



CITY AND BOROUGH OF SITKA

Minutes - Final

Planning Commission

Wednesday, August 3, 2022

7:00 PM

Harrigan Centennial Hall

I. CALL TO ORDER AND ROLL CALL

Present: Chris Spivey (Chair), Darrel Windsor, Stacy Mudry, Wendy Alderson, Katie Riley (telephonic), Thor Christianson (Assembly Liaison)
Staff: Amy Ainslie, Kim Davis
Public: Sam Smith, Eric Calvin, Larry Calvin, Beverly Caldwell, Todd Fleming, Michael Tisher, Margie Esquiro, Pete Esquiro, Ryan Herbert, Adam Chinalski, Noah Galarza, Ariadne Will (Sitka Sentinel)

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

II. CONSIDERATION OF THE AGENDA

III. CONSIDERATION OF THE MINUTES

A [PM 22-14](#) Approve the July 20, 2022 meeting minutes.

Attachments: [12-July 20 2022 DRAFT](#)

**M-Mudry/S-Alderson moved to approve the July 20, 2022 meeting minutes.
Motion passed 5-0 by voice vote.**

IV. PERSONS TO BE HEARD

Stacy Mudry stated she had been contemplating the housing issues in town and was aware of State of Alaska infrastructure funds, and would like to pursue the opening City and Borough of Sitka lands. If CBS would develop an infrastructure plan to create roads and LIDs on CBS owned property, they would be able to apply to these funds and develop more land as a way to get affordable housing in town.

V. PLANNING DIRECTOR'S REPORT

Ainslie reported of the change to the Lincoln Street closure, which was that the threshold would be based on passenger capacity instead of the actual passenger count. The new closure threshold was when there were days with 5,000 or more total passenger capacity. The closures would end on September 15. Visit Sitka kept a live calendar with the cruise ship schedule and closure days. The cost allocation study was underway to best identify the costs and impacts of tourism on city services and infrastructure. This study would help the city reimburse passenger-related expenses properly from the cruise ship passenger tax. The traffic study had begun as well, the

consultants would be in town the following week to complete onsite observations. This would support any necessary changes to Department of Transportation roads in Sitka. CBS was funding the study. Commissioner Alderson would be absent at the August 17 meeting, and the September 7 meeting would be canceled as Ainslie would be absent. Windsor asked if Mudry's comments from Persons To Be Heard could be added as a discussion item on the next agenda, Ainslie confirmed.

VI. REPORTS

VII. THE EVENING BUSINESS

- B** [VAR 22-14](#) Public hearing and consideration of a variance to reduce the front setback from 14' to 0' at 1415 Davidoff Street in the R-1 single family and duplex residential district. The property is also known as Lot 3, Clyde Franks Subdivision. The request is filed by Sam Smith. The owner of record is Hard Rock Construction, LLC.

Attachments: [V 22-14 Smith 1415 Davidoff Setback Staff Report](#)
 [A V 22-14 Smith 1415 Davidoff Setback Aerial](#)
 [B V 22-14 Smith 1415 Davidoff Setback Site Plan](#)
 [C V 22-14 Smith 1415 Davidoff Setback Elevation & Floor Plan](#)
 [D V 22-14 Smith 1415 Davidoff Setback 1417 Davidoff As-built](#)
 [E V 22-14 Smith 1415 Davidoff Setback Photos](#)
 [F V 22-14 Smith 1415 Davidoff Setback Applicant Materials](#)
 [G V 22-14 Smith 1415 Davidoff Setback Public Comment](#)

Staff report: Ainslie introduced the variance to reduce the front setback from 14 feet to 0 feet at 1415 Davidoff Street. The lot was currently undeveloped and was located along the undeveloped portion of the Davidoff Street right-of-way (ROW). The section of the ROW had very dense vegetation and uneven topography even for pedestrian use. The ROW was platted as 60 feet wide. The applicant would like to construct a single-family home on the property. The property had landslide history and steep topography particularly towards the rear of the lot. The applicant had completed study work to determine the best path forward and had concluded keeping the structure towards the front of the lot was the best and safest option to complete construction. The site plan shows the proposed boundary line adjustment from the Sitka Community Land Trust subdivision; the ceded portion to 1415 Davidoff provided another 50 feet of frontage along Davidoff Street, which created a larger setback to the common property line with 1417 Davidoff. It also allowed for more off-street parking on the property. The variance itself would not increase traffic, density, or other impacts beyond regular residential use under the R-1 zone. It was in line with the comprehensive plan objectives on housing development and the topography challenges qualified as special circumstance warranting a variance. Staff recommended approval. Alderson asked staff about the current owner of the portion from the Sitka Community Land Trust Subdivision. Staff responded the SCLT currently owned the portion, and the new boundary line would be recorded on the final plat for the subdivision.

The applicant Sam Smith was present. He stated to keep the project safe and

affordable, he would like to move the house forward towards Davidoff Street and away from the steep hillside. The hillside had been reviewed by a local engineer, who suggested that moving the house closer to Davidoff Street was the best option for constructability. A mitigation study had been done by R&M engineering and provided options to help mitigate possible landslide risk. A local engineer who was assisting with the design had been adamant that the applicant drill into rock and not build on ash. Drilling rebar into the bedrock and adding a retaining wall would shore up the hillside. The footprint of the house was roughly 35 feet by 50 feet. The footprint included the cantilever floor portion out from the foundation using steel beams. Smith stated it was possible to build without a variance, but the house would be wider and not as deep. He was asking for the consideration with the understanding Davidoff Street was considered a dead-end. The height of the building was limited to 35 feet per the zoning code. Smith also stated he believed other developments nearby had been granted the 0' variance by the Commission and would like that to be considered.

Public comment: Eric Calvin, representing his father Larry Calvin, disagreed with the findings of the area not being developed. E. Calvin stated the properties across the street would be developed in the future. If granted the variance would create a parking problem. He asked that the variance application be denied.

Ainslie read a letter objecting to the variance from Kris Calvin, Eric Calvin, Leif Calvin, and Karen Calvin-Woodard on behalf of Larry Calvin (Calvin). Calvin owned four neighboring properties; 210 and 214 Neva Street, 1410 Davidoff Street, and 1409 Edgcombe Drive. The letter asserted that if granted, the variance would have a detrimental effect on their surrounding properties and public safety in the area. They also felt that the variance was not warranted because the issues regarding the topography and buildability of the lot could be addressed with enough time and financial resources, and that variances may not be granted solely to relieve financial hardship or inconvenience. The detrimental effect to Calvin's property included a greater view obstruction as the structure would be built on a higher elevation as a result of the variance. Public safety considerations included soil disturbance and long-term erosion in an already unstable landslide zone.

Ainslie read a letter from Beverly Caldwell. Caldwell resided at 1503 Halibut Point Road. She stated she had concerns about potential landslides happening between 1511 and 1417 Halibut Point Road, particularly due to trees on the hillside that could uproot.

Smith responded to public comment. Understands the concerns but even without the variance he would be able to build a house on the property. Without the variance he would have to make the house wider which would probably block the view more. He stated landslides in the area were caused by the way the lots in the area were developed. He would be de-loading the lot by pulling trees and stumps to make the hillside stable for building. Geotechnical engineers have assessed the hillside and provided ways to make it safer. He believes even without the variance view blocking would occur.

Commission discussion: Windsor stated he felt the 0-foot variance would be safer for preventing landslides, and there was a precedent with the Sitka Community Land Trust property below being granting a 0-foot setback for those properties that abutted the undeveloped portion of Davidoff Street, but he understood the neighbors point of view. Riley was unsure given that there could be alternate building plans made, and reinforced that variances were not granted solely due to inconvenience. Alderson had questions and concerns regarding how the building plans could change after the

variance was granted, but generally understood why it made sense to build that close to Davidoff Street. Alderson also felt that with the additional 32 feet on the side adjacent to 1417 Davidoff, and a two-car garage there seemed to be enough parking. Ainslie clarified the building plans submitted under a building permit would need to be consistent with those submitted in the variance application, and if plans changed too much then it would come back to the commission for reconsideration. Spivey stated the footprint had to stay the same, but the building design was able to change. Ainslie reminded Commissioners they could add conditions if necessary. Spivey believed that the development of this portion of the right-of-way undertaken by the applicant would ultimately be a benefit to the property owners across the street. Spivey stated he did not see a reason for denial, and they have set precedent of approving 0-foot setbacks to this portion of the Davidoff Street right-of-way in the past.

M/Mudry–S/Windsor moved to approve the zoning variance for a reduction to the front setback to 0' at 1415 Davidoff Street in the R-1 single family and duplex residential district subject to the attached conditions of approval. The property was also known as Lot 3, Clyde Franks Subdivision. The request was filed by Sam Smith. The owner of record was Hard Rock Construction, LLC. Motion passed 5-0 by voice vote.

M/Mudry–S/Windsor moved to adopt and approve the required findings for variances involving major structures or expansions as listed in the staff report. Motion passed 5-0 by voice vote.

C [VAR 22-15](#)

Public hearing and consideration of a platting variance to serve more than four lots (eleven lots) via private utility easement for a subdivision of 300 Kramer Avenue in the R-1 single family and duplex residential district. The property is also known as Lot 3, West Woodbury Subdivision. The request is filed by Todd Fleming. The owner of record is Sound Development, LLC.

Attachments: [V 22-15 Sound Development 300 Kramer Platting Variance Staff Memo](#)
[A V 22-15 Sound Development 300 Kramer Platting Variance Aerial](#)
[B V 22-15 Sound Development 300 Kramer Platting Variance Preliminary Plat](#)
[C V 22-15 Sound Development 300 Kramer Platting Variance Neighboring Subdivision Plats](#)
[D V 22-15 Sound Development 300 Kramer Platting Variance CBS to DEC 6.21](#)
[E V 22-15 Sound Development 300 Kramer Platting Variance Applicant Materials](#)
[F V 22-15 Sound Development 300 Kramer Platting Variance Photos](#)

Staff report: Ainslie introduced the consideration of a platting variance to serve more than four lots (eleven lots) via private utility easement. The Sitka General Code 21.40.030 stated no more than four lots shall be served by a private utility easement. The applicant was requesting approval to serve the resulting lots 1-3 of the subdivision via a private sewer easement which currently had approval to serve eight lots. Ainslie provided a brief history of the platting actions and approval for the eight lots approved to use the sewer easement. There were three primary considerations made in coming to a staff recommendation including operational and service issues for the sewer line, the challenges that come in managing private utility services via easement and maintenance agreements, and considerations for future growth and development in the area. Staff recommended denial for five primary reasons; the system had been

designed to serve a minimal number of lots and did not find expansion advisable, the challenges managing the system carried risk for current and future property owners as well as for CBS rate payers, future development of the area was not well accounted for through this development plan, the granting of the variance would set a worrying precedent that allowed developers to circumvent the major subdivision process, and that the applicant had not met the burden of proof to show that the variance was warranted. However, if the Commission was inclined to approve the platting variance, staff had prepared a list of conditions that should be attached to an approval.

Commissioner discussion: Spivey asked for clarification on the maintenance of the sewer line; it was his understanding that it would be the responsibility of the property owners and did not understand what risk there was to the municipality that would result. Ainslie explained staff's experience in older subdivisions in which urgent or catastrophic failures of private amenities such as roads or utilities occurred, and the resulting pressure for the municipality to respond in those cases, incurring added costs to the ratepayers broadly. Christianson added the perspective of an Assembly member, stating it was not uncommon for these types of issues to come forward to the Assembly; when 30 years or more pass from the time of original development and initial property owners, it was hard to say no to city-action when a citizen was without water or sewer. Spivey asked about the dimension of the sewer line, and if an 8-inch line was required for a major subdivision. Ainslie stated that an 8-inch sewer line was generally standard, but was evaluated on a case-by-case basis for each subdivision based on the number of properties that would be served. Windsor asked for clarification between repair or maintenance on a sewer line.

The applicant, Todd Fleming representing Sound Development, was present. Fleming passed out paperwork to the Commissioners not included in the applicant materials. He stated they were working on developing properties for people to build houses on. There was no sewer service in Kramer Avenue adjacent to the proposed lots 1-3, and a gravity sewer was not feasible without private properties utilizing pumps which he did not think was ideal for property owners. The sewer line in Kramer Avenue was a 12-inch pipe. The 8" line developed for the Tisher Subdivision was designed by an engineer, and they would be putting in two or three manholes to serve the line. The private utility system was approved by both CBS and the State of Alaska DEC for construction. He was confused about the recommendation of denial, as he asserted it had already been approved by both CBS and DEC. Spivey stated one of the staff concerns was the possibility of further development in the area which might also use the sewer line. Fleming said he had been working on a major subdivision plan in 2014, but that it was still under city review. He also stated he did intend to continue with minor subdivisions of the properties and felt the private line had adequate capacity to handle more lots. Spivey asked if there was a drainage report, and Fleming reported it would be submitted under the minor subdivision.

Public comment: Michael Tisher was in support of the variance. He did not agree with the staff recommendation of denial, and he believed adding a few more connections would help with the maintenance of the line. He stated this was one of the best sewer lines he had ever put into a development, and it had passed inspection by CBS. He stated DEC had a maintenance provision that every few years the line had to be flushed. Ainslie read a letter from Jill Hirai, who was disheartened about the recommendation of denial for both the variance and the subdivision. She was concerned about the housing situation in Sitka, and she believed the infrastructure developed by Mr. Tisher was well within the existing standards for developments.

Commission discussion: Windsor believed it was important to listen to the experts and

he had reviewed the letter from the city for the approval from June 24, 2021 on the sewer line connection. He also stated the sewer line was built well and trusted the developers who installed it, Mudry agreed with his opinion. Alderson does not like going against staff recommendations, but Jill's letter resonated with her. Riley agreed with Alderson and staff's assessment. She was concerned about the precedent that would be set regarding subdivision developments. She asked if the major subdivision was moving forward, Spivey responded it was in limbo since the landslides. He respected the staff decision but was conflicted given the paperwork from CBS approving the utility. He also suggested a signed maintenance agreement between property owners would help with the maintenance of the sewer line. Ainslie stated these documents regarding CBS approval of the line were not provided in the applicant materials. She noted the signed approval was only for lot three as a singular lot and not for any additional subdivided properties. Her concern was not with the integrity or size of the sewer line but with the number of connections. It was a question of whether it was advisable to do so from both a management perspective and the matter of precedent set. With no clear standard for how many more lots could connect to a private utility system, it would create a path forward for circumvention of the major subdivision process by approving minor after minor subdivision. She also wanted to note that even though CBS approved and inspected the utility as a private line, it did not make the line a good candidate to be owned and maintained by CBS. Staff recommended postponement due to the materials provided by Mr. Fleming which warranted further review. Riley was in favor of postponement since she had also not seen the documents provided and the public had not been able to review those documents as well. Applicant was asked if the postponement would be a problem, he would rather not be delayed but understood the need for staff review.

M/Alderson-S/Mudry moved to postpone until September 21, 2022. Motion passed by a 3-2 by voice vote.

D [P 22- 07](#)

Public hearing and consideration of a preliminary plat for a minor subdivision to result in four lots at 300 Kramer Avenue in the R-1 single family and duplex residential district. The property is also known as Lot 3, West Woodbury Subdivision. The request is filed by Todd Fleming. The owner of record is Sound Development, LLC.

Attachments: [P 22-07_Sound Development_300 Kramer_Minor Sub_Staff Report](#)
 [A_P 22-07_Sound Development_300 Kramer_Minor Sub_Aerial](#)
 [B_P 22-07_Sound Development_300 Kramer_Minor Sub_Current Plat](#)
 [C_P 22-07_Sound Development_300 Kramer_Minor Sub_Preliminary Plat](#)
 [D_P 22-07_Sound Development_300 Kramer_Minor Sub_Neighboring Subdivision Plats](#)
 [E_P 22-07_Sound Development_300 Kramer_Minor Sub_Photos](#)
 [F_P 22-07_Sound Development_300 Kramer_Minor Sub_Applicant Materials](#)
 [G_P 22-07_Sound Development_300 Kramer_Minor Sub_Public Comment](#)

Staff report: Ainslie stated the preliminary plat was contingent on approval of V 22-15

and recommended postponement. The applicant asked to move forward regardless. Ainslie stated the plan and plat submitted had to address the plans for utilities. As the subdivision code stated that no more than four lots could connect to a private utility easement, and the platting variance to waive this subdivision requirement had not been granted, the plat was not compliant with the subdivision code and therefore staff recommended denial on that basis. In concept, the subdivision itself was straightforward; all the lots met minimum size requirements, and all were accessed via Kramer Avenue which was a municipally maintained right-of-way. The waterline in Kramer Avenue had been extended by Tisher for the Tisher and JPJL Subdivisions from its previous termination point near Emmons Street. It was an 8-inch line that connected to a 6-inch line in the subdivision. CBS would consider adopting the waterline as public, which would be a good opportunity to work with the applicant to get a waterline to serve the entire area. The front of the lot was flat, but the topography varies throughout the middle and there may be wetlands to be aware of. The comprehensive plan encouraged residential development, but also aimed to have a fair share of costs be borne by developers to account for the public costs of private development. Staff recommended denial, but had prepared conditions that should be attached to an approval if granted. Spivey asked staff if sewer utilities as shown on the preliminary plat could be changed on the final plat. Ainslie responded that while there were times in which minor modifications were made to plats between preliminary and final, but something as substantial as the utility plan would be inconsistent with the general platting process. The larger issue was that without an approved platting variance, the preliminary plat did not meet the subdivision code requirement.

The applicant, Todd Fleming representing Sound Development, came forward. Fleming had a drainage report he provided to Commissioners and staff. He stated he did not agree with staff on the requirement of providing utilities on the preliminary plat. Windsor asked what size the lots would be, Fleming stated approximately 9,500 square feet. Alderson asked about the drainage plan, as it did not show any significant changes. Fleming stated the engineer he had hired to complete the report did not see the need for any substantial changes to drainage flow in the area.

Public comment: Margie Esquiro was concerned with drainage, as the water goes downhill towards her property on Sand Dollar Drive. There had been landslides in the area and when it rained, there was a lot of groundwater. She also stated there were some wetlands in the area behind her house where lot four was located.

Commission discussion: Windsor had a question for staff about building a subdivision off-grid and if there was a requirement to connect it to a utility. Ainslie clarified a minor subdivision did not require the developer to install utilities to the lots. The materials as submitted had easements located on the plat to connect to a private utility, and it did not meet the code requirement of no more than four lots connecting to a private utility easement.

M/Windsor–S/Alderson moved to postpone to September 21, 2022. Motion passed by 5-0 by voice vote.

VIII. ADJOURNMENT

Seeing no objections, Chair Spivey adjourned the meeting at 9:25 pm.