



AGENDA

ASTORIA PLANNING COMMISSION

June 25, 2019

6:30 p.m.

2nd Floor Council Chambers
1095 Duane Street • Astoria OR 97103

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a) May 7, 2019
 - b) May 28, 2019
4. PUBLIC HEARINGS
 - a) **APC discussion and deliberation continued from the May 28, 2019 meeting:* Conditional Use Request (CU19-04) by Stewardship Homes LLC to locate a 5-room, short term lodging facility in an existing apartment building at 641 Commercial Street (Map T8N R9W Section 8CB, Tax Lot 7300, Lot 2, Block 29, McClures) in the C-4 (Central Commercial) Zone.
 - b) Conditional Use Request (CU19-05) by Rob Webb and Mark Otten on behalf of PacificCorp to perform in water remediation work (use is considered "active restoration") to address contamination present in sediment adjacent to 2nd street south of the pierhead line (Map T8N R9W Section 7DA, Tax Lot 100) in the A-2 (Aquatic Two Development) Zone.
 - c) **Continued from the May 28, 2019 meeting:* Amendment Request (A19-01B) by Community Development Director to amend Development Code sections concerning issues relative to height and maximum gross square footage in the Bridge Vista Overlay Area (exempted sections from A19-01A), as well as continued discussions regarding potential sub-areas within the Bridge Vista Overlay Area.
 - d) Permit Extension Request for Conditional Use (CU17-06) by Astoria Warming Center to extend the permit to September 6, 2020 to operate the Astoria Warming Center at 1076 Franklin Ave (Map T8N-R9W Section 8CC, Tax Lot(s) 2300; Lot(s) 5 & 6, Block 45, McClure's) in the R-3 (High Density Residential Development) Zone.
5. REPORT OF OFFICERS
6. STAFF/STATUS REPORTS
 - a) Save the Dates:
 - i. Tuesday, July 2, 2019 @ 6:30pm – APC Meeting (*as needed*)
 - ii. Tuesday, July 23, 2019 @ 6:30pm – APC + TSAC Meeting
7. PUBLIC COMMENT (Non-Agenda Items)
8. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
May 7, 2019

CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:30 pm.

ROLL CALL:

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

Staff Present: City Manager Brett Estes and Contract Planner Mike Morgan. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

No new minutes to review.

PUBLIC HEARINGS:

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

ITEM 4(a):

CU19-03 Conditional Use Request (CU19-03) by Michelle Dieffenbach on behalf of the Columbia River Maritime Museum (CRMM) to locate a boat pond and outbuilding for storage and model boat rental at a site adjacent to the CRMM at 2050 Marine Drive (Map T8N R9W Section 8DA WM, Tax Lot 700, Block 129) in the HR (Hospitality/Recreation) Zone.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

Commissioner Corcoran declared that his office is located directly across the street from the site, but the project would not have any financial impact on him or his office. He was confident he could make a good decision.

Commissioner Price declared that she and her husband had been members of the Maritime Museum for decades, but she was certain she could make a fair decision.

Commissioner Henri declared a conflict of interest, as she was a member of the project's design team. She recused herself and stepped down from the dais.

President Fitzpatrick declared that he had been a member of the Maritime Museum for years. Additionally, he spoke briefly to Mayor Jones to clarify the email included in the agenda packet.

President Fitzpatrick asked Staff to present the Staff report.

City Manager Estes reviewed the written Staff report. All correspondence received was included in the agenda packet and Staff recommended approval of the request with the conditions listed in the Staff report.

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

Michelle Dieffenbach, Rickenbach Construction, 37734 Eagle Lane, Astoria, said she was excited to have a public amenity in the Astoria area. The Maritime Museum looks at this property as the end of their campus. The boat pond will create one large campus to facilitate the museum's different functions. She was excited to have a

view of the Barbey Center from Commercial and Marine Drive. The project will open up views to the river and the Riverwalk. She offered to answer questions.

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

Sam Johnson, 3774 Grand Avenue, Astoria, Executive Director, Maritime Museum, said the project was his idea. The purchase of the property was directed by the Board to preserve the quality of the view shed and provide protection for the museum. He agreed, but was concerned about spending a fair amount of money on the property without getting as much back as he would like. He attended a conference where he learned about radio-controlled boat building. Teaching children to build boats would provide a good science, technology, engineering and mathematic (STEM) education. The Staff report mentioned a building for boat rentals, but the building was intended to provide restrooms and storage. Boats will be stored for classes that do not wish to build their own. Using the building for rentals was just an idea he got from the South Lake Union Pond. He was not focused on rentals. The building would be primarily used for storage.

President Fitzpatrick called for any testimony impartial or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Vice President Moore said he believed the application met all of the criteria and he supported the request with the conditions recommended by Staff.

Commissioner Corcoran asked how much water the pond would hold. He was concerned about security, children and homeless getting in the pond, and that the pond would attract nuisances.

City Manager Estes recommended the public hearing be reopened so that Mr. Johnson could respond.

President Fitzpatrick reopened the public hearing.

Mr. Johnson stated he did not know the exact cubic feet of water the pond would hold. However, the pond would be 18 inches deep. The pond would be filled with city water or water can be pumped from the river. The pond would be emptied and cleaned at least three times a year so the use of biocides is not necessary. Staff recommended a dual valve system so that the pond could be emptied into either the river or into the sewer system. As long as biocides are not used, the pond can be emptied directly into the river. He was not sure what would happen with usage by homeless people because every city is different. They have spoken to the insurance company about children drowning and homeless use and received no comments about their plans. He originally intended to fence the entire property, but that would have been expensive and would look terrible. He told the insurance company he planned to install a fence for security and they responded that they did not care about that. He has been told that as long as there is no comfortable seating or places for people to lie down, the homeless problem is not terrible. For seating, people will be allowed to sit along the pond edge, which is at an angle and wide enough to put a model boat on it. The benches will be made of an artificial compound and will be about six feet long with rounded tapered ends. People will not be able to lie down on them to go to sleep. Other seating will have large stones placed in at odd height levels as a barrier.

Commissioner Corcoran believed Mr. Johnson had thought seriously about the potential impacts. He recommended a lot of lighting at night.

Mr. Johnson confirmed that four pole lights would be installed along the museum property and down to the area where the depot is located. He wanted them to match the City's pole lights. He also intended to put in pond lights. He was considering low-level bollard lights as well.

President Fitzpatrick called for any public testimony. Hearing none, he confirmed there were no comments from Staff and closed the public hearing.

Vice President Moore stated he calculated the pond would hold about 55,000 gallons of water.

Commissioner Price asked if Staff was concerned about the Finding on Page 4 of the Staff report since the building would not be used for boat rentals. City Manager Estes replied no, Staff would only be concerned about any materials stored outside of the building. The criterion requires outdoor storage areas to be enclosed.

President Fitzpatrick said he believed this project was a good idea. The application met all of the criteria and he agreed with Staff's conclusions.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CR19-03 by Michelle Rickenbach; seconded by Vice President Moore. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

Commissioner Henri returned to the dais.

ITEM 4(b):

CU19-06 Conditional Use Request (CU19-06) by Garry Vallaster to locate a short-term lodging facility in an existing commercial building at 151 12th Street (Map T8N R9W Section 8CA, Tax Lots 400 and 500, Block 56 ½) in the A-2 (Aquatic Two Development) Zone.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

President Fitzpatrick declared that he had a considerable history with the building, the family of the owner, the tenant and his family. Years ago, he had discussed a similar use in another portion of the building. That morning, he had ex parte contact with a family member of the Applicant to confirm the request was on this meeting's agenda. Additionally, he used to own the parking lot. He believed he could be impartial and that there was no conflict of interest.

President Fitzpatrick asked Staff to present the Staff report.

Contract Planner Morgan reviewed the written Staff report via PowerPoint. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

Vice President Moore said the Development Code treats one and two room short-term lodgings like motels.

Commissioner Price noted the occupants would only have access to the rented unit and not be allowed to wander around the offices or access the communal kitchen. Planner Morgan clarified that the unit abuts the open office space and guests would have access to the common kitchen. However, they would not be able to access any private spaces, like the financial advisory office.

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

Garry Vallaster, 711 SW Alder, Portland, stated the space would be less than 400 square feet in a modest part of the building, which is 15,000 square feet. The prior owner used the space as a place to stay overnight. He wanted to try something different with the building since it had been vacant for a while. It is difficult finding office users in Astoria. The space has a great view and its own bathroom. The buildings on the waterfront have maximum flexibility and high maintenance, so it is difficult to find tenants. Multiple uses in a building make a lot of sense. Currently, there are only restaurants and offices in the building.

Commissioner Price confirmed she understood the schematic in the Staff report. She asked if there were offices to the right of the rental unit.

Mr. Vallaster stated the offices to the south were currently occupied, but one would come vacant soon. The west side had a few occupied offices as well.

President Fitzpatrick called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

President Fitzpatrick believed the use was appropriate for the space. The request met the criteria and he did not have any concerns or issues with the application.

Vice President Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CR19-06 by Garry Vallaster; seconded by Commissioner Womack. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

President Fitzpatrick reported that he was in Pier 12 as a child when it was a marine supply. He remembered the coils of large ship ropes and a trap door in the floor used to dislodge logs stuck in the pilings. He also reported that he had received a façade improvement grant to improve the side of the J.C. Penny building that faces Duane Street.

STAFF UPDATES/STATUS REPORTS:

Save the Dates

- May 22, 2019 – Public Meeting for Uniontown Reborn, 4:30 pm – 6:30 pm at the Holiday Inn Express (204 W. Marine Drive)
- May 28, 2019 – APC and TSAC Meetings, 6:30 pm

City Manager Estes stated the open house to meet the candidates for the Community Development Director position was on May 8th from 5:30 pm to 7:00 pm in Room 219 of Community Hall at Clatsop Community College. The APC meeting on May 28th will include a review of the Bridge Vista B Project.

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:16 pm.

APPROVED:

Community Development Director

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
May 28, 2019

CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:37 pm.

ROLL CALL:

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

Commissioners Excused: Commissioner Jennifer Cameron-Lattek

Staff Present: City Manager Brett Estes, Contract Planner Mike Morgan, Contract Planner Rosemary Johnson, and City Attorney Blair Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

President Fitzpatrick called for approval of the April 23, 2019 minutes.

Vice President Moore stated he did not recall making the comments attributed to him in the fourth paragraph of Page 13. However, he accepted the minutes as correct since no one else claimed to make those statements.

Commissioner Womack moved that the Astoria Planning Commission approve the minutes of April 23, 2019 as presented; seconded by Commissioner Henri. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

CU19-04 Conditional Use Request (CU19-04) by Stewardship Homes LLC to locate a 5-room short term lodging facility in an existing apartment building at 641 Commercial Street (Map T8N R9W Section 8CB, Tax Lot 7300, Lot 3, Block 29, McClures) in the C-4 (Central Commercial) Zone.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

President Fitzpatrick declared that he owned rentals in Astoria, but he did not believe this was a conflict. He believed he could be impartial.

President Fitzpatrick asked Staff to present the Staff report.

Planner Morgan reviewed the written Staff report via PowerPoint. He confirmed the correct address of the property was 641 Commercial, which was stated incorrectly in the Staff report. Staff recommended denial.

Commissioner Price stated the photograph of 641 Commercial actually showed the church next to 641 Commercial. She also said the building had five units, not five rooms.

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

Garrett Stephenson, Attorney, representing Stewardship Homes, said he was not aware Staff would be recommending denial until yesterday. If anyone planned to testify against the project, he would like time for rebuttal. He also wanted the opportunity to submit a final written argument. Staff highlighted two reasons for denial, parking and an upcoming ban on short-term rentals. Section 7.180 of Astoria's Code on the C-4 Zone states that no parking is required for any use in the C-4 Zone. CP-055(2) states that the City supports efforts to improve the parking problem in downtown and to provide landscaping and other requirements; however, the C-4 Zone will continue to not require off-street parking. Staff's position is that there is an allowance for the City to increase the number of required off-street parking spaces through a conditional use. The problem with that, which is detailed in his letter dated May 10, 2019, is that there are no required parking spaces to increase. He did not agree with Staff's assumption on how much parking is generated by the two different uses, multifamily uses and short-term rental uses. Just because apartment buildings do not have dedicated off-street parking does not mean the people living there do not have cars. Here on the coast, people are more dependent on cars than those in areas with public transportation systems. If there were minimum parking requirements here, a multifamily unit would require 1.25 spaces and a short-term rental would require 1 space. The City's parking regulations typically require more parking for multifamily than for short-term rentals. He believed the use would result in substantially less parking than it would otherwise. This Commission is considering a ban on short-term rentals. The application was submitted on April 5, 2019, but the Commission considered the ban on April 23, 2019. The ban is not relevant to what the Applicants are trying to do because it did not exist at the time the application was submitted, and still does not exist. According to ORS 227.178(3)(a), known as the Fixed Goal Post Rule, the Applicant is entitled to proceed under the standards and regulations that are in place at the time the application is filed. The Applicants are not subject to the merits of banning short-term rentals in the future because they applied before the ban was ever considered. He looked at the Comprehensive Plan policies applicable to the central commercial area and he believed the application was consistent with those policies. CP-055 says the City encourages the reuse of existing buildings prior to the expansion of commercial uses. This is clearly what the Applicants are trying to do. The policy also states the Central Commercial zone, C-4, will continue to be the designation for downtown central business districts and uses in this zone will primarily be retail, offices, general services, and some residential uses. He asked that the Commission consider the consistency of the project with the directly applicable Comprehensive Plan policies. It is clear in the C-4 Zone, the parking code, and the Comprehensive Plan that there are no parking requirements. He asked for two weeks to prepare a final written argument because he was not aware that Staff would recommend denial.

City Manager Estes stated that under State law, the Commission needed to grant the request for a continuance.

Mr. Stephenson clarified that he had not requested a continuance, but an allowance for final written argument as allowed by State statutes.

City Manager Estes explained that the City of Astoria would consider that a request for a continuance.

City Attorney Henningsgaard added that State law provides that the Applicant is entitled to a final rebuttal. The request is appropriate and should be granted.

Commissioner Price asked if the request to allow a written rebuttal was being equated with a request for a continuance.

City Attorney Henningsgaard said yes, after the close of the evidence, the Applicant is entitled to a final written rebuttal. The rebuttal cannot include new evidence.

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

Matt Gillis, 11650 SW 67th Ave. #210, Tigard, said he would spend a lot of money upgrading the façade. When he purchased the property, he was shocked when he saw Staff's recommendation for denial based on the Code, which says no parking required. He purchased the building because it allowed for hotel usage. There are no known properties similar to this one available in the C-4 Zone on the multiple listing service (MLS), so there are no other alternatives for sale. The parking code for this property as a multifamily would require 6.5 spaces, but as a hotel use only 5 spaces would be required. Data shows that average occupancy rates would be 56 percent, so parking demand would be reduced by 44 percent by switching the use. The property already has two parking spaces on site. His goal was to clean up the property and make it nice. The only residential neighbor is a multifamily building across the street. All the other buildings on the block are commercial or other uses, including

a park, a church, and a parking lot. There is no required parking in the C-4 Zone, but per the Code, he would be reducing the parking space demand. He had also redeveloped and brought eight vacant properties in Astoria back from vacancy or foreclosure into the housing stock. He had also brought seven other units that were about to be condemned back into the housing stock as well.

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

Don Roessler, 612 Franklin, Astoria, said he was the moderator of the First Baptist Church. Apparently, there are no laws about who can park in the area, which is packed all the time. The church supports 14 recovery groups, a Girl Scout group, and the Hispanic Dance Council, which meet at the church. All of the parking spots are taken by 8:00 am. The church has a lot of elderly people who attend church services on Sundays, and they need to park as close to the building as they can. Parking is the biggest of the issues. He felt sorry for the people who had to leave. Only one person used a car. Most of the people lived in that area because they could walk to downtown. So, he had a hard time understanding that the proposed use would reduce parking. He did not know what would happen when the jail moved; it would free up a little bit of parking, but mostly two blocks away. He was concerned about the parking and about the people who do not have any place to live that used to live in downtown.

Brad White, 2011 Irving Avenue, Astoria, said converting a building from housing to an Airbnb was converting it to a commercial use and is discouraged. Astoria has some of the oldest housing in the state. He agreed with Staff that the request should be denied. If the only way the city can rehabilitate and keep housing stock from falling apart is by converting them to short term rental, then the city is in big trouble.

Pamela Matson MacDonald, 22 Nimitz, Astoria, said she knew people who were looking for apartments and could not find one in Astoria they can afford. They are living on the street now and this project will put five more people on the street. She was evicted from her apartment because her landlords upgraded her apartment and raised the rent so high she could not afford to live there. She was against the request and supported Staff.

Cherice Clark, 124 Lake Street, Ilwaco, WA, said she wanted to move to Astoria, but could not find housing. She did not see how most property owners would not get lured when the difference in income is so vast between short- and long-term renting. The effect on a community can be devastating if the only housing is residential and low income. It seemed as if this property was low income, which is really valuable. She asked the Commission to consider the long term effects of opening this door.

Michael Mathis, 109 North Street, Ilwaco, WA, said he recently moved from Portland and saw what was happening in Portland to the low income housing, which is disappearing. His daughter and her fiancé are each working two jobs to try to afford a place to live. He did not want to see Astoria become Portland. Where will these five people go? The five people are probably supporting the restaurant supply. The people who stay in Airbnbs go to restaurants, but where do the workers go? He did not know why others were dwelling on the parking, but the five families would be out of their homes.

President Fitzpatrick called for a rebuttal from the Applicant.

Mr. Stephenson stated he did not believe any of the testimony given had changed what the Code does and does not require. He was sympathetic to the need to encourage the preservation of affordable housing. However, that should not be put on the back of a single property owner, especially considering that the City might ban short term rentals in the future. This application will not break the camel's back. It is fundamentally unfair to an Applicant who looks at what is required by the Code. The issues brought up regarding the conditional use have been specifically addressed or were completely absent from the Code. Parking is addressed very directly in a number of places in the Code, and nothing in the Code prohibits short-term rentals. The reason codes and regulations are in writing is so that people who invest in property and try to make improvements can have a rudimentary understanding of the regulations that apply to their property. He was concerned that the goal post was being moved for this application, which is illegal. It is fortunate that State law allows the Applicants to defend on the regulations that are written on the day the application is submitted.

Mr. Gillis stated when the building was fully occupied, there were seven vehicles. He understood housing was a big issue. If he were given a parking variance, he would add five new units in one of his other buildings where he has some unfinished space.

Commissioner Henri asked if the Commission had legal jurisdiction to increase the required parking spaces. City Attorney Henningsgaard said Section 11.040(5) specifically allowed the Planning Commission to increase the number of required parking spaces for conditional uses.

Commissioner Corcoran asked how the use of the word "required" should be interpreted. Should the Commission consider parking as required for the project to make sense or required as stated in the Code? City Attorney Henningsgaard said the Commission could find it necessary to interpret the Code in a particular way. In this case, there are no required parking spaces, and the Code allows the Commission to increase that number from zero.

Commissioner Corcoran referred to a previously approved conditional use permit for a lodging with a similar need for parking. He asked if that decision set a precedent. City Manager Estes confirmed that in that case, no parking was required by the Code. However, as part of the conditional use application, the Applicant stated they would provide a certain number of parking spaces for the use. While the number of spaces was below the calculation for the use, the Applicants argued that in consideration of the impacts of the use on the zone, the additional parking provided met the criteria. The conditional use permit was granted. Each case stands on its own accord. However, the Commission could consider a similar approach to this request. Standard practice has been to review parking impacts to the downtown commercial zoning district and require mitigation when deemed necessary.

City Attorney Henningsgaard added that the arguments have skipped a couple of steps in the conditional use process. A conditional use is not a permitted use in the zone unless the Commission can find that the proposed use will benefit the city in some way. If the use is found to be beneficial to the city, then the Commission can condition the use to ameliorate the affects of the use on the neighborhood. Those judgements are all very subjective and all must focus on the particular neighborhood. Considering other conditional uses would be misleading. The Commission must consider the effect of converting these five residential units to a hotel use on this particular street. Additionally, the Applicant, who has the burden of proof, must provide evidence that other factors set forth in the conditional use criteria had been met. One criteria is that there must be a need for additional vacation units in the city; second, that there are no other appropriate zones for this particular use; third, that this location is a desirable location for the use; fourth, that the parking in the area is adequate for the use; and fifth, that Airbnb type rental units are compatible with the adjacent properties in the area.

Planner Morgan noted that two letters had been submitted, one from the Astoria Downtown Historic District Association (ADHDA) and one from Linda Oldenkamp, which needed to be added to the record. He also said that in at least two discussions he had alerted Mr. Gillis to the fact that parking was an issue and was required.

Commissioner Womack said there was no specific prohibition for the Applicant to remodel the property and charge four or five times the existing rate. The property would still be grandfathered in under the existing Code, which says no parking is required even if it doubles or triples the number of current spaces.

City Manager Estes reminded that the Applicants have requested the opportunity to provide final written rebuttal within two weeks. He recommended that the public hearing be closed except for the final rebuttal from the Applicant and that Commission discussion and deliberation be continued to the next meeting.

President Fitzpatrick closed the public hearing except for the Applicants final written rebuttal to be submitted to Staff by 5:00 pm on June 11, 2019. Commission discussion and deliberation would be conducted at the next Planning Commission meeting on June 25, 2019.

Vice President Moore moved that the Astoria Planning Commission continue the Planning Commission's discussion and deliberation on Conditional Use Request CU19-04 by Stewardship Homes LLC to the June 25, 2019 meeting at 6:30 pm; seconded by Commissioner Price. Motion passed unanimously.

President Fitzpatrick called for a recess at 7:30 pm. The meeting reconvened at 7:38 pm.

ITEM 4(b):

A19-01B Continued from April 23, 2019 meeting: Amendment Request (A19-01B) by Community Development Director to amend Development Code sections concerning issues relative to height, maximum gross square footage, setbacks, and overwater development in the Bridge Vista Overlay Area (BVO) (exempted sections from A19-01A), as well as continued discussions regarding potential sub-areas within the BVO.

President Fitzpatrick asked Staff to present the Staff report.

Planner Johnson reviewed the written Staff report and said Staff needed direction on how to finish writing the Code amendments. Once the amendments had been written, they would be presented to the Commission at a future meeting for approval and a recommendation that City Council adopt them.

President Fitzpatrick opened the public hearing and called for public testimony.

Jim Knight, Port of Astoria Executive Director, 10 Pier 1, Astoria, stated so many opportunities had gone unrecognized. The area of the Port he would like to see designated as a special district will become very important to the community for the future. He gave a PowerPoint presentation, which included photographs of the Port and a map of Port properties. It is important for the community to preserve the views of the river and the historic character in the area. The pedestrian waterfront access is not used very much because it is currently a parking lot. Storm damage has resulted in several dilapidated parking lots along the waterfront. There is also public access to the deck on the Red Building. Open spaces are just to the west of the Red Building. The grassy area next the roadway is not as safe for pedestrians as he would like it to be. This part of the community has opportunities for getting the community involved in Smart City concepts. Interactive programming is now available in many communities around the world. This area of the Port has an enormous amount of open space currently being used for dog parks, sitting, and parking, which provides opportunities to do something the community can enjoy, not put buildings on. He recommended the Seafarer Building be demolished and replaced with a high-end restaurant. He believed this could be developed within the existing Code. He was not asking for changes to the Code, but to augment what the city has with a special district. The Port is currently working on a five-year strategic plan, which would be presented to the public next week. The Port was also involved with the Uniontown Reborn Project. The potential sale of Port buildings in the proposed district is coming quickly, as three buildings are currently being appraised. The continued growth of tourism is not expected to slow down. The community needs to envision the possibilities that rewards the community and attracts residents and visitors to the West Basin Marina District. The Port needs to create a plan that ensures the district is financially self-sufficient and recognizes the important symbiotic relationship between the west district of the marina and the Uniontown District. Security, parking, ingress and egress, travel routes, lighting, and design elements all need to be addressed. The Riverfront Vision Plan should be emphasized for the development of this portion of the Port. Components of the Civic Greenway should also be incorporated. He suggested a boardwalk along the waterfront that connected portions of the Riverwalk Trail, large open spaces for new outdoor waterfront events, enhanced experiences for local events and activities, and an elevated retail and tourist experience at the waterfront which supported existing businesses. He wanted to find the perfect balance of open vistas, waterfront access, and commercial activities that could support the maintenance of the new district. This could be done through the master planning process.

Commissioner Corcoran noted the boundaries shown include properties not owned by the Port.

Mr. Knight stated that during the planning process, it was very important to engage neighbors and get opinions about what they would like to see happen in the community. All property owners should be part of the planning process because there could be issues with ingress, egress, security, lighting, and parking.

Commissioner Price said the Port could do many things now, but the Port has so many other things to do that are essential to the economic vitality and viability of Astoria and Clatsop County. She asked how the Port would get around to developing a master plan that included parks and views.

Mr. Knight stated one objective at a time and one priority at a time. There is a lot on the Port's plate, but it cannot use the excuse that it has too much because the Port needs to grow. His suggestions would take months or years to come to fruition, but if the Port did not get started, then none of it would happen.

Commissioner Price asked why the Port needed a master plan.

Mr. Knight said he did not know what the neighbors perceived. The Cannery Pier Hotel, the Riverwalk Inn, the Seafarer Restaurant, and the Chinook Building might have changes in ownership. A proposed hotel in the district might have an impact on what happens in the community. Additionally, Uniontown is in the midst of the planning process. A lot of data needs to be collected before the Port can make final decisions on how to develop that portion of the waterfront. It is important to enter into a master planning process that engages the community.

President Fitzpatrick called for public comment.

Elizabeth Menetrey, 3849 Grand Avenue, Astoria, said she was concerned that water related and water dependent uses would be allowed to have variances. She questioned what type of things would need variances from the 28 feet or 35 feet height limits. She also wanted to know what partnerships the Port was considering. At the March 13, 2019 City Council meeting, Mr. Knight spoke about Mr. Hollander and ideas about a marina village. She did not have a great opinion of Mr. Hollander and wanted to know what his ideas were for the community. The City needed to be careful about what would happen if properties were sold and who they would be sold to.

Phil Grillo said he was speaking on behalf of Astoria Warehouse Inc. He recommended the Commission approve clear and objective standards with specific numbers and ratios that do not involve the exercise of discretion. He also encouraged that more height be allowed. He believed 30,000 square feet was way too small and asked the Commission to consider floor area ratio instead of an absolute number. Hood River's waterfront code includes a specific limitation on certain types of retail and restaurant uses so as not to compete with their downtown area. In that case, a specific number is appropriate, but applying a specific number to large spaces is not. Astoria needs a clear and objective pathway in order to address housing issues. The City also needs a discretionary pathway. A planned district is a good idea, but he was concerned that a planned district would require both a legislative text amendment and a quasi-judicial permit. The most efficient way to do that would be to establish the planned district that required a planned unit development (PUD) permit. He was not sure the City was ready to do this, given the existing Code.

City Manager Estes explained that Astoria's Code does allow for PUD applications and the applications can request some exceptions. Applicants must develop a site plan, which would be treated like a zone change. Then, the project could be developed over time as outlined in the PUD.

Mr. Grillo believed the quasi-judicial method would require fewer steps. Having two processes side by side is cumbersome and might not get the city where it needs to be. He would be happy to work with Staff if the City decided to move the concept along.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he liked the ideas presented about the Port property, including a pedestrian friendly development zone. He also liked the idea of cutting that out of any piece the Port may get for its own individual development plan and keep it consistent with the neighboring part of the planned zone, which would guarantee the area did not get corrupted by Port Commission activities. If the planning zones are set up for the Port and the warehouse, there should be height limitations in those areas. Heights should be kept to 28 feet unless it is a water dependent use, a real Port activity that uses the water, or the design requires it to go higher. He did not have a problem with some industrial activity along the waterfront. The City must allow a lot of flexibility but should not allow the Port to have 45-foot tall hotels if other places are limited to 28 feet. If the Port makes a plan for the area, eliminate the use of hotels within the zone. He liked a lot of what Mr. Knight showed in his presentation, but questioned whether any of it would really happen given what the community sees from the Port Commission. The City should keep a very tight reign on the Port Commission and should put constraints on development because developers are smart people with a lot of money who get the right people to design something that will work. It is not true that a building cannot be developed unless it is allowed to be 45 feet.

Will Johnson, 509 Kensington Avenue, Astoria, said he was all about having things for the public and having access to the waterfront. He understood Astoria needed businesses, but less Port growth is better. While he understood the need to plan ahead, the City would need to take care of whatever it owns. The City should take care of what it has first. Growth must happen or the community will die, but the community cannot forget its

foundation. Where would people go when Astoria grows? Parking is also an issue. He did not want Astoria to be made ugly with big buildings which people do not want to see. He thanked the Commissioners for their work.

Sarah Jane Bardy, 250 11th Street, Astoria, stated she served on the Design Review Committee but was speaking as an individual. She urged the Commission to approve the Code amendments with the new height restriction across the entire zone and without exemptions for the Port or for Astoria Warehousing. A developer with an idea that would benefit the community could apply for a conditional use or a variance. While these amendments are being discussed or if the Port is granted the ability to develop a master plan, the case can be made that the Code as it exists at the time the application is submitted is what counts. Therefore, time is of the essence. The slideshow was a poor attempt at trickery because the photographs showed the way the area looks now and had nothing to do with development in the future. She hoped no one was fooled by that. Any of the ideas proposed could have been done already and could still be done with the new Code amendments. The only reason for an exemption would be for purposes that are not being disclosed and were not laid out in the slideshow. She did not believe a height limitation would negatively impact any real development or growth.

Steve Fick, P.O. 715, Astoria, said Astoria did not know what it wanted, so there was no need to rush. The vision plan was created 10 years ago and not a whole lot had changed. Revenue is necessary to maintain development over the water. The City should take a look at where the Port is at. There is not a whole lot that can be developed on the north side of the tracks now and the water restrictions would take care of it. Some people are pushing an agenda to constrain everything so that there is no flexibility in the future. The waterfront plan was good 10 years ago and it has been working. There is no big need to change everything again.

Commissioner Price stated the Fairfield Inn resulted in the need to change everything.

Mr. Fick responded that capitalists take risks and someone is throwing millions of dollars into developing the area. The community wants middle income jobs that will provide for the community. Astoria should raise its expectations from minimum wage jobs and low-income housing to a good quality of life for the entire community.

President Fitzpatrick asked what Mr. Fick paid his entry level workers.

Mr. Fick stated pay depended on the person, but he was not paying anyone, even seasonal employees, minimum wage. He was in a struggling industry. Additionally, he never knows how much he would have or what he would have to pay for. The market is worse than farming. He offers his employees retirement, vacation pay, lunch every day, and above industry standard wages. When the government starts tying the hands of the capitalists, flexibility is necessary. Astoria has some good industries and could have more as livability issues change.

Mike Sensenbach, 110 Kensington, Astoria, hoped the Commission would give Staff the direction they need to get the amendments written so they could be recommended to City Council at the next meeting. He had sat through all but one of the Fairfield Inn hearings. After hours of public testimony and hundreds of pages of documentation, the decision came to down to three votes to approve the hotel. The majority of City Council favors the height and size restrictions being discussed to preserve views and the waterfront for the community. He wanted to see the Commission move forward as quickly as possible. The longer the process is delayed, the more of a chance that another application will come through. He appreciated everyone who put time into the amendments and he would support the Commission's recommendations.

President Fitzpatrick called for a recess at 8:40 pm. The meeting reconvened at 8:48 pm.

Planner Johnson led the discussion of the proposed amendments, answered clarifying questions about existing and proposed Codes, and posed questions of the Commission to get direction on completing the Code amendments as follows:

- Discussion of a 28-foot height limit with an allowance for variances for water dependent and water related uses up to 35 feet and with setbacks; and an allowance for affordable multi-family housing to go up to 35 feet without a variance in the BVO.
 - Vice President Moore said he was fine with heights of 35 feet, was not attached to variances to go higher, and did not believe setbacks were necessary. He could not find support in the Code for lowering heights.

- Commissioner Price said it was impossible to talk about height without talking about mass. She said no to 35 feet and 30,000 square feet, 28 feet and 30,000 square feet, and new overwater development over bank height.
- Commissioner Henri said she was a proponent of a 28-foot maximum height with exceptions up to 35 feet. She preferred that housing be allowed up to 35 feet with a variance. She agreed with exceptions up to 35 feet for water dependent uses with a variance, but she did not believe 35 feet was necessary for water related uses. Stepbacks may not be as elegant and traditional looking, but they are helpful with massing and view corridor issues.
- Commissioner Corcoran said he was comfortable with 28 feet with the provisions that Staff described for moderate income housing and a variance to 35 feet, and a variance for over water, water dependent uses. Stepbacks are one way to get a visual corridor, but there are other ideas to consider.
- Commissioner Womack stated he did not believe there was any reason to have variances up to 35 feet. It would be better to set the maximum height at 35 feet. He preferred more creativity on view corridors, building mass, and size, but was fine with the proposed stepbacks.
- President Fitzpatrick said he generally agreed with what Staff proposed. However, he agreed with Commissioner Womack that the height limit should be set at 35 feet.
- Vice President Moore explained that at the last meeting he believed the real concern people had was building widths, not massing and height. Tall buildings are not very long, but longer buildings block views of the river. He believed 45 feet was fine but made a concession on the height. He did not have any problem with a 90- by 180-foot building on the Astoria Warehousing site if the shorter side was along Marine Drive. He proposed a 60 percent maximum lot width coverage to ensure view corridors, with a maximum building width along Marine Drive of 90 feet. He presented the other Commissioners with drawings showing lot sizes in the Port area and explained what could be built and how views of the river could be opened up with his recommended requirements. Hotels have a tendency to be parallel to the river, so this may dissuade hotel development. Height is not that big of an issue. He did not like an arbitrary fixed number because the lots are a mix of huge and small. He had gone through the Riverfront Vision Plan and the Comprehensive Plan and found justification and support for his recommendations.
- Planner Johnson responded that the lot coverage requirement was already used in some of the riverfront areas along the water and it could be applied in the BVO as well. She recommended the Commission also consider a floor to area ratio (FAR), which could keep taller buildings narrower.
- Commissioner Henri asked Vice President Moore clarifying questions about his proposal. Vice President Moore stated he was not as concerned about FAR because the goal was to ensure views of the river. He also said he would be open to planned districts in addition to the lot coverage he had proposed.
- Commissioner Price liked the idea of lot coverage because views are essential. She would agree to a 35-foot height limit with a 60 percent maximum lot coverage with no stepbacks or variances for on land development. She remained opposed to over water development.
- Commissioner Corcoran stated he liked the idea of lot coverage better than stepbacks but was not sure about a 35-foot height limit.
- Commissioner Womack asked how the Fairfield Inn would have been impacted by the proposed requirements. Vice President Moore explained that the hotel would have had to build two 90-foot wide buildings and its current orientation would have been prohibited. Less availability of over river views would discourage some hotel/resort development.
 - City Manager Estes clarified that the Fairfield Inn project did not have frontage on Marine Drive, and the recommended requirements were just for buildings with Marine Drive frontage. If the Commission wanted to pursue this, Staff would have to address several scenarios, including lots that do not front Marine Drive.
- Staff also noted that the Code would need to address partial development of lots. Astoria strives for reuse of buildings rather than demolition, so the cumulative lot coverage would need to be considered.
- Commissioner Corcoran believed the proposed requirements worked best for the Astoria Warehousing property and PUDs because other sites in the BVO seemed to present too many other challenges and considerations.
- Commissioner Henri said she wanted to discuss FARs in addition to the proposed requirements.
- Discussion of a planned district for Astoria Warehousing and associated requirements.
 - Planner Johnson gave a detailed description of how a planned district would work, how a master plan would be adopted and implemented, and gave examples of how the Code would be applied to individual projects.

- The Commissioners discussed height limits in the planned district. Vice President Moore said if a planned district was approved, he was fine with 45 feet if there was a concession on view corridors. Commissioner Womack also agreed that 45 feet would be appropriate. Commissioner Henri believed a maximum FAR should be required if 45 feet is allowed, otherwise, 28 feet should be the maximum height allowed with exceptions up to 35 feet. Commissioner Price preferred 28 feet with a variance to 35 feet and an FAR. Commissioner Corcoran believed a 35-height limit should be the maximum with exceptions for buildings that meet FAR requirements. President Fitzpatrick said he was fine with 35 feet and variances for up to 45 feet.
- Commissioners discussed the purpose of a planned district, which was intended to solve unique issues in specified areas. Staff explained the difference between a variance and an exception provided in a planned district.
- Commissioner Price said she did not want the district to allow extra height because people did not expect projects to be built to the maximum limits in other areas of the riverfront. Allowing bigger developments does not make sense. She believed that once the limits are established in the Code, there would be no need for a master plan.
- Discussion of a planned district for Port properties and associated requirements.
 - Most of the Commissioners agreed 35 feet should be the maximum height limit. Vice President Moore said he would be fine with 45 feet. Commissioner Henri would agree to 45 feet if there were also restrictions on widths and massing. She also suggested a maximum frontage limit along the river.
- Vice President Moore recommended a sunset provision on both planned districts. The districts could expire or be renewed depending on the needs of the city at that time. The rest of the Commissioners agreed.
- Commissioner Price was concerned that the planned districts would not provide enough public access to the Riverwalk from Marine Drive. Vice President Moore suggested requiring a public access easement. Staff explained that the City would need a nexus for requiring public facilities on private property.

Planner Johnson confirmed she would incorporate the Commission's feedback into the draft Code amendments and present the new Code language at the next meeting.

President Fitzpatrick stated the hearing for Amendment Request A19-01B would be continued to June 25, 2019 at 6:30 pm.

REPORTS OF OFFICERS/COMMISSIONERS:

There were none.

STAFF UPDATES/STATUS REPORTS:

Save the Dates

- Tuesday, June 4, 2019 @ 6:30 pm – APC Meeting (as needed)
- Tuesday, June 25, 2019 @ 6:30 pm – APC Meeting

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:12 pm.

APPROVED:

Community Development Director



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

MEMORANDUM • COMMUNITY DEVELOPMENT

DATE: JUNE 18, 2019
TO: ASTORIA PLANNING COMMISSION
FROM: MIKE MORGAN, CONTRACT PLANNER
**SUBJECT: ADDITIONAL MATERIAL FOR CONSIDERATION REGARDING
CU19-04, STEWARDSHIP HOMES CONDITIONAL USE APPLICATION**

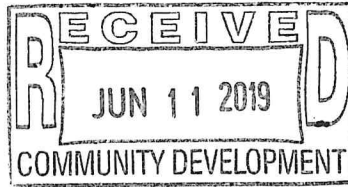
BACKGROUND

At the May 28, 2019 Planning Commission meeting, the applicant requested, and the Planning Commission allowed, the applicant 14 days to submit final written rebuttal. The attorney for Stewardship Homes, Garrett H. Stephenson, submitted the attached letter on June 11, 2019 within the 14 day period. Additionally, the City Attorney has submitted a legal memorandum which is attached.

RECOMMENDATION

It is recommended that the Planning Commission review the additional materials, deliberate, and either approve or deny the application. Depending on the direction taken by the Planning Commission, revised findings may be needed.

By: 
Mike Morgan, Contract Planner



June 11, 2019

Garrett H. Stephenson

Admitted in Oregon
T: 503-796-2893
C: 503-320-3715
gstephenson@schwabe.com

VIA E-MAIL

Mr. Sean Fitzpatrick
President
Astoria Planning Commission
1095 Duane Street
Astoria, OR 97103

RE: Stewardship Homes, LLC; Application for Short-Term Rental Facility in the C-4, "Central Commercial" Zone; City of Astoria File No. CU19-04

Dear President Fitzpatrick:

This office represents Stewardship Homes, LLC (the "Applicant"), which has submitted an application for a conditional use to establish a five-room, short-term lodging facility ("lodging facility") in the C-4 zone at 641 Commercial Street. A lodging facility is a conditional use in the C-4 zone pursuant to Astoria Development Code (the "ADC") 2.435.4. On May 28, 2019, the Planning Commission (the "Commission") conducted an initial evidentiary hearing on the application, after which the Commission closed the evidentiary record and granted the Applicant two weeks to submit final written argument. The Commission may not accept new evidence from any person, but the Applicant is permitted to address any aspect of law, including anything in the ADC. This letter is timely submitted prior to the deadline for final written argument on June 11, 2019 at 5:00 p.m.

The following letter explains why the Applicant disagrees with the Staff Report and comments by the City Attorney. This should in no way be interpreted to be *ad hominem*, but reflects a genuine disagreement regarding applicable law. The Applicant appreciates staff's perspective and policy concerns about parking and housing supply, and attempted to come to an agreement with staff prior to the hearing on these issues. However well-intentioned as staff's policy concerns may be, those concerns are not reflected in the adopted City ordinances which the Applicant has the reasonable expectation – and right – to be able to rely upon. For the foregoing reasons, the Applicant respectfully requests that the Commission reject staff's recommendation for denial and approve the Application.

I. Executive Summary

Staff offers two bases for denial: the lodging facility's lack of off-street parking and because of the Commission's recent vote to ban short-term rentals. These reasons for denial are not permissible under applicable law because the City's ordinances specifically prohibit requirements for off-street parking in the C-4 zone and because the Application was submitted

several weeks before the Commission considered a ban on short-term rentals. Reliance on these bases for denial violate express statements in the ADC and Comprehensive Plan, ORS 174.010, 227.173, and 227.178(3), as well as a number of legal doctrines established in case law. As staff did not identify a legally viable basis for denial, the Commission must approve the Application.

The Applicant understands the City's concerns regarding the limited supply of off-street parking in the Downtown. Therefore, the Applicant offers to voluntarily comply with the City's "Developed Sites Exemption" provision in ADC 7.062 and pay the City in lieu of providing three additional parking spaces.

II. Response to Staff's Recommendation for Denial

A. The City may not deny the Application due to concerns regarding parking.

Staff argues that the Application should be denied because "conversion of this residential use to short term rental use is not appropriate in the C4 zone without the provision of off street parking." This is premised on staff's incorrect reading of ADC 11.040.A.5, which provides in relevant part:

"In permitting a conditional use or the modification of an existing conditional use not involving a housing development (e.g. multi-family development, manufactured dwelling park), the Planning Commission may impose, in addition to those standards and requirements expressly specified in this Code, other conditions which it considers necessary to protect the best interest of the surrounding property or the City as a whole. These conditions are:
... (5) Increasing the required off-street parking spaces [.]"

Staff's conclusion that the Application should be denied for want of additional off-street parking is unsupportable for three reasons.

First and perhaps most obviously, ADC 11.040.A.5 is not an approval criterion, it is an authorization for the City to impose certain conditions. Thus, it is not a provision that the applicant *must* satisfy.

Second, staff misreads the criterion because it allows only an increase of *required* parking, not the imposition of minimum parking in zones without such a requirement. Staff's interpretation in this vein is particularly problematic in the C-4 zone, where parking is expressly *not* required, as explained in at least three separate places in adopted City legislation. These statements are neither hidden nor ambiguous: the C-4 zone code itself says that parking is not required for *any* uses in that zone:

"The uses permitted are intended to be compatible with the locale's pedestrian orientation and, as a result, off-street parking is *not required*."

ADC 2.425 (emphasis added). The City's parking code (Article 7) explains that "uses in the C-4 zone are not required to provide off-street parking and loading." ADC 7.180. Finally, the Comprehensive Plan policies concerning the City's central commercial area demonstrates that the City considered requiring off-street parking in the C-4 zone but deliberately decided not to do so:

"The City supports efforts to improve the parking problem in the Downtown, and to provide landscaping and other improvements. However, the C-4 zone will continue to not require off-street parking."

CP 055(2). There is simply no reasonable debate that the City cannot require off-street in the C-4 zone.

Because ADC 11.040.A.5 provides for increasing *required* off-street parking spaces and because the C-4 zone does not require any off-street parking spaces for the lodging facility, the Planning Commission cannot use ADC 11.040.A.5 as a basis for denial. Where no off-street parking spaces are required, the City Council has expressly limited, by code, the Planning Commission's authority to require off-street parking spaces. Only those uses which are *required* to have off-street parking spaces may be subject to ADC 11.040.A.5.

Under ORS 174.010, a local government interpretation may not serve "to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all." A contrary interpretation fails for the simple reason that it would render the word "required" in ADC 11.040.A.5 meaningless. The City Council could have simply stated that the Commission could impose off-street parking spaces for a conditional use, but it deliberately inserted the word "required" to provide some link to the standards in the parking code.

Ignoring the requirement that such parking be "required" in the first place also frustrates the City's clear policy direction—stated in at least three different places—that parking *not* be required. Indeed, staff's interpretation violates the second prohibition of ORS 174.010 because it is not calculated to give effect to all applicable code requirements: staff incorrectly expands the reach of ADC 11.040.A.5 at the expense of ADC 2.425, ADC 7.180, and CP 055(2), reading the latter three provisions out of existence.

Third, even if staff's interpretation were permissible and grammatically correct, interpreting ADC 11.040.A.5 to require parking is directly at odds with Comprehensive Plan policy CP 055(2), which clearly explains that "the C-4 zone will continue to not require parking." Thus, it presents a direct conflict between the City's Comprehensive Plan and development code, which under state law must be resolved in favor of the Comprehensive Plan's prohibition on parking requirements in the C-4 zone. *Baker v. City of Milwaukie*, 271 Or. 500, 533 P.2d 772 (1975)

Staff and the City Attorney offered two responses to this at the hearing. They proposed to interpret ADC 11.040.A.5 to allow the Commission to require more parking even if parking

were not required in the first place. This interpretation is incorrect and unlawful for the reasons explained above. Second, staff argued its interpretation is supported because other projects in the C-4 zone provided additional off-street parking. This point is irrelevant: parking was not required by the ADC for those projects, but there is nothing prohibiting an applicant from offering or agreeing to provide additional off-street parking, either.

B. There is no evidence that the lodging facility will entail a higher demand for on-street parking.

Staff argued that the lodging facility will result in an increase in demand for on-street parking because it believes that people who live in downtown apartments are occupied by “single persons or couples who do not have cars.” There is no evidence in the record supporting this assertion, and it directly contradicts the parking demand contemplated in the City’s own parking code. In fact, in zones where parking is required, the minimum parking for apartments is higher than for hotels, motels and other hospitality uses. Under ADC Table 7.100, “multi-family dwelling including group housing” requires 1.25 spaces per one-bedroom dwelling unit, while both “home stay lodging” and “hotels, motels, and similar uses” require 1 space per guest room. As all five units in the property have one bedroom, the parking demand will actually be 20% higher if the building remains in multi-family residential use. Staff’s assumptions are not evidence and even if they were, they are not sufficient to contradict the substantial evidence regarding parking contained in the City’s own code.

C. Proposed solution to staff’s parking concerns.

While the Applicant does not agree with staff’s assumptions underpinning those concerns, he does understand the general need to support parking in the Downtown. Staff has implied that the Application must be denied because the Applicant does not control off-street parking that could accommodate the proposed use. However, a provision in the City’s parking code known as the “Developed Sites Exemption” directly addresses such a situation:

“7.062 SPECIAL EXCEPTIONS TO OFF-STREET VEHICLE PARKING REQUIREMENTS.

A. Developed Sites Exemption.

Existing buildings which encompass all or a major portion of a lot with little or no possibility of providing off-street parking in compliance with City Code may apply to the Community Development Director for authority to participate in a program whereby, in lieu of providing required off-street parking, annual payments would be made to the City for the purpose of supporting mass transit, and development of public parking. As an alternative to making annual cash payments, the applicant may, with approval of the City Council, provide a public service of equal or greater value than the cash payment.”

In simple terms, this provision allows applicants to pay in lieu of providing off-street parking if the property they control cannot possibly accommodate such parking. The fee for this is \$180.00 per year. ADC 7.062.3.A.

Staff believes three additional off-street parking spaces are necessary (in addition to the two already onsite). Although the Applicant does not concede that parking can be required, as explained above, the Applicant is willing to voluntarily participate in this program and pay for the equivalent of three off-street parking spaces, amounting to \$540 per year for as long as the property is used for short-term rentals.

D. The City's forthcoming restrictions and/or ban on short-term rentals is not a permissible consideration in this Application.

Staff's second basis for denial is that the Application is inconsistent with the Planning Commission's April 23 vote to ban short-term rentals in multi-family housing. There are two significant legal problems with relying on this as a basis for denial. The first is that a ban on short-term rentals has not been adopted.

The second is that, pursuant to the "fixed goal-post rule" of ORS 227.178(3), "approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted." The importance of the goal-post rule cannot be overstated: it allows applicants to rely on the laws in force at the time they apply and is an essential component in due process in quasi-judicial land use proceedings. The Application was submitted on April 5. The Planning Commission voted to ban short-term rentals on April 23rd. There is simply no question that short term rentals are permissible uses in the C-4 zone.

Staff expressly relied on the proposed ban in the staff report: "the city is considering a zoning requirement that would prevent the conversion of long-term to short-term housing as part of its affordable housing strategy." Staff Report at 4. To the extent that staff attempts to equivocate around this problem by highlighting the Commission's generalized "concern" about short term rentals expressed in prior hearings, such an approach does not solve the legal infirmity: there are no such legislative findings in the record of this Application and as the Commission well understands, it cannot consider extra-record evidence in deciding the Application. See generally, ORS 197.763.

Finally, staff's use of pending legislation or uncodified policy concerns about affordable housing supply does not provide a reason to deny the Application under any of the various factors¹ stated in Section 11.030.A.2, which requires that the proposed use is "appropriate at the

¹ Note that these factors only "should be considered" and are not criteria in and of themselves. Thus, the Applicant was under no specific obligation to demonstrate consistency with them. *Frankton Neigh. Assoc. v. Hood River County*, 25 Or LUBA 386 (1993) (a local code provision requiring that "consideration * * * be given to [certain specified] factors" does not establish mandatory approval standards for local government decisions, but rather merely lists "factors"

proposed location.” This is for the simple reason that staff’s concerns regarding short-term rentals are bound up with the *use itself*, not whether it is suitable at the *proposed location*. Nowhere in staff’s testimony does it find that this short-term rental proposal is not appropriate at this location but could be appropriate elsewhere; instead, it focuses on concerns about whether short-term rentals should be allowed in the City generally. Indeed, the only locational concern that staff raised is parking, which as we explain above, is not a permissible basis for denial.

E. The City Attorney incorrectly advised that the conditional use criteria require a demonstration that the lodging facility will be “beneficial to the community.”

After the May 28th hearing was closed, the City Attorney argued to the Commission that in order for it to approve a conditional use, it must find that the proposed use will be beneficial to the City. Only then, according to the City Attorney, may the Commission consider conditions that would mitigate any adverse effects of the use. This is a plainly incorrect statement of the criteria because the criteria do not require such a finding.

The applicable conditional use criteria are summarized as follows:

- “1. The use is appropriate at the proposed location.
2. An adequate site layout will be used for transportation activities.
3. The use will not overburden water and sewer facilities [...] or other utilities.
4. The topography, soils, and other physical characteristics of the site are appropriate for the use.”

ADC 11.030.A. Nowhere in these criteria is the Applicant required to demonstrate that proposed development provides a generalized benefit to the City.

Applying considerations which are embodied neither in the record nor the land use regulations applicable to the Application directly violates the legal requirement in ORS 227.173 that “approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance [...]” The City Attorney’s testimony is similar to the bases for denial rejected by LUBA in *Buel-McIntire v. City of Yachats*, 63 Or LUBA 452 (2011). In that case, the City denied a conditional use application for a proposal to allow occupation of RVs as permanent housing because of the proposals potential “detrimental effects” on the neighborhood and its potential to disrupt the neighborhood’s “visual character” and “day-to-day activities,” as well as its reliance on the purpose statement of the

which the local government must consider); *Thormahlen v. City of Ashland*, 20 Or LUBA 218 (1990) (factors are not themselves approval standards, and no one factor is conclusive).

relevant zone. LUBA held that these reasons could not support the City's denial because they were not criteria, explaining that while "the City has latitude to identify applicable 'standards and criteria,'" "those criteria must already existing the development ordinance [...] and the city may not manufacture standards and criteria on an application for permit approval." Id. 456–66.

To the extent that the City Attorney bases his comments on the purpose statement of the conditional use code, which provides in part that "the purpose of the conditional use process is to allow, when desirable, uses that [...] would be beneficial to the City" (ADC 11.010), such reliance is misplaced. LUBA has held on a number of occasions that purpose statements cannot be applied as decisional criteria. Id. 459; *Bridge Street Partners v. City of Lafayette*, 56 Or LUBA 387, 392 (2008); *Renaissance Development v. City of Lake Oswego*, 45 Or LUBA 312, 322-23 (2003). If the City Council wanted a proven community benefit to be a criterion, it could have made it so, but it did not.

III. The Applications is Consistent with the Comprehensive Plan

A. The Application directly advances the City's Downtown Area Policies.

Comprehensive Plan provisions applicable to the Application are located in the City's Downtown Area Policies in CP 055, which policies are implemented by the C-4 zone. Aside from a catch-all policy referencing the Plan's policies on economics, transportation, parks and recreation, historic preservation, housing, and shorelands, applicable policies are set forth below, followed by the Applicant's response:

"2. The City supports efforts to improve the parking problem in the Downtown, and to provide landscaping and other improvements. However, the C-4 zone will continue to not require off-street parking."

RESPONSE: This policy clearly demonstrates that the City Council considered but ultimately rejected the idea of requiring off-street parking in the Downtown.

"3. Zoning actions must not detract from the vitality of the Downtown as the commercial center of the region. Strip commercial development is to be generally discouraged."

RESPONSE: The Application is consistent with this policy because it provides for a hospitality use in the City's downtown, which uses support Downtown businesses by providing customers willing and prepared to spend money on entertainment.

"4. The City encourages the reuse of existing buildings prior to the expansion of commercial zones."

RESPONSE: The Application is consistent with this policy because it facilitates productive and active reuse of an existing building.

B. The Application does not violate any housing policies.

There is no housing policy in Comprehensive Plan which discourages or prohibits the conversion of housing in the downtown area to a hospitality use. The only housing policy which encourages housing in the Downtown is CP.200.12, which encourages downtown housing for the elderly or handicapped persons. There is no basis to conclude that the subject property would be viable for the elderly or disabled persons because it is accessed by a staircase and several of its units are on a second floor.

C. The Application advances a number of the City's economic policies.

On balance, the lodging facility advances several economic policies in the plan by providing places for tourists to stay and contribute to the economic vitality of the City, including the following:

"CP 200

4. Encourage private development such as retail, restaurants, commercial services, transient lodging, and make strategic investments in target industries. (Emphasis added).

5. Provide a supportive environment for new business."

"CP 204

Goal: Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry.

3. Encourage the growth of tourism as a part of the economy."

D. Staff is incorrect in its findings that the Application is not consistent with certain Plan Policies.

Staff argues that the Application does not meet certain plan policies, but such conclusions are strained at best and disingenuous at worst.

First, staff is incorrect that the Application is not consistent with CP 015(1), which states:

"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."

Staff incorrectly argues that allowing the Property to be used for short-term rentals would adversely affect local businesses. This is a counterintuitive conclusion based on no evidence: indeed, the City's policies seek to encourage lodging uses to *increase* business in the City, as noted above. Moreover, staff's conclusion completely ignores the second sentence of the above policy, which explains that the very intent of the Plan is "to promote Astoria as the commercial, industrial, tourist, and cultural center of the area." (Emphasis added.)

Staff also ignores a general policy that is directly furthered by the Application: "5. The special qualities that make downtown Astoria a desirable place to visit or work should be promoted and protected through the City Plan and land use ordinances." CP 015(5).

Finally, staff concludes that the "remaining residential units are part of the economic fabric of downtown and contribute the diversity of the community." This might be so, but hospitality uses have similar positive impacts on downtown businesses, as the City's Plan observes directly and indirectly.

In summary, the Application advances a number of the City's Plan Policies. The Application's impacts on the policies cited by staff can certainly be found to be positive, but at worst, such impacts are equally supportive of those policies as multi-family housing.

IV. Response to public testimony.

Written and oral testimony, including from people living outside of the City, argued that the Application will have an adverse impact on affordable housing supply in the City. While we respect and appreciate the Public's concern about housing affordability, such comments do not relate to the criteria, none of which seek to determine the Application's impact on the City's housing supply. Moreover, the existing apartments are not rent-controlled or otherwise required to be maintained as affordable housing, and given the renovation necessary to preserve the building, it is unlikely that the five units can be rented below-market if the Application is denied.

Finally, public concerns regarding short-term rentals and parking cannot influence the Commission's decision in this case, as explained above.

V. Conclusion

At bottom, staff recommends denial due to policy issues that were not reflected in the ADC or Comprehensive Plan at the time the Application was submitted. Regardless of the merit of those policy issues, the Application is subject only to those regulations in effect when it was submitted. Staff's recommendation directly violates that well-known and important fixed-goal post rule. As staff has not identified any legally-permissible basis for denial, because the Application satisfies the applicable criteria, and because it is consistent with applicable provisions of the Comprehensive Plan, the Commission should approve the Application.

Mr. Sean Fitzpatrick
June 11, 2019
Page 10

To address concerns regarding parking, the Applicant agrees to the following additional condition of approval: **“The Applicant shall pay the City \$540 annually to offset the Lodging facility’s demand for three off-street parking spaces, as provided for in ADC 7.062.”**

Best regards,



Garrett H. Stephenson

GST/jmhi

cc: Cc Mr. Matthew Gillis (*via email*)
Mr. Michael C. Robinson (*via email*)

PDX\134608\247999\GST\25542166.1



CITY OF ASTORIA
FOUNDED 1811 – INCORPORATED 1856
CITY ATTORNEY
LEGAL MEMORANDUM

DATE: JUNE 17, 2019
TO: ASTORIA PLANNING COMMISSION
FROM: BLAIR HENNINGSGAARD, CITY ATTORNEY
SUBJECT: STEWARDSHIP HOMES APPLICATION

Stewardship Home, LLC's has applied for a conditional use permit in order to convert a multi-family residential structure located in the C-4: Central Commercial Zone into an Airbnb-type short-term rental facility¹. In support of its request, the applicant submitted a 10-page legal memorandum in the form of a letter dated June 11, 2019. The applicant's letter incorrectly interprets the staff recommendation and is mistaken in describing the role of the Planning Commission. I will address these issues in this memorandum.

Staff's Recommendation of Denial

The applicant's letter states:

"Staff offers two bases for denial: the lodging facility's lack of off-street parking and because the Commission's recent vote to ban short-term rentals."

This misstatement is submitted in support of its argument that "[t]hese reasons for denial are not permissible under applicable law . . ."

The recommendation to deny this permit is actually based upon staff's conclusion that Stewardship Home, LLC did not meet necessary criteria and that a hotel is not appropriate at the proposed location. The staff report states:

"The request does not meet all applicable review criteria. The lack of parking would place pressure on the availability of parking for local residents, and others. Although a ban on conversion of residential to lodging units has not yet been enacted, the proposed ban underscores issues that short term rentals pose to the City. Staff concludes that the

¹ The facility proposed is defined by our code as a "hotel." APC 1.400

applicant has failed to demonstrate compliance with Section 11.030(A)(1) and that the conversion of this residential use to short term rentals is not appropriate at this location.”

APC 2.445.7 allows Hotels in the C-4 zone if, among other requirements, the applicant can demonstrate compliance with the general requirements that appear in APC Article 11. APC Article 11 includes a requirement 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.” APC 11.030 A.1

Whether a particular use is “appropriate” creates a discretionary and subjective standard. The standard is flexible in order to allow consideration of factors other than those specifically mentioned and address impacts caused by a particular development. APC 11.030 A.1 should be interpreted in line with the City’s purpose to only grant conditional use permits for uses that are beneficial to the City. APC 11.010.

The use of the word “should” in APC 11.030.A.1 requires the applicant to address issues of accessibility; availability of similar existing uses; availability of other appropriately zoned sites; and the desirability of other suitably zoned sites². As noted in Staff’s conclusion “the applicant has failed to demonstrate compliance” with these concerns.

Notwithstanding arguments raised by the applicant, staff recommendation of denial is based upon the applicant’s failure to demonstrate that conversion of a residential use to a hotel is appropriate at the proposed location.

Role of the Planning Commission

The applicant’s letter states:

“As staff did not identify a legally viable basis for denial, the Commission must approve the Application.”

² APC 1.400 – Definitions. 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. (Added by Ordinance 14-03, 4-21-14)

The statement that you “must approve” the application misstates the duties of both staff and the Commission. The burden of proof is always on the applicant to establish each and every requirement for a conditional use. APC 9.030.C. Approval of this application may not be granted unless you find that the applicant has adequately addressed each required element. Conversely the conditional use permit must be denied if you find that the application does not comply with any particular requirement. It is not staff’s obligation to prove or disprove the application. Staff’s recommendation is just that, a recommendation.

The Planning Commission’s role is set forth in City ordinance. You are required to conduct a public hearing, deliberate and determine whether “the location and development plans” comply with:

- 1) “the applicable standards referred to in Sections 2.440 through 2.445”;
- 2) “additional Development Code provisions”;
- 3) “the Comprehensive Plan”; and
- 4) “other City laws.” APC 2.435.

Among other requirements, APC 2.445.7 requires that conditional uses in the C-4 zone meet the requirements of APC Article 11.

APC Article 11 describes twelve requirements for conditional uses in 11 APC 11.020 B. and 11.030 A. These requirements include³:

- The proposal complies with applicable policies in the comprehensive plan. APC 11.020 B.2;
- 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. APC 11.030 A.1; and
- An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of *. *. *, parking, *. *. *. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements. APC 11.030 A.2

³ The three requirements mentioned above do not represent the only possible criteria for your decision. The Planning Commission may base its decision on any requirements for conditional uses described in the C-4 zone.

Applicable Comprehensive Plan Policies

Housing Goals and Policies

An extremely low vacancy rate is identified as problem in the City's comprehensive plan. CP 215. Maintaining the community's existing housing stock is a goal the City has adopted to address this problem. CP.218.2.

Policies designed to meet this goal include:

Maintain attractive and livable residential neighborhoods, for all types of housing. CP 220.1;

Encourage low and moderate income housing throughout the City, not concentrated in one area. CP 220.5.

Protect neighborhoods from incompatible uses, including large scale commercial, industrial, and public uses or activities. CP 220.6.

Encourage the development of the elderly and handicapped housing in the Downtown area, where the terrain is level and services are available within walking distance. Encourage renovation of the second floors of commercial buildings in the Downtown. CP 220.12.

Allow for, encourage, and support the development of housing units in conjunction with commercial development (e.g. housing located above commercial uses) to provide diversity and security in commercial areas and a range of housing options. CP 220.20

Downtown Area Goals and Policies

Historically, the Central Commercial (C-4) zone in the Astoria's downtown has not required off-street parking however CP.050 recognizes a lack of parking as a problem facing this area. Policies adopted to the parking problem include:

CP.055.2. The City supports efforts to improve the parking problem in the Downtown, and to provide landscaping and other improvements. However, the C-4 zone will continue to not require off-street parking.

CP.055.6. The Central Commercial Zone (C-4) will continue to be the designation for Downtown central business district. Uses in this zone will be primarily retail, offices, and general services with some residential use. Uses which have a large land area/low assessed value ratio will be permitted in other commercial areas rather than the Downtown.

APC 11.030 A.2: Adequate Site Layout

As with APC 11.030 A.1., APC 11.030 A.2. provides mandatory approval criteria for conditional uses. This ordinance requires a demonstration of an “adequate site layout” for transportation activities and requires the Planning Commission to consider whether parking is suitable. Whether the site layout is “adequate” and parking is “suitable” are subjective standards of approvals.

The applicant’s argument that parking may not be considered by the commission conflates issues of whether a lack of parking may be considered with whether additional parking may be required. Although our rules and comprehensive plan can be read to prohibit parking requirements for a conditional use in the C-4 zone, a decision you need no make, APC 11.030 A.2 does require that the adequacy of parking be considered in any conditional use application. Whether potential parking problems created by this application can be considered by you and whether parking may be required as a condition of granting a conditional use are separate issues.

Nothing in the City’s Comprehensive plan or any ordinance proscribes consideration of parking problems in the C-4 zone during conditional use review. In fact, APC 11.030 A.2. specifically requires the Planning Commission to consider issues related to parking before granting any conditional use permit.

Conclusion

The Planning Commission must determine whether this application complies with all applicable standards. If your decision is to approve the application, your findings must explain why the application complies with those standards. If your decision is to deny the application, your findings must explain which standards the application fails to meet and what, if anything, the applicant must do to bring its application into compliance with the Astoria Planning Code.

DATE: June 18, 2019
TO: Astoria Planning Commission
THROUGH: Mike Morgan, Interim Planner, City of Astoria
FROM: Nancy Ferber-AICP, Coastal Planner, CREST *Nancy Ferber*
SUBJECT: Conditional Use Permit (CU19-05) 256 Marine Drive PacifiCorp remediation

APPLICANT

Rob Webb on behalf of PacifiCorp
Jackie Wetzsteon, PacifiCorp
825 NE Multnomah St, LCT 600
Portland, OR 97232

AUTHORIZED AGENT

Dalton, Olmsted & Fuglevand, Inc.
825 NE Multnomah St, LCT 600
Portland, OR 97232

PROPERTY OWNER

Oregon Department of State Lands (DSL)
775 Summer St. NE
Salem, OR 97301

ADDRESS / LOCATION

In water area adjacent to 256 Marine Drive
Astoria, Oregon 97103

TAX MAP ID

Map 7DA, Tax Lot 100

PUBLIC LAND SURVEY SYSTEM

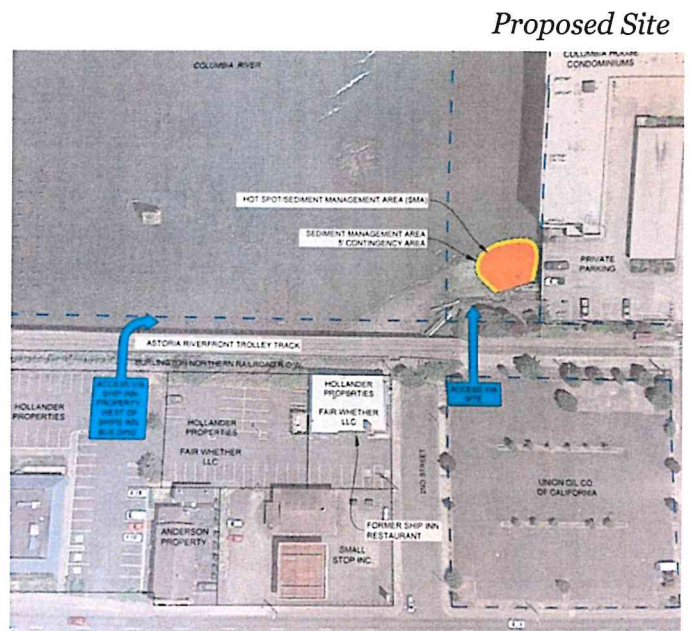
TOWNSHIP: 8 North
RANGE: 9 West

ZONING

A-2 (Aquatic Two Development) zone

OVERVIEW

The City of Astoria has requested CREST review a Conditional Use application submitted to City for their review. Since this permit pertains particularly to shoreline and in-water work for sediment remediation in an intertidal area, the City sent materials to CREST for review.



SITE BACKGROUND

The upland portion of the subject property is located within the C-2 (Tourist Commercial) zone, the aquatic portions are located within intertidal areas in the A-2 (Aquatic Two Development) zone. The site is between 2nd and 3rd Street, north of the Riverwalk. The Department of State Lands owns the submerged/submersible lands, and leases to Todd Building Co.

According to DEQ records, from about 1888 to 1977, this site was used for the manufacturing of coal gas, and as a bulk petroleum distribution facility. Coal gas manufacturing ceased around 1921, while petroleum distribution continued until 1977, when Unocal removed the buildings and above-ground tanks from the site.

The subject property (tax lot 100) including both the land and intertidal area is approximately 31,736 square feet (.73 acres). The adjacent upland area is currently paved and in use as a parking lot. The site was leased to a third party. A parking lot was constructed on the property covering exposed soils, and temporarily eliminating the direct contact exposure.



PROPOSED USE

The applicant is proposing remediation work for the former Unocal/PacifiCorp site. Contamination present at the site requires removal of 600 square feet of contaminated sediment. However, due to the proximity of the Columbia House Condominiums, the vicinity of in-water rocky outcrop, restricted access and other issues at the site, a pilot test project is proposed as an alternative. The Oleophilic Bio-Barrier (OBB) work plan for the pilot test was found acceptable by DEQ with conditions. This remediation works falls under the use of “Active Restoration,” which triggers the Conditional Use Permit in the A-2 zone, as well as review from other agencies.

PUBLIC REVIEW AND COMMENT SCHEDULE

A public notice was mailed to all property owners within 250 feet pursuant to Article 9 on May 31, 2019. On site notice was posted June 10, 2019. A notice of public hearing was published in the *Astorian* on June 18, 2019. Comments received will be made available at the Planning Commission meeting. Application materials were received May 6, 2019 and deemed complete May 20, 2019. The 120 day review period closes September 17, 2019. The associated public comment period on the application with DSL ends 5:00 pm on June 28, 2019.



APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

Applicable criteria includes:

Findings Section	Code	Issue
A	2.525	A-2 Zoning
	2.535	A-2 Conditional Uses
	2.540	Development Standards and Procedural Requirements for A-2
B	14.500-.510	CRESO-Columbia River Estuary Overlay District (triggers Articles 4 & 5)
C	4.010	Columbia River Estuary and Shoreland Regional Standards
	4.080	Fish and Wildlife Habitat in Columbia River Estuary Aquatic Areas
	4.130	Mitigation and Restoration in Columbia River Estuary Aquatic Areas
	4.180	Shoreland Hazard Areas
	4.210-220	Water Dependent Development Areas and Uses
D	5.010	Impact Assessment and Resource Capability Determination
	5.020	Resource Capability Determination
E	Article 9	Administrative Procedures
F	11.010-.040	Conditional Use Procedures, Standards and Special Conditions
	Compliance with the Comp Plan	Sections CP.010-.28 (General) CP130 - CP.186 (Aquatic & Shoreland), and CP.445 - CP.460 (Natural Resources) referenced Article 11 section
G	3.300	Regulation of Erosion Control and Stormwater Management
	3.305-3.315	Grading/ Erosion Permitting and Standards

- A. Development Code Section 2.525 outlines the purpose and activities considered as Conditional Uses in the Aquatic Conservation (A2) Zone. Section 2.585(2) allows for *“active restoration for purposes other than protection of habitat, nutrient, fish, wildlife and aesthetic resources”*.

Development Code Section 2.610 outlines those activities considered as Conditional Uses in the Aquatic Natural (A4) Zone. Section 2.610(3) allows for *“active restoration.”*

2.525 states: *The purpose of the Aquatic Two Development Zone is to enhance the unique character of the Downtown Waterfront and Maritime Museum subareas by providing for their redevelopment as mixed-use areas; the redevelopment to occur in a manner that is compatible with the retention and expansion of existing water-dependent uses in the area. Water-dependent uses shall have the highest priority. Non-water-dependent uses are permitted where they are consistent with the provision for water-dependent uses.*

The mix of water-dependent and non-water-dependent uses shall provide for public access where feasible. The Aquatic Two Development Zone includes: deep-water areas adjacent or in proximity to the shoreline; areas of minimum biological significance, vacant over-water pile supported structures suitable for redevelopment, and areas for which an exception to the requirements of the Estuarine Resources Goal has been adopted as an amendment to the Astoria Comprehensive Plan

2.535 (5) lists Active Restoration as a conditional use, subject to Section 2.540 Development Standards and Procedural Requirements

Finding: Restoration falls under two categories in Article 1.400, defined as: *Restoration: (Estuarine Related) Revitalizing, returning, or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events. For the purpose of Oregon Statewide Planning Goal 16, estuarine restoration means to revitalize reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed and may not have been a functioning part of the estuarine system when alteration work began.*

***Active Restoration** involves the use of specific remedial actions, such as removing fills, installing water treatment facilities, rebuilding deteriorated urban waterfront area or returning diked areas to tidal influence.*

***Passive Restoration** is the use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.*

The proposed remediation activity includes installing a clay barrier 18” below the existing sediment surface to absorb petroleum hydrocarbons. The barrier is comprised of three clay layers inside a geotextile fabric. To install the barrier, existing gravel will be removed and replaced over the fabric. The use of specific remedial actions falls under “active restoration.” Additional information on the action is included in the applicant’s Joint Permit materials. The proposal is being reviewed as a conditional use.

Section 2.540 Development Standards and Procedural Requirements:

1. 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).

2. When a proposal includes several uses, the uses shall be reviewed in aggregate under the more stringent provision.

3. Uses that are not water-dependent shall be located either on a floating structure or pilings and shall not increase the need for fill if in association with a water-dependent use located on fill.

4. 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.

5. No structure will exceed a height of 28 feet above the grade of adjacent shoreland...

Finding: Items 2- 5 are not applicable to proposal, Article 4 standards around Columbia River Estuary Shoreland are addressed in sections C and D.

6. Uses and activities that would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration, subject to the requirements of Section 5.010, Impact Assessment.

Finding: Article 5 standards are address in section D.

7. Uses located between the extended rights-of-way 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 parking lot north of Marine Drive between 2nd and 3rd streets will be used to stage equipment and materials. Additional parking is not needed for the remediation work, however the applicant should be aware Public Works will require permits to cross the City's trolley tracks. The applicant shall obtain any necessary ROW/access permits from Public Works.

8. Special siting standards. All buildings shall meet the following special siting standards

Finding: Not applicable to proposal

9. Uses in this zone which are water-dependent or water-related must meet the criteria for water-dependent uses (Section 4.220(A)) or for water-related uses (Section 4.220(B)).

Finding: Article 4 standards are addressed in section C

10. Professional and business office...

Not applicable to proposal

B. 14.500. CRESO Overlay District Purpose and Areas Included

This overlay district establishes additional requirements for shoreland areas adjacent to the Columbia River Estuary to assure that estuary shorelands are managed in a way that is compatible with adjacent estuarine aquatic areas. This district includes the following shoreland areas:

- 1. Areas within 50 feet of the estuary shoreline*
- 2. Adjacent area of geologic instability where the instability is related to or will impact the estuary*
- 3. Riparian vegetation*
- 4. Area of significant shoreland and wetland biological habitats where habitat quality is derived from or associated with the estuary*
- 5. Areas in the S-1, S-2, S-2A, S-3 or S-4 Zones.*
- 6. Area of exceptional aesthetic or scenic quality, where the quality is primarily derived from or associated with the estuary*

14.505. Permitted and Conditional Uses

- 1. Use and activity listed in the underlying zone, subject to the procedure specified in the underlying zone*
- 2. Accessory use and activity associated with development in adjacent Columbia River Estuary aquatic areas, subject to the procedure specified in the Aquatic Zone.*

14.510. Development Standards and Procedural Requirements

- 1. All uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. Where a proposal involves several uses, the Standards applicable to each use shall be satisfied*
- 2. Proposals involving a development that is only partially within this Overlay District shall be reviewed so that only the uses and activities actually within the Shorelands Boundary are subject to the requirements of this Overlay District*
- 3. The Shorelands Boundary describes the landward limit of this Overlay District. The Shorelands Boundary is described in the Subarea Plans, Section CP.155 through CP.180 of the Comprehensive Plan*

Finding: The location of the proposed remediation triggers the CRESO overlay standards. The use is within 50' of the estuary shoreline and requires a conditional use permit. The applicable Development Standards in Article 4 are addressed in Section C and D.

C. Article 4: Columbia River Estuary and Shoreland Regional Standards

Section 2.540(1) concerning the A-2 Zone states, “All uses shall satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4.”

Article 4 establishes: use and activity standards for developments in Columbia River estuary aquatic areas and shorelands. Some apply only to the estuary's waters and tidal wetlands: These are indicated by the qualifying phrase "aquatic areas" or "aquatic designations." Standards applicable only to estuary shorelands, including associated

non-tidal wetland areas, are so indicated by the phrase "shoreland areas" or "shoreland designations." The location of the mitigation work is in the aquatic area/designations, the following sections of article 4 apply:

Section 4.080, Fish and Wildlife Habitat, 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.

Section 4.080 (1) states, *"Projects affecting endangered, threatened or sensitive species habitat, ..., shall be designed to minimize potential adverse impacts. This shall be accomplished by one or more of the following:*

- a. Soliciting and incorporating agency recommendations into local permit reviews;*
- b. Dedicating and setting aside undeveloped on-site areas for habitat;*
- c. Providing on or off-site compensation for lost or degraded habitat;*
- d. Retaining key habitat features."*

Finding: This project is remediation action that has been designed under the oversight of the Oregon Department of Environmental Quality (DEQ) as a remedy for contamination present at the site. The mitigation activities proposed, have incorporated agency recommendations including the following conditions that the remedy must include:

1. A conservative design that provides enough absorptive capacity to be a permanent remedy (30 years or more)
2. A monitoring program enough to detect NAPL (Nonaqueous Phase Liquids) EPA sheen or seeps that break through the barrier
3. A protective layer designed to withstand climate change and associated increased wind and wave action.

Section 4.080 (2) states, *"In-water construction activity in aquatic areas shall follow the recommendations of State and Federal fisheries agencies with respect to project timing to avoid unnecessary impacts on migratory fish."*

Finding: PacifiCorp is proposing to conduct maintenance activities during low tide to avoid the release of sediment and NAPL (Nonaqueous Phase Liquids) to the River, while working in small sections and monitoring air quality around the work area. Equipment will be lifted in/out of the work area to avoiding impacting the existing shoreline, and containment booms will be installed around the area. Work will comply with DEQ and Corp of Engineers standards.

Section 4.080 (3) states, *"Uses and activities with the potential for adversely affecting fish and wildlife habitat may be approved only upon a demonstration that the following impact mitigation actions are incorporated into the permit where feasible. These impact mitigation actions are listed from highest to lowest priority:*

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;*
- b. Minimizing impacts by limiting the degree of magnitude of an action and its implementation;*

- c. *Rectifying the impact by repairing, rehabilitating, or restoring the affected environment ...;*
- d. *Reducing or eliminating the impact over time by preservation and maintenance operations.*”

Finding: This purpose of the proposed project is to perform remediation preventing surrounding areas from potential contamination. Any impacts to fish and wildlife habitat as a result of this project will be temporary in nature. The applicant notes in their Joint Permit materials that the project may temporarily affect protected fish species by covering the existing channel bed substrate with the OCB layer. However, this is a short term effect, and the overall objective is to mitigate long term toxicity and impacts to aquatic organisms. In the long-term it is expected that this project will benefit the surrounding fish and wildlife habitat.

Section 4.080 (4) states, “*Projects involving subtidal or intertidal aquatic area fill or intertidal aquatic dredging with the potential for adversely affecting aquatic habitat must provide compensatory mitigation, consistent with the Mitigation and Restoration Plan for the Columbia River Estuary.*”

Finding: This project is a remediation project addressing contamination present on the site. The goal of the project is to maintain and repair the removal and containment of existing contamination and to restore the affected shoreline and intertidal area. The proposed work itself is compensatory mitigation.

D. Article 5 Impact Assessment and Resource Capability Determination

5.010 The purpose of this section is to provide an assessment process for development alterations which could potentially alter the estuarine ecosystem.

5.010 A. Impact Assessment Requirements

An Impact Assessment in accordance with the provisions of this section shall be required for the following uses in estuarine aquatic areas...

10. “Other uses” or activities which could affect estuarine physical or biological resources

5.010 B. Use of Impact Assessment.

1. Information contained in an Impact Assessment shall be used in the evaluation of a use or activity's significant impacts on the estuarine ecosystem; in determining whether potential impacts can be avoided or minimized; and for providing a factual base of information needed to address applicable standards in Article 4.

2. Where a use requires a Resource Capability Determination, information in the Impact Assessment can be used to satisfy the requirements of 5.020

5.010 C. Information to be Provided in the Impact Assessment

5.010 D. Impact Assessment Findings

Finding: The proposed restoration activity falls under “*other uses* which could affect estuarine physical or biological resources,” although eleven items are listed under “information to be provided in the impact assessment,” a number of these items such as public access are not changing and are not applicable to the proposal.

The proposed uses and activities do not represent a significant degradation or reduction of estuarine resource, the applicant notes the remediation will result in overall positive environmental impacts. However, in addition to the impacts listed on the Joint Use Permit, the applicant shall address required items in 5.010 C. The additional Impact Assessment details shall be submitted to the Community Development Department for review and determination for Section D “Impact Assessment Findings.”

DSL is aware of the project proposal. Previously an application was submitted to DSL however it was administratively closed due to inactivity two years ago (2017). The applicant shall contact DSL to address a new permit and/or permit waiver, under “Division 85 Administrative Rules Governing the Issuance and Enforcement of Removal-Fill Authorizations within Water of Oregon Including Wetlands.”

E. Article 9 Administrative Procedures

9.010 through 9.100 outlines processes for review of land use permitting. The application is being reviewed as a Type III request due to the need for a Conditional Use Permit. Public notice has been sent, and a decision by the Planning Commission is appealable to City Council through the process outlined in Article 9.040

F. Article 11 Conditional Use Permitting

Section 11.020(B)(1) concerning Conditional Uses Application and Procedures, requires that the proposed use comply with applicable policies of the Comprehensive Plan.

1. Comprehensive Plan Section CP.010 Natural Features (7) *The City through its Comprehensive Plan and Development Code, will work to protect valuable resource land and water areas, including agricultural lands, forest lands, and the estuary*

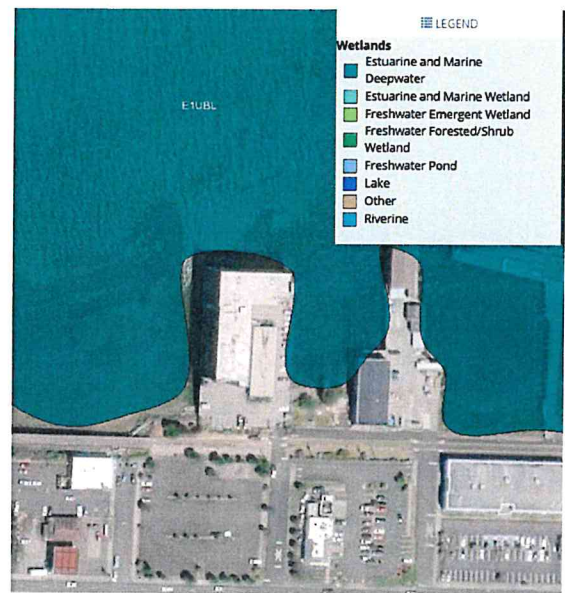
Finding: The project is a remediation and clean-up plan to address contamination issues of valuable land and water areas.

2. Comprehensive Plan Section CP.130 - CP.186 includes Columbia River Estuary Land and Water Use. This section outlines definitions, uses, Shoreland maps, Estuary maps, area designations and specific shoreland policies.

Finding: The area is within the “Development Aquatic” designation, defined an area of “*minimal biological significance needed for uses requiring alteration of the estuary, and areas that are not in Conservation or Natural designation.*” The proposed restoration work is allowed as a conditional use in the area and zone.

3. Comprehensive Plan Sections CP.445 - CP.460 concerning Natural Resources states that *“the biological productivity of the Columbia River estuary will continue to be an important consideration because of its contribution to the City's economy and quality of life.”*

Finding: The project is a remediation and a clean-up plan in the Estuarine wetland area shown to the right. The proposal will address contamination issues present at the site and helps maintain the biological productivity and health of the site in the future.



Section 11.030(A), Basic Conditional Use Standards, requires that before a conditional use is approved, findings will be made that the use will comply with the following standards:

1. 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 currently fenced off and has no uses presently existing on it; therefore, accessibility for users will not be an issue. The nature of the project is site specific to the proposed Sediment Management Area (SMA) and location of contamination.

2. 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 parking lot north of Marine Drive between 2nd and 3rd streets will be temporarily used for staging equipment and material. Access to the intertidal work area will require crossing the City's trolley tracks. Although the bridge end project has limited the trolley's usual runs, the trolley is currently operating through to 6th street. The applicant shall obtain necessary permits from Public Works for crossing the tracks as well as access to the site and shall coordinate with the Trolley Association a minimum of two weeks prior to the work to schedule any operational disruptions. Public Works staff are currently assisting with the coordination with the Trolley Association.

3. 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: The proposal does not require services. It will not overburden City services.

4. 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: The applicant has noted remedial investigations and engineering studies have been performed under the direction of the Oregon Department of Environmental Quality. The use proposed at the site is to absorb petroleum hydrocarbons contaminants in the intertidal area. The topography, soils, and other physical characteristics of the site helped to inform the design of the remediation project. The site is pictured below.

The remediation work requires accessing and disturbing some existing rock, gravel and sand. Once the OCB mats are placed, the excavators will replace stockpiled material. Alterations at the site are minimal and temporary to conduct the project.

5. Section 11.030(A)(5) requires that *“the use contain an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.”*

Finding: The “use” as restoration work, will not affect adjacent uses in terms of landscaping setbacks, and buffers. The applicant noted they will use “Best Management Practices”

(BMPs) to protect water quality, air quality, residents of the Columbia House Condominiums and the public during the work. The BMPs including the following:

1. Working only at low tide to avoid release of sediments
2. Working in small sections each tide cycle and covering the barrier before the next high tide to protect water quality and reduce odors
3. Working during daylight hours
4. monitoring air quality around the work area
5. Lifting equipment in/out of the area to avoid impacting the existing shoreline
6. installing containment booms around the work area

Any landscaping removed for the site access will be replaced and shall be maintained. The applicant shall not disturb the historic ballast rocks located near the work area.

G. Article 3.300 Regulation of Erosion Control and Stormwater Management states the following:

The purpose of this ordinance is to:

1. *Minimize impacts associated with excavation and grading*



Photo 1 – Proposed SMA with erosional shoreline to right and CHC pile supported structure in background.

- 2.Minimize the erosion of land during clearing, excavation, grading, construction and post-construction activities*
- 3.Prevent the transport of sediment and other soil borne pollutants into the Columbia River estuary and its tributaries, wetlands and riparian areas*
- 4.Prevent the transport of sediment onto adjacent property and into City rights of way and storm systems*
- 5.Prevent the unnecessary clearing, excavation, and stripping of land;*
- 6.To reduce the amount of soil exposure during construction*

Finding: Any proposed clearing, grading, filling, stripping, or excavating (regulated activity) within 100 feet of a river, bay, stream, watercourse or wetland triggers a permit. The applicant shall submit the appropriate grading permit required in article 3 for review. Per 3.320 standards: *“Review and approval of grading permits for regulated activities shall be based on the conformance of the development plans with the standards of this section. Conditions of approval may be imposed to assure that the development plan meets the standards. The City Engineer shall require modifications to the erosion and sedimentation control plan at any time if the plan is ineffective in preventing the discharge of sediment to City streets and storm drains, surface waters, wetlands, or adjacent property.”*

CONCLUSION AND RECOMMENDATION

After review of the submitted application, it has been determined that the request, in balance, meets all the applicable review criteria. Staff recommends approval of the Conditional Use Permit with the following conditions:

1. Any shoreline vegetation that is removed during the project shall be replanted with native species within 30 days of completion of the work or individual phase of work, unless extension granted by the Community Development Department due to the timing of the planting season. All work shall be in compliance with the City’s Erosion Control Ordinance.
2. The applicant shall obtain any required ROW, street closure and/or grading and erosion control permits from Public Works prior to working at the site
3. In addition to the impacts listed on the Joint Use Permit, the applicant shall address items in 5.010 C. The additional Impact Assessment details shall be submitted to the Community Development Department for review and determination for Section D “Impact Assessment Findings.”
4. The applicant shall contact DSL to address a new permit and/or permit waiver, under “Division 85 Administrative Rules Governing the Issuance and Enforcement of Removal-Fill Authorizations within Water of Oregon Including Wetlands.”
5. The applicant shall confirm that the adjacent historic ballast rocks will not be disturbed during any of the work at the site. The rocks are designated historic and shall not be removed or relocated. Documentation on the historic designation is available in the Community Development Department.

6. The City Engineer has requested a Grading and Erosion Control permit, and Frank Kemp with the Astoria Riverfront Trolley Association has been made aware of the project. The applicant shall submit required permits with Public Works and shall coordinate with the Trolley Association a minimum of two weeks prior to the work Association to keep interruptions to a minimum and schedule any operational disruptions.
7. Any landscaping removed for the site access will be replaced and shall be maintained.

THE APPLICANT SHOULD BE AWARE OF THE FOLLOWING REQUIREMENTS:

It is proposed that the conditional use permit be approved for continued maintenance of the site. It is recommended that, prior to any future work, the applicant submit a plan for review and approval by the Planner for compliance with this permit.

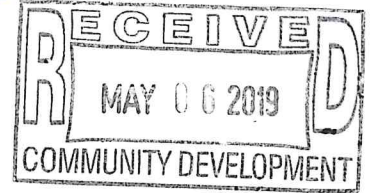
Significant changes or modifications to the proposed plans, as described in this Staff Report, shall be reviewed by the Astoria Planning Commission.

The applicant shall obtain all necessary City, State, and Federal permits prior to the start of the project.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856
COMMUNITY DEVELOPMENT

Received
at CREST 5-6-19



No. CU 19-05

☒ Fee Paid Date 5/14/19 By Rob Webb
Fee: \$500.00 via phone

CONDITIONAL USE APPLICATION

Property Address: 256 Marine Drive

Lot Parcel B Block - Subdivision -
See Attached Survey Tax
Map and Assessor's Map 7DA Lot 100 Zone A-2

Applicant Name: PacifiCorp (Point of Contact Jackie Wetzsteon)

Consultant: Rob Webb, Dalton, Olmsted, Fuglevand (Applicant representative)

Mailing Address: 825 NE Multnomah St., LCT 600, Portland, Or 97232

Phone (PacifiCorp): 503-813-5036 Consultant Phone (DOF): 360-908-1386

Email: Jackie.wetzsteon@pacificorp.com and Rwebb@dofnw.com

Property Owner's Name: Oregon Department of State Lands

Mailing Address: 775 Summer St. NE, Salem, OR 97301 - 1219

Business Name (if applicable): NA

Signature of Applicant: [Signature] Date: 5/6/2019

Signature of Property Owner: See attached Authorization for Remedial Action Date: Feb 19, 2019

Existing Use: Undeveloped tidelands

Proposed Use: Undeveloped tidelands with DEQ required and approved buried oil adsorbent system to absorb petroleum hydrocarbons

Square Footage of Building/Site: None

Proposed Off-Street Parking Spaces: NA

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. See attached Figure 6 (from Preliminary Design Report submitted to ODEQ)

For office use only:

Application Complete:	5-20-19 NF	Permit Info Into D-Base:	
Labels Prepared:		Tentative APC Meeting Date:	6-25-19 tentative
120 Days:	9-17-19		(next = 7/23)

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538
planning@astoria.or.us • www.astoria.or.us

FILING INFORMATION: Planning Commission meets on the fourth Tuesday of each month. Completed applications must be received by the 20th 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.

This application is to perform sediment remediation in the tidelands, as required by an Amended Record of Decision by Oregon Department of Environmental Quality (ODEQ 2012). The proposed work is shown in attached Figures 1 to 6, which are taken from the Preliminary Design Report submitted to and approved by ODEQ (Approved April 25, 2019). This required work is to address historical NAPL (Non-aqueous phase liquid) contamination present in the sediments from past upland site operations. Remediation is required in a Sediment Management Area (SMA) of about 3,000 square feet (see Figures 2 and 3). In the SMA, an organophilic clay barrier (OCB) will be installed about 18 inches below the existing sediment surface to absorb petroleum hydrocarbons. The barrier will be made with three layers of clay inside geotextile fabric. To install the fabric barriers, the existing cobbles and gravel will be removed and then replaced over the fabric. The ground surface elevation will not be changed. Figures 4 and 5 show cross-sections of the remediation work.

- 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.

The parking lot north of Marine Drive between 2nd and 3rd streets will be used for equipment and material staging. Access to the intertidal work site is shown on Figure 6 and will require crossing the City's trolley track. Work will be coordinated with the City and the Trolley to limit trolley impacts. Work in the intertidal area will be limited to about 6 hours per day when the water level in the River is below mean sea level (ie lower tide levels).

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

The work will not use existing utilities. The work will use "best management practices" (BMPs) to protect water quality, air quality, residents of Columbia House Condominium and the public during the work. These BMPs will include (a) working only at low tide to avoid releases of sediment and NAPL to the River, (b) working in small sections each tide cycle and covering the barrier before the next high tide to protect water quality and reduce odors, (c) working during daylight hours, (d) monitoring air quality around the work area, (e) lifting equipment in and out of the work area to avoid impacting the existing shoreline, and (f) installing containment booms around the work area. The work will comply with requirements of ODEQ and the Portland District Corp of Engineers permit for this work.

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.

Remedial investigations and engineering studies have been performed under the direction of ODEQ. The ground surface elevation will not be changed by this work and the existing cobbles, gravel and sand materials will be replaced in their current location.

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

Any landscaping that needs to be removed for site access will be replaced.

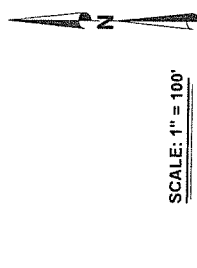
11.030(B) Housing developments will comply only with standards 2, 3, and 4 above.

ATTACHMENTS

1. Record of Survey titled "Tracts of Land and Block 2 McClures Addition to Astoria, by Statewide Land Surveying dated 7/7/2017
2. Figure 8-b Clatsop County Assessor's Map, PacifiCorp / Unocal In-Water Remediation, Astoria, Oregon
3. Figures 1 to 6, In-Water (Intertidal) Remediation Preliminary Design Report – OCB Remedy, PacifiCorp / Unocal, Astoria, Oregon
4. 4. Approval Letter from Oregon DEQ, April 25, 2019.

RECORD OF SURVEY

TRACTS OF LAND, AND BLOCK 2, THE PLAT OF "MC CLURES ADDITION TO ASTORIA",
TOWNSHIP 8 NORTH, RANGE 9 WEST, WILLAMETTE MERIDIAN,
CITY OF ASTORIA, COUNTY OF CLATSOP, STATE OF OREGON.



BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS
BETWEEN THE CALCULATED SOUTHWEST CORNER
OF BLOCK 1, PLAT OF "MC CLURES ADDITION
TO ASTORIA", FROM A 5/8" I.R. SET IN S2 AS
THE SOUTHEAST CORNER OF BLOCK 8 TO A W/PC
TACK SET AS A 2.00' OFF-SET TO THE NORTH
SHOWING A DISTANCE OF 1955.17' (1955.00'
CALCULATED PER P1)

REFERENCE SURVEYS

CLATSOP COUNTY SURVEY RECORDS

- S1 = SN 06984
- S2 = SN 07435
- S3 = SN 07933
- S4 = SN 08548
- S5 = SN 08621
- S6 = SN 12130

REFERENCE PLATS

CLATSOP COUNTY PLAT RECORDS

- P1 = THE PLAT OF "MC CLURES ADDITION TO ASTORIA"

REGISTER NUMBER

DATE
FILED

CLATSOP COUNTY
SURVEY RECORDS

REVISION:	SCALE: 1" = 100'
REVISION:	JOB NUMBER: 2016-52
REVISION:	DRAWN: K.D.C./T.M.S.
REVISION:	REVIEW DATE: 7/7/2017
REVISION:	SURVEY DATE:

SHEET: 1 OF 1

STATEWIDE LAND SURVEYING INC.

CLIENT: LEE BARBAS

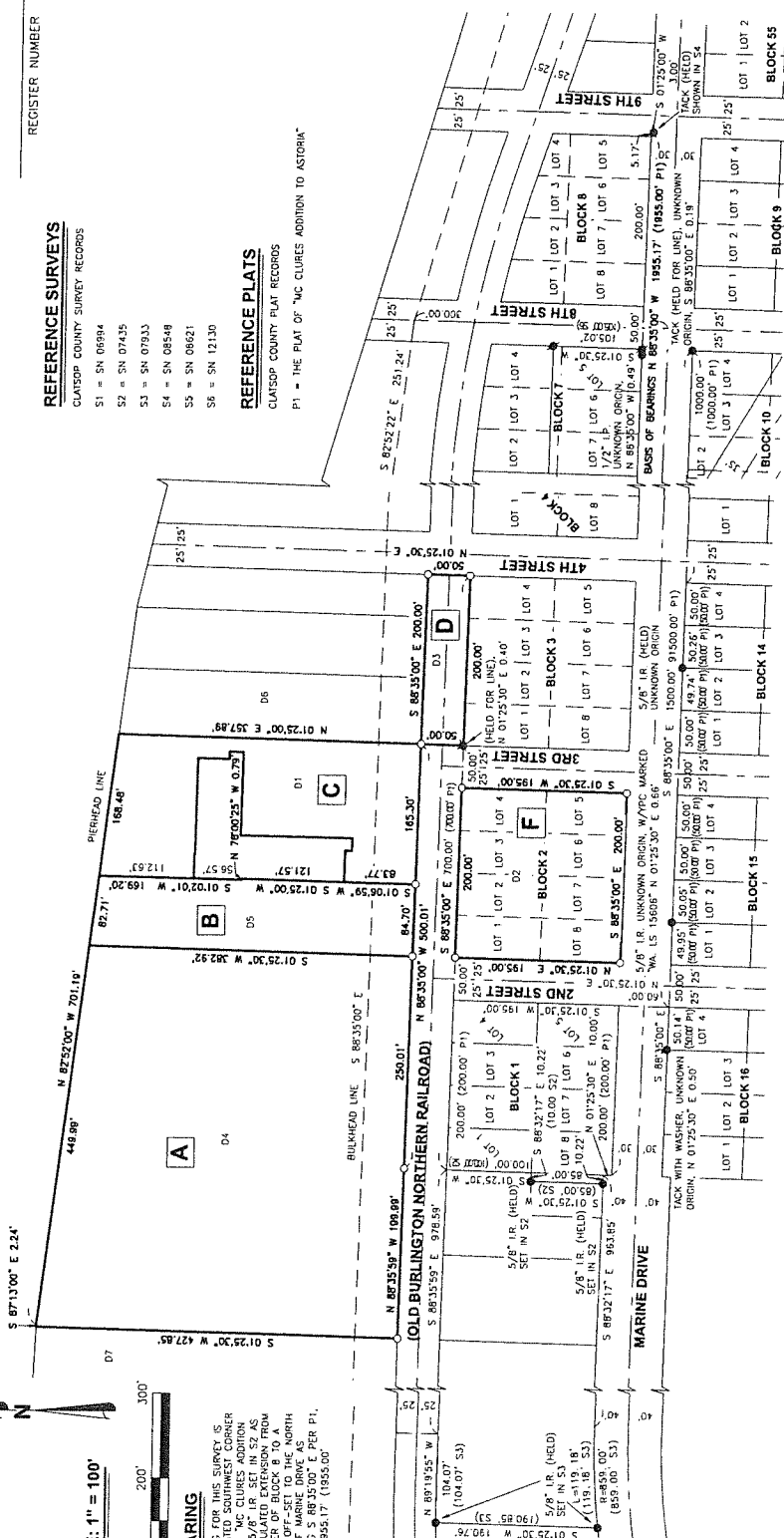
13 NW NW/4 AVE. GRESHAM, OR 97030
O: 503-665-7777 F: 503-665-7988
EMAIL: SURVEY@STATEWIDESURVEYING.COM
WEB: WWW.STATEWIDESURVEYING.COM



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gregory D. Spurluck

OREGON
JULY 15, 2015
GREGORY D. SPURLUCK
2370
EXPIRES: 06/30/18



PARCEL INFORMATION

- PARCEL A = PARCEL 3 IN D4. OWNER: OREGON DIVISION OF STATE LANDS. LESSEE: HOLLANDER PROPERTIES LLC.
- PARCEL B = OWNER: OREGON DIVISION OF STATE LANDS. LESSEE: CLATSOP INVESTMENT COMPANY, INC. LESSEE: TODD BUILDING COMPANY.
- NOTE: SOUTHERN PORTION DESCRIBED IN DEED BOOK 482, PAGE 788 CLATSOP COUNTY RECORDS.
- PARCEL C = OWNER: OREGON DIVISION OF STATE LANDS. LESSEE: CLATSOP INVESTMENT COMPANY, INC. LESSEE: TODD BUILDING COMPANY.
- LESSEE: COLUMBIA HOUSE CONDOMINIUM, DESCRIBED IN DEED BOOK 901, PAGES 628-629. NOTE: SOUTHERN PORTION DESCRIBED IN DEED BOOK 482, PAGE 788 CLATSOP COUNTY RECORDS.
- PARCEL D = OWNER: CITY OF ASTORIA. DESCRIBED IN D3
- PARCEL E = OWNER: UNION OIL COMPANY OF CALIFORNIA. DOING BUSINESS AS PACIFICORP. AN OREGON CORPORATION. DESCRIBED IN D2.

REFERENCE DEEDS

- CLATSOP COUNTY DEED RECORDS
- D1 = DEED BOOK 577, PAGE 425, AMENDED AND RECORDED SEPTEMBER 12, 1984 IN BOOK 624, PAGE 367.
- D2 = DEED BOOK 882, PAGE 963
- D3 = DEED BOOK 924, PAGE 648.
- D4 = DEED DOCUMENT NUMBER 201603732.
- D5 =
- D6 = DEED DOCUMENT NUMBER 200413391. OWNER: UNION OIL COMPANY OF CALIFORNIA.
- D7 = DEED BOOK 688, PAGE 645. OWNER: UNION OIL COMPANY.

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO MONUMENT THOSE TRACTS OF LAND AND BLOCK 2, THE PLAT OF "MC CLURES ADDITION TO ASTORIA", SITUATED IN SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 8 NORTH, RANGE 9 WEST, WILLAMETTE MERIDIAN, CITY OF ASTORIA, COUNTY OF CLATSOP, STATE OF OREGON, DESCRIBED IN DEED BOOK 577, PAGE 425, DEED BOOK 882, PAGE 963, DEED BOOK 924, PAGE 648, AND DEED DOCUMENT NUMBER 201603732. CLATSOP COUNTY DEED RECORDS.

THIS SURVEY BEGAN BY THIS MONUMENTS AROUND AND NEAR THE SUBJECT PROPERTIES AS SHOWN. THE EAST-WEST LINES WERE ESTABLISHED BY HOLDING A 10.00' OFF-SET SOUTH FROM THE 5/8" IRON ROD MONUMENT SET IN S2 AS THE SOUTHWEST CORNER OF LOT 8, BLOCK 1, THE PLAT OF "MC CLURES ADDITION TO ASTORIA", AND A 3.00' OFF-SET NORTH FROM THE FOUND TACK SET AS A 3.00' AS SHOWN. THE BEARING OF SAID LINE FOR ALL EAST-WEST LINES.

THE NORTH-SOUTH LINES WERE ESTABLISHED BY HOLDING THE BEARING OF THE LINES BETWEEN FOUND MONUMENTS THAT WERE NORTH-SOUTH FROM EACH OTHER, AS THE MONUMENT SET IN SN 07933 (3), SHOWN AT THE LEFT SIDE OF MAP. THE MONUMENT SET BY SN 07435, WEST OF BLOCK 1 AND THE MONUMENT SET IN SN 12130 (56), SET ALONG THE EAST BOUNDARY OF BLOCK 7, OF SAID PLAT.

HOLDING SAID MONUMENTS ALONG THE EAST BOUNDARY OF SAID BLOCK 7 AND THE OFF-SET LINE DESCRIBED ABOVE. ALL BLOCKS WERE CALCULATED PER SAID PLAT AND MONUMENTS WERE SET AS SHOWN.

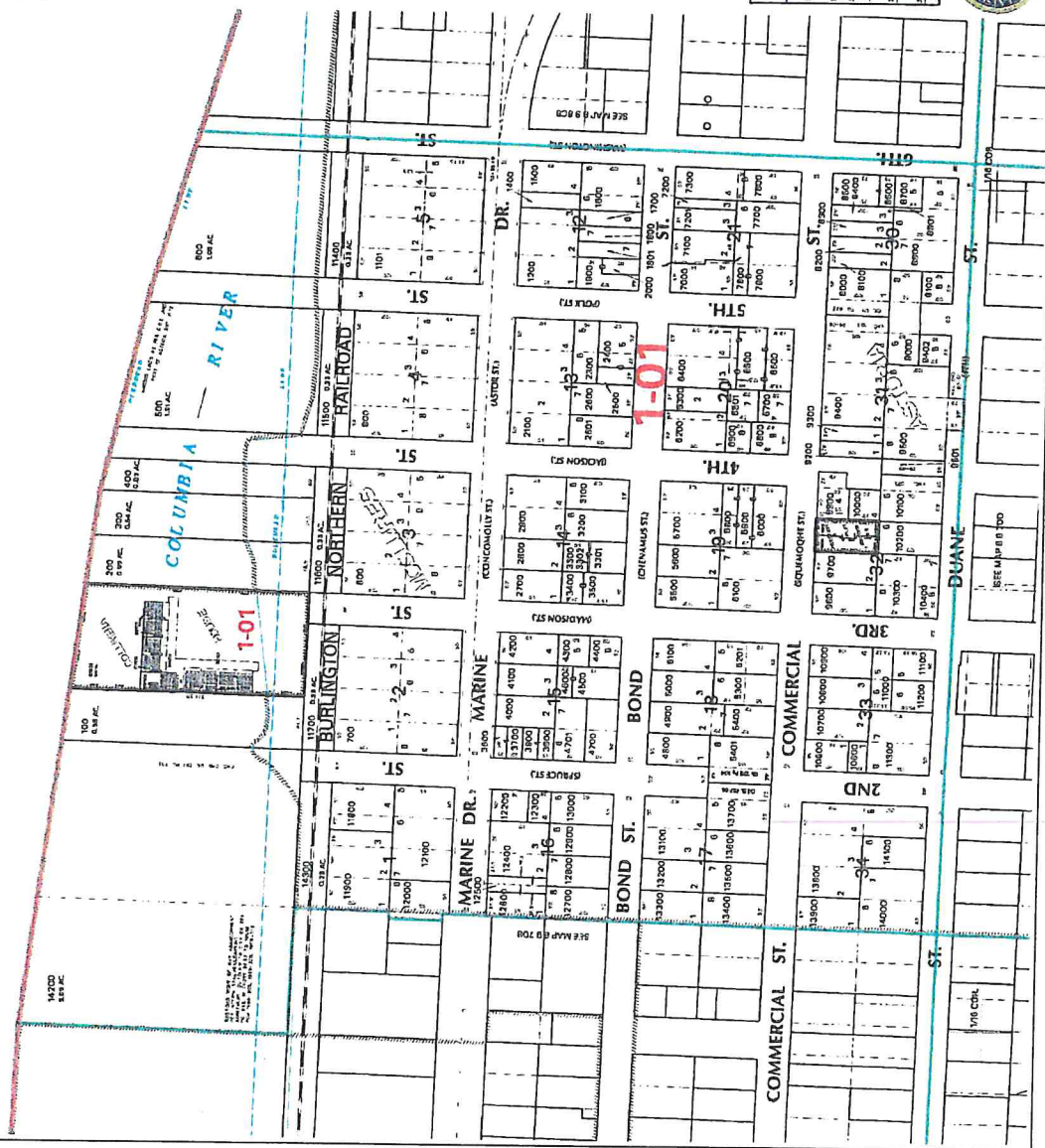
LEGEND

- = DENOTES FOUND MONUMENT AS NOTED.
- = DENOTES FOUND 5/8" I.R. W/ WPC MARKED
- ✕ = 1/2" I.R. 849' HELD. SET IN S5
- ✕ = DENOTES FOUND 5/8" I.R. W/ WPC MARKED
- "MAC TEC US 2119", AS NOTED, SET IN S5
- = DENOTES A 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED, SWLS INC. 503-665-7777, SET ON XXXXXX X. 2016.
- I.R. = IRON ROD
- I.P. = IRON PIPE
- SN = SURVEY NUMBER, CLATSOP COUNTY SURVEY RECORDS
- W/PC = WITH YELLOW PLASTIC CAP
- () = RECORD INFORMATION AS REFERENCED
- X = PARCEL IDENTIFICATION

100 200 400 ft

ROAD 1630/1 HARN ROAD/1000 Oregon Road 11/12 1/2 West

Account	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406</
---------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	--------



8.9.7DA



To help you prepare for estimated tax payments and other County taxes, the form is submitted by County Clerk's Office to support the proposed activities.

PacificCorp\Unocal

Astoria, Oregon
IN-WATER REMEDIATION
PRELIMINARY DESIGN - OCM REMEDY

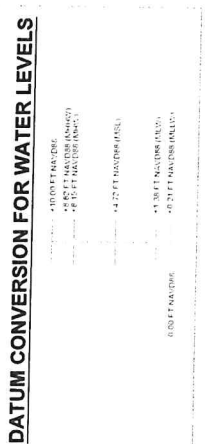
CLATSOP COUNTY ASSESSOR'S MAP

November 15, 2018

DOF DALTON
OLMSTED
FUGLEVAND

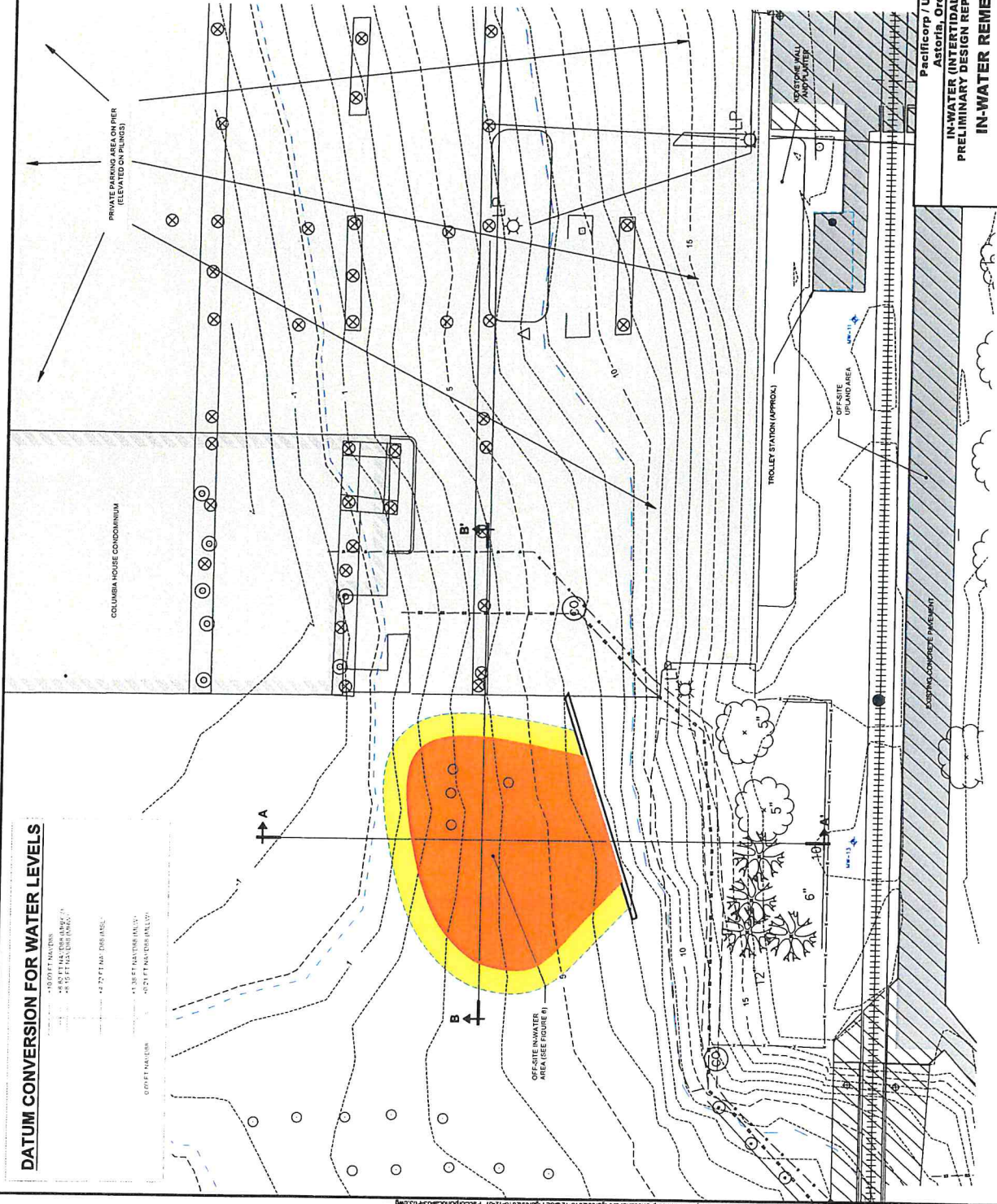
Figure 8-b





DATUM CONVERSION FOR WATER LEVELS

10.00 FT NAVD83	+10.00 FT NAVD83
15.00 FT NAVD83	+15.00 FT NAVD83
20.00 FT NAVD83	+20.00 FT NAVD83
25.00 FT NAVD83	+25.00 FT NAVD83
30.00 FT NAVD83	+30.00 FT NAVD83
35.00 FT NAVD83	+35.00 FT NAVD83
40.00 FT NAVD83	+40.00 FT NAVD83
45.00 FT NAVD83	+45.00 FT NAVD83
50.00 FT NAVD83	+50.00 FT NAVD83
55.00 FT NAVD83	+55.00 FT NAVD83
60.00 FT NAVD83	+60.00 FT NAVD83
65.00 FT NAVD83	+65.00 FT NAVD83
70.00 FT NAVD83	+70.00 FT NAVD83
75.00 FT NAVD83	+75.00 FT NAVD83
80.00 FT NAVD83	+80.00 FT NAVD83
85.00 FT NAVD83	+85.00 FT NAVD83
90.00 FT NAVD83	+90.00 FT NAVD83
95.00 FT NAVD83	+95.00 FT NAVD83
100.00 FT NAVD83	+100.00 FT NAVD83

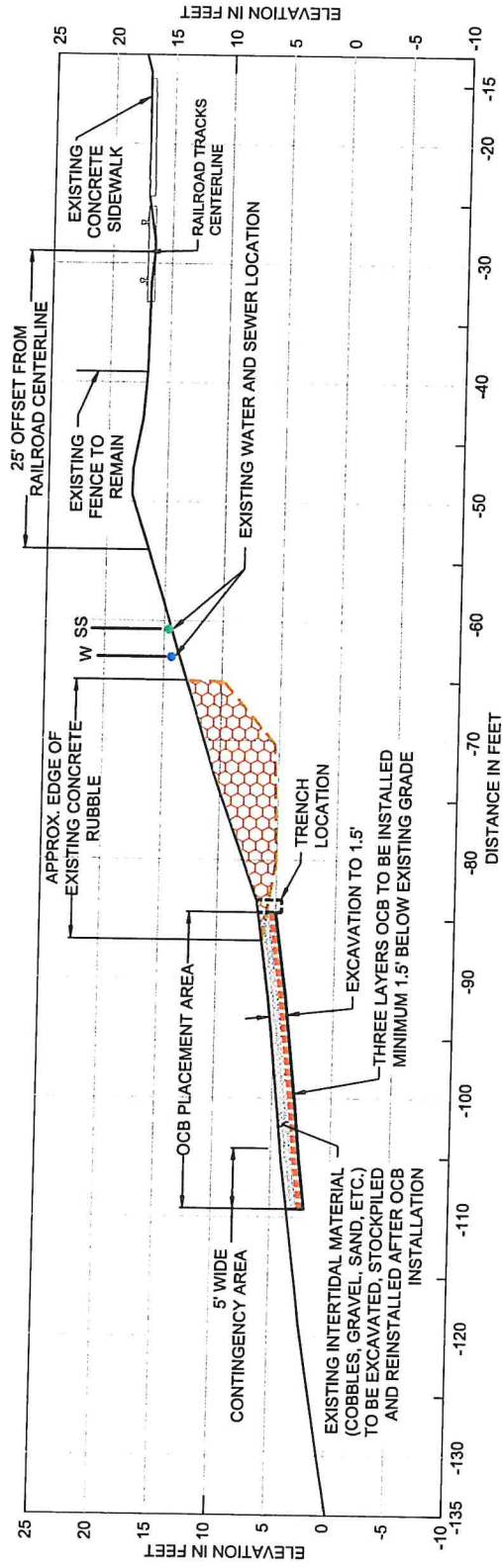


- EXISTING GCP
- EXISTING SPOT DATA AREA (LATE)
- 5 SAM CONTINGENCY AREA
- WATER ELEVATION - NAVD83 (2.1 FT MAODN)
- WATER ELEVATION - NAVD83 (2.1 FT MAODN)
- EXISTING CONTOUR
- EXISTING CONTOUR (RENE 4 TH FEET)
- EXISTING CHAIN LINK FENCE
- EXISTING FENCE
- EXISTING TROLLEY TRACKS
- EXISTING MONITORING WELLS
- EXISTING POWER POLE
- EXISTING GUY WIRE
- EXISTING BUILDINGS
- EXISTING UNDERWATER COLUMBIA HOUSE CONDO
- CONCRETE

ABBREVIATIONS
 NAVD83 = NORTH AMERICAN DATUM 1983
 NAVD83 = MEAN SEA LEVEL
 NAVD83 = MEAN SEA LEVEL
 NAVD83 = MEAN SEA LEVEL

- NOTES:
1. BASE MAP INFORMATION REVISIONS: INC. DATED 12/2018 AT A SCALE OF 1" = 10'
 2. APPROPRIATE HORIZONTAL COORDINATE SYSTEMS NORTH AMERICAN DATUM 1983 (NAD83) APPROPRIATE VERTICAL COORDINATE SYSTEM IS NORTH AMERICAN VERTICAL DATUM OF 1985 (NAVD85)
 3. SHOWN LOCATIONS SHOWN ARE APPROXIMATE, A PRELIMINARY DESIGN SHALL BE REQUIRED TO DETERMINE THEIR ACTUAL LOCATION





A-A CROSS SECTION
F-03

0 10
Scale in Feet

NOTES

1. VERTICAL DATUM: NAVD88 (NORTH AMERICAN VERTICAL DATUM OF 1988)
2. EXISTING CONCRETE RUBBLE, SHORELINE SLOPE AND EXISTING WATER AND SEWER LINES NOT TO BE DISTURBED. EXCAVATION FOR RCM INSTALLATION TO EXTEND TO LIMITS OF CONCRETE RUBBLE AS PRACTICABLE WITHOUT DISTURBING RUBBLE OR SLOPE.

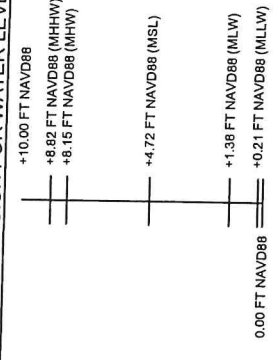
ABBREVIATIONS

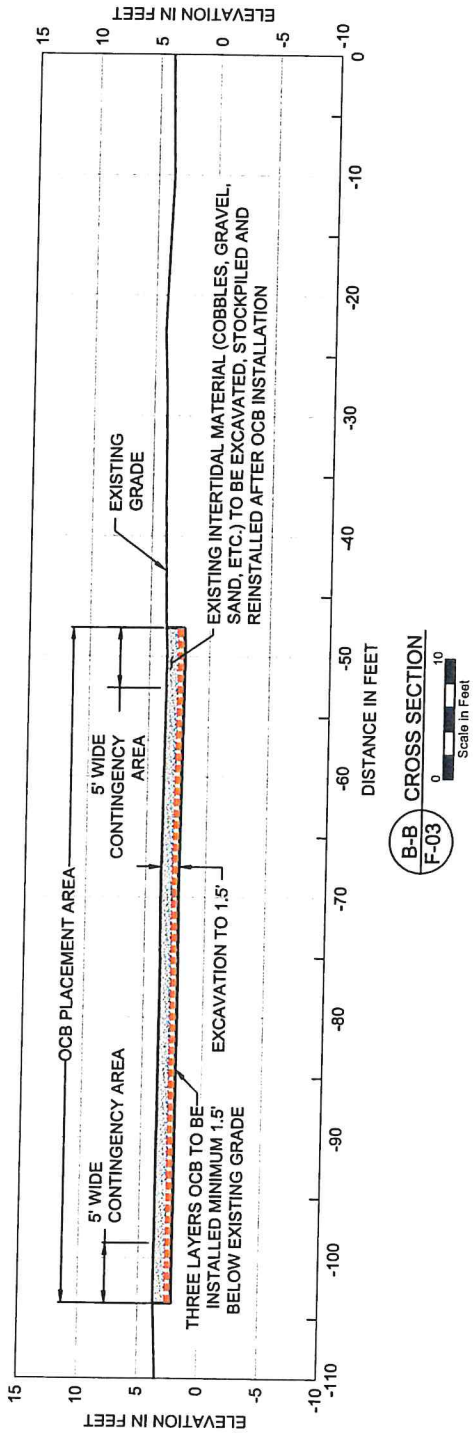
MHHW = MEAN HIGHER-HIGH WATER LEVEL
MLLW = MEAN LOWER-LOW WATER LEVEL

LEGEND

- ORGANOPHILIC CLAY BARRIER (OCB) - THREE LAYERS
- EXISTING GRADE
- EXISTING INTERTIDAL MATERIAL
- EXISTING CONCRETE RUBBLE (NOT TO BE DISTURBED, SEE NOTE 2)

DATUM CONVERSION FOR WATER LEVELS





NOTE

1. VERTICAL DATUM: NAVD88 (NORTH AMERICAN VERTICAL DATUM OF 1988)

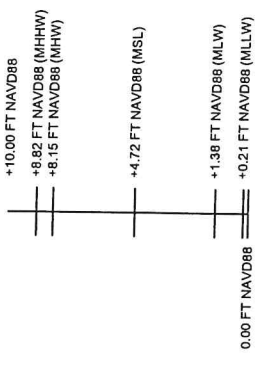
ABBREVIATIONS

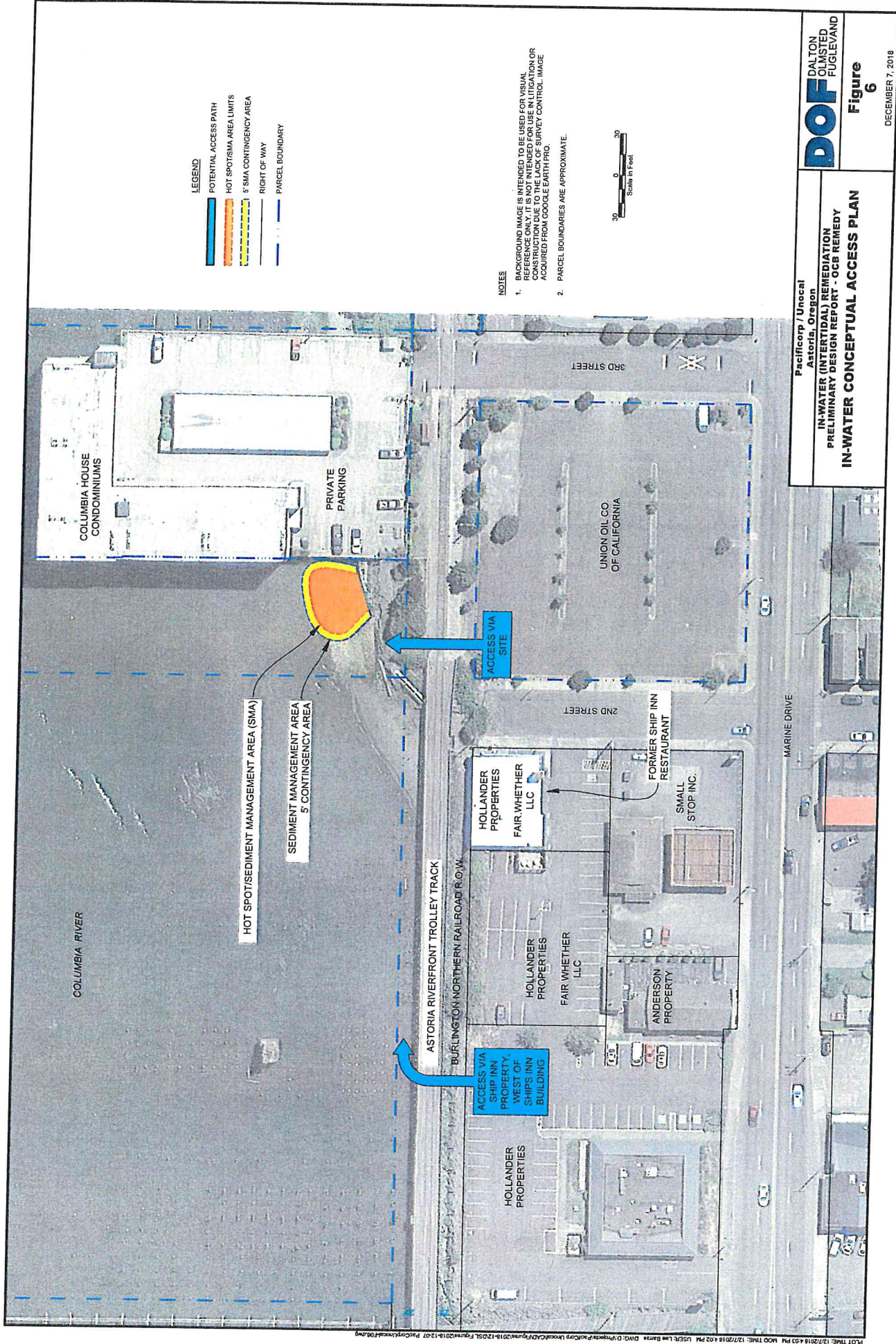
MHHW = MEAN HIGHER-HIGH WATER LEVEL
MLLW = MEAN LOWER-LOW WATER LEVEL

LEGEND

- ORGANOPHILIC CLAY BARRIER (OCB) - THREE LAYERS
- EXISTING GRADE
- EXISTING INTERTIDAL MATERIAL

DATUM CONVERSION FOR WATER LEVELS





Pacificorp / Unocal
Astoria, Oregon

**IN-WATER (INTERTIDAL) REMEDIATION
PRELIMINARY DESIGN REPORT - OCB REMEDY
IN-WATER CONCEPTUAL ACCESS PLAN**

DOF DALTON
OLMSTED
FUGLEVAND

Figure 6

DECEMBER 7, 2018



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah St., Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

April 25, 2019

Jackie Wetzsteon
PacifiCorp
Strategic Policy and Environment
825 NE Multnomah, LCT 1500
Portland, OR 97232

Julie E. Lee
Chevron Environmental Mgmt. Co.
Mining & Specialty Portfolios
6101 Bollinger Canyon Road
San Ramon, CA 94583

Re: Approval – In-Water Remediation Documents
Former Union Oil/PacifiCorp Site
Former Petroleum Terminal No. 0022 and Manufactured Gas Plant
256 Marine Drive, Astoria, Oregon
DEQ ECSI Number 1646

Dear Ms. Wetzsteon and Ms. Lee:

The Oregon Department of Environmental Quality (DEQ) has reviewed:

1. Response to comments *Preliminary Design Report - In-Water (Intertidal) Remediation*;
2. *In-Water Remedial Design Plans*; and
3. *Description of Remedial Work*.

The documents are approved for use in permitting and design for the in-water remedial design/remedial action according to the 2011 Record of Decision for the above referenced site. Construction work is scheduled to begin in summer 2019.

NEXT STEPS

Feel free to call me at (503) 229-5213 if you have any questions concerning project construction details or the schedule.

Sincerely,

Anna Coates, R.G.
Project Manager
DEQ NWR
Cleanup and Site Assessment

Cc: Rob Webb, DOF
Erin McDonnell, DEQ
Mike Romero, DEQ
Paul Seidel, DEQ

Nancy Ferber

From: Nathan Crater <ncrater@astoria.or.us>
Sent: Thursday, May 2, 2019 8:09 AM
To: Rob Webb
Cc: 'Mark Otten'; 'Frank Kemp'
Subject: RE: Approval Preliminary Unocal PacifiCorp In water Construction Documents.pdf

Thanks Rob. With no bank or utility work, our review process is simplified a bit. You will need to submit a Grading and Erosion Control Permit application. The project plans likely contain most of the required information already.

As construction nears, we will need additional information on how the rail will be protected during the work and more specifics on the schedule so we can coordinate Trolley operation.

Thanks,

Nathan Crater, PE
City Engineer
503-338-5173

From: Rob Webb <rwebb@dofnw.com>
Sent: Wednesday, May 1, 2019 4:35 PM
To: Nathan Crater <ncrater@astoria.or.us>
Cc: 'Mark Otten' <motten@dofnw.com>; 'Frank Kemp' <kempdisco@aol.com>
Subject: RE: Approval Preliminary Unocal PacifiCorp In water Construction Documents.pdf

Hi Nathan,

No problem, figured you were busy so I'd jump back up in your inbox.

Attached is the current set of plans. No bank or utility work proposed.

We will need to coordinate with trolley. Intent is to use a crane to lift one or two small excavators and place in intertidal area. Crane would be positioned in area of trolley tracks at short time in AM start of work to lift into place, crane moves out of way, then moves back into position at end of day to remove excavator. I appreciate any help you can provide in how to best reach out to Trolley and coordinate.

Thank you for your assistance.

Rob Webb
Principal Engineer



C (360) 908-1386
rwebb@dofnw.com

From: Nathan Crater [<mailto:ncrater@astoria.or.us>]

Sent: Wednesday, May 1, 2019 1:52 PM

To: Rob Webb <rwebb@dofnw.com>

Cc: 'Mark Otten' <motten@dofnw.com>; Frank Kemp (kempdisco@aol.com) <kempdisco@aol.com>

Subject: RE: Approval Preliminary Unocal PacifiCorp In water Construction Documents.pdf

My apologies for a delayed response Rob. Can you send over the current set of plans for the project? That will help determine what additional information may be needed.

Based on my recollection of the plan, a Grading and Erosion Control Permit will be needed for the work. The application is available on the City website. If there will be impacts to existing utilities or the railroad infrastructure, other approvals may be needed.

We will assist with coordination with the Riverfront Trolley association. Frank Kemp is our primary contact with the group and he has been copied on this email. Because the Trolley's operation has been restricted due to current bridge construction, further impacts will need to be kept to an absolute minimum.

Please let me know if you have further questions.

Thanks,

Nathan Crater, PE
City Engineer
503-338-5173

From: Rob Webb <rwebb@dofnw.com>

Sent: Wednesday, May 1, 2019 6:50 AM

To: Nathan Crater <ncrater@astoria.or.us>

Cc: 'Mark Otten' <motten@dofnw.com>

Subject: FW: Approval Preliminary Unocal PacifiCorp In water Construction Documents.pdf

Hi Nathan,

Just following up on email below I sent last Thursday. I appreciate any assistance you can provide.

Hi Nathan,

I hope your spring is going well. I've been out of touch for a bit as we worked thru various issues with Oregon DEQ. As you can see from the email below and attached letter from Anna Coates at Oregon DEQ we have approval from DEQ to move forward.

We have a draft application for a City Conditional Use Permit in process and will be submitting shortly.

We will need to coordinate with the Trolley. Can you provide any assistance with this?

What other local approvals will we need?

What information beyond those applications/approvals can I provide to you?

We are hoping to construct later this summer (August?), if we can get the remaining permits/approvals/agreements in place.

I appreciate any guidance/assistance you can provide.

Thanks,
Rob

Rob Webb
Principal Engineer





C (360) 908-1386
rwebb@dofnw.com

From: COATES Anna [<mailto:Anna.COATES@state.or.us>]
Sent: Thursday, April 25, 2019 9:39 AM
To: Wetzsteon, Jackie <Jackie.Wetzsteon@pacificorp.com>; Chevron -Julie E. Lee (julie.lee@chevron.com) <julie.lee@chevron.com>; Rob Webb <rwebb@dofnw.com>
Cc: 'MCDONNELL Erin' <Erin.K.MCDONNELL@state.or.us>; ROMERO Mike <Mike.ROMERO@state.or.us>
Subject: Approval Preliminary Unocal PacifiCorp In water Construction Documents.pdf

Joint Permit Application

This is a joint application, and must be sent to both agencies, who administer separate permit programs. Alternative forms of permit applications may be acceptable; contact the Corps and DSL for more information.

Date Stamp

	U.S. Army Corps of Engineers Portland District		Oregon Department of State Lands
Corps Action ID Number NWP 2015-440		DSL Number	

(1) APPLICANT AND LANDOWNER CONTACT INFORMATION

	Applicant	Property Owner (if different)	Authorized Agent (if applicable) <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Contractor
Contact Name	Jackie Wetzsteon	Blake Helm	Rob, Webb, PE
Business Name	PacifiCorp	Oregon Department of State Lands - Special <u>Use access</u> <u>applied for</u>	Dalton, Olmsted, Fuglevand
Mailing Address 1	825 NE Multnomah St.	775 Summer Street NE	1236 Finn Hill Road
Mailing Address 2	LCT 600	Suite 100	
City, State, Zip	Portland, Oregon 97232	Salem, OR 97301-1279	Poulsbo, WA
Business Phone	(503) 813-5036		(360) 908-1386
Cell Phone	(503) 961-3955		(360) 908-1386
Fax			
Email	Jackie.Wetzsteon@pacificorp.com	blake.helm@state.or.us	rwebb@dofnw.com

Contact Name	Julie Lee	SEE ABOVE	SEE ABOVE
Business Name	Chevron EMC		
Mailing Address 1	6001 Bollinger Canyon Road		
Mailing Address 2			
City, State, Zip	San Ramon, CA 94583		
Business Phone	(925) 842-0198	SEE ABOVE	SEE ABOVE
Cell Phone	(925) 336-9087		
Fax			
Email	Julie.Lee@chevron.com		

(2) PROJECT INFORMATION			
A. Provide the project location.			
Project Name: Sediment Remediation Former Petroleum Terminal #0022 and Manufactured Gas Plant (MGP)		Tax Lot # 80907DA00700	<u>Latitude & Longitude*</u> 46.1909/-123.8401
Project Address / Location 256 Marine Drive		City (nearest) Astoria	County Clatsop
Township 8N	Range 9W	Section 7	Quarter/Quarter N/A
Brief Directions to the Site		The site is located in Astoria Oregon, north of Marine Drive between 2 nd and 3 rd Streets in the intertidal zone of the Columbia River adjacent to the Columbia House Condominiums (CHC).	
B. What types of waterbodies or wetlands are present in your project area? (Check all that apply.)			
<input checked="" type="checkbox"/> River / Stream		<input type="checkbox"/> Non-Tidal Wetland	
<input type="checkbox"/> Estuary or Tidal Wetland		<input type="checkbox"/> Lake / Reservoir / Pond	
<input type="checkbox"/> Other		<input type="checkbox"/> Pacific Ocean	
Waterbody or Wetland Name** Columbia River	River Mile 15	<u>6th Field HUC Name</u> Bear Creek-Frontal Columbia River	<u>6th Field HUC (12 digits)</u> 170800060103
C. Indicate the project category. (Check all that apply.)			
<input type="checkbox"/> Commercial Development		<input type="checkbox"/> Industrial Development	
<input type="checkbox"/> Institutional Development		<input type="checkbox"/> Residential Development	
<input type="checkbox"/> Transportation		<input type="checkbox"/> Agricultural	
<input type="checkbox"/> Dredging		<input type="checkbox"/> Restoration	
<input type="checkbox"/> In- or Over-Water Structure		<input type="checkbox"/> Utility lines	
<input type="checkbox"/> Maintenance		<input type="checkbox"/> Bank Stabilization	
		<input type="checkbox"/> Survey or Sampling	
		<input checked="" type="checkbox"/> Other: ODEQ Required Sediment Remediation	
<p>* In decimal format (e.g., 44.9399, -123.0283)</p> <p>** If there is no official name for the wetland or waterway, create a unique name (such as "Wetland 1" or "Tributary A").</p>			
(3) PROJECT PURPOSE AND NEED			
<p>Provide a statement of the purpose and need for the overall project.</p> <p>Project is part of Oregon Department of Environmental Quality (ODEQ) required sediment remediation. As presented in the May 2012 ODEQ Amended Record of Decision (AROD), the following relevant remedial action objectives (RAOs) were established to address areas of concern within the Project Area (i.e., in-water areas/actions covered under this joint application permit):</p> <ul style="list-style-type: none"> • RAO #3: Remediate sediment posing significant toxicity to aquatic organisms • RAO #5: Remediate LNAPL hot spots of contamination to the extent feasible <p>The overall objective of the in-water remedial action is to install an organophilic clay barrier (OCB) to provide treatment of light nonaqueous phase liquid (LNAPL) and petroleum hydrocarbon (TPH) contaminants.</p> <p>Approval Letter from Oregon DEQ dated April 15, 2019 is attached.</p>			

(4) DESCRIPTION OF RESOURCES IN PROJECT AREA

A. Describe the existing physical and biological characteristics of each wetland or waterway. Reference the wetland and waters delineation report if one is available. Include the list of items provided in the instructions.

The Project Area is within the City of Astoria (City) as shown on Sheet 1 and the Columbia River Estuary (CRE). The Project Area is defined as the extent of the in-water area as presented in the site plan and in-water work access plan included as Sheets 2 and 3 (the actual site is located intertidally). The Project Area is located along the industrial/urban shoreline of the City and is devoid of aquatic vegetation or habitat structure. The channel bed substrate has been classified as rock and cobbles. Photographs of the existing conditions within the Project Area are included as Photographs 1 and 2. The banks of the river proximate to the Project Area are generally hardened (i.e., rip rap, concrete blocks, concrete debris, etc.) due to previous stabilization efforts by others. Riparian vegetation does not occur, and a few scattered trees are located in the adjacent upland area (as shown in Photograph 2 and Figure 3). The City's Riverwalk runs along the water's edge south of the Project Area and breaks any continuity with adjacent upland areas.

Sediments in the Project Area are impacted with LNAPL and will be remediated in accordance with the AROD (ODEQ 2012). The lateral extent of LNAPL-impacted sediments requiring remediation in the Columbia River is based on the delineation shown in the "Intertidal Remedial Design Investigation Sampling Summary, Former Petroleum Terminal #0022 and Manufactured Gas Plant, 256 Marine Drive, Astoria, OR," prepared by Dalton, Olmsted, Fuglevand (DOF) in October 2016 and approved by ODEQ.

Most of the in-water activities will occur above the mean lower low water (MLLW) line (+0.21 feet North American Vertical Datum of 1988 [NAVD88]). The Project Area occurs between 2 and 6 feet NAVD88 and encompasses an area of approximately 3,000 square feet.

Thirteen distinct salmonid evolutionary significant units (ESUs), two marine fish distinct population segments (DPSs), and one additional fish DPS as regulated by the U.S. Fish and Wildlife Service (USFWS) that are federally protected under the Endangered Species Act (ESA) as endangered and/or threatened have the potential to occur within the Project Area. The Columbia River is identified as critical habitat for 10 of the 14 salmonid ESUs and additional DPSs. Listed species and respective critical habitat designations are summarized in Table 1.

The proposed project provides long-term benefits to the Columbia River Estuary (CRE) ecosystem and aligns with goals of the CRE ESA Recovery Plan Module for Salmon and Steelhead (Recovery Plan) (National Marine Fisheries Service [NMFS] 2011). It is recognized that the proposed project may temporarily affect federal and state protected fish species by covering the existing channel bed substrate with the OCB layer. However, these are short-term effects, and the overall objective of the project is to mitigate concerns of long-term toxicity to aquatic organisms. In addition, during this brief construction period, ESA-listed marine fish species are expected to avoid the relatively small Project Area (when compared to the greater CRE) and forage in adjacent, more suitable areas at an insignificant energy expense.

B. Describe the existing navigation, fishing and recreational use of the waterway or wetland.

The Project Area does not provide upland access to the shoreline to support recreational uses. The City's Riverwalk and Trolley, as well as the CHC wharf, limits access to the shoreline for any recreational uses.

The project will not adversely affect navigation, fishing and other recreational uses. In fact, the project will have long-term benefits on the marine environment (i.e., CRE ecosystem) by treating LNAPL and TPH with OCB as described in Box 3 above.

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

Describe project-specific criteria necessary to achieve the project purpose. Describe alternative sites and project designs that were considered to avoid or minimize impacts to the waterway or wetland.

As noted above, the AROD (ODEQ 2012) establishes two RAOs to address areas of concern for the Project Area (i.e., areas/actions covered under this joint permit application):

- RAO #3: Remediate sediment posing significant toxicity to aquatic organisms
- RAO #5: Remediate LNAPL hot spots of contamination to the extent feasible.

Since the AROD requires remediation of sediment that is located in the intertidal area, there are no alternatives that avoid work in the waterway.

(6) PROJECT DESCRIPTION

A. Briefly summarize the overall project including work in areas both in and outside of waters or wetlands.

The selected remedy approved by the ODEQ includes the following activities within the in-water area:

- Although the in-water area is referred to as "in-water" in the AROD for the Site, the area to be remediated is only intertidal land ("Project Area"). As such, the area experiences wet and dry periods. Installation of the OCB will take place during low tide when the Project Area is dry.

B. Describe work within waters and wetlands.

OCB mats will be installed in the Sediment Management Area (SMA) and Contingency Zone. The barrier will consist of three layers of OCB mats containing organophilic clay. The OCB will consist of the following layers (from bottom to the surface):

- Three layers of approximately 0.25-inch-thick OCB mat, consisting of an organophilic clay layer between two geotextile layers.
- Armor stone previously excavated from the SMA and Contingency Zone and stockpiled will be reused for armoring, supplemented with additional stone as needed.

Figures 4 and 5 present cross sections of the intertidal remedy.

Adsorbent oil booms will be installed around the Project Area to control the possible release of LNAPL to the waterway during and following construction. Sorbent materials that have become LNAPL-saturated will be promptly replaced. The adsorbent booms will remain in place during and after construction until no significant visible sheen is observed during routine inspections within the boomed area.

Post-installation monitoring will include routine visual inspections (bimonthly and after significant storms) of the OCB installations for visible sheens and physical damage to OCB materials or erosion due to waves and river currents.

C. Construction Methods. Describe how the removal and/or fill activities will be accomplished to minimize impacts to waters and wetlands.

To avoid impacts to sensitive species and habitat, and to perform the work safely, remediation activities will be performed in only dry periods during low tides when the Site is fully exposed. Cobbles, gravel and debris will be relocated to create a suitably smooth surface for placement of the OCB. Once the OCB is in place, the cobble and gravel materials will be placed back over the OCB material. It is anticipated that two small excavators will be used to facilitate OCB mat installation. The excavators, OCB material and personnel will access the site from the adjacent upland during the low tide installation period of each work day. At the start

(6) PROJECT DESCRIPTION

of each work period, the excavators will access the intertidal area and begin excavating and stockpiling existing intertidal rock, gravel and sand. Once the subgrade is prepared, the OCB mats will be transported to the intertidal area and rolled out over the prepared subgrade. Once the three layers of OCB mat are installed, the excavators will replace the stockpiled material over the OCB, avoiding damage to the OCB. Finally, the excavators and all equipment will be removed from the intertidal area at the end of each low-tide period, before high tide.

D. Describe source of fill material and disposal locations if known.

None

E. Construction timeline.

What is the estimated project start date? August 2019

What is the estimated project completion date? Sept 2019

Is any of the work underway or already complete? ☐ Yes ☒ No

If yes, describe.

F. Fill Volumes and Dimensions (if more than 4 impact sites, include a summary table as an attachment)

Wetland / Waterbody Name *	Fill Dimensions					Duration of Impact**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (sq.ft. or ac.)	Volume (c.y.)		
Intertidal area of Columbia River							None

G. Total Fill Volumes and Dimensions

Fill Impacts to Waters	Length (ft.)	Area (sq. ft or ac.)	Volume (c.y.)
Total Fill to Wetlands			None
Total Fill Below Ordinary High Water			None
Total Fill Below Highest Measured Tide			None
Total Fill Below High Tide Line			None
Total Fill Below Mean High Water Tidal Elevation			None

H. Removal Volumes and Dimensions (if more than 4 impact sites, include a summary table as an attachment)

Wetland / Waterbody Name*	Removal Dimensions					Duration of Impact**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (sq. ft. or ac.)	Volume (c.y.)		
None							

I. Total Removal Volumes and Dimensions

Removal Impacts to Waters	Length (ft.)	Area (sq. ft or ac.)	Volume (c.y.)
Total Removal to Wetlands			None
Total Removal Below Ordinary High Water			None
Total Removal Below Highest Measured Tide			None

Total Removal Below <u>High Tide Line</u>			None
Total Removal Below <u>Mean High Water Tidal Elevation</u>			None

* If there is no official name for the wetland or waterway, create a unique name (such as "Wetland 1" or "Tributary A").
 ** Indicate the days, months or years the fill or removal will remain. Enter "permanent" if applicable. For DSL, permanent removal or fill is defined as being in place for 24 months or longer.
 *** Example: soil, gravel, wood, concrete, pilings, rock etc.

(7) ADDITIONAL INFORMATION

Are there any state or federally listed species on the project site? ☒ Yes ☐ No ☐ Unknown

Is the project site within designated or proposed critical habitat? ☒ Yes ☐ No ☐ Unknown

Is the project site within a national Wild and Scenic River? ☐ Yes ☒ No ☐ Unknown

Is the project site within the 100-year floodplain? ☒ Yes ☐ No ☐ Unknown

* If yes to any of the above, explain in Block 4 and describe measures to minimize adverse effects to these resources in Block 5.

Is the project site within the Territorial Sea Plan (TSP) Area? ☐ Yes ☒ No ☐ Unknown

* If yes, attach TSP review as a separate document for DSL.

Is the project site within a designated Marine Reserve? ☐ Yes ☒ No ☐ Unknown

* If yes, certain additional DSL restrictions will apply.

Will the overall project involve construction dewatering or ground disturbance of one acre or more? ☐ Yes ☒ No ☐ Unknown

* If yes, you may need a 1200-C permit from the Oregon Department of Environmental Quality (DEQ).

Is the fill or dredged material a carrier of contaminants from on-site or off- site spills? ☐ Yes ☒ No ☐ Unknown

Has the fill or dredged material been physically and/or chemically tested? ☐ Yes ☒ No ☐ Unknown

This project will not have fill or dredged material.

*If yes, explain in Block 4 and provide references to any physical/chemical testing report(s).

Has a cultural resource (archaeological) survey been performed on the project area? ☒ Yes ☐ No ☐ Unknown

* If yes, provide a copy of the survey with this application. Do not describe any resources in this document.

Identify any other federal agency that is funding, authorizing or implementing the project.

Agency Name	Contact Name	Phone Number	Most Recent Date of Contact

List other certificates or approvals/denials required or received from other federal, state or local agencies for work described in this application. For example, certain activities that require a Corps permit also require 401 Water Quality Certification from Oregon DEQ.

Approving Agency	Certificate/ approval / denial description	Date Applied

Other DSL and/or Corps Actions Associated with this Site (Check all that apply.)

☐ Work proposed on or over lands owned by or leased from the Corps

☒ State owned waterway

DSL Waterway Lease # **Special Use Access**
applied for

☐ Other Corps or DSL Permits

Corps # DSL #

☐ Violation for Unauthorized Activity

Corps # DSL #

(7) ADDITIONAL INFORMATION☐ Wetland and Waters Delineation

Corps #

DSL #

☐ A wetland / waters delineation has been completed (if so, provide a copy with the application)☐ The Corps has approved the wetland / waters delineation within the last 5 years☐ DSL has approved the wetland / waters delineation within the last 5 years**(8) IMPACTS, RESTORATION/REHABILITATION, COMPENSATORY MITIGATION**

A. Describe unavoidable environmental impacts that are likely to result from the proposed project. Include permanent, temporary, direct, and indirect impacts.

The following unavoidable environmental impacts will result from the proposed project:

- Temporary – Excavation and removal of gravel and cobble armoring during low tide. Possible release of LNAPL to sediment surface that will be controlled and removed by sorbent material during and after construction.
- Permanent – Excavation and placement of three layers of OCB mats below the current surface.
- Direct - Aquatic life in gravel and cobble sediment will be temporarily relocated. There will be noise from construction equipment.
- Indirect – There is potential for odors during the excavation and replacement.
- This remediation will result in positive environmental impacts. During installation of the mats, cobbles and gravel will be removed and the mats will be placed over the exposed surface, then covered with cobbles and gravel that will match existing conditions. The work will be done during periods of low tide when the sediment surface is exposed. This work will only be done in areas that are currently impacted with visible LNAPL; therefore, there will be no negative impacts to the environment.

B. For temporary removal or fill or disturbance of vegetation in waterways, wetlands or riparian (i.e., streamside) areas, discuss how the site will be restored after construction.

No vegetation will be cleared in waters or wetlands within the Project Area. The OCB mats will be covered with cobbles and gravel that will match existing surface conditions at the Site.

Compensatory Mitigation

C. Proposed mitigation approach. Check all that apply:

Permittee-
☐ responsible Onsite
Mitigation

Permittee-
☐ responsible Offsite
mitigation

☐ Mitigation Bank or
in-lieu fee program

Payment to Provide
☐ (not approved for use
with Corps permits)

D. Provide a brief description of mitigation approach and the rationale for choosing that approach. If you believe mitigation should not be required, explain why.

Compensatory mitigation is not proposed for this project. Existing channel bed materials will be restored to the surface of the Project Area. The remediation is expected to eliminate visible LNAPL at the surface and in the void space between the gravel and cobbles, which will improve the habitat. This will provide long-term benefits to the CRE and aligns with the goals of the Recovery Plan (NMFA 2011). Therefore, no mitigation is deemed necessary.

Mitigation Bank / In-Lieu Fee Information:

Name of mitigation bank or in-lieu fee project: NA

Type of credits to be purchased: NA

If you are proposing permittee-responsible mitigation, have you prepared a compensatory mitigation plan?

☐ Yes. Submit the plan with this application and complete the remainder of this section.

☐ No. A mitigation plan will need to be submitted (for DSL, this plan is required for a complete application).

Mitigation Location Information (Fill out only if permittee-responsible mitigation is proposed)

(8) IMPACTS, RESTORATION/REHABILITATION, COMPENSATORY MITIGATION			
Mitigation Site Name/Legal Description		Mitigation Site Address	Tax Lot #
County		City	Latitude & Longitude (in DD. DDDD format)
Township	Range	Section	Quarter/Quarter

(9) ADJACENT PROPERTY OWNERS FOR PROJECT AND MITIGATION SITE		
Pre-printed mailing labels <input checked="" type="checkbox"/> of adjacent property owners attached	Project Site Adjacent Property Owners	Mitigation Site Adjacent Property Owners - NA

See attached.

**(10) CITY/COUNTY PLANNING DEPARTMENT LAND USE AFFIDAVIT
(TO BE COMPLETED BY LOCAL PLANNING OFFICIAL)**

I have reviewed the project described in this application and have determined that:

- ☐ This project is not regulated by the comprehensive plan and land use regulations.
- ☐ This project is consistent with the comprehensive plan and land use regulations.
- ☐ This project will be consistent with the comprehensive plan and land use regulations when the following local approval(s) are obtained:
- ☐ Conditional Use Approval
- ☐ Development Permit
- ☐ Other Permit (see comment section)
- ☐ This project is not consistent with the comprehensive plan. Consistency requires:
- ☐ Plan Amendment
- ☐ Zone Change
- ☐ Other Approval or Review (see comment section)

An application ☐ has ☐ has not been filed for local approvals checked above.

Local planning official name (print)	Title	City / County (circle one)
--------------------------------------	-------	----------------------------

Signature	Date
-----------	------

Comments:

(11) COASTAL ZONE CERTIFICATION

If the proposed activity described in your permit application is within the [Oregon coastal zone](#), the following certification is required before your application can be processed. A public notice will be issued with the certification statement, which will be forwarded to the Oregon Department of Land Conservation and Development (DLCD) for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program, contact DLCD at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050.

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.

Print /Type Name NA	Title
------------------------	-------

Signature	Date
-----------	------

(12) SIGNATURES – (Signature Page #1 - Owner #1 – PacifiCorp)

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities. By signing this application I consent to allow Corps or DSL staff to enter into the above-described property to inspect the project location and to determine compliance with an authorization, if granted. I hereby authorize the person identified in the authorized agent block below to act in my behalf as my agent in the processing of this application and to furnish supplemental information in support of this permit application. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that payment of the required state processing [fee](#) does not guarantee permit issuance. To be considered complete, the fee must accompany the application to DSL. The fee is not required for submittal of an application to the Corps.

Fee Amount Enclosed	
---------------------	--

Applicant Signature

Print Name Jackie Wetzsteon	Title
Signature	Date

Authorized Agent Signature

Print Name Rob Webb	Title Principal Engineer
Signature	Date

Landowner Signature(s)**Landowner of the Project Site (if different from applicant)**

Print Name Oregon Department of State Lands – see below	Title NA
Signature NA	Date NA

Landowner of the Mitigation Site (if different from applicant)

Print Name	Title
Signature	Date

Department of State Lands, Property Manager (to be completed by DSL)

If the project is located on [state-owned submerged and submersible lands](#), DSL staff will obtain a signature from the Land Management Division of DSL. A signature by DSL for activities proposed on state-owned submerged/submersible lands only grants the applicant consent to apply for a removal-fill permit. A signature for activities on state-owned submerged and submersible lands grants no other authority, express or implied and a separate proprietary authorization may be required.

Print Name	Title
Signature	Date

(12) SIGNATURES— (Signature Page #2 - Owner #2 – Chevron)

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities. By signing this application I consent to allow Corps or DSL staff to enter into the above-described property to inspect the project location and to determine compliance with an authorization, if granted. I hereby authorize the person identified in the authorized agent block below to act in my behalf as my agent in the processing of this application and to furnish supplemental information in support of this permit application. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that payment of the required state processing fee does not guarantee permit issuance. To be considered complete, the fee must accompany the application to DSL. The fee is not required for submittal of an application to the Corps.

Fee Amount Enclosed	\$ - see previous page – Signature Page #1
----------------------------	--

Applicant Signature

Print Name Julie Lee	Title
Signature	Date

Authorized Agent Signature

Print Name	Title
Signature	Date

Landowner Signature(s)**Landowner of the Project Site (if different from applicant)**

Print Name see previous page – Signature Page #1	Title see previous page – Signature Page #1
Signature see previous page – Signature Page #1	Date see previous page – Signature Page #1

Landowner of the Mitigation Site (if different from applicant)

Print Name see previous page – Signature Page #1	Title see previous page – Signature Page #1
Signature see previous page – Signature Page #1	Date see previous page – Signature Page #1

Department of State Lands, Property Manager (to be completed by DSL)

If the project is located on state-owned submerged and submersible lands, DSL staff will obtain a signature from the Land Management Division of DSL. A signature by DSL for activities proposed on state-owned submerged/submersible lands only grants the applicant consent to apply for a removal-fill permit. A signature for activities on state-owned submerged and submersible lands grants no other authority, express or implied and a separate proprietary authorization may be required.

Print Name see previous page – Signature Page #1	Title see previous page – Signature Page #1
Signature see previous page – Signature Page #1	Date see previous page – Signature Page #1

(13) ATTACHMENTS

- ☒ Drawings (items in bold are required)
- ☒ Location map with roads identified
- ☒ Tax lot map
- ☒ Site plan(s)
- ☒ Cross section drawing(s)
- ☒ Recent aerial photo
- ☒ Project photos
- ☐ Erosion and Pollution Control Plan(s), if applicable
- ☐ DSL/Corps Wetland Concurrence letter and map, if approved and applicable
- ☒ Pre-printed labels for adjacent property owners (Required if more than 5)
- ☐ Restoration plan or rehabilitation plan for temporary impacts
- ☐ Mitigation plan
- ☐ Wetland functional assessment and/or stream functional assessment
- ☐ Alternatives analysis
- ☐ Stormwater management plan (may be required by the Corps or DEQ)
- ☒ Other:

ODEQ June 11, 2018 letter Re: Clarification of Record of Decision Alternatives
Comparison of Proposed Action to July 2015 Proposed Action

NOTE: See List of Attachments at end of this document.

Send Completed form to:

U.S. Army Corps of
Engineers
ATTN: CENWP-OD-GP
PO Box 2946 Portland,
OR 97208-2946
Phone: 503-808-4373

Counties:
Baker, Clackamas,
Clatsop, Columbia,
Gilliam, Grant, Hood
River, Jefferson, Lincoln,
Malheur, Marion, Morrow,
Multnomah, Polk,
Sherman, Tillamook,
Umatilla, Union,
Wallowa, Wasco,
Washington, Wheeler,
Yamhill

OR

U.S. Army Corps of
Engineers
ATTN: CENWP-OD-GE
211 E. 7th AVE, Suite 105
Eugene, OR 97401-2722
Phone: 541-465-6868

Counties:
Benton, Coos, Crook,
Curry, Deschutes,
Douglas Jackson,
Josephine, Harney,
Klamath, Lake, Lane,
Linn

Send Completed form to:

DSL - West of the Cascades:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
Phone: 503-986-5200

OR

DSL - East of the Cascades:

Department of State Lands
1645 NE Forbes Road, Suite 112
Bend, Oregon 97701
Phone: 541-388-6112

Send all Fees to:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279

Pay by Credit Card Online:

<https://apps.oregon.gov/dsl/EPS/>

Sediment Remediation Former Petroleum Terminal #0022 and Manufactured Gas Plant (MGP)

LIST OF ATTACHMENTS

Photographs 1 to 3

Comparison of Current Proposed Work to July 2015 Planned Work

ODEQ Letter dated June 11, 2018 Re: Clarification of Record of Decision Alternatives

Figure Sheets 1 to 6

Address labels for adjacent property owners

Site Photos



Photo 1 – Proposed SMA with erosional shoreline to right and CHC pile supported structure in background.



Photo 2 – Existing steep, erosional shoreline just landward of the SMA.



Photo 3 - Erosional shoreline and existing upland vegetation.

Comparison of Current Proposed Work to July 2015 Planned Work

In the June 11, 2018 letter from the Oregon Department of Environmental Quality to PacifiCorp and Chevron, Re: Clarification of Record of Decision Alternative, ODEQ stated the following:

Another acceptable remedial alternative is a barrier method such as a reactive core mat or bulk organoclay contained in layers over the LNAPL Hot Spots.

The proposed sediment remedial action in this Joint Permit Application is to install an organophilic clay barrier (OCB) as described in the application.

In July 2015, PacifiCorp and Chevron submitted a Joint Permit Application for the sediment remediation as described in the Amended Record of Decision, which was issued in 2012. The work described in the 2015 application was not performed because the remediation plans have been revised as described below.

- The 2015 application included placement of fill from the upland to the intertidal work area to build a temporary access roadway. This has been eliminated.
- The 2015 application included excavation and off-site disposal of 173 cubic yards of sediment and placement of fill in the excavated area. This has been eliminated.
- The 2015 application showed a reactive core mat over an area of 2,951 square feet. This has been replaced with the OCB over an area of 2,600 square feet.
- The OCB mats will be installed 18 inches below the existing grade. The existing sand, gravel, cobble sediment will be temporarily removed and set aside and then replaced over the OCB mats. Therefore, the elevation of the sediment surface in the intertidal work area will not change.

As described in the 2015 Application and Biological Assessment, the work in the intertidal area will be done during periods of low tide and must be done when the low tide is MLLW or lower during daylight hours. These tidal conditions are available during only summer months; therefore, the work must be done between June and September.



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region
700 NE Multnomah St., Suite 600
Portland, OR 97232
(503) 229-5263
FAX (503) 229-6945
TTY 711

June 11, 2018

Jackie Wetzsteon
PacifiCorp
Strategic Policy and Environment
825 NE Multnomah, LCT 1500
Portland, OR 97232

Julie E. Lee
Chevron Environmental Mgmt. Co.
Mining & Specialty Portfolios
6101 Bollinger Canyon Road
San Ramon, CA 94583

Re: Clarification of Record of Decision Alternatives
Former Union Oil/PacifiCorp Site
Former Petroleum Terminal No. 0022 and Manufactured Gas Plant
256 Marine Drive, Astoria, Oregon
DEQ ECSI Number 1646

Dear Ms. Wetzsteon and Ms. Lee:

In May 2012, DEQ issued the *Amended Record of Decision (AROD)* for the Unocal/PacifiCorp site. Cleanup requirements for the in-water portion of the site, as specified in the AROD include the removal of a 600 square foot Hot Spot area, subsequent capping, and long-term monitoring of the defined Sediment Management Area (SMA). The SMA is located within an intertidal area of the Columbia River, which is approximately twice a day above water at low tide and under water at high tide. Correspondingly, the daily window to implement a remedy is narrow. Summer is preferred for remedy implementation due to the longer periods of daylight. Summer 2018 also has periods of low-low tides that make sampling easier because low tides correspond with long days.

Remedial design and remedial action tasks determined that the planned removal of 600 square foot area of contaminated sediment is significantly challenging to infeasible to implement for several reasons.

1. The close proximity of the Columbia House Condominiums (CHCs) east of the SMA, and the vicinity of an in-water rocky outcrop west of the SMA. Together, the CHS and the rocky outcrop restrict access to the SMA, as well as other in-water characteristics typical of a hydrodynamic tidal river environment. Reportedly, owners/operators of barge-mounted excavating equipment are unwilling to attempt sediment removal in the restricted access area by means of water.
2. Approaching the SMA from the upland is also exceptionally difficult due to:

- a) The proximity of the proposed work to pilings that support the CHCs over the river;
- b) A steep, unstable bank between the in-water and upland areas of the site;
- c) The presence of the CHC sewer and water supply lines within the unstable bank;
- d) The presence of an operating City of Astoria Trolley Line and a parallel Trolley Trail, which run along the shoreline, immediately adjacent the top of the steep bank. The City is unwilling to temporarily cease operations of these popular transportation options, especially during the cruise-ship-season when tourists shuttle between the ships and downtown;
- e) The presence of utility poles and lines that run parallel to the top of the bank;
- f) A prohibition on the discharge of wastewater to the City of Astoria sewage treatment works.

Due to the numerous issues identified with sediment excavation at the site, Unocal/PacifiCorp has proposed potential remedial alternatives. In consultation with DEQ, Unocal/PacifiCorp on March 16, 2018 submitted an *Oleophilic Bio-Barrier (OBB) Pilot Study Work Plan* (work plan) prepared by Dalton, Olmsted, and Fuglevand (DOF). The work plan is to remediate LNAPL in the intertidal area using OBB mat technology. The use of OBB in intertidal areas is a new technology developed by Chevron and Colorado State University (CSU). The technology appears promising for the effective treatment of petroleum hydrocarbon seeps and sheens along shorelines. However, the technology is still under development including the assessment of full-scale field applications. DEQ has questions regarding the formation of polar, and potentially more toxic, polycyclic aromatic hydrocarbon (PAH) transformation products, during the treatment of LNAPL. DEQ's specific comments on the OBB pilot study work plan will be included in a separate letter.

DEQ finds the pilot test concept acceptable with the following conditions:

1. The pilot test should be designed for a one-year-period period of testing with the option of extending the study timeframe, if necessary, to collect sufficient data to perform a valid assessment. Study timeframe extensions will require DEQ consultation and approval.
2. The pilot test must include baseline and post-installation sampling and analysis of total petroleum hydrocarbons, intermediate breakdown products (metabolites), and parent and alkylated PAHs to determine if there are constituents toxic to aquatic life present in sediment, pore water and surface water. Analysis should include parent and alkylated PAHs, and extractable TPH (gasoline, diesel, oil, and residual ranges) both with and without silica gel cleanup. This will allow the DEQ to determine how the pilot technology is performing as compared to baseline conditions. Remedial Action Criteria will need to ensure parent and alkylated PAHs are below human and ecological water criteria, and total petroleum parent and metabolites concentrations in pore water and surface water are below 1 mg/L, measured as the sum of diesel, oil, and residual TPH without silica gel cleanup. The DEQ comment letter on the March 16, 2018 *Pilot Study Work Plan, Oleophilic Bio-Barrier*, will include more detail regarding analytical methods and QA/QC requirements.
3. The pilot test is not the final cleanup remedy. DEQ and Unocal/PacifiCorp together must establish a go/no-go scenario for evaluating the pilot test results. The results must provide

a clear basis for selecting the OBB technology as the final remedy or selecting an organoclay-barrier option.

Another acceptable remedial alternative is a barrier method such as a reactive core mat or bulk organoclay contained in layers over the LNAPL Hot Spots.

At the April 30, 2018 meeting with DEQ, Unocal/PacifiCorp asked whether treatment was a DEQ requirement for Hot Spots. In accordance with DEQ Hazardous Substance Remedial Action Rules, OAR 340-122-0235, LNAPL must be removed to the extent practicable. The 1995 amendments to Oregon Revised Statute (ORS 465.315) and 1997 amendments to the Environmental Cleanup Rules (OAR 340-122), require that certain actions be taken for Hot Spots of contamination. These actions include the treatment of hot spots to the extent feasible, as part of a remedial action selected or approved by DEQ. As a result, treatment of Hot Spots is preferred but not required. DEQ has the flexibility to select a remedy that is protective based on the outcome of the feasibility study and remedial design constraints.

In the case of the Unocal/PacifiCorp Astoria project, DEQ is willing to consider a protective design based on an organoclay barrier. The remedy must include:

1. A conservative design that provides enough absorptive capacity to be a permanent remedy (30 years or more);
2. A monitoring program sufficient to detect NAPL sheen or seeps that break through the barrier;
3. A protective layer designed to withstand climate change and associated increased wind and wave action.

NEXT STEPS

1. Please review the ROD alternatives and conditions summarized above and let DEQ how you wish to proceed with the final remedy.
2. DEQ is finalizing comments on the pilot test work plan that may be needed in making your final remedy decision.

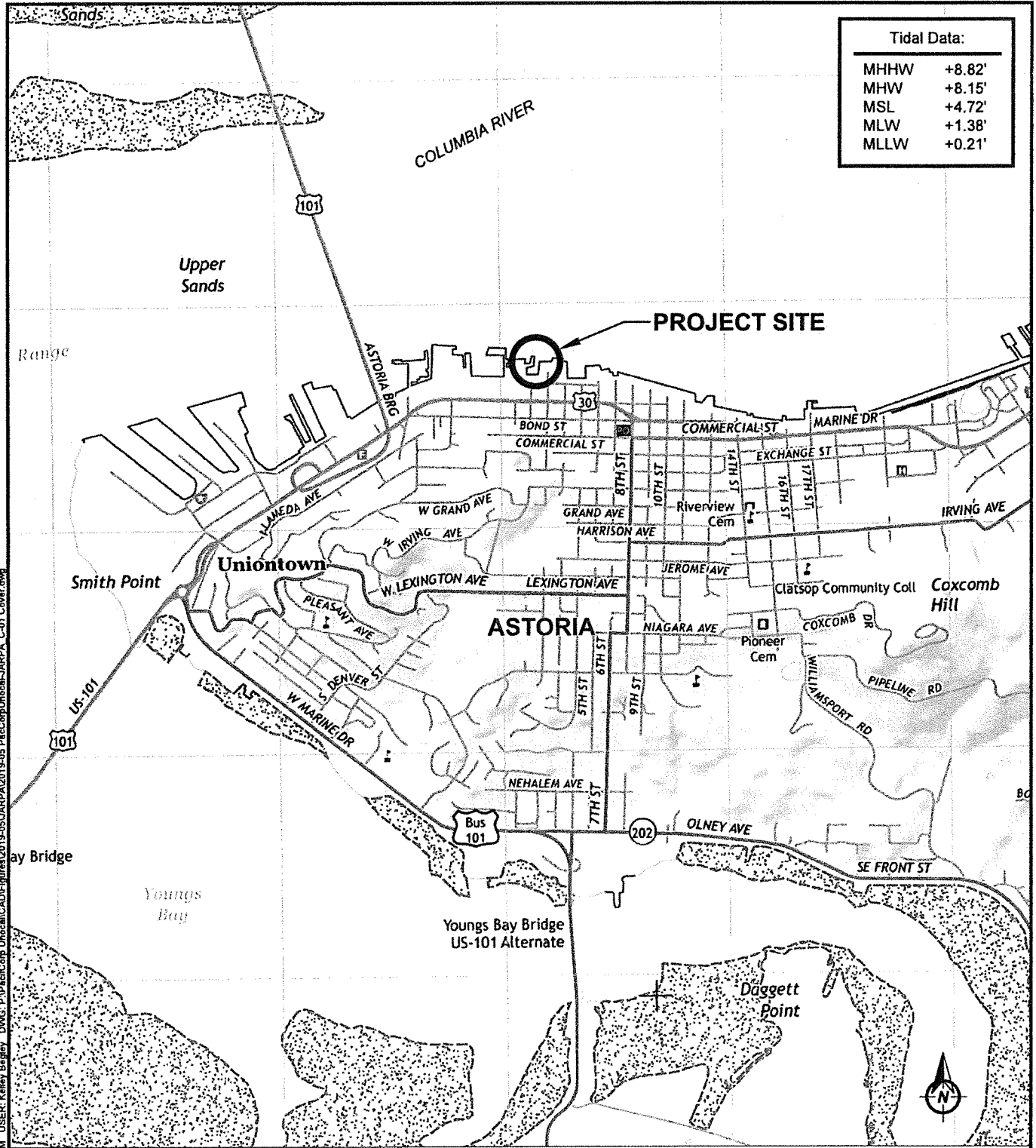
Feel free to call me at (503) 229-5213 if you have any questions concerning DEQ's comments.

Sincerely,



Anna Coates, R.G.
Project Manager
DEQ NWR
Cleanup and Site Assessment

Cc: Rob Webb, DOF
Mark Otten, Parsons
Jennifer Peterson, DEQ
Erin McDonnell, DEQ
Mike Romero, DEQ
Dan Hafley, DEQ
Paul Seidel, DEQ



Tidal Data:	
MHHW	+8.82'
MHW	+8.15'
MSL	+4.72'
MLW	+1.38'
MLLW	+0.21'

Source: USGS 7.5 Quadrangle (2014)

Project Vicinity Map

PURPOSE: Sediment remediation

VERTICAL DATUM: MLLW = 0.21 ft NAVD88
 LATITUDE: 46° 11' 29"N LONGITUDE: 123° 50' 25"W
 SECTION-TOWNSHIP-RANGE: 7 - 8N - 9W
 ADJACENT PROPERTY OWNERS:

Project Vicinity Map
In-Water (Intertidal) Remediation
 SITE ADDRESS: 256 Marine Drive
 Astoria, Oregon 97103

PROPOSED PROJECT: In-Water
 (Intertidal) Remediations
 Former Unocal/Pacificorp Astoria Site -
 ECSI # 1646
 APPLICATION BY: Pacificorp and Unocal
 NEAR/AT: Astoria Riverwalk and 2nd St.
 COUNTY OF: Clatsop STATE: OR
 DATE: May 2019 SHEET 1 OF 6

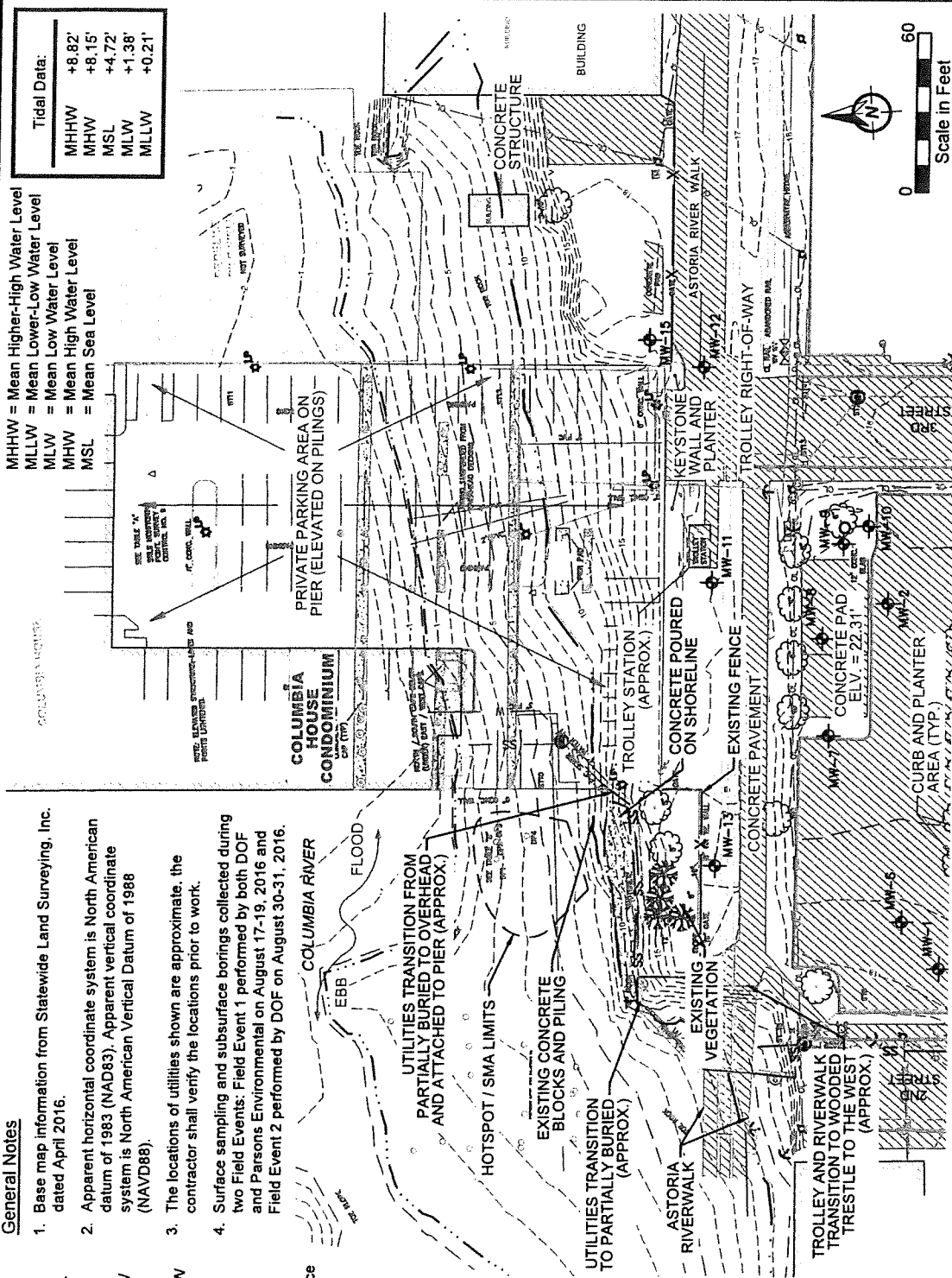
PLOT TIME: 5/2/2019 1:45 PM MOD TIME: 5/2/2019 9:19 AM USER: Kelley Barlow DWG: P:\Pacificorp Unocal\CAD\Figures\2019-05\JAPPA\2019-05 PacCorp Unocal-JARPA_C-01 Cover.dwg

Legend

Property Line	---
Existing Cap (Asphalt or Concrete)	▨
Water Elevation - MLLW (0.21 Ft NAVD88)	---
Water Elevation - MHHW (8.82 Ft NAVD88)	---
Existing Contour Major	---
Existing Contour Minor	---
Existing Chain Link Fence	-X-
Existing Timber Pile	•
Existing Trolley Tracks	+
Existing Monitoring Well	SS
Existing Sewer Line	W
Existing Water Line	---
Approximate Edge of Existing Vegetation	~
Approximate Edge of Existing Rip-rap	---
Existing Power Pole	⬢
Existing Guy Line	⋈
Existing Water Meter	⬢
Existing Water Valve	⬢
Existing Hydrant	⬢
Existing Well	⬢
Existing Storm Drain	⬢
Existing Building	⬢
SMA Limits	---

General Notes

1. Base map information from Statewide Land Surveying, Inc. dated April 2016.
2. Apparent horizontal coordinate system is North American datum of 1983 (NAD83). Apparent vertical coordinate system is North American Vertical Datum of 1988 (NAVD88).
3. The locations of utilities shown are approximate; the contractor shall verify the locations prior to work.
4. Surface sampling and subsurface borings collected during two Field Events: Field Event 1 performed by both DOF and Parsons Environmental on August 17-19, 2016 and Field Event 2 performed by DOF on August 30-31, 2016.



PURPOSE: Sediment Remediation

VERTICAL DATUM: MLLW = 0.21 ft NAVD88
 LATITUDE: 46° 11' 29"N LONGITUDE: 123° 50' 25"W
 SECTION-TOWNSHIP-RANGE: 7 - 8N - 9W
 ADJACENT PROPERTY OWNERS:

Existing Site Plan and Topographic Survey

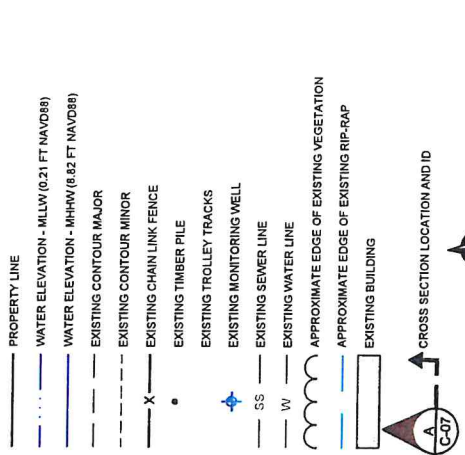
In-Water (Intertidal) Remediation

SITE ADDRESS: 256 Marine Drive
 Astoria, Oregon 97103

PROPOSED PROJECT:
 In-Water (Intertidal) Remediation
 Former Unocal/Pacificorp Astoria Site - ECSI #1646
 APPLICATION BY: Pacificorp and Unocal
 Unocal

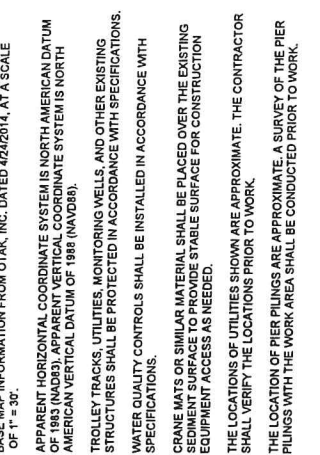
NEAR/AT: Astoria Riverwalk and 2nd Street
 COUNTY OF: Clatsop
 STATE: OR
 DATE: May 2019

- LEGEND:**
- HOT SPOTS/MA AREA LIMITS
 - 5' SMA CONTINGENCY AREA
 - SMA CONTINGENCY AREA COORDINATE ID
 - TEMPORARY STOCKPILE AREA FOR EXCAVATED MATERIAL
 - APPROXIMATE EXISTING CONCRETE RUBBLE LIMITS
 - FLOATING DEBRIS AND OIL BOOMS (3)
 - CONTROL POINT
 - PROPERTY LINE
 - WATER ELEVATION - MLLW (0.21 FT NAVD88)
 - WATER ELEVATION - MHHW (8.82 FT NAVD88)
 - EXISTING CONTOUR MAJOR
 - EXISTING CONTOUR MINOR
 - EXISTING CHAIN LINK FENCE
 - EXISTING TIMBER PILE
 - EXISTING TROLLEY TRACKS
 - EXISTING MONITORING WELL
 - EXISTING SEWER LINE
 - EXISTING WATER LINE
 - APPROXIMATE EDGE OF EXISTING VEGETATION
 - APPROXIMATE EDGE OF EXISTING RIP-RAP
 - EXISTING BUILDING



NOTES:

1. BASE MAP INFORMATION FROM OTAK, INC. DATED 4/24/2014, AT A SCALE OF 1" = 30'.
2. APPARENT HORIZONTAL COORDINATE SYSTEM IS NORTH AMERICAN DATUM OF 1983 (NAD83). APPARENT VERTICAL COORDINATE SYSTEM IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
3. TROLLEY TRACKS, UTILITIES, MONITORING WELLS, AND OTHER EXISTING STRUCTURES SHALL BE PROTECTED IN ACCORDANCE WITH SPECIFICATIONS.
4. WATER QUALITY CONTROLS SHALL BE INSTALLED IN ACCORDANCE WITH SPECIFICATIONS.
5. CRANE MATS OR SIMILAR MATERIAL SHALL BE PLACED OVER THE EXISTING SEDIMENT SURFACE TO PROVIDE STABLE SURFACE FOR CONSTRUCTION EQUIPMENT ACCESS AS NEEDED.
6. THE LOCATIONS OF UTILITIES SHOWN ARE APPROXIMATE. THE CONTRACTOR SHALL VERIFY THE LOCATIONS PRIOR TO WORK.
7. THE LOCATION OF PIER PILING ARE APPROXIMATE. A SURVEY OF THE PIER PILING WITH THE WORK AREA SHALL BE CONDUCTED PRIOR TO WORK.



POINT	NORTHING	EASTING
E	937984.1	7356312.9
F	937889.0	7356299.6
G	938003.6	7356297.3
H	938009.4	7356296.8
I	938015.9	7356296.8
J	938022.8	7356303.2
K	938028.1	7356312.8
L	938031.7	7356322.5
M	938033.2	7356337.5
N	938032.9	7356342.5
O	938031.5	7356347.3
P	938028.1	7356351.6
Q	938022.3	7356354.2
R	938014.9	7356354.5
S	938007.8	7356353.5
T	937993.5	7356349.8

PROPOSED PROJECT:
 In-Water (Intertidal) Remediation
 Former Unocal/PacifiCorp Astoria Site - ECSI #1646
 APPLICATION BY: PacifiCorp and Unocal
 Unocal

NEAR/AT: Astoria Riverwalk and 2nd Street
COUNTY OF: Clatsop
STATE: OR
DATE: May 2019

SITE ADDRESS: 256 Marine Drive
 Astoria, Oregon 97103

PURPOSE: Sediment Remediation

VERTICAL DATUM: MLLW = 0.21 ft NAVD88
LATITUDE: 46° 11' 29"N
LONGITUDE: 123° 50' 25"W
SECTION-TOWNSHIP-RANGE: 7 - 8N - 9W
ADJACENT PROPERTY OWNERS:

In-Water Remedy Plan

DATE: May 2019

SHEET 4 OF 6

LEGEND:

- ORGANOPHILIC CLAY BARRIER (OCB)
- EXISTING GRADE SURFACE
- EXISTING CONCRETE RUBBLE

ABBREVIATIONS:

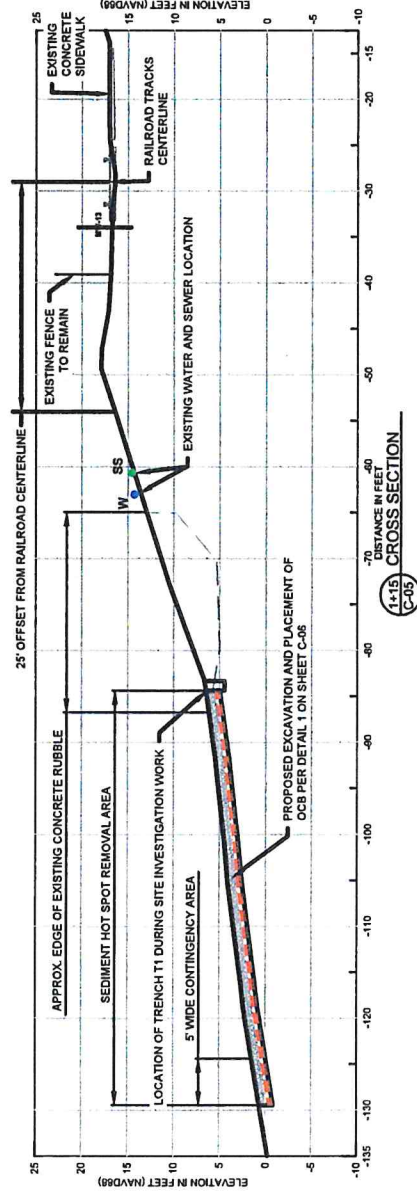
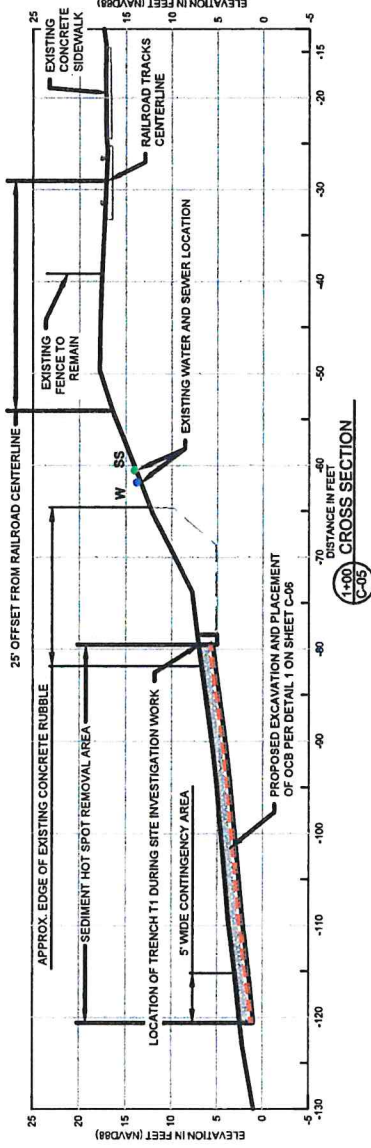
MHHW = MEAN HIGHER-HIGH WATER LEVEL
MLLW = MEAN LOWER-LOW WATER LEVEL

NOTE:

1. VERTICAL DATUM REFERENCED TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) IN UNITS OF FEET.



DATUM CONVERSION FOR WATER LEVELS



PURPOSE: Sediment Remediation

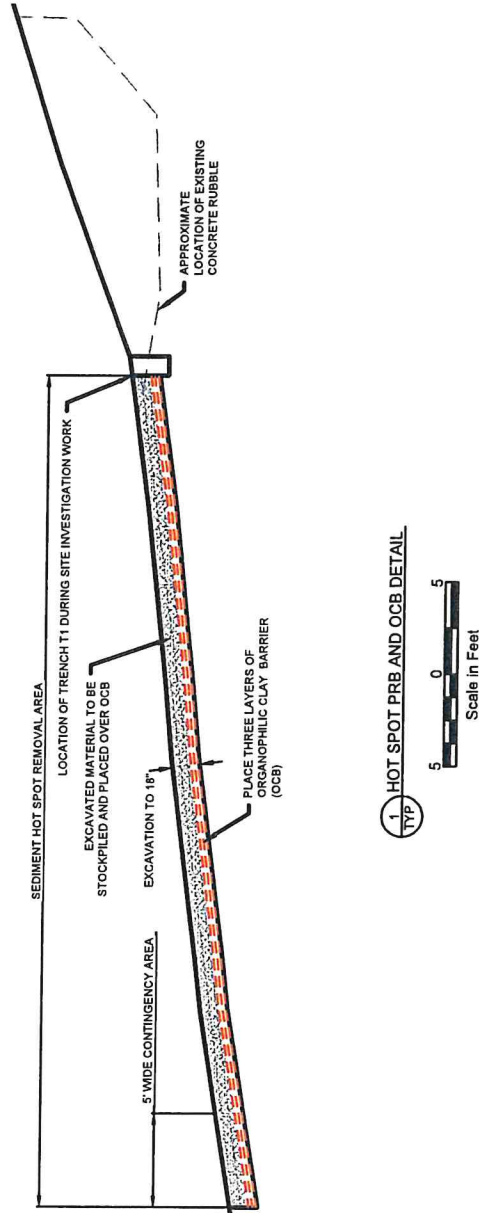
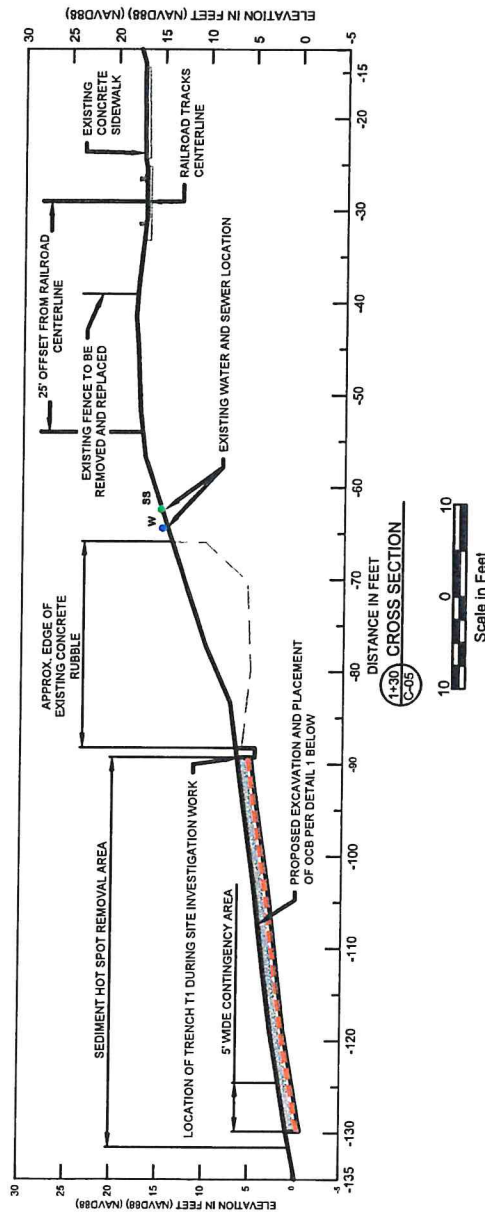
VERTICAL DATUM: MLLW = 0.21 ft NAVD88
LATITUDE: 46° 11' 29"N LONGITUDE: 123° 50' 25"W
SECTION-TOWNSHIP-RANGE: 7 - 8N - 9W
ADJACENT PROPERTY OWNERS:

In-Water Remedy Cross Sections

SITE ADDRESS: 256 Marine Drive
Astoria, Oregon 97103

PROPOSED PROJECT:
In-Water (Intertidal) Remediation
Former Unocal/PacifiCorp Astoria Site - ECSI #1646
APPLICATION BY: PacifiCorp and Unocal
Unocal

NEAR/AT: Astoria Riverwalk and 2nd Street
COUNTY OF: Clatsop
STATE: OR
DATE: May 2019



DATUM CONVERSION FOR WATER LEVELS

PURPOSE: Sediment Remediation

VERTICAL DATUM: MLLW = 0.21 ft NAVD88
 LATITUDE: 46° 11' 29"N LONGITUDE: 123° 50' 25"W
 SECTION-TOWNSHIP-RANGE: 7 - 8N - 9W
 ADJACENT PROPERTY OWNERS:

In-Water Remedy Cross Sections

**SITE ADDRESS: 256 Marine Drive
Astoria, Oregon 97103**

PROPOSED PROJECT:

In-Water (Intertidal) Remediation
Former Unocal/PacifiCorp Astoria Site - ECSI #1646
APPLICATION BY: PacifiCorp and Unocal
Unocal

NEAR/AT: Astoria Riverwalk and 2nd Street
COUNTY OF: Clatsop
STATE: OR

SHEET 6 OF 6

Adjacent Property Owners List

256 Marine Drive, Astoria, Oregon

Adjacent Property Owners



Gary and Heidi Chew
350 Marine Dr.
Astoria, Oregon, 97103

Hollander Properties LLC and Fair Whether LLC
1 2nd St
Astoria, Oregon, 97103

Small Stop Inc
180 Marine Dr
Astoria, Oregon, 97103

Anderson Donald N/Dana G
106 Marine Dr
Astoria, Oregon

Brian G Orahood
110 2nd St
Astoria, Oregon, 97103

Karen K Cheong
122 2nd St
Astoria, Oregon, 97103

Loren Candela and Susan Kolber
134 2nd St
Astoria, Oregon, 97103

McGonigle Daniel M/Jean E
146 2nd St
Astoria, Oregon, 97103

Laszlo F Winston and Maranne B Doyle-Laszlo
208 Bond St
Astoria, Oregon, 97103

Scruggs Steven
261 Marine Dr
Astoria, Oregon, 97103

Johnson Laree Trustee and Johnson Laree Rev Liv Trust
1193 Harrison Ave
Astoria, Oregon, 97103

Johnson Laree Trustee and Johnson Laree Rev Liv Trust
161 3rd St
Astoria, Oregon, 97103

PCL Investments LLC
106 3rd St
Astoria, Oregon, 97103

King Kay E D
1280 S Downing St
Seaside, Oregon, 97138-5424

King Kay E D
308-320 Bond St
Astoria, Oregon, 97103

PCL Investments LLC
92967 Pearson Rd
Astoria, Oregon, 97103

Wilson Robert Curtis
340 Bond St
Astoria, Oregon, 97103

Allen Leland Jr
330 Bond St
Astoria, Oregon, 97103-4320

Paul William E/Clydene
397 Marine Dr
Astoria, Oregon, 97103-4327

Mittelbuscher Teresa G
364 Bond St
Astoria, Oregon, 97103-4320

Palmberg Jason W
155 4th St
Astoria, Oregon, 97103-5445

Zallen Wayne A and Zallen Wayne A Trust
193 Marine Dr
Astoria, Oregon

Clark Robert Douglas
145 2nd St
Astoria, Oregon, 97103-4303

Graham Jensen M and McIvor Sonya
194 Bond St
Astoria, Oregon, 97103

Utzinger Fran
650 Florence Ave
Astoria, Oregon, 97103-5967

SA Brown LLC
176-184 Bond St
Astoria, Oregon, 97103

Hunt Jonathan J
156 Bond St
Astoria, Oregon, 97103

Hollander Properties LLC and Fair Whether LLC
119 N Commercial St #165
Bellingham, WA 98225



Authorization for Remediation/Restoration Activity

Date Received:
CITY OF ASTORIA
FEB 19 2019
BUILDING CODES

www.oregon.gov/dsl

Land Management Division WESTERN REGION Department of State Lands 775 Summer Street NE, Suite 100 Salem, OR 97301-1279 503-986-5200 FAX: 503-378-4844	Mail completed application with the applicable non-refundable fee, made payable to: Oregon Department of State Lands. We accept Visa and Master Card, please call (503) 986-5253	Land Management Division EASTERN REGION Department of State Lands 1645 NE Forbes Road, Suite 112 Bend, OR 97701 541-388-6112 FAX: 541-388-6480
AGENCY WILL ASSIGN NUMBER		
Oregon Department of State Lands No. _____		
Agency requiring action: DEQ	<input checked="" type="checkbox"/> Easement } <input type="checkbox"/> Lease }	<input type="checkbox"/> Access Agreement } \$1250.00 Application fee } \$750.00 Application Fee }
Order No:		
1- APPLICANT INFORMATION		
Applicant's Name: PacifiCorp (Point of Contact: Jackie Wetzsteon)		Home Phone:
Address: 825 NE Multnomah St. LCT 600		Business Phone: (503) 813-5036
Portland, OR 97232		Fax:
		Email: Jackie.Wetzsteon@pacificorp.com
Co-Applicant's Name: Chevron EMC (Point of Contact: Julie Lee)		Home Phone:
Address: 6001 Bollinger Canyon Rd		Business Phone: (925) 842-0198
San Ramon, CA 94583		Fax:
		Email: Julie.Lee@chevron.com
Authorized Agent's Name: DOF, Inc. (Point of Contact: Rob Webb)		Home Phone:
Address: 1236 NW Finn Hill Rd.		Business Phone: (360) 394-7917
Poulsbo, WA 98370		Fax:
		Email: rwebb@dofnw.com
Riparian Property Owner Name: Nancy Ferber (vested); if different than applicant (City Planner, City of Astoria)		Home Phone:
Address: 1095 Duane St		Business Phone: (503) 338-5183
Astoria, OR 97103		Fax:
		Email:
2 - PROJECT LOCATION		
Street, Road or other descriptive location		Legal Description
256 Marine Drive		Township 8N Range 9W Section 7 Quarter
In or Near (City or Town)	County	Tax Map # Tax Lot (s) #
Astoria	Clatsop	80907DA00700 and 100
Waterway	River Mile	County Property Tax Account Number
Columbia River	15	

3 - PROJECT INFORMATION

Activity Type (Check all that apply):	Area requested (length x width)
<input type="checkbox"/> Restoration for Mitigation (R/F or NRDA)	
<input type="checkbox"/> Monitored Natural Recovery	
<input type="checkbox"/> Environmental Dredging	
<input type="checkbox"/> Site Monitoring	
<input type="checkbox"/> Enhanced Monitored Natural Recovery	
<input checked="" type="checkbox"/> Sediment Cap	2,600 square feet
<input type="checkbox"/> Other (Explain Below)	

Are you aware of any Endangered Species on the project site? ☒ Yes ☐ No

Are you aware of any Cultural Resources on the project site? ☒ Yes ☐ No

Is the project site near a State Scenic Waterway? ☐ Yes ☒ No

If yes to any of the above, please explain in the project description (Section 4).

How will activity impact area and proposed mitigation? _____

4 - PROJECT PURPOSE & DESCRIPTION*

<input checked="" type="checkbox"/> Existing Facility/Activity	<input type="checkbox"/> Proposed Project
Project Purpose and Need: Project purpose is to perform remedial action on a light nonaqueous phase liquid (LNAPL) hot spot of contamination in sediment to the extent feasible. The purpose of the remediation is to minimize the release of LNAPL from sediment to the Columbia River. The remediation area is on DSL intertidal property, north of applicant-owned property. All work will be done in accordance with Oregon Department of Environmental Quality (ODEQ) approved plans.	
Project Description: The existing cobble and gravel in the remediation area will be temporarily removed to a depth of about 18 inches, mats filled with organophilic clay will be installed, and then the cobble and gravel will be placed over the mats. The remediation area is exposed at low tide. Remediation work will be done in the "dry" at low tide. The work is expected to take 2 to 3 weeks, and must be done during daylight low tides.	

Estimated Start Date: June 2019

Estimated Completion Date: August 2018

5 - ADDITIONAL INFORMATION

Please provide the names, addresses and phone numbers for all adjoining property owners

Name: See attached sheets

Address:

Phone:

Name:

Address:

Phone:

Name:

Address:

Phone:

Has the proposed activity or any related activity received the attention of the Corps of Engineers of the State of Oregon in the past, e.g., wetland delineation, violation, permit, lease request, etc.? ☒ Yes ☐ No

If yes, what identification number(s) were assigned by the respective agencies:

Corps # NOW 2015-440

State of Oregon #DEQ ECSI Number 1646

1

¹ * Please attach all associated DEQ/EPA documentation (Work Plan, O&M Plan, AOC & Consent Judgement, etc)


Signature FOR PACIFICORP APPLICANT

6 - CITY/COUNTY PLANNING DEPARTMENT AFFIDAVIT

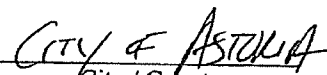
(to be completed by local planning official)

- ☐ This project is not regulated by the local comprehensive plan and zoning ordinance.
☐ This project has been reviewed and is consistent with the local comprehensive plan and zoning ordinance.
☐ This project has been reviewed and is not consistent with the local comprehensive plan and zone ordinance.
☐ Consistency of this project with the local planning ordinance cannot be determined until the following local approval(s) are obtained:
☒ Conditional Use Approval ☐ Development Permit
☐ Plan Amendment ☐ Zone Change
☐ Other _____

An application ☐ has ☒ has not been made for local approvals checked above.


Signature of local planning official

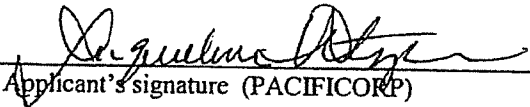

Title


City / County


Date

Applicant is seeking an Access Easement for the purpose of a remedial action (Installation of clay mats, etc.) that does not affect land use or require a land use compatibility determination (LUCS) by the City/County Planning Department. No permanent structures to be placed on state-owned lands.

Jacqueline Wetzsteon
Print/Type Name


Applicant's signature (PACIFICORP)

BUSINESS INFORMATION FOR PACIFICORP APPLICANT

7 - BUSINESS INFORMATION - PACIFICORP APPLICANT

LIMITED LIABILITY COMPANY: Complete the following

- a) Do you have authority from the Oregon Secretary of State to do business in the State of Oregon? ☐ Yes ☐ No
- b) Is the LLC presently in good standing with the Oregon Secretary of State? ☐ Yes ☐ No
- c) In what state is the LLC primarily domiciled? _____
- d) Is the LLC name and the Oregon business address the same as stated in this application? ☐ Yes ☐ No
- If no, state the legal Name: _____

Address: _____

Street or Box Number _____ City _____ State _____ Zip Code _____

Additionally, a LIMITED LIABILITY COMPANY must submit the following with the application:

- a) A certified copy of the company's Articles of Organization
- b) A copy of the company's operating agreement

CORPORATION: Complete the following:

- a) Do you have authority from the Oregon Secretary of State to do business in the State of Oregon? ☒ Yes ☐ No
- b) Is the corporation presently in good standing with the Oregon Secretary of State? ☒ Yes ☐ No
- c) In what state are you incorporated? Oregon
- d) Is the legal corporation name and Oregon business address the same as stated in this application? ☒ Yes ☐ No
- If no, state the legal Corporate Name: PacifiCorp, an Oregon Corporation

Address: _____

825 NE Multnomath St., LCT 600 Portland, Oregon 97232

Street or Box Number _____ City _____ State _____ Zip Code _____

PARTNERSHIP OR JOINT VENTURE: Complete the following

NAME	BUSINESS ADDRESS	%SHARE	DIVISION

TRUST: Complete the following for each beneficiary of the Trust:

NAME	BUSINESS ADDRESS

OR identify the Trust document by title, document number, and county where document is recorded:

TITLE	DOCUMENT NUMBER	COUNTY

A resolution that the individual designated to sign is authorized to act on behalf of the company in this matter.

Signature FOR CHEVRON CO- APPLICANT

6 - CITY/COUNTY PLANNING DEPARTMENT AFFIDAVIT

(to be completed by local planning official)

- ☐ This project is not regulated by the local comprehensive plan and zoning ordinance.
☐ This project has been reviewed and is consistent with the local comprehensive plan and zoning ordinance.
☐ This project has been reviewed and is not consistent with the local comprehensive plan and zone ordinance
☐ Consistency of this project with the local planning ordinance cannot be determined until the following local approval(s) are obtained.
☒ Conditional Use Approval ☐ Development Permit
☐ Plan Amendment ☐ Zone Change
☐ Other _____

An application ☐ has ☒ has not been made for local approvals checked above

Signature of local planning official

Title

City / County

Date

Applicant is seeking an Access Easement for the purpose of a remedial action (Installation of clay mats, etc.) that does not affect land use or require a land use compatibility determination (LUCD) by the City/County Planning Department. No permanent structures to be placed on state-owned lands.

Kari H. Endries, Vice President and Secretary

Print/Type Name

Co- Applicant's signature (CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY, a California corporation)

SIGNATURE PAGE FOR PACIFICORP

**8 - FOR A COMPLETE APPLICATION:
PLEASE SUBMIT ALL OF THE FOLLOWING:**

- A. A street or highway location map with road directions to the site from the nearest main highway or road.
- B. Assessor map that contains the riparian uplands. Do not mark on this map.
- C. A copy of the current year's property tax statement which identifies the present owner's name(s), land values, land size and tax account numbers of the riparian uplands.
- D. A separate drawing to a scale of 1 inch = 100 feet of all existing and proposed structures and /or work. Label each separate activity type stated in Section 3 and show the dimensions of each area by length and width, as stated in Section 3.
- E. A legal description of the requested authorization area(s) with an accurate delineation of the area relative to the tax lot boundaries of the upland parcel. (The department may require a survey for this purpose).
- F. Project Inventory and Evaluation for purposes of Site Diminishment Impact Determination.
- G. Any Consent Judgment, Order on Consent, and/or any related documentation by DEQ or EPA.
- H. Any and All Work Plan or Operation & Maintenance plans that have been prepared for proposed activities.
- I. Documentation of any Financial Assurance required by DEQ or EPA.
- J. Enclose applicable non-refundable application fee, as determined during pre-application process.
Made payable to: Oregon Department of State Lands.

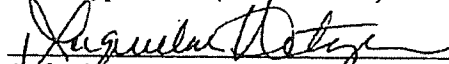
APPLICANT SIGNATURE - (PACIFICORP)

I hereby request a state authorization for: 30 (number) years.

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the authorization requested before commencing the project. I understand that payment of the required state application fee does not guarantee authorization.

Jacqueline Wetzsteon

Print /Type Name (PACIFICORP)



Authorized Agent Signature (PACIFICORP)

Environmental Program Manager

Title

1/31/19

Date

I appoint the person named below to act as my duly authorized agent.

Rob Webb, Dalton, Olmsted & Fuglevand

Print /Type Name



Authorized Agent Signature (PACIFICORP)

Principal Engineer

Title

1/31/19

Date

BUSINESS INFORMATION FOR CHEVRON CO-APPLICANT

7 - BUSINESS INFORMATION - CHEVRON CO-APPLICANT

LIMITED LIABILITY COMPANY: Complete the following

- e) Do you have authority from the Oregon Secretary of State to do business in the State of Oregon? ☐ Yes ☐ No
- f) Is the LLC presently in good standing with the Oregon Secretary of State? ☐ Yes ☐ No
- g) In what state is the LLC primarily domiciled? _____
- h) Is the LLC name and the Oregon business address the same as stated in this application? ☐ Yes ☐ No
- If no, state the legal Name: _____

Address:

Street or Box Number City State Zip Code

Additionally, a LIMITED LIABILITY COMPANY must submit the following with the application:

- c) A certified copy of the company's Articles of Organization
- d) A copy of the company's operating agreement

CORPORATION: Complete the following:

- e) Do you have authority from the Oregon Secretary of State to do business in the State of Oregon? ☒ Yes ☐ No
- f) Is the corporation presently in good standing with the Oregon Secretary of State? ☒ Yes ☐ No
- g) In what state are you incorporated? California
- h) Is the legal corporation name and Oregon business address the same as stated in this application? ☐ Yes ☒ No
- If no, state the legal Corporate Name: Chevron Environmental Management Company

Address:

6001 Bollinger Canyon Road San Ramon California 94583

Street or Box Number City State Zip Code

PARTNERSHIP OR JOINT VENTURE: Complete the following

NAME	BUSINESS ADDRESS	%SHARE	DIVISION

TRUST: Complete the following for each beneficiary of the Trust:

NAME	BUSINESS ADDRESS

OR identify the Trust document by title, document number, and county where document is recorded:

TITLE	DOCUMENT NUMBER	COUNTY

A resolution that the individual designated to sign is authorized to act on behalf of the company in this matter.

SIGNATURE PAGE FOR CHEVRON

8 - FOR A COMPLETE APPLICATION:

PLEASE SUBMIT ALL OF THE FOLLOWING:

- K. A street or highway location map with road directions to the site from the nearest main highway or road.
- L. Assessor map that contains the riparian uplands. Do not mark on this map.
- M. A copy of the current year's property tax statement which identifies the present owner's name(s), land values, land size and tax account numbers of the riparian uplands.
- N. A separate drawing to a scale of 1 inch = 100 feet of all existing and proposed structures and /or work. Label each separate activity type stated in Section 3 and show the dimensions of each area by length and width, as stated in Section 3.
- O. A legal description of the requested authorization area(s) with an accurate delineation of the area relative to the tax lot boundaries of the upland parcel. (The department may require a survey for this purpose).
- P. Project Inventory and Evaluation for purposes of Site Diminishment Impact Determination.
- Q. Any Consent Judgment, Order on Consent, and/or any related documentation by DEQ or EPA.
- R. Any and All Work Plan or Operation & Maintenance plans that have been prepared for proposed activities.
- S. Documentation of any Financial Assurance required by DEQ or EPA.
- T. Enclose applicable non-refundable application fee, as determined during pre-application process.
Made payable to: Oregon Department of State Lands.

CO-APPLICANT SIGNATURE - (CHEVRON)

I hereby request a state authorization for: _____ (number) years.

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the authorization requested before commencing the project. I understand that payment of the required state application fee does not guarantee authorization.

Kari H. Endries

Vice President and Secretary

Print /Type Name (CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY, a California Corporation)

Title

2/1/19

Authorized Agent Signature (CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY, a California Corporation)

Date

I appoint the person named below to act as my duly authorized agent.

Print /Type Name

Title

Authorized Agent Signature (CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY, a California Corporation)

Date

**YOU ARE RECEIVING THIS NOTICE BECAUSE THERE IS A
PROPOSED LAND USE APPLICATION NEAR YOUR PROPERTY IN ASTORIA**

**CITY OF ASTORIA
NOTICE OF REVIEW**

Mail	5/31/19
Email	5/31/19
Web	5/31/19
Pub	6/18/19

The City of Astoria Planning Commission will hold a public hearing on Tuesday, June 25, 2019 at 6:30 p.m., at Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. **Continued from the May 28, 2019 meeting:* Conditional Use Request (CU19-04) by Stewardship Homes LLC to locate a 5-room, short term lodging facility in an existing apartment building at 641 Commercial Street (Map T8N R9W Section 8CB, Tax Lot 7300, Lot 2, Block 29, McClures) in the C-4 (Central Commercial Zone).
2. Conditional Use Request (CU19-05) by Rob Webb and Mark Otten on behalf of PacificCorp to perform in water remediation work (use is considered "active restoration") to address contamination present in sediment adjacent to 2nd street south of the pierhead line (Map T8N R9W Section 7DA, Tax Lot 100) in the A-2: Aquatic Two Development Zone. The following Articles are applicable to the request Development Code Sections: 1.400 (Definitions) 2.525 to 2.540 (Zoning) 3.300 (Grading and Erosion Control), 4 (Columbia River Estuary and Shoreland Regional Standards), 5 (Impact Assessment & Resource Capability Determination), 9 (Administrative Procedures), 11 (Conditional Use) and Comprehensive Plan Sections CP.010-.28 (General) CP130 - CP.186 (Aquatic & Shoreland), and CP.445 - CP.460 (Natural Resources).
3. **Continued from the May 28, 2019 meeting:* Amendment Request (A19-01B) by Community Development Director to amend Development Code sections concerning issues relative to height and maximum gross square footage in the Bridge Vista Overlay Area (exempted sections from A19-01A), as well as continued discussions regarding potential sub-areas within the BVO.
4. Permit Extension Request for Conditional Use (CU17-06) by Astoria Warming Center to extend the permit to September 6, 2020 to operate the Astoria Warming Center at 1076 Franklin Ave (Map T8N-R9W Section 8CC, Tax Lot(s) 2300; Lot(s) 5 & 6, Block 45, McClure's) in the R-3 High Density Residential Development Zone. Development Code Standards 2.150-2.185, 3.240, Articles 9 and 11 and Comprehensive Plan Sections CP.040-CP.045, CP.215-CP.230 are applicable to the request.

A copy of the applications, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available at least seven days prior to the hearing and are available for inspection at no cost and will be provided at reasonable cost. All such documents and information are available at the Community Development Department at 1095 Duane Street, Astoria. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Contact the City of Astoria Community Development at 503-338-5183 for additional information.

The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

All interested persons are invited to express their opinion for or against the request(s) at the hearing or by letter addressed to the Planning Commission, 1095 Duane St., Astoria OR 97103. Testimony and evidence must be directed toward the applicable criteria identified above or other criteria of the Comprehensive Plan or land use regulation which you believe apply to the decision. Failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes an appeal based on that issue.

The Planning Commission's ruling may be appealed to the City Council by the applicant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Appeal within 15 days after the Planning Commission's decision is mailed. Appellants should contact the Community Development Department concerning specific procedures for filing an appeal with the City. If an appeal is not filed with the City within the 15 day period, the recommendation of the Planning Commission shall be forwarded to the City Council for consideration.

The public hearing, as conducted by the Planning Commission, will include a review of the application and presentation of the staff report, opportunity for presentations by the applicant and those in favor of the request, those in opposition to the request, and deliberation and decision by the Planning Commission. The Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA

MAIL: MAY 31, 2019

A handwritten signature in black ink, appearing to read 'Tiffany Taylor', with a stylized, flowing script.

Tiffany Taylor
Administrative Assistant

STAFF REPORT AND FINDINGS OF FACT

June 18, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROBIN SCHOLETZKY, AICP, CONTRACT PLANNER

SUBJECT: PERMIT EXTENSION FOR TEMPORARY CONDITIONAL USE PERMIT BY
ASTORIA WARMING CENTER AT 1076 FRANKLIN AVENUE

I. BACKGROUND SUMMARY

- A. Applicant: Annie Martin, President
Astoria Warming Center
1076 Franklin Avenue
Astoria OR 97103
- B. Owner: First United Methodist Church
1076 Franklin Avenue
Astoria OR 97103
- C. Location: 1076 Franklin Avenue; Map T8N-R9W Section 8CC, Tax Lot
2300; Lots 5-6, Block 45, McClure's
- D. Zone: R-3 (High Density Residential)
- E. Permit Request: One year extension request to continue operations of Astoria
Warming Center as a Temporary Use in a basement of an existing
building
- F. Size: Lot: 10,000 SF; Total Building: ~11,000; Basement: ~5,500 SF
- G. Previous
Applications: CU 17-06 for a temporary
use permit was approved
September 6, 2017 by
Astoria Planning
Commission



II. BACKGROUND

A. Subject Property

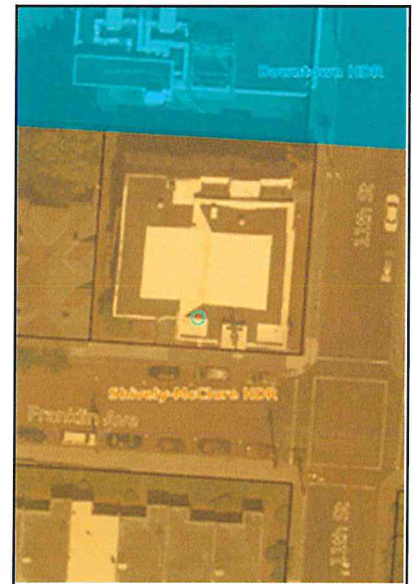
The subject property is located within the R-3 Zone (High Density Residential) on the corner of Franklin Avenue and 11th Street. The building is currently used as the First United Methodist Church and associated offices, kitchen, and classrooms. The church was built in 1916, designed by Whitehouse & Fouilhoux, and is listed as a "Secondary" historic resource in the Shively McClure National Historic District. The warming center has operated in the basement, which has a separate entrance located on 11th Street (pictured to the right).



B. Adjacent Neighborhood

The subject property is located just outside the Downtown Historic District and C-4 Zone (Central Commercial) on 11th St which is classified as a "collector" in the Transportation System Plan (2013). A collector draws traffic from various connections to local streets. This specific location is considered a "transition area" where the mixed use, commercial character of downtown buildings and storefronts transitions to higher density residential.

There is considerable pedestrian traffic on 11th Street as a result of its direct connection to downtown. To the west is the Francis Apartments, across 11th Street to the east is a parking lot owned by the Methodist Church. Directly to the south is the Illahee Apartments, and to the north is the Centurylink telecom facility. The neighborhood is characterized primarily as residential with a mix of large multi-family apartments, townhouses, and single family detached. The First Presbyterian Church is located to the southeast and the renovated Astoria Senior Center is northeast of the subject property and adjacent to the Methodist Church parking lot.



C. Proposed Use & History

The Astoria Warming Center (AWC), a local, 501c3, non-profit organization, has operated an annual, temporary facility for a 90 day period during the winter months since 2014-15. It began operations at the Astoria Senior Center before relocating to the current site as a tenant in the First United Methodist Church. The basement location is approximately 5,500 SF with 1,484 for men's sleeping area, 440 SF for women's sleeping area and a smaller, 285 SF area for couples. The basement also contains men's and women's bathrooms, a kitchen, and a laundry and shower facility all of which taken together provides emergency overnight housing for up to thirty-five (35) homeless men and women of all ages.

The basement of the church does not have a building occupancy rating for residential. However, the AWC like other facilities in Oregon has operated under the guidance of the "Oregon Fire Code Interpretations and Technical Advisories, Technical Advisory 11-14" which provides advisory rules for local cities to work with local social service providers on operating temporary, emergency warming centers.

Conditional Use Permit CU 17-06 was approved for a temporary use permit, by the Planning Commission on September 6, 2017. This application is for a permit extension of the same temporary use permit, for the same operation, at the same site.

D. Discussion

Prior to the Conditional Use Permit approval in 2017, the AWC was operating at the Methodist Church without a land use permit. The activities and impacts necessitated a closer examination of the activities and therefore the City required a temporary use permit to legalize the use. The location of the AWC was also in question so once the AWC Board made the investment in the current location, zoning approval became apparent and appropriate as all uses require some level of review.

In the previous findings of fact, the terminology used for social services related to the homeless population was noted below, to help frame the discussion and provide a baseline of understanding of the issues. This staff report and findings of fact are based on these definitions for consistency. (Source: Wikipedia, 2017).

- **Homeless shelters** are a type of homeless service agency which provide temporary residence for homeless individuals and families. Shelters exist to provide clients with safety and protection from exposure to the weather while simultaneously reducing the environmental impact on the community.
- A **warming center** is a short-term emergency shelter that operates when temperatures or a combination of precipitation, wind chill, wind and temperature become dangerously inclement. Their paramount purpose is the prevention of death and injury from exposure to the elements.

In 2018, the Planning Commission held several work sessions to review potential new Development Code language to address uses such as emergency/warming shelters. These work sessions resulted in draft code language. These code amendments are still in draft form, and do not affect the current proposed permit extension.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 250 feet pursuant to Section 9.020 on May 31, 2019 and to parties on the record pursuant to Section 9.100.B.3.b. A notice of public hearing was published in the *Daily Astorian* on June 18, 2019 and the site was posted on June 1, 2019.

As of the writing of this staff report, the following written public comments have been received and are included in the Planning Commission's packet. Any additional public comments received will be made available at the meeting.

- Suzanne Williams, expressing support for the project
- Deanne M. Coyre, expressing support for the project
- Elaine Bruce, Clatsop Community Action, expressing support for the project
- Bonnie Lively, expressing support for the project
- Sally Turchetta, expressing support for the project

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 2.160.10 lists *"temporary use meeting requirements of Section 3.240"* as a Conditional Use in the R-3 Zone, in accordance with Article 11 concerning Conditional Uses.

Finding: The proposed use is not specifically classified in the Development Code. Many churches in Astoria provide social services to some degree as an accessory use and part and parcel of their mission such as a food bank or soup kitchen. However, the definition of "semi-public" (Article 1.400) does include quasi-public uses such as non-profit organizations, civic, and fraternal clubs. As a result of the temporary nature of the proposed use, the application is being reviewed under the "temporary use" category and requires a Conditional Use permit according to the R-3 Zone. Criteria related specifically to permit extensions is below.

- B. 9.100(B) Permit Extensions.

Permit extension may be granted for all land use permits. Extensions may also be granted for time limits applicable to non-conforming buildings and/or non-conforming uses located over water between 16th and approximately 54th Streets as described in Sections 3.180.D and 3.190.F. One year extensions may be granted in accordance with the requirements of this Section as follows:

1. Permit Extension Time Limit.

- a. *The Community Development Director may grant the first one-year permit extension.*
- b. *Following the first one-year permit extension by the Community Development Director, the original granting authority may grant subsequent one-year extensions.*
- c. *No more than three permit extensions may be granted. No variances may be granted from this provision. Temporary Use Permit extensions are exempt from this requirement and may exceed the three extensions limitation.*
- d. *This Ordinance shall apply to all permit extensions requested after the date of enactment regardless of the date of the original permit Final Decision. If a permit has been granted extensions prior to adoption of this Ordinance, subsequent extension requests shall be reviewed by the granting authority. Three additional extensions may be granted.*

Finding: While the Community Development Director may usually grant the first one-year permit extension, a condition of approval on the original CUP noted the permit was “valid for only one year until August 1, 2018,” and “an extension may only be granted after the AWC conducts a thorough site analysis to find a different location.”

Per article 9.010(J) allows the Community Development Director to 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*”.

For context, the first permit extension from 2018 was approved by the APC in lieu of administrative review. The original CUP also noted “If another site cannot be found, then the AWC would need to request an extension for the 2018-2019 program year and furnish their findings to the Planning Commission for review.”

As part of the first permit extension, and for this second permit extension, the AWC has submitted a site analysis for review. Findings from the analysis indicate that no other suitable sites for this use exist at an appropriate location/amenities/cost for the AWC. A copy of the site analysis was included in the applicant’s materials and is in the Planning Commission packet for reference.

Should the AWC continue operation, a third permit extension would need to be submitted to the City of Astoria for the 2020-21 operating program year.

2. Permit Extension Criteria.

The granting authority may grant a permit extension upon written findings that the request complies with the following:

a. The project proposal has not been modified in such a manner as to conflict with the original findings of fact for approval; and

b. The proposed project does not conflict with any changes to the Comprehensive Plan or Development Code which were adopted since the last permit expiration date; and

c. The applicant has demonstrated that progress has been made on the project since the date of the original decision on the permit with regard to items such as, but not limited to:

- 1) Submittal of permit applications to City, State and Federal agencies;
- 2) Contracts for geologic or other site specific reports have been signed and are in effect;
- 3) Project site and/or building engineering, architectural design, or construction has begun.

d. In lieu of compliance with Section 2.c above, the applicant may demonstrate that poor economic conditions exist in the market that would advise against proceeding with the project.

Finding: The proposal has not been modified from the original approval, nor have there been any Comprehensive Plan or Development Codes related to the use or site adopted since the expiration date of the permit. The applicant has included a summary of the 2018-2019 season operations, (d) is not applicable to the proposed extension as criteria 2(c) has been met.

C. Section 2.185 (1) states that *“All uses will comply with applicable access, parking, and loading standards in Article 7”*.

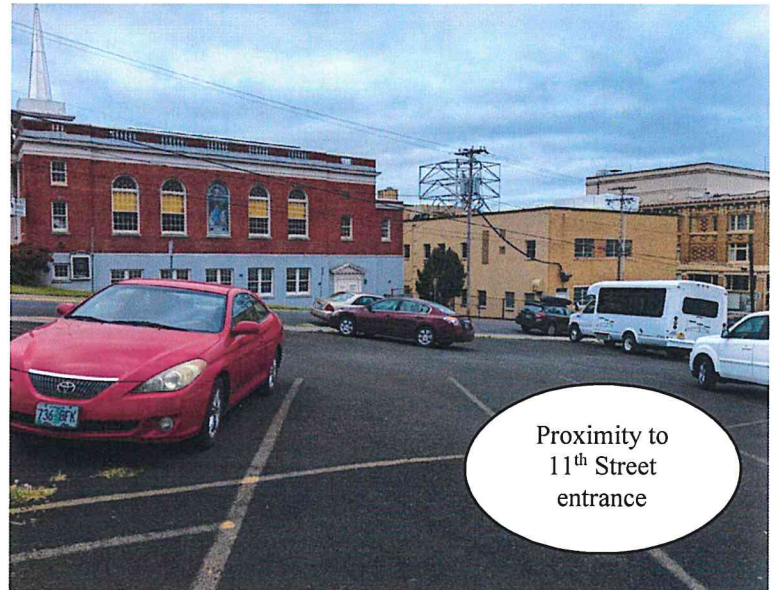
Section 7.100 does not have a specific category for the proposed use. Previously, staff evaluated existing categories and recommends using the “group living” standard of 1 space per 8 bedrooms plus 1 space per number of employees on shift. The applicant uses cots and not standard bedrooms while the term “employees” is inclusive of volunteers who are there to supervise the operations. The only other category to use would be “religious institutions and house of worship,” but this category doesn’t address the social service and residential nature of the request.

Finding: The proposed use will be located in an existing institutional structure. The facility operates with up to four (4) employees/volunteers. Based on a standard of 1 space per 8 bedrooms, plus volunteers, the calculation is as follows: five (4.4) + four (4) volunteers = nine (9) spaces. A total



of eighteen (18) parking spaces are currently available in the parking lot on 11th Street adjacent to the basement entrance. The church parking lot can accommodate the required parking since overnight residents are not driving to the site and most of the parking is being used on Sundays only for worship services. The car parking requirement has been met.

Additionally, the AWC provided a lease agreement between the AWC and the First United Methodist Church indicating the availability of the required nine (9) spaces to the City of Astoria prior to 2017.



Proximity to 11th Street entrance

Due to the nature of the use, loading and unloading needs are minimal but can occur on street or in the parking lot area. All parking areas are clearly marked with striping. See photo above noting adjacency to entrance.

Per Article 7.105, bike parking spaces shall be provided for a change of use. Institutional spaces require one (1) bike space per twenty (20) car parking spaces.

A bicycle rack was installed and is currently in place near the entrance to the proposed use. See photo below.

These criteria and conditions of approval have been met.

- D. Section 11.020(B.)(1) states that *“the Planning Commission shall base their decision on whether the use complies with the applicable policies of the Comprehensive Plan.”*

1. CP.220.1, Housing Element – “Maintain attractive and livable residential neighborhoods, for all types of housing.
2. CP.220.2, Housing Element – “Provide residential areas with services and facilities necessary for safe, healthful, and convenient urban living.”



Required bicycle parking

3. CP.220.6, Housing Element, "Protect neighborhood from incompatible uses, including large scale commercial, industrial, and public uses or activities."
4. CP.220.14. Housing Element, "Non-residential uses, such as public works, churches, schools, and fire stations should recognize and respect the character and quality of the area in which they are located and be so designed. Explore alternative sites when such a use places a significant impact on the area."

Findings: The above housing policies are contained in the Housing Element of the Comprehensive Plan (1981) and are relative to the proposal. The applicant operates a warming center which is an atypical residential use in a residential zone with many existing neighbors impacted by the use. There are numerous residents that live in the immediate neighborhood including the Illahee Apartments, Francis Apartments, Franklin Townhouses, and single family homes. From a policy perspective, the Comprehensive Plan tries to strike a delicate balance between providing a needed social service and different housing types with livable and safe neighborhoods. People experiencing homelessness are residents, but do not currently have permanent shelter. The Comprehensive Plan does not articulate a hierarchy of housing status. For example, homeowners are not elevated above renters or homeless for that matter and should be evaluated equally. Conversely, the compatibility goals (220.6 & 220.14) are applicable to this proposal and short-term impacts and a long term location need to be addressed. In total, when reviewing the Housing policies cumulatively, it is decidedly in favor of protecting the needs of existing neighbors over non-residential uses and incompatible uses.

This is the second year of operations under this permit and the Applicant has established a Good Neighbor Commitment and other actions which help to mitigate any impacts to surrounding neighbors including a litter pick up program in a two-block radius of the site. The AWC provides public notice for three open houses with the neighborhood at three points: before, during and after the program season. The City's Community Development Department office receives written notice. An example of the noticing materials are included in the Planning Commission packet.

The proposed use has not changed since the initial CUP was approved in 2017. No major developments or land use requests in the neighborhood have occurred within the past year to significantly alter the character of the area (such as a zone change). These criteria have been met.

For a permit request extension, only the extension criteria in Article 9 is applicable criteria for review. For background information only, the original CUP criteria is included below:

E. Section 11.030(A) requires that *“before a conditional use is approved, findings will be made that the use will comply with the following standards:”*

1. 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 proposed use as a temporary, emergency warming center is a type of use associated with a social service oriented establishment such as a church. The applicant has operated the warming center in a different location (senior center) without any issues known to staff, but is proposing to expand services to meet an increasingly high demand for shelter, food, and social services in the community. AWC separates facilities by gender and marital status and limit the number of residents to 35. The site is zoned for residential uses, but a church is not set up for residential occupancy and as a result operates on a temporary, emergency basis.

In terms of location, the warming center is accessible to a variety of clients and its employees and volunteers because of its proximity to public transit and other social services (Clatsop County, Clatsop Community Action, and food banks). The walking and biking distance from downtown and the Sunset Transit Center is advantageous to the population AWC is trying to serve. However, this same strength is also a reason why living in the neighborhood is an attractive amenity to homeowners and renters.

The Applicant has provided a detailed site analysis to determine the feasibility of other possible locations. The analysis has provided a variety of data about other locations but has indicated that the current location provides a strong combination of factors which continues to validate the current location. These criteria and conditions have been met.

2. 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 proposed use will have four employees/volunteers on staff during a typical day (i.e., overnight) of operation. This does not pose a significant impact to the site or neighborhood. Almost all clients using the warming center are arriving on foot or bike so the traffic impact is negligible. The site layout allows for entry of clients on the 11th Street side. Emergency vehicles can also readily access the site using on street or off

street parking. Solid waste and recycling facilities will be located in the parking lot. Traffic patterns in the neighborhood will be primarily around opening and closing of the center around 7 pm and 8 am, respectively while the majority of the daytime traffic will not be impacted.

3. 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: All utilities are at the site and are capable of serving the use. No new construction is proposed. No issues from either the Police Chief or the Fire Chief, Public Works or the Buildings Official were recorded in conjunction with this land use review and this staff did not note any additional concerns with this permit extension.

Historically, City Parks officials have noted that the warming center has been a net positive as a result of a decrease in vandalism to restrooms and other facilities.

4. 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: This is a temporary use for a tenant space so interior improvements are minimal to meet an emergency need. The Building Official and Fire Department will continue to monitor the fire life safety measures needed to provide a safe space for overnight stays. As required by the prior conditions of approval, a pre-season walk-through has been completed each previous program season by the City of Astoria Buildings official, Fire Chief and Community Development staff.

This standard is met.

5. Section 11.030(A)(5) requires that *“the use contain an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.”*

Finding: No site construction is proposed other than maintaining landscaping that was required and approved with the original CUP.

- F. Section 3.240. *TEMPORARY USE PROVISIONS. Temporary Uses are those which involve minimal capital investment, and which comply with the following standards:*

*A. Duration of Permits. 1. Time Limit. A temporary use permit shall expire one year from the date of Final Decision unless an extension has been granted.
2. Permit Extensions. Prior to permit expiration, the applicant may request extensions in accordance with Section 9.100 (B.2.a & b) and 9.100(B.3 & 4). A*

permit remains valid, if a timely request for extension has been filed, until an extension is granted or denied.

Finding: AWC operates on annual basis during the winter months. The nature of the operation and the temporary use provision allows an annual review of the use to examine performance and impacts of the use. Based on the findings of fact, staff recommends a one year approval for the 2019-20 program year.

B. Security. The Planning Commission may require that the applicant furnish the City with a performance bond or other negotiable instrument up to, and not to exceed, the value of the improvements or the cost of removal of the improvements, whichever is greater. This requirement may be made in order to assure that any conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission, and the standards established in granting the use.

Finding: No capital improvements are proposed, so this standard does not apply.

V. DISCUSSION & CONCLUSION

In 2014, the AWC was originally conceived as an emergency warming center and by all accounts provided a much-needed social service in Astoria.

The AWC can operate as a “warming center” only based on a 37 degree overnight outside temperature as determined by the National Weather Service forecast eight hours in advance of the day of operation. The actual temperature threshold can be set lower or higher by the Planning Commission, but 37 degrees is an average winter time temperature where hypothermia and other health related problems can jeopardize human health. The 37 degrees can be determined based on expected wind chill factor or inclement weather such as snow, sleet and freezing rain, but NOT solely based on rain. The AWC Board will make this determination and notify the City and neighbors when the center is open. This allows a proper amount of time to staff the facility and plan for the day of operation and provides for emergency shelter for those most at risk of hyperthermia or death. In addition to the 37 degree requirement, the AWC can only accept 35 clients until all performance standards described below can be met.

As part of the initial approval, the AWC has worked diligently to provide opportunities for open communication with and directed mitigation measures toward the community. These include the following:

- Development of a “Good Neighbor Commitment” (GNC) approved by the Community Development Director;
- Litter pick up patrol;
- Direct communication process with the AWC when the warming center is operational;
- Zero-tolerance policy toward guests who do not comply with center rules; and

- Actions to ensure that the 35-person limit is maintained during operation.

For reference, a full list of prior conditions and compliance terms is noted as **Table 1, Compliance with prior conditions.**

Table 1, Compliance with prior conditions

Condition	Compliance materials/reference	2019 Staff Report changes
#1. The permit is valid for one year until August 1, 2019. An extension may be granted after the AWC updates the site analysis to find a different location should one become available.	The applicant has provided a site analysis, Alternative Site Analysis	Modify this condition to allow this permit to be valid for one year until August 1, 2020.
#2. All landscaping and lighting improvements from the previous CUP, shall be maintained at the site.	All landscaping and lighting improvements have been maintained	No changes; bring this condition forward
#3. If there are any changes or updates to the parking lease agreement, they shall be submitted prior to beginning of operations in November 15, 2018.	No changes to the parking lease agreement have been noted by the Applicant	Modify this condition to reflect 2019-20 approval period.
#4. At no time shall the number of clients exceed 35 unless AWC requests and receives written approval from the Building Official, Community Development Director, and Fire Chief.	Applicant has provided a statement in the application dated May 16, 2019 that on three separate occasions, occupancy exceeded 35 by 1 or 2 people. The Astoria Warming Center has put in place policies to ensure this does not happen again. See letter from AWC Board of Directors in application packet	No changes; bring this condition forward.
#5. The applicant shall obtain all necessary City and building permits prior to the start of construction.	Any necessary permits have been obtained.	No changes; bring this condition forward
#6. If the AWC opens the warming center according to the weather policy, the AWC shall create/maintain an electronic notice system and notify the City and neighbors who sign up to receive such notice.	The applicant has provided documentation of the electronic noticing system as part of their application.	No changes; bring this condition forward
#7. The applicant shall schedule an annual safety inspection of facilities with the Building Official, Fire Chief, Police Chief, and Community Development Director prior to start of operations.	Safety inspections have been completed prior to start of operations.	No changes; bring this condition forward
#8. The AWC shall designate and provide the City of Astoria one point	The AWC has designated a telephone number and email	No changes; bring this condition forward

Condition	Compliance materials/reference	2019 Staff Report changes
of contact with contact info for all issues and concerns. The contact information for the point of contact shall be updated with any changes prior to operation.	for contact during hours of warming center operations	
#9. A "Good Neighbor Commitment" shall be negotiated and executed and presented to the Community Development Director for review and approval prior to operations.	A copy of the Good Neighbor Commitment is included in the applicant's materials.	No changes; bring this condition forward
#10. The AWC shall continue to furnish a log of all complaints and provide a record of investigation and responses. Specific complaints shall be resolved in a timely manner (48 hours or less).	A log of complaints was provided with the applicant's materials. The applicant noted that one complaint was received via email during the 2018-19 season and was resolved one hour after receiving the message.	No changes; bring this condition forward
#11. The AWC Board, staff, and volunteers shall continue the litter pick up campaign for a two (2) block radius around the subject site. The AWC is encouraged to enlist the help of the clients they serve.	The applicant reports that the litter pick up plan was implemented with daily ground patrols and weekly neighborhood patrols.	No changes; bring this condition forward
#12. The AWC Board may use a weather policy of 37 degrees F using a wind chill factor and/or 1/3 or more inches of rain based on an acceptable weather forecast from a credible source.	The AWC uses weather forecasts from NOAA and other sources and were heavily monitored to be responsive.	No changes; bring this condition forward
#13. Based on the weather policy above, the AWC Board shall use a 48 hour planning period to determine advance notice of operations.	The applicant notes that the shelter was open 90 nights and was fully compliant with this criteria at the time the decision to open was made.	No changes; bring this condition forward

VI. RECOMMENDATION

The request, on balance, meets the applicable review criteria for an extension. Staff recommends approval based on a similar set of performance standards required for the original CUP:

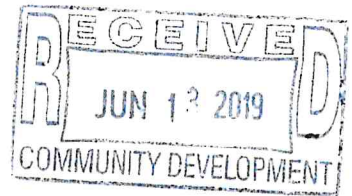
The following conditions must be met prior to the opening of the 2019-20 program year (November 15, 2019 to March 15, 2020):

1. The permit is valid for one year until August 1, 2020.

2. All landscaping and lighting improvements from the previous CUP, shall be maintained at the site.
3. If there are any changes or updates to the parking lease agreement, they shall be submitted prior to beginning of operations in November 15, 2019.
4. At no time shall the number of clients exceed 35 unless AWC requests and receives written approval from the Building Official, Community Development Director, and Fire Chief.
5. The applicant shall obtain all necessary City and building permits prior to the start of construction.
6. If the AWC opens the warming center according to the weather policy, the AWC shall create/maintain an electronic notice system and notify the City and neighbors who sign up to receive such notice.
7. The applicant shall schedule an annual safety inspection of facilities with the Building Official, Fire Chief, Police Chief, and Community Development Director prior to start of operations.
8. The AWC shall designate and provide the City of Astoria one point of contact with contact info for all issues and concerns. The contact information for the point of contact shall be updated with any changes prior to operation.
9. A "Good Neighbor Commitment" shall be negotiated and executed and presented to the Community Development Director for review and approval prior to operations.
10. The AWC shall continue to furnish a log of all complaints and provide a record of investigation and responses. Specific complaints shall be resolved in a timely manner (48 hours or less).
11. The AWC Board, staff, and volunteers shall continue the litter pick up campaign for a two (2) block radius around the subject site. The AWC is encouraged to enlist the help of the clients they serve.
12. The AWC Board may use a weather policy of 37 degrees F using a wind chill factor and/or 1/3 or more inches of rain based on an acceptable weather forecast from a credible source.
13. Based on the weather policy above, the AWC Board shall use a 48 hour planning period to determine advance notice of operations.



Clatsop Community Action
364 9th Street Astoria Oregon 97103
Phone (503) 325-1400 • Fax (503) 325-1153



June 11, 2019

Astoria Planning Commission
Clatsop County Board of Commissioners
Clatsop County, Oregon

RE: Letter of Support for the Astoria Warming Center Conditional Use Permit

Dear Clatsop County Commissioners:

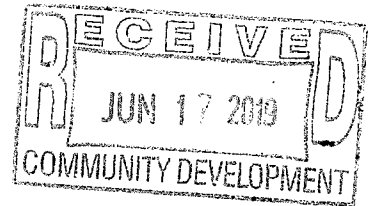
Please see this as a Letter of Support for the Astoria Warming Center's Conditional Use Permit for the upcoming cold weather season. Clatsop Community Action (CCA) recognizes the need for a well-run warming center in the North County that can offer immediate basic human needs and protections for survival during the winter months.

Over the last year and a half, this Center has developed solid leadership that has afforded safety for its guests, while maintaining a welcoming atmosphere and ease of access. CCA is pleased to work with the Astoria Warming Center and its staff and volunteers during a time when long-term permanent housing can be secured.

Please allow the Conditional Use Permit for the AWC that provides our citizens and travelers the help they need.

Sincerely,

Elaine D. Bruce, Executive Director
Clatsop Community Action
364 9th Street, Astoria, Oregon 97103
503-325-1400 Ext. 1035



PLANNING Commission

6-15-2019

To Whom it may Concern:

I am writing this Letter of Support for the Astoria Warming Center because having a warm, clean, safe place to sleep should be a basic human right especially in the raw Northwest winters we experience. It should be obvious how necessary the Astoria Warming Center is to our homeless and our Community.

I think about how hard it would be if everyday was a struggle to find food and shelter in the long winter months. How I would feel if I had to search out a doorway to sit in to escape the wind and rain, and how lucky I would feel if I found a place that gave me a dry pair of socks, some food and a secure place to lay my head if only for one night.

The Astoria Warming Center provides those basic human needs, dry socks, food, a safe place to sleep. Basic needs and so much more.

Please extend the Conditional Use Permit for the Astoria Warming Center.

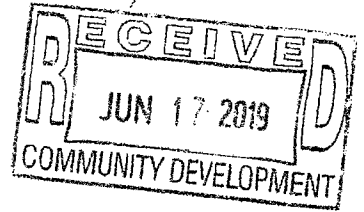
Thank you

Gathered Associates Architects

Suzanne Williams

6/16/2019

Planning Commission



To All who Care,

"where fractured Souls winter"

This is the "Warming Center"

Thank you for caring — giving a
blanket and soft pillow for disturbed
dreams to disappear upon —
winds jogged ice chill their tired, sad
eyes as they enter the warmth,
Then because of "Human Angels" caring
to create a Compassionate Difference
a few Fractured, self-tortured lives
my rest within a Warm Peace

Please, continue the mission
of making a difference —

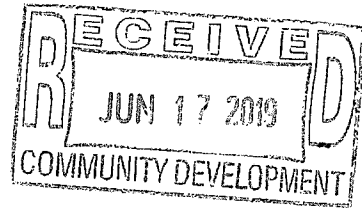
The warmth of Soup & Sleep
is a Strong Beating Heart
for All

Sincerely,
Dennis M. Coyne

Gateway Apartments
Astoria Oregon

June 13, 2019

Astoria Planning Commission
1095 Duane Street
Astoria, OR 97103



RE: Letter of Support for the Astoria Warming Center Temporary Conditional Use Permit renewal

Dear Astoria Planning Commissioners:

I am writing to express my support for the renewal of the Astoria Warming Center (AWC) Temporary Conditional Use Permit for the 2019-2020 winter season. Since opening in 2014 the AWC has provided a safe, warm refuge for the homeless population during severe weather. This past season the Center served 185 different individuals: 51 Women, and 134 Men, resulting in a total of 2,272 overnight stays. More than 50% of these guests identify as being from Astoria and another 10% are from Clatsop County. Almost 25% are over 55—the fastest rising age range.

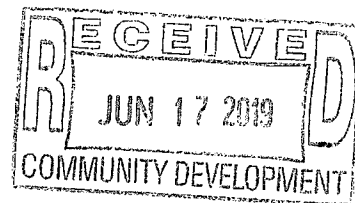
The AWC is fortunate to have broad support within the community. The First United Methodist Church offers extremely low-cost space and allowed changes to be made to the facility—bathrooms, showers and laundry. Several local restaurants provide nourishing soup for the guests. A grant from Meyer Memorial Trust allowed the Center to streamline internal operations as well as maintain a positive relationship with neighbors through following the Good Neighbor Agreement. AWC continues to receive community support through grants, cash and non-cash donations, and volunteers. A member of the AWC board attends ADHDA meetings to keep lines of communication open and positive. Many area businesses recognize the benefits they receive because the Warming Center provides an alternative to hanging out and sleeping in business alcoves.

In addition to providing shelter at night, which directly addresses AWC's mission "To prevent unsheltered people from dying of exposure in Astoria," AWC partners with other agencies including Helping Hands, The Harbor, Clatsop Community Action, and Clatsop Behavioral Health to assist guests in achieving a more stable living situation.

Please extend the Conditional Use Permit for the Astoria Warming Center to open in 2019-2020 so they can provide our citizens and travelers the refuge they need from severe winter weather.

Sincerely,

Bonnie Lively, 41 Skyline Ave. Astoria, OR 97103



June 15, 2019

Astoria Planning Commission
1095 Duane Street
Astoria, OR 97103

RE: Letter of Support for the Astoria Warming Center Temporary Conditional Use Permit renewal

The mission of AWC is “to prevent unsheltered people from dying of exposure in Astoria.”

It doesn't matter which side of the homeless issue one stands, this is something that all Astorian's want for the sake of humanity.

Please extend the Conditional Use Permit for the Astoria Warming Center.

Sincerely,

Sally Turchetta

saturchett@aol.com

June 18, 2019

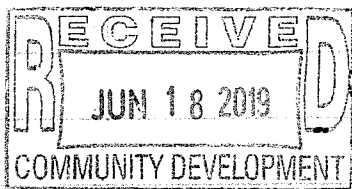
To the Astoria City Council,

As a volunteer at the Astoria Warming Center for the past four years, I've had a face-to-face view of those homeless individuals needing shelter from the cold, wet winters we have. It's humbled me and made me grateful for what I have.

I also empathize with the concern expressed by neighbors of the center, concerns of personal safety & property neighborhood degradation.

So, it was good that the center and its neighbors were able to come together last year and reach an agreement on how to alleviate those concerns.

For the sake of the homeless and for the well being of the center's neighbors, I hope that agreement continues to be upheld through the 2019-20 winter season.



Sincerely,
Julia Smol

43851 Sylvan Lake
Astoria, OR



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

☐ Fee Paid Date 5/17/19 By check #1232

Fee: \$100.00 Admin

\$250.00 Hearing

Original Permit No. CU17-06 (Temp CUP)

PERMIT EXTENSION & RENEWAL APPLICATION

Property Address: 557 11th St., Astoria, OR 97103 (Entrance to AWC)

Lot 5-6 Block 45 Subdivision McClures

Map 898CC Tax Lot 2300 Zone R3

Applicant Name: Astoria Warming Center

Mailing Address: 1076 Franklin Ave., Astoria, OR 97103

Annie Martin, President

Janet Miltenberger, Treasurer

Phone: 720-937-3591

Business Phone: 503-791-5056

Email: astoriawarmingcenter@gmail.com

Property Owner's Name: First United Methodist Church

Mailing Address: 1076 Franklin Ave., Astoria, OR 97103

Business Name (if applicable): n/a

Signature of Applicant: Annie Martin Pres AWC

Date: 5/14/2019

Signature of Property Owner: Janet Miltenberger

(Trustee Chair)

Date: 5-14-19

Approved Permit to be Extended: CU17-06

Date of Original Approval: September 6, 2017

Proposed One Year Extension Date: September 6, 2020

Reason Extension is Required: (Also address criteria listed on second page of this application)

Continuing operations of the Astoria Warming Center

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

For office use only:

Application Complete:		Permit Info Into D-Base:	
Labels Prepared:		Tentative Meeting Date:	
120 Days:			

Development Code Section 9.100.B.1

No more than three permit extensions may be granted. No variances may be granted from this provision. Temporary Use Permit extensions are exempt from this requirement and may exceed the three extensions limitation.

Development Code Section 9.100.B.2

The granting authority may grant a permit extension upon written findings that the request complies with the following:

- a. The project proposal has not been modified in such a manner as to conflict with the original findings of fact for approval; and

(List **any** changes to the project) No changes

- b. The proposed project does not conflict with any changes to the Comprehensive Plan or Development Code which were adopted since the last permit expiration date; and

(Staff can assist with this response) _____

- c. The applicant has demonstrated that progress has been made on the project since the date of the original decision on the permit with regard to items such as, but not limited to:

- 1) Submittal of permit applications to City, State and Federal agencies;
- 2) Contracts for geologic or other site specific reports have been signed and are in effect;
- 3) Project site and/or building engineering, architectural design, or construction has begun.

(List **any** of the above items initiated and their status) _____

Alternative Site Analysis (see attached).

- d. In lieu of compliance with Section 2.c above, the applicant may demonstrate that poor economic conditions exist in the market that would advise against proceeding with the project.

(Provide documentation on all economic conditions) n/a

ASTORIA WARMING CENTER ALTERNATIVE SITE ANALYSIS

ANALYSIS CRITERIA													
REASON	CLOSE TO DOWNTOWN? Y/N	SIZING	SIZE	MEETS NEEDS? Y/N	AVAILABL E 6:30PM- 8:30AM? Y/N	MEETS FIRE CODE REQMTS? Y/N	KITCHEN/ FOOD PREP? Y/N	LAUNDRY ? Y/N	MENS/ WOMENS BATH ROOMS? Y/N	FOR SALE COST? Y/N	RENT PER FT ²	MONTHLY RENT >\$100? Y/N	
COMMUNITY FACILITIES													
Armory	conflicting uses	Y											
Astoria Recreation Center	conflicting uses	Y											
Astoria Senior Center	conflicting uses	Y											
City of Astoria	None available	Y											
Clatsop Community College	None available	Y											
Columbia Memorial Hospital	None available	Y											
FOR SALE PROPERTIES													
Port of Call/Astoria Event Center	Cost ↑	Y	C4 9,025	Y			Y	Y	Y	650,000			
Hong Kong Restaurant	Cost ↑	Y	C3 3,451	N			Y		Y	900,000			
515 15th St	Cost ↑	Y	C3 5,600	N			N			645,000			
NAPA (former)	Cost ↑	Y	LS 6,520	Y						1,300,000			
FOR RENT PROPERTIES													
1020 Commercial St	too small, Cost ↑, basement (fire code exit)		C4 4,000	N							\$0.40	\$1,600	
Office space above military recruiter													
750 Commercial St	too small, Cost ↑(to modify space)		C4 4,846	N									
Next to Designing Health													
1418 Commercial St	too small, Cost ↑		C4 1,600	N							\$1.00	\$1,600	
176 W Marine Dr	too large		C3 15,000	N									
CHURCHES													
First Baptist Church-American	conflicting use	Miles from Transit (crow)											
Peace Lutheran Church	proximity to preschool	0.15	C4		N								
First Church of Christ Science	fire code exiting/2nd floor space	0.23	C4										
First Presbyterian Church	conflicting use	0.25	C4										
Church of Christ in Astoria	too small	0.27	R3		N								
Astoria Christian Church	no onsite parking/ very narrow street	0.31	R3										
St. Mary Catholic Church	space in disrepair, not usable	0.34	R3										
Grace Community Baptist Church	fire code exiting/basement	0.40	R3										
Grace Episcopal Church	no reason stated	0.41	R1			N							
Hilltop Church of the Nazarene	no space available	0.41	R3										
Saints (Mormon)	no space available	0.65	R2										
Assembly of God Astoria First	no space available	0.66	R1										
Astoria Seventh-day Adventist	no space available	1.03	R2										
NewLife Church	fire code exiting/basement	1.09	R2										
First Lutheran Church	fire code exiting/basement	1.16	C3			N							
Bethany Lutheran Church	no reason stated	1.21	R2			N							
United Church of Christ	too small	1.30	R2										
			R1	N									

Astoria Warming Center (AWC) Extension Request for 2019-2020

Proposal for the 2019-2020 Season

Permit Extension Request

The Astoria Warming Center requests an extension of the current Conditional Use Permit, Order No. CU17-06, for one year beginning August 1, 2019. In the 2018-19 winter season, AWC successfully provided vital services with minimal impact on the surrounding neighborhood.

Proposed Changes for 2018-2019

No changes are proposed. The current system is working well. We will continue hosting the three neighborhood feedback sessions—before, during, and after the season— as prescribed in the Good Neighbor Commitment and use that information to fine-tune our internal operations.

Good Neighbor Commitment

AWC has met its obligations under the Good Neighbor Commitment, which was developed with extensive community participation in 2017 (updated copy attached as Appendix A). AWC hereby renews this Commitment and will continue to meet all its requirements. The AWC Board will be sensitive to input from neighbors and will, when necessary, develop changes to the GNC to respond to community concerns. Such changes will be considered at the first regular Board meeting after the need arises. AWC's goal is to continuously improve our operations and our relationships with the neighborhood. Community support for AWC remains remarkable; even after the close of the winter season, during the 2018-19 operating season, AWC received inquiries from 70 potential new volunteers, and in-kind support from at least ten local businesses. To date in 2019, AWC has been awarded six new grants from foundations, businesses and local government.

Alternative Site Analysis

Updating the comprehensive Alternative Site Analysis is a continually ongoing process as we are always on the lookout for a suitable site. No viable alternative location has been identified for this coming season. The complete Alternative Site Analysis report was submitted with the AWC's permit extension application form and will be updated as new information becomes available. The following is a summary of the analysis for the 2019-2020 season. Four categories of properties were considered:

- **Community Facilities.** Representatives of the various community facilities were contacted. For example, Jeff Harrington, Astoria Public Works Director, provided the information that no city resources were available. No community facilities were found.
- **For Sale Properties.** Commercial real estate listings were reviewed for purchasable properties that fit the requirements for the warming center. The prices far exceeded the financial resources of the Astoria Warming Center.

- **For Rent Properties.** Commercial real estate listings were reviewed regarding the availability and cost rental properties that fit the requirements for the warming center. The prices far exceeded the financial resources of the Astoria Warming Center.
- **Churches.** Approximately twenty churches in Astoria were considered. The suitability was determined by a combination of directly contacting “pastors” from selected churches as well as an AWC representative examining some properties from the outside to determine suitability (size, fire exits, etc.). No suitable churches are available for this coming season.

Summary of the 2018-2019 Season

Overview of 2018-2019

The Astoria Warming Center opened for the winter season on November 17, 2018, and successfully provided weather-determined emergency shelter through the night of March 15, 2019. The Center was open on 90 nights, serving the needs of 185 guests (unduplicated headcount). On 41 of the nights, 46% of the nights we were open, the AWC had more than 25 guests. The AWC provided a total of 2,272 overnight stays.



Community support for AWC was tremendous, and vital to operations. AWC received weekly donations of hot food from five restaurants, as well as donations of food, warm clothing, bedding, and health care supplies from many, many individuals, businesses and nonprofits. Cash donations from individuals, churches, businesses and others were so generous that they covered most non-personnel expenses. Thirty-nine new volunteers signed up, bringing the volunteer pool to over 250; and at least 66 volunteers worked at least one shift.

All input received from neighbors indicates that 2018-19 AWC operations had minimal impact on the surrounding neighborhood. AWC board members have proactively engaged with individual neighbors and business owners to discuss operations and to build positive relationships. Feedback in these conversations has indicated that, in the 2018-19 season, AWC continued its improved impact on the neighborhood. There was only one contact by a neighbor with concerns; see attached complaint log (Appendix B) for details and response times.

In accordance with AWC’s Good Neighbor Commitment, three neighborhood meetings were held, one before opening for the winter, one mid-season, and one after the end of the season. Postcard invitations to these meetings were mailed to over 150 households in the immediate neighborhood; emails were sent to the Astoria Downtown Historic District Association and to City staff; and, announcements were made on the AWC Facebook page and on the radio. Most AWC Board members attended all the meetings to be available for questions, concerns and suggestions. Neighborhood attendance at the meetings was minimal (one or two); no neighbors attended the post-season wrapup meeting.

Requirements from the Temporary Conditional Use Permit

The follow table shows the status of the conditions contained in the Temporary Conditional Use Permit for 2018-19.

Required Conditions before opening in 2018	Status
1. The permit is valid for one year until August 1, 2019. An extension may only be granted after the AWC conducts a through site analysis to find a different location.	The alternative site analysis summary was described in the Proposal for the 2018-2019 season, with the complete analysis submitted with the extension application form. The alternative site analysis is an ongoing effort and updates will be submitted as appropriate.
2. All landscaping and lighting improvements, as well as the bike rack, shall be installed prior to the first day of operation in November 2017 with the exception of new pavers.	Landscaping, exterior lighting, bike rack and enclosed trash bin area were completed prior to November 15, 2017. Improved exterior lights were added in February, 2018. "No Camping" signage was installed a month before opening for the 2018-2019 season.
3. An executed parking lease agreement shall be submitted prior to beginning of operations in November 15, 2017.	Lease agreement was negotiated with First United Methodist Church, signed and submitted to City staff prior to November 15, 2017.
4. All suggestions identified in the applicant's proposal stamped June 20, 2017 shall be implemented and verified to the extent possible prior to first day of operation.	<p>With one exception approved by City staff, all of the proposed changes listed in the 6/20/2017 application were implemented for the 2018-19 winter, specifically:</p> <ul style="list-style-type: none"> a. Doors opened at 7:00 pm. Additionally, "No loitering" signs were posted at the entrance, and guests arriving early were told to leave the premises. Guests were reminded nightly not to arrive before 7:00 pm. b. With City staff approval, the proposed additional paved area at the entrance was not implemented based on feedback at community meetings. c. AWC staff performed the duties of the proposed Resource Coordinator and worked with guests to identify needs and provide referrals. d. The new, stricter Exclusion Policy was implemented and enforced. One person was excluded permanently; no one was excluded for the remainder of the season; there were eight one-night exclusions. e. AWC widely publicized its Google Voice phone number and email address to the community. f. Additional exterior lighting was installed prior to November 15, 2017 and was improved in February, 2018. g. A bike rack was installed near the entrance before November 15, 2017. h. The enforcement of the ban on guests arriving early meant no one was congregating outside to use AWC's Wi-Fi service.
5. At no time shall the number of clients exceed 35 unless AWC requests and receives written approval from the Building Official, Community Development Director, and Fire Chief.	See attached letter.

Required Conditions before opening in 2018	Status
6. The applicant shall obtain all necessary City and building permits prior to the start of construction.	No building permits were required of AWC. The electrical contractor that installed the additional exterior lighting in February obtained an electrical permit for that work.
7. If the AWC opens the warming center according to the weather policy, the AWC shall create an electronic notice system and notify the City and neighbors who sign up to receive such notice.	An email notification system was set up and notices were sent to the City, emergency services and any neighbors who requested it. Notices were sent nearly every day, whether AWC was open or closed; the only exception was that in a few instances when the weather forecast resulted in AWC being closed for several consecutive days, one notice was sent at the beginning of the closure.
8. The applicant shall schedule an annual safety inspection of facilities with the Building Official, Fire Chief, Police Chief, and Community Development Director prior to start of operations.	All designated City officials participated in the inspection on November 13, 2018. All recommendations made during the inspection were completed prior to AWC's opening date.
9. The AWC shall designate and provide the City of Astoria one point of contact with contact info for all issues and concerns.	The AWC Board President, Annie Martin, was designated as the point of contact and contact information was provided to the City.
10. A "Good Neighbor Commitment" shall be negotiated and executed and presented to the Community Development Director for review.	Completed in August, 2017, with extensive community involvement and professional facilitation provided by the City. Signed and submitted to City staff on September 5, 2017.
11. The AWC shall furnish a log of all complaints and provide a record of investigation and responses. Specific complaints shall be resolved in a timely manner (48 hours or less).	One complaint was received via email to the AWC President during the 2018-19 season. The issue was resolved 1 hour after receiving the email. The log is attached as Appendix B.
12. The AWC Board, staff, and volunteers shall develop a litter pick up campaign for a two (2) block radius around the subject site. The AWC is encouraged to enlist the help of the clients they serve.	The litter pick-up plan was implemented, with daily patrols of the church property and approximately weekly patrols of the neighborhood. AWC guests, staff, volunteers and Board members participated in this campaign.
13. The AWC Board may use a weather policy of 37 degrees F using a wind chill factor and/or 1/3 or more inches of rain based on an acceptable weather forecast from a credible source.	Weather forecasts from NOAA and/or Weather Underground were monitored daily, often two to three times a day.
14. Based on the weather policy above, the AWC Board shall use a 48 hour planning period to determine advance notice of operations.	Opening/closing decisions were made based on the forecasts 48 hours in advance. All of the 90 nights that AWC opened qualified under the stipulated criteria at the time the decision was made.



Appendices:

- A. Good Neighbor Commitment**
- B. How to Contact the AWC**
- C. Guest Rules & Information**
- D. Complaint Log**

Appendix A: Good Neighbor Commitment

Astoria Warming Center

Last Updated May 16, 2019 (updated Mission Statement)

Renewed by the AWC President for 2019-2020

Mission: To prevent unsheltered people from dying on our community's streets, Astoria Warming Center provides homeless individuals with a safe, warm, and welcoming overnight space during severe winter weather. Additionally, AWC offers our guests connections to community resources that can help them transition to stable housing.

1) Introduction and Background

- a) The following Good Neighbor Commitment ("Commitment") is established by the Astoria Warming Center (AWC). Individuals and organizations near AWC provided input at neighborhood meetings, the Planning Commission's public hearing, and via written comments. This input was used in developing this Commitment and forms the core of the Commitment.
- b) The Astoria Warming Center is located at 557 11th Street in Astoria, in the lower level of the First United Methodist Church, which owns the building. Some improvements have been made to the lower level of the church building specifically to meet AWC's needs.
- c) AWC is a 501(c)(3) non-profit organization. AWC funding comes from individual and organizational donations, a City of Astoria Community Services grant, and other government or foundation grants that may be applied for and received.
- d) The Astoria Warming Center is a low-barrier warming center, defined as a short-term emergency shelter that operates during inclement weather. AWC will provide overnight sleeping space and evening meals for members of the community who lack shelter for a maximum of 90 nights during the winter months. Annual operations will normally start on or after November 15 and end by approximately March 15. During other months, AWC may be open during two to four daytime hours a week to provide showers only. Staff and/or trained volunteers will be on-site during all hours of operation. AWC will provide referrals to other support services to assist guests with gaining permanent shelter, employment, treatment or other needs.
- e) Legal status of this Commitment: AWC is committed to maintaining safety and good neighborhood relationships. It is to this end that AWC enters into this Commitment. This Commitment is NOT a legally binding contract and is not intended to be. AWC commits to act in good faith at all times.

2) Goals of the Commitment

- a) Initiate and maintain open communications and understanding.

- b) Develop a procedure for resolving problems that may arise in the future.
- c) Maintain and enhance neighborhood safety and livability.
- d) Foster a healthy and welcoming environment for all.

Commitment

3) Astoria Warming Center will:

- A) Open on a weather-dependent basis as follows: on nights when the wind-chill temperature is forecast (by NOAA, Weather Underground, AccuWeather, or similar agencies) to be 37°F. or below, or when, at temperatures above 37°F., more than 1/3" of rain or a major storm is forecast.
- B) Comply with all applicable laws and regulations, including state and local fire regulations, non-discrimination laws, and the Americans with Disabilities Act.
- C) Contribute to safety and well-being for everyone in the community by treating every community member with respect.
- D) Communicate directly and productively when questions, problems, or differences arise, and resolve concerns at the lowest possible level.
 - i) Provide a Google Voice messaging system, for complaints only, to which AWC will respond within 24 hours (See Appendix A, How to Contact AWC).
 - ii) Respond in a direct and timely fashion if concerns arise, thus allowing the other party to better understand the issue and help resolve it. During opening hours, the AWC phone will be answered immediately by staff if possible.
 - iii) Utilize face-to-face or telephone communication whenever possible to maximize understanding. Exercise caution in communicating via e-mail or similar methods in conflict situations.
- E) Report crime to police.
- F) Make concerted efforts to support guests' accountability and personal responsibility through frequent guest education. Guest education sessions will be conducted every night that the AWC is open during the winter months. These sessions will cover:
 - i) AWC policies regarding behaviors noted in **3.H.** through **3.M.** below, whether at AWC or elsewhere, during operating hours and at other times. AWC rules are included in Appendix B, Guest Rules and Information.
 - ii) Respectful treatment of fellow guests, staff/volunteers, the neighborhood, and Astoria in general.
 - iii) Availability of community resources for housing, employment, education, and recovery, and AWC facilitation of connection to those resources.

AWC will take the following steps to alleviate specific neighborhood concerns raised to date:

G) Neighborhood meetings will be held before, during, and after the winter season. Mailed notice will be provided at least three weeks in advance to building owners and residents for whom AWC has addresses. Flyers will be posted in public places and announcements made on social media. Residents and business operators may sign up to receive notices of neighborhood meetings by contacting AWC at any time.

H) Trash and personal items left in the neighborhood:

i) AWC will provide an outdoor trash container for guest use during the months of overnight operations.

ii) Trash disposal instructions will be covered in all AWC guest-education sessions. We will discuss the responsibilities of all citizens to keep their city clean and will encourage guests to speak to others they know to keep the downtown clean.

iii) AWC guests, accompanied by staff/volunteers, will conduct neighborhood litter patrols at least once a week on the public areas in a two-block radius of the AWC during the months of overnight operations. Building owners in this area who wish to have the litter patrol come onto their private property may arrange this in advance with the AWC.

iv) AWC will perform a daily litter patrol on church property, including the parking lot.

I) Public urination and defecation:

i) When AWC staff/volunteers are present on site prior to opening time, guests will be allowed inside solely for use of the bathroom.

ii) Avoidance of public urination/defecation, availability of AWC restrooms, and location of public restrooms will be covered in all AWC guest-education sessions. *[Note: AWC will formally ask the city to provide more restroom facilities and to keep the ones on Exchange near 13th St. open longer.]*

J) Guests congregating outside the AWC entrance before opening time:

i) AWC will take multiple steps to encourage guests to arrive gradually at and after the opening time instead of gathering outside before opening time:

(a) AWC will open at 7:00 p.m., with the evening meal served at 7:30 p.m. This is expected to result in guests arriving gradually from 7:00-8:00 p.m. AWC will install a sign on the door of the warming center as follows:

<p>NO LOITERING</p> <p>On the nights the AWC is open, the doors will open at 7:00 p.m. Assembling before that time creates a burden on the neighborhood: please do not arrive before then.</p>
--

AWC staff/volunteers will check the entrance periodically after 7:00 p.m. for guests who have not yet entered and tell them to come in.

- (b) AWC wi-fi service will not be turned on until the 7:00 p.m. opening time, as some guests have in the past arrived early to use wi-fi from outside the entrance.
- (c) To the extent possible, AWC staff/volunteers will monitor guests' arrival times and speak to individuals as needed to discourage arriving early.
- (d) Arrival time and outdoor-behavior expectations will be covered in all AWC guest-education sessions.

K) Cigarette smoke and noise during the night:

- i) To comply with the legal no-smoking distance of 10 feet from a building entrance, guests will be allowed to smoke only in a designated area outside the entrance. Containers for cigarette disposal will be provided at this location. Guests' behavior will be monitored by staff.
- ii) Once admitted to the AWC, guests will be allowed out of the building to smoke during the night only when accompanied by a staff person or volunteer. Scheduled smoke breaks will be used to the extent possible.
- iii) Any guests who insist on leaving the building to smoke without supervision will be instructed to take their personal belongings with them, as they will not be readmitted to AWC that night.
- iv) Smoking rules will be covered in all AWC guest-education sessions.

L) Non-compliant behavior:

- i) Behavior expectations will be covered in all AWC guest-education sessions and will include expectations of guest behavior outside as well as within the center.
- ii) AWC has a strict zero-tolerance policy prohibiting aggressive, threatening, or violent behavior and use of tobacco, alcohol, or illegal drugs in the center.
- iii) AWC's policy is to immediately evict and temporarily deny readmission to any guest who violates zero-tolerance behavior rules. On-site staff and volunteers have the authority to make and implement these decisions immediately and to call 911 when necessary. The AWC board will review denials of admission for determination of whether the denial should be permanent.
- iv) AWC will expand training for staff/volunteers on responses to and treatment of incidents involving guests with issues of mental health.
- v) Guests are expected to arrive between 7:00 and 8:00 p.m. Guests will not be admitted after 11:00 p.m., except for persons brought to the AWC by police or ambulance.
- vi) Any guest who leaves the AWC during the night, except for supervised smoke breaks or a medical emergency, will not be readmitted the same night.
- vi) The AWC will continue the work with the Astoria Police Department to foster good communication and partnership.

M) Camping and noise in the parking lot:

- i) AWC will post "No Overnight Camping" signs in the church parking lot.

- ii) AWC will notify guests that loud music from vehicles in the parking lot may result in exclusion from the center.
 - iii) On nights that the AWC is open, staff/volunteers will check the parking lot at each shift change. This will be approximately every three hours.
 - iv) Neighbors are encouraged to notify AWC and/or Astoria Police if they observe infractions.
 - v) The parking lot will be inspected daily for trash.
- N) Emergency-response vehicles:
- i) AWC asks neighbors to recognize that medical emergencies can happen to anyone.
 - ii) It will sometimes be necessary for AWC staff/volunteers to call for police assistance.
 - iii) When emergency services are called to the AWC, staff/volunteers will, whenever possible, request that the emergency vehicles approach the neighborhood and park at the location without the use of flashing lights or sirens, a practice that was implemented during the last part of the 2016-17 winter season.
- O) Data and decision-making:
- i) AWC will annually review and, as needed, change or expand the collection of data about AWC guests, incidents, and services provided.
 - ii) This data will be provided to the City of Astoria and, on request, to other interested parties. It will also be used by AWC to inform future decision-making and operations planning.

4) Duration

This Commitment will remain in effect unless dissolved by the City of Astoria or AWC with the consent of the City.

5) Administration

- A) The original signed Commitment and any amendments will be kept on file by the Astoria Warming Center, with copies to the City of Astoria, the Astoria Downtown Historic District Association, and any person who requests it.
- B) The Commitment may be amended by vote of the AWC Board of Directors.

6) Signature of AWC President

Annie Martin

Date

**ASTORIA
WARMING
CENTER**

1076 Franklin Ave.
Astoria, OR
97103

Phone 760-289-8932

**BOARD OF
DIRECTORS**

Annie Martin,
President

Janet Miltenberger,
Treasurer

Annie Dolber,
Secretary

Rick Bowers

Judy Hollingsworth

Jeremy Martin

Ron Maxted

Nelle Moffett

Dan Parkison

Rev. Bill Van
Nostran

Bruce Williams

*—overnight cots
and warm soup suppers
for people experiencing
homelessness in Clatsop
County during weather
conducive to
hypothermia
—shower facilities
year-round*

*Astoria Warming Center is
a 501(c)(3) non-profit
organization*

Appendix B

**HOW TO CONTACT
ASTORIA WARMING CENTER**

*Nights of operation: Weather-dependent,
Nov. 15-March 15, 7:00 p.m. – 8:00 a.m.*

For complaints:

To speak to a person (when AWC is open), call
(760) 289-8932

To leave a message, call
(971) 704-2455

[Note: This is the Google Voice number]

We will respond as soon as possible.

E-mail:

astoriawarmingcenter@gmail.com

FaceBook:

Astoria Warming Center

**Astoria Warming Center
Guest Rules & Information**

AWC Guest Rules & Information are reviewed with all guests every night that AWC is open overnight.

1. Zero-Tolerance Policy prohibits:
 - Weapons (all items that could be used as weapons must be turned in to the staff for the night upon arrival)
 - Drugs or alcohol in the building
 - Smoking or rolling cigarettes in the building
 - Threatening, violent, or discriminatory talk or behavior
2. Any violation of the zero-tolerance policy will result in immediate expulsion from the warming center. Expulsion will be at least for the night, and may be made permanent by decision of the AWC board.
3. The warming center does not own this space; we are given the use of it through the generosity of the church. Please respect the space and the neighborhood.
 - Trash containers provided by the AWC are located in the church parking lot.
 - [List locations of public restrooms.]
 - Guests are asked not to arrive before 7:00 p.m. and to come in immediately upon arrival, but to wait quietly off the public sidewalk if the doors are not open when they arrive.
 - Smoking is allowed only in the designated space on the paved area. Be sure to use the provided container for cigarette disposal.
 - Smoke breaks during the night are allowed only with staff/volunteer supervision. Leaving to smoke without supervision will result in expulsion for the night.
 - Guests at the warming center are here to sleep *inside* the building; sleeping in vehicles on church property (which is posted) is prohibited, and it is illegal to sleep in vehicles on Astoria streets. Police will be called for infractions.
4. Guests are expected at all times to be respectful of each other, staff and volunteers, the church, neighbors, the neighborhood, and the City of Astoria.
5. A Chore List for guests' participation will be maintained daily, which will include sweeping the main-room floors, cleaning the bathrooms, emptying the trash, litter patrol [more items upon consultation of center coordinator].
6. Food and drink are to be kept at the tables only, not in the sleeping area.
7. All pets must be kept on a leash or contained in pet carriers at all times.
8. Community resources are available for help with housing, jobs, treatment, etc. AWC staff will provide information and referrals.

Appendix D**Complaint Log**

Date/Time	Issue	Response	Response Time
03/07/19	Email: Reports of "clients" hanging out on the concrete patios facing Franklin Avenue, using the electrical outlets and leaving trash behind at the Illahee apartments. (No time given) Sean Fitzpatrick General Manager Wecoma Partners Ltd.	Email response: Every evening at dinner we will re-emphasize respecting our neighbors in our nightly talk.	1 hour after receiving email.

ASTORIA WARMING CENTER

1076 Franklin Ave.
Astoria, OR
97103

Phone 760-289-8932

BOARD OF DIRECTORS

Annie Martin,
President

Janet Miltenberger,
Treasurer

Annie Dolber,
Secretary

Rick Bowers

Judy Hollingsworth

Jeremy Martin

Ron Maxted

Nelle Moffett

Dan Parkison

Rev. Bill Van Nostran

Bruce Williams

*—overnight cots
and warm soup suppers
for people experiencing
homelessness in Clatsop
County during weather
conducive to
hypothermia
—shower facilities
year-round*

*—Astoria Warming Center
is a 501©(3) non-profit
organization*

May 16, 2019

Astoria Planning Commission
1095 Duane Street
Astoria OR 97103

Dear Commissioners,

The Astoria Warming Center Board is in the process of reviewing the 2018-19 season operations and preparing the Conditional Use Permit for 2019-2020. In this review process, it came to the Board's attention that the nightly attendance exceeded the 35-person limit on three nights at the end of the season when the weather was most severe and the Helping Hands emergency shelter was full:

2/24, Sunday – 36 guests - 28°windchill

2/25, Monday – 37 guests - 17°windchill

2/26, Tuesday – 37 guests - 16°windchill and snow.

While the staff member in charge was well-intentioned and not wanting to shut people out in the cold and wet, we recognize that this decision is in direct violation of the Conditional Use Permit that says "At no time shall the number of clients exceed 35 unless AWC requests and receives written approval from the Building Official, Community Development Director, and Fire Chief." This must not be repeated. The Board has discussed how to prevent this from happening in the future and has established the following policy and procedures:

1. Under no circumstances are staff permitted to admit more than 35 guests, regardless of weather conditions.
2. Prior to opening season, the Board will contact other potential overflow shelters (churches, motels, fire stations, etc.) to establish agreements and conditions for referring guests.
3. The staff member in charge may call or delegate someone to call the designated overflow shelters to see if there is room available before sending people outside.
4. The staff member will notify the police (911) and the hospital that the AWC is at capacity and the number of people turned away.
5. The staff member will keep a record of the number of people turned away.

We are open to any additional procedures that you may recommend to help us stay in compliance with the Conditional Use Permit.

Sincerely, Astoria Warming Center Board

The AWC Volunteer Board of Directors

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

Astoria Warming Center
Post-season 2018-19
Neighborhood meeting



March 23, 2019 — 4:00 p.m.
First United Methodist Church
Fellowship Hall:
Entrance on 11th St.



*Come and share ideas, concerns,
and information
on the just-finished season.*

**YOU ARE RECEIVING THIS NOTICE BECAUSE THERE IS A
PROPOSED LAND USE APPLICATION NEAR YOUR PROPERTY IN ASTORIA**

**CITY OF ASTORIA
NOTICE OF REVIEW**

Mail	5/31/19
Email	5/31/19
Web	5/31/19
Pub	6/18/19

The City of Astoria Planning Commission will hold a public hearing on Tuesday, June 25, 2019 at 6:30 p.m., at Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. **Continued from the May 28, 2019 meeting:* Conditional Use Request (CU19-04) by Stewardship Homes LLC to locate a 5-room, short term lodging facility in an existing apartment building at 641 Commercial Street (Map T8N R9W Section 8CB, Tax Lot 7300, Lot 2, Block 29, McClures) in the C-4 (Central Commercial Zone).
2. Conditional Use Request (CU19-05) by Rob Webb and Mark Otten on behalf of PacificCorp to perform in water remediation work (use is considered "active restoration") to address contamination present in sediment adjacent to 2nd street south of the pierhead line (Map T8N R9W Section 7DA, Tax Lot 100) in the A-2: Aquatic Two Development Zone. The following Articles are applicable to the request Development Code Sections: 1.400 (Definitions) 2.525 to 2.540 (Zoning) 3.300 (Grading and Erosion Control), 4 (Columbia River Estuary and Shoreland Regional Standards), 5 (Impact Assessment & Resource Capability Determination), 9 (Administrative Procedures), 11 (Conditional Use) and Comprehensive Plan Sections CP.010-.28 (General) CP130 - CP.186 (Aquatic & Shoreland), and CP.445 - CP.460 (Natural Resources).
3. **Continued from the May 28, 2019 meeting:* Amendment Request (A19-01B) by Community Development Director to amend Development Code sections concerning issues relative to height and maximum gross square footage in the Bridge Vista Overlay Area (exempted sections from A19-01A), as well as continued discussions regarding potential sub-areas within the BVO.
4. Permit Extension Request for Conditional Use (CU17-06) by Astoria Warming Center to extend the permit to September 6, 2020 to operate the Astoria Warming Center at 1076 Franklin Ave (Map T8N-R9W Section 8CC, Tax Lot(s) 2300; Lot(s) 5 & 6, Block 45, McClure's) in the R-3 High Density Residential Development Zone. Development Code Standards 2.150-2.185, 3.240, Articles 9 and 11 and Comprehensive Plan Sections CP.040-CP.045, CP.215-CP.230 are applicable to the request.

A copy of the applications, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available at least seven days prior to the hearing and are available for inspection at no cost and will be provided at reasonable cost. All such documents and information are available at the Community Development Department at 1095 Duane Street, Astoria. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Contact the City of Astoria Community Development at 503-338-5183 for additional information.

The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

All interested persons are invited to express their opinion for or against the request(s) at the hearing or by letter addressed to the Planning Commission, 1095 Duane St., Astoria OR 97103. Testimony and evidence must be directed toward the applicable criteria identified above or other criteria of the Comprehensive Plan or land use regulation which you believe apply to the decision. Failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes an appeal based on that issue.

The Planning Commission's ruling may be appealed to the City Council by the applicant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Appeal within 15 days after the Planning Commission's decision is mailed. Appellants should contact the Community Development Department concerning specific procedures for filing an appeal with the City. If an appeal is not filed with the City within the 15 day period, the recommendation of the Planning Commission shall be forwarded to the City Council for consideration.

The public hearing, as conducted by the Planning Commission, will include a review of the application and presentation of the staff report, opportunity for presentations by the applicant and those in favor of the request, those in opposition to the request, and deliberation and decision by the Planning Commission. The Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA

MAIL: MAY 31, 2019

A handwritten signature in black ink, appearing to read 'Tiffany Taylor', with a stylized, flowing script.

Tiffany Taylor
Administrative Assistant