

**City and Borough of Sitka
PLANNING AND ZONING COMMISSION
Minutes of Meeting
April 17, 2007**

Present: Don Alexander, Brian McNitt, Larry Crews, Jeremy Twaddle, Planning Director Wells Williams, and Secretary Maria Finkenbinder

Members of the Public: Pat Hughes, Bob Goss, Pete Jones, Cam Davis, Jayson Christner, Randy Hitchcock, Peter Weiland, Dan Evans, Wayne Bowers, Pat O'Neill, Andy Miller (Sentinel).

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

Planning Director Wells Williams informed the members that the Assembly voted for Jeremy Twaddle to replace current Chair Pat Hughes and that Bob Goss tendered his resignation from the Commission earlier in the day. He said that before the Commission takes up the evening's business, he wanted an opportunity to publicly thank the two outgoing members and recognize them for the years they've served on the Board. He also pointed out that the Commission needs to elect the new Chair and Vice Chair.

Mr. Williams recognized Mr. Hughes's eight years of service on the Planning and Zoning Commission and expressed appreciation for the time Mr. Hughes has put in. He said Mr. Hughes served the Board with distinction and has been an incredible chairman. He also thanked Mr. Goss for his six years of service and dedication to the Commission. He expressed disappointment to see the two members leave and felt that there is no clarity on which direction some groups in the community would want the Commission to go.

Mr. Hughes and Mr. Goss were given flowers and shook hands with the members.

Election of Chair and Vice Chair

MOTION: **M/S Crews/McNitt** moved to nominate Mr. Alexander as Chair of the Planning and Zoning Commission.

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

MOTION: **M/S Alexander/Twaddle** moved to nominate Mr. McNitt as Vice Chair of the Planning and Zoning Commission.

DISCUSSION: On Mr. Crews query if Mr. McNitt will be available to attend the meetings, Mr. McNitt said that he will be available 3/4 of the time since his job requires some travel.

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

Mr. Williams requested the members to inform the Planning Office ahead of time about their travel schedule to help Staff determine quorum for the meetings.

Consideration of Minutes from the April 3rd, 2007 meeting:

MOTION: **M/S Crews/McNitt** moved to approve the minutes from the April 3rd, 2007 meeting.

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

The evening's business:

**MAJOR SUBDIVISION – FINAL PLAT
TO CREATE 5 COMMERCIAL CONDOMINIUM UNITS
AND 1 COMMERCIAL CONDOMINIUM UNIT
W/ A RESIDENTIAL CARE-TAKER APARTMENT
215 SMITH STREET
SITKA COMMERCIAL CONDOMINIUMS**

Public hearing and consideration of a final plat for a major subdivision to create 5 commercial condominium units and 1 commercial condominium unit with a residential care-taker apartment at 215 Smith Street. This request is filed by Sitka Commercial Condominiums. The property is also known as Lot 1 Smith Street Industrial Subdivision. Owner of record is Tom Mattingly.

Mr. Williams briefly reviewed the request which is a final plat for a major subdivision to create 5 commercial condominium units and 1 commercial condominium unit with a residential care-taker apartment. He pointed out that the project needs to go through the major subdivision process which requires three meetings. This will be the last meeting at the Commission level before it goes to the Assembly on May 8th for final approval.

He explained that a buyer of one unit basically gets two things: (1) the interior space of the unit and (2) a share into the common areas which is an undivided interest in the spacing and sheet rock that divides two units, the exterior of the building, and the roof. That share makes the owner a permanent member of the condominium association. He pointed to the lengthy agreement included in the packet which describes the ownership and operations of the facility. He said the City doesn't need to approve the agreement but it has to review it to make sure that property rights are protected.

On Mr. Alexander's question if adequate reserves are in place for the condominium association, Mr. Williams said that he pointed it out to Mr. Mattingly who, according to Mr. Williams, will talk to his lawyers about it. The Planning Director stressed that the sufficiency of the reserves is not part of the approval process. It is up to the condominium association if they want changes in this respect.

Mr. Jones stepped forward to represent Mr. Mattingly to answer any questions from the Board.

MOTION: **M/S McNitt/Crews** moved to approve the final plat for a major subdivision to create 5 commercial condominium units and 1 commercial condominium unit with a residential care-taker apartment at 215 Smith Street. This request is filed by Sitka Commercial Condominiums. The property is also known as Lot 1 Smith Street Industrial Subdivision. Owner of record is Tom Mattingly.

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

This agenda item will be on the Assembly's agenda on May 8th.

**ZONING MAP AMENDMENT
TO REZONE 215 AND 217 SMITH STREET
FROM (I) INDUSTRIAL TO C-2 (GENERAL
COMMERCIAL/MOBILE HOME DISTRICT)
SITKA COMMERCIAL CONDOMINIUMS
TOM MATTINGLY**

Public hearing and consideration of zoning map amendment request filed by Sitka Commercial Condominiums to rezone 215 and 217 Smith Street from I (Industrial) to C-2 (General Commercial/Mobile Home District). The property is also known as Lot 2 Smith Street Industrial Subdivision. Owner of record is Tom Mattingly.

Mr. Williams explained that in the previous meeting, he raised the possibility that a potential buyer of one of the condominium units may want to conduct a commercial activity that is not allowed in an industrial zone. He also mentioned during the said meeting that rezoning from industrial to commercial will give the property owner more flexibility and open up more opportunities. Thus, this request was filed by Mr. Mattingly.

He told the Board that the request covers 215 Smith St. on which the condominium complex is located, and the adjacent property, 217 Smith St. which is a vacant lot that Mr. Mattingly also owns. The two parcels are currently zoned industrial. However, Mr. Williams explained that the rezoning request won't be spot rezoning since 215 Smith St. currently borders the C-2 (General Commercial/Mobile Home) zoning district. The zoning amendment will simply be an incremental expansion of the C-2 district to include the two parcels.

He cautioned the Board that they cannot restrict a commercial activity through the zoning process. It can only be done in a subdivision process. He briefly spoke about contract zoning which has been repeatedly struck down by courts in almost every state.

Mr. Davis, a nearby property owner in the industrial zone, spoke against the request, saying that there is a limited supply of industrial property in Sitka. He also expressed concern that by rezoning it to C-2, future condominium owners will convert their units into residential dwellings. He asked that if the request is approved, a plat note be added that only one caretaker unit be allowed on each parcel. He also pointed out that Mr. Mattingly should have taken into account the possible uses of the property when he built the building.

On Mr. McNitt's query regarding the allowable uses in industrial and C-2 zones, Mr. Williams outlined some uses in a commercial zone which are not allowed in an industrial zone such as residential use, dry cleaning, motor vehicles and boat dealers, food stores, auto supply stores, drug stores, and other uses that are heavily dependent upon vehicular access.

Mr. McNitt shared Mr. Davis' concern about the availability of industrial property in Sitka. Mr. Williams noted that the supply and demand of industrial land equalizes itself out in the long run. He said it is self-correcting and doesn't see the shortage of industrial property to last long.

On Mr. McNitt's additional query about the required number of parking spaces, Mr. Williams explained that the condominium complex meets the parking requirements for a commercial use but not for residential use. As such, he pointed out that there cannot be any residential unit in the building because it doesn't meet the residential parking requirements. Any modification of the commercial units to residential units will require building permits which the Planning Office has to sign for concurrence. Control on the use of the space can then be done through this process.

MOTION: **M/S McNitt/Crews** moved to recommend approval of the zoning map amendment request filed by Sitka Commercial Condominiums to rezone 215 and 217 Smith Street from I (Industrial) to C-2 (General Commercial/Mobile Home District). The property is also known as Lot 2 Smith Street Industrial Subdivision. Owner of record is Tom Mattingly.

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

MOTION: **M/S McNitt/Crews** moved to adopt the following findings in the denial of the request:
(1) That the potential mixed used of the property in the future will have a negative impact on adjacent properties, and
(2) That the rezoning will result to a loss of industrial land base in Sitka which will have a negative impact on industrial development.

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

**DOUBLE VARIANCE REQUEST
(1) REDUCTION OF REAR SETBACK
OPPOSITE MILLS STREET TO 4 FEET
(2) REDUCTION OF FRONT SETBACK FACING
JOHNSON STREET TO 16 ½ FEET
FOR CONSTRUCTION OF SHED
JAYSON CHRISTNER
1400 JOHNSTON STREET**

Public hearing and consideration of a double variance request filed by Jayson Christner for 1400 Johnston Street to (1) reduce the rear setback opposite Mills Street to 4 feet, and (2) reduce the front setback facing Johnston Street to 16 ½ feet for construction of a shed. The property is also known as Lot 10 of the Gavan Subdivision.

Mr. Williams briefly walked the members through the request which involves a reduction of the rear setback opposite Mills Street to 4 feet, and reduction of the front setback facing Johnston Street to 16 feet. The applicant would like to build a permanent 8' x 20' shed to the left of his property, replacing the temporary storage structure currently in the same location. He mentioned that the Environmental Superintendent wants to make sure that the applicant is aware of the location of the utilities and will not build on it.

Mr. Christner told the Board that the height of the permanent shed would roughly be the same as the current temporary structure shown onscreen. He explained that he could not build the shed closer to the house because they would need access to the side deck neither could he build it in the back portion because there is a no-disturbance area set by the Corps of Engineers. That area is within 15 feet from the stream which bisects the property. He added that the shed will provide security and protection from the elements for his tools, vehicle, and kids' bicycles.

On Mr. Twaddle's query about the foundation for the shed, Mr. Christner said that the shed will have a concrete foundation. He also pointed out that the rear setback of 4 feet accounts for the overhang. He added that the distances indicated on the plans are from the property line to the eaves.

MOTION: **M/S Crews/McNitt** moved to approve a double variance request filed by Jayson Christner for 1400 Johnston Street to (1) reduce the rear setback opposite Mills Street to 4 feet, and (2) reduce the front setback facing Johnston Street to 16 feet for construction of a shed. The property is also known as Lot 10 of the Gavan Subdivision.

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

MOTION: **M/S Twaddle/McNitt** moved to approve the following findings to support the approval of the triple variance request filed by Jayson Christner:
(1) 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, and
(2) The variance is necessary to fully utilize the property which is considered to be a substandard lot.

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

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

**MINOR SUBDIVISION – CONCEPT PLAT
TO CREATE THREE PARCELS
RANDY HITCHCOCK, PETER WEILAND, AND DAN EVANS
320 AND 324 WACHUSETTS STREET**

Public hearing and consideration of a concept plat for a minor subdivision at 320 and 324 Wachusetts Street

to create three parcels. This request is filed by Randy Hitchcock, Peter Weiland, and Dan Evans. The property is also known as Lots 3 and 4, Block 17 of the NW addition.

Mr. Williams showed an aerial photo of the property which is located on Wachusetts St., off Edgcumbe Drive. The minor subdivision request involves eliminating the property line between the two parcels and creating three new parcels ranging in size from 8,378 square feet to 11,192 square feet. A 20' access and utility easement will run along the right side of the lots providing access to each. He indicated that Peterson Creek runs through a portion of all three lots.

The three applicants were present to respond to various questions from the Board. Mr. Hitchcock explained that lot 1 is bigger in size since the creek makes its buildable area smaller than the other two lots. He said they plan to build houses with floor areas ranging from 1,000 to 1,400 square feet and would not need any variances.

Mr. Bowers of 328 Wachusetts St. stepped forward to discuss the potential effects on his property although he stressed at the outset that he has no objection to the minor subdivision request. He expressed concern that too much tree-cutting adjacent to the stream will widen it or cause erosion which might undermine the foundation of his house. He wanted some setbacks set for cutting live trees adjacent to the stream. He also wanted to know if the stream is androgynous.

Another issue that Mr. Bowers brought up was the sewer pump station on Wachusetts St. which he thought is past its life expectancy and need more maintenance. He asked if the City plans to reroute the sewage towards Peterson St. through a gravity sewer that would arch over the stream. He doesn't want to see the creek covered with an arch and suggested that the pump station be moved instead.

Mr. Hitchcock said that they have done a little bit of research about Peterson creek and assured Mr. Bowers that they will do everything on the uphill side of their properties to avoid disturbing the stream.

Mr. Evans told the Board that he checked with City Coastal Management Director Marlene Campbell and Alaska Dept. of Fish and Game about the stream and was told that indeed it is an androgynous fish stream and there is a required 20 feet streamside setback.

Mr. Weiland said that they are very conscious about the preservation of the trees and would try to save every tree they can when they build their homes.

Mr. O'Neill, speaking as the surveyor hired by the City for the sewer project, told the Board that the City was considering a gravity sewer that would arch over Peterson Creek but the Public Works determined that there are too many obstacles for the project. They gave up the idea and settled for a pump station.

Mr. Williams said that no formal action is required that evening. This agenda item will come back at the May 1st meeting for the approval of the final plat.

**ZERO LOT LINE SUBDIVISION – CONCEPT PLAT
401 LOUISE COURT
PAT AND TAMMY O'NEILL**

Public hearing and consideration of a concept plat for a zero lot line subdivision at 401 Louise Court. This request is filed by Pat and Tammy O'Neill. The property is also known as Lot 4 Block 2 of the Hillside Subdivision.

Mr. Williams explained the two-step process that zero lot subdivision requests go through. First, the Board approves the concept plan which basically authorizes work to be done and money expended to put in the foundation. When the foundation is in place, it will be resurveyed to determine where the common lot line would be and the final plat will be brought back before the Board for final approval. He said that it is essentially a minor subdivision in which a lot is being split in half.

On Mr. Crews' question about whose responsibility would it be to pave or plow Louise Court, Mr. Williams said that under a road maintenance agreement, maintenance should be equal to the benefit derived from the use of the road.

Mr. O'Neill said that since lot 1, which faces Versa Place, won't be using Louise Court, the occupant will not have any responsibility for the maintenance of Louise Court. He also said that the utilities for lot 1 will tie in close to the intersection of Versa Place and Eliason Loop. Lot 2 will tie in closer to the intersection of Versa Place and Louise Court by way of a 10' utility easement through lot 1.

On Mr. Crews question if there are any limits on what the owners can build on a zero lot line, Mr. Williams said that there are no limits.

MOTION: **M/S McNitt/Crews** moved to approve a concept plat for a zero lot line subdivision at 401 Louise Court. This request is filed by Pat and Tammy O'Neill. The property is also known as Lot 4 Block 2 of the Hillside Subdivision.

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

PLANNING DIRECTOR'S REPORT

Mr. Williams gave a brief orientation for the benefit of the new members on scheduling of the agenda items and how the packets are prepared. He pointed out that the cut-off times for items to be placed on the agenda is 12 noon Tuesday, two weeks before the next Commission meeting. Notices to adjacent property owners are sent out Friday. The packets are prepared from Monday to Thursday the following week. Packets are delivered Friday to give the members the chance to review the packet and check out the sites over the weekend. The agenda is published on the paper Monday and Wednesday the week prior to the meeting.

He also spoke about the required disclosure by members of any financial interests on certain items on the agenda. Any member who may have a conflict of interest will have to recuse himself and step outside the room to avoid any influence on the decision to be made on the request. He also cautioned the members about ex-parte contact with applicants regarding any matter pending before the commission for review prior to final decision. In the event an ex-parte contact occurs, the name of the person making the contact shall be stated on the record. The information conveyed in an ex-parte contact should not be relied upon or considered in reaching a decision.

He urged the members to explain their vote, whether it is for or against a request. He stressed that the Assembly needs to understand why the Commission denied or approved a request. He said that Commission is a fact-finding body and should support its decision with valid findings.

Mr. McNitt encouraged the new members to read the Planning Commissioner's Guide which he found very helpful.

PUBLIC BUSINESS FROM THE FLOOR - NONE

ADJOURNMENT

The meeting adjourned at 9:00 pm.

Chair, Don Alexander

Secretary, Maria Finkenbinder