

Appeal to the Sitka Assembly – April 19, 2023

This letter serves as Youth Advocates of Sitka’s written appeal to the City of Sitka Assembly for the decision made by the Planning Commission April 5, 2023. The decision we are appealing is as follows:

The required findings for conditional use permits could not be made because the proposal would adversely affect the established character of the surrounding vicinity due to its incompatible use with R1-MH zoning, and the unified dissent of the neighborhood indicated high potential for neighborhood disharmony. The disharmony would also impact the ability of the proposal to meet its stated purpose.

Appellant

Youth Advocates of Sitka
805 Lincoln Street
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Heather Meuret, Executive Director

Background

Youth Advocates of Sitka’s proposed Coastal Haven program is funded by Congressional Appropriations in the amount of \$2 million for the community of Sitka from Senator Lisa Murkowski. The appropriations are for purchasing a facility, hiring staff, and general operations. These appropriations will be spent in the community of Sitka. This program will house and provide residential treatment services for youth and young adults ages 16 to 21, who are homeless or at risk of homelessness, substance use, further marginalization and disenfranchisement, and human trafficking. All these factors put our youth at risk for being trafficked. Youth Advocates of Sitka is a licensed and regulated behavioral health agency bound by the State of Alaska DHSS policies and accredited by CARF International. We are a professional agency, with very experienced staff, that has been providing residential treatment for Alaska’s youth since 1975. After Youth Advocates of Sitka’s request for a conditional use permit for 1931 Dodge Circle was denied by the Planning Commission (but approved by the Planning Department), the current owner of 3411 Halibut Point Road reached out and offered the agency his house for the Coastal Haven program.

The following are specific reasons why we are appealing the decision:

The proposed Coastal Haven program addresses the following identified needs, goals, objectives, and policies of the Sitka Comprehensive Plan and will positively affect Sitka in the following ways:

- **Workforce development and youth engagement is needed to create qualified workers with technical skills to meet the needs of the local economy.**
 - Coastal Haven will create up to 14 (at maximum capacity) livable wage jobs in the community.
 - Coastal Haven will engage youth in the community through their life skills component which provides mentorship for youth to become a productive adult, including being able to be employed in the community.
- **Explore housing options and cooperative programs for at risk populations.**
 - All youth at Coastal Haven are at risk for homelessness, substance use, human trafficking, further marginalization, and disenfranchisement.
- **Lack of transitional housing and homeless shelter.**

- Coastal Haven will provide transitional housing for up to 12 homeless youth and young adults at risk. The current plan for the homeless camp is strictly for adults, while Youth Advocates of Sitka's program serves youth and young adults.
- **Support light commercial-professional services development along Halibut Point Road and Lake Street, from Marine Street to DeGross Street.**
 - Coastal Haven fits this need of providing professional services along the highway, as the location for the conditional use permit is 3411 Halibut Point Road.

Besides addressing several of the Sitka Comprehensive Plan's identified needs, goals, objectives, and policies, the following are specific reasons why the Planning Commission's decision on denying the conditional use permit (CUP) is wrong:

- The location of 3411 Halibut Point Road is zoned as R1-MH and consists of single-family homes, multi-family homes, duplexes, trailer parks, and tiny homes. Additionally, there are 2 short-term rentals, 1 charter lodge, and a bar and restaurant. Uses that serve public needs in residential areas are allowed as conditional uses subject to restrictions intended to preserve the residential character of the R1- MH district. Residential means activity involving the occupation of a building for living, cooking, and sleeping purposes. The Planning Commission is there to approve CUP permit applications (SGC 22.30.050). The reason for a CUP is to allow flexibility to permit quasi-institutional housing, a specific case of social service agency allowed conditionally in residential R-1 and R-2 zones, hence the request. The Planning Commission has said the CUP is incompatible with the neighborhood. This is evident in the public record when Commissioner Mudry asked for clarification on whether this program was an allowed use in *any* zoning districts. The definition of conditional use means "a provision which allows the municipality flexibility within a zoning title by permitting certain specified uses in zoning districts where said uses could be considered appropriate, but only after additional conditions and safeguards are applied to insure their compatibility with permitted principal uses." Youth Advocates of Sitka went above and beyond to provide the burden of proof that all necessary steps to mitigate external adverse impacts were addressed and satisfactorily overcome, so the permit should have been issued (SGC 22.24.010).

Youth Advocates of Sitka provided a comprehensive operational plan that provided mitigation to lessen any impacts of the proposed use and these conditions can be monitored and enforced. Youth Advocates of Sitka provided the burden of proof that the CUP satisfied all required findings in SGC 22.30.160 (C). The program will not be detrimental to public health, safety and general welfare; adversely affect the established character of the surrounding vicinity; 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; 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; or will not adversely affect, adequate public facilities and services. The proposed CUP is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation. Youth Advocates of Sitka also provided reasonable evidence needed to protect the public interest such as the utilities and service requirements; lot characteristics; use characteristics that may affect adjacent uses, including hours of operation, number of persons, traffic volumes, parking plan, exterior signage, noise, etc.; and community appearance such as landscaping and fencing (SGC 22.30.160).

- The Sitka Planning Department approved Youth Advocates of Sitka's application for a CUP to operate a "quasi-institutional home" at 3411 Halibut Point Road, however the Planning Commission disregarded their approval and instead voted to disapprove but had no legal reason identified. In fact, the Planning Commission voted to not approve the permit and then debated for a half an hour what the reason for disapproval was. The Planning Commission Vice Chair Windsor instead asked for the Planning Department to "pull up the reason we denied Youth Advocate's permit application from Dodge Circle" so they could "just copy and use that as the same reason for this disapproval." Without basis, the Vice Chair Windsor on multiple times accused Youth Advocates of being untruthful in their permit application, and said we were "pulling the wool over his eyes." Youth Advocates of Sitka has been nothing but transparent on our applications and the intentions of the Coastal Haven program. Instead of questioning the integrity of a non-profit agency, the Vice Chair Windsor should have questioned the validity of some of the opposing comments, as they were not all truthful.
- Youth Advocates of Sitka and their supporters who wrote letters to the Planning Department and appeared at the Planning Commission meeting, and spoke at the Planning Commission meeting were seemingly disregarded. This is evident when the Planning Commission Vice Chair Windsor said there was an "unified dissent" show of neighbors that disapprove this permit, or "unified dissent," when in fact the comments received were 50/50. The public record indicates there were 5 letters of support submitted, a letter from the Sitka's Women's Club that represents 17 women, and 9 more people spoke in support during the meeting, for a total of **31 in support** of the CUP.

On the other hand, the public record shows 6 letters of opposition were submitted (of which, 1 letter is from a resident on Edgumbe Drive), and 8 people spoke in opposition (of which 4 people were from the same household). There were 11 of the same people that either spoke in opposition or wrote a letter opposing, who also signed a petition to make it appear there were more opposing. The public record shows 15 people who signed this petition are not property owners. There were 3 children under age 18 who signed the petition. All members of the same households signed, so these should be consolidated to represent 1 address. This leaves 17 signatures, representing 17 households. In total, there were **30 in opposition**, (5 letters, 8 people spoke, and 17 signatures) a clear 50/50 split and not unanimous as described by Vice Chair Windsor. At a 50/50 split, the Planning Commission should have ruled in favor of the applicant.

- When referencing the Fair Housing Act, there appears to be blatant discrimination on behalf of the Planning Commission. Youth Advocates of Sitka serves youth who are victims of child abuse, youth who are in foster care or who have aged out of foster care, homeless youth, youth who are at risk for human trafficking, youth who are at risk for substance use, youth who have severe emotional disturbance, and youth with developmental issues such as fetal alcohol syndrome or autism spectrum disorder. These youth are recognized in the state of Alaska as Mental Health Trust Beneficiaries, as well as **DISABLED** under the Individualized Education Plan and Section 504 of the United States Department of Education. Additionally, 90% of the youth the agency serves is Alaska Native. Additionally, the Fair Housing Act defines a person with a disability include (1) individuals with a physical or mental impairment that substantially limits one or more major life

activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

- Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.
- Next, the language that has been used by some members of the Planning Commission and by the public are inappropriate, discriminatory, and disturbing. Youth Advocates of Sitka has listened to the same comments concerning neighborhood safety, welfare of children and elderly, and decreasing property values over and over. These youth have been called "druggies," "kids with a bunch of mental health problems," "a bunch of messed up kids," "criminals," "trash," "those people," "perpetrators" and the like. Instead, these youth are **VICTIMS**. These youth have not grown up with parents or family surrounding them with love, support, or compassion. Many of these youth have been abandoned by their families due to their parent's own struggles with substance use and alcohol abuse, as well as domestic violence, and aging out of foster care. When youth do not have the proper structure in their own home, expecting them to turn themselves into a high functioning adult is not possible without proper intervention. Under the Fair Housing Act, the Planning Commission has violated the law by rejecting the CUP because of neighbors' stereotypical fears that such housing would be occupied by youth with mental health impairment (*Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class.*) The consistent negative testimony from the public included the following: "not in my neighborhood," "this institution will bring down my property value," "I don't want a bunch of kids with mental health problems roaming my neighborhood," "I already can't sleep at night I don't need to worry about these kids trying to break in my house at night," "I don't want these kids coming down the beach into my yard," "You should be looking for something closer to the Police Department," "There are plenty of commercial properties for sale that you should be looking at instead of a residential area," "We are concerned about the safety of our children."

The Planning Commission rejected the CUP because it based their decision solely on public testimony that was discriminatory, based on fear and stereotyping, and assumptions. The idea of telling Youth Advocates of Sitka to keep this program in a commercial zone is segregation. These youth have the right to live anywhere in this community. Youth Advocates of Sitka did in fact provide burden of proof in support of the permit. The opposing public provided no documentation that supports their assumptions that property values will decrease, their children are in danger, the established character of the surrounding vicinity will be adversely affected, or there will be increased traffic on the highway. There are no properties in Sitka that are going down in values so that concern is totally absurd, especially when there is zero requirement to disclose anything to a buyer about the neighbors. Because of these discriminatory comments used as the basis to deny the CUP, there is also potential for violation

of the 14th Amendment Equal Protection Law. Additionally, since the Planning Commission used public testimony that was discriminatory as the basis for their decision to deny our previous CUP for 1931 Dodge Circle (which ruined the sale of this house), they may have now violated the Fair Housing Act multiple times.

- Furthermore, the Fair Housing Act states land use or zoning practices state intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. When Youth Advocates of Sitka previously applied for a CUP for 1931 Dodge Circle, which was denied, there was overwhelming opposition from the surrounding neighbors, however there were people from the public that spoke in support, and others in the neighborhood who supported the permit but remained silent due to bullying and intimidation from the neighbors that opposed the permit. Staff at Youth Advocates extensively canvassed the Dodge Circle neighborhood and met with a group of neighbors to provide information, respond to questions, and to mitigate concerns. Unfortunately, these efforts were not impactful and the permit was denied based on the neighbors' perceived fear and general stereotyping that such housing would be occupied by youth with mental health impairment. Youth Advocates of Sitka is not obligated to conduct outreach for a permit, and there is no requirement to do so. However, they did an extensive outreach for the Dodge Circle property and then decided to do a more strategic approach for the Halibut Point Road property, contacting neighbors they knew directly and would support the program. The Planning Commission is on record failing to recognize these efforts made by Youth Advocates of Sitka.
- The Planning Commission then chose to impose additional conditions on the permit that are not imposed on other applicants. During deliberation, the Commission members requested that the vote be postponed so that Youth Advocates of Sitka could hold a town hall to address the concerns from the public, and to canvass the neighborhood conducting outreach. They offered no date, no resolution, and no expectations for this town hall. Youth Advocates of Sitka is not required or obligated to canvass the neighborhood, or conduct a town hall, so this additional condition is a violation of the Fair Housing Act (*Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals*). Youth Advocates of Sitka refused this additional condition as they have provided an extensive operational plan; the permit was extensively vetted, reviewed, and approved by the Planning Department; and had already addressed all the same concerns from the public: perceived fear, stereotyping, concern for property value dropping, concerns for additional traffic on Halibut Point Road. Again, by imposing additional conditions on the permit that are not imposed on other applicants is a violation of the Fair Housing Act.

Youth Advocates of Sitka has provided the Planning Department and the Planning Commission a detailed operational plan for Coastal Haven which outlined our licensed staff to client ratios, our requirements to be eligible for the program, the staffing plan, the services and treatments provided, as well as requirements for our State of Alaska DHSS licensing and our CARF International accreditation. As providers of residential and outpatient mental health treatment services for youth in Sitka since 1975, Youth Advocates of Sitka is a professional agency, with very experienced staff, who follow intensely regulated standards, as well as policies and procedures. Youth Advocates of Sitka has addressed the following on multiple occasions, in the public forum, and have in fact provided reasonable conditions. Many of the concerns expressed by the public have been addressed repeatedly, while some are protected by HIPPA laws, and some frankly not their concern.

- **Plan for staffing the program** – YAS has already several internal staff that will transition to the Coastal Haven program, as well as we have 4 applicants who are ready to begin working on the program. Other staff will be recruited from the community as we grow the program, and as we can find housing for staff if they are not from Sitka. Staffing is based on a client ratio set by the State at 1:5. As the program grows to capacity, up to 14 staff will be hired. Just like Youth Advocates of Sitka’s successful Hanson House program, Coastal Haven will be staffed 24/7.
- **Policy for providing transportation for our youth** – YAS has a fleet of vehicles that are used to provide transportation for all our youth. Youth Advocates of Sitka has been providing transportations services for their youth since 1975, and have it down to a routine. Youth are also taking the school bus, utilizing the Ride city bus. The residence at 3411 Halibut Point Road has 4 garages and plenty of room to accommodate 2-4 staff/agency vehicles. Additionally, SGC 22.24.010 outlines that a CUP may be acceptable when it is located along an arterial or collector street, which is Halibut Point Road.
- **Policies on noise and disturbances** – Youth Advocates of Sitka maintains a strict policy in order to avoid creating disturbances in the neighborhood. It is written in Youth Advocates of Sitka’s policies and procedures and enforced in all activities.
- **Demonstrated commitment to work with our neighbors to mitigate concerns** - Youth Advocates of Sitka has worked with the neighbors of their Hanson House residential treatment program to address any issues or concerns from neighbors.
- **Screening standards to make sure we are a good fit for youth seeking services** – Youth Advocates of Sitka has very strict admission requirements for our programs, including assessments, screening, interviewing, etc.
- **Strict no alcohol and drug policy** - No youth are admitted in any of Youth Advocates of Sitka with a drug or alcohol problem, they are required to be clean and sober for a minimum of 90 days prior to admission. Youth Advocates of Sitka does routine testing of their clients to ensure they are free from substance use. If there is a violation to the drug and alcohol policy the youth are provided additional substance use treatment services, more clinical services, and can be moved to a higher level of care or even be discharged from the program.
- **Strict no visitor policy** – Youth are not allowed to have visitors, which reduces the traffic to and from the residence as well as to maintain peaceful tranquility.
- **Policy that does not allow youth to have a vehicle while in our programs** – Youth Advocates of Sitka provides all necessary transportation for our youth.
- **Housing Shortage in Sitka** – Youth Advocates of Sitka is paying cash for the property. There are more than likely not many people with this amount of cash available to buy this house. Since the current owner of the house has lived there, he has not rented out the 2-bedroom apartment, so in fact, removing this house from the potential market makes zero impact on the housing shortage in Sitka.

Based on the showing of public support for this program, the reasoning for allowing CUPs in R-1 and R-2 zoning, and the apparent violations to the Fair Housing Act, and potential violations to the 14th Amendment, Youth Advocates of Sitka requests the decision be changed to approve the CUP application for 3411 Halibut Point Road so we can start our much-needed Coastal Haven program and provide residential treatment services for Sitka’s struggling youth. Additionally, because the Planning Commission used the same discriminating factors that violate the Fair Housing Act (*Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents’ or anticipated residents’ membership in a protected class; and Prohibiting or restricting the development*

of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status) as the decision to deny the CUP at 1931 Dodge Circle, that permit should also have been granted. Youth Advocates of Sitka is a good resource for youth struggling in Sitka. Our community's at-risk youth population is at a much higher percentage than most expect. The City of Sitka should be more welcoming to Senator Murkowski's congressional appropriations of \$2 million that will be spent in the community. Please Sitka, put your best foot forward. Otherwise, we as a community may jeopardize future appropriations from Senator Murkowski.