



AGENDA

ASTORIA PLANNING COMMISSION

February 26, 2019
6:30 p.m.
2nd Floor Council Chambers
1095 Duane Street • Astoria OR 97103

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a) January 29, 2019
4. WORK SESSIONS
 - a) Code Updates: A19-02 Transient & Homestay Lodging
 - b) Code Updates: A19-04 Misc. Code Sections
5. REPORT OF OFFICERS
6. STAFF/STATUS REPORTS
 - a) Save the Date:
 - i. March 26 @ 6:30pm – APC Meeting
7. PUBLIC COMMENT (Non-Agenda Items)
8. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
January 29, 2019

CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:44 pm.

ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Vice President Daryl Moore, Jennifer Cameron-Lattek, Patrick Corcoran, Cindy Price, Chris Womack, and Brookley Henri.

Commissioners Excused: None.

Staff Present: City Manager Brett Estes, City Planner Nancy Ferber, Special Projects Planner Rosemary Johnson, City Engineer Nathan Crater, and Consultant Matt Hastie. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

President Fitzpatrick called for approval of the December 27, 2018 minutes.

Commissioner Henri moved that the Astoria Planning Commission approve the minutes of the December 27, 2018 meeting as presented; seconded by Vice President Moore. Motion passed 4 to 0 to 3, with Commissioners Price, Corcoran, and Womack abstaining.

PUBLIC HEARINGS:

President Fitzpatrick 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):

CU18-07 Conditional Use Request (CU18-07) by LAD Holdings LLC and Adrift Properties LLC to locate a maximum 40 room hotel and restaurant with parking on an adjacent lot in existing buildings at 1 9th Street (Map T8N R9W Section 8CB, Tax Lots 500 & 600; footing of Blocks 8 & 55, McClure) in the A-2 Zone (Aquatic Two Development) and the S-2A Zone (Tourist Oriented Shorelands).

President Fitzpatrick 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. There were none. President Fitzpatrick asked Staff to present the Staff report.

Planner Johnson presented the written Staff report and recommended approval with conditions.

Commissioner Cameron-Lattek asked why the City did not consider parking for employees. Planner Johnson explained that when the parking codes were written, the anticipated impacts of a use considered visitors and employees, the availability of on-street parking, the availability of bus service, and bicycle and pedestrian traffic to the site. Currently, Smart Growth development processes encourage cities to reduce parking requirements and to encourage people to bicycle, walk, or take public transportation. Downtown Astoria has been built out to its limit, so there is no available parking. City Manager Estes added that parking ratios developed for the City are based on industry standards. Parking standards based on a per room basis do factor in employees. The new trend is to allocate curb space for things like ride sharing. Some jurisdictions have capped the number of parking spaces.

Commissioner Corcoran confirmed with Staff that flood and tsunami inundation zoning was not reviewable criteria. Staff would determine which Codes apply at the time of the building permit application.

Commissioner Price asked who owned what on the Riverwalk and what Riverwalk improvements would be required as part of this permit. Engineer Crater said the City owns the Riverwalk, the river trail area, and some improvements outside of that, but inside the railroad right-of-way. This specific section would require surfacing upgrades for pedestrian safety because the planks are deteriorated. Every year, the City embarks on a trestle maintenance program that focuses on the substructure, which includes some decking improvements. However, the improvements made to that area by Astoria Holdings did not last long.

Commissioner Price said she believed landscaping requirements would be flexible. Planner Johnson said the only requirement would be in the parking area on Astor. Potted plants can be used on the waterside, but the parking area needs to have a buffer from the pedestrian area along the sidewalk. The Code allows for up to 50 percent of non-vegetative landscaping.

Commissioner Henri asked if there were requirements for the valet parking to be running during certain hours and for a required number of valet staff. Planner Johnson noted that Staff has recommended a condition of approval that valet parking should be available when there are guests.

Commissioner Womack asked if the City had ever considered a conditional use permit for valet parking. Planner Johnson explained that there had been one request, but the valet parking was not a condition of approval. The Elliott Hotel had offered to do valet parking on Marine Drive across from the Columbian Theatre in a below grade parking lot. The hotel tried to offer valet parking as a service, but it was not required. In this case, the valet parking would be included with the guest room. Staff is recommending it as a condition of approval because of the location and compact parking lot.

Commissioner Womack asked how the valet parking would be enforced. Staff explained that enforcement by the City would be complaint driven. It would not be a violation for someone to park on the street. The three or four spaces allocated on 9th Street would be for short-term use when loading and unloading. These short-term spaces would be available to anyone, not just hotel guests.

Commissioner Henri asked for clarification about the location of the short-term spaces. Planner Johnson said the diagram used in the traffic impact study was created to demonstrate that those spaces could be accommodated. The City Engineer will review how the maneuvering of vehicles will occur to ensure safety. The proposed short-term loading spaces do not currently exist in the location shown.

President Fitzpatrick asked for more details about how the valet parking would work with the stacked parking. He also asked if 24-hour valet parking was a condition of approval. Planner Johnson recommended President Fitzpatrick ask the Applicants how they intended to manage their program. The condition in the Staff report requires valet parking 365 days a year.

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

Luke Colvin, 86946 Youngs River Road, Astoria, said he was with Arbor Care, Buoy Beer, and LAD Holdings. He has been involved with businesses in the community for about 15 years. He had a long-standing track record of starting, running, and growing companies that provide good jobs and have a positive impact on the community. Since he got approval and moved forward with Buoy Beer, he has a six-year track record of taking on unusual and challenging buildings on the Astoria waterfront, repurposing, and preserving a historic building that was falling into the river. Just like Buoy Beer, there is not a lot of viable options to put a sustainable business in one of the buildings on the adjacent property. The number of people who would be visiting as guest or employees is quite limited for an operation like this. The fish processing plant that has been operating for many years had far more employees and daily visitors to this location. Most of the businesses in the downtown core are doing as much or more to address the parking concerns of this project. He provides more private parking solutions for this project than most businesses in the downtown core and all of the hotels in the downtown core. He tried to look at all the positives and negatives of the project and tried to work appropriately with Staff to address all the issues to the best of his ability and in a reasonable and sustainable manner.

Vice President Moore said he was concerned that parking would overflow into the Buoy Beer parking lot. Mr. Colvin clarified that he represented LAD and the original founder of Buoy Beer. There have been numerous conversations about overflow parking with surrounding businesses, but the issues have always been resolved. He did not believe there would be much concern about the impact of the hotel on Buoy Beer. He wanted to make sure the parking issues with this new project were addressed. He added that as CEO of Buoy Beer and one of the founding partners of the proposed project, communication had been pretty open.

President Fitzpatrick said the hotel would run 24 hours a day, seven days a week, but the restaurant would not. He asked how valet parking would work in the middle of the night. Mr. Colvin said a valet employee would be on call 24/7 when guests were present, and Adrift Properties would be implementing the valet parking.

Tiffany Turner, 1107 37th Street, Seaview, WA, said she and her kids were born in Astoria. She and her husband have four hotels on the coast, two restaurants, and a distillery. Adrift is a social purpose corporation in Washington, focused on the communities they live and work in. Adrift Properties would be part of the ownership entity, and Adrift Hotels would lease the building.

President Fitzpatrick asked what would happen when a guest needed to leave and their car had been stacked. Ms. Turner said staff would be available at all times to get a car from valet. The number of people on staff would depend on the occupancy of the hotel. She anticipated three people on staff in the middle of the night during the summer, one person at the desk, one working valet, and one maintenance person.

David Kroening 1168 14th Street, Astoria, said he was part of the LAD group and one of the property owners of the proposed project and Buoy Beer. He had spoken with many of the business owners in the vicinity. Buoy Beer already overflows their parking lot, especially in the summer, so, he was definitely concerned about parking near the businesses. As part of this plan, he wanted to maximize the use of the land. LAD would retain the property on the landside, which complicates future development of the building, but it is the only way forward knowing the parking needs of the area. He was also actively looking at other properties in the area to find parking space they can lease for Buoy Beer employees, hotel employees, or valet parking. There are several developments happening within two or three blocks of the area, so he understood there were concerns in the community, but this application is best for all of the businesses.

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

Jason Palmberg, 1790 SE 3rd Street, Astoria, said he was in favor of the project, but had some concerns about parking. The project would be a great repurpose of a currently unused building and the Applicants have a history of being good people running good businesses. He and a few property owners met with Mr. Kroening and Mr. Colvin last week to discuss all the issues, primarily parking. The property owners met with Staff yesterday to ask questions. He said Paul Larson had a concern about two blocks and one side street with 24-hour on-street parking. A lot of downtown employees use those parking spots and some of the businesses open at 9:00 am or 10:00 am.

Paul Larson, 92967 Pearson Road, Astoria, stated that by 8:30 am on Friday, 40 of the 50 on-street parking spots were taken.

Mr. Palmberg said before many of the businesses were open, there were only 10 spots left for the employees who work downtown, and it is the middle of January, not summer when things are a lot busier. The City was making concessions for the Applicants parking downtown. If the request is approved, the parking will work today, but could create congestion in the future. He asked if the Planning Commission and Staff were going to make concessions for future developments. He did not want to be the last one at the table asking for concessions only to be denied because the previous concessions had caused a problem. He had been forced into situations like that in the past with other developments. The Downtown Association is completing a parking study and they may have a lot of answers to the questions being raised. Maybe the Planning Commission should look at that study before making a decision on this.

Commissioner Price asked which businesses were concerned about parking. Mr. Palmberg clarified it was property owners who were concerned. Paul Larson owned the building that Sahara Pizza and Video Horizons used to be in, and his father owned Lower Columbia Bowl Corporation, which is directly across the street from the proposed parking lot.

Paul Larson, 92967 Pearson Road, Astoria, stated he was in favor of the project. He has worked with Buoy Beer over the years and they are good neighbors. He owned the Video Horizon building, which is on the same block. He was very concerned about parking. He read the traffic study completed for this project and assumed it would pertain to local parking. There are 173 pages of traffic study, but there is no parking study. He believed that City Manager Estes had said a parking study was not mandatory. Over the last several days, he took it upon himself to observe what was going on during the morning. He went to the area at 7:30 am and people begin filing in by 8:15 am. By 8:30 am, approximately 40 of the 50 parking spots are taken by business people and employees who work in his building, Buoy Beer and Pier 11. Everyone crowds into the two city blocks that are left and the downtown parking is very congested. He stayed until 11:00 am and no one had pulled out of those 40 parking spaces. The remaining 10 parking spaces were available when several businesses were not yet open, like Sahara Pizza, the bowling alley, the Video Horizon building, and Buoy Beer. City Manager Estes had said parking was not mandatory because the request is for a conditional use but bringing in 40 units would be difficult. He owns the Purple Cow Toy Store building and the parking changed completely when the Commodore Hotel came in. People have to walk a little bit to get to the building. When someone comes to stay at a hotel, they will roll in at all hours and are there until check out time. If this proposed hotel is allowed, there will be a fair amount of stay overs as people come in to work. It is treacherous getting across Marine Drive and if there is no parking around 7th and 8th Streets, the business people will have no place to park. He wanted to see the hotel go in. The Applicants are nice and have supported his company. He disliked having to throw a curve in their project, but the parking is a real problem. The parking lot in front of the Columbia House Condominiums is an open parking lot, so that could be a possibility.

Debbie Lou Schmidt, 89919 [no street name stated] Warrenton, stated she owned Fog Bounders Antique Mall, which is in the area of the proposed hotel. The Applicants had not spoken to her. Her employees have to park on Astor and the hotel and restaurant would take their parking spots. She liked the idea of valet parking, but the hotel guests should be required to park there. Her husband would never use valet parking because he wants the ability to get his car when he wants to. She was in favor of the hotel because it would be good for her business, just as Buoy Beer has been good for her business. People come in to her store as they walk by it, but parking is a big issue.

President Fitzpatrick called for any testimony impartial to the application.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he was not impartial. He had some concerns but was in favor of the project. He encouraged the Planning Commission, the City, and any developer who comes to Astoria to consider adding electric charging stations to parking facilities because Astoria has a very limited number of stations to charge electric vehicles. Parking is a huge issue. He was a great fan of Buoy Beer until about a year ago when their parking lot shrunk and became an issue. He did not like dealing with the hassle of the traffic in that area and inadequate parking. He supported the idea of a hotel, especially since it is not a four-story monstrosity blocking views. It is using an existing building, which is the way the city should be going. Existing space should be used as is, but it takes inventive minds to figure out how to do that. He would never use valet parking and would park on the street. The Planning Commission needs to address parking on all projects. The city will become very unpleasant to be in if no one can park or drive anywhere.

President Fitzpatrick called for any testimony opposed to the application. Hearing none, he called for the Applicant's rebuttal.

Ms. Turner said there would definitely be an electric charger in the parking area, just as they have at their other properties. Her largest property has 82 rooms and a full-service restaurant and bar with almost 90 seats, and 82 parking spaces plus employee parking. Even when the hotel is at full occupancy, people are not always at the hotel. This was addressed in the Staff report. Guests often arrive between 5:00 pm and 9:00 pm and then leave between 7:00 am and 11:00 am the next morning, so it is rare to have all parking spots occupied even when the hotel is at full occupancy. It is not her intention to gouge people for more money with the valet parking. It was a creative solution to a big problem. The hotel would likely charge a typical parking fee as part of the room rate for the valet parking instead of charging an additional valet parking fee.

Commissioner Henri asked if there was a backup plan for inadequate parking. Ms. Turner stated there were not a lot of options, but she was looking at all viable options. If the City requires 43 parking spaces, there is a chance the project cannot be built. Currently, there are no long term leads available, so the one-year trial is

great. Purchasing a lot further away will take more time. She believed the solution was creative and adequately addressed an issue that may or may not be an issue. There is no backup plan. Guests need to park somewhere, so the hotel would try to provide the best possible experience for their guests by making sure they have parking. She believed 30 parking spots would be adequate for guests and staff.

Commissioner Henri asked if there was any way to reduce the number of rooms or add parking in the building. Ms. Turner said she had all of those conversations. The shed building will have bike parking and bike storage. She served on the Economic Development Council in Pacific County and there is a lot of talk about bike trails and encouraging cyclists to come through, so, she hoped there would be fewer cars. One big issue is safe storage for bikes. She could not reduce the number of rooms. A 40-room hotel is not huge. The project is about community and fun. The project has to make money, but that is not the sole purpose. Anything smaller than 40 rooms would be really hard to pencil out. If the Planning Commission required a 30-room hotel because there are only 30 parking spaces, the building would stay as is because that would not be financially viable.

Vice President Moore asked if the Applicants ever spoke with the City about leasing or purchasing the park on 9th and Astor for parking. Ms. Turner replied she had not. Mr. Colvin added he was told the park was a historic site.

President Fitzpatrick called for a recess at 7:55 pm. The meeting reconvened at 8:00 pm.

President Fitzpatrick called for closing remarks from Staff.

Planner Johnson stated that if an outright use went into this location, there would not be any off-street parking requirements. This conditional use would guarantee 30 off-street parking spaces. Additionally, the valet parking service would be required 365 days a year while this use was in operation. Land use planning considers the cumulative impacts of the proposed use. In this case, the use will provide parking where parking is not required. The off-street parking helps to mitigate the use. Each conditional use request is considered on its own merit. Staff has determined that this particular use should not be permitted if the Applicants are unable to provide parking.

President Fitzpatrick closed the public hearing at 8:02 pm and called for Commission discussion and deliberation.

Commissioner Henri said she was trying hard not to let her biases influence her decision because she was excited about the potential of the project and was passionate about urban infill. She was very tired of the parking discussion. She agreed with the findings in the Staff report. If this were an outright use, off-street parking would not be required. In all fairness, the Planning Commission needed to consider that almost every project that is reviewed by the Commission has some kind of parking issue. It would not be fair to set precedents and each project should be judged individually and fairly. She hesitated to prohibit this project from moving forward because of parking issues. The parking issue is a bigger problem that requires problem solving beyond just a project. She was in favor of the project.

Commissioner Corcoran said he supported the project, the people, and their ideas. The concerns are in the broader context of parking. The valet approach will involve a lot of hustle and hand trucking and in the context of difficult parking, he liked the initiative demonstrated by the Applicants. He was in favor of the application.

Vice President Moore stated he was not worried about parking. He appreciated the provisions in the conditions and the fact that the Applicants were willing to go to lengths to provide parking in an area that did not require parking. He does not experience parking problems when he is downtown, and he is curious to see what the parking study will produce. This project could potentially give up some overwater development that would be useable for water dependent uses. While there is no huge demand to bring water dependent industry and commerce to Astoria, there is a very limited and dwindling supply of overwater facilities for water dependent uses. Economic Goal 4 in the Comprehensive Plan is to continue to encourage water dependent industries to locate where there is deep water, adequate backup space, and adequate public facilities. The policy associated with that goal is to maintain areas of the city in order to provide sufficient land for water dependent and non-water dependent industries. He believed this application met the reviewable criteria but wanted to point out that Astoria was running low on water dependent facilities. The Planning Commission should keep that in mind moving forward.

Commissioner Price said she was not worried about parking and appreciated the work put into the project to find parking. The Applicants have operated with great respect for the community and run beautiful businesses. She agreed with the findings in the Staff report. Astoria still has many other areas that can be used for water dependent uses if needed. She was in favor of the reuse of this building and supported the project. Parking is a much broader issue than one project can take on. She hoped the Downtown Association survey would give the City something to engage with.

President Fitzpatrick asked if Commissioner Price was suggesting the Planning Commission wait until the parking study was complete before making a decision on this request.

Commissioner Price answered no, it could be a while before the study was complete and she did not believe parking was a problem. She believed the Downtown Association was simply conducting a survey of available parking. The City Engineering Department would have to develop recommendations for increasing available parking. She did not see any reason to hold up a project that has gone beyond the Code to find parking.

Commissioner Womack stated he believed the concept of taking the building from what it looks like now and turning it into something beautiful on the waterfront would be economically beneficial. He believed the project met the reviewable criteria.

Commissioner Cameron-Lattek said she supported the project. She believed it was a good reuse of the property and it is in the hands of people she knew to be good, community-minded people who have seriously considered the concerns of their neighbors. She stayed in a hotel in Portland that required valet parking because of the location. With no charge for valet service, it was much easier to make the decision to use the valet parking in that situation. This hotel would be similar because the valet service would be so practical. She hoped the hotel would have a high usage rate of their valet service. She appreciated that the Applicants worked hard on this project and took it seriously.

Vice President Moore added that the Commission wished they could see the future projects, but they can only make decisions based on what is before them. The Commission considers how this application impacts the area. If an identical request is submitted down the road, it might not be appropriate at that time.

President Fitzpatrick said he did not believe it was likely this building would be used for something else. There is a dialysis center going in that will take up parking previously used by Buoy Beer customers. He visited the site at noon that day to look at the buildings, parking, and access to the site. Five years ago, he could get a parking space at Buoy Beer. Now, that is not so easy. Generally, he did not worry about parking if he only had to park about two blocks away. However, parking is becoming an issue. There was a large parking lot that was used for a long time and Buoy Beer has reduced their parking in that lot. There is construction going on at the dialysis center and a couple of piers are torn up, so Buoy Beer employees are parking on Buoy's property because there are not many spaces nearby. He was very concerned about the parking. While an allowed use would not require parking by the City, the people who worked there would still need parking. When the fish processing plant was in operation, he often saw three, four, or five workers getting out of a vehicle. The city is running out of parking downtown and the property owners and business owners who are there on a daily basis would recognize the parking issues best. Since the valet service is untested in Astoria, there is no way to know how it will work. He asked what other Commissioners believed would be a reasonable amount of parking to require for this project. He said he was in favor of the project.

Commissioner Henri said she did not know if 30 parking spaces was appropriate for this project. When the hotel is at capacity, the hotel would need a space for each room because no trains come to Astoria. Even though there is bus service from Portland, people usually drive to Astoria. She wanted the City and the Planning Commission to allow projects like this. For the future, she suggested a park and ride program or a parking district. If the Commission required more than 30 parking spaces, the project might not happen. Parking is not just about convenience. It is also about economics, accessibility, and equity.

Commissioner Corcoran stated he was surprised by the number of spaces, but parking is not required. The valet is a creative experiment and could be part of the mix for future parking. There is a huge effort for adequate parking and a proposal for an innovative approach for dealing with parking. He wished there was more parking

available, but the valet is something no one else is doing. The valet approach is something the City could use more broadly in the future.

Vice President Moore said when he sees occupied parking spaces and full parking lots in downtown, he is excited because it demonstrates an active and vibrant downtown. Half full parking lots and a lot of empty spots on the street is not what Astoria wants downtown. Astoria has not reached 100 percent of its parking needs, so this application is a good idea and he was excited to see what the Applicants bring with this project. Revitalizing a building will bring excitement to the downtown core. A minimum of 30 parking spaces is excellent in his opinion.

Commissioner Cameron-Lattek stated she was comfortable with 30 parking spaces. The hotel will only be at full capacity about 20 percent of the time they are open if they are doing well. Her business is adjacent to a hotel and their occupancy directly affects her business. During check in time around 4:00 pm, one 15-minute loading parking spot is used. There is never a time when she has seen the streets full of hotel guests. The guests use the hotel's off-street parking in the lot across the street and that lot is never at full capacity. People check in starting at 4:00 pm and her business closes at 4:00 pm. Check out time is 11:00 am, but she could not say what time most guests leave and move their cars.

Commissioner Corcoran asked if the hotel would need to a full-time person to keep people who are not hotel guests out of their parking lot.

Commissioner Cameron-Lattek noted that in the past three or four years, there was only one time someone parking in her reserved spot located in the hotel parking lot. Appropriate signage would result in adherence to the rules.

Vice President Moore believed the lot would be clearly marked as a private lot.

President Fitzpatrick reopened the public hearing. He asked what time Buoy Beer began serving and what time they closed.

David Kroening 1168 14th Street, Astoria, said Buoy Beer opens at 11:00 am and closes between 9:00 pm and 11:00 pm depending on the time of year.

President Fitzpatrick called for public testimony. Seeing none, he closed the public hearing.

President Fitzpatrick said he was closer to being convinced that 30 parking space would be appropriate. However, he was still concerned that if the valet service did not work, the Applicants would have 90 days to find more parking.

Planner Johnson added that Applicants are required to have 30 off-street parking spaces and the current configuration would require valet service. If the valet service was lost, the Applicants would have 90 days to address the problem and provide 30 spaces. If 30 spaces were not provided, the hotel would have to cease operations.

President Fitzpatrick said if the valet service did not work, he hoped the Applicants would continue to be good neighbors and work to find sufficient parking without creating an impact.

Commissioner Cameron-Lattek moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU18-07 by LAD Holdings LLC and Adrift Properties LLC, with the additions of Conditions 24 and 25, specifying that valet parking is required while the use is in operation; seconded by Vice President Moore. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

WORK SESSION:

Item 5(a): Riverfront Vision – Urban Core / “Urban Core Code Amendments: Summary of Draft Recommendations (Task 4)”

Consultant Matt Hastie gave a Power Point presentation on the recommended Code amendments to implement the Urban Core area of the Riverfront Vision Plan, highlighting modifications made in response to Commissioner feedback given at previous work sessions. During the presentation, he and Staff answered clarifying questions by Commissioners, Mr. Hastie also posed questions of the Commission and requested feedback, and the Commission took public comments.

President Fitzpatrick called for public comments on the recommended limitation areas, non-limitation areas, and allowances.

Larry Allen, 690 11th Street, Astoria, said on December 12, 2018, the City Council tentatively approved Hollander Hospitality to build a four-story Marriott on the river front. He was stunned at the statements released by the three Council members who voted for the approval, saying they had no choice. The issue came down to a lack of clarity in the City's Development Code with the wording leaving things open to interpretation. If the community does not want four-story buildings, then the Code needs to be amended. The Council agreed with Hollander's argument that it was not clear which standards applied to new construction and which applied to existing buildings. The duties of the Planning Commission are vital to the final decisions made by City Council. It is important to continue requiring conditional use permits for all aquatic zones. The Planning Commission should have more input before City Council makes a final decision. Since Heritage Park has been approved, he hoped there would not be structures placed in front of the park.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he wanted the height limits kept as low as possible.

Jim Allegria, 1264 Grand Avenue, Astoria, stated he supported Option 1 with no building in the limited zones. He also recommended that the non-limited parcel with pilings be limited because no one wants a building on that parcel.

Steve Fick, 1 4th Street, Astoria, said he lived in Astoria for most of his life and valued what was here. He wanted a quality city with quality buildings, but he also wanted flexibility. He owns a fish plant and other developments, and he planned to do something with the brick building. It is very expensive to live over water. Sometimes it is necessary to think outside of the box. Businesses will change and come and go. If he needed an ice house, he might need 45 feet. He wanted the opportunity to have housing in the area or open a restaurant. He worked on the Riverfront Vision Plan and thought it did a good job creating open spaces, congested spaces, and some in the middle for a variety of uses. There will be a tremendous amount of tax revenue from the dialysis center and hotel. Those funds could be designated to purchase the old can company. He walks the waterfront 300 days per year. There is one warehouse that blocks a lot of the ocean front. The City could purchase that warehouse with tax revenue. He asked that the Planning Commission leave flexibility in the plan. He was concerned that the City did not have the assurance that applicants had the financial strength to complete projects and make money. There are only three or four properties like his that do not have height restrictions. He had no intentions of abusing that. The Commission can always say no to something down the road, but it would be difficult to get something back. He has a large pile field and it is too cost prohibitive to put a condominium there. He waited a year and a half to get two bumper pilings replaced on his dock. Overwater construction is very challenging and he did not think it would not be a problem.

Staff confirmed for Commissioners that existing buildings and structures taller than the proposed height limits would be allowed to remain as is.

Commissioners were divided on limitation areas. Commissioner Price wanted to prohibit overwater development and limit shore development to 35 feet high. Vice President Moore and Commissioners Henri, Corcoran, Womack and Cameron-Lattek supported Option 1 with the recommended allowances. While the public is opposed to overwater development, the Comprehensive Plan and Riverfront Vision Plan support and promote development in the Urban Core. Variances for existing structures and business could be a good compromise.

President Fitzpatrick called for public comments on the recommended Codes for physical access to the river.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he believed the recommended setbacks were too narrow and it would turn people off from coming to Astoria. The waterfront would be given up to wealthy investors who come to build big buildings on the river. He believed City Council would vote this down. The maximum square footage

is too large and should be scaled down. He asked if the Planning Commission was supposed to represent the community or do its own thing. He also wanted to know why the Planning Commission did not listen to the citizens.

Jared Rickenbach, 37734 Eagle Lane, Astoria, said the feasibility is challenging because the idea of building out the spaces or creating access to the river is very expensive. What is feasible down the road will be different from what is feasible right now. Therefore, flexibility will keep Astoria alive. If the Codes are too rigid, Astoria will have closed doors to opportunities. He believed that currently, it would cost about \$400 per square foot to build over the water, compared to \$150 per square foot on land.

Steve Fick, 1 4th Street, Astoria, asked if he would get his property taxes back on his property if he had to start scaling back what he could do. Allowing people to walk on his dock might not be a good fit.

Commissioners discussed the recommended options for developers to provide physical access to the river. Most of the Commissioners supported all of the options, but Vice President Moore believed, and Commissioner Womack agreed, that developers should only be allowed and required to build out the right-of-way. He believed the recommended options might be appropriate for commercial uses, but not industrial uses. Staff responded that Vice President Moore's idea would likely require a public/private partnership and could result in issues related to enforcement and property ownership. However, they offered options for implementing the idea citing other similar situations that already existed in Astoria. As a compromise, Commissioner Henri suggested that the option to allow mid site access be eliminated and add the option to build out over the right-of-way.

City Manager Estes noted it was about 10:00 pm and the Code work was a long way from being complete. He suggested scheduling a work session with no other agenda items. After discussing availabilities, Staff and the Planning Commission agreed to schedule a work session on Tuesday, February 5, 2019 at 6:00 pm.

REPORTS OF OFFICERS/COMMISSIONERS:

There were none.

STAFF UPDATES/STATUS REPORTS:

Item 7(a): Save the Dates

- February 6, 2019 – 4:30 pm to 6:30 pm TGM Uniontown Reborn Public Meeting at Holiday Inn Express
- February 26, 2019 – 6:30 pm APC meeting

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:01 pm.

APPROVED:

Community Development Director



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

February 16, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT, NANCY FERBER, PLANNER

SUBJECT: WORK SESSION ON PROPOSED AMENDMENT (A19-02) FOR TRANSIENT & HOMESTAY LODGING

At the direction of City Council, staff is preparing several code amendment updates over the next few months. For some issues, we will conduct work sessions to allow the Planning Commission to provide input on proposed amendment prior to a formal public hearing. The scheduling for these amendments is still being set, they include the following topics:

edits to the Bridge Vista Overlay, revisiting Accessory Dwelling Unit (ADU) policy, adopting Emergency Warming Shelter policy, finalizing the Urban Core Overlay, Historic Demolition code updates, and some Miscellaneous updates to streamline administrative processes.

At the end of 2018, the City Council discussed the need for better codes, licenses, and enforcement for Homestay Lodging facilities. Enforcement is difficult as the units are not identified by address or owner in the advertising platforms (such as Airbnb, VRBO, etc.) and it is time consuming and difficult for staff to research where the specific facilities are located in order to initiate code enforcement. Council directed staff to research other cities' codes and draft an amendment to the City Code that would address this growing problem. Staff researched transient lodging codes in multiple cities and counties and found a variety of ways that communities are dealing with these facilities. A City Code amendment was drafted to clarify terminology, establish a license process, and address code enforcement. It also included a fee schedule for the license and changes to the Transient Room Tax portion of the City Code. Public hearings were held before the City Council which were well attended with numerous comments from the public. At its December 3, 2018 meeting, the City Council adopted the Home Stay Lodging License Code, Transient Room Tax amendments, and fee schedule for the Astoria Code.

The Development Code includes some regulations related to transient lodging and identifies the specific zones in which they are allowed, some code amendments will be required to the Development Code so that it coincides with the adopted City Code. Council provided some direction to staff on additional amendments to the Development Code concerning transient lodging. The attached draft amendment reflects proposed changes needed for the Development Code to coincide with the Home Stay Lodging License process in the City Code.

Staff will conduct a work session at the February 26, 2019 Planning Commission to review the proposed changes.

CODE AMENDMENT SYNOPSIS

Home Stay Lodging and Transient Lodging

Code Section	Code Designation	Proposed Change
1.400	Definitions	Amend: bed and breakfast, inn, dwelling, home stay lodging, motel to coincide with City Code and make meal optional
1.400	Definitions	Add: kitchen, owner occupied, primary residence, time share, transient, transient lodging facility, vacation rental
2.025.8	R-1	Add City Code reference to HSL
2.065.6 2.070.13	R-2	Add City Code reference to HSL
2.155.7 2.160.12	R-3	Add City Code reference to HSL
2.585.14.b	A-3	Add City Code reference to HSL
2.350.3	C-2	Add City Code reference to HSL; limit motel in existing residential buildings
2.390.10	C-3	Add City Code reference to HSL; limit motel in existing residential buildings
2.435.4	C-4	Add City Code reference to HSL; limit motel in existing residential buildings
2.894.2	MH	Add City Code reference to HSL
14.132.1.b	A-4	Add City Code reference to HSL
8.160.A.1 8.160.A.3	Signs	Add HSL for residential sign allowance & not as CU
3.020.B.9	Accessory Dwelling Unit	Add HSL reference; not in ADU; refer to zone for allowance in conjunction w/ ADU
3.100	Home Stay Lodging	Add HSL purpose & standards to coincide with City Code; list allowable zones; not allowed in mobile vehicles
7.100	Parking	Amend to clarify HSL parking requirement
11.020	Conditional Use	Add Com Dev Director to process for Admin CU; add Section 11.022 exception to public notice
11.022	Conditional Use, Classification of CU Review	Add Section to allow Type II CU for HSL and ADU

DEVELOPMENT CODE UPDATES

Annotated

February 21, 2019

CITY CODE

(Annotated: The Home Stay Lodging Code is included in the City Code rather than the Development Code at the suggestion of the City Attorney to allow for better code enforcement possibilities. This is also the way several cities handle the permits.)

The following proposed amendments include multiple sections of the Development Code. Some are updates needed to coincide with the recent Home Stay Lodging City Code amendments and others are “housekeeping” and/or non-controversial updates to the Code to make processes quicker and easier for both the public and staff. Some proposed amendments are to clarify language in existing codes based on interpretations over the years. Proposed amendments are grouped by subject in case sections need to be removed for any reason during the adoption process.

HOME STAY LODGING

(Annotate: Development Code amendments are needed to coincide with the City Code amendments so there is no conflict.)

Section 1.400, Definitions, delete existing definitions and replace to read as follows:

(Annotate: To avoid conflict in definitions if changes occur in the future, definitions are included in both codes with City Code referenced.)

BED AND BREAKFAST: Any transient lodging facility which contains between three (3) and seven (7) guest bedrooms, which is owner or manager occupied, and which may provide a morning meal. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification.

*(Annotated: Do they need to provide a morning meal? B&B is allowed as follows:
Outright Use: C-2, C-3, S-2A, HR, LS,
Conditional Use: R-1, R-2, R-3, C-4, A-2, A-2A, A-3 in existing bldg, S-2, MH, AH-MP.)*

DWELLING: One or more rooms designed for permanent occupancy by one family
SINGLE-FAMILY: A free-standing building containing one dwelling unit.

TWO-FAMILY: A free-standing building containing two dwelling units. May include two-unit rowhouses or duplexes, either renter-occupied or owner-occupied.

MULTI-FAMILY: A building containing three or more dwelling units. May include rowhouses, apartment buildings, or residential condominiums, either renter-occupied or owner-occupied.

HOME STAY LODGING: A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. Such facilities may or may not provide a morning meal. Rooms used by transient guests shall not include a kitchen. (Astoria City Code Section 8.755)

~~A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. Such facilities may or may not provide a morning meal.~~

(Annotated: CC determined that a full living unit should not be used as a HSL and full unit has been generally defined as having a kitchen. At the discretion of the homeowner and subject to public health safety regulations, guests may use the homeowners kitchen)?

HOTEL: A building in which lodging is provided for guests for compensation, which may also provide incidental services such as restaurants, meeting rooms, or recreational facilities subject to Development Code standards.

INN: A transient lodging facility with up to 11 guest bedrooms, which is owner or manager occupied, and which may provide a morning meal. Inns may conduct associated business activities on an occasional basis, such as wedding receptions, club meetings and luncheons, conferences, and reunions.

MOTEL: Same as "Hotel". A building in which lodging is provided for guests for compensation and where the majority of rooms have direct access to the outside without the necessity of passing through the main lobby of the building.

Section 1.400, Definitions, add the following definitions:

KITCHEN: Room for preparation of food and includes a cooking stove or ability to heat food other than with a microwave oven.

OWNER OCCUPIED: Occupancy of a residence by an individual owner

OWNER: For purposes of transient lodging codes, the term owner only includes individuals, holding fee simple title to property, the beneficiaries of a revocable living trust, or a purchaser under a recorded instrument of sale. This does not include corporations, limited liability companies or similar organizations, an authorized agent of the owner, or those holding easements, leaseholds, or purchasers of less than fee interest.

(Annotated: It does not reference City Code definition as it would apply to more than HSL for Development Code. Owner is defined in 1.400, but the added definition is for transient lodging as it is different and matches City Code for HSL.)

PRIMARY RESIDENCE: Dwelling maintained as the permanent residence of the owner for not less than six months of the year.

(Annotated: This is included to help avoid the issue such as person living in an adjacent home and only staying in the transient building on occasions, and to help maintain the housing stock so a building is not just used occasionally as a dwelling. It does not reference City Code definition as it would apply to more than HSL for Development Code.)

TIME SHARE: A dwelling unit that is occupied for other than permanent occupancy by one family and whose ownership is divided into periods of time under an arrangement, plan, scheme, or device, whether by membership, agreement, share, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or otherwise, where a purchaser, in exchange for consideration, receives a right to use the dwelling unit for a period of time less than a full year during any given year. Use of the dwelling for less than a 30-day period by one family shall be classified as "transient lodging".

(Annotated: This specific type of transient lodging was not addressed during the City Council code amendment on HSL. However, as it could be used as "short term rental", it is suggested that we include this in the Development Code to clarify that this also falls under transient lodging.)

TOURIST LODGING FACILITY: See "Transient Lodging Facility".

TRANSIENT: A transient includes any person entitled to occupy a residence for less than 30 consecutive calendar days. The day a transient guest checks out shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

(Annotated: This is similar to the definition for Occupational Tax purposes but removes reference to hotels and allowable extended occupancies. It does not reference City Code definition as it would apply to more than HSL for Development Code.)

TRANSIENT LODGING FACILITY: Any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast establishment, home stay lodging, vacation rental, or other such transient lodging facility (such as Airbnb, VRBO, etc.). Transient Lodging

Facility also means space in mobile home or trailer parks, or similar structure of space or portions thereof so occupied, provided such occupancy is for less than a 30-day period.

(Annotated: With the addition of these other definitions, we would eliminate the reference to "other tourist lodging facility" in the Development Code so there is no confusion as to which classification each use is in. What other configuration of lodging facility could there be? The term "other tourist lodging facility is used in the C-2, C-3, C-4, MH zones only)

VACATION RENTAL: A transient lodging facility available for transient rental, and which is not occupied by an owner or manager at the same time as the guests. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. For the purposes of this Code, a Vacation Rental is classified the same as a "hotel" or "motel".

(Annotated: This would clarify what we already do in classifying vacation rentals as a hotel which limits them to commercial zones. This is intended to protect a SFD from being used for transient lodging without an owner on-site which reduces the permanent available housing.)

Section 2.025.8 (R-1 conditional use) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.065.6 (R-2 outright use, zone list of allowable uses) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.070.13 (R-2 conditional use, zone list of allowable uses) to be added to read as follows:

13. Home Stay Lodging in conjunction with an Accessory Dwelling Unit, which satisfies requirements in City Code Sections 8.750 to 8.800. May be processed as an Administrative Conditional Use.

Section 2.155.7 (R-3 outright use, zone list of allowable uses) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.160.12 (R-3 conditional use, zone list of allowable uses) to be added to read as follows:

12. Home Stay Lodging in conjunction with an Accessory Dwelling Unit, which satisfies requirements in City Code Sections 8.750 to 8.800. May be processed as an Administrative Conditional Use.

Section 2.585.14.b (A-3 conditional use, zone list of allowable uses) to be replaced to read as follows:

Bed and breakfast, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), or inn.

Section 2.350.3_(C-2 outright use), to be replaced to read as follows:

3. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility and associated uses~~ except as follows:

- a. Structures or portions of structures constructed and/or occupied as a dwelling after January 1, 2019 shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock. If there is an existing non-conforming dwelling in the zone, it could have a B&B or HSL.)

Section 2.390.10_(C-3 outright use), to be replaced to read as follows:

10. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility and associated uses~~ except as follows:

- a. Structures or portions of structures constructed and/or occupied as a dwelling after January 1, 2019 shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock. If there is an existing non-conforming dwelling in the zone, it could have a B&B or HSL.)

Section 2.435.4_(C-4 conditional use), to be replaced to read as follows:

4. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility and associated uses~~ except as follows:

- a. Structures or portions of structures constructed and/or occupied as a dwelling after January 1, 2019 shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock. If there is an existing non-conforming dwelling in the zone, it could have a B&B or HSL.)

Section 2.894.2_(MH conditional use), to be replaced to read as follows:

2. Bed and breakfast, inn, or home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility.~~

Section 14.132.1.b (A-4 conditional use, zone list of allowable uses) to be replaced to read as follows:

Bed and breakfast, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), or inn.

Section 8.160.A.1 (signs in residential zones) to be replaced to read as follows:

Sites with 1 or 2 dwelling units in a building, Home Occupations, and Home Stay Lodging.

Section 8.160.A.3 (signs in residential zones) to be replaced to read as follows:

Conditional Uses, except Home Stay Lodging, Bed and Breakfast, Inn, or Home Occupation.

Section 3.020.B.9 (Accessory Dwelling Unit) to be replaced to read as follows:

9. Home Stay Lodging.

Home Stay Lodging in conjunction with an Accessory Dwelling Unit may be allowed as follows:

- a. Home Stay Lodging is prohibited within an Accessory Dwelling Unit.

- b. Home Stay Lodging (which satisfies requirements in City Code Sections 8.750 to 8.800) may be allowed on properties in conjunction with an Accessory Dwelling Unit as listed in the allowable uses within specific zones.

Homestay lodging is prohibited in accessory dwelling units created after May 17, 2017.

(Annotated: each zone will list if HSL is allowed with an ADU and in 3.100.)

3.100. HOME STAY LODGING.

A. Purpose.

The City's purpose in regulating Home Stay Lodgings is to allow for economic use of underutilized bedrooms in dwellings; provide financial assistance to preserve both the housing stock and historic properties within the City; to ensure that Home Stay Lodging facilities are appropriately located; are compatible with surrounding allowed uses; are conducive to the public peace, health, safety, and welfare of the City; do not reduce the number of potential long-term housing units; and support tourism.

B. Standards

1. Primary Residence. Every Home Stay Lodging shall be located in the owner's primary residence.
2. Occupancy. The Home Stay Lodging shall be owner occupied while occupied by transients.
3. Location. Home Stay Lodgings are not permitted in an Accessory Dwelling Unit but may be allowable in conjunction with an Accessory Dwelling Unit as follows:
 - a. Home Stay Lodging facility shall not be allowed within an Accessory Dwelling Unit.
 - b. R-1 Zone: Home Stay Lodging shall not be allowed in conjunction with an Accessory Dwelling Unit.
 - c. R-2 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.
 - d. R-3 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.

(Annotated: ADU is an extra unit on a lot which is not sufficient for a duplex. To have both an ADU and an HSL would increase the impact to the neighborhood. CC determined that an HSL in R-2 or R-3 may be possible if the neighborhood development could accommodate it. While HSL is outright in the R-2 and R-3

Zone, if done on a site that has an ADU, then a CU would be required to provide the additional impact review.)

4. No Kitchen. Home Stay Lodgings may not contain a kitchen.

5. Mobile vehicles. Home Stay Lodging shall not be located in motor homes, travel trailers, or other mobile vehicles.

Section 7.100, Off-Street Parking Space Requirements by Use, to be replaced to read as follows:

<u>Use Category</u>	<u>Minimum Parking per Land Use</u>
Bed and Breakfast, Inn	1 additional <u>off-street</u> space for each bedroom used for transient lodging plus <u>off-street</u> spaces required for <u>the dwelling and</u> associated uses such as assembly areas or restaurant.
Home Stay Lodging	1 additional <u>off-street</u> space for each bedroom used for transient lodging plus <u>off-street</u> spaces required <u>for the dwelling.</u>
<u>(Annotate: This separated Home Stay Lodging from B&B as HSL cannot have the associated uses.)</u>	
Hotels, Motels, <u>other transient lodging facilities not listed,</u> and similar uses	1 space per guest room. See also, parking requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.

Section 11.020, Conditional Use, APPLICATION AND PROCEDURES, to be replaced to read as follows:

A. Procedures.

1. Application.

A request for a new, enlarged or otherwise altered development listed in the Development Code as a conditional use shall be made on forms provided by the Community Development Department. The Community Development Director shall specify what information is required for the application; additional information may be required where determined by the Director, and reviewed by the Astoria Planning Commission or Community Development Director.

2. Public Notice.

Public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9 except as noted in Section 11.022.

B. Decision.

The Community Development Director and/or Planning Commission shall base their decision on whether the use complies with:

1. Applicable policies of the Comprehensive Plan.
2. Applicable aquatic and shoreland standards in Article 4.
3. For aquatic areas, whether the use or activity meets the resource capability and purpose of the zone in which it is proposed when such a determination is required in accordance with Article 5.
4. For aquatic uses, the findings of an Impact Assessment where required by Article 5.
5. Development standards of the applicable zone.
6. Basic conditional use standards of Section 11.030.
7. Appropriate conditional use standards of Section 11.130 to 11.170.

11.022. CLASSIFICATION OF CONDITIONAL USE REVIEW.

The Community Development Director shall decide the classification of any conditional use application. If the Community Development Director believes that substantial issues are involved in a conditional use application, the Director may schedule a public hearing in accordance with the procedures specified in Sections 9.020 to 9.030.

A. Type II Procedure (Administrative/Staff Review with Notice).

Type II includes minor conditional uses which are minimal uses and which will have little or no impact on adjacent property or users. Administrative approval by the Community Development Director of Type II conditional uses may be granted.

Type II conditional uses include:

1. Home Stay Lodging in conjunction with an Accessory Dwelling Unit.
2. Accessory Dwelling Unit in R-1 Zone.

(Annotated: HSL w/ an ADU is intended by City Code to be processed by the Community Development Director rather than the APC.)

B. Type III Procedure (Quasi-judicial with Public Hearing).

Type III includes conditional uses which are significant and are likely to create impacts on adjacent property or users. A Type III conditional use may be granted by the Planning Commission.



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

February 20, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

SUBJECT: AMENDMENT REQUEST (A19-04) FOR MISCELLANEOUS CODE SECTIONS

Over the years, staff have identified several sections of the Development Code that need to be updated for various reasons. Some of the requested code language changes are corrections and codification of interpretations that have been made by the APC, staff, and/or the City Attorney throughout the years. Many of the proposed amendments will streamline the process for both staff and the general public when processing permits and/or doing simple construction. This would reduce the need for variances thereby freeing up some time for staff to address other issues.

The attached documents include a chart of the proposed changes grouped by the type of action such as Corrections, Process and Procedures, Setbacks and Other Exceptions, Interpretations and Clarifications, Lighting, and Miscellaneous Code Updates. Draft code amendment language is also attached with "Annotated" notes to explain the need and/or reason for the proposed language.

This amendment is being presented to the Planning Commission during a work session as an initial overview to allow for APC input and comments. Staff will do a general overview of the proposed amendments for discussion, but the intent is that the APC look over the documents in the next couple weeks and contact staff with any questions or concerns. No additional work sessions are planned. A public hearing before the APC would be scheduled in the next couple months, tentatively for the April agenda.

**MISCELLANEOUS
CODE AMENDMENT SYNOPSIS
2-20-19**

Corrections

Code Section	Code Designation	Proposed Change
9.020.C	Administrative Procedures	Correct to add Type II review for public notice
2.540.7	A-2	Correct street name

Process and Procedures

Code Section	Code Designation	Proposed Change
9.100.B.1.b	Administrative Procedures	Allow all Temporary Use Permit extensions to be Admin Type II
9.020.D	Public Notice, Posted	Add notice can be removed after 1st public hearing
9.010.I	Pre-Application Meeting	Change pre-application meeting from mandatory to "may be" required
12.060.A 12.060.B.1	Variances	Add lot coverage, fence height, maximum two off-street parking variances for multi-family and non-residential uses, and all one and two-family dwelling parking to Type II
12.060 12.090 12.100 12.110 12.120	Variances	Amend "Class 1 and 2" designations to Type II and Type III to coincide with other permit process references in the Code

Setbacks & Other Exceptions

Code Section	Code Designation	Proposed Change
3.070.B	Exceptions to Yards	Add "street side yard" to allowable average setbacks; allow corner lots to average with lot across right of way; add new graphics; add alley setback exception
3.070.C	Exceptions to Yards	Allow required stairs and landings for existing doors to encroach into setback; allow ADA ramp as an exception
3.070.E	Exceptions to Yards	Allow encroachments beyond property line and in setback areas to remain if being reduced under certain conditions

Code Section	Code Designation	Proposed Change
3.035.A	Accessory Structures	Allow arbor and gateway entrances to be 8' tall; allow fence on alley street side to be 6' tall; identify how height is measured; exempt trees from fence height limitation; clarify hedges meeting setbacks are exempt from fence height limitation
3.120.A.8	Landscaping in Parking Areas	Add administrative approval of exception of two spaces for required landscape planters every 10 spaces

Interpretations for Clarification

Code Section	Code Designation	Proposed Change
1.400	Definitions	Amend: add electric vehicle charging station to Automotive Service Station; delete trees from Fence; add "or recreation establishment" to "Indoor Family Entertainment" (2.894, 2.908, 2.968); add "12: above ground" to "Lot Coverage"; add moped to "retail sales establishment"; clarify "Microwave Receiving Dish" not transmit; clarify "Tourist Oriented Sales or Service" to a use not primarily used by general public
1.400	Definitions	Add: Construction Service Establishment, Indoor Entertainment, Industrial, Pedicab, Tour Vehicle, Transportation Service Establishment, Transportation Service Vehicle, Wind Energy Facility
3.005 13.430.B	Access to Streets	Allow recorded easement to satisfy access requirement
3.130.D	Public Access to Water	Add to clarify public access includes physical and visual access as required by State
3.230.F	Restaurant as an Accessory Use to an Inn	Add that associated business activities are not subject to Section 3.230
3.239.B	Restaurant as an Accessory Use to an Inn	Add starting time for restaurant use
3.140.A.6	Manufactured Home on Individual Lot	Add location, size, and construction prior to occupancy for enclosed storage area
3.140.A.7	Manufactured Home on Individual Lot	Add new classifications of historic properties
3.095	Home Occupation	Change "employee" to "person associated with the business"; quantify customers per week; allow non-resident employees if they don't come to site

Code Section	Code Designation	Proposed Change
3.150.A.1	Microwave Receiving Dish	Change size from 18" o 20" to meet industry standard for residential dishes
3.150.A.2	Microwave Receiving Dish	Add screening requirement to clarify
3.150.B	Microwave Receiving Dish	Add standard to prohibit on front or street side facades of historic structures which is current interpretation
7.110.C	Parking and Loading, Bumper Guards	Add 2.5' extend beyond guard allowance to coincide with 7.100.D.4
7.100.E	Parking and Loading, Access	Clarify that no more than four spaces "in same block" can back into public street
7.160.E	Minimum Loading Space Requirements	Add allowance to use right-of-way for loading area with City Engineer approval
9.020.B.1.h	Public Notice, Mailed	Clarify "parties to record" are for permit being appealed
9.020.B.3	Public Notice	Add explanation on how to calculate mailed public notice
9.060	Compliance with Conditions of Approval	Add process for amendments to approved plans as Type I, II, or III permits
9.070	Limitation on Refiling of Application	Change to all commissions not just APC; clarify that if permit withdrawn prior to hearing there is no waiting period for resubmittal
12.030.C	Variance Criteria	Clarify variance allowed for lot dimension not density
15.020.B.4	Wireless Communication Facilities	Add that code does not apply to Microwave Receiving Dish
14.510.4 3.120.A.15 7.170.B	Development Standards, CRESO; Landscape Requirements; Landscaping of Outdoor Storage or Parking Areas	Add requirement of 15' landscape buffer between top of bank and parking, storage, driving areas

Miscellaneous Updates

Code Section	Code Designation	Proposed Change
1.400	Definitions	Add "Fair Market Value" to clarify not value of new construction and exception; Historic Demolition;
2.430.15	C-4 Outright Uses	Add residential in the rear of first floor
3.180.C.1	Non-Conforming Uses	Add exception to time for reuse for existing residences with conditions
3.190.C	Non-Conforming Structures	Add allowance for second utility meters on existing non-conforming residential units

Code Section	Code Designation	Proposed Change
7.030.C	Off-Street Parking and Loading, Location	Clarify that allowed on-street parking spaces to meet parking requirements remain as public spaces
7.060.C	Off-Street Vehicle Parking Requirements	Add that required parking is also for employees but limited to less than 50% for employees
7.110.A	Off-Street Parking, Location	Add standard for maximum 40% front and street side yards for SFD may be used for parking
7.110.H.2	Parking and Loading Areas	Add that required parking shall not be used for storage of vehicles or equipment for more than one week
11.140	Public or Semi-Public Use	Add how to review a public use in residential neighborhoods
9.010.A 9.010.B	Administrative, Applicability of Review Process	Delete table; add footnotes of table to intro
9.010.C.4	Administrative, Applicability of Review Process	Delete reference to pre-application meeting
9.010.C.5	Administrative, Applicability of Review Process	Add that permit application grants City staff permission to enter exterior portion of property for processing the permit
9.010.D	Administrative, Applicability of Review Process	Change application due date from 28 days to 30 days
9.010.G	Administrative, Application and General Review	Delete "concomitant application" as it is redundant
9.010.I	Administrative, Applicability of Review Process, Pre-Application Meeting	Change pre-application meeting from required to "may be" required

Signs

Code Section	Code Designation	Proposed Change
1.400	Definitions	Add "Billboard Vehicle"
8.040.A.14	Exempt Signs	Add that political signs installed no more than 60 days prior to election
8.050.A.B	Prohibited Signs	Add animation sign on vehicles and billboard vehicles; add other signs on vehicles allowed

CODE AMENDMENT SYNOPSIS
2-11-19

Lighting Standards

Code Section	Code Designation	Proposed Change
3.128	Lighting Standards	Add uniform lighting standards for use City-wide; use language from Riverfront Vision Overlay codes; add limitation for lumens for internal lit signs, auto service stations, drive up windows, and parking lots
2.050.8 2.095.8 2.185.8 2.485.8 2.916.12 2.934.15 2.992.11	Other Applicable Standards in zones	Replace existing language to reference to 3.128; R-1, R-2 R-3, GI, FA, AH-HC, AH-MP
2.235.11 2.335.9 2.375.11 2.415.11 2.445.12 2.515.13 2.540.12 2.565.10 2.590.10 2.615.9 2.665.11 2.690.12 2.715.10 2.740.6 2.860.10 2.880.3 2.902.12 2.948.13 2.964.12 2.972.12 2.981.11	Other Applicable Standards in zones	Add reference to 3.128; CR, C-1, C-2, C-3, C-4, A-1, A-2, A-2A, A-3, A-4, S-1, S-2, S-2A, S-5, IN, LR, MH, HC, CA, HR, LS
11.110.D	Conditional Use, Light Manufacturing	Add reference to 3.128
11.120.S	Conditional Use, Manufactured Dwelling Park	Add reference to 3.128
14.070.A.2 14.115.H.2 14.137.A.1	Other Development Standards	Replace existing language to reference to 3.128; CGO, BVO, NGO

15.065.B.8.b	Wireless Communication Facility	Replace existing language to reference to 3.128;
16.040.H.2	Solar Facilities	Replace existing language to reference to 3.128;
3.210.A.4	Parking, Off-Street Sales and Storage Lots	Replace existing language to reference to 3.128;
7.110.F	Parking, Parking and Loading Area	Replace existing language to reference to 3.128;

DEVELOPMENT CODE UPDATES

Annotated

February 16, 2019

Note: Some sections are included in other amendments as they relate to multiple issues. Staff will need to track which one goes through first and delete them from the later amendment.

CORRECTIONS

Section 9.020.C, PUBLIC NOTICE, Published Notice to be replaced to read as follows:

Notice shall be given for any proposed administrative/staff review with notice (Type II), quasi-judicial (Type III), or legislative (Type IV) land use action by publication in a newspaper of general circulation in the City of Astoria.

(Annotated: This is included to correct an error in a previous code amendment as notices are mailed on Type II permits.)

2.540.7 DEVELOPMENT STANDARDS AND PROCEDURAL REQUIREMENTS in the A-2 Zone

7. Uses located between the extended rights-of-way of 8th 7th Street and 14th Street are not required to provide off-street parking or loading. Uses located in other portions of the A-2 Zone shall comply with the access, parking and loading standards specified in Article 7.

(Annotated: This is a correction of the included streets to match Section 7.090.C.)

PROCESS AND PROCEDURES

Section 9.100.B.1.b, TIME LIMIT ON PERMITS, Permit Extensions, Permit Extension Time Limit, is deleted in its entirety and replaced to read as follows:

- b. Following the first one-year permit extension by the Community Development Director, the original granting authority may grant subsequent one-year extensions. Temporary Use Permit extensions may be granted by the Community Development Director.

(Annotated: This would reduce the number of permits processed by the APC for minor issue. If there are concerns about an extension, the Community Development Director may process it through the APC.)

Section 9.020.D, Public Notice, Posted Notice, is deleted in its entirety and replaced to read as follows:

D. Posted Notice.

For Type III applications, at least 14 days before the first hearing, the Community Development Director or designee shall post notice of the hearing on the project site in clear view from a public right-of-way. Posting near the main entryway inside a storefront window of a commercial or industrial building visible to the public is allowable. Posted notice may be removed after the first public hearing has been held.

Section 9.010.I, Application Information and General Review Procedures, Pre-Application Meeting, is hereby deleted in their entirety and replaced to read as follows:

I. Pre-Application Meeting.

Prior to submittal of a Type II, III, or IV application, a pre-application meeting with the Community Development Director and/or the Planner is may be required. The Community Development Director shall determine the classification, submittal requirements, and the appropriate process for any application.

(Annotated: The change to admin review of conditional use for ADU is included in the transient lodging code as it also impacts HSL.)

Section 12.060.A & B, CLASSIFICATION OF VARIANCES, deleted in their entirety and replaced to read as follows:

12.060. CLASSIFICATION OF VARIANCES.

A. ~~Class 1~~ Type II.

Class 1 Type II includes minor variances which are small changes from the Code requirements and which will have little or no effect on adjacent property or users. Administrative approval by the Community Development Director of Class 1 Type II variances may be granted.

Class 1 Type II variances include:

1. Location of structures in relation to required yards;
2. Variances from minimum lot width, depth, and lot coverage;
3. Variances from other quantitative standards by 10% or less.
4. Variances from the requirements of the Flood Hazard Overlay Zone section 2.800 to 2.825. *(Added by Ordinance 09-03, 8/3/09)*
5. Variance from fence height up to a maximum of 8'.
6. Variance from off-street parking for a maximum of two spaces for multi-family dwellings and non-residential uses.
7. Variance from off-street parking for one-family and two-family dwellings.

B. Class 2 Type III.

Class 2 Type III includes variances which are significant changes from the Code requirements and are likely to create impacts on adjacent property or users. A Class 2 Type III variance may be granted by the Planning Commission.

Class 2 Type III variances include, but are not limited to:

1. Variances from quantitative standards other than yard requirements those identified in Section 12.060.A by more than 10%;
2. Variances from other provisions of this chapter except density and use restrictions.

Section 12.090, Variances, is renamed to read as follows:

12.090. ACTION ON CLASS 1 TYPE II VARIANCE APPLICATION.

Section 12.100, Variances is deleted in its entirety and replaced to read as follows:

12.100. APPEAL OF A CLASS 1 TYPE II VARIANCE.

The decision of the Community Development Director on a CLASS 1 Type II Variance may be appealed to the Planning Commission in accordance with 9.040.

Section 12.110, Variances is deleted in its entirety and replaced to read as follows:

12.110. ACTION ON CLASS 2-~~TYPE III~~ VARIANCE APPLICATION.

Hearings on a Class 2-~~Type III~~ Variance will be held in accordance with 9.030.

Section 12.120, Variances is deleted in its entirety and replaced to read as follows:

12.120. APPEAL OF A CLASS 2-~~TYPE III~~ VARIANCE.

The decision of the Planning Commission decision on a Class 2-~~Type III~~ Variance may be appealed to the City Council in accordance with 9.040.

(Annotated: Change designation of variance from "Class" to "Type" to be consistent with other sections of the Code.)

SETBACKS & OTHER EXCEPTIONS

Section 3.070.B, EXCEPTIONS TO YARDS, Front Yard Exceptions, is deleted in its entirety and replaced to read as follows:

B. Front and Street Side Yard Exceptions.

The following exceptions to the front and street side yard requirements are authorized for a lot in any zone:

1. Lots with Development on Both Abutting Lots.

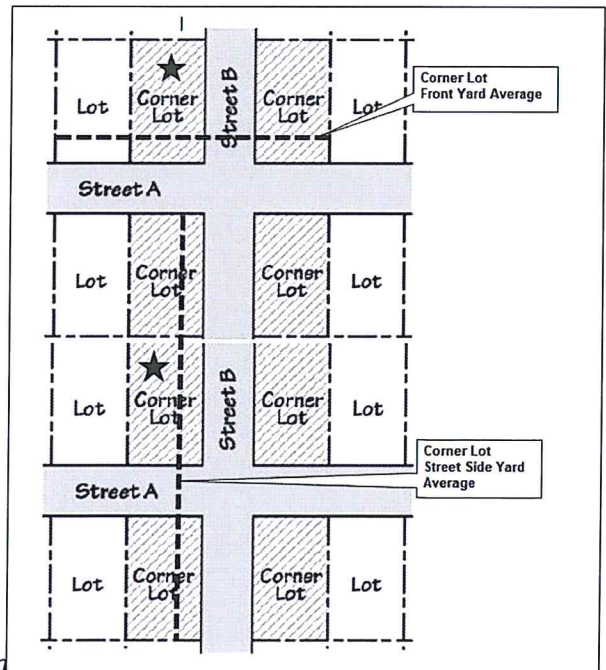
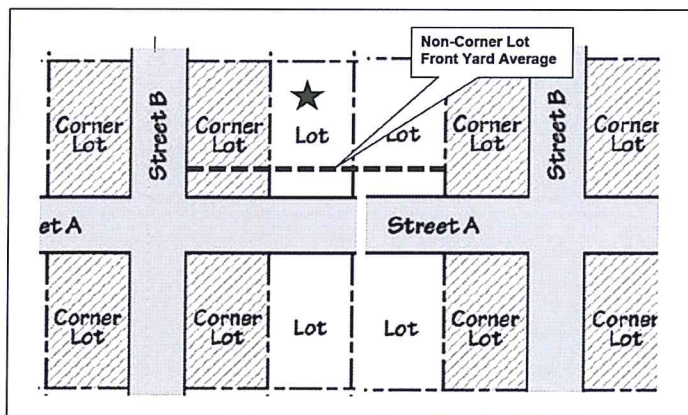
If there are dwellings on both abutting lots with front and/or street side yards, as applicable, of less than the required depth for the zone, the front and/or street side yard of the lot may equal the average front and/or street side yard of the abutting lots.

2. Lots with Development on only One Abutting Lot.

If there is a dwelling on only one abutting lot and/or lot across the right-of-way as noted in Section B.3, with a front and/or street side yard of less depth than the required depth for the zone, the front and/or street side yard for the lot may equal a depth halfway between the depth of the abutting lot and/or lot across the right-of-way, and the required front and/or street side yard depth.

3. Corner Lot.

On a corner lot, if there is a dwelling on one abutting lot and the lot across the right-of-way on the same side of the street with a front and/or street side yard of less depth than the required depth for the zone, the front and/or street side yard for the lot may equal a depth halfway between the depth of the abutting lot and the lot across the right-of-way on the same side of the street."



(Annotated: Street side yards act in the same way front yards to create a consistent street scape and allow for large front yards. By allowing the street side and use of the lot across a right-of-way, the setbacks in the neighborhood would still remain consistent and would reduce the need for variances.)

4. Alley Setback.

An alley is defined as a right-of-way and is considered as a “street side yard” resulting in corner lot setback requirements. The street side yard setback on an alley may be reduced to 5’ unless a smaller setback is allowed in the zone upon written approval by the City Engineer and Planner based on location of public utilities within the right-of-way as an administrative Type I permit.

(Annotated: Many alleys are not developed nor likely to be developed. Most alleys are platted at 20’ wide. If considered as a side yard, most zones would require a 5’ side setback and a 15’ street side setback. The 5’ setback would reduce the need for most variances.)

Section 3.070.C, EXCEPTIONS TO YARDS, Structures Within Yards, is deleted in its entirety and replaced to read as follows:

C. Structures Within Yards.

The following structures may be located within the required yard setback area.

1. Decks, walkways, or uncovered porches, 12 inches or less in height above grade.
2. Stairs and required landings for the stairs to access existing building entrances. This does not include deck/porch areas not required per Building Codes for the stair construction.
3. Ramp and/or other access required for handicap accessibility meeting American With Disabilities Act and Building Code requirements.

(Annotated: This would allow required entry stairs to be constructed without a variance to access buildings that have doors without stairs, sometimes missing for years.)

Section 3.070.E, EXCEPTIONS TO YARDS, Encroachments beyond the property line, is added to read as follows:

E. Existing Encroachments Beyond the Property Line.

In order to reduce encroachments of existing structures constructed beyond the property line, a structure may be altered and/or moved to reduce the encroachment without the need to comply with the required setbacks along that property line nor the need for a variance if it meets the following requirements.

1. The portion of the existing structure encroaching beyond the property line was constructed prior to 1976 as verified by aerial or other dated photo, County Assessor records, and/or other document of verification; or

(Annotated: Need to have some date or someone could build a structure without permits which would not be a legal non-conforming structure and then take this exception. The date 1976 was used as it predates the major code updates and is the date of an early City aerial photo.)

2. The encroachment was constructed by a previous owner; or

3. The encroachment was due to an act of nature such as a landslide, and not including neglect or deferred maintenance; and

4. It is not feasible or reasonable to comply with the full required setback such as other development on the lot, lot dimensions, geologic issues, topography, etc.

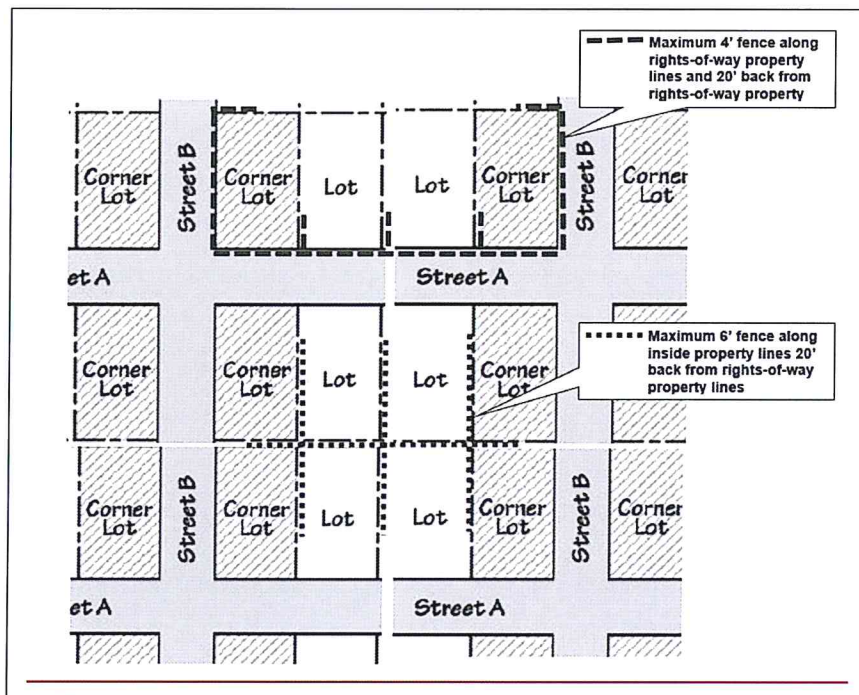
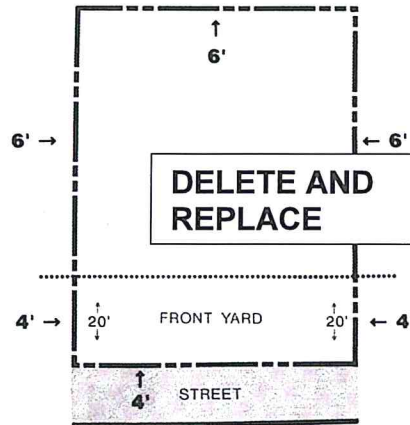
(Annotated: This is intended to encourage the reduction in encroachments. Property owners may want to make a situation better but cannot meet the required setbacks without a variance. The allowance without a variance would streamline this process and make bad situations better.)

Section 3.035.A, ACCESSORY STRUCTURES, Fences, Walls, and Hedges, is deleted in its entirety and replaced to read as follows:

3.035. ACCESSORY STRUCTURES.

A. Fences, Walls, and Hedges.

1. Except as provided in City Code Section 6.100 concerning Clear Vision Area, fences, walls, or mature hedges not over 48 inches in height may occupy the required front yard of any lot, or the required side yard along the flanking street of a corner lot.
2. Fences or hedges located back of the required front or flanking street side yard located on inside property lines shall not exceed a height of six (6) feet.
3. Fence or hedges located back of the required front or flanking street side yard along an unimproved alley right-of-way shall be considered as an inside property line and shall not exceed a height of six (6).



4. Arbor and gateway entrances of fences or hedges may be 8' tall but shall not exceed 5' in width.

(Annotated: Gateways in fences are common and it is unreasonable to state they must comply with the 4' fence height or get a variance.)

5. Fence height shall be measured to the highest portion of the fence as follows:

- a. posts, caps, and/or lights not exceeding one foot above the maximum allowable fence height are excluded from maximum fence height;
- b. Arbors and gateways as noted in Section 3.035.A.4;
- c. fence at grade level shall be measured from grade level on the fence owner's side of the property;

- d. fence on top of a retaining wall or other similar structure less than 3' high shall be measured from grade level on the fence owner's side of the property including the retaining wall and shall not exceed a combined maximum of six (6) feet from the lowest level, or a maximum of 42" from the top of the retaining wall or other similar structure to the top of the fence, whichever is greater;
- e. fence on top of a retaining wall or other similar structure greater than 3' high shall be measured from grade level at the top of the retaining wall;
- f. fence set back 12" from the top of the retaining wall or other similar structure regardless of height shall be measured from grade level at the top of the retaining wall.

Insert graphic showing height measurements



- 6. Trees and other intermittent landscaping are exempt from the height limitation except as noted in City Code Section 6.100 concerning Clear Vision Aea.
- 7. Hedges located 20' back of the required front yard or 15' back of the required flanking street side yard are exempt from the fence height limitation.

Section 3.120.A.8, Landscaping Requirements, is deleted in its entirety and replaced to read as follows:

- 8. Parking areas with 20 spaces or more shall have a minimum of one landscaping divider per ten (10) parking spaces. Each ten (10) parking spaces shall be bordered by a landscaped area. Such area shall consist of a curbed

planter of at least three (3) feet by 16 feet, or at least 48 square feet. Each planter shall contain at least one (1) tree, along with hedge or shrub material. An exception to allow a maximum of one row of parking spaces within a parking area to exceed the maximum ten spaces between landscaped planters by one or two spaces may be approved as an administrative Type I permit if the amount of overall required landscaping is not reduced.

INTERPRETATIONS FOR CLARIFICATION

Section 1.400, Definitions, is amended but the deletion of the following definitions to be replaced to read as follows:

AUTOMOTIVE SERVICE STATION: Any premises used primarily for retail sales of oil, auto accessories, and as a secondary service, minor servicing, excluding body and fender repair. Gasoline service stations are not included in this category. Electrical vehicle charging station not accessory to the primary use on the property is included in this category. Electrical vehicle charging station without a freestanding sign and accessory to the , except directional and/or informational signs less than four square feet each, may be classified as an accessory use in a parking lot and not included in this category.

(Annotated: Electric vehicle charging station located in a parking lot could be classified as part of the "commercial parking lot" portion of the facility. However, if there are additional signs other than those on the charging unit similar to a freestanding gas pricing, then it would be classified as "automotive service station" due to the higher impact to the area. Generally, it would be classified as "automotive service station" as it is similar to sale of auto accessories more than gasoline due to the difference in impact of the fuel.)

FENCE: An accessory structure, including landscape planting other than trees, designed and intended to serve as a barrier or as a means of enclosing a yard or other area, or other structure; or to serve as a boundary feature separating two or more properties.

(Annotated: Interpretation made by City Attorney Jeanyse Snow on September 4, 2004 that trees were not considered as fence or hedge was upheld by City Attorney Blair Henningsgaard in 2014)

INDOOR FAMILY ENTERTAINMENT OR RECREATION ESTABLISHMENT: A facility which provides entertainment or recreation for persons of all ages, and which may be passive or active. Examples include bowling alleys, movie theaters, swimming pools, racquet ball courts, light manufacturing production viewing areas, and similar facilities.

(Annotated: To clarify that "recreation" includes the family orientation requirement.)

"LOT COVERAGE: The portion of a lot expressed as a percentage of the total lot area that is occupied by the principal and accessory buildings, including all decks, and other projections extending 12" above ground level of the lot upwards at any point on the structure including handrails, except eaves."

(Annotated: Based on "yard" and "setback" that includes all structures above 12", we have interpreted lot coverage to be the same)

"MICROWAVE RECEIVING DISH: Any conical or dish shaped device or structure used for receiving television or other telecommunication signals transmitted from satellites or earth-based transmitters. Microwave receiving dishes may also be known as "Television Receive Only" (TVRO) dishes, "Satellite Direct Service" (SDS) dishes, "Multi-Distance Service" (MDS)

dishes and "Earth Stations". Microwave receiving dish is for receiving only and shall not transmit, repeat, or reflect signals."

RETAIL SALES ESTABLISHMENTS: Businesses, including a restaurant or bar, which are primarily engaged in selling merchandise to customers for personal, household, or farm use. It includes the sale of moped and other small powered vehicles as long as they are not displayed in an outdoor sales area. Retail Sales Establishment does not include gasoline service station, automotive sales establishment, or other sales of large motorized vehicles, or mobile homes.

(Annotated: This interpretation is based on the nature of automotive sales that take up large areas of land and are not compatible with the downtown retail sales concept. A moped would not require this large land area nor the "test drive" aspect of other motor vehicles.)

TOURIST ORIENTED SALES OR SERVICE: A use or business which devotes 50% or more of its gross floor area to uses or activities which are open or physically accessible to the public and are reasonably expected to be of interest to visitors. A use or business that is primarily used by the general public such as a video rental establishment, pharmacy, etc. and also used by a visitor but not as a tourist destination for 50% of the gross floor area, is not tourist-oriented.

(Annotated: Miscellaneous Review MR99-07 and Appeal AP99-04 determined that a video store was not tourist-oriented sales or service just because tourists use them as they are of general interest no different than a pharmacy or grocery store. There is a current MR being reviewed to determine if marijuana shops are tourist-oriented.)

Section 1.400, Definitions, is amended but the addition of the following definitions to read as follows:

CONSTRUCTION SERVICE ESTABLISHMENT: Business primarily engaged in construction such as plumbing, mechanical, roofing, building construction, etc., including shop storage buildings and yards, dispatch facility with on-site storage of vehicles.

INDOOR ENTERTAINMENT: A facility which provides entertainment for persons of all ages but may also be limited to persons over the age of 21 years, and which may be passive or active. Examples include bowling alleys, movie theaters, swimming pools, racquet ball courts, adult movie theaters, adult dance halls, and similar facilities.

(Annotated: Confusion has occurred as to what is the difference between "family" and regular entertainment. Indoor Family Entertainment is defined. This would clarify that "indoor Entertainment" could be for all ages and/or adults.)

INDUSTRIAL: A structure or use that involves a large-scale business, manufacturing business, seafood industry, warehousing, or other large-scale operation that is not general commercial in nature and/or residential.

PEDICAB: Cycle used for carrying passengers for hire, mostly tricycles with one steering wheel in the front and two wheels in the back supporting a seating area for one or two passengers. Powered by human power and/or by a motorized assistance. Also known as rickshaw, pedal cab, and pedi-taxi. A pedicab with a paid driver shall be classified the same as a "taxicab". Rental of a pedicab vehicle for personal use without a commercial driver shall be classified the same as a bicycle rental.

(Annotated: This was the interpretation made to clarify taxi style use versus rental by an individual for personal use.)

TOUR VEHICLE: Any vehicle, including vans, minibuses, and buses used for the purpose of transporting persons for pleasure or sightseeing trips, or transporting persons to pleasure or sightseeing cruises or destinations. The term does not include any vehicle used solely for the purposes of transporting individuals to and from a place of work or a public or private school, or of transporting persons with disabilities.

(Annotated: We used this definition to apply to a surry that was proposed to transport guests by reservation on a tour of brew pubs. There would be no pick up and drop off other than those with reservations for the tour.)

TRANSPORTATION SERVICE ESTABLISHMENT: Business primarily engaged in moving of goods and/or persons such as freight company, bus depot, intermodal center, delivery vehicle and semi-truck storage areas, etc., but excluding bicycle rental facilities.

(Annotated: This would be operations such as TP Freight and truck parking/storage areas. The exclusion of bicycle rental is to allow them in more zones as they are more pedestrian related than motor vehicle.)

TRANSPORTATION SERVICE VEHICLE: Every vehicle for hire that operates on the streets to pick up and transport passengers irrespective of whether the operations extend beyond the boundary limit of the City. Transportation Service Vehicle includes taxis and may include pedicabs and tour vehicles.

(Annotated: This is similar to the definition in City Code for taxi type vehicles for licensing purposes.)

WIND ENERGY FACILITY: add definition from draft wind energy code.

(Annotated: APC made an interpretation MR09-02 that wind energy facility was classified the same as "utility" and would be subject to the height limitation of the zone until such time as the City adopts a Wind Energy Code.)

Section 3.005, ACCESS TO STREETS, is deleted in its entirety and replaced to read as follows:

"3.005. ACCESS TO STREETS.

Every lot shall abut a street, other than an alley, for at least 25 feet. A recorded easement of 25' may be used to satisfy this requirement.

Section 13.430.B, Subdivisions, BUILDING SITES, Access, is deleted in its entirety and replaced to read as follows:

"B. Access.

Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet. A recorded easement of 25' may be used to satisfy this requirement.

Section 3.130.D, Maintenance of Public Access to the Water is added to read as follow:

D. Applicability.

"Public access" is used broadly to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to Columbia River Estuary shorelands and aquatic areas.

(Annotated: State Code requirement for cities to maintain public access to aquatic areas is defined to include physical and visual access. This is the language used in Section 4.140 to be consistent.)

Section 3.230, RESTAURANT AS AN ACCESSORY USE TO AN INN, is amended with the addition to read as follows:

F. Associated Business Activities.

Approved "associated business activities" within an inn are not subject to the requirements of Section 3.230.

(Annotated: Associated business activities are for non-guests such as luncheons, meetings, weddings, etc. and were intended to be part of the "inn" operation. Restaurants were separate.)

Section 3.230.B, RESTAURANT AS AN ACCESSORY USE TO AN INN, Hours of Operation is deleted in its entirety and replaced to read as follows:

B. Hours of Operation.

The restaurant shall be open no more than five (5) nights per week, and shall not seat guests before 7:00 a.m. or after 9:00 p.m.

(Annotated: Need to clarify that Restaurant use was not limited just to dinner.)

Section 3.140.A.6, MANUFACTURED HOME ON INDIVIDUAL LOT, is deleted in its entirety and replaced to read as follows:

6. The manufactured home shall have a garage or carport with minimum dimensions of 14' x 20'. The structure shall be sided and roofed to match the manufactured home. Carports shall be designed to include an enclosed, ground-level storage area of at least 56 square feet as an integral part of the structure. The garage or carport shall be constructed at the time of the manufactured home placement and shall be completed prior to occupancy of the dwelling.

(Annotated: The enclosed storage area was an earlier interpretation to require an area for storage of lawn equipment, bicycles, etc. that would normally be stored in a basement or other non-living space.)

7. Manufactured homes shall be prohibited within, or adjacent to, or across a public right-of-way from a historic district, or adjacent to or across a public right-of-way from a historic landmark, or structure identified as Primary, Secondary, Eligible/Significant, or Eligible/Contributing.

(Annotated: classifications of historic properties at the State level changed.)

Section 3.095.A and 3.095.B, Home Occupations, are deleted in their entirety and replaced to read as follows:

“3.095. HOME OCCUPATIONS.

Home occupations are permitted in residential zones in order to provide for low-impact businesses which the owners or residents can operate within the dwelling, or in an adjacent structure. The regulations are intended to ensure that the occupation will not be a detriment to the surrounding neighborhood and that it will be subordinate to the main use of the property.

A. Class A.

A Class A home occupation is one where the residents use their home as a place of work, with no non-resident persons associated with the business employees, and with only an occasional customer coming to the site. Examples include artists, crafts people, writers and consultants. Class A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work. A Class A business is only conducted within the dwelling itself, and not in accessory structures.

B. Class B.

1. A Class B home occupation is one where one of the following factors occur:

- a. Customers come to the home more than twice per week; or

- b. One non-resident associated with the business would come to the site; additional non-resident persons associated with the business may be allowed if they do not come to the site employed; or
- c. The home occupation is conducted in an adjacent structure.

Examples include counseling, hair styling, woodworking, and contract construction.”

(Annotated: There has been problems in the past with applicants stating that a “partner” is not an employee. This would make it clear that only “residents” are allowed as a Class A and any non-resident would be a Class B regardless of their relationship to the business. In addition, some businesses have multiple employees, but they do not come to the residence. This would allow for larger numbers associated with the business while keeping the impact to the neighborhood the same.)

Section 3.150, MICROWAVE RECEIVING DISH, is deleted in its entirety and replaced to read as follows:

3.150. MICROWAVE RECEIVING DISH.

A. The following standards shall be applicable to all microwave receiving dishes larger than 18 inches in diameter.

1. Residential Zones.

All private microwave receiving dishes in residential zones larger than 20” in diameter shall be located as follows:

- a. in the rear yard, no closer than five (5) feet from any rear or side lot line; and
- b. screened by sight obscuring fences and/or dense landscape buffers; and
- c. mounted as close to existing grade level as possible. In residential zones; and
- d. not mounted on the roofs of structures.

2. Non-Residential Zones.

All microwave receiving dishes in other than residential zones shall be reviewed and approved by the Community Development Director and shall be located as follows:

- a. to ensure they have minimal visual impact; and
- b. screened by sight obscuring fences, dense landscape buffers, and/or location of dish such as it is not highly visible.

If the Community Development Director believes that substantial issues are involved, the Director may schedule a public hearing in accordance with the procedures specified in Article 9.

3. Permits.

No microwave receiving dish shall be installed until a permit has been obtained from the Community Development Department.

"B. Historic Properties.

A Microwave Receiving Dish shall not be located on the front or street side facade of a structure designated as historic."

(Annotated: This is mostly a format change and increases the dish size to meet current standards. The addition of Section B reflects how staff have reviewed dishes on historic properties to avoid HLC review.)

Section 7.110.C, Parking and Loading Area Development Requirements, is deleted in its entirety and replaced to read as follows:

"C. Bumper guards or wheel barriers.

Permanently affixed bumper guards or wheel barriers are required and shall be so installed that no portion of a vehicle will project into a public right-of-way or over adjoining property. The area beyond the wheel barriers or bumper guards shall be surfaced as required in Section 7.110.B or landscaped. The vehicle may extend past the bumper guard into a landscaped area a maximum of 2.5'."

(Annotated: This is a common question for parking design and the figure we use. It is the same as what is noted in 7.110.D.4.)

Section 7.110.E, Parking and Loading Area Development Requirements, is hereby deleted in its entirety and replace to read as follows:

E. Access.

Parking or loading areas having more than four (4) spaces in the same block shall be designed so that vehicles do not back into public streets, or do not use public streets for maneuvering. All entrances and exits onto public streets shall first have a Driveway Permit from the Engineering Department and shall be designed and constructed to City standards.

(Annotated: This has been the way we have applied the code but have had push back from developers who put a small landscape island between parking spaces to result in more vehicles backing onto a street. The intent of the code is for safety.)

Section 7.160.E, Minimum Loading Space Requirements is hereby added to read as follows:

E. Location of Loading Area

Except as noted in Section 7.090.B, loading areas shall be located on the site of the proposed use. Location within a right-of-way may be allowed by the City Engineer upon a finding that ample space is available and use of the right-of-way would not create a safety hazard.

(Annotated: Under certain circumstances, the right-of-way is allowed to be used for loading areas, but it is not reflected in the Code.)

Section 9.020.B.1.h, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted in its entirety and replaced to read as follows:

- h. Appeals - Parties to the record of the permit being appealed.

Section 9.020.B.3, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted in its entirety and replaced to read as follows:

- "3. Notice shall be mailed not less than 20 calendar days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 calendar days prior to the first evidentiary hearing. In calculating the "days", the day notice is mailed, and the day of the hearing is not included in the calculation."

(Annotated: How to calculate the time has been confusing, especially when there is change in employees. The City Attorney years ago stated that the Code was for "calendar" day and also gave the guidance of interpretation on how to count the days. This would make it very clear on how to do it.)

Section 9.060, Compliance with Conditions of Approval, is deleted in its entirety and replaced to read as follows:

Compliance with conditions established for a request and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this Code. See Section 1.010 of the Astoria City Code concerning penalties.

Amendments to existing permit conditions and/or approved plans may be allowed as follows:

1. Minor changes that would have no or minimal impact to the design, use, or location of the project shall be reviewed administratively as a Type I permit.

2. All other proposed changes shall be reviewed as an administrative Type II permit or as a Type III permit as determined by the Community Development Director.

Section 9.070, Limitations on Refiling of Application, is deleted in its entirety and replaced to read as follows:

Applications for which a substantially similar application has been denied will be heard by the Planning Commission only after a period of six (6) months has elapsed from date of the earlier decision, unless the Planning Commission finds that special circumstances justify earlier reapplication. If a request is withdrawn prior to the Commission public hearing, there shall be no limitation on refiling of an application.

Section 12.030.C concerning General Criteria for Variances is hereby deleted in its entirety and replaced to read as follows:

“No variance may be granted which will permit a use not permitted in the applicable zone or which will increase the allowable residential density in any zone with the exception of individual lot size reduction. A variance may be granted for lot dimension and/or square footage (lot size) but not for density.”

(Annotated: The site cannot exceed the number of units allowed by the density for the zone (ie, the lot acreage divided by 43,560 = number of units allowed by density x density allowed). This is different than lot area (5,000 sq ft in) and dimension (50' x 100').

Example:

*R-2 Zone (Medium Density Residential) with maximum density of 16 units per acre
Minimum lot size for SFD is 5,000 square feet, and for duplex is 7,500 square feet*

Lot is 5,000 square feet - standard for SFD

5,000 sqft divided by 43,560 sq ft (acre) x 16 (maximum density in R-2) = 1.8 units

5,445 sqft divided by 43,560 sqft (acre) x 16 (maximum density in R-2) = 2.0 units

Variance required from 7,500 sqft for duplex to allow an existing duplex on a 5,000 sqft lot does not meet density but a 5,445 sqft lot would be possible as it meets the maximum density of 16 units per acre.

This change in interpretation was made in consideration of allowing for use of buildings that ceased nonconforming use but did not change structurally thus allowing the continuation of workforce/ affordable housing.)

Section 15.020.B.4, Applicability for Wireless Communication Facilities, is amended by the addition to read as follows:

B. The provisions of this Article do not apply to the following:

“4. Microwave Receiving Dish (See Section 3.150).”

Section 14.510.4, Development Standards and Procedural Requirements in the CRESO Zone, is added to read as follows:

- 4. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline.

3.120.A.15, Landscaping Requirements, is added to read as follows:

- 15. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline.

Section 7.170, Landscaping of Outdoor Storage or Parking Areas, is deleted in its entirety and replaced to read as follows:

- A. A minimum of 5% of the gross parking lot area shall be designed and maintained as landscaped area, subject to the standards in Sections 3.105 through 3.120. This requirement shall apply to all parking lots with an area of 600 square feet or greater. Approved sight obscuring fences or vegetative buffers shall be constructed where commercial parking lots abut Residential Zones. The minimum 5% landscaping shall be counted as part of the total landscaping required for the property.
- B. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline.

MISCELLANEOUS CODE UPDATES

Section 1.400, Definitions, is amended by the addition of definitions to read as follows:

FAIR MARKET VALUE, CLATSOP ASSESSOR RECORDS: For the purpose of Article 3, Non-Conforming Use or Structure, and Article 6, Historic Properties Ordinance, the value shall be as indicated on the records of the Clatsop County Assessor of the existing structure, not the value of the proposed alteration and/or new construction. When a “fair market” value is not available, the current “assessed” value as indicated on the records of the Clatsop County Assessor of the existing structure may be used.

DEMOLITION, HISTORIC: For the purpose of Article 6, Historic Properties Ordinance, demolition shall include unintentional destruction and/or removal of a structure by any means to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor. Demolition of less than 80% of the value of the existing structure shall be considered as Exterior Alteration.

(Annotated: It has been unclear as to when a remodel / restoration is demolition and when it is Exterior Alteration based on the amount of original structure remaining. This percentage is the existing amount used for “non-conforming” structures within the Code and how we have applied it to historic properties.)

Section 2.430.15, Uses Permitted Outright in the C-4 Zone, is deleted in its entirety and replaced to read as follows:

15. Single-family and two-family dwelling in a new or existing structure:

- a. Located above or below the first floor with commercial facilities on the first floor of the structure.
- b. Located in the rear of the first floor with commercial facilities in the front portion of the structure.

(Annotated: We allow dwelling in the rear of commercial buildings in the C-3 Zone to increase housing and allow for more use of vacant buildings.)

Section 3.180.C.1 concerning Non-Conforming Uses, Discontinuance of Non-conforming Use, is hereby deleted in its entirety and replaced to read as follows:

- “1. If a nonconforming use involving a structure is discontinued for a period of one (1) year, further use of the property shall conform to this Code except as follows:

- a. When a residential structure has been used in the past for more units than allowed, the use may continue, even if ceased for one year, with the following conditions:

(Annotated: This would not be an ADU as it was previously a full dwelling unit.)

- 1) Structure was not converted back to the lesser number of units (i.e. removal of kitchen, etc.); and
- 2) Units were legal non-conforming units and not converted without permits; and
- 3) The number of units is allowed outright or conditionally in the zone (ie, duplex or multi-family dwelling in R-2); and
- 4) The number of units does not exceed the density for the zone (ie, the lot square footage divided by 43,560 sq ft (acre) x maximum density of zone = number of units allowed by density; and

(Annotated: This is different than lot area (5,000 sq ft) and dimension (50' x 100'). Example:

R-2 Zone (Medium Density Residential) with maximum density of 16 units per acre

Minimum lot size for SFD is 5,000 square feet, and for duplex is 7,500 square feet

Lot is 5,000 square feet - standard for SFD

5,000 sqft divided by 43,560 sq ft (acre) x 16 (maximum density in R-2) = 1.8 units

5,445 sqft divided by 43,560 sqft (acre) x 16 (maximum density in R-2) = 2.0 units

Variance required from 7,500 sqft for duplex to allow an existing duplex on a 5,000 sqft lot does not meet density but a 5,445 sqft lot would be possible as it meets the maximum density of 16 units per acre.

- 5) Provide required off-street parking spaces per unit, except as allowed by Section 3.020.B.7, or obtain a variance; and
- 6) If the structure is destroyed per Section 3.190.D, the new use would need to comply with the zone requirements and/or Section 3.190.E."

(Annotated: This change in interpretation was made in consideration of allowing for use of buildings that ceased nonconforming use but did not change structurally thus allowing the continuation of workforce/ affordable housing.)

Section 3.190.C concerning Change of Nonconforming Structures is hereby deleted in its entirety and replaced to read as follows:

"A nonconforming structure may be enlarged or altered in a way that does not increase its nonconformity. Any structure or portion thereof may be altered to decrease its nonconformity. The following alterations are allowed:

1. Addition of second utility meter. The second meter does not validate the nonconforming use but is solely for purposes of the existing use until such time as it is destroyed and must come into compliance with the Code per Section 3.190.D.

(Annotated: Previous interpretation was that a nonconforming duplex could not install a new second water meter or other second utility meter as this increased the nonconformity by increasing the separation, or the perceived separation, of the units into two "legal" units. However, the installation of the second utility meter can be reversed if the structure is destroyed or converted to a conforming use. A condition or notation shall be made on the installation request or in the file that the second meter does not validate the nonconforming use but is solely for purposes of the existing use until such time as it is destroyed and must come into compliance with the Code per 3.190(D). This change in interpretation was made in consideration of allowing for use of buildings that are nonconforming but did not change structurally thus allowing the encouragement of workforce/ affordable housing. With one meter paid for by the property owner, the tenant has no incentive to reduce water usage. The property owner has the option of increasing the rent to compensate for the high water usage, or keep the lower rent, install a second meter, and have the tenants pay for their own water usage which will encourage them to reduce usage.)

Section 7.030.C, Off-Street Parking and Loading, Location, is added to read as follows:

- C. When on-street parking spaces are allowed to be counted toward the required off-street parking spaces for a proposed use/site, the on-street parking spaces shall not be used exclusively by that use/site but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.

(Annotated: There have been some allowances for on-street parking in some areas such as Abbey Lane. The use of these spaces is to be in conjunction with public use and not exclusive.)

Section 7.060.C, Off-Street Vehicle Parking Requirements, is added to read as follows:

- C. Off-Street vehicle parking requirements are calculated for employee and client uses. Business and/or property owners may limit but not totally prohibit employee use of a portion of the required off-street parking spaces. No greater than 50% of spaces may be used by staff/employees. The primary use of the required off-street parking shall be for customers and clients.

Section 7.110.A, Parking and Loading Area Development Requirements, Location on site, is deleted in its entirety and replaced to read as follows:

All parking and loading areas required under this ordinance, except those for a detached single-family dwelling on an individual lot unless otherwise noted, shall be developed and maintained as follows:

"A. Location on site.

1. Single-family dwelling lots.

A maximum of 50% of the required front and/or street side yards in residential zones may be used for parking and loading areas.

2. All sites other than single-family dwelling lots.

Required yards adjacent to a street, shall not be used for parking and loading areas unless otherwise specifically permitted in this ordinance. Side and rear yards which are not adjacent to a street may be used for such areas when developed and maintained as required in this ordinance.

Section 7.110.H.2, Parking and Loading Area Development Requirements, Additional Requirements, is added to read as follows:

2. Required off-street parking shall not be used for storage of vehicles and/or other equipment/materials for greater than one week, except during a construction project as approved by the Planner.

Section 11.140, Public or Semi-Public Use, is deleted in its entirety and replaced to read as follows:

"11.140. PUBLIC OR SEMI-PUBLIC USE.

Traffic will not congest nearby streets, and structures will be designed or landscaped so as to blend into the surrounding environment and be compatible with the adjacent neighborhood. The activities or hours of operation will be controlled to avoid noise or glare impacts on adjacent uses. Uses in residential zones shall be compatible with the residential character of the neighborhood and are generally needed in these areas such as school, church, club/meeting facility, emergency services, public infrastructure. Uses in residential zones should not include uses such as office buildings or similar facilities that do not require location within residential zones."

(Annotated: Over the years, there has been concern about the possibility of incompatible uses in residential zones under the classification of "public or semi-public" use. It is reasonable to have some of these uses in residential zones, but there is not a need for office buildings, etc.)

Section 9.010.A and 9.010.B, Application Information and General Review Procedures, and Table 9.010 are hereby deleted in their entirety and replaced to read as follows:

"9.010. APPLICATION INFORMATION AND GENERAL REVIEW PROCEDURES.

A. Purpose.

The purpose of this Article is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. ~~Table 9.010 provides a key for determining the review procedure and the decision-making body for particular approvals.~~

B. Applicability of Review Procedures.

All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this article. The procedure "type" assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in ~~subsections~~ Sections 9.010.B.1 to 9.010.B.4 below. ~~Table 9.010 lists the City's land use and development approvals and corresponding review procedure(s).~~ The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

(Annotated: This statement was a footnote to the table being removed. With the removal of the table, it is included in the intro to the Section.)

1. Type I Procedure (Staff Review – Zoning Checklist).

Type I decisions are made by the Community Development Director, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards).

2. Type II Procedure (Administrative/Staff Review with Notice).

Type II decisions are made by the Community Development Director, with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the Community Development Director may refer a Type II application to the Planning Commission for its review and decision in a public meeting.

3. Type III Procedure (Quasi-Judicial Review – Public Hearing).

Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. In the case of a Quasi-Judicial zone change, a Type III decision is made by the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve

discretion but implement established policy.

4. Type IV Procedure (Legislative Review).

The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and Comprehensive Plan amendments). Type IV reviews are considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

(Annotated: The table was an addition in 2017 and there are many errors in the table. It is not of use and is more trouble for staff to keep up to date. It does not add anything to the Code and deletion would not remove anything from the Code.)

Section 9.010.C.4, Application Information and General Review Procedures, is hereby deleted in its entirety and replaced to read as follows:

C. Content.

An application for a land use action or permit shall consist of:

4. City staff shall provide a zoning checklist to an applicant that identifies all required submittal information during a pre-application conference. The applicant is required to submit the completed zoning checklist with an application.

(Section 9.010.C.4 added by Ordinance 17-06, 4-3-2017)

(Annotated: Is this required of all applications? If not, should clarify when it is required.)

Section 9.010.C.5, Application Information and General Review Procedures, is added to read as follows:

5. Signature of the applicant on the permit application is deemed to grant City staff and/or City representatives permission to enter upon the exterior portion of the property for photos, site visits, inspections until the permit is finalized, after all inspections, and the project is deemed complete by the City.

(Annotated: This is what we currently do, but it is not codified or on the application form. This would provide some assurance of the right of entry by staff.)

Section 9.010.D, Application Information and General Review Procedures, is hereby deleted in its entirety and replaced to read as follows:

D. Submittal.

A complete application and all supporting documents and evidence must be submitted at least ~~28~~30 days prior to the date of a hearing. Exceptions may be made to this requirement by the Community Development Director on a case-by-case basis.

(Section 9.010.D renumbered by Ordinance 17-06, 4-3-2017)

Section 9.010.G, Application Information and General Review Procedures, is hereby deleted in its entirety and replaced to read as follows:

G. Multiple Requests.

Where a proposed development requires more than one development permit or zone change request from the City, the applicant may request that the City consider all necessary permit and zone change requests in a consolidated manner ~~referred to as a concomitant application~~. If the applicant requests that the City consolidate its review of the development proposal, all necessary public hearings before the applicable Commission should be held on the same date if possible.

(Section 9.010.E amended by Ordinance 14-03, 4-21-14; Section 9.010.G renumbered and amended by Ordinance 17-06, 4-3-2017)

(Annotated: The reference to "concomitant" is superfluous and not needed.)

Section 9.010.I, Application Information and General Review Procedures, is hereby deleted in its entirety and replaced to read as follows:

I. Pre-Application Meeting.

Prior to submittal of a Type II, III, or IV application, a pre-application meeting with the Community Development Director and/or the Planner is may be required. The Community Development Director shall determine the classification, submittal requirements, and the appropriate process for any application.

(Section 9.010.G added by Ordinance 13-10, 11-4-13; Amended by Ordinance 14-03, 4-21-14; Section 9.010.H amended and renumbered by Ordinance 17-06, 4-3-2017)

Still want to put in something about lot line adjustment procedures but need to draft it.

SIGNS

Section 1.400, Definitions, is amended by the addition to read as follows:

BILLBOARD VEHICLE: Any wheeled vehicle, whether motorized or not, used primarily for the display of general advertising or general advertising for hire, by means of traversing or parking upon any public street or public parking space in a manner that the advertising image(s) on the vehicle are visible from any portion of the public right-of-way. Also known as "sign truck" or "billboard truck" or "mobile billboard." This definition does not apply to vehicles displaying images related to the same business or establishment of which the vehicle is an operating instrument for other purposes and does not apply to vehicles which are on the public road for the primary purpose of transportation, such as taxis and buses, even if such vehicles display general advertising.

Section 8.040.A.14, Exempt Signs, is deleted in its entirety and replaced to read as follows:

- "14. Political signs located on private property. Political signs related to an election shall be installed no more than 60 days prior to the election and shall be removed 14 days after the election. Political signs not meeting this exemption shall comply with the sign code regulations and permit process."

Section 8.050.A.3, Prohibited Signs, is deleted in its entirety and replaced to read as follows:

3. Signs which flash, revolve, rotate, swing, undulate or otherwise attract attention through the movement or flashing of parts of the sign, including inflatable signs, large balloons, flags, pennants, animation sign on vehicles, billboard vehicles, or similar devices.

This prohibition does not include the following signs:

- a. barber poles of maximum of 4' in total fixture height may rotate;
- b. changeable text signs;
- c. time and temperature signs;
- d. signs on vehicles, other than animation signs, that are used other than solely for display of signage.

(Annotated: "billboard trucks" are now being used solely for the purpose of driving the streets to advertise. The trucks do not transport products or people; they just have billboard style signs on the bed of the truck. Some are LED with changeable signs that move and scroll. We have interpreted these to be prohibited as they draw attention by movement.)



Billboard truck/trailer



Animated billboard truck



Animated sign truck

LIGHTING

(Annotated: The following are all references to outdoor lighting. To be consistent throughout the Code, we are inserting the language used in the Riverfront Overlay Zones into all zones. This is what we encourage on development and how we have applied lighting requirements.)

Section 3.128, Lighting Standards, is hereby added to read as follows:

3.128. LIGHTING STANDARDS.

Outdoor lighting for all uses shall be designed and placed so as not to cast glare into adjacent properties or rights-of-way and shall comply with the following:

1. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward.
2. Wall-washing lighting fixtures, when used, should be concealed and integrated into the design of buildings or landscape walls and stairways.
3. The following lighting types or treatments are prohibited:
 - a. Neon silhouette accent lighting;
 - b. Fluorescent tube lighting;
 - c. Security spotlight;
 - d. Signs lit by lights containing exposed electrical conduit, junction boxes, or other electrical infrastructure; and
 - e. Up-lighting that shines into the sky or light that shines into other properties or rights-of-way.
4. Internal lit cabinet signs and LED display signs shall have a maximum of *** lumens per ****
5. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent properties or rights-of-way, or contributing to light directed into the night sky.
6. Automotive Gas and/or Service Stations shall have a maximum of **** lumens per fuel pump or electric vehicle charging station.
7. Automotive drive-up windows shall have a maximum of **** per drive-up window within 20' horizontal distance from the center of that window.
8. Parking lot and other lot lights shall have no light emitted above 90 degrees.

Vehicle Service Station. This allowance is lumens per installed fuel pump or per electric vehicle charging station.	8,800 lumens per pump or charging station
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Drive Up Windows. In order to use this allowance, luminaires must be within 20 feet horizontal distance of the center of the window.	4,000 lumens per drive-up window
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B. Hardscape Method. An outdoor lighting installation complies with this section if it meets the requirements of subsections 1, 2, and 3, below.

1. Total Site Lumen Limit. The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using Table A. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

2. Limits to Off-Site Impacts. All luminaires shall be rated and installed according to Table B.

3. Light Shielding for Parking Lot Illumination: All parking lot lighting shall have no light emitted above ninety degrees.

Section 2.050.8, Other Applicable Use Standards in the R-1 Zone is deleted in its entirety and replaced to read as follows:

8. All uses will comply with applicable lighting standards in Section 3.128.
~~Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences.~~

Section 2.095.8, Other Applicable Use Standards in the R-2 Zone, is deleted in its entirety and replaced to read as follows:

8. All uses will comply with applicable lighting standards in Section 3.128.
~~Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences.~~

Section 2.185.8, Other Applicable Use Standards in the R-3 Zone, is deleted in its entirety and replaced to read as follows:

8. All uses will comply with applicable lighting standards in Section 3.128.

~~Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences~~

Section 2.235.11, Other Applicable Standards in the CR Zone, is added to read as follows:

11. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.335.9, Other Applicable Use Standards in the C-1 Zone,

9. All uses will comply with applicable lighting standards in Section 3.128.

2.375.11, Other Applicable Use Standards in the C-2 Zone,

11. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.415.11, Other Applicable Use Standards in the C-3 Zone,

11. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.445.12, Other Applicable Use Standards in the C-4 Zone,

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.485.8, Other Applicable Use Standards in the GI Zone, is deleted in its entirety and replaced to read as follows:

8. ~~Outside lighting. All outside lighting shall be directed away from residential zones, and shall be shielded in such a way that the light does not glare into the residential zones. Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties or rights-of-way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences, properties or contributing to light directed into the night sky. Lighting shall not exceed 28' in height.~~ All uses will comply with applicable lighting standards in Section 3.128.

Section 2.515.13, Development Standards and Procedural Requirements in the A-1 Zone, is hereby added to read as follows:

13. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.540.12, Development Standards and Procedural Requirements in the A-2 Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.565.10, Development Standards and Procedural Requirements in the A-2A Zone, is hereby added to read as follows:

10. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.590.10, Development Standards and Procedural Requirements in the A-3 Zone, is hereby added to read as follows:

10. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.615.9, Development Standards and Procedural Requirements in the A-4 Zone, is hereby added to read as follows:

9. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.665.11, Development Standards and Procedural Requirements in the S-1 Zone, is hereby added to read as follows:

11. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.690.12, Development Standards and Procedural Requirements in the S-2 Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.715.10, Development Standards and Procedural Requirements in the S-2A Zone, is hereby added to read as follows:

10. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.740.6, Development Standards and Procedural Requirements in the S-5 Zone, is hereby added to read as follows:

6. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.860.10, Other Applicable Use Standards in the IN Zone, is hereby added to read as follows:

10. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.880.3, Other Applicable Use Standards in the LR Zone, is hereby added to read as follows:

3. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.902.12, Other Applicable Use Standards in the MH Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.916.12, Other Applicable Use Standards in the FA Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.934.15, Other Applicable Use Standards in the AH-HC Zone, is deleted in its entirety and replaced to read as follows:

15. ~~Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties or rights of way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward.~~ The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences ~~properties or contributing to light directed into the night sky.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 2.948.13, Other Applicable Use Standards in the HC Zone, is hereby added to read as follows:

13. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.964.12, Other Applicable Use Standards in the CA Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.972.12, Other Applicable Use Standards in the HR Zone, is hereby added to read as follows:

12. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.981.11, Other Applicable Use Standards in the LS Zone, is hereby added to read as follows:

11. All uses will comply with applicable lighting standards in Section 3.128.

Section 2.992.11, Other Applicable Use Standards in the AH-MP Zone, is deleted in its entirety and replaced to read as follows:

11. ~~Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties or rights-of-way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences properties or contributing to light directed into the night sky.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 11.110.D, Conditional Uses, Light Manufacturing, is deleted in its entirety and replaced to read as follows:

D. Lighting.

~~Exterior lighting shall be shielded so as to direct it away from adjacent property. Outdoor lighting in residential areas shall be designed and placed so as not to cast glare into adjacent residential properties or rights-of-way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent residences properties or contributing to light directed into the night sky.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 11.120.S, Conditional Use, Manufactured Dwelling Park, is deleted in its entirety and replaced to read as follows:

S. Lighting.

Roadways and walkways designed for the general use of the park residents shall be lighted during the hours of darkness. Such lighting shall not be under control of the manufactured dwelling occupant.

All uses will comply with applicable lighting standards in Section 3.128.

Section 14.070.A.2, Other Development Standards in the Civic Greenway Area, is deleted in its entirety and replaced to read as follows:

A. The following development standards are applicable within the Civic Greenway Overlay Zone.

2. Exterior lighting.

~~Outdoor lighting shall be designed and placed so as not to cast glare into adjacent properties or rights-of-way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent properties or contributing to light directed into the night sky.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 14.115.H.2, Design Standards and Guidelines in the Bridge Vista Area, is deleted in its entirety and replaced to read as follows:

H. Lighting.

2. Standards Regarding Glare for All Uses.

~~Outdoor lighting shall be designed and placed so as not to cast glare into adjacent properties or rights-of-way. Light fixtures should be designed to direct light downward and minimize the amount of light directed upward, including lighting from wall washing fixtures. The Community Development Director may require the shielding or removal of such lighting where it is determined that the lighting is adversely affecting adjacent properties or directing significant light into the night sky.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 14.137.A.1, Other Development Standards in the Neighborhood Greenway Overlay Zone, is deleted in its entirety and replaced to read as follows:

1. Exterior lighting.

~~Outdoor lighting shall be designed and placed so as not to cast glare into adjacent properties or rights-of-way. Light fixtures shall be designed to direct light downward and minimize the amount of light directed upward. The Community Development Director may require the shielding or removal of such lighting where it is determined that existing lighting is adversely affecting adjacent properties or contributing to light directed into the night sky.~~

All uses will comply with applicable lighting standards in Section 3.128.

Section 15.065.B.8.b, Wireless Communication Facility Ordinance, Standards and Review Criteria, Location, Siting and Design Requirements, is deleted in its entirety and replaced to read as follows:

8. Lighting.

- b. ~~Exterior lighting shall not glare onto adjacent properties.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 16.040.H.2, Standards and Review Criteria for Solar Facilities, is deleted in its entirety and replaced to read as follows:

H. Lighting.

2. ~~Required exterior lighting shall not glare onto other properties or rights-of-way.~~
All uses will comply with applicable lighting standards in Section 3.128.

Section 3.210.A.4, Off-Street Sales and Storage Lots, is deleted in its entirety and replaced to read as follows:

A. Requirements.

4. ~~Security or display lighting shall not encroach on abutting or nearby residential property.~~
Security, or display, or outdoor lighting will comply with applicable lighting standards in Section 3.128.

Section 7.110.F, Parking and Loading Area Development Requirements is deleted in its entirety and replaced to read as follows:

F. Lighting.

Parking or loading areas that will be used at nighttime shall be lighted. ~~Outdoor lighting shall be directed away from any adjacent residential zone or public street.~~
All areas will comply with applicable lighting standards in Section 3.128.

Annotated: The City encourages dark skies and this language is used in all of our overlay zones to prevent glare into other properties. This would make the lighting requirements consistent throughout the Code.)