

**City and Borough of Sitka
PLANNING AND ZONING COMMISSION
Minutes of Meeting
March 6, 2007**

Present: Pat Hughes, Bob Goss, Don Alexander, Brian McNitt, Planning Director Wells Williams, Planner Sara Russell, and Secretary Maria Finkenbinder

Members of the Public: Erik Davenport, Evan Keely, Jeff Feldpausch, Klaudia Lecesse, Kim Elliot, Lureen Stedman, Sue and Mike Litman, Andy Miller (Sentinel)

Chair Hughes called the meeting to order at 7:00 pm.

Consideration of Minutes from the February 20th, 2007 meeting:

MOTION: **M/S Goss/Alexander** moved to approve the minutes from the February 20th, 2007 meeting.

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

The evening's business:

TRIPLE VARIANCE REQUEST

- (1) REDUCTION OF FRONT SETBACK
FACING NICOLE DRIVE TO 10 FEET**
- (2) REDUCTION OF FRONT SETBACK
FACING PATTERSON WAY TO 10 FEET**
- (3) REDUCTION OF REAR SETBACK
OPPOSITE NICOLE DRIVE TO 5 FEET**

**301 NICOLE DRIVE
ERIK DAVENPORT**

Public hearing and consideration of a triple variance request filed by Erik Davenport at 301 Nicole Drive to (1) reduce the front setback facing Nicole Drive to 10 feet, (2) reduce the front setback facing Patterson Way to 10 feet, and (3) reduce the rear setback opposite of Nicole Drive to 5 feet. This request is needed for remodeling the existing home and the addition of an apartment. The property is also known as Lot 6 Block 3 of the Dave Cox Subdivision.

Ms. Russell briefly showed the layout of the property which is located on the corner of Nicole Drive and Patterson Way. She indicated that the applicants would like to do some remodeling to their home that includes the construction of a mother-in-law apartment extending off the front of the home towards Patterson Way. The apartment will connect to the house by way of an integrated breezeway. The minor portions of the remodeling work are (1) addition of a mudroom, master bath, and laundry room onto the backside of the house, and (2) an addition to the living room on the front side of the home.

Ms. Russell also pointed out that the existing garage adjacent to the woods was built in 1986 when the Code would have allowed for a side setback of 5 feet, as such it was in conformance at the time it was built in 1986. She added that Environmental Superintendent Mark Buggins wanted to make sure that the applicants know where the water, sanitary sewer and clean-out service are located on the lot.

Mr. Williams disclosed that he lives in the neighborhood, three houses down Patterson Way, and has received a notice from the Planning Office.

On Mr. McNitt's query about visibility issues with the subject property being a corner lot, Mr. Williams said that the yard is elevated, around 5 to 8 feet higher than the road surface of Patterson Way, and as such the

addition of the structure towards Patterson Way won't present any visibility issues. He added that the traffic pattern in that area usually comes from Patterson Way turning right on Nicole Drive towards Halibut Point Road or from Nicole Drive turning left to Patterson Way.

On the Chair's question about future development of the area adjacent to the subject property at the end of Nicole Drive, Mr. Williams indicated that the area it is part of the North Benchlands and has been delineated as wetlands. He noted that the Assembly, at the time it approved the sale of the North Benchlands, was comfortable with the idea that the area will not be developed.

On a question from the Chair about the portion of the property that is taken up by the structure, Mr. Davenport estimated that the whole structure takes up 36% of the lot. He also told the Board that he has talked to his immediate neighbors who signed a letter expressing no objection to the project. The letter was submitted to the Board for the record. He added that he did know where the utilities are located.

MOTION: **M/S Alexander/Goss** moved to approve a triple variance request filed by Erik Davenport at 301 Nicole Drive to (1) reduce the front setback facing Nicole Drive to 10 feet, (2) reduce the front setback facing Patterson Way to 10 feet, and (3) reduce the rear setback opposite of Nicole Drive to 5 feet. This request is needed for remodeling the existing home and the addition of an apartment. The property is also known as Lot 6 Block 3 of the Dave Cox Subdivision.

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

MOTION: **M/S Alexander/Goss** moved to approve the following findings to support the approval of the triple variance request filed by Erik Davenport:

- (1) That the variance is required to fully utilize the property which is considered to be a substandard lot;
- (2) That the property has unique topographic considerations due to the side slopes;
- (3) That the variance is consistent with the Sitka Comprehensive Plan in that it promotes sound development patterns.

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

Mr. Williams said that the variance will take effect after 10 days.

DOUBLE VARIANCE REQUEST

- (1) REDUCTION OF FRONT SETBACK
FACING HARBOR WAY TO 9 FEET**
 - (2) REDUCTION OF THE NORTHWEST SIDE SETBACK TO 3 ½ FEET**
- 315 PETERSON ST.
EVAN KEELY**

Public hearing and consideration of a double variance request for 315 Peterson St. to (1) reduce the front setback to 9 feet, and (2) reduce the northwest side setback to 3½ feet. This request is for construction of a front porch. The request is filed by Evan Keely. The property is also known as Lot 5 Block A of the Moore Memorial Addition.

Ms. Russell presented the existing status of the subject structure which was built in the mid-70's on a 7,800 square foot and 60-foot wide lot. The home has an existing porch that is 12½ feet from the front property line and it will be replaced with new porch that will run the full width of the house (25 feet). The new porch will be 9 feet from the front property line and 3 ½ feet from the northwest side property line. She pointed out that at the time the house was built, it was constructed 3½ feet from the northwest side property line. As a housekeeping measure, the Planning Office advised the applicant to include this in his request so that the entire width of the deck would be in compliance. She explained that a lot that is 60 feet wide or less, as in this situation, is given some relief in that the side setback requirement is decreased from 8 feet to 5 feet.

In addition, Ms. Russell also mentioned the Planning Office discovered that there was a 900 square foot Construction and Slope Easement adjacent to the proposed deck which prevented Mr. Keely from applying for a variance. In December 2006, the City and Borough of Sitka has determined that the need for easement the no longer exist and has released all rights to the said easement.

Ms. Russell also brought up the Mr. Buggins' request to make sure that the applicant knows the location of the water, sanitary sewer, and clean-out service.

On Mr. McNitt's concern about the succeeding property owner will cover the deck, Mr. Williams said that the variance is based on the plan submitted which specifically shows a covered but not enclosed deck. He assured the Board that the Planning Office will catch it if it happens.

Mr. Keely stepped forward to explain that the proposed porch roof will come out 6.5 feet away from the house and 11.5 feet from the front property line but the stairs will be 9 feet from the property line. He also pointed out that the sanitary sewer goes directly under the front of the house towards the sidewalk but he is not sure of the location of the water service.

MOTION: **M/S Goss/Alexander** moved to approve a double variance request for 315 Peterson St. to (1) reduce the front setback to 9 feet, and (2) reduce the northwest side setback to 3½ feet. This request is for construction of a front porch. The request is filed by Evan Keely. The property is also known as Lot 5 Block A of the Moore Memorial Addition.

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

MOTION: **M/S Goss/Alexander** moved to approve the following findings to support the approval of the double variance request filed by Evan Keely:

- (1) That the house is uniquely located so that expansion opportunities are severely limited;
- (2) That the lot itself is unusual in that there is a utility infrastructure (electrical poles) that is situated directly in front of the property which ensures that the expansion will not affect the adjacent roadway;
- (3) That the variance is consistent with the Sitka Comprehensive Plan.

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

Ms. Russell said that the variance will take effect on March 17th.

**CONDITIONAL USE PERMIT
TO EXPAND THE EXISTING SITKA TRIBAL TANNERY
4608 HALIBUT POINT ROAD
SITKA TRIBE OF ALASKA**

Public hearing and consideration of a conditional use permit to expand the existing Sitka Tribal Tannery at 4608 Halibut Point Road. This request is filed by Sitka Tribe of Alaska. The property is also known as Lot 56 of the Wyatt-Cox Resubdivision.

Ms. Russell stated that the Sitka Tribe of Alaska received a conditional use permit in April 2005 to operate a tannery business on a piece of commercial property owned by Connor Nelson in the 4600 block of Halibut Point Road. They currently operate their tannery out of a 25' x 40' bay in one of Mr. Nelson's two large warehouses. With the success of the business, STA would like to expand their operation by separating the "wet" portion of the business into a separate bay in an additional warehouse on the property located across from the current bay where the "dry" portion will remain. She added that the request is an expansion of the original conditional use permit which from 800 square feet to approximately 2,000 square feet.

Mr. Feldpausch, Project Manager of the Sitka Tribal Tannery, told the Board that their business has picked

up substantially after its first year of operation, from processing over 300 skins in the first year to 500-600 skins in the second year. He said that they are maxing out the space they are currently located. He also spoke about the environmental criteria they have entered with the City Public Works Department for the operation of the tannery. He added that they haven't received any negative feedback from the City.

MOTION: **M/S Alexander/Goss** moved to recommend approval of a conditional use permit to expand the existing Sitka Tribal Tannery at 4608 Halibut Point Road. This request is filed by Sitka Tribe of Alaska. The property is also known as Lot 56 of the Wyatt-Cox Resubdivision. The approval is with the condition that the operation receive a satisfactory review by the City Public Works Department.

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

Mr. Williams said that the application goes to the Assembly on March 27th.

**ZONING ORDINANCE TEXT AMENDMENT
REVISING THE DEFINITION OF "LODGE"
AS IT APPEARS IN SITKA GENERAL CODE TITLE 22**

Public hearing and consideration of a zoning ordinance text amendment revising the definition of the term "lodge" as it appears in Sitka General Code Title 22

At the outset, Mr. Williams explained that this item started out as one item but has evolved into three complicated items which are now presented as three separate agenda items. Based on the discussions from the last meeting, he presented the following proposed definition:

22.08.485 Lodge

"Lodge" means a premises that provides accommodations (room and board) and a variety of other related services, TO INDIVIDUALS OTHER THAN THE OWNERS OF THE PROPERTY AND FAMILY MEMBERS, with or without an exchange of money, on a regular basis, during any season, for visitors engaging in recreational activities such as sight-seeing, fishing, etc. Lodges employ at least ONE PERSON to provide guest services such as food preparation, house-keeping, sports fishing, sight-seeing, etc.

He mentioned that he has had conversations with Sue Litman and that the Planning Office is getting more feedback from individuals who are concerned with the direction that lodges are becoming more regulated. He felt that the new definition is taking them three steps backwards. He proposed that the Commission strike the phrase, *TO INDIVIDUALS OTHER THAN THE OWNERS OF THE PROPERTY AND FAMILY MEMBERS* and going back to defining a lodge as having two employees instead of one employee. He explained that the type of definition the Commission is coming up with is without precedent. Most codes when they deal with commercial uses, they deal specifically with defining a commercial use as being a service for compensation.

Mr. Williams pointed out that there are single family homes that have one employee who does either housekeeping or maintenance or helps with the boats. Having one employee is too tight a threshold. The Commission will be breaking new ground in a way that isn't supported in other case law. He said that having one employee has the tendency of confusing lodges with single family structures. He felt more comfortable with having two employees in the definition. He said that he is not sure that it is defensible but it would be more defensible than having one employee. He added that staff will be in a precarious situation wherein two groups of people looking at the same operation and one determining that one has to be more regulated and the other saying that it has to be less regulated.

Mr. Goss said that he has talked to at least 10 people asking him what the Commission is trying to get at by redefining lodges. If there are renegade lodges out there, he wanted to know where one of them is. He thought that the whole process is getting gray but he stressed that he is a firm believer of the conditional use

permit process to have the neighbors say their piece. However, he raised the question on how the City will determine if the lodge has one or more employees.

Mr. McNitt stated that the reason they are doing this process is to get ahead of the curve if it isn't a problem now. He clarified that it isn't saying that it is not allowed but property owners who want to operate as a quasi-lodge and have ten guests will have to go through the public process and get a conditional use permit. He said having two employees is not his preferred choice but it is a good place to start with. He added that the Code and the Comprehensive Plan treat island situations as generally residential neighborhoods. They are viewed like R1 neighborhoods.

Public Comments

Mr. Litman raised two concerns: (1) the direction of the public process, and (2) content of the proposed language. He explained that he devoted several hours participating in the public process but there are anonymous individuals who have enough influence to alter the process. He asked the Commission to name these people who are calling the Planning Office and the members and to have them go on record. He pointed to a paragraph in the meeting agenda indicating that people with concerns about an issue are encouraged to provide written comments to the Planning Office or make comments at the Planning Commission meeting.

He also urged the Board to keep the one employee threshold in the language which he thought is easier to understand. He added that requiring an operator to explain their operations will give neighbors the opportunity to give their input.

Ms. Lecesse stated that having one employee is adequate to define a lodge.

Ms. Elliot told the Board that she has been involved in operating island lodges at some point and knew that lodges didn't need to have an employee to operate. Family members can run a lodge without hiring an employee. She felt that at least one person is the barest minimum for the definition of a lodge. She also briefly spoke about people visiting in summer with big yachts and staying in island vacation homes. She asked the Commission to look at the general island district zoning and change it to residential zoning.

Additional Commission Comments

In response to Mr. Litman's comments, Mr. Williams said that Mr. Litman has the right to question his professionalism but he respectfully disagrees with Mr. Litman's comments that his office is being influenced by certain individuals. He stressed that the Commission gets professional recommendations from City Staff and staff is not sacrificing its integrity for one person.

MOTION: **M/S McNitt/Goss** moved to initiate a zoning text change to the Sitka General Code with the following language:

22.08.485 Lodge

"Lodge" means a premises that provides accommodations (room and board) and a variety of other related services, with or without an exchange of money, on a regular on-going basis, during any season, for guests engaging in recreational activities such as sight-seeing, fishing, etc. Lodges employ at least one person to provide guest services such as food preparation, house-keeping, sports fishing, sight-seeing, etc.

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

Mr. Williams told the Board that the proposed definition will be advertised.

**ZONING ORDINANCE TEXT AMENDMENT
REVISING SITKA GENERAL CODE TITLE 22 TABLE 22.16.015.1
TO MAKE LODGES, HOTELS, MOTELS
CONDITIONAL USES ON UNSUBDIVIDED ISLANDS
IN THE GENERAL ISLAND DISTRICTS**

Public hearing and consideration of a zoning ordinance text amendment revising Sitka General Code Title 22 Table 22.16.015.1 Residential Land Uses to make lodges, hotels, motels conditional uses on unsubdivided islands in the General Island (GI) district. The uses are currently permitted uses on unsubdivided islands in the General Island (GI) district.

Mr. Williams said that at the last meeting, the Board directed Staff to initiate a zoning text amendment making lodges a conditional use on all island districts. Staff added hotels and motels in the current proposal even though the Board didn't mention it. However, he pointed out that the proposal under consideration still has a flaw in that bed and breakfasts and short term rentals are still permitted used on unsubdivided islands in the GI zone. Staff didn't feel that they had Planning Commission directive to make it conditional uses in the GI zone.

Ms. Russell read for the record an email from Brita Patterson who offered a suggestion to amend footnote 10 to reflect that hotels, motels and lodges would be conditional as opposed to permitted uses. Ms. Patterson also proposed that there be a similar maximum number of persons on subdivided islands as well, i.e. "six persons plus one person for each one-half acre or fraction thereof above one acre on subdivided islands." The email pointed out that it doesn't seem to make much sense that unsubdivided islands would be limited in number but subdivided would not.

On the Chair's question if they should keep the calculation as Ms. Patterson's email suggested, Mr. Williams stated that with the proposed new definition of a lodge, the actual impact would not just be the number of guests but also the number of employees.

Public Comments

Ms. Elliot came forward to express support to Ms. Patterson's suggestion to apply the calculation on subdivided islands, saying that all island types should be treated the same way.

Ms. Lecesse similarly pointed out that there is no difference between subdivided and unsubdivided islands. She asked that the Commission hold on to the measurement and set guidelines for the process to apply for conditional use permit.

Mr. Litman expressed apology to Mr. Williams and stated that he didn't mean to question Mr. Williams' professionalism and that he was questioning the process. He encouraged the Board to continue along the same path, saying that unsubdivided islands create the same impact as subdivided islands.

MOTION: **M/S Goss/Alexander** moved to initiate a zoning text change to the Sitka General Code revising Sitka General Code Title 22 Table 22.16.015.1 Residential Land Uses to make lodges, hotels, motels, short-term rentals, and bed and breakfasts conditional uses on unsubdivided islands in the General Island (GI) district. The uses are currently permitted uses on unsubdivided islands in the General Island (GI) district.

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

**ZONING ORDINANCE TEXT AMENDMENTS
USE TABLE 22.16.015-2 CULTURAL/RECREATIONAL USES
TO REGULATE THE TYPES OF DOCKS THAT ARE
PERMITTED, CONDITIONAL AND PROHIBITED USES IN
ISLAND ZONING DISTRICTS**

Public hearing and consideration of a zoning ordinance text amendments to Use Table 22.16.015-2 Cultural/Recreational Uses that regulate the types of docks that are permitted, conditional and prohibited uses in island zoning districts.

Mr. Williams updated the Board on what Staff has done so far based on the discussion in the previous meeting. He said that language was inserted that says that it applies to waterborne aircraft that moor on docks on an ongoing basis. Language was also inserted that exempts island docks from having to have parking spaces. He added that commercial docks will be conditional use in all zoning districts.

Ms. Russell read a letter from Annette Blankenship who raised the following questions: (1) What are the allowable uses on a commercial dock? (2) Does a commercial dock allow for and support seafood sales, seafood processing and a commercial float plane? (3) Does a commercial dock allow for fuel storage on the dock? Ms. Blankenship indicated that she supports the direction the Commission is headed with the proposed text amendment but she asked the Commission to clearly define if the intent in making lodge docks commercial is simply to accommodate and allow for loading off-loading of clients.

Public Comments

Ms. Lecesse suggested that the Commission look into requiring community docks rather than allowing multiple personal docks. She spoke about the aesthetics of one community dock for an island versus multiple personal use docks, and about the allowable size of the personal use docks which she felt could not accommodate her family's boats.

Ms. Elliot read a letter from his parents who are island dwellers and could not attend the meeting. Her parents proposed that float plane docks should not be allowed on all districts and that single community docks should be encouraged. They also thought that the 300-foot dock size is too restrictive. The letter stressed that the City should rein in haphazard development in the islands.

Ms. Stedman urged the Board to keep in mind a person's ability to access a waterfront property when discussing access by kayaks, floatplanes, boats, raft, etc. She referred to a provision in the Alaska Administrative Code which lists generally allowed uses on state-owned public domain land without any permit or other written authorization. It includes placing a float in a lake, river, or marine waters, for the personal, noncommercial use of the upland owner, if the use does not interfere with public access or another public use, and if the improvement is placed within the projected sidelines of the contiguous upland owners parcel or otherwise has the consent of the affected upland owner.

Ms. Litman commented about the use of a personal floatplane dock which might have a similar impact as that of a commercial float plane dock. She asked that the Commission tweaking the float plane regulations to address that possibility in the future.

Additional Staff Comments

Mr. Williams clarified that the 300-foot restriction applies to the perimeter of a float and not the length. For community docks, there is no limit on the perimeter size. He didn't think that the size restriction is a big problem since it has been the subject of six to ten months of debate at the Commission and Assembly level.

Mr. McNitt said that he is not in favor of requiring community use docks on the islands as it causes a lot of problems. On his question if there is way to encourage it, Mr. Williams said that economics and tidal action would encourage to do it. But Mr. Williams cautioned that there are people who couldn't share a driveway together.

Mr. Goss agreed that topography makes a big difference on whether island residents can do a community dock or not.

MOTION: **M/S McNitt/Alexander** moved to initiate a zoning ordinance text changes revising Sitka General Code Use Table 22.16.015-2 Cultural/Recreational Uses that regulate the types of docks that are permitted, conditional and prohibited uses in island zoning districts. In addition, it has been moved and seconded to beef up the community use dock definition so it will be more consistent with the personal use dock definition.

DISCUSSION: Mr. Williams explained that the intent is to carry over the restrictions on the personal use dock and put it on the community use dock.

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

PLANNING DIRECTOR'S REPORT - None

PUBLIC BUSINESS FROM THE FLOOR

Mr. Miller asked about the lighted sign on the Baranof Elementary School roof which he thought is obstructive and hazardous to motorists. He wondered if it went through a public process or if it has to meet setback regulations.

Mr. Williams explained that he authorized the school to place the sign after researching the Code, evaluating it, meeting with the school principal and City Staff to determine if it is in conformance with municipal regulations He stressed that he approved it based on the authority granted by the Sitka General Code.

Ms. Lecesse thought that the sign is an eyesore and wanted to see it taken down, saying that Sitka is pedaling backwards in keeping this town quaint. She urged the Commission to hold a community process to approve installation of signs.

ADJOURNMENT

The meeting adjourned at 9:10 pm.

Chair, Pat Hughes

Secretary, Maria Finkenbinder