open call for participation to schools and local artists.

ZONING TEXT CHANGE

LICENSED MARIJUANA ACTIVITY AS PERMITTED USE IN I, CBD, & GP ZONES, AND AS A CONDITIONAL USE IN WD, C-1, C-2, GI, & LI ZONES CBS MARIJUANA ADVISORY COMMITTEE

Public hearing and consideration of a zoning text amendment filed by the City and Borough of Sitka Marijuana Advisory Committee. The amendment would allow licensed marijuana activities (retail, cultivation, manufacturing, and testing) as a permitted use in the Industrial District, Central Business District, and Gary Paxton Special Zone, and as a conditional use in the Waterfront District, General Commercial C-1 District, General Commercial Mobile Home District, General Island District, and Large Island District.

STAFF REPORT: Scarcelli explained the proposal. Standardized conditions of approval would be attached by default for approved marijuana conditional use permits. These conditions largely mirror state regulations. Designating some districts as permitted use may help to funnel businesses to those districts. Permitted uses would still go through a lengthy state-level process, including a public comment period. Hughey asked if businesses in permitted zones would be vested in the right to maintain that business, and Scarcelli stated that they would be vested as long as they continued to state and local regulations. Bosak stated that the Assembly approves leases for the Gary Paxton zone. Hughey asked about the status of a request to reduce the buffer to 200 feet. Windsor stated that the Assembly requested that the state reduce the buffer, but the state did not make the change. Scarcelli stated that the proposal is supported and opposed by various sections of the Comprehensive Plan.

COMMISSIONER DELIBERATION: Pohlman expressed concern for enforcement and safety of businesses, and wanted to hear input from the police. Pohlman asked “what kind of response and what kind of good faith evaluations would happen” by the police in the event of break-ins or robberies. Scarcelli stated that the MAC has not heard from local police. Pohlman stated that regulation without enforcement is not helpful. Windsor stated that the Marijuana Advisory Committee initially wanted to recommend permitted across the board, and conditional use permits

were introduced as an enforcement tool. Windsor stated that the state security regulations are extensive. Pohlman stated that in some urban cities, police response is delayed to domestic violence calls in comparison to other emergency calls. Windsor stated that there weren't any special rules and regulations guiding the police response to the recent break-in at Harry Race Pharmacy, so the argument is that marijuana businesses should not need a special set of law enforcement rules and regulations. Pohlman wants to know if there would be the same response for a break-in at a marijuana business. Pohlman stated that neighbors get uneasy when nearby houses are experience break-ins. Bosak recommended that Pohlman's question is a conversation that should occur between the MAC and police. Hughey asked what harm would be done to new business owners if they had a conditional use permit versus a permit. Scarcelli stated that the extra conditional use permit fee is minimal compared to state fees. Hughey stated that across-the-board conditional use permits would allow the community to assess as businesses. Scarcelli shared some statistics from the staff report. Pohlman urged caution in using statistics, explaining that "marijuana-related" was not defined in the cited reports.

PUBLIC COMMENT: Margie Esquiro stated preference for the conditional use permit process. Dana Pitts stated that she didn't want marijuana businesses to be located downtown and visible to tourists. Krystina Scheller asked if the expectation is that the bulk of marijuana income will come from locals or tourists. Bosak stated that the expectation is that income will come from both groups. Pete Esquiro stated preference for the conditional use permit, and warned against moving too fast. Pete Esquiro stated that he wouldn't mind if Gary Paxton Industrial Park is a permitted use. Judy Bigsby stated concern for recovery groups that meet downtown, and stated that marijuana smoke and visibility could trigger individuals recovering from addiction.

MOTION: M/S HUGHEY/POHLMAN moved to refer this item back to the City and Borough of Sitka Marijuana Advisory Committee for further discussion concerning law enforcement, and to recommend that all licensed marijuana activities be conditional uses in all zones.

ACTION: Motion **PASSED unanimously 4-0** on a voice vote.

8:13-8:20 – Break

VARIANCE REQUEST

**LOTS 2 AND 3, BLOCK 2, US SURVEY 2542 A & B, SITKA INDIAN VILLAGE; LOT 56, BLOCK 2, AS SHOWN ON THE SUPPLEMENTAL PLAT OF SITKA INDIAN VILLAGE
JENNIFER ALLEY**

Public hearing and consideration of a variance request filed by Jennifer Alley for 208 Kogwanton Street. The variance is for the reduction of the westerly side setback of Lot 2 from 5 feet to 0 feet, the reduction of the easterly side setback of Lot 3 from 5 feet to 0 feet, the reduction in the rear setback of Lot 3 from 10 feet to 0 feet, and the reduction of the southwesterly and southeasterly side setbacks of lot 56 from 5 feet to 0 feet for the construction of a new house. The new house will cross internal lot lines of Lots 2, 3, and 56. The variance is also for a reduction in the westerly external side setback of Lot 3 from 5 feet to 2 feet for the construction of a covered stairway. The property is also known as Lots 2 and 3, Block 2, U.S. Survey 2542 A

& B, Sitka Indian Village, and Lot 56, Block 2, as shown on the supplemental plat of Sitka Indian Village. The request is filed by Jennifer Alley. The owner of record is Jennifer Alley.

STAFF REPORT: Scarcelli described the property and the request. The three legal lots have historically been held in common ownership. A recently demolished house crossed the adjoining lot lines of Lots 2 and 3. The proposed house would cross the adjoining lot lines of Lots 2, 3, and 56. Scarcelli stated that a replat would be the appropriate process. Scarcelli stated that approval is based on plans submitted, and cited neighbor concerns with building orientation. The prior owner of the property granted an easement to CBS, which resulted in street improvements. Concerns were raised at the February 2nd meeting that property markers may have been removed or covered by the city during construction, but there is no way to know that these markers were in place prior to road construction. Scarcelli stated that the “lot merger” described in Title 22 is a misnomer, and is not a legal lot merger process. State law states that variances cannot be granted solely for pecuniary or convenience reasons.

APPLICANT: Jennifer Alley shared pictures of the lot and proposed house. Hughey asked how much the survey would cost. Alley stated that a survey would be \$2000-3000. Alley stated that without a variance she might build a smaller house on one of the lots. Alley stated that she may move the house back further on the lot, which would give more space between the neighboring house.

PUBLIC COMMENT: Neighbor Mark White stated that he is satisfied with the site plan.

COMMISSIONER DELIBERATION: Pohlman stated that the plat process provides clarity, and a variance would be inconsistent. Bosak stated that staff are supportive of the construction of a new home; however, fairness requires adherence to the Municipal Code. Hughey stated a preference for a replat. Windsor stated a preference for a replat. Scarcelli recommended that if the commission is leaning toward denial, a postponement to allow for amendment could expedite the process and save the applicant money. The amendment would change the application to a variance from development standards.

MOTION: M/S POHLMAN/HUGHEY moved to postpone this item to allow for amendments to the application.

ACTION: Motion **PASSED unanimously 3-0** on a voice vote.

**ZONING TEXT CHANGE
SHORT TERM RENTALS AND BED AND BREAKFAST OPERATIONS IN PUBLIC ZONE
TIM FULTON**

Public hearing and consideration of a zoning text change request filed by Tim Fulton. The proposed zoning text change would permit Bed and Breakfast operations and Short-Term Rentals in the Public Zone. The request is filed by Tim Fulton.

STAFF REPORT: Scarcelli reviewed the request. Administration requested that this proposal be considered again by the Planning Commission. The applicant would like to see short-term rentals

allowed on boats in municipal harbors. This proposal could result in unique experiences for tourists. Planning and Harbors staff believe that previous concerns can be mitigated by harbor regulations and the conditional use process. Hughey asked about the Harbormaster's previously stated concerns. Bosak replied that the Harbormaster is supportive if approvals state that a proposed boat short-term rental is in conformance with Title 13, which addresses sewage. Bosak stated that prospective applications would go before Ports and Harbors Commission before coming to the Planning Commission. Windsor asked which other areas in town are zoned Public, which would also be impacted by the change. Scarcelli stated that staff could include language which specifies that Public zone short-term rentals are limited to boats in harbors.

APPLICANT: Fulton stated that this proposal is a good opportunity for the community. Fulton stated that he has used AirBnB across the world, and it has granted him the opportunity to experience the community more fully. Pohlman asked about sewage processing. Bosak stated that harbor regulations require that boats have a sewage containment system aboard, or that boat owners pay to have sewage pumped out. Pohlman clarified that any boat that did not conformed would not be approved for a permit, and Bosak confirmed this statement.

PUBLIC COMMENT: None.

COMMISSIONER DELIBERATION: Pohlman stated support for the amendment if the approval clearly indicates that the conditional use is for boats in harbors.

MOTION: M/S HUGHEY/POHLMAN moved to approve the staff findings that 1) The proposal does not impact public health, safety, and welfare; 2) The proposal is consistent with the comprehensive plan as discussed in the staff report; and; 3) The proposal would promote tourism, alleviate some burdens on the housing market, promote economic development, and utilize existing resources for the betterment of the public, health, and safety of the community.

ACTION: Motion **PASSED 4-0** on a voice vote.

MOTION: M/S POHLMAN/HUGHEY moved to recommend approval of a zoning text change request filed by Tim Fulton to permit boats as short-term rentals and Bed and Breakfast operations in harbors in the Public Zone as a conditional use.

MOTION: M/S HUGHEY/POHLMAN moved to amend the motion to remove "Bed and Breakfast operations" from the motion.

ACTION: Motion **PASSED 4-0** on a voice vote.

ACTION: Main motion as amended **PASSED 4-0** on a voice vote.

**CONDITIONAL USE PERMIT REQUEST
LOT 27 OF US SURVEY 3302
FRANCES ANNE BUDYNGE AND KRISTINA ANN SCHELLER**

Public hearing and consideration of a conditional use permit request filed by Frances Brann and Krystina Scheller for a short-term rental at 2116 Sawmill Creek Road. The property is also known as Lot 27 of US Survey 3302. The request is filed by Frances Brann and Krystina Scheller. The owners of record are Frances Anne Budyng and Krystina Ann Scheller.

STAFF REPORT: Scarcelli described the property and the conditional use permit request. The lot is greater than four acres with ample space for parking and foliage for privacy. The owners will rent the unit when they are out of town. Neighbor David Moore has expressed concerns for access. Scarcelli stated that access concerns could be mitigated with directional signs and clear directions. Neighbors Steve and Cathy Shaffer and Barth Hamberg have stated support in writing.

APPLICANT: Krystina Scheller stated that the property is their home most of the year, and they want to earn rental income while they are out of town. Scheller stated that she has spoken to several neighbors who are in support. Scheller stated that Clyde Shaffer has organized for the neighbors to update the access and utilities. Scheller stated that concerns have been raised about trash, and the property manager has a strict trash management policy. Scheller stated that she will be talking with the neighbors to negotiate locations for signage. Sharon Romine of Welcome Home Vacations stated that she will be managing this rental. Romine stated that for properties that are hard to find, her company meets renters at the airport to guide them to the property. Romine stated that she posts trash management guidelines in all of her rentals, stating that no food is to be put in the trash. Romine stated that her company calls Stragier to pick up trash if it piles up before the designated trash day.

PUBLIC COMMENT: David Moore stated that access easements are to be limited to 4 residences, but this neighborhood has 6 residences. Moore stated that people get lost and end up at his house. Moore stated that the road is only wide enough for one car in some places. Moore stated that trash has attracted bears. Moore stated that he is opposed to having a short-term rental in the subdivision. Parker Song clarified that traffic issues are not only related to an existing rental in the vicinity, and Moore replied that 90 percent is related to the existing rental. Romine suggested erecting a "Private Drive" sign. Scheller stated that their signs would primarily need to be placed on the Reifentstuhl property. Windsor asked which seasons the rental would be active, and Scheller replied that it would mainly function in the summer. Pohlman asked if the bear problem has increased during the last two years, and stated that it only takes one person to start a bear problem. Moore stated that he believes the bear situation has worsened. Parker Song asked if Moore knew that the renters were the ones putting the trash in the cans early, and stated that we shouldn't base a decision on conjecture. Frances Brann stated that long-term renters are also in the neighborhood.

COMMISSIONER DELIBERATION: Parker Song stated that she didn't see any reasons to deny the permit, and that Moore's concern is primarily with a different property. Windsor stated that Romine has a great track record of managing properties. Hughey stated that Moore's concerns do not rise to the level to deny the permit. Windsor asked about the 6-lot subdivision sharing an access easement. Bosak stated that this is a great example of the need to follow code. Bosak stated that the subdivision should not have been approved.

MOTION: M/S POHLMAN/HUGHEY moved to approve the required findings for conditional use permits:

C. 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.

ACTION: Motion **PASSED unanimously 4-0** on a voice vote.

MOTION: M/S POHLMAN/HUGHEY moved to approve the conditional use permit request filed by Frances Brann and Krystina Scheller for a short-term rental at 2116 Sawmill Creek Road, subject to nine conditions of approval. The property is also known as Lot 27 of US Survey 3302. The request is filed by Frances Brann and Krystina Scheller. The owners of record are Frances Anne Budyngge and Krystina Ann Scheller.

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 following the first nine months of operations 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. An approved access plan that details efforts to mitigate disturbance to adjacent and surrounding land uses shall be submitted to and approved by the Planning and Community Development Department.

ACTION: Motion **PASSED unanimously 4-0** on a voice vote.

DIRECTORS REPORT: Bosak reminded commissioners to submit their financial disclosure forms to the Municipal Clerk, and stated that the landslide report is available on the city's website. Pierson reminded commissioners that beginning in March, the first meeting of the month will be dedicated to the comprehensive plan, while the second meeting of the month will be available for other planning actions.

MOTION: M/S HUGHEY/POHLMAN moved to adjourn at 9:33 p.m.

ACTION: Motion **PASSED unanimously 4-0** on a voice vote.

Darrell Windsor, Vice-Chair

Samantha Pierson, Secretary