

A G E N D A
ASTORIA PLANNING COMMISSION

Astoria Public Library – Flag Room, 450 10th Street, Astoria

Tuesday, September 24, 2013

Immediately Following the Traffic Safety Committee Meeting at 7:00 p.m.

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a. August 27, 2013
4. PUBLIC HEARINGS
 - a. Conditional Use CU13-05 by Luke Colvin for River Barrel Brewing to locate an eating and drinking establishment, indoor family entertainment of brewery tours, tourist oriented retail sales, and brewery in an existing commercial building at 1 8th Street AKA 2 7th Street in the A-2, Aquatic Two Development zone. Staff recommends approval of the request with conditions.
 - b. Parking Variance V13-15 by David Kroening for River Barrel Brewing from the required 26 off-street parking spaces to provide 8 on-site and 4 leased spaces for a variance of 14 off-street parking spaces to locate a brewery / restaurant in an existing commercial building at 1 8th Street AKA 2-7th Street in the A-2, Aquatic Two Development zone. Staff recommends approval of the request with conditions.
 - c. Amendment A13-04 by Brett Estes, Community Development Director to amend the Development Code by the addition of Article 16 concerning solar energy. The code establishes regulations and the permit review process for installation of solar energy facilities. The draft ordinance is available on the City web site at www.astoria.or.us under Community Development, Projects. In addition, Section 9.010 and 9.020 Administrative Procedures and Section 6.050 Historic Design Review permits to be amended to include reference to solar energy permits, City Wide. Staff recommends that the Commission recommend adoption by the City Council. The City Council meeting is tentatively scheduled for October 21, 2013 at 7:00 pm in City Hall Council Chambers.
5. REPORT OF OFFICERS
6. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
August 27, 2013

CALL TO ORDER:

President Innes called the meeting to order at 7:26 p.m.

ROLL CALL:

Commissioners Present: President McLaren Innes, Vice-President Mark Cary, David Pearson, and Zetty Nemowill

Commissioners Excused: Al Tollefson, Thor Norgaard and Kera Huber

Staff Present: Community Development Director Brett Estes, Planner Rosemary Johnson, and City Attorney Blair Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

Item 3(a): July 23, 2013

President Innes noted that the fourth sentence in the second paragraph of Page 3 needed to be edited as follows: "Planner Johnson replied the italics just below Item 12 on Page 11 are an explanation as to why and how certain issues have been addressed in the draft as a reminder **reminder** until the final document is adopted." She called for approval of the July 23, 2012 meeting minutes.

Vice-President Cary moved to approve the minutes with the amendment; seconded by Commissioner Pearson. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

CU13-04 Conditional Use CU13-04 by Bill Johnston, Oregon Department of Transportation (ODOT), to repair the existing Old Youngs Bay Bridge at Highway 101B and Olney Avenue (US Hwy 101B, Mile Post 6.89), Tax Maps 80919AA and 80918DD in the A-1, Aquatic One Development; A-3, Aquatic Conservation; A-4, Aquatic Natural; In, Institutional; R-3, High Density Residential; FHO, Flood Hazard Overlay; and CRESO, Columbia River Estuary Shoreland Overlay zones.

President Innes opened the public hearing and asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Innes asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. There were none.

Planner Johnson reviewed the written Staff report, which was prepared by a planner at the Columbia River Estuary Shoreland Taskforce (CREST). The complete application was made available to the Planning Commission, but was not included in the agenda packet. The Staff report includes the Impact Assessment portion of the application. No correspondence has been received and staff recommends approval of the request with conditions.

President Innes called for testimony from the Applicant.

Bill Johnston, ODOT, 350 West Marine Drive, Astoria, stated he has no concerns regarding the Staff report and agrees with the recommended conditions. He clarified that this is a maintenance and repair project. Maintenance will also be completed on the Lewis and Clark River Bridge, which is part of a joint application submitted to the State, Federal agencies and the County. The City is only reviewing the Old Youngs Bay Bridge portion of the project. All State and Federal permits will be obtained; some have already been obtained. Construction will begin in 2014 and would be coordinated with in-water work windows. Environmental impacts will be minimized and water quality will actually be improved. Impervious surfaces on the Lewis and Clark River Bridge will be replaced and untreated pavement will now be treated. A mitigation pond treatment facility will be created near Old Youngs Bay to treat runoff from the Lewis and Clark River Bridge and 5th Street. Because the Lewis and Clark River Bridge is designated as historic and will be partially reconstructed, mitigation measures are required for this project. One mitigation measure is to repair the historic luminaires on the Old Youngs Bay Bridge and to preserve some of the mechanical equipment being removed from the bridge houses on the Old Youngs Bay Bridge. The equipment will likely be stored on ODOT property.

President Innes called for any testimony in favor of, impartial or opposed to the application. Hearing none, there was no rebuttal and she called for closing remarks of Staff.

Planner Johnson said the mechanics of the bridge opening are original and will be stored at ODOT. One mitigation item requires that ODOT do an interpretive display with that equipment. Astoria is gaining some positive things because of this project.

President Innes closed the public hearing and called for Commissioner comments.

Commissioner Nemowill said it seems unusual for this project to come before the Planning Commission for review, as bridge maintenance and repair by ODOT is necessary. She is glad to hear the waterway and aquatic areas are being treated with sensitivity and that the project will enhance the waterway.

Commissioner Pearson said the amount of background work on this project is impressive. He supports the project.

President Innes supported the project, adding she also wondered why the application came to the Planning Commission, but noted that following process is important.

Commissioner Nemowill moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU13-04 by Bill Johnston, Oregon Department of Transportation, to repair the existing Old Youngs Bay Bridge at Highway 101B and Olney Avenue; seconded by Vice-President Cary. Motion passed unanimously.

President Innes read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

Director Estes reported that the next Transportation System Plan Open House will be on Wednesday, September 11, 2013 at 5:30 p.m. at the Liberty Theatre. A presentation will be given from 5:30 p.m. until 6:15 p.m. then the open house will take place in the McTavish Room.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:44 p.m.

ATTEST:

APPROVED:

Secretary

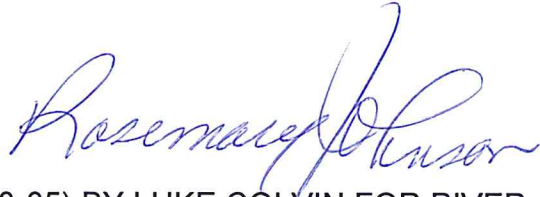
Community Development Director /
Assistant City Manager

STAFF REPORT AND FINDINGS OF FACT

September 16, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: CONDITIONAL USE REQUEST (CU13-05) BY LUKE COLVIN FOR RIVER BARREL BREWING TO LOCATE EATING/DRINKING, INDOOR FAMILY ENTERTAINMENT, TOURIST-ORIENTED RETAIL SALES, LIGHT MANUFACTURING WITHIN AN EXISTING BUILDING LOCATED AT 2 7TH STREET

I. SUMMARY

- A. Applicant: Luke Colvin
David Kroenig
River Barrel Brewing Inc
42 7th Street #100
Astoria OR 97103
- B. Owner: Bornstein Seafoods Inc
PO Box 188
Bellingham WA 98227-0188

Andrew Bornstein (local contact)
PO Box 1290
Astoria OR 97103
- C. Location: 1 8th Street, aka 2 7th Street; Map T8N R9W Section 8CB, Tax Lot 700
- D. Zone: A-2, Aquatic Two Development
- E. Lot Size: approximately 135' x 200' (27,000 square feet)
- F. Proposal: To locate a brewing operation with eating/drinking, tourist-oriented retail sales, indoor family entertainment (brewery tours) in an existing vacant commercial structure

II. BACKGROUND INFORMATION

A. Site:

The vacant three-story building is located over the water on the north side of the trolley tracks between 7th and 8th Streets. It has been designated as historic based on the planned alterations for the proposed use.

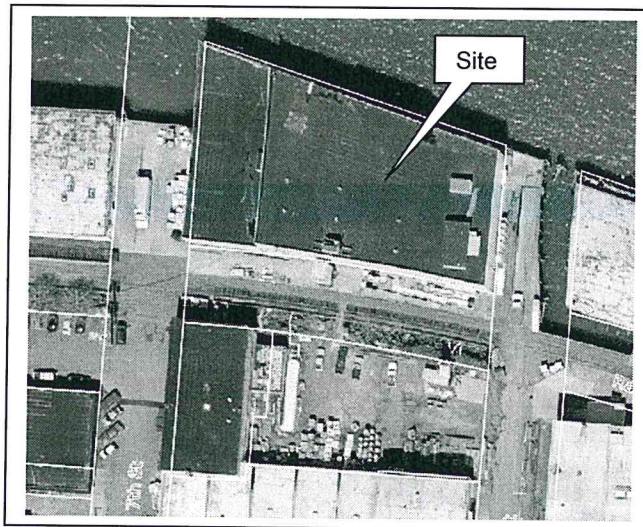


The proposed use would be located on the east side of the building and would be accessed from 8th Street. While the building address is 2 7th Street, the business would have a 1 8th Street address to identify the public access.

B. Neighborhood:

The area is bounded on the north by the Columbia River; on the west by the vacant site of the former No. 10 Sixth Street building; on the east by Astoria Holdings seafood processing facility; on the south by the River Trail and trolley line, a commercial/residential building at 42 7th Street, and a parking lot for use of the subject site and 42 7th Street building.

The River Trail does not provide vehicular access. All access to the property is from 7th and 8th Streets which are two way streets platted 50' wide with on-street parking allowed on both sides of each of these streets.



C. Proposal:

The applicant is proposing to locate a brewery, eating/drinking establishment, tourist-oriented retail sales, and indoor family entertainment (brewery tours) in an existing vacant commercial structure that was most recently occupied by

Bornstein Seafoods until their move to the Port in 2007. The uses would occupy approximately 10,000 square feet of the building and would all be at street level.

The applicant has submitted an application for a parking variance which will also be heard by the APC at the same public meeting as the conditional use.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on September 11, 2013. A notice of public hearing was published in the Daily Astorian on September 17, 2013. Any comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 2.535(12) concerning Conditional Uses permitted in the A-2 Zone lists *"Eating and drinking establishment open to the general public which provides significant visual access to the waterfront."*

Section 2.535(14) concerning Conditional Uses permitted in the A-2 Zone lists *"Tourist-oriented retail sales establishment which provides significant visual access to the waterfront."*

Section 2.535(15) concerning Conditional Uses permitted in the A-2 Zone lists *"Indoor amusement, entertainment, and/or recreation establishment which provides significant visual access to the waterfront."*

Finding: The applicant intends to locate an eating/drinking establishment, tourist-oriented retail sales, and indoor family entertainment of brewery tours in an existing commercial structure. These are allowed as conditional uses. The brewery would be an accessory use to the other allowable uses. The uses proposed would require review as a conditional use.

- B. Section 2.540(1) concerning Development Standards and Procedural Requirements for the A-2 Zone states that *"All uses shall satisfy applicable Columbia River Estuary Shoreland and Aquatic Areas Use and Activity Standards in Article 4. Where a proposal involves several uses the standards applicable to each use shall be satisfied (e.g., dredge, fill, shoreline stabilization, piling installation or other activities in conjunction with an aquaculture facility shall be subject to the respective standards for these uses)."*

Finding: The proposed uses would be within an existing waterfront industrial building. Any exterior repair of the building would need to comply with Article 4. The proposed uses will not result in changes to the estuary nor in disposal of effluents into the Columbia River. The applicant has been working with the

Public Works Supervisor Ken Nelson concerning the City's needs for discharges into the City sewer system.

- C. Section 2.540(2) concerning Development Standards and Procedural Requirements for the A-2 Zone states that *"When a proposal includes several uses, the uses shall be reviewed in aggregate under the more stringent provision."*

Finding: Review of the proposed uses will be made under the more stringent provisions.

- D. Section 2.540(4) concerning Development Standards and Procedural Requirements for the A-2 Zone states that *"Uses that are not water-dependent shall not preclude or conflict with existing or probable future water-dependent use on the site or in the vicinity."*

Finding: The original use was by Owen-Peeke Feed and Grain Company for the manufacture of animal feed until 1939. New England Fish Company of Oregon purchased the building and built the 1942 addition to process and package large quantities of fish. In 1958, the building sold to Northwest Fur Breeders for the production of mink feed until 1982. Bornstein Seafoods operated a fish processing plant at the location until construction of their new facility on Pier 2 at the Port of Astoria in 2007. Since that time, the building has been vacant except for use as storage by Bornstein Seafoods. It is highly unlikely that a new fish processing plant would locate in this building. Other buildings along the waterfront associated with the fishing industry such as Bruski's Dock at 80 11th Street, Big Red at 100 30th Street, and Englund Marine at 101 15th Street, and the building at 4998 Birch Street are also vacant. Many of the fish processing facilities are now located on the piers at the Port. Astoria Holdings is located just to the east of the subject site and is an active seasonal fish processor. The proposed uses would involve minor alterations to the interior but would provide additional waterfront viewing with the opening of windows especially on the north elevation. While not likely, the building could be returned to a water-dependent use in the future.

- E. Section 4.150(1), Recreation and Tourism, states that *"Standards in this subsection are applicable to recreational and tourist-oriented facilities in Columbia River estuary shoreland and aquatic areas."* and Section 4.160(2), Residential, Commercial and Industrial Development, states that *"The standards in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas."*

"Off-street parking may only be located over an aquatic area if all of the following conditions are met:

- a. Parking will be on an existing pile-supported structure; and*
- b. Suitable shoreland areas are not available; and*

- c. *The amount of aquatic area committed to parking is minimized; and*
- d. *The aquatic area is in a Development designation."*

Finding: Up to 20 parking spaces are proposed to be located on an adjacent shoreland parcel owned by the building owner and within the 7th Street right-of-way. The applicant also proposes to lease space within the City's former railroad property that is adjacent to the building for additional parking. All areas proposed for parking are existing and used for parking and/or storage and are located within the A-2 (Aquatic Two Development) or S-2A (Tourist Oriented Shoreland) Zone. No additional over water parking areas will be constructed.

- F. Section 4.160 Residential, Commercial and Industrial Development, states that *"The standards in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas.*
 - 1. *Sign placement shall not impair views of water areas. Signs shall be constructed against existing buildings whenever feasible. Off-premise outdoor advertising shall not be allowed in aquatic areas."*

Finding: Signs are not proposed with this application. Any signage would be subject to the requirements of Development Code Article 8 concerning Signs and this section.

- G. 4.200 Water Quality Maintenance, states that *"The standards in this subsection are intended to help protect and enhance the quality of water in the Columbia River Estuary. Impacts on water quality in aquatic areas and in tidegated sloughs in shoreland areas are covered by these standards."*

Finding: The proposed uses will not result in disposal of effluents into the Columbia River. The applicant has been working with the Public Works Supervisor Ken Nelson concerning the City's needs for discharges into the City sewer system.

- H. Section 2.540(7) concerning Development Standards and Procedural Requirements for the A-2 Zone states that *"Uses located between the extended right-of-ways of 8th 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."*

Finding: The site is located west of 8th Street and therefore off-street parking and loading is required.

- I. Section 7.100.F concerning Minimum Parking Space Requirements identifies parking spaces for manufacturing as follows: *"the greater of 0.75 spaces per employee; or one space per 5,000 square feet for buildings of 0 to 49,999 square feet."*

Section 7.100.A concerning Minimum Parking Space Requirements identifies parking spaces for *"Mixed use retail/indoor amusement"* as follows: *"One space per 400 square feet of gross floor area, plus one space per two employees."*

Section 7.100.I concerning Minimum Parking Space Requirements identifies parking spaces for *"Eating and drinking establishment"* as follows: *"One space per 250 square feet of gross floor area."*

Section 7.100.I concerning Minimum Parking Space Requirements identifies parking spaces for *"General merchandise store, food store, apparel and accessory store, and miscellaneous retail"* as follows: *"One space per 500 square feet of gross floor area."*

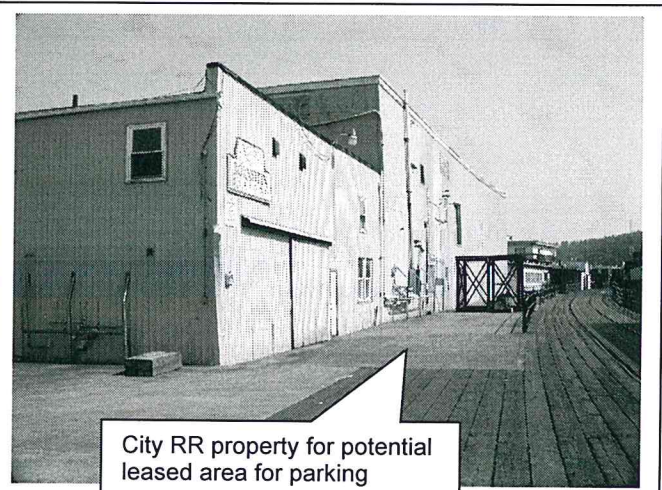
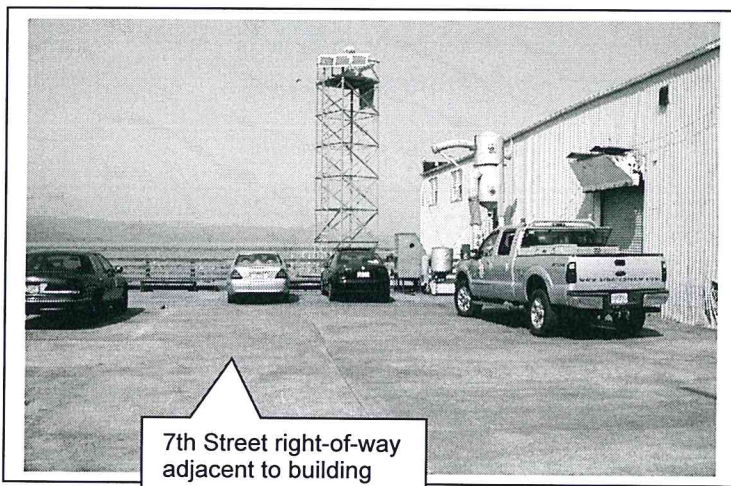
Finding: The area devoted to eating/drinking is approximately 5,690 square feet; the area for the brewery and storage is approximately 4,195 square feet with approximately four employees. The retail sales and indoor family entertainment areas are within the overall square footage of these two primary uses with the same employees. Therefore, a total of 26 off-street parking spaces are required as follows:

Eating/Drinking – 5,690 sqft @ 1 space / 250 sqft = 23

Brewery – 4,195 sqft with 4 employees @ 0.75 spaces / employee = 3

The applicant proposes to provide a total of 22 to 24 parking spaces which include 8 off-street parking spaces located on the adjacent lot owned by the same building owner. This lot also serves the commercial / residential building at 42 7th Street.

The applicant proposes to stripe the 7th Street right-of-way adjacent to the building to the west to maximize the on-street parking on the dead end of 7th Street. He is working with the City Engineer on the design and requirements for this parking area. It is estimated that approximately 12 spaces may be located within the 7th Street right-of-way, depending on the layout configuration.



In addition, there is a decked area of the City's former railroad property adjacent to the southwest corner of the building. In the past, the City has allowed adjacent property owners to lease these areas for decking and/or parking. The applicant proposes to request a lease from the City for this area and create two to four additional parking spaces for employees.

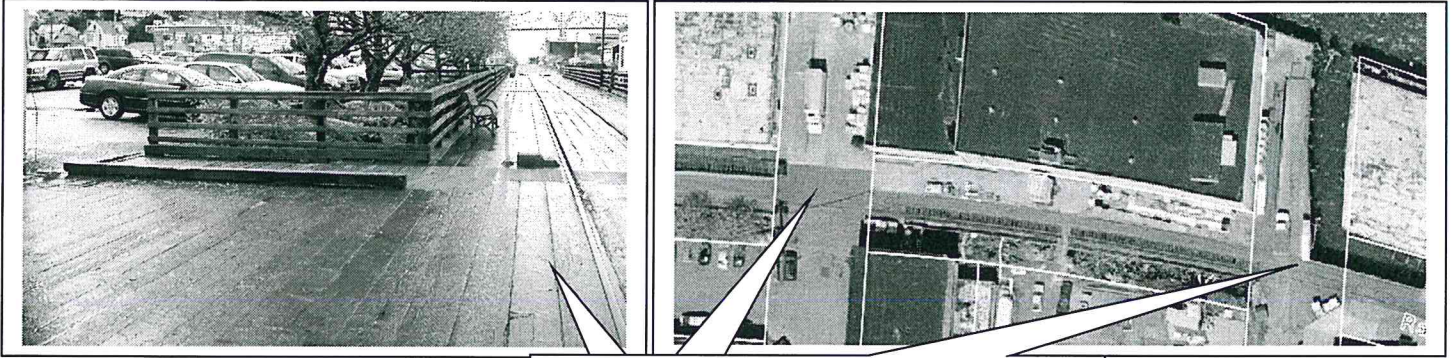
The uses required 26 off-street parking spaces and the applicant can provide 8 on-site and potential 2 leased spaces. An additional approximate 12 spaces would be within the right-of-way and a variance is required. The applicant has submitted a variance request which will also be heard by the APC at the same public hearing as the conditional use.

- J. Section 7.090, Off-Street Loading, states that
- A. *Except as otherwise specifically provided in this ordinance, off-street loading shall be provided in amounts not less than those set forth in Section 7.160.*
 - B. *A parking area meeting the requirements of Sections 7.100 through 7.110 may also be used for loading when the use does not require a delivery vehicle which exceeds a combined vehicle and load rating of 20,000 pounds, and when the parking area is within 25 feet of the building or use which it serves."*

Section 7.160.C, Minimum Loading Space Requirements for "*Commercial, Non-office, Public and Semi-Public*" uses requires one loading area of 12' x 55' x 14' for uses of 5,000 to 59,999 square feet.

Section 7.160.D, Minimum Loading Space Requirements for "*Industrial*" uses requires one loading area of 12' x 55' x 14' for uses of 5,000 to 99,999 square feet.

Finding: The street end road/trestle crossings are in need of repair. At this time, they are limited to a three ton load limit for vehicles crossing to the north side of the trolley tracks. The City obtained a grant from Oregon Department of Transportation (ODOT) to repair several downtown street end crossings. The applicant proposes to hand truck products across the tracks to a location on 7th and/or 8th Street for loading until such time as the crossing is approved for larger vehicles. At that time, they would identify the area west of the building within the 7th Street dead end right-of-way for a loading area. Loading could also occur within the shoreland parking area identified for this project. It would be possible to utilize six of the eight parking spaces reserved for this use for short term loading until such time as a permanent loading area can be established north of the street crossing. The applicant shall work with the City Engineer for future location of the loading area within the right-of-way.



Street end crossings with load limit at this time

- K. Section 2.445(8) requires that signs will comply with requirements in Article 8.

Finding: No signs are proposed as part of this request. Any future sign installation shall comply with the requirements of Article 8, specifically regulations pertaining to the A-2 Zone.

- L. Section 11.110(A) concerning Light Manufacturing, Nuisances states that *“No use shall generate odor, dust, gas, fumes, glare or vibration beyond the property line or site boundary.”*

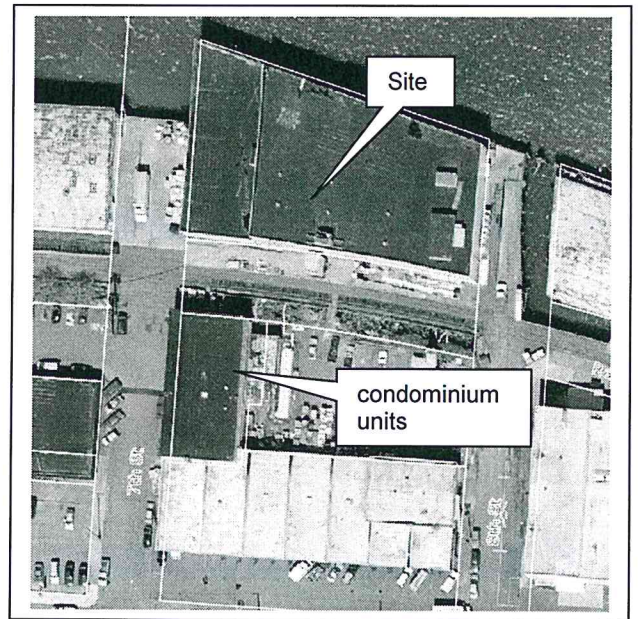
Finding: The proposed uses include retail, entertainment, and eating/drinking. The brewery is an accessory use and would generally be classified as “light manufacturing”. The brewery would generate some odor common to the cooking of food products such as a restaurant. This is generally not considered as extensive and not of an amount that would be considered a nuisance. Similar operations in the City include Fort George Brewery at 1483 Duane, Wet Dog Cafe and Brewery at 144 11th Street, North Coast Distillery at 1256 Duane Street, and Astoria Brewing at 1196 Marine Drive. Light manufacturing operations would be a low impact operation with minimal odor, dust, etc.

- M. Section 11.110(B) concerning Light Manufacturing, Storage states that *“Storage of materials and equipment shall be screened from adjacent properties or public streets by sight-obscuring fencing, landscaping or both. Clear vision areas shall not be obscured.”*

Finding: All materials and equipment would be stored in the building and/or screened from view. No outdoor storage is proposed at this time other than the solid waste disposal area which is addressed below.

- N. Section 11.110(C) concerning Light Manufacturing, Buffer states that *“Where a use abuts a residential zone, or other sensitive use (regardless of the presence of a street) a buffer of at least 10 feet shall be established. Such buffer may include plantings, berms, walls, and fencing adequate to provide a separation of the use from the residential area.”*

Finding: The use would be in an existing building that was previously used for seafood processing. There are windows on all elevations of the building. The site is not adjacent to a residential zone. There is a condominium building at 42 7th Street to the south of the site which is owned by the same building owner. The proposed light manufacturing would have a minimal impact due to the nature of the brewing process.



With the existing development, there is no opportunity, nor need, to provide additional buffering between the proposed use and the residential use.

The residential use is within a commercial building within the shoreland area with other uses which have a higher impact than the proposed light manufacturing. No additional buffering is required.

- O. Section 11.110(D) concerning Light Manufacturing, Lighting states that *"Exterior lighting shall be shielded so as to direct it away from adjacent property."*

Finding: No exterior lighting is proposed. Any future lighting shall be reviewed by the Planner for compliance with this standard.

- P. Section 11.110(E) concerning Light Manufacturing, Parking states that *"Uses shall have adequate parking, loading, maneuvering, and vehicle storage areas so as not to impact adjacent public streets or parking facilities. Ingress and egress shall be limited so as to direct parking onto arterial or collector streets."*

Finding: There is maneuvering space on the street for loading and unloading. The building has a garage door on the west that could be used for a loading area eliminating the need for deliveries to use on-street loading and unloading similar to other businesses in this area.

- Q. Section 11.020(B)(1) requires that the use comply with policies of the Comprehensive Plan.

1. Section CP.055(4) concerning Downtown Area Policies states that *"The City encourages the reuse of existing buildings prior to the expansion of commercial zones."*

Finding: The applicant is proposing to reuse an existing building. The nature of the structure with large open areas, garage area for future loading and deliveries within the building, and potential for riverfront windows allows a good opportunity for adaptive reuse for the proposed

brewery use with retail sales and eating/drinking. The applicant is improving the building to make it more conducive to some retail sales and other pedestrian friendly uses. The proposed use for tourist oriented retail sales, eating/drinking, indoor entertainment, and associated brewery as light manufacturing allows a reuse of the building in its current configuration with minimal changes.

2. Section CP.055(4) concerning Downtown Area Policies states that *"Shoreland zone policies and standards will be designed to encourage public access along the Downtown waterfront."*

Finding: The proposed use of this building as an eating/drinking and tourist oriented establishment will encourage and allow public access to the waterfront. The applicant proposes to open windows to the River to allow more viewing opportunities from within the building.

3. CP.015(1) concerning General Land and Water Use Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

Finding: The proposed brewery and eating/drinking establishment would allow for continued compact urban form development of an area currently serviced by City utilities. Astoria is becoming the cultural center of the region with its numerous historic properties and districts, and with the increase of breweries and distilleries, it is becoming a destination for these facilities also. The proposed use of the building for these tourist related uses has the potential to become an important part of the downtown redevelopment.

4. CP.020(6) concerning Community Growth, Plan Strategy states that *"The City encourages historic preservation generally, the restoration or reuse of existing buildings. However, these structures must be improved in a timely manner."*

CP.200(6) concerning Economic Development Goals states that *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

Finding: The existing building was designated as historic (HD13-03) on August 20, 2013. The applicant proposed several alterations to open the building up allowing more public access to the building and waterfront. By designating the building as historic, the applicant has made a

commitment to renovating the building for the proposed use over the next year. This designation will help preserve the building in the future but requires an adaptive reuse to allow the building to be financially feasible. It has been underutilized for many years since Bornstein Seafoods vacated the building in 2007. Approval of the conditional use would give the property owner the ability to have the space rented to provide additional funds to support the continued restoration/renovation of the building.

5. CP.205(1) concerning Economic Development Policies states that *"The downtown core of Astoria, generally extending from Sixth to Sixteenth Streets, and from the waterfront to Exchange Street is the retail, service and governmental center of the area. The City, through its zoning actions and support of the Astoria Downtown Development Association, will promote the Downtown."*

CP.200(2) concerning Economic Development Goals states that *"The City of Astoria will assist in strengthening the City's Downtown core as the retail center of the area, with the support of the Downtown Association and the Downtown Manager."*

CP.200(3) concerning Economic Development Goals states that *"The City of Astoria will encourage the broadening of the economy, particularly in areas which help balance the seasonal nature of existing industries."*

CP.205(5) concerning Economic Development Policies states that *"The city and business community should develop a cooperative program for strengthening and upgrading the core commercial area's competitive position."*

Finding: The existing buildings and businesses in the area are active participants in the downtown commercial area. They are a mixture of working waterfront and commercial businesses visually and physically linked to the downtown and help strengthen the downtown as a central business district. The possible use of this building for a brewery, eating/drinking, including tours, and retail sales would support the economic health of the area. The growing cluster of breweries and distilleries would give Astoria a competitive edge in the craft brewing/distilling field and could help to promote Astoria as a destination city for tourists. The proposed uses would strengthen the downtown as well as provide year round job opportunities.

Finding: The request is in compliance with the Comprehensive Plan.

- R. Section 11.030(A)(1) requires that *"the use is appropriate at the proposed location. Several factors which should be considered in determining whether or*

not the use is appropriate include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites; and the desirability of other suitably zoned sites for the use."

Finding: The site is easily accessible to pedestrians, bicyclists, vehicle traffic, trolley line, and those using public transit. The existing building was constructed and used for feed and fish processing. Use for light manufacturing as a brewery as an accessory use to the eating/drinking, brewery tours, and retail sales would not be a major impact to the area as this site has been used for seafood processing with multiple seasonal employees and major deliveries/shipments. The east side of the building would be reconfigured for pedestrian related uses. There are few downtown buildings that have easy vehicular access to the buildings for deliveries. With the ability to eventually use the dead end of 7th Street and possibly drive in the building for truck deliveries, this building is ideal for the brewery operation due to the minimal impact to the streets for these functions.

The uses would benefit from a downtown location due to the pedestrian traffic and the close proximity to other similar sales and services such as art galleries, restaurants, retail sales, and other general commercial businesses. With the opening of glass windows to view the River, high ceilings, open production area, and waterfront location, the building is ideal for the proposed uses without major changes to the facade other than the window openings, many of which were original but have been covered over throughout the years. The site is appropriate for the proposed use.

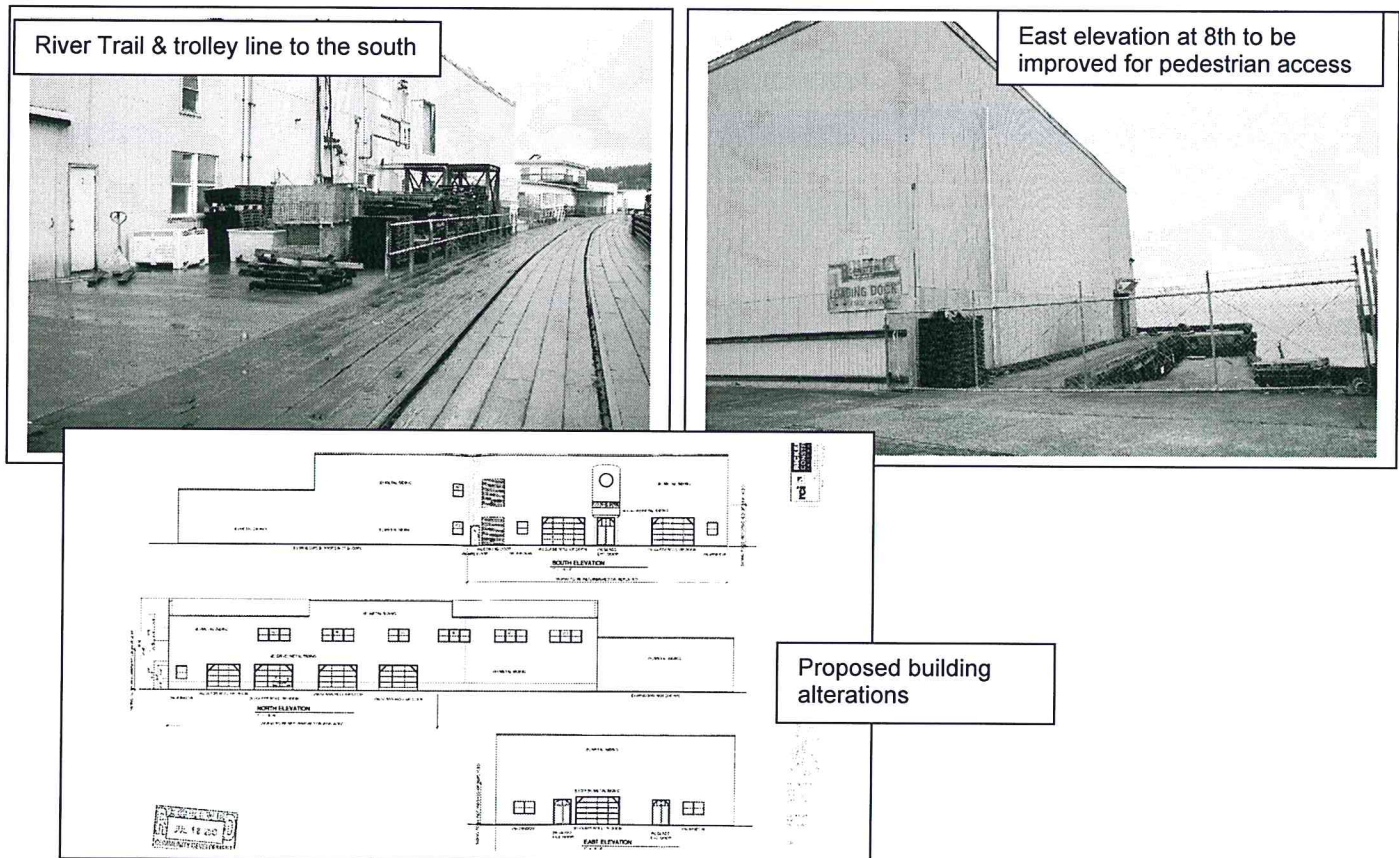
- S. Section 11.030(A)(2) requires that *"an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements."*

Finding: The site is accessible from two streets on the east and west sides, and from the trolley line on the south. On-street parking is available on both sides of 7th and 8th Streets. The entire building is approximately 34,000 square feet and only approximately 10,000 square feet is proposed to be utilized by the applicant. The remaining portion of the building would continue to be used by Bornstein Seafood for storage with potential expansion opportunities for River Barrel Brewing.

The outright uses allowed within the zone such as fish processing would generally require more parking than the proposed uses. The parking impact of the light manufacturing would be minimal with only four employees at this time compared to the 90 employees for Bornstein Seafood when they were at this

location. Off-street parking is required and the applicant has submitted a variance from the number of required spaces to provide some of the spaces within the street end of 7th Street. Loading and unloading can be done adjacent to the site on 7th and/or 8th Street until such time as the street crossings are improved to increase the load limits.

Sidewalks and River Trail for pedestrians, bicycle facilities, public transit are in close proximity to the site and vehicle access is readily available to the site to accommodate visitors using various modes of transportation. The applicant proposes to improve the east entry to provide better pedestrian access to the building and waterfront.



Garbage collection is provided by Recology/Western Oregon Waste (WOW) under contract with the City. The applicant has been in contact with WOW on the location and size of the refuse collection area for the proposed use. Solid waste disposal areas shall be screened from view. At this time, the street crossing load limit may prohibit the WOW vehicles from crossing to the site. The applicant is contacting the adjacent property owner to possibly arrange for a temporary location on land at the foot of 7th Street until a permanent location on the 7th Street right-of-way can be designed and accessed. The applicant shall continue to work with the City on the final location and design of the refuse collection area. Any off-site location would require a written agreement with a copy provided to the City prior to occupancy of the building.

- T. Section 11.030(A)(3) requires that the use will not overburden water and sewer facilities, storm drainage, fire and police protection, or other utilities.

Finding: Public facilities are available to the site. The use will not overburden water, sewer, or storm drainage. The brewery would need more water than some other uses generally in the downtown area but less than the previous seafood processing facility. Portion of the building will require installation of a fire suppression system. Public Works Supervisor Ken Nelson has indicated that there appears to be sufficient water to meet the needs of the proposed brewery operation. As with all new or increased businesses and development, there will be incremental impacts to police and fire protection but the proposed use will not overburden these services. Various types of light manufacturing may require possible conditions related to a fire suppression system. The applicant has submitted a building permit and/or change of occupancy permit to be reviewed and approved by the Building Inspector to assure that the services are adequate to accommodate the proposed use. The applicant has been meeting with the Building Inspector concerning the proposed use.

- U. Section 11.030(A)(4) requires that the topography, soils and other physical characteristics of the site are adequate for the use. Where determined by the City Engineer, an engineering or geologic study by a qualified individual may be required prior to construction.

Finding: No exterior construction is proposed as part of this request other than renovation of the building facade and windows. The site is not within 100' of a known geologic hazard area. The site is located within Flood Hazard Zone AE "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12). A Flood Elevation Certificate will be required prior to occupancy of the building as the proposed construction work will exceed 25% of the building's assessed value. Additional studies are not required.

- V. Section 11.030(A)(5) requires that the use contains an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.

Finding: The building is existing and encompasses the entire parcel. No additional landscaping requirements will be imposed as part of this request.

VI. CONCLUSIONS AND RECOMMENDATIONS

The request meets all applicable review criteria. Staff recommends approval of the request based on the Findings of Fact above with the following conditions:

1. The applicant shall work with Recology/WOW on the location and size of the refuse collection area for the proposed use in the building.

2. If the refuse collection area is located off-site, the applicant shall obtain a written agreement for the location and provide a copy of the agreement to the Planner prior to occupancy of the building.
3. The refuse collection area, including any temporary site, shall be enclosed to screen from view. The design and location of the enclosure shall be reviewed and approved by the Planner and shall be constructed prior to occupancy of the building.
4. Prior to use of the building, the applicant shall obtain a building permit and/or change of occupancy permit to be reviewed and approved by the Building Inspector to assure that the services are adequate to accommodate the proposed use.
5. The applicant shall provide the required off-street parking or obtain a variance from the parking requirement.
6. Any future lighting shall be reviewed by the Planner for compliance with the standards of Development Code Section 11.110.D.
7. A Flood Elevation Certificate shall be submitted to the Planner prior to occupancy of the building.

The applicant should be aware of the following requirements:

Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.

The applicant shall obtain all necessary City and building permits prior to the start of operation.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856
COMMUNITY DEVELOPMENT



No. CU/13-05

Fee: \$250.00 *pd -*

CONDITIONAL USE APPLICATION

Property Address: 2 7th Street Astoria 97103

Lot Block Subdivision
Map 8CB Tax Lot 700 Zone A-2 *OK*

Applicant Name: Luke Colvin (David Kroenig) *585-224-5095*

Mailing Address: 4700 7th Street #100 Astoria, OR 97103

Phone: 503-791-8010 Business Phone: 503-468-0800 Email: luke@arborcarenw.com

Property Owner's Name: Andrew Bornstein

Mailing Address: P.O. Box 1290 Astoria, 97103

Business Name (if applicable): River Barrel Brewing Inc

Signature of Applicant: [Signature] Date: 8/21/13

Signature of Property Owner: [Signature] Date: 8/21/13

Existing Use: Vacant / storage for fish processing

Proposed Use: Brewery, Restaurant, indoor entertainment

Square Footage of Building/Site: Remodel space = 9,831 sq. ft. *4,195 # brewery w/ 4 empl. 5,695 # eat/drink*

Proposed Off-Street Parking Spaces: Brewery @ 0.75/empl = 3
Rest. @ 1/250 = 23 *> 26 Required.*

Propose 8 on-site spaces & 19 in RR & R.O.W.

SITE PLAN: A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines and dimensions of all structures, parking areas, and/or signs. Scaled free-hand drawings are acceptable.

to locate an eating & drinking establishment, indoor family entertainment of brewery tours, tourist oriented retail sales, and brewery in an existing commercial bldg at 2-7th St.

For office use only:			
Application Complete:	<u>8/21/13</u>	Permit Info Into D-Base:	<u>8/22/13</u>
Labels Prepared:	<u>8/22/13</u>	Tentative APC Meeting Date:	<u>9/24/13</u>
120 Days:			

FILING INFORMATION: Planning Commission meets on the fourth Tuesday of each month. Completed applications must be received by the 13th of the month to be on the next month's agenda. A Pre-Application meeting with the Planner is required prior to acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission meeting is recommended.

Briefly address each of the following criteria: Use additional sheets if necessary.

- 11.030(A)(1) The use is appropriate at the proposed location. Several factors which should be considered in determining whether or not the use is appropriate include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites; and the desirability of other suitably zoned sites for the use.

Bldg is underutilized. CP encourages adaptive re-use of existing historic bldgs. Site is easily accessible to vehicles & pedestrians; area is becoming destination breakfast site. Nature of brewery is need for large industrial bldg.

- 11.030(A)(2) An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements.

located on River Trail, close to Transit Center, 7th & 8th Street ends. dumpster to be approved by NW & enclosed, loading area to be on 7th St B-side dock. Vehicles need to cross, trolley line like any other street end location.

- 11.030(A)(3) The use will not overburden water and sewer facilities, storm drainage, fire and police protection, or other utilities.

Have met w/ PW to assure public facilities - all new uses increase police / fire response. The restaurant & public areas will be sprinkled. Increased activity in vacant bldg will deter transient use of area. APD will be using

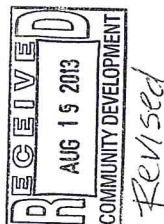
- 11.030(A)(4) The topography, soils, and other physical characteristics of the site are appropriate for the use. Where determined by the City Engineer, an engineering or geologic study by a qualified individual may be required prior to construction.

Bldg is existing over water. Flood zone AE requires FEMA flood elevation certificate

- 11.030(A)(5) The use contains an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.

no additional buffering proposed as bldg encompasses entire property.

- 11.030(B) Housing developments will comply only with standards 2, 3, and 4 above.



CODE INFORMATION

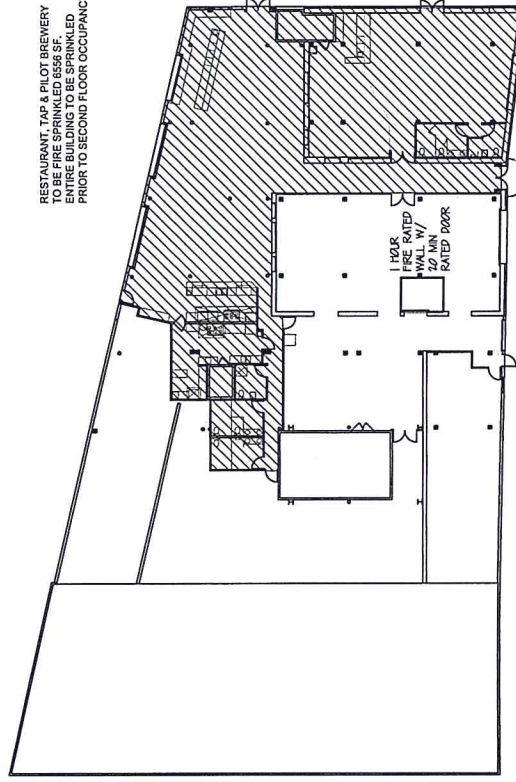
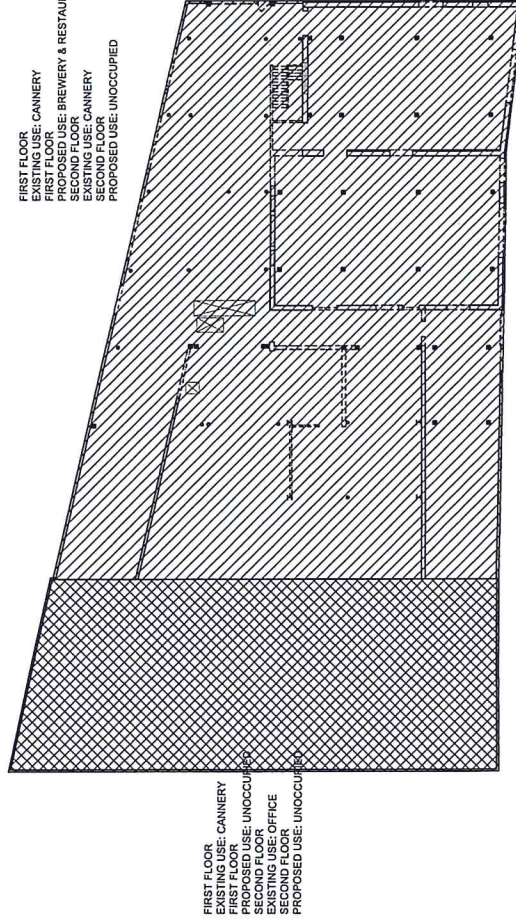
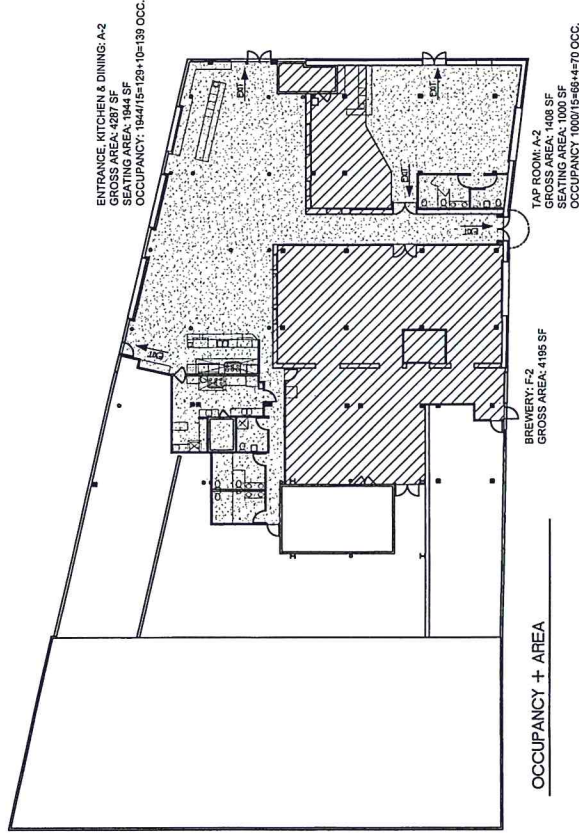
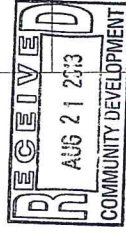
REVIEW OF THIS PROJECT IS SUBJECT TO:
OREGON STRUCTURAL SPECIALTY CODE - 2010 EDITION
NATIONAL FIRE PROTECTION ASSOCIATION 101 - 2012 EDITION

OCCUPANCY CLASSIFICATION: MIXED WITH A-2 AND F-2
PERMIT SET: 503-468-0800
TYPE OF CONSTRUCTION: TYPE V-A
BUILDING AREA TOTAL SQUARE FEET: 21,317 SF
AREA OF CONSTRUCTION: 9,890 SF
F-2 OCCUPANCY LOAD: 150 OCCUPANTS
F-2 OCCUPANCY LOAD: 25 OCCUPANTS

ALLOWABLE AREA A-2: 11,500 SF
FRONTAGE INCREASE: 21,079 SF
TOTAL ALLOWABLE: 21,079 SF
ACTUAL A-2 AREA: 5,695 SF
ALLOWABLE AREA F-2: 13,829 SF
FRONTAGE INCREASE: 23,829 SF
TOTAL ALLOWABLE: 23,829 SF
ACTUAL F-2 AREA: 4,195 SF

FRONTAGE INCREASE:
NORTH WALL 202 FEET WITH 30 PLUS FEET PUBLIC WAY
SOUTH WALL 204 FEET WITH 25 FEET PUBLIC WAY
EAST WALL 90 FEET WITH 25 FEET PUBLIC WAY
TOTAL BUILDING PERIMETER=622 FEET
622(622-.025)/2530= 832998

ALLOWABLE AREA CALCULATION:
A-2
15000 + (11500 x .832998) + 0 = 21,079 SF
F-2
13000 + (13000 x .832998) + 0 = 23,829 SF



LUKE COLVIN
RIVER BARREL BREWING
42 7TH STREET
ASTORIA, OR 97103
503-468-0800

PERMIT SET
DATE: 8-19-2013
DATE REVISED:
DRAWN BY:
WFL NAME:

SHEET: A-1

STAFF REPORT AND FINDINGS OF FACT

September 16, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: VARIANCE REQUEST (V13-15) BY DAVID KROENIG FOR RIVER BARREL BREWING FROM OFF-STREET PARKING REQUIREMENT AT 1 8TH STREET, AKA 2 7TH STREET

I. SUMMARY

- A. Applicant: David Kroenig
Luke Colvin
River Barrel Brewing Inc
42 7th Street #100
Astoria OR 97103
- B. Owner: Bornstein Seafoods Inc
PO Box 188
Bellingham WA 98227-0188

Andrew Bornstein (local contact)
PO Box 1290
Astoria OR 97103
- C. Location: 1 8th Street, aka 2 7th Street; Map T8N R9W Section 8CB, Tax Lot 700
- D. Zone: A-2, Aquatic Two Development
- E. Lot Size: approximately 135' x 200' (27,000 square feet)
- F. Proposal: variance from the required 26 off-street parking requirements to provide 8 on-site, and potentially 2 leased spaces to locate a brewing operation with eating/drinking, tourist-oriented retail sales, indoor family entertainment of brewery tours in an existing commercial structure. The variance would be for 18 spaces.

II. BACKGROUND INFORMATION

A. Site:

The three-story building is currently vacant but was previously occupied by Bornstein Seafood who vacated the site in 2007 when they constructed the new facility at the Port of Astoria. The building has been designated as a historic building based on the planned alterations for this proposed use.

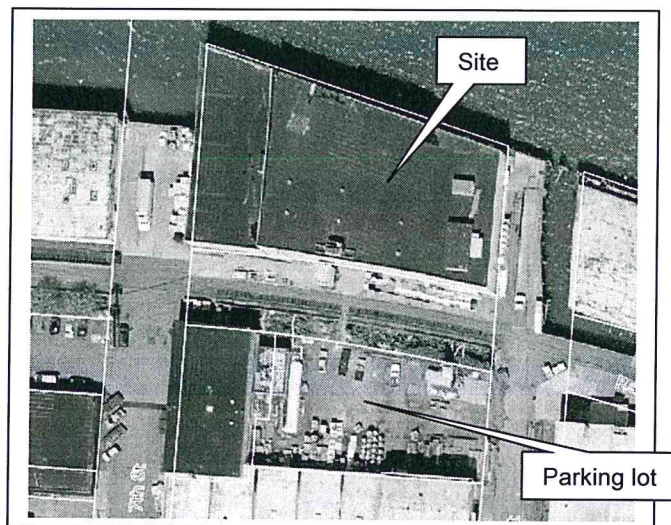


The structure is located over the water on the north side of the trolley tracks between 7th and 8th Streets. The proposed use would be located on the east side of the building and would be accessed from 8th Street. While the building address is 2 7th Street, the business would have a 1 8th Street address to identify the public access.

B. Neighborhood:

The area is bounded on the north by the Columbia River; on the west by the vacant site of the former No. 10 Sixth Street building; on the east by Astoria Holdings seafood processing facility; on the south by the River Trail and trolley line, a commercial/residential building at 42 7th Street, and a parking lot for use of the subject site and 42 7th Street building.

The River Trail does not provide vehicular access. All access to the property is from 7th and 8th Streets which are two way streets platted 50' wide with on-street parking allowed on both sides of each of these streets.



C. Proposal:

The applicant is requesting a variance from the required 26 off-street parking spaces. They propose to provide 8 spaces in an adjacent parking lot to the south. In addition, the applicant is proposing to improve and stripe the parking in the dead end portion of the 7th Street right-of-way, and to possibly lease two to four spaces from the City on the adjacent former railroad property. The applicant is proposing to locate a brewery, eating/drinking establishment, tourist-oriented retail sales, and indoor family entertainment of brewery tours in approximately 10,000 square feet of an existing vacant commercial structure that was most recently occupied by Bornstein Seafoods until their move to the Port in 2007. There would be a production area, storage, and retail sales area.

The variance would be for 18 spaces, however, the applicant proposes to improve approximately 12 spaces in the 7th Street right-of-way and lease two to four spaces from the City resulting in an actual shortage of only two to four spaces. While technically not "on-site" parking, these additional spaces would be primarily used by patrons of River Barrel Brewing due to their location at the end of 7th Street and would provide the needed parking spaces.

The applicant has submitted a conditional use request which will also be heard by the APC at the same meeting as the variance. The Findings of Fact for Conditional Use (CU13-05) dated September 16, 2013 are incorporated as part of this document by reference.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on September 11, 2013. A notice of public hearing was published in the Daily Astorian on September 17, 2013. Any comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 4.150(1), Recreation and Tourism, states that *"Standards in this subsection are applicable to recreational and tourist-oriented facilities in Columbia River estuary shoreland and aquatic areas."* and Section 4.160(2), Residential, Commercial and Industrial Development, states that *"The standards in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas."*

"Off-street parking may only be located over an aquatic area if all of the following conditions are met:

- a. Parking will be on an existing pile-supported structure; and*
- b. Suitable shoreland areas are not available; and*
- c. The amount of aquatic area committed to parking is minimized; and*
- d. The aquatic area is in a Development designation."*

Finding: Parking is proposed on an adjacent shoreland parcel and within the 7th Street right-of-way. The applicant also proposes to lease space within the City owned former railroad property that is adjacent to the building for additional parking.

Parking will be on an existing pile-supported structure in the 7th Street right-of-way. Suitable shoreland areas are not available to meet the parking code requirements. The amount of aquatic area committed to parking is minimized and only within existing paved areas. The aquatic area is in a Development designation of A-2 (Aquatic Two Development). No new over water parking areas will be constructed.

- B. Section 2.540(7) concerning Development Standards and Procedural Requirements for the A-2 Zone states that *"Uses located between the extended right-of-ways of 8th 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."*

Finding: The site is located west of 8th Street and therefore off-street parking and loading is required. The City is currently in the process of adopting a Transportation System Plan (TSP) for the next 20 years. The Plan would include proposed amendments to the Development Code and/or Comprehensive Plan related to aspects of transportation in the City. One of the suggestions in the TSP proposed code amendments is to amend this code section to include properties from 7th Street to 8th Street as this area has the same constraints as the rest of downtown as existing buildings encompass the entire or majority of the sites and do not allow for off-street parking. While this proposed amendment has not been adopted, it is noted here to indicate the direction that staff is recommending for management of parking in this area.

Conditions of permits remain requirements of the project. If the code is amended, those conditions are not automatically voided and any changes to the approved permit would need to be amended at a public hearing. Since the City is anticipating proposing an amendment that would not require off-street parking in this area in the near future, it would be reasonable to include a condition with this permit that would address the impact of the amendment on this permit. The use is being reviewed as a conditional use, and parking can be a consideration even if not required by the zone. The conditional use is being reviewed based on the ability of the applicant to provide 8 spaces on the adjacent lot. Therefore, the use should maintain the 8 off-street parking spaces even if the amendment for no required parking is approved unless an amendment to the permit conditions is obtained. However, the requirement for the additional 18 spaces covered by this variance would no longer be required.

- C. Section 7.100.F concerning Minimum Parking Space Requirements identifies parking spaces for manufacturing as follows: *"the greater of 0.75 spaces per employee; or one space per 5,000 square feet for buildings of 0 to 49,999 square feet."*

Section 7.100.A concerning Minimum Parking Space Requirements identifies parking spaces for *"Mixed use retail/indoor amusement"* as follows: *"One space per 400 square feet of gross floor area, plus one space per two employees."*

Section 7.100.I concerning Minimum Parking Space Requirements identifies parking spaces for *"Eating and drinking establishment"* as follows: *"One space per 250 square feet of gross floor area."*

Section 7.100.I concerning Minimum Parking Space Requirements identifies parking spaces for *"General merchandise store, food store, apparel and accessory store, and miscellaneous retail"* as follows: *"One space per 500 square feet of gross floor area."*

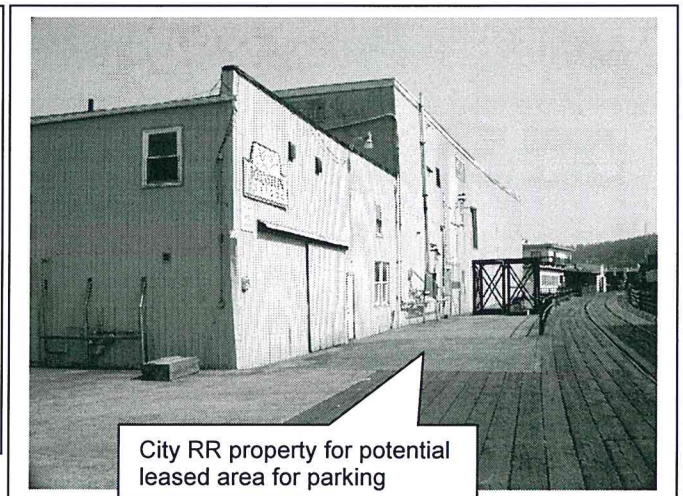
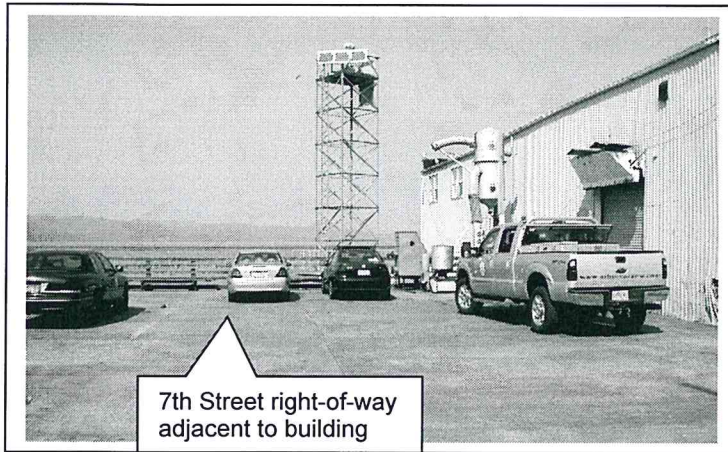
Finding: The area devoted to eating/drinking is approximately 5,690 square feet; the area for the brewery and storage is approximately 4,195 square feet with four employees. The retail sales and indoor family entertainment areas are within the overall square footage of these two primary uses with the same employees. Therefore, a total of 26 off-street parking spaces are required as follows:

Eating/Drinking – 5,690 sqft @ 1 space / 250 sqft = 23

Brewery – 4,195 sqft with 4 employees @ 0.75 spaces / employee = 3

The applicant proposes to provide 8 off-street parking spaces in the adjacent lot owned by the same building owner. This lot also serves the commercial / residential building at 42 7th Street. The applicant shall obtain a written agreement for use of the parking lot and shall provide a copy of the signed agreement to the Planner prior to occupancy of the building.

The applicant proposes to stripe the 7th Street right-of-way adjacent to the building to the west to maximize the on-street parking on the dead end of 7th Street. He is working with the City Engineer on the design and requirements for this parking area. It is estimated that approximately 12 spaces may be located within the 7th Street right-of-way, depending on the layout configuration. In addition, there is a decked area of the City owned former railroad property adjacent to the southwest corner of the building. In the past, the City has allowed adjacent property owners to lease these areas for decking and/or parking. The applicant proposes to request a lease from the City for this area and create two to four additional parking spaces for employees.



The uses require 26 off-street parking spaces and the applicant can provide 8 on-site, approximately 12 spaces would be within the right-of-way, and potentially 2 to 4 leased spaces in the adjacent City owned former railroad property. The result is that there are approximately 22 to 24 available parking spaces to support the operation. Since all of the spaces are not “on-site”, a variance is required. The applicant is requesting a variance from 26 spaces to provide 8 “on-site” spaces.

- D. Section 7.030(A.2) concerning Location of Parking states that *“In non-residential zones, up to 50% of the required parking area may be located off the site of the primary use or structure provided it is within 300 feet of such site.”*

Finding: The building owner, Bornstein Seafood, owns the adjacent parking lot to the south. This lot is considered as “on-site” parking due to the proximity and same ownership. The applicant would need a written agreement from the property owner that these spaces are available to River Barrel Brewing. The lot also serves the adjacent property at 42 7th Street which is owned by Starlight One LLC.

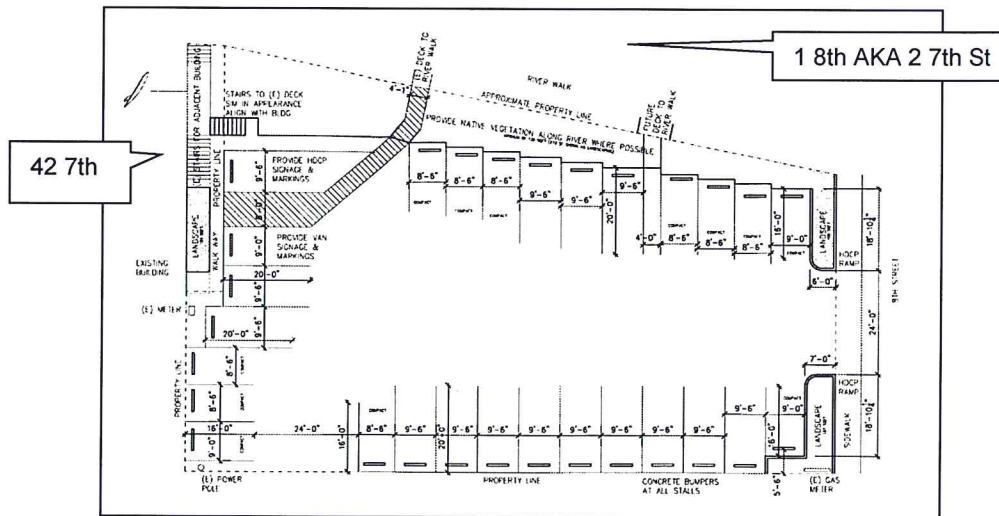
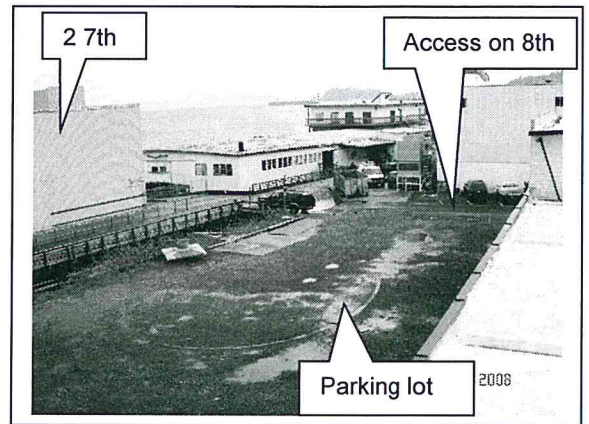
Sufficient parking is not available on-site to accommodate the various uses as the building encompasses the entire site. It is reasonable to want to have all portions of the building occupied with a use and therefore, either a variance or additional parking is needed.

The applicant also proposes to lease two to four spaces from the City on the adjacent City owned former railroad property. These spaces would be within 300' of the site.

- E. Section 7.070(A.1) concerning Joint Use of Parking Areas states that *“Up to 50% of the off-street parking spaces required by this ordinance for a church, auditorium in a school, theater, bowling alley, night club, eating or drinking establishment may be satisfied by the off-street parking spaces provided by uses occupied only during the daytime on weekdays.”*

Section 4.160(3) states that *“Joint use of parking, moorage and other commercial support facility is encouraged where feasible and where consistent with local Code requirements.”*

Finding: The adjacent parking lot owned by Bornstein Seafood has 28 parking spaces. There is a Parking Easement Agreement with Starlight LLC for 18 spaces for the 42 7th Street building. Conditional Use Permit (CU06-06) for 42 7th Street requires that a minimum of 18 to 20 spaces be provided for the uses in that building. That leaves 8 to 10 spaces available. The owner has indicated that 8 spaces will be provided for uses in the 2 7th Street building.



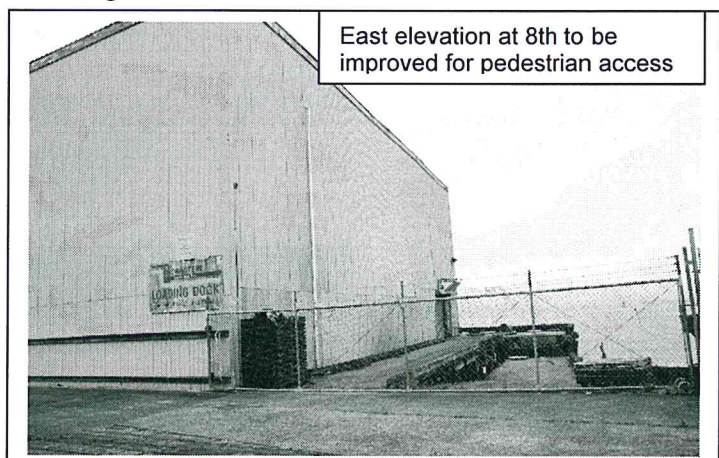
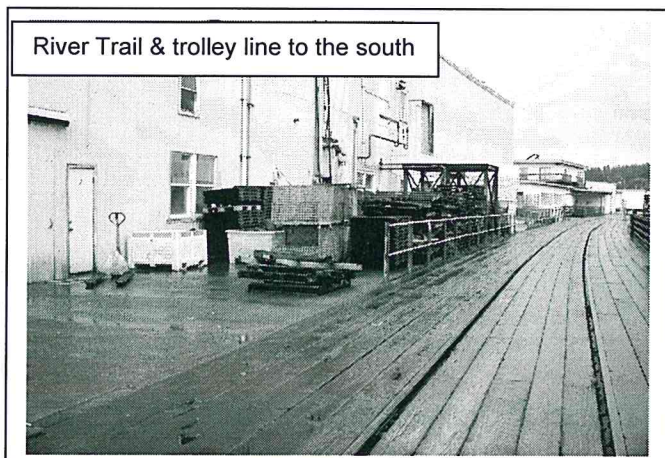
The uses at 42 7th Street include offices and retail on the first floor and four residential units on the third floor. The majority of spaces required for River Barrel Brewing are for the eating/drinking establishment which requires 23 spaces. It is reasonable to do shared parking with 42 7th Street for the spaces used by the offices which are mostly day use while the heaviest eating/drinking parking needs are in the evenings. The residential parking for 42 7th Street should be considered as day and night parking and not part of the shared spaces. Therefore, there is the possibility of up to 14 additional spaces that could be used on a shared basis by both buildings. While these would not be dedicated solely to use by River Barrel Brewing, it is justification that there would be sufficient parking available should the variance be approved.

- F. Section 12.040 states that *“Variances from the requirements of this Code with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation, and the evidence submitted by the applicant, all three (3) of the following expressly written findings are made.”*

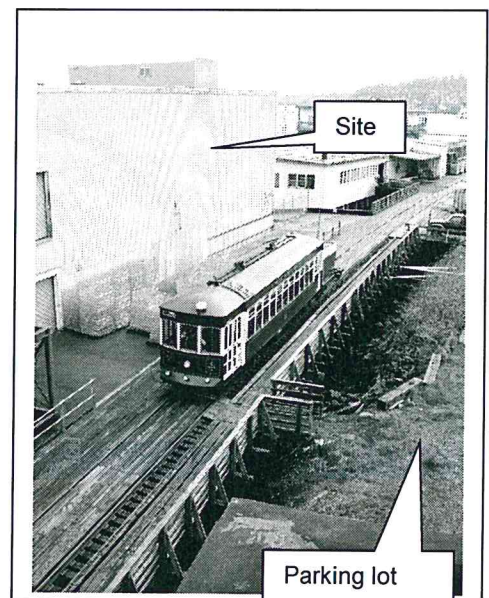
- “1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Code; and”

Finding: The outright uses allowed within the zone such as fish processing would generally require more parking than the proposed uses. The parking impact of the light manufacturing would be minimal with only four employees at this time compared to the 90 employees for Bornstein Seafood when they were at this location which would have required 68 parking spaces.

Sidewalks and River Trail for pedestrians, bicycle facilities, public transit are in close proximity to the site and vehicle access is readily available to the site to accommodate visitors using various modes of transportation. The applicant proposes to improve the east entry to provide better pedestrian access to the building and waterfront.



It is anticipated by the applicant that some customers of the restaurant will be walking to the site from downtown or will be riding the trolley and therefore will not arrive by personal motor vehicle. The property to the east is a fish processor with day use. The building at 42 7th Street is mostly day use offices and retail sales with four residential all-day use. The building to the south has a pizzas establishment, video store, and Alano Club with some off-street parking. These three uses are considered as both day and night uses and did receive a Parking Variance (V11-13) in 2011. The property to the west is the vacant site of the former No. 10 Sixth Street building which has a full City block parking lot.

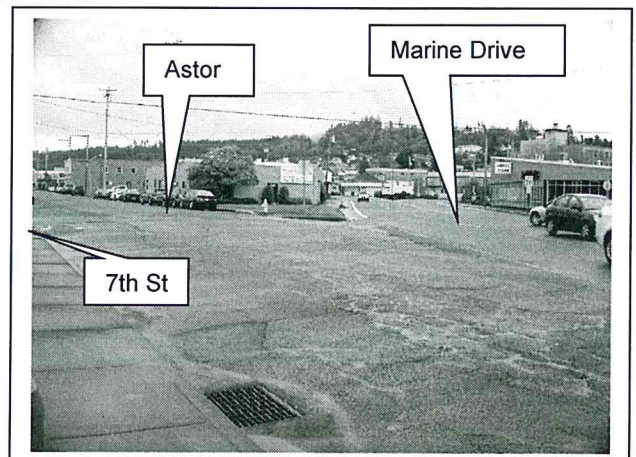


As noted earlier, staff is recommending an amendment to the Code to include this area within the “no parking required” portion of the downtown due to the fact that existing buildings in this area generally encompass the entire lots and on-site parking is not feasible. With the potential shared parking on the Bornstein lot and the proposed parking improvements to the 7th Street parking at the street end, there appears to be sufficient parking in the area to accommodate the anticipated traffic for this facility. A strict interpretation of the requirement is not required.

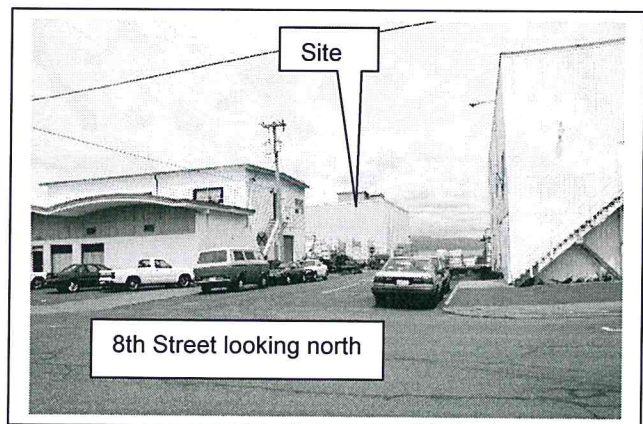
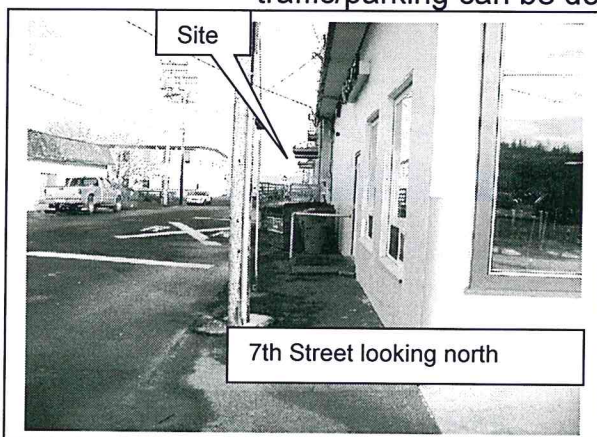
- “2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets;”

Finding: The applicant proposes to stripe and improve the on-street parking at the end of 7th Street adjacent to the site. There would be ample maneuvering room in the right-of-way for vehicles using this parking. The parking lot to the south of the property would be accessed from 8th Street. Both 7th and 8th Streets are two-way streets accessed from Astor Street parallel to Marine Drive.

There does not appear to be a problem with the existing traffic flow on Astor Street. However, the angled intersection with Marine Drive at 7th Street is not the ideal configuration. This intersection has three streets connecting at one point and is more of a hazard than a standard “T” intersection of two streets. This intersection does not interfere with the free flow of traffic on Marine Drive.

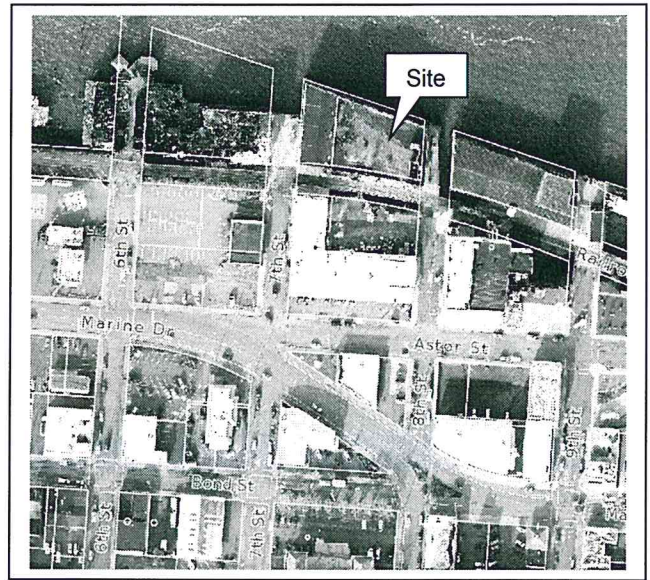


It is anticipated that the parking lot and street parking will be sufficient to accommodate future traffic generated by the existing and proposed use classifications. Should a new use other than the classifications indicated in this variance propose to locate at this site, additional review of the traffic/parking can be done at that time.



- “3. *That the granting of the variance will not create a safety hazard.*”

Finding: The parking lot has existed for many years as a storage yard for Bornstein Seafood and has recently been improved for parking with landscaping. The existing driveway is accessed from 8th Street. Traffic at the street ends of both 7th and 8th Streets is generally limited to the few businesses that are located within those blocks (i.e. former Bornstein Seafood, Astoria Holdings seafood processing, 42 7th Street). There is additional on-street parking.



The applicant is working with the City Engineer concerning the potential parking reconfiguration and striping on the end of 7th Street and concerning the load limits on the street crossings at the waterfront. The variance would not create additional parking needs. It is unlikely that granting the variance will create a safety hazard.

VI. CONCLUSIONS AND RECOMMENDATIONS

The request meets all applicable review criteria. Staff recommends approval of the request based on the Findings of Fact above with the following conditions:

1. Should the Development Code be amended in the future to eliminate the requirement for parking in this area, the approved conditional use shall maintain the 8 off-street parking spaces unless an amendment to the permit is approved. However the remaining spaces exempted by the variance would no longer be required.
2. The applicant shall obtain a written agreement for use of the parking lot and shall provide a copy of the signed agreement to the Planner prior to occupancy of the building. The agreement shall remain in force as long as the business operates at this location.

The applicant should be aware of the following requirements:

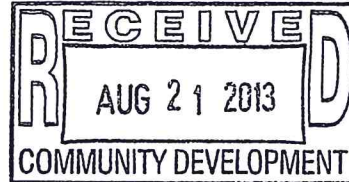
Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.

The applicant shall obtain all necessary City and building permits prior to the start of operation.



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT



No. V 13-15

Fee: ~~Administrative Permit \$150.00~~
or ~~Planning Commission \$250.00~~

fd 8/22/13

PARKING VARIANCE APPLICATION

Property Location: Address: 2-7th

Lot — Block — Subdivision —

Map 8CB Tax Lot 700 Zone A-2 *OK*

Applicant Name: David Kroening

Mailing Address: 474 7th St. #100 Astoria 97103

Phone: 585-224-5075 Business Phone: 503-468-0800 Email: dave@riverbarrelbrewing.com

Property Owner's Name: Bornstein Seaford - Andrew Bornstein

Mailing Address: POB 1290, Astoria

Business Name (if applicable): River Barrel Brewing Inc.

Signature of Applicant: David Kroening Date: 8/21/13

Signature of Property Owner: _____ Date: _____

Existing/Proposed Use: vacant/storage for fish processing

What Development Code Requirement do you need the Variance from? (Describe what is required by the Code and what you are able to provide without a Variance.)

Prkq for Brewery @ 0.75/employee = 3
Restaurant @ 1/250# for 5,695# = 23

Total 26 spaces required. To provide 3 on-site, 4 leased on R.R.,
9 on 7th R-O-W Variance for 14 spaces total.

from required 23 off-street parking spaces to provide 8 on-site & 4 leased spaces for a

SITE PLAN: A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines and dimensions of all structures, parking areas, and/or signs. Scaled free-hand drawings are acceptable.

variance of 14 off-street parking spaces to locate a brewery/restaurant
in an existing commercial bldg at 2-7th st.

For office use only:			
Application Complete:		Permit Info Into D-Base:	<u>8/22/13</u>
Labels Prepared:	<u>8/22/13</u>	Tentative APC Meeting Date:	<u>9/24/13</u>
120 Days:			

FILING INFORMATION: Planning Commission meets on the fourth Tuesday of each month. Completed applications must be received by the 13th of the month to be on the next month's agenda. A Pre-Application meeting with the Planner is required prior to acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission meeting is recommended.

Briefly address the following criteria to **PARKING RELATED VARIANCES:**

12.040. VARIANCE FROM STANDARDS RELATING TO OFF-STREET PARKING AND LOADING FACILITIES.

Variances from the requirements of this Code with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation, and the evidence submitted by the applicant, all three (3) of the following expressly written findings are made:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Code; and

Previous use of site as fish processing employed 90 people. Some pkg. provided on-site & in R-O-W; TSP recommends change in Code for pkg 7th to 8th to be exempt like downtown due to Bldgs existing that encompass entire site.

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and

7th is dead end Str. & improved full width providing ample maneuvering space; Parking lot accessed from 8th can have some shared pkg w/ day/night uses.

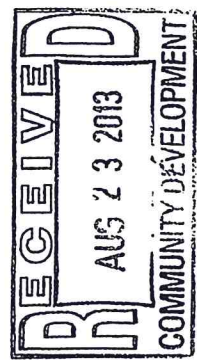
3. That the granting of the variance will not create a safety hazard.

No safety issues identified

Attach Site Plan

open lunch/dinner w/ highest use after 5pm. Uses in 42-7th are varied w/ 1st floor mostly day uses & 2nd floor residential. Therefore, approx 14 spaces could be used jointly.

Bornstain Seafoods, Inc. 7th Street Plant Traffic and People Site Impact Analysis



Bornstain Seafoods, Inc. operated a seafood processing plant at the Foot of 7th street in Astoria. The plant is located on the North side of the rail lines within the Columbia River. It spans from 7th to 8th Street with entrances on either end. Bornsteins owns the majority of the riverfront lots abutting the rail lines shoreward. The operations covered all months of the year with several high density surges throughout the year as variuos seasons. The traffic and people impacts are averaged to represent continous utilization.

Traffic Type	Daily	Weekly	Monthly
Cars Employees	60	285	1,069
Cars Fishermen	8	38	143
Cars Visitors	4	19	71
Cars Venders	2	10	36
Cars Officials	1	5	18
Light Trucks	4	19	71
Semi Trucks	8	38	143
Company Trucks	4	19	71
Delivery Trucks Venders	2	10	36
Big Vessels	3	14	53
Small Vessels	2	10	36
Total Vehicle Impacts	98	466	1,746

* The Daily load reflects typical Impact of ingress and egress to the site by vehicle type.
* The Weekly impact is adjusted to reflect weekends, as well as, the Monthly is adjusted to reflect variations to schedules.

People Type	Number	Daily	Weekly	Monthly
Employees	100	80	420	1,890
Fishermen	80	20	105	473
Venders	20	2	6	20
Truckers	24	8	44	198
Government	12	2	8	28
Visitors		6	36	144
Other		2	12	36
Total People Impacts	236	120	631	2,789

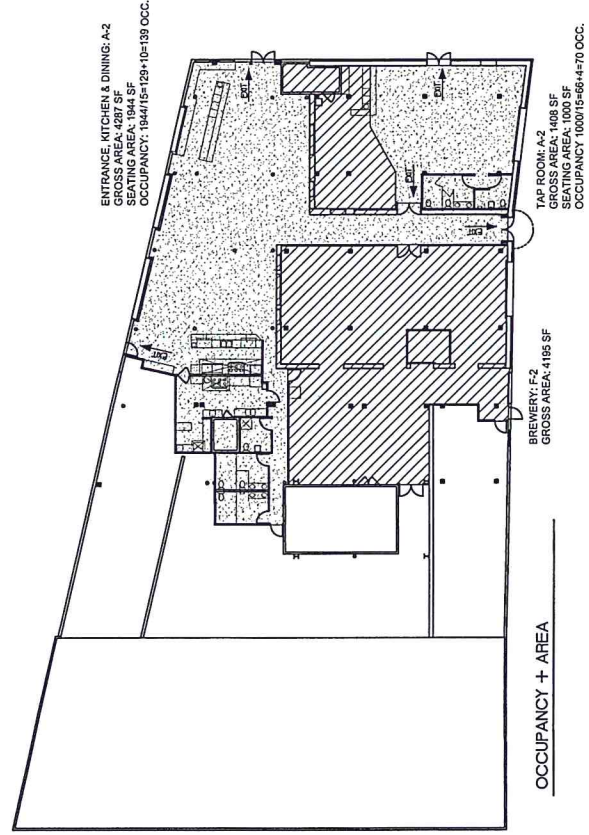
* The People Type Number is the relative pool of People impacting ingress and egress to the site.
* The Weekly and Monthly numbers are adjusted to reflect utilization in a broader time frame.

Revised

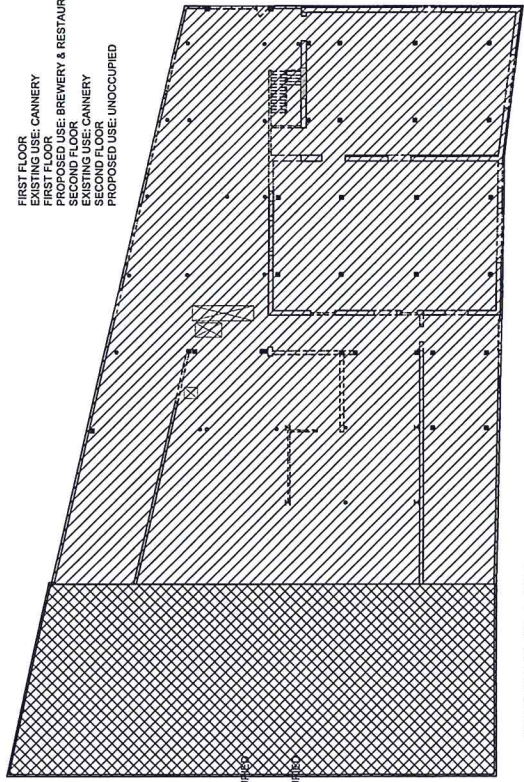
RECEIVED
 AUG 21 2013
 COMMUNITY DEVELOPMENT

CODE INFORMATION

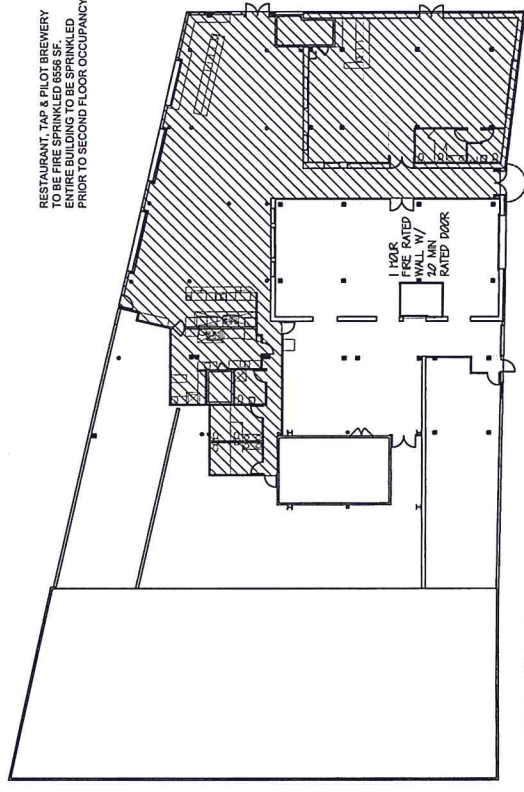
REVIEW OF THIS PROJECT IS SUBJECT TO:
 OREGON STRUCTURAL SPECIALTY CODE - 2010 EDITION
 NATIONAL FIRE PROTECTION ASSOCIATION 101 - 2012 EDITION
 OCCUPANCY CLASSIFICATION: MIXED WITH A-2 AND F-2
 OCCUPANCY SEPARATION: SPRINKLED - NONE REQUIRED
 TYPE OF CONSTRUCTION: TYPE I
 BUILDING AREA TOTAL SQUARE FEET: 21,317 SF
 AREA OF CONSTRUCTION: 9,890 SF
 A-2 OCCUPANCY LOAD: 194 OCCUPANTS
 F-2 OCCUPANCY LOAD: 25 OCCUPANTS
 ALLOWABLE AREA A-2: 11,500 SF
 FRONTAGE INCREASE: 21,079 SF
 SPRINKLER INCREASE: 21,079 SF
 TOTAL ALLOWABLE: 23,829 SF
 ACTUAL A-2 AREA: 5,695 SF
 ALLOWABLE AREA F-2: 13,000 SF
 FRONTAGE INCREASE: 23,829 SF
 SPRINKLER INCREASE: 23,829 SF
 TOTAL ALLOWABLE: 23,829 SF
 ACTUAL F-2 AREA: 4,195 SF
 FRONTAGE INCREASE:
 NORTH WALL 204 FEET WITH 30 PLUS FEET PUBLIC WAY
 SOUTH WALL 204 FEET WITH 25 FEET PUBLIC WAY
 WEST WALL 126 FEET WITH 25 FEET PUBLIC WAY
 EAST WALL 126 FEET WITH 25 FEET PUBLIC WAY
 TOTAL BUILDING PERIMETER=622 FEET
 622(222-029)25/90= 532968
 ALLOWABLE AREA CALCULATION:
 15000 + (11500 x .832968) + 0 = 21,079 SF
 F-2
 13000 + (13000 x .832968) + 0 = 23,829 SF



OCCUPANCY + AREA



EXISTING PLAN + USE



FIRE RATING + SPRINKLED AREA



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
ODOT District 01
350 W Marine Drive
Astoria, OR 97103
Telephone (503) 325-7222
FAX (503) 325-1314
craig.a.dean@odot.state.or.us

June 11, 2007

City of Astoria Planning Dept.
Attn: Rosemary Johnson
1095 Duane Street
Astoria, OR 97103



Rosemary,

After reviewing the plans for Mr. Bornstein's proposed Development, ODOT does not see any impact to the highway system that would require any mitigation and does not object to the City of Astoria approving Mr. Bornstein's proposal.

If you have any questions please let me know.

Sincerely,

Craig Dean
ODOT District 1
Permit Specialist
503-325-6490
Fax 503-325-1314

cc: Andrew Bornstein



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT

September 17, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER

SUBJECT: AMENDMENT REQUEST (A13-04) ON SOLAR ENERGY ORDINANCE

I. BACKGROUND SUMMARY

- A. Applicant: Brett Estes
Community Development Director
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Astoria Development Code by the addition of Article 16,
Solar Energy, to establish regulations and procedures for processing
solar energy permits
- C. Location: City-wide

II. BACKGROUND

In 2010, due to increased interest in locating wind energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. At that time, Department of Land Conservation and Development (DLCD) awarded a grant to the City to develop a model ordinance for both wind and solar energy that could be used for other coastal communities to specifically address impacts to the coastal environment. Staff, with the assistance of CREST, did research on these facilities and drafted an ordinance for Astoria Planning Commission (APC) review. The APC held several work sessions to discuss the various issues associated with these facilities. These work sessions included a field trip to several wind turbine sites in Clatsop County, open public meetings with input from citizens and industry representatives, and multiple drafts to address the APC direction and concerns. Staff finalized the model ordinance and closed out the DLCD grant which addressed the State's needs. Staff also developed a draft ordinance which included provisions that addressed the issues and direction of the APC. Following their review of this matter, the APC was generally interested in limiting wind facilities to the smaller mini and "micro" units in the City.

Due to the nature of the technology and the differences in wind and solar energy, the APC determined that the two issues should be separated and that they would complete

the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission, and City Council have held several more work sessions concerning the draft Solar Energy Ordinance. At its August 28, 2012 meeting, the APC discussed the draft with the inclusion of recent legislation (HB 3516) that requires cities and counties to allow certain solar energy facilities as outright uses. The APC directed staff to develop a code that would make the process easy, comply with State regulations, and address historic concerns. At its July 23, 2013 meeting, the APC accepted the draft ordinance as ready to be presented at a public hearing. The Historic Landmarks Commission (HLC) held a work session at its August 12, 2013 meeting and also accepted the draft as ready to be presented at a public hearing.

The proposed Solar Energy Ordinance established regulations and guidelines for installation of solar energy facilities within the City. It creates three levels of permit review including: Type I – Administrative review, Outright Use; Type II – Administrative review, Conditional Use; and Type III – Planning Commission review. The draft contains definitions, identifies prohibited facilities, and facilities that are exempt from permits requirements. The standards and review criteria include sections on environmental resources protection, historic resource protection, location, height, size, safety, lighting, maintenance, etc. It also addresses potential abandoned facilities, the procedures for processing a permit, notifications, and violation enforcement. The draft is in compliance with HB 3516 concerning allowance of solar energy facilities.

The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are *{italicized and bracketed}* that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities is included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design review are also proposed with this amendment. To simplify the process, the Historic Landmarks Commission recommended that historic review be the same level of review as the Administrative and Planning Commission reviews (i.e. Type I “over-the-counter” permit review would be a Type I historic “over-the-counter” review also, etc.).

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to Neighborhood Associations, various agencies, and interested parties on September 11, 2013. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on September 17, 2013. The proposed amendment is legislative as it applies City-wide. Any comments received will be made available at the Astoria Planning Commission meeting.

The APC's recommendation will be forwarded to the City Council for public hearing tentatively at the October 21, 2013 City Council meeting.

B. City Council

A public notice will be mailed to Neighborhood Associations, various agencies, and interested parties on September 27, 2013. In accordance with Section 9.020, a notice of public hearing will be published in the Daily Astorian on October 14, 2013. Any comments received will be made available at the City Council meeting.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020(A) states that *"an amendment to the text of the Development Code or the Comprehensive Plan may be initiated by the City Council, Planning Commission, the Community Development Director, a person owning property in the City, or a City resident."*

Finding: The proposed amendment to the Development Code is being initiated by the Community Development Director.

- B. Section 10.050(A) states that *"The following amendment actions are considered legislative under this Code:*

1. *An amendment to the text of the Development Code or Comprehensive Plan. . ."*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 6 concerning Historic Properties, Article 9 concerning Administrative Procedures, and to create Article 16 concerning Solar Energy. The Code is applicable City-wide. Processing as a legislative action is appropriate.

- C. Section 10.070(A)(1) requires that *"The amendment is consistent with the Comprehensive Plan."*

1. CP.005(5), General Plan Philosophy and Policy Statement states that local comprehensive plans *"Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve."*

Finding: The Development Code does not address solar energy facilities. With the increase in need and desire for alternative energy, the Code is proposed to be amended to include regulations, guidelines, and permit procedures for installation of solar energy facilities.

2. CP.010(2), Natural Features states that *"The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural*

topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged."

Finding: The location of solar energy facilities has the potential of impacting scenic views and vistas. The proposed ordinance establishes parameters for location of these facilities aimed at allowing the installation of solar equipment while protecting scenic views with height and size limitations, and the review of proposed perspectives to analyze the potential visual impact of the facilities.

3. CP.015(1), General Land & Water Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

Finding: The proposed ordinance allows for solar energy facilities while establishing standards for their size, location, and appearance to protect the character of residential and historic neighborhoods. As a regional tourist destination the City needs to protect its character while still allowing for modern services such as solar energy. With proper placement both goals can be achieved. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.185(G), Estuary and Shoreland Policies states that *"This subsection applies to uses and activities with potential adverse impacts on fish or wildlife habitat, both in Columbia River estuarine aquatic areas and in estuarine shorelands."*
 1. *Endangered or threatened species habitat shall be protected from incompatible development.*
 2. *Measures shall be taken protecting nesting, roosting, feeding and resting areas used by either resident or migratory bird populations.*
 3. *Major nontidal marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources within the Estuary Shorelands Boundary shall be protected. New uses in these areas shall be consistent with the protection of natural values, and may include propagation and selective harvest of forest products, grazing, harvesting, wild crops, and low intensity water-dependent recreation."*

CP.460(1), Natural Resource Policies states that *"The Plan land and water use designations will protect those areas that have high natural value, and direct intensive development into those areas that can best support it."*

CP.460(3) , Natural Resource Policies states that *"The City recognizes the importance of "trade offs" that must occur in the planning process. Although certain estuary areas have been designated for intensive development, other areas will be left in their natural condition in order to balance environmental and economic concerns."*

Finding: The proposed ordinance identifies the Natural Shoreland Zone (S-5) and the Sensitive Bird Habitat Overlay Zone (SBHO) as prohibited areas for solar energy facilities to protect these natural areas that are major protected habitat areas for wildlife and birds. The ordinance also identifies the Aquatic Conservation Zone (A-3) and Aquatic Natural Zone (A-4) as Restricted Zones for solar energy facilities. Both of these zones are designated to protect the natural environment especially the fish and estuary wildlife habitat. Astoria is home to several Eagle nests, a heron rookery, and many species of endangered fish and wildlife. The intent of the ordinance is to allow solar energy facilities while protecting these more sensitive habitat areas from any unnecessary intrusion. A section on environmental review requires that facilities be reviewed for their potential impact on environmental resources in all areas of the City.

5. CP.250(1), Historic Preservation Goals states that *"The City will Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

CP.250(3), Historic Preservation Goals states that *"The City will Encourage the application of historical considerations in the beautification of Astoria's Columbia River waterfront."*

CP.255(6), Historic Preservation Policies states that *"The City will make available to property owners information and technical advice on ways of protecting and restoring historical values of private property."*

CP.200(6), Economic Development Goals states that the City will *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

CP.205(5), Economic Development Policies states that *"The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements."*

Finding: The proposed amendment will adopt standards for installation of solar energy facilities on or adjacent to historic properties. The process would include three levels of historic review to allow some permits to be reviewed administratively "over-the-counter", some to be reviewed

administratively after public notification, and other permits to be reviewed by the HLC. The intent is to encourage the use of alternative energy while protecting the historic character of the structures and community. By allowing solar energy facilities, it aids in the adaptive reuse of buildings and provide an additional financial tool for property owners when restoring historic buildings. The code would provide citizens with direction on the correct design and method of installation for solar energy facilities. The code would also protect the scenic views of the Columbia River waterfront with standards for height and location of facilities. It establishes design standards that would protect historic neighborhoods and the many scenic views that bring visitors to the community.

6. CP.415(3), Energy Goals states that *"Encourage the use of solar energy wherever possible through the layout of new subdivisions, and through flexible application of the Uniform Building Code;"*

Finding: The proposed ordinance establishes regulations and a permit process for review of solar energy facilities within the City. It provides for three levels of permit review including an over-the-counter permit, administrative public review permit, and a permit through the Planning Commission. The City works closely with the Building Official to assure that the Uniform Building Code is applied evenly but with flexibility that allows for the encouragement of facilities such as solar energy.

7. CP.470(1), Citizen Involvement states that *"Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies."*

Finding: Throughout the process of drafting the proposed ordinance, the City has provided extensive public outreach. The APC has held numerous work sessions over the last three years with invitations and notices sent to interested parties, neighborhood associations, industry representatives, email lists, web site, etc. Anyone interested in the proposed ordinance was encouraged to submit suggestions and research on alternative energy and how Astoria should regulate it. Work sessions were open for discussion with the public to allow for interactive feedback at this early stage of the adoption process. Drafts were specifically sent to industry representatives and interested parties for additional input beyond the public work sessions. A joint work session with the APC and City Council was held on January 22, 2013 with a presentation by Energy Trust of Oregon explaining changes in the alternative energy industry. The following is a list of public work sessions and newspaper articles concerning the draft solar and wind energy ordinance:

June 22, 2009	APC
February 2, 2010	APC
March 23, 2010	APC
April 3, 2010	Daily Astorian article

April 20, 2010	HLC
April 27, 2010	APC site visits
May 4, 2010	APC & Daily Astorian article
May 25, 2010	APC update report
June 21, 2010	Daily Astorian article
June 22, 2010	APC
June 23, 2010	Daily Astorian article
August 3, 2010	APC
August 20, 2010	HLC
July 24, 2012	APC
August 28, 2012	APC
January 22, 2013	City Council & APC presentation by Energy Trust
July 23, 2013	APC
August 12, 2013	HLC
September 24, 2013	APC public hearing

The City was very conscious of the interest in alternative energy and the need to have an ordinance that would meet the needs of the citizens, protect the environment and historic resources, be in compliance with State regulations, and would be a permit process that was easy for both the citizens and staff.

Finding: The request is consistent with the Comprehensive Plan.

- D. Section 10.070(A)(2) requires that *"The amendment will not adversely affect the ability of the City to satisfy land and water use needs."*

Finding: The proposed amendment will satisfy land use needs in that it will allow for the installation of solar energy facilities that will provide alternative energy to buildings within the City. The ordinance will allow for three levels of permit review providing administrative permit reviews that will allow for quick review of permit applications. The opportunity for public input would be preserved in Type II & Type III reviews with specific parameters for Type I administrative reviews. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Astoria Planning Commission forward the proposed amendment to the City Council for adoption.

ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE ARTICLE 6 CONCERNING SOLAR ENERGY FACILITIES ON HISTORIC PROPERTIES, ARTICLE 9 CONCERNING ADMINISTRATIVE PROCEDURES, AND ADDING ARTICLE 16 ON SOLAR ENERGY SYSTEMS

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code Section 6.050.C.2.b, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

“10) Solar energy facilities as listed in Development Code Section 16.030.A as a Solar Permit Type I, Administrative Review, Outright Use.”

Section 2. Astoria Development Code Section 6.050.D.2, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

“n. Solar energy facilities as listed in Development Code Section 16.030.B as a Solar Permit Type II, Administrative Review, Conditional Use.”

Section 3. Astoria Development Code Section 9.010, Administrative Procedures, Application Information and Procedures, is amended with the addition to read as follows:

“F. Pre-Application Meeting.

Prior to submittal of an application, a pre-application meeting with the Community Development Director and/or the Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

G. Determination of Permit Process.

The Community Development Director may determine that a permit should be reviewed by a Commission/Committee in lieu of an Administrative Review to protect the best interests of the surrounding property or neighborhood or the City as a whole.”

Section 4. Astoria Development Code Section 9.020.B.1.g, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and replaced to read as follows:

“g. Historic District Establishment - Owners of property abutting or within the boundaries of the proposed District.”

Section 5. Astoria Development Code Section 9.020.B.1, Public Notice, Mailed Notice - Distribution, Time Requirements, is amended by the addition to read as follows:

“j. Wireless Communication Facility – 500 feet.

k. Solar Facility, Administrative Conditional Use – 100 feet.

l. Solar Facility, Planning Commission Conditional Use – 250 feet.”

Section 6. Astoria Development Code Sections 9.020.B.3 & 4, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and renumbered to read as follows:

“3. Notice shall be mailed not less than 20 days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 days prior to the first evidentiary hearing.”

Section 7. Astoria Development Code Article 16, Solar Energy Systems is added to read as follows:

Complete Article 16, Solar Energy Systems Ordinance attached to this document.

Section 8. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS ____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

ATTEST:

Mayor

Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

{This is a working draft. Italic notes will be removed from final code.}

{HB 3516 concerning solar facilities for cities has been incorporated into this draft.}

ARTICLE 16

STANDARDS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

16.005. PURPOSE.

The purpose of this ordinance is to promote renewable energy resources and provide a framework for the construction and operation of small scale solar energy systems in the City of Astoria, subject to standards which address the public health and safety of its residents. This ordinance will allow small scale solar energy systems with specific standards to protect the general public and preserve the historic, environmental, and aesthetic qualities of the City.

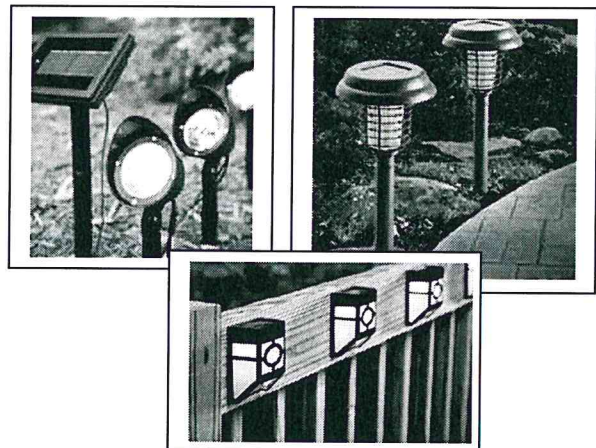
16.010. APPLICABILITY.

- A. All small scale solar systems located within the City of Astoria, whether upon private or public lands shall comply with the requirements of Article 16.
- B. Except as noted in Section 16.025.B, "Zoning Permit", the provisions of this Article do not apply to the following facilities. However, if located on a historic property, the facility would still require historic design review.

1. A solar facility meeting all of the following:

- a. less than four (4) square feet; and
- b. mounted parallel to the slope of the roof on which it is installed (less than 1' above the plane of the roof); and
- c. located on a non-primary elevation of a structure that is not highly visible from the streetscape.

2. A solar facility of less than one (1) square foot each mounted on a structure to produce light such as a fence post or landscape/walkway lighting.



16.015.

DEFINITIONS.

{Industry definitions refer to kWh. The technology is changing quickly and the kWh is not what is being controlled by this ordinance. The key issues are impacts on neighborhoods, aesthetic qualities, and the environment. Therefore, this code defines the features by visual size and location as there may be ways to increase kW with smaller units in the near future.}

CAMOUFLAGE: A way of painting and mounting a solar facility and/or support structure, resulting in the structure being reasonably difficult for the naked eye to detect or observe.

GRANTING AUTHORITY: The Community Development Director or designee, Astoria Planning Commission, Historic Landmarks Commission, and/or the Design Review Committee who review and approve land use requests.

GUYED TOWER: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

HIGHLY VISIBLE: The degree by which a facility is visible from the street shall be determined by whether the facility can be seen from a moving vehicle traveling at the posted speed limit at a distance of greater than 100' from the subject property. Initial visibility at a shorter distance shall be deemed not to be highly visible.

LATTICE TOWER: A vertical support structure consisting of a network of crossed braces, forming a tower which may be three, four, or more sided.

MONOPOLE: A vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube, or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

NON-RESIDENTIAL UTILIZED PROPERTY: Property within a residential, neighborhood commercial, or attached-housing zone that is not used for residential purposes. Such property includes, but is not limited to, schools, churches, public parks, public safety facilities, and streets and highways. A public or privately owned vacant lot in a residential zone shall be not be considered non-residentially utilized property as the capacity for residential use exists.

PHOTOVOLTAIC PANEL: A device used for the collection and/or production of electric power through the conversion of light to electric power by semiconductor devices. For the purposes of this Code, it will also refer to tubular designs. *{need to either define separately or add here for tubular.}*

PRIMARY ELEVATION: For the purposes of the Solar Energy Ordinance, the primary elevation shall be any elevation (front, side and/or rear) that has frontage on an improved public right-of-way.

RESIDENTIAL UTILIZED PROPERTY: Property within any zone that is used primarily for residential purposes such as, single-family dwelling, two-family dwelling, multi-family dwelling, condominium, townhome, etc.

SHOULD: A requirement, unless it can be shown that to comply with the requirement would be unreasonable, impractical, or unfeasible. Economic hardship alone shall not be justification for noncompliance with the requirement, but may be considered in conjunction with other reasons for noncompliance.

SOLAR FACILITY: Small scale solar energy system.

{This definition is included to avoid repeating "small scale solar energy system" throughout the entire document.}

SMALL SCALE SOLAR ENERGY SYSTEM: Facility for the collection of solar energy either ground mounted facilities of less than 1,000 square feet combined total area, or roof mounted of less than the square footage of the total roof area. Solar water heater and solar thermal energy system is included in this definition.

SOLAR THERMAL ENERGY: Technology which harnesses solar energy to produce useful heat for residential, commercial, and industrial uses. Solar thermal systems absorb the sun's radiation in flat plate collectors, much like the road absorbs sunlight. There, a heat transfer fluid is circulated through the collectors, heating it to temperatures as high as 200° Fahrenheit. The heated fluid can be used for domestic hot water, industrial process heat. or for space heating. Solar thermal systems do not produce electricity.

SOLAR WATER HEATER: Facility for heating water that generally contains a solar collector and a storage tank for water.

SPECULATION ("SPEC") TOWER / SUPPORT STRUCTURE: A solar facility support structure designed for the purpose of providing location mounts for solar facility without a binding commitment or option to lease a location upon the tower by a licensed service provider at the time of initial application.

16.020. PERMITTED LOCATIONS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

- A. Solar facilities are permitted in all zones established as of July 2013 within the City through the Conditional Use and/or Administrative Review process in accordance with Astoria Development Code Article 9 except the following.
 - 1. Prohibited Zones.
 - a. Natural Shorelands (S-5)
 - b. Sensitive Bird Habitat Overlay (SBHO)
 - 2. Restricted Zones.

a. Aquatic Conservation (A-3)

Solar facilities may be located on residential and commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

b. Aquatic Natural (A-4)

Solar facilities may be located on commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

{With HB 3516, we must allow solar facilities wherever we allow residential and commercial buildings. These zones are conservation and natural but have limited development allowable uses. HB 3516 does allow some limitations in areas designated as "significant scenic resources" with certain design limitations. We do not have any significant scenic resources designated at this time. This would also be consistent with the goals of the existing Comprehensive Plan and the Riverfront Vision Plan for these areas.}

B. Large Scale Solar Energy Systems.

Solar Energy systems that do not meet the definition of "small scale" as defined in this Code are prohibited within the City.

C. Location, Siting, and Designs in Preferred Priority Order.

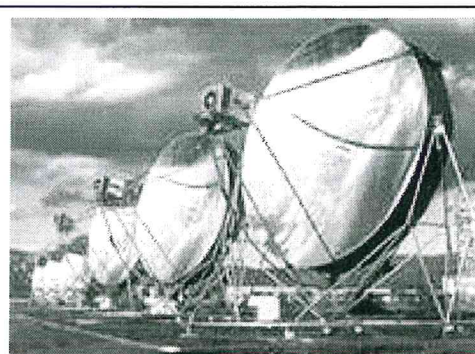
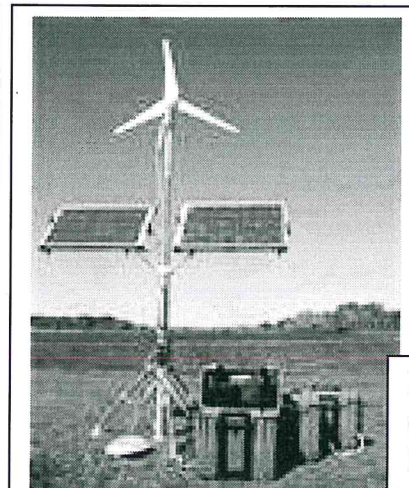
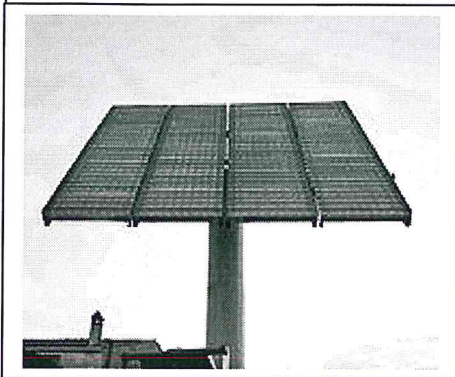
1. Camouflaged / Concealed Design;
2. Location on Existing Support Structure or Existing Alternative Support Structure;
3. Location on New Support Structure;
4. Location within Restricted Zones.

D. Prohibited Structures.

The following structures are prohibited:

1. Lattice and guyed wire towers and support structures.
2. Speculation ("spec") support structures.

{The APC determined that a specific height should not be prohibited and to deal with the taller facilities on a case by case basis. Solar does not need the height associated with wind turbines. See the examples below.}



Examples of freestanding solar units that could possibly be prohibited based on height.

E. Number of Facilities.

Only one solar facility, other than those listed in 16.030.A.1 below, {HB 3516 exemptions} is allowed per site of less than one acre. Sites of greater than one acre may have multiple facilities at a ratio of one facility per 0.25 acre. Sites may contain both a solar and wind facility.

16.025. PERMITS REQUIRED.

A. Building Permit.

A building permit is required for each solar facility in accordance with the requirements of the Building Codes as adopted by the City. A building permit will not be issued until all land use approvals have been obtained; any associated conditions have been met; and all other applicable local, State, and Federal approvals have been secured.

B. Zoning Permit.

A Solar Energy Permit is required for each solar facility regardless of outright or conditional use classification.

{HB 3516 allows for permit review but no fee for the exempt facilities listed in 16.030.A.1.a below. This permit process will allow for verification of compliance with codes and for tracking locations of facilities for emergency services safety.}

C. Historic Design Review.

All solar facilities proposed to be located on or adjacent to properties designated as historic or within or adjacent to a historic district shall obtain approval from the Historic Preservation Officer or the Historic Landmarks Commission (as applicable) prior to the issuance of a building permit. Historic design review shall be in accordance with Development Code Article 6 and Section 16.040.B.

{May need to amend Historic Preservation Ordinance to allow staff review of some facilities. Draft amendment is attached.}

D. Exception.

Solar facilities installed by the City, County, and/or Oregon Department of Transportation for traffic control devices to which they are attached are exempt from the permit requirements. Other solar facilities are still subject to the standards of this Code.

16.030. ZONING PERMIT REVIEW.

A. Type I Permit, Administrative Review – Outright Use.

The following solar permit applications may be reviewed administratively in accordance with Article 16 as an outright use permit.

{“Highly visible” is generally discretionary but with the definition provided, it clarifies what is and is not considered as highly visible. The APC determined that “not highly visible from a street scape” is clear and concise enough for administrative outright review based on the definition.}

1. Roof-mounted Facilities.

A solar facility may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Roof-mounted photovoltaic panels and solar thermal energy systems located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that:

- a) does not increase the footprint of the structure; and
- b) does not exceed the peak height of the portion of the roof on which it is installed; and
- c) is mounted so that the plane of the system is parallel to the slope of the roof.

{HB 3516 allows the restriction to “a residential zone” but if a property is developed as residential, the APC determined it does not matter if it is a non-conforming use in that zone. As opposed to “residential” non-conforming structures, commercial non-conforming structures could be an intrusion into a residential zone and it may be best to keep the allowable language per HB 3516}

{HB 3516 language – they use the term “commercial” which could be limiting when looking at other uses such as public or industrial. Suggest using the same term we use in Wireless Communication Facility Ordinance which is “non-residential”}

- b. Roof-mounted solar water heaters located on any structure that:
 - 1) heat water for that structure; and
 - 2) are less than 25% of the roof area on which they are located; and
 - 3) are not on a primary elevation; and
 - 4) are not highly visible from the street scape.

2. Freestanding Facilities:

A freestanding solar facility mounted on poles or the ground may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

- a. Photovoltaic panels and solar thermal energy systems mounted on poles or the ground that:
 - 1) generate power for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6’ on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10’ in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.

{The 6’ for residential was used based on the allowable 6’ height for a fence in that zone. The 10’ height and 100 sqft are based on the size of small utility buildings allowed in residential areas.}

- b. Solar water heaters mounted on poles or the ground that:
 - 1) heat water for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6’ on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10’ in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type I Administrative Review Solar Permits, historic design review shall be processed as a Type I Certificate of Appropriateness in accordance with Article 6, if it also complies with the following:

a. Roof-mounted Facilities.

- 1) generate power for that structure; and
- 2) are less than 25% of the roof area on which they are located; and
- 3) are not on a primary elevation; and
- 4) are not highly visible from a street scape.

{the intent is that if the permit is reviewed as Type I for zoning, it would also be Type I for historic review to keep the review as simple and quick as possible}

B. **Type II, Administrative Review – Conditional Use.**

A Solar Energy Permit application may be reviewed administratively in accordance with Article 9 as a conditional use permit. The Community Development Director may determine that a permit should be reviewed by the Planning Commission in lieu of an Administrative Review.

1. Roof-mounted Facilities.

A roof-mounted solar facility may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

{These are the ones HB 3516 does not exempt. As noted above, the APC determined that solar facilities on non-conforming residential properties are allowed. It would be important to review non-conforming commercial structures in residential areas more than non-conforming residential noted above. }

- 1) increases the footprint of the structure; or
- 2) exceeds the peak height of the portion of the roof on which it is installed; or

- 3) is mounted so that the plane of the system is not parallel to the slope of the roof; or
- 4) is located on a non-residential structure in a zone that does not allow non-residential structures.

b. Solar water heaters.

Installation of a solar water heater system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) heat water for that structure; and
- 2) are less than 50% of the roof area on which they are located.

2. Freestanding Facilities.

A freestanding solar facility mounted on poles or the ground may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic energy system or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) generate power for that structure or adjacent uses; and
- 2) do not exceed 100 square feet in area; and
- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

{The APC determined to allow pole mounted facilities and limit the height, but allow for variances on a case by case basis. The 10' height and 100 sqft are based on the size of small utility buildings allowed in residential zones. The 20' height in non-residential zones is similar to a two story building which is the most common height of non-residential buildings in Astoria.}

b. Solar water heaters.

Installation of a freestanding solar water heater system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) heat water for that structure; and
- 2) do not exceed 100 square feet in area; and
- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type II Administrative Conditional Use Review Solar Permits, historic design review shall be processed as a Type II Certificate of Appropriateness permit in accordance with Article 6, if it also complies with the following:

a. Roof Mounted, Freestanding, and/or Solar Water Heater Facilities

- 1) are not highly visible from a street scape.

{the intent is that if the permit is reviewed as Type II for zoning, it would also be Type II for historic review to keep the review as simple and quick as possible}

C. Type III, Commission Review.

1. Planning Commission.

All solar permit applications that do not meet the criteria noted above to be reviewed administratively, shall be reviewed by the Planning Commission in accordance with Article 9 as a conditional use permit.

{Type III review would allow for review of facilities not specifically identified above. This allows for changes in the industry and for different applications such as a community solar facility.}

2. Historic Landmarks Commission.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. In addition to the required conditional use permit review, all solar permit applications that do not meet the criteria noted above to be reviewed administratively as a Type I or Type II Certificate of Appropriateness, shall be reviewed by the Historic Landmarks Commission in accordance with Article 6 as an Exterior Alteration or New Construction permit, as applicable.

16.035. APPLICATION SUBMITTAL REQUIREMENTS.

A. All applications for permits for the placement and construction of solar facilities, except those listed in Section 16.010.B shall be accompanied by the following:

1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
3. If mounted on a tower, data pertaining to the tower's safety and structural stability, including safety results from test facilities.
4. An accurate and scaled site plan, scaled elevation views, and other supporting drawings illustrating the location and dimensions of the proposed solar facility, including but not limited to:
 - a. Support structure(s)
 - b. Alternative support structure(s)
 - c. Equipment enclosures
 - d. Any and all other devices and attachments.

Not required for facilities listed as Outright in Section 16.030.A. {HB 3516}

5. If Federal funds are involved, evidence demonstrating that the applicant has filed a request with the State Historic Preservation Office (SHPO) to review the application under Section 106 of the National Historic Preservation Act (NHPA), or evidence demonstrating that the applicant has complied with all State Historic Preservation Office requirements as a result of the Section 106 consultation.
6. Payment of fees.

Not required for facilities listed as Outright in Section 16.030.A. {HB 3516}

7. All such additional information as the Community Development Director may identify as being relevant to the permitting process.

8. No small scale solar energy systems shall be constructed or operated within the City limits until all necessary City, State, and Federal approvals have been secured. Evidence of approvals shall be provided to the City.
9. Manufacturer information on the reflective nature of the solar facility to evaluate the potential light reflection into adjacent properties and rights-of-way.

Not required for facilities listed as Outright in Section 16.030.A.

{This is to determine the impact of different facilities relative to the light reflected from the material used onto adjacent properties.}

10. Visual impact analysis and demonstrations including mock-ups and/or photo simulations from at least three (3) directional perspectives. Simulations should include:

- a. Perspectives from all directions that could impact view corridors;

{If we eliminate the tall freestanding facilities, we could eliminate Section 10.a and avoid the reference to view corridor, and just deal with the roof mounted facilities in 10.b.}

- b. Perspectives from above the site for roof mounted facilities;

Not required for facilities listed as Outright in Section 16.030.A. *{HB 3516}*

{Outright Use Consideration: These perspectives would assist in the determination of whether a facility is "highly visible" for outright uses. If the "highly visible" criteria is removed from the outright use section, this Item should state "Not required for facilities listed as Outright in Section 16.030.A." . . . }

OR, . . . Should this just apply to freestanding facilities and those on roofs that exceed the height of the roof? Somehow need to determine the visibility of the facility.}

11. Landscape and/or screening plan as required by Section 16.040.E.
12. Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Article 16. Only one copy shall be submitted for Type I and Type II applications reviewed administratively as an Outright Use and/or Administrative Conditional Use. For Type III applications requiring Planning Commission Conditional Use review, ten (10) copies shall be submitted. Digital copies of plans and required information is encouraged.

{Some cities are requiring an energy audit prior to installation of wind turbines or solar facilities as the energy efficiency impact is sometimes greater by performing interior

conservation methods such as insulation of attics. The APC determined that "efficiency" should not be a requirement to have alternative energy facilities.}

- B. All applications for solar facilities specified in Section 16.010.B.1 shall be accompanied by the following:
1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
 2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
 3. Photo of the proposed location as viewed from the street.

16.040. STANDARDS AND REVIEW CRITERIA FOR SOLAR FACILITIES.

All applications for solar facilities, including solar water heaters, shall demonstrate compliance and conformity with the following requirements. The burden of proof is on the applicant to demonstrate such compliance and conformity. Section 16.040.B shall be reviewed by the Historic Landmarks Commission. All other standards and review criteria shall be reviewed by the Community Development Director and/or the Astoria Planning Commission, as applicable.

A. Environmental Resource Protection.

All solar facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all small scale solar energy systems:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Columbia River Estuary Shoreland Overlay (CRESO), Sensitive Bird Habitat Overlay (SBHO), National Environmental Policy Act (NEPA), and Endangered Species Act (ESA);

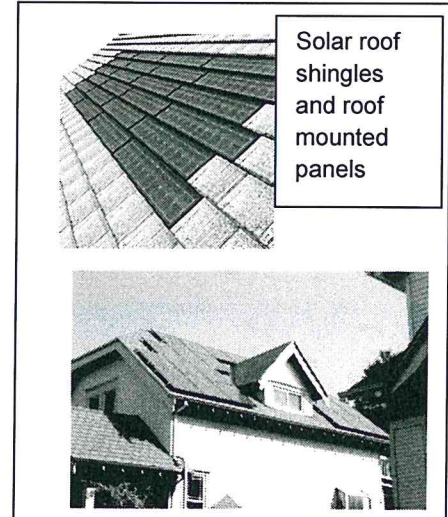
B. Historic Resource Protection.

{These standards are based on recommended standards from the National Trust for Historic Preservation, National Park Service, and National Alliance of Preservation Commissions.}

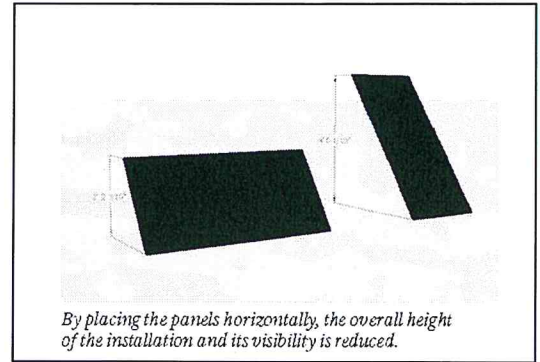
All solar facilities shall be sited so as to minimize the impact on historic resources both structurally and visually. To that end, the following measures shall be implemented for all solar facilities and shall be reviewed by the Historic Landmarks Commission or Historic Preservation Officer, as applicable:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Astoria Historic Properties Ordinance and National Historic Preservation Act (NHPA).
2. Roof mounted solar facilities should be located on non-primary roof elevations of historic buildings, and shall be located back from the eave of the roof so as to be as inconspicuous as possible. If location on a primary elevation is proposed as the only alternative, the facility should be hidden behind existing architectural features when possible.
3. Freestanding solar facilities shall not be located on a primary elevation of a historic site nor within the historic streetscape of the neighborhood within a Historic District or Historic Inventory Area regardless of the historic status of the individual site if the facility would be highly visible. Freestanding solar facilities shall be considered prior to proposal for alteration to a historic structure. They shall be screened from view of the streetscape by fence or landscaping.
4. Solar facilities shall be located on newer additions or accessory buildings before location on the historic structure.
5. Consideration should first be given to alternative solar facilities such as shingle cells or other materials that are less intrusive. The applicant shall provide information concerning the other materials considered and the reason why they are not being proposed.

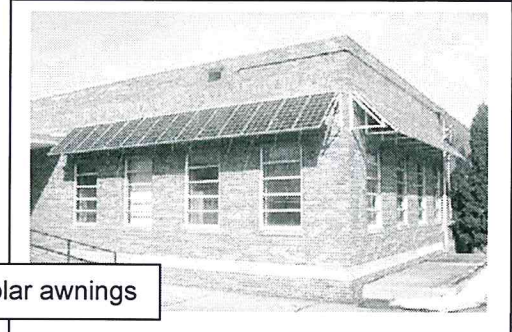
{this has been an issue in other cities in that solar shingles are less visible and may have been a better solution than large roof mounted panels. we should look at whether we want to consider these options first.}



6. Roof mounted solar facilities shall be mounted horizontal and not vertical to reduce the visual impact from the ground. The vertical tilt shall be the minimum needed to obtain efficiency of the facility. For facilities with multi-tilt angles, the maximum angle at any given time shall maintain minimal visibility from the ground level.



7. Solar facilities may be incorporated into architectural features such as awnings or other building features on non-primary elevations.



8. The color of the solar facility including mounting equipment and mechanical equipment shall be compatible with the historic material background color so as to blend in with the historic character of the site, and/or landscaping.
9. Mechanical equipment necessary for solar facilities such as solar water heaters, etc. shall be screened from view.
10. Historic material and architectural features shall not be removed or damaged with the installation of a solar facility.

{Need to amend Article 6 to allow these reviews and by what granting authority.}

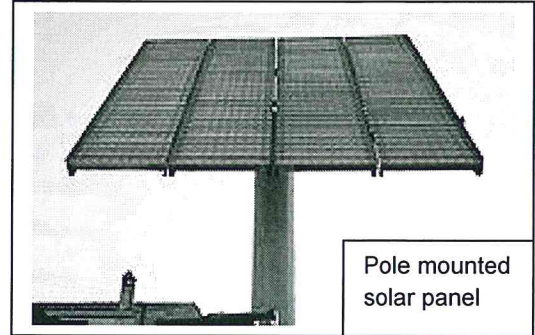
C. Color and Materials.

1. All buildings, poles, support structures, and other associated components of each solar facility site shall be initially coated and thereafter recoated as necessary with a non-reflective neutral color in muted tones.
2. The color selected shall be one that will minimize visibility of the solar facility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees, or grasslands shall be coated with colors matching those landscapes (i.e. green, brown, tan, etc.), while elements which rise above the horizon shall be coated a color that matches the typical overcast sky (i.e. white, light gray, etc.), or the background color at that location.
3. The color and coating shall be reviewed and approved by the granting authority.

4. Upon a clear showing by the applicant that compliance with the requirements of this Section would void a manufacturer's warranty on any specific equipment, or that natural aging of the material would provide greater concealment, the granting authority may waive the requirements of this Section for such specifically identified equipment.

D. Height.

Solar facilities shall comply with the maximum structure height limitations of the underlying zone and shall comply with the following height requirements, unless a variance is obtained:



1. The height of the facility shall be calculated from grade level to the maximum height of all elements including a fully extended solar panel.

(Solar units do not need to be as tall as wind and therefore should not need variances as often, if ever. The APC determined that variances could be considered on a case by case basis.)

2. Maximum height.

- a. Residential.

Freestanding solar facilities shall not exceed a maximum height of 10' on residential utilized properties or in residential developed areas or zones.

- b. Non-Residential.

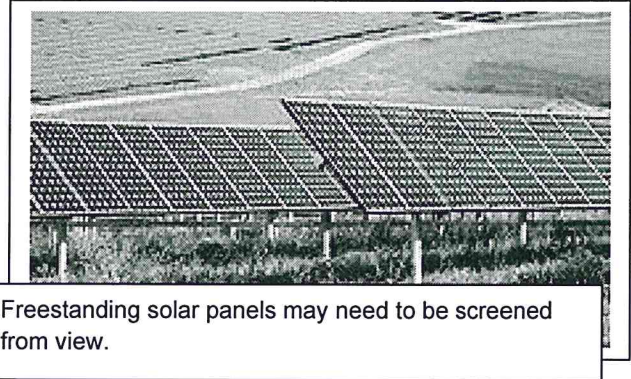
Freestanding solar facilities shall not exceed a maximum height of 20' in non-residential developed areas or zones.

- c. If there is not a height limit in the underlying zone, the maximum height of a facility on a structure shall be 45' feet.

3. Building or other structure-mounted solar facilities shall not project more than ten (10) additional feet above the highest ridge of the roof on the building or structure.

E. Landscape and Screening.

Ground mounted solar facility sites greater than 100 square feet in area shall be improved with native vegetation, suitable landscaping, and/or fencing installed to screen the facility, where it is necessary for visual and/or security buffering. To this end, the following requirements shall be implemented for all freestanding solar facilities which are installed on ground support structures:



1. Landscaping.

- a. A landscape plan, meeting the requirements of Development Code Sections 3.105 to 3.120, shall be submitted as part of the application.
- b. Any proposed or required fenced area is to be surrounded, where feasible, by a landscaped strip of sufficient width (minimum five feet wide) and height to create a visual screen. Required landscaping shall be located outside of the fenced area.
- c. A majority of the planted vegetation shall be of an evergreen variety.
- d. The location of the landscape buffer may be at any distance from the facility to create a visual buffer. The landscaping does not need to be directly adjacent to the facility.
- e. The landscape plan shall be subject to review and approval of the Community Development Director.

2. Fences.

A fence may be needed for security and/or to enclose ground mounted equipment to minimize the visual impact on surrounding properties. If it is determined that a fence is required, it shall comply with the following:

- a. The fence shall be a maximum of six (6') feet in height.
- b. The fence shall, where feasible, be installed and maintained around the entire perimeter of the site and surround the solar facility and equipment shelter.

- c. If the granting authority determines that a fence surrounding support structures is not feasible, such structures may be exempted from the fencing requirements of this Section.
- d. Chain link fences shall be powder coated with a non-reflective color. If a chain link fence is used for visual buffering, it shall contain slats in the chain linking.
- e. Electric, barbed wire, and concertina wire fences are prohibited.

F. Setback.

All solar facilities shall comply with the required setback area of the underlying zone, unless a variance is obtained.

G. Access Driveways and Parking.

New or additional access driveways and parking areas shall not be allowed for solar facilities for single or two-family dwellings, or within a residential developed area or zone. When an access driveway or parking area is needed for installation, maintenance, or operation of a solar facility in other than residential applications, the following shall apply:

(The APC determined it applies to residential zones and any residentially "developed" area regardless of zone.)

- 1. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the City's Engineering Department Standards, Development Code, and City Codes.
- 2. Existing driveways shall be used for access whenever possible.
- 3. New parking areas shall, whenever feasible, be shared with other solar facilities and/or other permitted uses.

H. Lighting.

- 1. Solar facilities shall only be illuminated as necessary to comply with FAA or other applicable State and Federal requirements. Documentation from such State and Federal agencies describing required compliance measures is required.
- 2. Required exterior lighting shall not glare onto other properties or rights-of-way.
- 3. Strobe lights are prohibited unless required by FAA.

I. Signs and Advertising.

1. Appropriate warning signage shall be placed on solar facilities, electrical equipment, and facility entrances, as needed.
2. For emergency purposes, equipment information limited to the solar facility provider(s) name and contact phone number shall appear at the facility in a discreet yet visible location, either on the equipment cabinet or supporting structure.
3. The use of any portion of a solar facility for signs or advertisements other than warning or equipment information signs is strictly prohibited.

J. Underground Utilities.

All wiring between solar facilities and a structure or energy facility substation, shall be installed underground.

~~K. Safety and Insurance.~~

~~For freestanding solar facilities of 20' or greater in height, the following shall apply:~~

- ~~1. Prior to issuance of a building permit, the applicant shall provide the City proof of a level of insurance in an amount established by the City, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The facility owner shall maintain the required insurance as long as the solar facility is located at the site.~~
- ~~2. Prior to expiration of the policy, the applicant/owner shall submit proof of insurance to the Community Development Department periodically as the insurance policy is renewed.~~

~~(should the City be named on the insurance policy when in close proximity to a City right-of-way or facility? We will check with the City Attorney on this. We do require insurance on private use of our facilities such as the trolley line.)~~

~~{the City Attorney has indicated that by requiring insurance, that the City is adding risk and liability to the City in determining the amount and/or type of insurance required, and to monitor that the insurance is maintained. He recommends that this section be deleted.}~~

16.045. MONITORING AND MAINTENANCE.

A. Compliance Testing.

All solar facilities shall comply with all Federal, State, and local regulations. The City at any time may require evidence of testing of a facility to determine if the facility is in compliance with all applicable Federal, State, and local regulations. Such measurements shall be signed and certified by a registered engineer, stating that measurements or calculations are accurate and meet the standards of this Code.

All testing shall be at the cost of the solar facility owner(s). Failure to cooperate with the City in performing such testing shall be adequate basis for revocation of the permit.

{This is similar to the requirement for wireless communication facilities. It gives the City the ability to require the owner to have the facility tested should the City question if there are problems with its operation. With the production of electricity there is a greater threat to safety should the facility short or fail.}

B. Maintenance.

The applicant, co-applicant, and/or property owner shall maintain the solar facility. Such maintenance shall include, but shall not be limited to, painting/coating, maintaining structural integrity, landscaping, and other conditions of approval. In the event the applicant, co-applicant, and/or property owner fails to maintain the facility in accordance with permit conditions, the City of Astoria may undertake the maintenance at the expense of the applicant or underlying property owner. Violations of the facility required maintenance conditions shall be declared a nuisance and abated in accordance with the City Code Sections 5.700 to 5.728. Enforcement of the continued maintenance of the structure shall be processed as a nuisance or by any other manner provided by law.

{The APC agreed that violations should be declared a nuisance and be subject to the City Code Nuisance Abatement ordinance.}

C. Revocation of Permit.

Any facility not in compliance with all applicable Federal, State, and local regulations shall be removed, upon failure to bring the facility into compliance within thirty (30) days after written notice. The permit may be suspended or revoked for non-compliance.

16.050. GENERAL AND OPERATING REQUIREMENTS.

A. Owner and Applicant Responsibilities.

The owner and applicant of the solar facility and his or her successors and assigns at all times shall have the following responsibilities:

1. The owner shall coordinate planning for energy projects with public and privately-owned electric utility companies, with independent developers, and with State and Federal agencies, including but not limited to the Oregon Department of Energy (ODOE), the Oregon Water Resources Department (OWRD), the Northwest Power Planning Council (NPPC), Bonneville Power Administration (BPA), the Bureau of Land Management (BLM), and the United States Forest Service (USFS).
2. The applicant shall ensure that sufficient anti-climbing measures have been incorporated into the solar facility, as needed to reduce potential for trespass and injury.
3. To limit climbing access, a fence six (6') feet high with a locking portal shall be placed around the facility's tower base or the tower climbing apparatus shall be limited to no lower than twelve (12') feet from the ground or the facility's tower may be mounted on a roof top.

16.055. ABANDONMENT.

A. Notice of Abandonment.

1. City Issued Notice of Abandonment.

A solar facility that is out-of-service for a continuous twelve (12) month period shall be deemed to have been abandoned. The Community Development Director shall issue a Notice of Abandonment to the owner of a solar facility that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date the Notice is mailed.

The Community Development Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the solar facility has not been abandoned.

2. Abandonment by Owner.

At such time that a solar facility provider plans to abandon or discontinue, or is required to discontinue, the operation of a solar facility, such provider shall notify the Community Development Director by Certified United States Postal Service mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations.

B. Removal of Abandoned Facility.

Upon abandonment or discontinuation of use, the owner shall physically remove the solar facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of solar panels, towers, mounts, equipment cabinets, security barriers, and foundations including entirety of depth of the foundation located below ground surface.
2. Restoring the location of the solar facility to a condition acceptable to the Community Development Director, except any remaining landscaping and grading. During such 90 days, the owner may apply, and for good reason, be granted an extension of time on such terms as the Community Development Director or Building Official shall determine appropriate.

C. Failure to Remove Abandoned Facility.

If such structure and equipment enclosure are not removed, as indicated in this Section, the facility may be deemed to be a nuisance, and the City may remove the facility and/or may seek and obtain a court order directing such removal and impose a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal, including any administrative costs in accordance with City Code Sections 5.700 to 5.728 concerning Nuisances and Abatement.

D. Penalties.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored support structures, failure to remove an abandoned facility as required by this Section shall constitute a violation and be subject to the penalties prescribed in Astoria City Code "Penalty and Violation Provisions" in Sections 1.008 to 1.015, in addition to any other methods of enforcement available to the City.

16.060. FEES.

Applicant shall pay the filing fee as set by the City at the time of submission of an application. Actual costs incurred in processing the application shall be billed from the filing fee. Should actual costs exceed the application fee, the City shall bill the applicant for the difference.

In accordance with ORS 227.175, no zoning permit fees shall be charged for applications for solar facilities listed in Section 16.030.A.1. *{HB 3516 prohibits fees for these}*

The City shall determine all expenses and return any remaining filing fee as follows:

1. Approved Permit.

Upon final inspection and after all conditions have been met.

2. Denied and/or Withdrawn Application.

After all appeals have been exhausted and a final determination made.

{It is recommended that exempt permits listed in 16.030.A.1 be free in accordance with HB 3516; an administrative outright use permit be a fee of \$250; administrative conditional use and Planning Commission conditional use permits should be a fee of \$400 plus a \$600 deposit.}

16.065. BONDING.

The City may require that the applicant for a solar facility furnish to the City a performance bond up to, and not to exceed, the anticipated cost to dismantle the facility and restore the site. The bond may be required to assure that the approval criteria and conditions imposed are completed in accordance with the plan and specifications as approved, and that the facility would be removed if the project is not completed as approved.

The bond shall be released only after final inspection and all conditions have been met.

Not required for facilities listed as Outright in Section 16.030. *{HB 3516}*

{A bond should be held until the facility is fully installed, meets all conditions of the permit, and is operational.}

16.070. TECHNICAL EXPERT SUPPORT.

- A. The Community Development Director may employ, on behalf of the City, an independent technical expert to review any technical materials submitted including, but not limited to:
1. materials required under Article 16; or
 2. technical demonstration of unavoidable need or unavailability of alternatives, if required; or
 3. to determine the condition of an existing solar facility.
- B. The costs associated with the independent technical expert review shall be at the expense of the solar facility owners and/or applicants.

16.075. PROCEDURES. *{This section will refer to Article 9 which is the chapter that deals with all land use procedures. Specific items unique to solar permits are included here and not in Article 9.}*

A. Application.

Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Section 16.035.

B. Mailed and Published Notice.

For applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9.

1. Notice to Other Agencies.

In addition to the notices required in Article 9, for applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice to other agencies shall be sent to the City of Astoria Fire Department, United States Fish and Wildlife, Columbia River Estuary Study Taskforce, and any special districts, and local, State, or Federal agency that may have an interest in the proposed application. Written comments will be incorporated into the record of the public hearing.

2. Display Ad.

For Type II applications, in addition to the required public notice in Article 9, the City shall publish a display ad of not less than four (4) square inches in a newspaper of general circulation in the City of Astoria at the expense of the applicant. The notice shall set forth the required information pertinent to the application.

{The APC was split on whether a display ad should be required. They finally agreed to include the requirement to provide as much public notification as possible.}

C. Decision.

1. Type I Permit - Outright Use Review.

A decision shall be made by the Community Development Director after a determination is made that the requirements of Article 16 have been met.

2. Type II Permit – Administrative Conditional Use Review.

A decision shall be made by the Community Development Director after the notice period and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. A decision of the Community Development Director may be appealed to the Planning Commission in accordance with Article 9.

3. Type III Permit – Conditional Use Review and Historic Landmarks Commission Review.

A decision shall be made by the Commission after a public hearing is held and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. In addition to the requirements of Article 16, historic design review shall also include findings of fact that the applicable requirements of Article 6, Historic Properties Ordinance, have been met. A decision of the Commission may be appealed to the City Council in accordance with Article 9.

D. Notice of Decision.

For all permit applications, in addition to the requirements of Article 9, written notice of the decision shall be provided to the Clatsop County Assessment and Taxation Department, and the Astoria Fire Department.

{AFD is included so that they can start an inventory of properties with solar energy facilities. These facilities continue to produce electricity while firefighters are at the scene and can cause electrical shocks. This will allow the fire department to prepare and know before they arrive on the scene of the presence of electrical current.}

16.080. APPEALS.

A decision of the Granting Authority made pursuant to this Article may be appealed in accordance with Astoria Development Code Article 9.