

## **ASTORIA PLANNING COMMISSION MEETING**

Astoria City Hall  
October 25, 2016

### CALL TO ORDER:

President Pearson called the meeting to order at 6:36 pm.

### ROLL CALL:

Commissioners Present: President David Pearson, McLaren Innes, Daryl Moore, Jan Mitchell and Frank Spence

Commissioners Excused: Vice President Kent Easom and Commissioner Sean Fitzpatrick

Staff Present: Community Development Director Kevin Cronin, Planner Nancy Ferber, City Attorney Blair Henningsgaard, and consultant Elaine Howard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

### APPROVAL OF MINUTES:

President Pearson asked for approval of the minutes of the June 28, 2016 and September 27, 2016 meetings. Commissioner Innes noted the following corrections:

- June 28, 2016 minutes, page 6, 4<sup>th</sup> paragraph, 2<sup>nd</sup> sentence – The first letter of the sentence needs to be capitalized.
- September 27, 2016, page 6, 3<sup>rd</sup> paragraph, 1<sup>st</sup> sentence – Laree Johnson's name was misspelled.

Commissioner Innes moved that the Astoria Planning Commission approve the minutes of June 28, 2016 and September 27, 2016 as corrected; seconded by Commissioner Mitchell. Motion passed unanimously.

### PUBLIC HEARINGS:

President Pearson explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff.

### ITEM 4(a):

A16-02                      Amendment A16-02 by the Community Development Department to amend the Article 3: Accessory Dwelling Units. This is a continuance of a Public Hearing from September 27<sup>th</sup>. The Astoria Planning Commission will take public testimony, review the Staff report, and make a recommendation based on criteria in Article 10 of the Development Code.

President Pearson asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. Hearing none, he asked Staff to present the Staff report.

Director Cronin reviewed the written Staff report, noting that the most recent revisions were a result of the work session. Staff recommended that the Planning Commission approve the amendment, forward it to City Council for adoption, and require Staff to report on the effectiveness of the amendment after one year. He recommended the Commissioners read the housing series articles recently published in the *Daily Astorian* because they provide context and background information. Clerical errors in the original Staff report were corrected as follows: Jack Osterberg's comments were moved to the correct section of the Staff report, and historical data regarding accessory dwelling unit (ADU) applications was corrected to reflect that six applications have been submitted since 2004, only one of which received building permits. The unit is currently being used by a family member. One other applicant is actively working through the building permit process.

President Pearson confirmed the Commission did not have any questions for Staff and opened the public hearing. He called for public testimony in favor of the application.



Rachel Jensen, President of the Lower Columbia Preservation Society (LCPS), 389 12<sup>th</sup> Street, Astoria, said she was in favor of ADUs in general. The LCPS Board will submit written comments to Staff after this meeting. Astoria's residential neighborhoods have repeatedly responded to historic fluctuations in Astoria's housing demands. After the fire of 1922, many large homes were converted to apartments to help house people who had lost their homes and apartments downtown. When demand for housing increased again during World War II, the same residential neighborhoods remodeled older homes into apartments. Some of these remain multi-family dwellings and others have been converted to single-family homes. There is a way to provide more housing options in Astoria during this current surge in demand by allowing permitted ADUs in single-family homes, but the City needs to approach this in a way that does not undermine the spirit of the Comprehensive Plan or the Historic Preservation Ordinance, and does not negatively affect the character and livability of the historic neighborhoods. The LCPS Board has discussed this amendment in depth and recommended the following:

- Only one ADU per lot in all zones.
- Allow internal conversions that create a single ADU inside the current envelope of a single-family home in all zones, as long as criteria for parking and owner occupancy are met.
- Allow new attached and detached ADUs that extend beyond the existing envelope in all zones, subject to substantial design review. This design review should be in addition to any review done by the Historic Landmarks Commission (HLC). This issue was debated the most by LCPS.
  - It was stated at the work session that the only area of town not subject to design review standards was the south slope area. LCPS believes that statement is substantially misleading because large areas of Astoria have not been inventoried. Additionally, there are properties within historic districts that are not currently subject to reviews by the HLC. LCPS believes the current inventories of historic properties are inadequate to prevent incompatible infill on or near historic resources throughout the city. LCPS urges the City to continue their goal to survey the remaining neighborhoods as soon as possible.
- Restrict the siting of ADUs, requiring them to be placed in the rear or interior side yards and not adjacent to public rights-of-way.
- LCPS supports the recent prohibition of ADUs as home stay lodgings, but believes the ordinance was inadequately written. The current ordinance only prohibits the ADU from being used as a home stay and the LCPS believes the main dwelling should also be prohibited from being used as home stay. This will prevent a property owner from living in the ADU while renting out the main dwelling.
  - LCPS is also concerned about the specified date of creation. Currently, the Code states home stays are not allowed in ADUs created after January 1, 2017. The City has a backlog of ADUs that were never permitted and those ADUs could be used as home stays because they were built prior to January 1, 2017.
  - LCPS believes the design and building standards for tiny homes are ambiguous and requests that the definition of tiny homes and references to tiny homes be removed from the proposed amendments. LCPS commends the Commission and City Staff for making changes to the proposal throughout the process in response to public comments. She thanked the Commission for considering the LCPS's concerns. LCPS requested that the Commission ask Staff to make further changes based on their most recent recommendations before forwarding the amendments to City Council.

Nichole Williams, Chief Executive Officer, Clatsop Health District, 646 16<sup>th</sup> Street, Astoria, said lack of housing in Astoria has impacted Clatsop Health District's business. She explained that the district is a taxing district that serves about 160 residents primarily in Astoria and Warrenton and operates Clatsop Care Center, Clatsop Retirement Village, and Clatsop Care Memory Community. The District also provides in-home care services to about 50 people throughout Astoria, Warrenton, and the rural areas of the county. The District employs about 160 full time equivalent (FTE) positions, but has had issues keeping their facilities staffed. Lack of housing in the area has contributed to staffing issues. Caregiver positions make up the majority of the district's workforce and receive lower wages than other positions. The district recruits, hires, and trains for the caregiver positions only to have the new employees withdraw because they are unable to find permanent rental housing in the Astoria area. The district has also lost staff due to increases in rental rates. They recently hired a manager at \$58,000 per year and it took her over three weeks to find a permanent place to live. The manager would not have found a place if Ms. Williams had not assisted in her search for housing. The district began using a new food service management company last year. However, the contract had to be delayed by three months because the company was unable to find residences for the managers they would be relocating into the area. The district appreciated the City and Commission for taking on this issue. The district is trying to provide services to the community and serve vulnerable populations in the county.



Kevin Leahy, 3560 Irving Avenue, Astoria, said he was speaking as Executive Director of Clatsop Economic Development Resources (CEDR) and Clatsop Community College Small Business Development Center (SBDC). Both entities support ADUs and detached ADUs, but wanted to emphasize the housing issues facing Astoria and the region. Over the last 14 years, occupied housing units in Clatsop County have gone up seven percent, but in Astoria, they have remained flat. Vacant housing units, vacation, and second homes have increased 19 percent in the county and 15 percent in Astoria. Total housing units in Clatsop County have gone up 10 percent and in Astoria up two percent over the last 14 years. The SBDC worked with over 120 businesses last year and housing and workforce training issues were discussed at almost every meeting with businesses of all sizes. Larger employers are not attracting talent because they cannot find homes. He is a fourth generation Astorian and serves on the Astoria Downtown Historic District Association (ADHDA). Astoria needs a vibrant downtown core. Every community in the county is working very diligently on the housing issues. We all need to work together collaboratively. This impacts all types of housing stock at every price. The average home price in Astoria is \$285,750 according to Zillow. In 2012, it was under \$225,000. People cannot afford to buy homes in Astoria. Clatsop Community College is working on a new strategic plan so they can attract more students from outside the area. These students could live in ADUs. Enrollment in the Astoria School District has also been impacted by housing issues. CEDR has been asked to serve on the Advance Astoria Committee, but housing is necessary for economic growth. We need to work together to honor Astoria's heritage and get this gridlock moving forward.

Loren Cross, 145 Duane St., Astoria, said she supported development and believed balance between housing and economic growth was necessary. People need a place to live, whether they own or rent. She was glad housing issues were being discussed.

President Pearson called for any testimony impartial to the application. There were none. He called for any testimony opposed to the application.

Linda Oldenkamp, 1676 Jerome, Astoria, said she would read an email from Kim Angelis because Ms. Angelis was unable to attend the meeting. The email was about Arcata, CA, where Ms. Angelis sister, Berta, and brother-in-law, Jaime lived. The email was as follows:

"Dear Linda, I just got off the phone with Berta. She told me that one of the most annoying negative impacts from tiny houses and rentals in garages has been the glut of cars parked on the streets. Parking spaces are at a premium and many times she and Jaime have had access to their own garage blocked. The house next door to them was sold in 2005 for \$365,000. Eleven years later, it is on the market for \$340,000. Unlike Astoria, property values in Arcata have not recovered. Investors from the bay area buy these units to rent out to students. There is no pride of ownership. A neighborhood that was formerly middle class has turned into a slum. Because people are allowed to live in garages, one of Berta's neighbors sheet rocked and paneled the garage but did not put in any plumbing. I am not going to tell you how they dealt with the lack of plumbing because it is pretty gross. Needless to say, the quality of life has dramatically diminished and the neighborhood is no longer a haven of owner-occupied residences. The historic character of the neighborhood has also been ruined. On one side of Berta and Jaime's house, a darling bungalow occupied a standard 50 ft by 100 ft lot. In the late 1980s, a matching bungalow was stuffed in front of the original home. It has T1-11 siding, sliding glass doors, and a deck. The only nods to historic detailing are the paint colors and the tiny knee braces. We don't want Astoria to go down the same path that Arcata took."

- After reading the email, Ms. Oldenkamp gave her own testimony. Almost all of her life, she has worked in poverty programs trying to help low-income people change their lives so they can enjoy some of the American dream. In 1976, she was hired by the college under the Comprehensive Employment and Training Act (CETA), which was a program to hire low income and unemployed people. Over the years, she loved working to help change peoples' lives. She wanted the Commission to know that she was aware of, sympathetic to, and supportive of expanding affordable housing. This is not a matter of aloofness or an uncaring attitude. She understood the problem. As a 40-year resident of Astoria, she believed Astoria's two big draws were the physical environment and the historic architecture, a combination impossible to beat anywhere. She sees herself as an evangelist for those who support preserving Astoria's historic houses and commercial buildings. Astoria is an attractive and authentic community that still has neighborhoods with old houses and real downtown. This community was so well planned and designed that after all these years it still feels good and right to live here. People come by the droves to visit, live, to buy second homes, and to retire. It is the Commission's job to ensure that the planning and changes proposed enhance the



neighborhoods and ensure that the consequences of the changes do not cause neighborhoods to deteriorate. Changes are being proposed without considering neighborhood livability or character and do not meet the requirements outlined in the Comprehensive Plan. She read on the City's website that it is the Commission's job to maintain the Comprehensive Plan. CP.051 General Land Use states, "It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by protecting the residential and historic character of the city's neighborhoods." There are no Findings of Fact addressed for CP.015. No facts have been presented that prove how these changes will protect the residential and historic character of the city's neighborhoods. CP.220.8 Housing Policies states, "Astoria's historic neighborhoods are recognized as some of the city's most significant assets and should be protected through the Historic Preservation Ordinance and other City actions to protect individual structures in neighborhoods." She did not think anyone believed the Findings of Fact that state the income generated by ADUs would be used by property owners to restore and maintain historic homes. The proposed changes for detached ADUs, tiny, and stick built houses would have extreme detrimental effects on the livability and historic character of the neighborhoods. Changes would not be noticeable after one year, but after several years, the changes would be very noticeable. New owners will not always support, understand, or care about historic character. Over time, detached ADUs will deteriorate, become unsightly, and neighboring house values would be negatively affected. Tiny and stick built houses would not fit current design review guidelines because their proportion, scale, and size are not compatible. The 2015 Affordable Housing Study offers nine other excellent options for additional housing. However, the options are challenging and would not be completed quickly. One recommendation was to implement an ad hoc housing task force immediately to identify locations for affordable housing, recommend regulatory changes, and other ideas to stimulate affordable housing. Putting the onus on homeowners to address the affordable housing issues might be the easiest option for City Staff, but it is not good for the livability and historic character of neighborhoods. It is not right or fair to those who have significantly invested in their homes. The changes do not meet the criteria stated in the Comprehensive Plan. She supported all of the recommendations made by LCPS except detached ADUs. She urged the Commission to refrain from acting on the proposed changes and instead, develop the ad hoc housing taskforce to include LCPS board members and others who own and live in historic homes. She urged the Commission to do this right so the City provides affordable housing and protects its historic homes and neighborhoods.

Judy Ronis, 475 Harrison, Astoria, said she moved to San Diego in 1970 to continue her college education. She fell in love with the little neighborhoods that were all over the city and very similar to the neighborhoods in Astoria. People had yards, gardens, and trees. Over the years, all that changed. Ordinances were approved allowing people to build in their back and front yards. The character of the city was no longer the same and parking became a nightmare. She purchased a 1926 bungalow and sometimes she had to walk three blocks after parking, which was dangerous at night. She would hate to see that happen in Astoria. She hoped decisions would be made in context and would preserve the character of Astoria.

Ted Osborn, 345 Alameda, Astoria, said he wrote a letter that was published in today's *Daily Astorian*. He commended the general desire to find more housing. When housing needs were identified about 18 months ago, the City considered itself somewhat responsible for the housing issues and was considering housing downtown as part of the library expansion. That seemed to hold some wisdom. When the plan for the library fell apart, the community heard nothing more about housing in large quantities downtown. Now, all of a sudden, homeowners up on the hill have to deal with additional families overtaking small lots. In his letter, he proposed residential infill along Duane and Marine, which would provide housing and establish a continuous downtown core. Developers would come to Astoria if they were incentivized. Incentives do not have to cost money and they allow Astoria to be receptive. Astoria can present itself as a city with a sense of being that can professionally support the work of the developers that want to build at the right cost, of the right quality, and within the right time schedule. He suggested the Community Development Department prequalify sites downtown by researching availability and the types of housing each property could support. A developer could come into Astoria and build quality products at the price point the City wants much more economically than individual homeowners scrambling to figure out what to do in their back yards. Astoria needs to go from being a city that is difficult to work with to being a professional and supportive team member.

Sarah Bardy, 1661 Irving, Astoria, said she was a member of LCPS and agreed with Ms. Jensen's comments. She also agreed with the concerns of those opposed to the amendments. Nobody wants to harm the historic character of the town, but everyone must seriously consider that developers are much scarier than carriage houses.



President Pearson confirmed there no more public testimony, closed the public hearing, and called for Commission discussion and deliberation, as well as comments from Staff.

Director Cronin confirmed the City had very in depth conversations with the community about doing a mixed-use project at Heritage Square and there was no consensus that housing was a solution at that site. None of the choices are easy and there is not a lot of low hanging fruit the City can bite off. These amendments are just one small piece of an overall strategy to solve the housing crisis. This proposal will not solve all of the problems and City Council has other options to consider. Tonight, ADUs are being considered as one solution, not the solution.

Commissioner Moore reminded the Commission that these changes only regarded ADUs. The Commission was not trying to solve the housing problem, just ease the problem by adding a few options. He liked the proposed amendments as presented and the prohibition of home stay lodgings. The changes do not incentivize anyone to build a structure they do not love. Historic preservation is essential to the character of Astoria. Currently, property owners could build a garage or shed, but this proposal would limit those owners to building detached ADUs. Therefore, he did not believe detached ADUs would create a huge problem or change the character. It would be more difficult to rent a garage than a unit, but there have been so few ADUs since 2004 and these amendments would not create a huge demand. Additionally, properties in the urban core are not likely to have the footprint to support an ADU.

Commissioner Mitchell asked for Staff's opinion on requiring a design review process for detached ADUs. Director Cronin reminded that the map displayed during the work session showed where design reviews were required. There are some areas of Astoria that have not been inventoried, but property owners on the south slope have requested their neighborhood be inventoried.

Commissioner Mitchell said the City has not received a significant number of ADUs proposals and she wanted to consider a review period so the Commission could determine how well the amendments were working. This was one small tool for a big problem and the City must continue to make small improvements. Staff has made a great effort and she appreciated those who spoke. She supported the amendments as proposed by Staff.

Commissioner Spence said he was primarily concerned with preserving historic districts. Some cities prohibit ADUs in historic districts. Astoria has a limited number of small lot sizes and the proposed amendments require ADUs to be compatible with the original dwelling structure and have one off-street parking spot. For those who use their garages for storage, this might be an incentive to clean out the garage and convert it to a unit. There is a need for additional dwelling units and the amendments contain safeguards. Additionally, there has only been one ADU in the last several years. People are worried about density and parking, but he believed the Commission needed to move forward one step at a time. Housing issues will not go away, but this will be one step in the right direction.

Commissioner Innes said she believed these amendments were a good start on the housing issues even though they would not draw a huge number of applications for ADUs. She hoped the amendments would attract some people to begin creating dwelling units. She agreed the amendments contained protections and it is up to everyone to keep dialoguing with the decision makers to ensure those protections are followed. Everyone needs to continue thinking of new ideas about where to put people who want to live and work in Astoria. She planned to vote in favor of the amendments.

President Pearson thanked everyone who attended the work session and public hearings because public participation is vital to the process. Along the way, some significant compromises have been made and he believed the document was better now because of the dialogue. This amendment is consistent with the Comprehensive Plan and he believed it would encourage more housing opportunities. He was pleased to see that home stay lodgings would be prohibited because the City is trying to create housing, not Airbnb units. This is one small part of a larger strategy. There has been a lot of testimony about historic preservation and he believed this proposal was compatible with the historic nature of Astoria. There is nothing in the amendment that supersedes the good work of the Historic Landmarks Commission or the design review process. This conversation started almost eight months ago and he believed this document was ready for the City Council to consider.



Commissioner Spence moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report, approve Amendment A16-02 by the Community Development Department, and recommend adoption by City Council; seconded by Commissioner Innes. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

Director Cronin confirmed he would need to speak with the Mayor before setting the date for the City Council public hearing, but once the date was set, public notices would be published.

ITEM 4(b):

CU16-10                      Conditional Use CU16-10 by Daryl Bell to locate a medical-recreational marijuana dispensary and retail sales establishment in an existing commercial building at 3930 Abbey Lane, Building A, Unit 104 in the S-2A, Tourist Oriented Shorelands zone.

President Pearson asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. Hearing none, he asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report, noting a lot of public comments had been received, but many addressed issues not applicable to the criteria being reviewed. She displayed a chart showing how the applicable criteria correlated to some of the publics' concerns. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Moore asked Staff to define adjacent uses. Director Cronin explained adjacent uses would be properties next door or adjacent to the Applicant's. In this case, there are multiple tenant spaces on the same lot.

Commissioner Moore understood that there were currently only seven available parking spaces for commercial use. Planner Ferber clarified that 11 parking spaces were allocated for the entire site and each tenant that moves in receives its own review depending on the use. For retail, the number of required parking spaces is determined by the square footage.

Commissioner Moore said the Commission needed to consider the building's parking policy, which states only seven parking spaces are available for commercial use. Planner Ferber understood the City's regulations were for 11 spaces. When the property was rezoned, Staff considered specific uses that could go into the tenant spaces. The additional regulations were imposed by the condominium's association. She confirmed the Commission was tasked with reviewing the City's criteria.

Commissioner Mitchell stated that no processing would be done and the products would not be used on site. She asked how odor nuisances could arise. Planner Ferber said odor nuisances have been an issue at other similar sites, so she included how the applicant proposed to mitigate the nuisance in this Staff report.

Commissioner Mitchell asked if other existing sites have had parking issues. Planner Ferber said the Commission has only approved conditional uses permits for grow operations. Parking for grow operations is limited to the number of employees. Director Cronin confirmed no complaints have been received about the grow operations.

Commissioner Moore asked how the Applicant estimated that 50 people per day would visit the store. Planner Ferber confirmed the estimate was part of the Applicant's proposal, and asked the applicant to elaborate in his forthcoming testimony.

President Pearson opened the public hearing and called for a presentation by the Applicant.

Daryl Bell, 2220 SE Ladd Avenue, Portland OR 97214, said marijuana sales could be discussed in perpetuity because it is a polarizing topic that ultimately results in diametric opposition. His company will be a good neighbor and a good steward of the community. The business intends to hire locally and pay taxes. He is considering dedicating a portion of the space to showcase local artists. However, this proposed use was withdrawn from the Conditional Use application. No smoking or consumption will be allowed on site and



employees will patrol the parking lot to ensure compliance. The entire premises will be more secure because they will implement surveillance that exceeds the State's requirements. As a parent, he understood the public's concerns about the store's impact to the neighborhood, odors, and the demographics of the customers. The store will offer medicinal products that do not generate a psychoactive response. Their intent is to maintain a tasteful image by creating a floor plan similar to the Bridgewater Bistro. He hoped the Commission would consider the store less of an intrusion and more of a partnership to create an inclusive community.

Tyrell Buckner, 3930 Abbey Lane, Astoria, confirmed he knew there were a lot of concerns from the residents in the community. Marijuana is a new business in Oregon and he hoped those with concerns would be willing to speak with him. He attempted to estimate a realistic number of daily visitors to the store. The average time a person spends in a dispensary is about seven minutes. With the two parking spots allotted based on square footage, it is reasonable to assume there would be no increase in traffic. A steady and safe flow of traffic is expected. In the 10 hours the store would be open each day, each parking spot could accommodate six people if each person spent 10 minutes in the store. This would exceed the estimate of 50 visitors per day. He knew not every visitor would drive to the store. Additionally, there is plenty of on street parking, as shown on the map of the area. The company would like to work with the residents who are concerned about or have issues with odors. They take the issue very seriously and have proposed a very strong ventilation system that uses carbon filters and distributes fresh air into the retail space and outside. Other types of filtration systems can also be used to freshen the air. The products will be packaged and sealed, so very little smell will permeate from the products as customers leave the store. No processing or production has been proposed. The company has not received all of the residents' concerns, so he was unable to address those concerns at this time. However, he understood many residents believed the dispensary would diminish their property values. He believed property values would increase because the store would make the community safer by monitoring the property 24 hours a day. Residents and visitors will know there are cameras on site, which will make everyone feel safer. The store will create an environment of diverse commercial tenants, which will encourage property sales at that location. He looked forward to address any other concerns that arise.

Dr. Ted Forcum, 3990 Abbey Lane, Astoria, said he understood the condominium owners' apprehension and concerns. He worked hard to enhance the community by supporting the rezoning from General Industrial, which would have allowed less desirable businesses in the bottom floor of the complex. He would much rather have a dispensary than a chemical manufacturer. He does not use marijuana and has no interest in the business. Additionally, he has declined more than a dozen offers to put dispensaries into the complex. However, he decided to do some due diligence on Mr. Bell's offer after one of his patients encouraged him to look into marijuana. Cannabinoids are typically used for anxiety, PTSD, chronic pain, and cancer. Some of the condominium residents fit this demographic and are likely to use marijuana for medicinal purposes. He recently heard an Army medical doctor lecture on the use of cannabinoids in sports medicine, which is an emerging market. He researched security issues for dispensaries. A RAND study done in California found no significant increases in crimes around dispensaries. Several of his patients work for Oregon Liquor Control Commission (OLCC) and after asking them about OLCC's security concerns, he was satisfied that security would not be an issue. Additionally, he could require additional security measures that exceed OLCC's requirements. There have been several incidents on the property where cameras would have been helpful, so this will benefit the complex. He agreed to consider Mr. Bell's proposal because of the possibility that an artist space would be created. He appreciated that Mr. Bell wanted to help fill other needs in the area besides just the dispensary. An artist space could be permitted in the zone if it involved tourist-oriented retail sales. When the property was rezoned, a parking study was done, which indicated low use of parking spaces. Residents leave in the morning and return in the evening while some of the businesses use the spaces in the interim. Since the rezone, it has been difficult for him to find tenants for the bottom floor because all but one space has water leaks from the residential showers above. The space for the dispensary is the only space without leaks. He wants to make the spaces buildable and marketable. Odor mitigation will include an odor binding agent that is also used in locker rooms.

President Pearson called for any testimony in favor of the application.

Zita Nyitrai, 3990 Abbey Lane, Unit 1205, Astoria, said as a condominium owner, she knew there was a lot of opposition. However, the commercial units have been experiencing challenges for several years now. She supported the dispensary because it would add security. The building has had problems in the past with transient residents living in the garages and in vacant units. She has never experienced any parking issues at the site and was shocked that parking is still discussed. She was also surprised to hear that the dispensary could diminish property values. The values were overstated when the building was built and the owners have had construction



issues for more than a year now. Construction of the retail units will not decrease values. She keeps hearing about a housing crisis, but the building has several units for sale and those units are not flying off the market. As a business owner, she was positive that the due diligence done for this dispensary was adequate.

President Pearson called for any testimony impartial to the application. Hearing none, he called for any testimony opposed to the application.

Nancy Walsh, 3990 Abbey Lane, Astoria, said she was concerned about having a pot shop in her home. It would be one thing if the product was given to people who medically needed it, but it is another thing to have products given to recreational users. Customers will not be allowed to smoke on the premises because the building has a no smoking policy. However, the customers could walk out to the Riverwalk to smoke, which could lead to arguments if they get a little bit high. A breeze could come off the river and waft up into her condominium. She is allergic to smoke and she would not care to have a smelly smoke in the area. Police have to come to the building when people argue because of drug deals. This pot shop would just aggravate the situation a little bit. Her nephews visit and many residents have grandchildren come to visit. She did not believe seeing these people would be a good example for the children. Federally, this is against the law and she did not care that Oregon has allowed marijuana dispensaries. Someday, this will come to haunt the community. Right now, the Applicant does not plan to manufacture, but they might decide to manufacture down the line. She asked how the residents could control this situation and stated the other dispensaries are not located in homes. She asked the Commission to think long and hard about this request because it is very upsetting to many of the residents. She also believed the residents should have more of a say.

Heather Hansen, 3990 Abbey Lane, Unit 208, Astoria, submitted a petition that was signed too late to have it included in the Staff report. She serves as Community Development Director for the County, and testified as staff many times. She rents her unit, so this request does not affect her over the long term in the same way it does owners. For two years, she rented a unit in Building A, where the dispensary is proposed to be located. Many of the owners have been through quite an ordeal since they purchased their units, including a lawsuit against the building contractor, a housing and economic downturn that affected property values, additional assessments to address construction defects, and living in a construction zone for over a year. The construction has made renting units difficult. The last thing the residents need is a new retail use that is likely to negatively affect property values and rental units. She was also concerned about impacts to personal safety and quality of life. If the store had been in the building when she first looked at the units, she would not have rented in that building.

- The criteria for conditional uses are not clear and objective and this is why the decision must be made by the Planning Commission instead of Staff. The Commission must decide if the proposed use could be approved with conditions that would adequately mitigate the negative impacts and the concerns raised by those most affected. She did not believe there was a reasonable or effective way to mitigate the negative effects of this use on existing residents. She did not care what would be sold, but was more concerned that this retail use would have people coming and going all day long. The Cannery Loft residents are a mix of retirees, local working families, couples, singles, renters, owners, full timers, and part timers. Since she has lived in the building, she has seen many units turned over to owners who live there full time.
- The standards for conditional uses address residential and non-residential, not mixed-use developments. Mixed-use developments have different impacts and different ways to address those impacts. This predominantly residential building already exists, so there is little that can be done now because the Development Code does not address this circumstance. This should be taken into account since 30 single-family residences will be directly impacted and 33 will be indirectly impacted by the Commission's decision. When the Code is unclear, the Commission must consider the purpose in the applicable section of the Code. In this case, the Code states that, "The purpose of the Conditional Use process is to allow, when desirable, uses that would not be appropriate throughout a zoning district or without the restrictions in that district, but would be beneficial to the City if their number, area, location, design, and relation to the surrounding property are controlled." She believed there was no effective way to control the negative impacts of the proposed retail use on the surrounding residential units since the existing building is predominately residential.
- There are already five marijuana dispensaries in Astoria and she did not believe the city needed another one so badly that it needed to go into a building with 30 residences. The use is not appropriate at the proposed location because the front doors of 30 residential units face the entrance to the retail space. The closest marijuana dispensary to the building is on 29<sup>th</sup> Street, so another one is not needed. Astoria only has three regular pharmacies and one liquor store. The Cannery buildings have no other retailers in the commercial spaces, but the other commercial uses in the buildings are appropriate and compatible because they provide personal services to a limited number of customers. These buildings are the last development on the east



end of town before the Alderbrook neighborhood. Residents already deal with people coming from the Riverwalk and wooded areas east of town who are found sleeping in stairwells and rooms that do not lock securely, having sex in the stairwells, and urinating and defecating in the hallways and covered parking areas. The proposed use will only exacerbate the problem by bringing a stream of customers through the building each day, some of whom are likely to hang out around the building and along the Riverwalk.

- She did not believe the site layout was adequate because there are no dedicated parking spaces for the dispensary. The condominium bylaws do not allow dedicated parking spaces for commercial uses. Customers, estimated at 50 per day, will try to park near the main entrance to the building, which is adjacent to the main entrance to the condominiums. She displayed photographs of the entrances and the hallway with the mailboxes. Security cameras have been proposed, but she did not want to live in a place with cameras and lights everywhere. This is not Portland. The parking lot is close to capacity and residents cannot park near the building. As the commercial spaces fill up, the problem will only get worse. Parking issues are seasonal because some residents only come to Astoria on weekends or for part of the year. However, on most days she cannot find any parking close to the building. The Applicant does not have the authority to designate parking for the dispensary without the approval of the Condominium Association Board. She believed the City's parking standards were out of date because parking is based on square feet without regard to the type of retail space. A yarn shop will not have the same parking needs as a convenience store.
- The Staff report recommends the Applicant abide by the condominium's bylaws as a condition of approval. There are dark corners and stairwells accessible to the public and a retail use would bring more of the public into those unsecure areas. She showed photographs of a stairwell and the hallway to the elevator, which are dark even during the day. There is no onsite management and the management company is located in the Portland metro area. Many lights are burned out, exterior doors do not latch properly, and elevators are out of commission. The residents would appreciate better property management, but not video cameras, bright lights, and other security measures. The Applicant does not have the authority to add any improvements to the common areas without Condominium Association Board approval. She did not believe this use would contain an appropriate amount of landscaping buffering, setbacks, berms, or other separations from adjacent uses. Since the mixed-use building already exists, there are no effective retrofits to buffer the retail space from residences. The buildings are not in an established commercial quarter, but are on the edge of town with 63 residences. This is no amount of buffer or separation from existing residential uses in the same building. This is not an urban environment.

Katie Murray, 3930 Abbey Lane, A305, Astoria, said she has lived in Astoria for over 20 years and at the Cannery Loft for just over a year. She and her husband submitted a written statement that was included in the agenda packet. The proposed retail establishment is not in keeping with the guidelines of the Astoria Riverfront Plan. The condominiums are in the Neighborhood Greenway area. The Plan states "respect and protect the visual character of the Alderbrook neighborhood and minimize the impacts of pedestrians and neighborhood residents." The impacts of a pot shop on this area are likely to be severe. She has researched police calls on existing pot shops in Astoria and there have been many. Having the police called to her neighborhood regularly is not what she wants. By federal law, pot shops are not permitted to deposit their cash to banks so they keep large amounts of cash on premises making them attractive to burglars. Last week's fire at a manufacturing facility on the other end of town was evidence that they are not appropriate tenants for residential buildings because Oregon and other regulators do not check marijuana facilities for compliance with fire safety.

Shelly Von Colditz, 3930 Abbey Lane, Unit 303, Astoria, said she moved to Astoria from Denver, CO about a year and a half ago. Denver also had issues establishing places to allow the sale of marijuana. She was not opposed to pot shops or a mixed-use art gallery/dispensary. She was concerned about the type of clients that would come to this type of retail establishment. She believed transients would come from the Riverwalk and people would be driving or walking in to buy marijuana. There are a lot of homeless people in the area and she often sees them sleeping in the stairwells. Increased surveillance will not be appropriate. She did not buy a unit in this building so she could have robust surveillance and she did not want to come home to bright lights. She currently felt safe walking around at night, but this would be compromised if she had to look over her shoulder to see who was coming and going. She comes and goes during the day and there have been many times that she returned home and could not find a place to park. This does not happen often, but the numbers presented to the Commission were not representative of the parking. The residents do not have any assigned parking and she did not believe so many parking spaces could be dedicated to the retail space. She noted the only reason Dr. Forcum was allowed to serve on the property's board was because he owned so many retail spaces. No one can dictate what time of day people would come to buy marijuana, so the applicant cannot claim they would have a customer every six minutes. She did not want to have to park at the next building or in the street because she



would have to move her car after the store closed. She believed the dispensary would decrease the value of her home. Many people bought units when market prices were high and they cannot sell now. She did not want any more surveillance in the building. This is a quiet community with retired people and families. One family with a little girl just signed a lease for the unit right above the proposed dispensary. As a parent, she would not feel comfortable bringing her little girl around or allowing her to ride her bike in the parking lot with people going in and out all day. This situation is unique because we do not typically see this type of retail use with residential units above. She asked the Commission to read the information that was presented to them. She believed there would never be an agreement about the parking because the issues depended on the day and time. The condominiums have many part-time residents, but her building has mostly full-time residents. This means a lot more people are parking at that building. The people who spoke in favor of this permit live in Building B where there are a lot of part-time residents. She loved Astoria, but if she had to buy the condominium today with a dispensary, she would never consider it.

President Pearson confirmed there were no more public comments and called for the Applicant's rebuttal.

Dr. Forcum clarified that he did not simply take Mr. Bell's word about the impact to the community. He visited other communities with dispensaries in Oregon, Washington, California, and Colorado, where he spoke with neighbors of dispensaries to ask about the impacts. None of the people he spoke with had any complaints. One person who lived in a mixed-use complex was unaware that a dispensary existed in the neighborhood. The parking at the condominiums was garnered under the General Industrial zoning and the covered parking was allocated to the commercial units because of how the building was developed. The commercial square footage had to be of a certain footprint to accommodate the residential units above the commercial area. The seven parking spaces reserved for commercial use were reserved that way for tenants who signed contracts under the General Industrial zoning. The building is now zoned Shoreline Tourism, so the covered spaces are now open to both commercial and residential uses. The complex is currently undergoing construction remediation and there have been times when the contractor has used 70 percent of the available parking spaces. Obviously, construction will not go on forever and those spaces will be open again. Currently, a large percent of the lights are out at the complex because the board has not instigated maintenance during construction. He believed the lighting issue would be corrected soon. The intent of a mixed-use complex is to develop a walkable community, which improves the value and health of the city. Portland has reduced healthcare costs by increasing walkability. People will live in a space and use the services below and walk or bike along the Riverwalk. This reduces the parking load. Currently, the complex is compliant with the Code's parking requirements for both commercial and residential uses.

Commissioner Moore asked if the Applicant planned to package the products on site.

The Applicants confirmed some products would be received already packaged, but some products would be packaged on site.

Commissioner Moore asked what interaction the applicants had with residents in the building prior to this hearing. Mr. Bell said his only interaction has been with Dr. Forcum. However, he was aware of the residents' concerns.

Tyrell Buckner believed his proposal satisfied the criteria for the Conditional Use Permit. He took detailed notes during the public testimony because he believed the residents deserved to have their concerns alleviated. He does not like smoke, so he plans to reduce any type of smell. There were concerns about people walking in from the Riverwalk and entering the residential units. That could happen now without a dispensary, so that issue is not specific to his business at all. At least his dispensary could address those issues immediately. He is a father and understood the concerns about children. Someone stated the dispensary was federally illegal, but that is not the issue being discussed at this hearing. He believed the medicinal use of cannabis has been documented as a product that prevents and alleviates certain medical conditions that many of the residents may potentially have. The fire that was mentioned occurred at a processing facility that contained butane gas. His dispensary has not applied to do processing and he would not likely use any type of natural gas because there are safer alternatives. The current issues with people sleeping in vacant spaces and defecating on the property will not be exacerbated by the presence of a dispensary. Cannabis use does not encourage defecating on property or homelessness. The store would not be referred to as a pot shop because that term has negative connotations. His vision was to have a high class facility that would eliminate the unwanted crowd and he believed the price points would be too high for such a crowd to afford. He does not want certain guests there either, so they plan to do their best to



eliminate any external presence that could be detrimental to the business. No examples were given about how the dispensary would negatively impact the space. He offered to speak privately with anyone who had concerns.

President Pearson closed the public hearing and called for Commission discussion and deliberation.

Commissioner Moore said he read all of the public comments and the Staff report. The applicants have addressed all of his concerns, including odors and parking. The residential section of the building exists as a result of the commercial space. The Planning Commission cannot review the type of shop that goes into the retail space, so the concerns specific to marijuana cannot be used as review criteria. The odor mitigation, parking, and retail use seem reasonable.

Commissioner Spence stated that all of the marijuana facilities in Astoria are in commercial or industrial zones and he considered this dispensary to be proposed for a residential area. The Code has not kept up with this. Each of the condominiums are individually owned, but the building envelope, parking, and other common areas are owned jointly by all through the condominium owners' association. In most cases, the association controls the entire property. In this case however, he did not believe the owners were aware that the commercial spaces would be controlled by an absentee owner, that they would not have any power, or that marijuana would be legalized. He believed this was a landmark case because the location is so unique. He did not believe the proposed use was appropriate at the proposed location because it was a residential area zoned for tourist related uses. The Code says, "Businesses including a restaurant or bar, which are engaged in selling merchandise to customers for personal, household, or farm use." The Code needs to be updated to take this particular circumstance into consideration. There are additional facilities and appropriate zones available throughout the city. However, the applicants have chosen to go into a residential building because they can get a nice arrangement. This type of business will be a disadvantage to the residents. He was opposed to the proposed location.

Commissioner Moore clarified that the proposed location was in a Shoreland Tourist zone, not a residential zone. Therefore, the Commission must review the criteria for the Shoreland Tourist zone. The State of Oregon does not allow marijuana dispensaries in residential zones.

Commissioner Spence stated that in his opinion, the residents do not negate the fact that the building is not zoned properly. He believed this needed to be addressed and the Code needed to be updated to address this situation.

Commissioner Moore explained the Commission needed to make its decision based on the Code as it is today.

Commissioner Innes said she viewed the residential units as individual homes, not just one location that is being affected. She was satisfied that the applicants have met the conditions that the Commission is asked to review. She has read every page of the Staff report and she believed odors, parking, and security would not be a problem. She planned to vote in favor of the application.

Commissioner Mitchell said she struggled with this request because conditions have changed since this building was built. She did not believe anyone considered what commercial uses would go in and marijuana dispensaries were not an issue at that time. The current Code does not define dispensaries as being different from normal commercial uses and the Commission must act within certain limitations. She could not find any reason to deny this request. She was pleased to hear that the applicants were trying to mitigate the concerns of the neighbors. The beauty salon could be more of a problem than the dispensary because it could create more noise. She supported the request. Some of the photographs indicated there was less space between the residential and commercial entrances that she originally thought and it would be interesting to see how signage prevents the public from entering the residential areas. She did not believe it was a good idea to have specified zoning for particular kinds of uses.

President Pearson said the building has been a mixed-use site since the day it was built. The first floor is intended for commercial use. He understood the concerns and frustrations of the residents above, but the building is doing exactly what it was intended to do on the waterfront. The proposal meets all of the requirements the Commission has been asked to review for a conditional Use. The conditions are extensive and there are many controls in place to make sure the project goes as promised. He supported the request.



Commissioner Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report, approve Conditional Use CU16-10 by Daryl Bell; seconded by Commissioner Innes. Motion approved 4 to 1. Ayes: President Pearson, Commissioners Innes, Moore, and Mitchell. Nays: Commissioner Spence.

President Pearson read the rules of appeal into the record.

President Pearson called for a recess at 9:06 pm; the meeting reconvened at 9:14 pm.

#### ITEM 4(c):

Astor West Urban Renewal Plan First Amendment - The Astoria Planning Commission will review the proposed Astor-West Urban Renewal Plan First Amendment, including its relationship to the Comprehensive Plan, and make a recommendation to the Astoria City Council. This is not a land use action. However, ORS 457 requires Planning Commission review for consistency with the Comprehensive Plan.

Director Cronin briefly introduced the amendment, noting the public process that has taken place to date. Most of the comments received at the open houses pertained to the reopening of Bond Street. He planned to present the public's concerns to the Traffic Safety Committee. The Planning Commission is tasked with ensuring the amendment is consistent with the Comprehensive Plan.

Elaine Howard, Elaine Howard Consulting, presented the details of the amendment contained in the Staff report and described the State statutes that apply to the amendment. She and Director Cronin discussed the projects planned for the Astor-West Urban Renewal Area (AWURA) and explained how those projects would be funded. She also presented the impacts to the taxing districts within the AWURA and noted next steps.

Commissioner Innes asked if the Port of Astoria's Central Waterfront Master Plan was an existing document. Director Cronin said the plan is a historical document that no longer has value. The Port Commission is working on a new Central Waterfront Plan that would govern how the waterfront develops over time. He has been asked to partner with the Port on the master planning process.

Commissioner Innes said the AWURA Plan amendment implies the Port's Master Plan exists. She believed the language in the AWURA Plan was carried over from when the AWURA was first developed. Director Cronin confirmed this would be a good time to refresh the language in the Plan.

President Pearson called for public comments.

Ted Osborn, 345 Alameda, Astoria, asked how the money available to improve the blighted housing along Bond Street would be transferred. He wanted to know if the AWURA would purchase the properties and redevelop them or if grants would be given to certain property owners.

Director Cronin said the specific details of the program have not yet been established because the City is still discussing the program with the Community Action Team and Clatsop Community Action. Property improvements could be funded by block grants given to one of the organizations or by the City giving direct grants to recipients. Criteria also need to be developed. This amendment review is just to determine the amendment's consistency with the Comprehensive Plan. At some point, the Development Commission will want guidelines in place for the housing program. He encouraged Mr. Osborn to submit any ideas about how the program should work.

Daniel Carter, 100 W. Franklin, Astoria, stated his house sat at the top of the slide area indicated on the map. He was concerned about drainage and taxes. His taxes have increased and he pays a premium for a lot with a view. However, the City has not maintained its properties, so there are trees blocking his view. He wanted to know what would be built on the bump out that would create 12 additional lots. The property is still a slide and engineers need to address the drainage. Damming up the stream will cause the slide area to back up to his property. He did not know how much engineering had been done, if the City would take control of the property, or if the weeds and trees would be cleared so that he could have his view back.



Director Cronin said the City does not expect to acquire any additional property through this amendment. The City already owns a lot of property it does not know what to do with right now. The displays of Bond Street were very preliminary and were only intended to start a conversation between the City and the public. This amendment needs to be approved before funding will be available to do any engineering work on Bond Street. Once the designs and engineering are complete, the public will have the opportunity to view the designs. He confirmed which 12 lots Mr. Carter was referring to.

Ms. Howard explained the property would be added to the AWURA and it was already owned by the City. Director Cronin added that the property needed to be added to the AWURA in order to improve Bond Street. The City has no interest in developing the property because it is a slide zone.

Mr. Carter said he understood everyone loved trees, but they were a serious issue. Director Cronin suggested Mr. Carter talk with Mr. Kuehl at 96 W. Commercial, Astoria, to improve the area.

Jim Coolie, 194 Commercial, Astoria, said the presentation showed a small slide zone, but the map showed a larger slide zone. Director Cronin explained the crude circle he drew was just to indicate a general area. City Hall has GIS maps available that show the specific location of the slide zone.

Mr. Coolie asked if the new retaining wall would address the entire slide zone. Director Cronin said the retaining wall would just hold back one part of the slide zone to allow two-way traffic. The engineering done to date indicates the wall would hold up over time.

Mr. Coolie added that 3<sup>rd</sup> and Bond should be a four-way stop. He asked if any issues on Commercial would be addressed as part of this project. Director Cronin said no, but the commercial district would be revitalized.

Mr. Coolie did not believe a bike lane should be added to Bond Street because increased traffic, increased speed, narrower lanes, and freezing temperatures would be too dangerous for cyclists. Director Cronin explained the lane shown in the picture was a shared lane called a sharrow. There will be a sidewalk for pedestrians, but drivers need to be reminded to share the road with cyclists.

Commissioner Innes moved that the Astoria Planning Commission find that the First Amendment to the Astor-West Urban Renewal Plan conforms with the Astoria Comprehensive Plan and further recommends that the Astoria City Council adopt the proposed First Amendment to the Astor-West Urban Renewal Plan with the following amendment:

- Exhibit A, Page 2 – Remove the reference to the Port of Astoria's Central Waterfront Master Plan.

Motion seconded by Commissioner Mitchell. Motion passed unanimously.

#### REPORTS OF OFFICERS/COMMISSIONERS:

The Commission agreed to reschedule their December meeting to December 6, 2016.

#### ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:43 pm.

#### **APPROVED:**



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Community Development Director