



AGENDA

ASTORIA PLANNING COMMISSION

April 23, 2019

6:00 p.m.

857 Judge Guy Boyington Building • Astoria OR 97103

NOTE: change to usual start time and location

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a) March 26, 2019
4. PUBLIC HEARINGS
 - a) **Continued from March 26, 2019 meeting:* Miscellaneous Request (MR19-01) by Jeremy Lumachi for an interpretation as to whether a retail store that sells cannabis and related materials is classified as a "tourist-oriented retail sales and service establishment" per the Astoria Development Code. This review is limited to the interpretation of the terminology of the use and does not include review of the applicant's ability to meet the requirements for development within the S-2A zone or at a specific location.
 - b) **Continued from March 26, 2019 meeting:* Amendment Request (A19-01) by Community Development Director to amend Development Code sections concerning Riverfront overlay zone requirements, reduce height in Bridge Vista Overlay to 28', add definitions for mass and scale, add standards for Outdoor Storage Area Enclosures, clarify how to apply various sections of the code for design review, clarify exceptions to building height, expand responsibilities of Design Review Committee, and other miscellaneous updates.
 - c) Amendment Request (A19-02) by Community Development Director to amend Development Code sections concerning Transient Lodging, amend and add definitions, add reference to City Code Home Stay Lodging regulations, establish standards for transient lodging in conjunction with Home Stay Lodging, allow administrative conditional use permits, limit transition of residential units in commercial zones to transient lodging, and other miscellaneous updates.

- d) Amendment Request (A19-04) by Community Development Director to amend Development Code sections concerning miscellaneous issues, allow additional administrative variances, allow additional front and street side setback averaging, allow certain stairs as an exception to setback, allow arbor and gateways in fences, amend lighting standards, amend outdoor storage area enclosure standards, amend and add definitions, allow residential use behind commercial use in C-4 zone, codify several legal interpretations of code application, add 15' setback for parking from top of bank, expand non-conforming uses and structures to allow continuation of certain residential use, clarify off-street parking requirements, and other miscellaneous updates.

5. REPORT OF OFFICERS

6. STAFF/STATUS REPORTS

- a) Save the Dates:
 - i. Tuesday, May 7, 2019 @ 6:30pm – APC Meeting
 - ii. Tuesday, May 28, 2019 @ 6:30 pm – APC + TSAC Meeting

7. PUBLIC COMMENT (Non-Agenda Items)

8. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall

March 26, 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, and Chris Womack.

Commissioners Excused: Brookley Henri

Staff Present: City Manager Brett Estes, Planner Nancy Ferber, 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:

Item 3(a): February 5, 2019

Commissioner Price moved to approve the minutes of the February 5, 2019 meeting as presented; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

Item 3(b): February 26, 2019

Vice President Moore moved to approve the minutes of the February 26, 2019 meeting as presented; seconded by Commissioner Womack. 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.

The Planning Commission proceeded to **Item 4(c)** at this time.

ITEM 4(a):

CU19-01 Conditional Use CU19-01 by James Defeo to locate a tourist lodging facility in an existing commercial building at 240 11th Street in the C-4 Central Commercial Zone (Map T8N-R9W Section 8CA, Tax Lot 3400; south 34' of lots 1 and 2, Block 58, McClure's)

This item was addressed immediately following Item 4(c).

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 Cameron-Lattek recused herself from the hearing. She stated she did not have a direct conflict of interest in this project, but she and the Applicant own similar businesses that are in direct competition. She could not say with confidence that she would remain unbiased.

President Fitzpatrick declared that he visited the site when it was open during the January 2019 Second Saturday Art Walk. Jeff Daly had asked what he thought about the use being proposed. Realizing that it might come before the Planning Commission, he stated he had to withhold his opinion and would not comment further until after the public hearing. He was also in the building about six months ago when Mr. Defeo offered him a display cabinet. He and Mr. Daly moved the cabinet with two other people. At that time, there was no discussion about the future use of the space. He did not believe the cabinet was offered to him to sway his opinion on the application. He believed he could be impartial in his decision on this application.

President Fitzpatrick asked Staff to present the Staff report.

Planner Ferber 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.

President Fitzpatrick opened the public hearing and confirmed that the Applicant did not wish to give a presentation. He 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.

Commissioner Price asked if it was usual to include an economic hardship paragraph in the findings. Planner Ferber said she included the paragraph because it was discussed with the Applicant. However, it is not grounds for approving a conditional use permit.

Commissioner Price stated the argument in favor of more short-term lodging was because it could allow people to stay in their homes or do things they otherwise would not be able to do. Since the Applicant did not mention a financial hardship, she was not sure why it would be included in the Staff report. She did not like to set precedents for such things.

Vice President Moore said he was in favor of the application because he believed it met all of the reviewable criteria. Commissioners Womack and Corcoran, and President Fitzpatrick also stated they were in favor of the application.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU19-01 by James Defeo; seconded by Commissioner Womack. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran and Womack. Nays: None.

President Fitzpatrick read the rules of appeal into the record.

ITEM 4(b):

CU19-02 Conditional Use CU19-02 by Nancy Schoenwald to locate a property management services office at 109 9th Street (Map T8N-R9W Section 8CB, Tax Lot 2500; Lot 4, Block 9, McClure's) in the S-2A 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 and operated a similar or complementary business. Wacoma Properties Limited is a private property management company where he and his wife manage only properties owned by their family. They do not manage properties for clients. Both companies offer housing to tenants. The Applicant's company manages properties for clients, so they are not a direct competitor. His brother, who works for him, also operates a business that competes directly with the Applicant's company. He has no financial interest in his brother's company. He also owns a professional office building in Astoria where the proposed use is an outright use, which could be an alternative space. However, he believed he could be impartial in his decision regarding this application.

President Fitzpatrick asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report via PowerPoint. Since the Staff report was published, the business's name has changed from River and Coast Property Management to Port Town Property Management. The Staff report will be updated with the correct name. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

President Fitzpatrick opened the public hearing and confirmed that the Applicant did not wish to give a presentation. He 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.

Commissioner Corcoran said the use was clearly reasonable and seemed appropriate, so he supported the request.

Commissioner Cameron-Lattek stated she did not have any issues with the request and appreciated that the Applicant addressed curb appeal by submitting plans for window displays. This professional office has not negatively impacted the area in the past, so she would vote to approve the application.

Vice President Moore said he supported the request.

President Fitzpatrick stated he believed the application met the criteria and the use was appropriate for the location.

Vice President Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU19-02 by Nancy Schoenwald; seconded by Commissioner Corcoran. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

President Fitzpatrick read the rules of appeal into the record.

The Planning Commission proceeded to Item 4(d) at this time.

ITEM 4(c):

MR19-01 Miscellaneous Request MR19-01 by Jeremy Lumachi for an interpretation as to whether a retail store that sells cannabis and related materials is classified as a tourist-oriented retail and service establishment per the Astoria Development Code. This review is limited to the interpretation of terminology of the use and does not include review of the Applicant's ability to meet the requirements for development within the S-2A Zone or at a specific location.

This item was addressed immediately following Item 3: Approval of Minutes.

City Manager Estes stated the Applicant was not able to attend the meeting and have requested that the public hearing be postponed to the next regular meeting on April 23, 2019. Staff requested that meeting begin at 6:00 pm due to a full agenda. The Applicant has extended the 120-day rule to accommodate the request.

Vice President Moore moved that the Astoria Planning Commission continue the public hearing of Miscellaneous Request MR19-01 by Jeremy Lumachi to April 23, 2019 at 6:00 pm at the Judge Boyington Building; seconded by Commissioner Price. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

City Manager Estes noted that anyone who wished to provide public testimony could do so in writing. That information would be added to the public record and provided to the Planning Commission. The public is also invited to testify at the next meeting.

The Planning Commission proceeded to **Item 4(a)** at this time.

ITEM 4(d):

A19-01 Amendment Request A19-01 by Community Development Director to amend Development Code sections concerning Riverfront overlay zone requirements, reduce height in Bridge Vista Overlay to 28', add definitions for mass and scale, add standards for outdoor storage area enclosures, clarify how to apply various sections of the Code for design review, clarify exceptions to building height, expand responsibilities of Design Review Committee, and other miscellaneous updates. The City has determined that adoption of the proposed Codes may affect the permissible uses of properties in the affected zone and may change the value of the property.

This item was addressed immediately following Item 4(b).

City Manager Estes provided details on the history of this Code amendment process, which was directed by the City Council.

Planner Johnson reviewed the written Staff report via PowerPoint. She also reviewed changes to the draft amendments which were made after the Staff report was published. She noted the following correction would be made to the last line of Page 3 of the Staff report: "...included features; ~~add maximum 0.4 Floor to Area Ratio.~~" Correspondence was received and included in the Staff report. Staff recommended approval of the request.

Commissioner Cameron-Lattek asked why the definition of visual impact was removed. Planner Johnson explained that by defining visual impact, the City would be putting unintended limits on a subjective term.

Commissioner Cameron-Lattek asked what criteria must be met to grant a variance.

Planner Johnson said a hardship must be proven. Economics is not considered a hardship, but it can be a consideration. The request must be in compliance with the Code and cannot create safety hazards. Other criteria include unnecessary hardships, the development would be consistent and not substantially injurious to the neighborhood, necessary to make reasonable use of the property, and not in conflict with the Comprehensive Plan. Administrative variances are limited to lot size, set back, up to a 10 percent increase in any numerical standard, and other minor things. The request would go through public review, be noticed to the public and adjacent property owners, and the Planner would make the final decision based on Findings of Fact. The original intention was for the Bridge Vista (BVO) to allow on land variances that would be handled on case by case basis with no precedent.

Commissioner Price asked if all on land variances would be reviewed by the Planning Commission. Planner Johnson said any increase over 10 percent of any numerical standard would be reviewed by the Planning Commission. Staff can approve set backs, signage, lot coverage, and other things.

Commissioner Price stated she was concerned about the 30,000 square foot area on a 28-foot building. She was in favor of the height, but she did not want to create long buildings that do the opposite of what the height restriction accomplishes. She asked if Staff made any progress towards figuring that out. Planner Johnson explained that Staff currently recommended 30,000 square feet. Staff did consider other options like a floor to area ratio. However, Staff was originally directed to make quick fixes to clarify issues. Bigger issues like the square footage may need to be included in subsequent amendments.

Commissioner Price was concerned that approving these amendments as recommended by Staff would set the City up for another problem that comes in before the fix can be made. She confirmed with Planner Johnson that Page 6 of the Development Code Updates contained in the Staff report stated both professional and medical offices would be prohibited in the Shoreland and BVO Zones, and that in the last three paragraphs of Page 11 the word adjacent is in quotations the second time it is used each paragraph because the Historic Landmarks Commission (HLC) must review properties that are technically adjacent to the historic structure in a new construction request. Adjacency could be defined differently by the Design Review Committee (DRC). Pages 20 and 21 stated "buildings should be designed so they do not stand out prominently." However, the Cannery Pier Hotel stands out for a number of reasons. She believed that needed more clarification. She stated she had found some typographical errors and would give Staff an annotated copy to make corrections. Page 22 references all facades visible from a street. There had been discussion that buildings should look good from the river as well because several businesses will be showing off the town from river. Planner Johnson explained that not all features are required on the river side of a building.

Commissioner Price stated that Page 25 referenced covering everything except communication services equipment. The equipment on top of the Astor building is quite large. Planner Johnson said the rooftop mechanical equipment and elevator shafts are exempt from the height so the intent was to refrain from drawing attention to them with signage or other attachments to the exterior. However, communication facilities are ideal places because they are located at the top of buildings and prevents the need for cell towers.

Commissioner Price noted one of the hotels has signage on its elevator shaft. She understood they received a variance to go above 28-feet for the elevator shaft, but the sign could be on the portion that was otherwise differentiated from the rest of the building. Planner Johnson explained that if the elevator shaft is an exception to the height and is above the allowable height, Staff is recommending signs be prohibited on the exempt height. If the elevator shaft meets the height of the zone, a sign could be installed on it.

Commissioner Price said there were many places in the Development Code where the only gender used is male. She recommended Staff take every opportunity to correct that because she found it offensive. Planner Johnson

stated the Code includes a section explaining that all references to one is for all. Commissioner Price believed the acceptable standard now was they or their. Planner Johnson added that Staff would be adding recommendations for covered outdoor storage areas.

Commissioner Cameron-Lattek asked for clarification of the use of the words building and structure on Page 8 of the Code Amendments. Planner Johnson stated the words may be used interchangeably but there are times when a building is different from a structure specifically when one is historic.

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

Kris Haefker, 687 12th Street, Astoria, asked if a variance above 28 feet would be granted if parking was included on the main floor of a building. He also wanted to know if 28 feet allowed for parking in two stories.

Planner Johnson explained that the envelope of the building would need to be 28 feet regardless of what was inside the building. Parking on the ground floor would reduce the useable space in the building.

Mr. Haefker said if parking is on the main floor, he would like to see at least two stories, an incentive to get parking out from in front of buildings, and more green space. A narrower building with more public space and green space would grant the building more height.

City Manager Estes explained that typically a two-story building is 28 feet. The building design would be up to the architect.

Mr. Haefker said many parking areas were not necessarily 10 feet tall. Getting cars from parking lots and under buildings would be good. With global warming and rising sea levels, it would be smart to have a more open lower level.

Phil Grillo 1300 SW 5th Avenue, Portland, land use attorney for Astoria Warehouse Inc., stated the public record included a letter from his client opposing the changes to the height square footage requirements. He requested the hearing be continued for at least seven days. While the Staff report is dated March 19th, it was not publicly available until March 21st. He had not had much time to review the Staff report in detail or consult with his client. He wanted the opportunity to discuss the proposed amendments more thoroughly and submit written materials. His client's site is currently for sale. The site is 12 acres and about five acres of the property is on land. The five buildings on the property total about 124,000 square feet of warehousing with a small amount of office space. One of the buildings is over 28 feet high. He had spoken to Staff that afternoon and understood this process was hard work. He complimented Staff for their work and the public for their engagement with such a sensitive topic. The 28-foot height limit is significant compared to the existing height limit. He wanted to know why 28 feet had been proposed. Applying a height limit that is typical in a single-family residential zone to a waterfront commercial zone, even with the overlay district is unusual. He understood this was in reaction to a hotel development, but he did not understand how the specific height of 28-feet was found to be appropriate.

City Manager Estes explained the specific number was proposed by City Councilor Rocka.

Mr. Grillo stated there was a non-conforming development issue because there were so many existing buildings in the overlay zone that already exceeded 28 feet. It would be beneficial to know how the proposed height limit compared to what was already there now. Staff has recommended a clarification that the 30,000 square foot maximum is for all buildings of a single development. He understood the specific language used in the clarification indicated the limitation only applied to commercial uses on land. It would be helpful to know exactly what uses the limitation applied to since the C-3 zone and the BVO were mixed-use zones.

Planner Johnson explained that commercial uses in these two zones would be uses not considered industrial. Staff had considered removing the word commercial from the proposed language in Section 14.113.D on Standards for On-Land Development in the BVO. Building codes consider one and two-family units as residential. Anything more than two-family is considered commercial development. The City considers commercial uses to be non-industrial and non-residential.

Mr. Grillo said that raises other issues, as the recommendation is a very strict limitation on commercial uses in those zones. He understood some people wanted to strictly limit residential uses along the waterfront. If that is the intent, it should be clarified so that everyone understood what commercial use meant in this context. The 30,000 square foot limit is a very aggressive way to regulate uses on a large site like the Astoria Warehouse site. A small 60,000 square foot site with a 30,000 square foot building might not break the bank. However, the

Astoria Warehouse site includes five acres of land, about 270,000 square feet. With only 30,000 square feet of commercial and residential space, his client could only get a floor area ratio (FAR) of 0.13. Generally, sites need 60 percent to 80 percent coverage with the rest left as open space or landscaping. Such a small FAR is unreasonable on a large site. The Astoria Warehouse site provides amazing opportunities because it is a 12-acre site under one ownership along the river and in a downtown area. He understood that was one of the impetus for wanting to limit height in the area. However, it is important for the Planning Commission to consider that there will always be competing interests. People will always want to protect vistas and views, but the Commission's needs to find a way to create a balance between clear and objective standards and the ability to remain flexible. A developer might want to build something similar to Seattle's Pike Street Market on the Astoria Warehouse site. The market is the 20th most popular destination in the United States and 500 people live in the immediate vicinity of the market. The many affordable housing units in the area are part of the essence of the market. The City should maintain the Astoria Warehouse site for its opportunities by providing flexibility, which he believed the Code already did well. He advised against trying to do a quick fix. The base zone of the area is C-3, which is a mixed-use zone that allows certain types of housing. The BVO zone also allows certain types of housing. He asked the Planning Commission to visualize reducing a four-story building to two stories in terms of use instead of height. The two stories being taken away would likely be housing. What used to be the working waterfront in Portland is now retail and commercial on the ground floors with housing above. The City should allow for the type of housing the community needs in those spaces and not take those spaces away. Use bulk and other mechanisms that already exist in the Code, but do not use a blunt instrument to say two stories is the limit because that removes the potential for housing. When limiting housing, the City must consider Measure 49, which requires the City to pay for the loss in value or waive regulations that limit housing. Measure 49 applies to this case. Under Oregon Revised Statute (ORS) 197, the City must provide a path to no discretionary standards to approve housing. He spoke with Staff about the statute and so far he had not been able to find this clear pathway in either the C-3 or the BVO zones. The design standards are very discretionary. Statewide Goal 10 on housing requires the City to provide an adequate supply of all types of needed housing. The most recent Clatsop County Housing Study states, "support high density housing in commercial zones." Taking two floors of housing away is not supporting housing in the C-3 zone. The study also recommends streamlining the permitting and review process as an incentive to develop housing. While the City might consider these amendments as quick fixes, he believed the City was actually making some very fundamental changes to a major opportunity site. It is important that he and his client be engaged in this process and work with the community to find a reasonable balance.

President Fitzpatrick confirmed with Staff that the Planning Commission was required to continue the hearing when asked to do so. City Manager Estes added that the Code requires the hearing be continued for a minimum of seven days. However, Staff recommended the hearing be continued to the April 23rd meeting to give Staff time to address some issues.

Mr. Grillo stated he would submit his materials by 14 days from the April 23rd meeting to give Staff time to consider the materials and update the Staff report.

President Fitzpatrick asked Mr. Grillo to also let Staff know in advance of the April 23rd meeting if he intended to give a presentation at that meeting.

President Fitzpatrick called for a recess at 7:50 pm. The meeting reconvened at 7:57 pm.

President Fitzpatrick called for public testimony.

Frank Spence, 5169 Birch, Astoria, President of the Port of Astoria Commission, said the Planning Commission has been asked to approve 24 amendments to the Development Code Article 14 and the BVO. The Port's property is within the BVO, beginning at the seaman's memorial and running to the west. In 2009, the original Riverfront Vision Plan was approved and at that time, the plan recommended the BVO begin at Portway Avenue and extend to 2nd Street. That would divide the Port property in half, so the industrial park was classified as Port Uniontown. The recommendations for a 28-foot height limit and a 30,000 square foot limit are controversial. As soon as these recommendations surfaced, both private and public sectors objected to them. The first was the Oregon HRS employment building on Marine Drive. The building is already 30,000 square feet and the State wanted to build another 30,000 square feet. However, that would not be possible with the new restriction. According to an article in the newspaper, a solution could be worked out to build into the parking lot in front of the building because they already have 157 parking spaces to the west. If this appears to be an amenable solution, a variance should allow for a situation like this. If the State cannot expand their building, they will leave Astoria and

building a new building in Warrenton. The second opposition was by Steve Fick of Fishhawk, who advised Council that he would be negatively affected by the amendments. Astoria Warehouse has also opposed the amendments. These Code amendments deal with property rights and take development opportunities away from the property owners. This could end up in court. The Port of Astoria is opposed to the limits because they are in the process of upgrading their master plan and working on a strategic plan. The Port does not want to be handcuffed by restrictions on height and mass. The Port requests that all of the Port property be excluded from the BVO, and that the east mooring basin be excluded from the Civic Greenway Overlay.

City Manager Estes clarified that in the 2008, as part of the Riverfront Vision Plan development, there were discussions with the Port on where the boundaries should be located. Portway was chosen as a boundary because the Port Commission at the time had an interest in changing the zoning from the Riverwalk Inn to Maritime Memorial Park. The City had agreed not to get into the industrial uses of the finger piers as part of the Riverfront Vision Plan. When the BVO was implemented, City Staff and Port staff coordinated to allow for the redevelopment of the Riverwalk Inn and a dispensation was developed in the Code to allow for that redevelopment. Mr. Fick's property and the State office building are in the Urban Core, not the BVO. Amendments to the Urban Core will be recommended in the future. The owner of the State office building had expressed concerns about the 30,000 square foot restriction, which is already in the Code. The amendments being recommended are clarifications about how the restriction is implemented in the BVO.

Planner Johnson added that the proposed amendments to the Civic Greenway did not address height or square footage.

Mike Sensenbach, 110 Kensington, Astoria, said he was at the City Council meeting where Councilor Rocka recommended the 28-foot height restriction. The original proposal was for 24 feet, but after some discussion the recommendation was changed to 28 feet. He believed this change in the height restriction was more significant than the City Council realized at the time. He has handled property claims for a large insurance company for the last 15 years. Twenty-eight feet could allow for a third story. In the City's Code, gable roofs are measured by the average of the height of the slope. A two-story building with a 20-foot eave could have a ridge line up to 36 feet high with an average height of 28 feet. That could be an unintended consequence of this height restriction. The Fairfield Inn ridge line height exceeds 45 feet because they took advantage of the average height of the gable roof. He was in favor of the amendments as proposed but would prefer a 24-foot height limit as originally proposed at the City Council meeting.

Elizabeth Menetrey, 3849 Grand Avenue, Astoria, said the property owners want to make maximum financial gain from their properties. She represented at least 400 people who signed a petition and the majority of the city who wanted the heights way down. People were ecstatic that the City Council discussed 28 feet because they never thought it would be discussed. The 30,000 square foot limit is a problem when working with a 28-foot height limit. However, the Planning Commission has a job to do. She had to speak for the public who had been asking for this for ten years. If she owned riverfront property she would make it into a park. There must be limits on what people can do on the riverfront. Someone may own or lease property, but ultimately this is about the city and what we want for the future of the city.

Steve Fick, P.O. Box 715, Astoria, said Steve Allen asked him to let the Commission know that he supports the Riverfront Vision Plan as it was adopted ten years ago when it was a well-balanced plan. Mr. Allen has offices, manufacturing, and restaurants along the waterfront. He believed the recommended amendments would result in a taking. He would be willing to discuss compensation for lowering the height restriction. However, this is not all about money. It is about flexibility. People who have not been small business owners do not understand how complex and challenging it is. When he came back to Astoria after college, the waterfront was a mess. He chose to take one block and try to do something with it. It is so expensive to continuously fight to work over the water. He might need six residential rentals just to maintain the property and keep it from falling in the water. The point will come when property owners cannot maintain or sell their properties if the uses are limited. The City must have faith in capitalism. If the City wants to change the area so bad they should buy the properties. It is not right for the City to constantly ask property owners to take a cut in property values just because someone else does not like what could be developed. Much of the waterfront area will never be developed, so the city will have its view corridors. This was considered ten years ago because those areas are important to everyone. It is not right to add black and white rules, which he considers to be a taking of his property.

President Fitzpatrick called for closing comments of Staff.

Planner Johnson said Staff is considering an exception to the height requirement for middle income housing in the BVO. There is a similar exemption in the Urban Core. The City deliberately omitted the industrial area of the Port because they did not want to impose design reviews on Pier 2 and Pier 3. Before the April 23rd meeting, Staff can look at the Code to make sure it includes clear and objective standards for residential development in the BVO. Clear and objective standards are mandated by the State. Staff still needed direction from the Planning Commission so that the clarification in the Code can be completed by the next meeting.

Vice President Moore said he leaned toward excluding garages from square footage but did not have a strong opinion on that. He understood the popular opinion on the 28-foot height limit, he could not find support for it in the Comprehensive Plan or the Bridge Vista section of the Riverfront Vision Plan. The BVO is the only part of the Riverfront Vision overlay area policy that discusses height. Comprehensive Plan Section 68.1.E states, "use alternative development forms, for example cluster development, narrower, taller profiles, set backs, step backs, and gaps in building frontages to preserve views." The Riverfront Vision Plan was intended to implement the Comprehensive Plan policies. Page 37 of the plan states, "trading building heights for width may be desirable in some instances, but a maximum height should be established and enforced." That maximum height likely would be one story above the base height. The base height is the height in the base zone. That clearly suggests that the policies should be implemented to use the base zone as the beginning height and then if a development were to be narrower or apply step back, an additional story would be allowed. In the S-2 zone the base height is 28 feet. Up to 35 feet would be allowed if step backs were used or a building was narrow. Currently, the BVO allows for 35 feet in the S-2 zone. Maybe other Commissioners can find support in the Comprehensive Plan for 28-feet, but he believed it was his responsibility to interpret existing Code language before making changes to the zone. If public sentiment is different from the Comprehensive Plan, then the 11-year old policies need to be revisited.

Commissioner Price said she believed Vice President Moore's argument was reasonable. If 28 feet is the height limit, she had a problem with 30,000 square feet. She was not in favor of allowing variances for over water development. She had empathy for the property owners who have visions for their properties in the future. Some of the amendments being discussed are high handed, but so are the threats of lawsuits and mandates from the State that prevent the City of Astoria from creating a vision of itself that differs from Portland and Seattle. Astoria wants to retain the village feel that it's had since the 1970s or 1980s. There could be many fabulous developments over 28-feet high and 30,000 square feet. However, the City does not have the ability to write into Code that the City wants this but not that.

Commissioner Cameron-Lattek stated she was ambivalent about the garage but leaned towards encouraging closed garages and allowing the building to be slightly bigger. She was glad the Planning Commission would have more time to think about the proposed amendments. She leaned towards tradeoffs because the overlay zone has been characterized by some very contradicting things. The Urban Core and part of the BVO should have dense development. That is why the Civic Greenway and Neighborhood Greenway were separate. She believed a good compromise was to have more limits over water and allowing more height on land. She experiences the shadows of the taller buildings on land when walking along the Riverwalk and she understood the desire to avoid a corridor. However, those buildings have exciting businesses she likes to spend time in. She was okay with allow more development to occur on land if it means retaining views of the water. Vistas should be available from the Riverwalk, but not necessarily from the car. She wanted to encourage people to get out of their cars to enjoy Astoria.

Commissioner Corcoran stated he would include garages in the gross floor area. He was very enlightened on Vice President Moore's reflection on the Comprehensive Plan and the competing interests of the public expressed at the City Council work session. He respected the interests of the property owners who would experience a change in the use of their properties. He was glad he had more time to think about these issues.

Commissioner Womack said he supported the exclusion of garages from the gross floor area. However, he did not believe that would be productive for any development. He agreed with Vice President Moore's comments about the height restrictions and he supported allowing variances for those heights.

President Fitzpatrick stated he did not want to include garages in the gross floor area. He was also concerned that the recommended height limited conflicted with the Comprehensive Plan. It had been awhile since the Commission discussed the height limit variances, but he recalled that the variances would be allowed for water-related uses and another use that the Commission wanted more clarification on at the time. He believed

variances should be allowed on land and over the water, but only for water-dependent uses. He was also concerned that the amendments could result in a taking from the property owners' rights.

City Attorney Henningsgaard advised the Planning Commission not to anticipate law suits during planning because the goal should be the betterment of Astoria. The rules make it difficult to make a case for a taking. The zoning would have to eliminate any possible use of the property.

Planner Johnson confirmed that she received the direction she needed from the Commission. Staff would present changes and recommendations at the next meeting.

Commissioner Price stated the Commission had not responded to Staff's question about step backs. She would not need step backs if the height limit was 28 feet.

President Fitzpatrick moved that the Astoria Planning Commission continue the public hearing on Amendment Request A19-01 by Community Development Director to April 23, 2019 at 6:00 pm at the Judge Boyington Building; seconded by Vice President Moore. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

REPORTS OF OFFICERS/COMMISSIONERS:

Commissioners thanked Planner Ferber for her time with the City and wished her luck at the Columbia River Estuary Taskforce (CREST).

President Fitzpatrick thanked Vice President Moore for chairing the Commission meeting in his absence in February. He also thanked former Planner Johnson for coming back to the City to assist with the Code updates.

STAFF UPDATES/STATUS REPORTS:

Save the Dates

- April 2, 2019 – APC Meeting at 6:30 pm (as needed)
- April 23, 2019 – APC and TSAC Meeting at 6:30 pm

Staff said the April 2nd meeting would likely be canceled and the Traffic Safety Advisory Committee (TSAC) meeting might be postponed since the APC agenda was so full.

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:45 pm.

APPROVED:

Community Development Director



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

MEMORANDUM

DATE: April 15, 2019
TO: PLANNING COMMISSION
FROM: ROBIN SCHOLETZKY, AICP, CONTRACT PLANNER
SUBJECT: COVER MEMORANDUM FOR STAFF REPORT, MR-19-01

At the March 26, 2019 Planning Commission meeting, Planning Commission granted a continuance for this hearing until April 23, 2019. The 120-day rule has been extended by the applicant.

Additional testimony not included with the initial March 15, 2019 staff report is being transmitted through this memorandum:

1. Written comments from Kathren Rusinovich, March 26, 2019 (attached)
2. Written comments from Brian Jespersen, April 15, 2019 (attached)

The attached staff report remains unchanged except to note a revised date and the casefile review number as MR 19-01 in the Subject line. It includes a copy of the application and the appeal findings (AP 99-04) referenced in the staff report.

Tiffany Taylor

From: Nancy Ferber
Sent: Tuesday, March 26, 2019 3:03 PM
To: Kathren Rusinovich
Cc: Robin Scholetzky; Tiffany Taylor
Subject: RE: Cannery Loft Condos

Hi Kathren,

Thanks for writing in, Planning Commission isn't reviewing a site specific proposal right now, but we will forward your comments to the Planning Commission for the Miscellaneous Review request looking at how the code around tourist oriented sales is interpreted.

Best
Nancy

From: Kathren Rusinovich [mailto:mauikate1@gmail.com]
Sent: Tuesday, March 26, 2019 2:37 PM
To: Nancy Ferber <nferber@astoria.or.us>
Subject: Cannery Loft Condos

Hi Nancy,

I am contacting you regarding the potential marijuana store on the main floor of the Cannery Loft Condominium development. I had a client reach out to me who's unit is located above the space that would house the proposed pot shop.

My concern is the Cannery Loft Condo's are a residential development not a tourist destination and was not developed with the intent of house high traffic business's. The parking is inadequate for a high traffic business such as a pot shop. In other metro areas pot shops are not allowed in mixed used buildings.

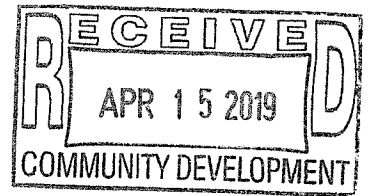
Astoria is already over saturated with smoke shops and pot shops. Having another one located at the Cannery Loft Condo's will not benefit or bring value to the property. I hope The City of Astoria listen's to the condo owners knowing this is not a good fit.

Fondly,

Kathren Rusinovich
Your Community Real Estate Advocate
WINDERMERE COMMUNITY REALTY
175 14th St. Ste., 120
Astoria, OR 97103
Office: 503-325-5111, Cell: 503-338-2245
Licensed in Oregon
<http://www.kathrenrusinovich.com/>

April 13, 2019

Astoria Planning Commission
Public Hearing
April 23, 2019
Presentation



Good evening Commissioners and City Manager Brett Estes

Sean Fitzpatrick, President
Daryl Moore, VP
Jennifer Cameron-Lattek
Brookley Henri
Patrick Corcoran
Cindy Price
Chris Womack
Robin Scholetzky, Contract

My name is Brian Jespersen and my wife and I own and reside in a condo at 3930 Abbey Lane, unit 203, which is located on the 2nd floor of a S-2A zoned building. We moved forward with the purchase only after the ruling in 2016 was made and what we believed would be an ultimate adoption of cannabis laws prohibiting cannabis stores in mixed occupancy buildings.

We concur with the findings of the code interpretation report provided. We also believe that Astoria has become a tourist destination, but that doesn't mean all businesses are "tourist oriented."

The S-2A zone includes buildings like ours, which are "vertical neighborhoods" that are predominantly residential. The State's cannabis laws protect "horizontal" residential neighborhoods, but do not address vertical residential condo buildings. Other cities, e.g. Portland and Cannon Beach, have adopted their own language that does not allow cannabis retail shops in buildings with mixed-use commercial/residential uses.

We recognize that this is not what is being considered at the hearing on April 23, 2019, but back in 2016, the City Council unanimously approved an appeal of a Planning Commission decision to approve a Conditional Use for a recreational cannabis shop in the Cannery Lofts complex. The outcome of the decision and discussion, as to whether a cannabis retail shop is appropriate in a residential building, was that the City Council would reconsider its regulations related to allowing cannabis shops in residential buildings. To date, I don't believe this reconsideration has taken place.

April 13, 2019

We respectfully request that the City of Astoria revisit this issue so vertical neighborhoods, like ours, are protected as are horizontal neighborhoods.

We're not opposed to people using marijuana products. It's legal in Oregon and we support the right. However, mixing a cannabis retail store with residential units with occupants of all ages, including grade school children, just doesn't belong.

We have children playing in the complex, catching the school bus out in front of their home. They shouldn't have to live in the shadow of a cannabis shop and be potentially affected by the environment it can create. Residents, after paying to live in these condos and many having done so for 10 plus years, should have their homes and hard-earned investments protected and not devalued by marijuana that just became legal in the past several years. This is not the kind of neighbor that residents bought into. If there is not a permanent regulation or code preventing a cannabis store in a mixed occupancy building, then present and future condo owners could unsuspectingly find themselves in this situation again. They should feel confident that it doesn't happen again.

I'm curious as to how many people would want to invest in property and live above a cannabis retail store. I've spoken with several real estate agents and all three have clearly stated that a cannabis retail store in the same building WILL negatively affect property values, WILL diminish the attractiveness of the complex and quality of life. In addition, it will reduce the number of potential buyers for those contemplating selling.

When one reads the purpose of the Astoria Development code, as it's employed to support the Comprehensive Plan, it speaks, in part about... promoting orderly city growth, conserve and stabilize property value and it promotes and protects public health, safety, convenience and general welfare. My takeaway is that it promotes a safe, enjoyable and sustaining quality of life. But our quality of life should not have to be about dealing with cannabis stores in our residential buildings along with associated safety and security concerns, and the impact to the attractiveness of our residential area. There should be areas free of those concerns and the S-2A zone is one of them.

Thank you for your time and for listening to my input.

Brian Jespersen



March 15, 2019, April 2, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: BRETT ESTES, CITY MANAGER
ROBIN SCHOLETZKY, AICP, CONTRACT PLANNER

SUBJECT: MR 19-01, CODE INTERPRETATION CONCERNING TOURIST ORIENTED RETAIL SALES

I. BACKGROUND

- A. Applicant:
Jeremy Lumachi
17763 SE 82nd Drive, Suite D
Gladstone, Oregon 97027
- B. Owner:
Nomadic Properties
3621 SW Humphrey Boulevard
Portland, Oregon 97221
- C. Applicant's Representative:
Corrine Celko, Attorney
Emerge Law Group
805 SW Broadway, Suite 2400
Portland, Oregon 97205

II. INTRODUCTION:

At times, a proposed project does not clearly fit within the identified classifications of uses allowed in each of the zones. In those cases, the Astoria Development Code (ADC) authorizes the Astoria Planning Commission (APC) to make a determination of "similar uses". In addition, it is not always clear as to the intent of a section of the Development Code or how it applies to a specific use, and staff will bring those issues before the Planning Commission for an interpretation. In bringing them before the APC, a public notice is provided giving the public an opportunity for input on the issue. With this public notice and meeting, a person of record has the ability to appeal the APC decision to the City Council. If the APC decision is not appealed, the interpretation is then applicable to that Code section for all future applications unless the Code is amended.

This requested APC interpretation is whether a retail store that sells cannabis and related materials is classified as a "tourist-oriented retail sales and service establishment" per the Astoria Development Code. This review is limited to the interpretation of the terminology of the use and does not include review of the applicants' ability to meet the requirements for development within the S-2A zone or at a specific location.

III. BACKGROUND

A. Site Context.

To clarify, for this review, issues regarding the development's ability to meet the uses standards within the S-2A zone such as for parking, its significant visual access to the waterfront, and other zone-related criteria, such as square footage is not part of this review because the issue for review is limited to the terminology of the use.

B. Prior Cases for determination of "tourist oriented retail sales and service establishment."

MR-99-07. In 1999, the City of Astoria reviewed a case regarding a video sales and retail establishment requesting that the use be considered 'tourist oriented use' because of the number of tourists being served by this use. The Astoria Planning Commission found that the use did constitute a tourist oriented use. However, this was overturned by an appeal to the City Council (Order No. AP99-04), Council found that there is a difference between a tourist-oriented use and a use frequented by tourists.

In the Order, the City Council stated "[T]ourists are likely to need groceries, car parts, prescription medicines, eyeglasses, diapers, veterinary services and nearly all of the other goods and services needed by City residents. It is not the City's intent to allow virtually any type of retail business under 'tourist- oriented retail sales' simply because tourists trade there."

The appeal findings (AP 99-04) are attached to this staff report for reference and incorporated as part of the Findings of Fact.

IV. PUBLIC NOTICE

A public notice was mailed to Neighborhood Associations and interested parties pursuant to Section 9.020 on March 4, 2019. A notice of public hearing was published in the Daily Astorian on March 19, 2019.

- Written comments were received by Brian Jespersen, March 12, 2019 via email as attached.

V. STANDARDS, CRITERIA AND FINDINGS OF FACT

A. Findings Concerning Definitions:

Development Code Section 1.400 concerning Definitions:

NON-TOURIST ORIENTED: A use or business which devotes at least 50% or more of its gross floor area to uses or activities which are not open or physically accessible to the public, or are not reasonably expected to be of interest to visitors.

RETAIL SALES ESTABLISHMENTS: Businesses, including a restaurant or bar, which are primarily engaged in selling merchandise to customers for personal, household or farm use. Retail Sales Establishment does not include gasoline service station, automotive sales establishment, or other sales of large motorized vehicles, or mobile homes.

TOURIST ORIENTED SALES OR SERVICE: A use or business which devotes 50% or more of its gross floor area to uses or activities which are open or physically accessible to the public, and are reasonably expected to be of interest to visitors.

B. Findings Concerning Interpretation:

Astoria Development Code Section 1.030 Interpretation concerns the hierarchy of the Development Code:

"If the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by another provision of this Code or of any other Ordinance of the City, the provision which is more restrictive shall govern."

The applicant notes that:

....'tourist oriented retail sales or service establishment' in the C-2 zone, and similar use categories in other zones, was to describe a smaller group of uses than are allowed under the broader category 'retail sales establishment.' In the appeal (AP99-04), the City Council went on to state that "tourist-oriented retail sales' means primarily oriented toward trade with visitors . . . like souvenir shops"

And that therefore, the overall category of tourist-oriented retail sales or service establishment is more restrictive than other retail uses (regardless of zone). However, Section 1.360 of the code is not applicable to this situation because the City has determined that the proposed use as a cannabis sales establishment is "classified" as "retail sales" and did not apply "similar use" determination. The question raised by the applicant is whether it should be classified as "tourist-oriented" retail sales. Therefore, it is an interpretation of the term "tourist-oriented retail sales" and not a comparison of other "similar uses".

C. Findings Concerning City of Astoria Comprehensive Plan:

CP 190. Economic Element

CP 195.4. The distinction between general commercial, tourist commercial, central commercial and to some extent even industrial zoning seems to be increasingly blurred in the City's zoning scheme: there are automobile sales lots in both central and tourist commercial zones, trailer parks, and multi-family dwellings in the industrial zone. Revision of the Comprehensive Plan and Development Code needs to address this question: Does the City wish to have one zone for industrial/commercial uses, or does it wish to protect certain areas for certain uses?

Since this section of the Comprehensive Plan has been written, staff have modified zoning areas within the City to provide additional clarity for this.

D. Findings Concerning Applicability of Use Classification:

In determining "similar use", staff considered the definition of "Tourist Oriented Sales or Service" which includes *two elements*:

- A use or business which devotes 50% or more of its gross floor area to uses or activities which are open or physically accessible to the public.
- And are reasonably expected to be of interest to visitors.

The applicant explains this as follows:

Even under the most restrictive interpretation, Deshe more specifically fits under the narrower category “tourist-oriented retail sales or service” rather than the broader category “retail sales establishment.” Deshe intends to operate in a narrower manner than typical retail sales establishments in that it will operate as a quasi-souvenir shop offering items for sale that are of particular interest (underline added) to visitors of Astoria.

The “reasonably expected to be of interest to visitors” can be described as follows: Although cannabis-related tourism is an offshoot of the cannabis industry, in this situation, the uses and, for ancillary purposes, the retail goods on-site do not create a destination that would be frequented by visitors over locals for the following reasons:

- The State of Washington also allows cannabis sales and therefore, Washington tourists would not be interested in purchasing cannabis as they can obtain this in their own State. Cannabis is also legal in California. Therefore, the only state in proximity to Astoria which does not allow cannabis sales is Idaho. Given the distance of Idaho to Astoria, those seeking cannabis would likely be drawn to a community in the proximity to Idaho, not one that is located the farthest distance from Idaho.
- Tourist related products are available in many types of stores in Astoria—restaurants and breweries sell items which can be considered souvenirs and branded with Astoria elements. For example, larger retail outlets like Fred Meyer sell souvenirs as they are frequented by tourists (and locals). Breweries also use Astoria elements as part of their branding as well. The labels on these items and the product mix in general does not make them tourist oriented, it makes the businesses retail savvy by providing what the market is asking for without being of particular interest to tourists alone. Just the sale of tourist-related items does not change the entire classification of the primary use. For example, a brew pub remains an “eating and drinking” establishment classification and does not become a “tourist-oriented retail sales” establishment.
- There are retail establishments in Washington which are not available currently in Astoria—Target, for example. This does not make Target a tourist-oriented use within the community of Kelso, Washington.

In contrast, this proposed use could be considered in alignment with other uses that are non-tourist oriented such as arts and craft studios, theatres or restaurants, which are all uses frequented by locals and tourists alike.

Staff believes that the intent of the “Tourist Oriented Sales or Service” code was to provide an opportunity for tourist related business to occupy areas designated as tourist focused, such as those surrounding the waterfront without adding any additional layers of review during a time of transition between industrial waterfront uses and other mix of uses. In this situation, staff recommends that the APC make the interpretation that a cannabis related retail sales use is not purely a tourist oriented one.

The proposed interpretation is being made as a City-wide applicable classification of cannabis sales as “tourist-oriented retail sales” or to remain as “retail sales”. The applicant has stated that they plan to sell tourist-related items. However, the primary use for the classification interpretation is the cannabis sales establishment. The additional sales items of handicrafts and art are secondary / accessory to the primary use and would not be the primary classification for the use.

This interpretation would apply to any future cannabis sales establishment regardless of other sale items available in those establishments. In certain zones, maintaining the existing classification of cannabis sales establishments as “retail sales” allows for specific proposals to be considered through the conditional use process. This process provides for an evaluation as to the addition of other sales items could be a consideration in whether the use is appropriate to approve at a specific location as a tourist-oriented retail sales establishment.

In the application, the applicant outlined various specific elements of the project including: the square footage of areas that are age restricted; the square footage associated with those areas that sell handicrafts and art and the square footage of the project that are selling cannabis products. However, this information is not applicable to the review at hand. The question for interpretation is to determine if a cannabis related retail sales use is tourist oriented, not whether or not the proposed project would meet the criteria associated with the siting of a retail use or a tourist-oriented sales and service use.

It is important to note that should the existing classification be maintained, these square footage-related elements would be reviewed at the time of a future proposal for site-specific development. Therefore, staff's recommendation continues to provide an opportunity for the Applicant to be located within an S-2A zone, as part of a Conditional use review. City staff is not disallowing permission to locate, but believes that it needs to be reviewed via a Conditional use permit. By maintaining the current use classification, it would allow review of the project in the S-2A zone with conditional use criteria and therefore, reviewing any impacts on a site-specific basis. Applying the tourist-oriented sales and service use, it would provide the determination for future cannabis uses to be considered in some zones without the conditional use criteria.

VI. CONCLUSION AND RECOMMENDATION:

Staff recommends that the Astoria Planning Commission make the interpretation that a cannabis retail sales establishment is not a "Tourist-oriented sales and service use" and that the use would be subject to the standards as a retail sales establishment.

As with other Code interpretations, this is a City-wide decision; not site specific and would apply City-wide to all future cannabis-related retail uses.



Planning Commission Public Hearing - March 26, 2019

brian J <pjbudnik@gmail.com>
 To: robin@urbanlensplanning.net
 Cc: Brett Estes <bestes@astoria.or.us>

Tue, Mar 12, 2019 at 2:21 PM

Hi Robin,

My name is Brian Jespersen and I recently sent an e-mail to the Astoria City Manager, Brett Estes and City Council members. When Mr. Estes responded to my message, he included you in distribution of his response. Because you were included and the response stated that I could contact either of you, I thought I could use this opportunity to reach out to you. I hope this isn't stepping out of line.

A committee of a few individuals, here in a S-2A zoned residential building, have been working on a response to a request for a land use interpretation coming before the Astoria Planning Commission on March 26th. Reference Miscellaneous Request (MR 19-01).

We have familiarity in cannabis sales in S-2A because this same issue was addressed for "Conditional Use" and was defeated when reviewed by the City Council in 2016. We thought this was over but surely this is now being looked at from a different part of the zoning code for S-2A. A historical review might allow some additional insight into this matter.

The notification that the homeowners received regarding the hearing on March 26th indicated that sections CP.005 to CP.028, CP.030 to CP.105 and CP.190 to CP.210 are going to be reviewed, however we ask that you also look at CP.220.1 and CP.220.6. This is part of the code that the city took into consideration when the Conditional Uses applicability of cannabis sales was voted on in December 2016.

2.700 of S-2A zones purpose states: TOURIST-ORIENTED SHORELANDS ZONE is a district that "is intended to provide for **mixed-use tourist** oriented development that retains and takes advantage of the working waterfront character of the area. The uses permitted are intended to be compatible with pedestrian orientation. The emphasis is on the rehabilitation and reuse of existing structures".

We also believe that it's insufficient to make an interpretation without knowing the history and where these zones are located. Per the included maps; one zone is downtown where we believe just one building has a commercial unit with a residence above and all are older/rehabilitative type structures. The other S-2A zone is on the east end of town where our relatively new 10 year-old four story multi-level residential mixed-use building is located. Similar in design and to how many of the high rise residential units are laid out in the Pearl District in Portland.

From the historical perspective, the City Council reviewed the Planning Commission recommendation that S-2A would allow cannabis sales under "Conditional Use Application for Retail Sales", however, on appeal, the City Council voted in favor of the appeal primarily as the zoning didn't adequately address "mixed use in a multi-story residential" building.

December 16, 2016 City Meeting Minutes excerpts. Appealer Comments- Heather Hansen Clatsop County Community Development Director:

"The evaluation (Staff Report) did not address the fact that the proposed use would be in a residential building. The building is in a mixed-use zone and commercial uses are expected on the ground floor of the building, but that did not negate the residential uses that should be considered in the evaluation. Comments made by several Planning Commissioners at their hearing indicated that they felt compelled to approve the use since it met the criteria."

- The commercial use category is very broad and includes personal and professional services, offices, retail, and other types of uses. The impacts of the specific uses within those categories on neighbors vary. When review

criteria are clear and objective, such as a 20-ft setback or 30-ft height limit, staff can make a decision. However, when review criteria are subjective and discretionary, as they are for conditional uses, the decision is made by the Planning Commission. The Planning Commission is not required to approve all uses that may be allowed in a particular zone. In this case, one of the review criteria found in Section 30(a) (1) states that the use is appropriate at the proposed location. This is subjective. If the criterion means that the zoning allows a commercial use and must be approved, then there would be no need for a review by the Planning Commission. Webster defines appropriate as especially suitable or compatible. How can a decision maker determine whether a use is suitable or compatible without evaluating the impacts to the 30 residences in the same building and the 33 residences next door?

- The State does not allow marijuana dispensaries in residential zones. Even though this regulation does not apply to this case, it indicates there are concerns about co-locating marijuana dispensaries with residences.
- In the land use planning profession, the intent or purpose of the regulations is considered when there is uncertainty about how to apply a section of the Code. The purpose statement for conditional uses states that the purpose of the conditional use process is to allow, when desirable, uses that would not be appropriate throughout a zoning district or without the restrictions in that district and would be beneficial to the City if their number, area, location, design, and relation to the surrounding property are controlled.

Counsel Discussion- Councilor Price said she was surprised to hear that the purpose of Development Code Section 11.010 is not considered a criterion and asked if that meant Council could not consider the purpose as well. She did not understand the point of Article 11 if the purpose were taken away. City Attorney Henningsgaard explained that the purpose statement of any statute is merely an aid to interpret the language that follows it. Purpose statements provide background and context for interpreting the rest of the statute and are not independent criterion.

Councilor Price confirmed with Mr. Henningsgaard that it would be appropriate for Council to consider the desirability about this project, to whom the project would be desirable, and how the project would benefit the City. She asked if staff agreed. City Manager Estes clarified that it was up to City Council to determine whether they agreed with the Planning Commission's decision. If City Council agrees with the Planning Commission, Council will need to adopt the findings that were adopted by the Planning Commission. If City Council does not concur with the Planning Commission, Council will need to provide staff with their reasons.

Councilor Nemlowill said she was concerned that so many residents at the Cannery Loft did not want this type of business on the ground floor. She has carefully reviewed the Planning Commission's work, the staff report, and the findings of fact. While the Community Development Director and Planner did an excellent job, she believed the findings were missing the housing elements. The staff report and findings of fact note that the proposal is compliant with the Comprehensive Plan. This may be, in terms of economic goals, but she did not believe it was compliant when it came to the housing element. The business would not be in a residential zone; however, there are a high amount of residences in the building. There are a few housing elements in the Comprehensive Plan that she believed applied to this project. CP.220.6 protects neighborhoods from incompatible uses. The Appellant has stated that this would not be a compatible use and there are many residents who feel the same way. CP.220.1 maintains attractive and livable residential neighborhoods for all types of housing. The Appellant has stated she and others do not feel this would be attractive or good for the livability of that location. Because the housing element was not included in the staff report as applicable criteria, she recommended the housing element be included in the findings of fact and that the issue be remanded back to the Planning Commission.

Mayor LaMear confirmed that all other marijuana dispensaries in Astoria were located in either a C-3 or C-4 Commercial Zone. She agreed with Councilor Nemlowill and Planning Commissioner Frank Spence's comments in the minutes of the Planning Commission's meeting. These condominiums are zoned Shoreland Tourist, S2-A but all condominiums are residential buildings. She planned to vote in favor of the Appellant.

Councilor Price stated CP220.2 provides residential areas with services and facilities necessary for safe, healthy, and convenient urban living. She understood this area was a Shoreland S2-A Zone, not a residential zone. However, this issue is one of several that have come before City Council because they have not taken the time to discuss any regulations on the retail sales of marijuana. Portland specifically prohibits marijuana retailing in existing mixed-use buildings with a residential emphasis. She believed Astoria should consider this in addition to just the number of dispensaries. Several sections of the Comprehensive Plan have to do with housing policies that she believed this dispensary would not comply with. Therefore, she planned to vote in favor of the Appellant. She suggested City Council reconsider Astoria's retail and medicinal marijuana policies.

Councilor Nemlowill said she did not want to make the decision messy and was concerned about the legal implications of adding findings that the Applicant has not had an opportunity to address. City Attorney Henningsgaard believed the housing issues had been raised. The property is unique and City Council is the decision making body. This is a matter of process and Council's decision with respect to the appropriate development of the condominiums will carry a lot more weight than the Planning Commission's decision. City Council will set a precedent. Councilors have stated what they believe is and is not appropriate in this setting and there is no other property in Astoria like this one. Therefore, City Council's opinion on this matter is very valuable.

Councilor Nemlowill believed a denial would have to relate to the current findings. City Attorney Henningsgaard explained that City Council is not bound by the Planning Commission's findings in any way. Council must decide whether the evidence supports the application with respect the Code. Applicable criteria are subjective rather than objective, so Council needs to consider whether the use is compatible and appropriate. These types of decisions are subject to differences of opinions, but it is City Council's opinion that carries more weight than the Planning Commission's. Therefore, he did not believe there would be a problem.

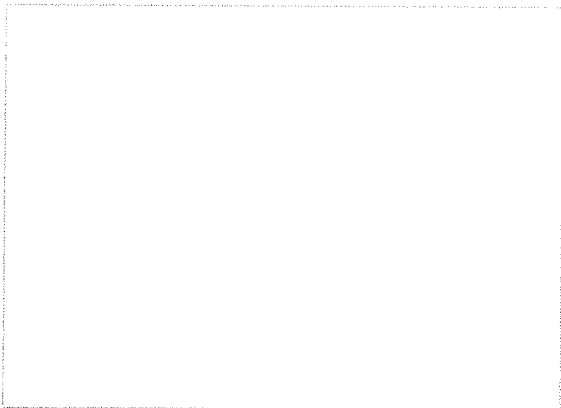
Councilor Price said her considerations that this use was not appropriate for this location was in accordance with the sections of the Comprehensive Plan mentioned by Councilor Nemlowill and herself, as well as the criteria considered by the Planning Commission.

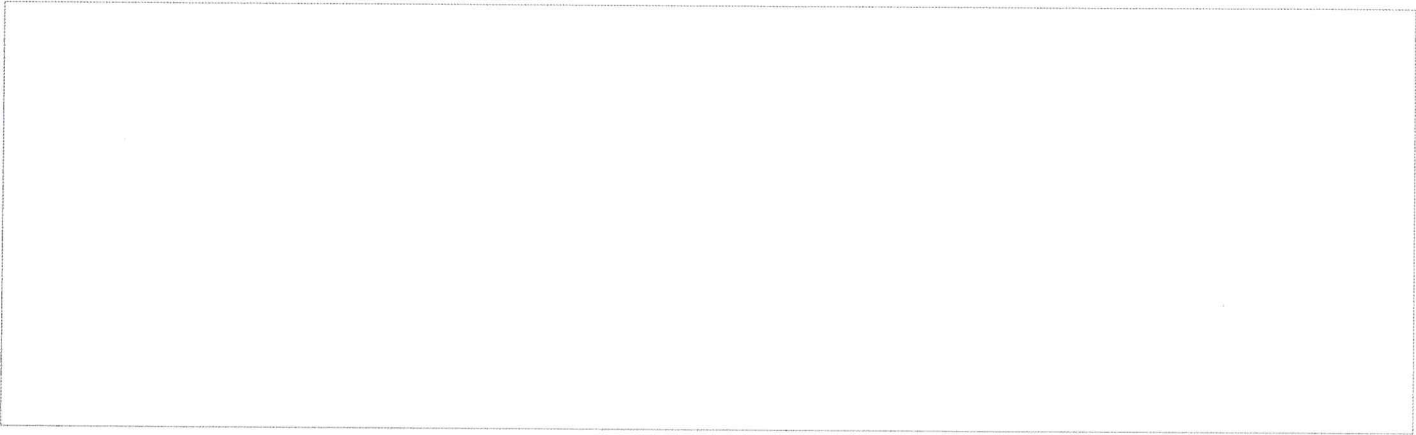
City Council Action: Motion made by Mayor LaMear, seconded by Councilor Price to tentatively approve Appeal AP16-01 by Heather Hansen of Conditional Use Permit CU16-10 and direct staff to revise the Findings and Conclusion contained in the staff report. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill and Mayor LaMear; Nays: None.

In conclusion, the Astoria City Zoning is not defined well enough for "mixed use residential" buildings in S-2A zones and we ask that you take this above mentioned information into consideration when making your interpretation recommendation. Thank you for your time.

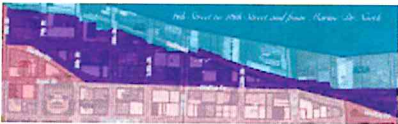
Regards,

Brian Jespersen

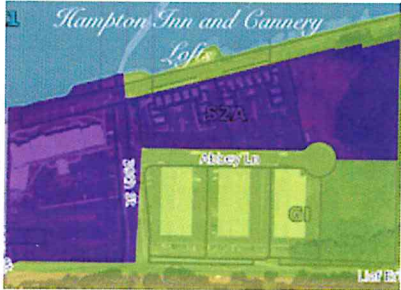




2 attachments



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581K

BEFORE THE CITY COUNCIL
OF THE CITY OF ASTORIA

"tourist oriented"
Interpretation

IN THE MATTER OF AN APPEAL OF A MISCELLANEOUS REVIEW)

FOR THE FOLLOWING REQUEST: MISCELLANEOUS REVIEW)
FOR INTERPRETATION BY THE ASTORIA PLANNING)
COMMISSION)

ZONING: C-2, TOURIST COMMERCIAL; A-2, AQUATIC TWO)
DEVELOPMENT; A-2A, AQUATIC TWO A DEVELOPMENT; AND)
S-2A, TOURIST ORIENTED SHORELAND)

APPLICANT: PORT OF ASTORIA, 1 PORTWAY, ASTORIA,)
OREGON 97103)

ORDER NO. AP99-04
ON MR99-07

The above named applicant applied to the City for a determination of whether they have standing to appeal Miscellaneous Review Permit (MR99-07) and applied to the City for the appeal of Miscellaneous Review Permit (MR99-07) concerning the interpretation of "video sales and rental establishments" as "tourist-oriented retail sales and service establishment" in the C-2 (Tourist Commercial), A-2 (Aquatic Two Development), A-2A (Aquatic Two A Development) and S-2A (Tourist Oriented Shoreland) Zones in the City of Astoria, Oregon 97103.

A public hearing on the above entitled Miscellaneous Review was held before the Planning Commission and a decision to approve the Miscellaneous Review was rendered at the August 24, 1999 Planning Commission meeting.

That decision was appealed on September 22, 1999 by the Port of Astoria.

A public hearing on whether the Port of Astoria has standing to appeal was held before the City Council on October 18, 1999 and a decision was rendered at the October 18, 1999 City Council meeting. A public hearing on the appeal was held before the City Council on October 18, 1999 and a decision was rendered at the November 1, 1999 City Council meeting.

The City Council adopts the Findings of Fact and conclusions of law attached hereto and determines that the Port of Astoria has standing to appeal and orders that the application for an Appeal (AP99-04) is approved to proceed to a public hearing. The City Council reverses the Planning Commission decision and adopts the Findings of Fact and conclusions of law attached hereto, and orders that this Miscellaneous Review (MR99-07) is denied.

The effective date of this denial is the date of the signing of this Order.

This decision may be appealed to the Land Use Board of Appeals (LUBA) (by an affected party) by filing an appeal with LUBA within 21 days after the City Council has made its decision.

DATE SIGNED: November 1, 1999

DATE MAILED: 11/4/99 y

CITY OF ASTORIA CITY COUNCIL

Robert Heilman
Commissioner

Bob Menden
Mayor

Commissioner

San Felle
Commissioner

Commissioner

BACKGROUND

In response to a request concerning a video sales and rental establishment in a C-2 Zone (Tourist-Oriented Commercial), staff submitted a request to the Astoria Planning Commission for an interpretation of whether "video sale and rental" should be classified as "tourist-oriented retail sales". The file number of the request is MR99-07. A notice of public hearing was published in the *Daily Astorian* on 17 August 1999. The Astoria Planning Commission held a public hearing on 24 August 1999. After receiving testimony, the Planning Commission hearing was closed on 24 August 1999, and a decision made that "video sales and rental establishments" should be classified as "tourist-oriented retail sales". The Planning Commission's decision was signed on 24 August 1999, and mailed on 25 August 1999.

The Port of Astoria did not participate in the Planning Commission hearing, nor was the Port among those notified by mail of the Planning Commission's decision on MR99-07. The Port learned of the Planning Commission's decision on 13 September 1999, and filed a notice of appeal on 22 September 1999. The appeal's file number is AP99-04. A notice of public hearing for the appeal was published in the *Daily Astorian* on 11 October 1999. The City Council conducted a public hearing on 18 October 1999. After receiving testimony, the hearing was closed on 18 October 1999. The City Council made a tentative decision to reverse the Planning Commission's decision on MR99-07.

Two questions were posed by AP99-04: was the appeal properly filed, and was the Planning Commission's interpretation in MR99-07 correct. The City Council finds that the Port's appeal meets the procedural requirements of the City's ordinance and applicable state law. The City Council also finds that the Planning Commission's interpretation in MR99-07 is incorrect. Facts supporting these findings are provided in the balance of this order.

1. City staff was approached about development of a video rental and sales store near the corner of Basin Street and Marine Drive, next to a Kentucky Fried Chicken restaurant. The site is in the City's Tourist-Oriented Commercial zone (C-2). While the zone text does not specifically mention video sales and rental establishments among its lists of permitted and conditional uses, "Tourist-oriented retail sales or service establishment" is listed as a use permitted outright in the C-2 zone (Section 2.350(4)). Because of uncertainty about whether a video sales and rental establishment was a tourist-oriented retail sales or service establishment, staff initiated a request for Planning Commission interpretation. The file number of the request is MR99-07. By way of this Miscellaneous Review request, the City's community development director asked the Planning Commission to make an interpretation as to whether "video sale and rental establishments" should be classified as a "tourist-oriented retail sales or service establishment".
2. A notice of public hearing for MR99-07 was published in the *Daily Astorian* on 17 August 1999. Because the interpretation requested under MR99-07 potentially applies throughout the C2 zone, rather than to a single site, City staff apparently followed the public notice procedure for a legislative action in zoning ordinance section 9.020(A) and (B).

Under section 9.020(B)(1)(a), mailed notice to individual property owners is not required for legislative actions. The Port of Astoria, an owner of property adjacent to the proposed video store site, was not provided a mailed notice of the Planning Commission's hearing on MR99-07.

3. The Astoria Planning Commission considered MR99-07 at a public hearing on 24 August 1999. Planning Commission president Thomas asked whether there were any objections to the Planning Commission hearing the matter. There were no objections. President Thomas asked Planning Commissioners if they had any conflicts of interest or *ex parte* contacts concerning MR99-07. None were declared. After receiving testimony, the Planning Commission hearing was closed on 24 August 1999, and a decision made that "video sales and rental establishments" should be classified as "tourist-oriented retail sales". The Planning Commission's decision was signed on 24 August 1999, and mailed on 25 August 1999. The Planning Commission's decision document notes a 15-day appeal period. The Port of Astoria did not participate in this hearing, and was not provided a mailed copy of the Planning Commission's decision on MR99-07.

4. The Port of Astoria learned of the Planning Commission's decision on 13 September 1999. The Port filed a notice of appeal on 22 September 1999. The appeal file number is AP99-04. Section 9.040(B) of the City's zoning ordinance indicates that an appeal must be filed within 15 days of the mailing of the order. Planning Commission order MR99-07 was mailed on 25 August 1999, so the final day to file an appeal was 9 September 1999. The Port argues that its appeal is timely because it filed the appeal within 15 days of the day it learned of the decision; that it was entitled to mailed notice of the Planning Commission hearing; and that had they received notice they would have participated and thus been a party entitled to notice of the decision under zoning ordinance section 9.030(G). The Port would have been entitled to notice of the Planning Commission hearing on MR99-07 if this matter had been handled as a quasi-judicial rather legislative decision. The Port believes MR99-07 was quasi-judicial, in that a specific site was involved. The City's attorney also believes the decision was quasi-judicial (letter from Jeanyse Snow dated 6 October 1999). Mr. Gearin, Port of Astoria executive director, testified as to the Port's interest in developing a conference center in the vicinity of the proposed video store. The City Council also notes that zoning ordinance section 9.020(B)(1)(e) requires mailed notice for Miscellaneous Reviews to property owners within 100 feet of the subject property. A letter dated 12 October 1999 from John C. Pinkstaff, an attorney representing S&H Inc., takes the opposite view; that the decision was not quasi-judicial, and that the Port's appeal was filed too late. Mr. Pinkstaff's reasoning is outlined in his letter. Considering both the factors outlined here and in Mr. Pinkstaff's letter, the City Council finds that the Port should have been notified by mail of the Planning Commission's hearing on MR99-07, and that the Port's appeal is timely because of this flaw in the notice, for the following reasons:

- MR99-07 arose in the context of a specific business and a particular location;
- City zoning ordinance section 9.040(B)(1)(e) provides for mailed notice of

Miscellaneous Review hearings;

- The Port would have participated in the Planning Commission's hearing on MR99-07 had they been aware of it, and would then have been entitled, as a party, to notice of the Planning Commission's decision;
- The Port promptly filed an appeal when it learned of the decision.

For these reasons, the City Council finds that the Port's appeal is timely.

5. Zoning ordinance section 9.040(D) specifies the contents of an appeal. A request for an appeal consists of three components:

Identification of the decision sought to be reviewed, including the date of the decision.

A statement of the interest of the person seeking review and that he was a party to the initial proceedings.

The specific grounds relied upon for review, including a statement that the criteria against which review is being requested were addressed at the Commission or Committee hearing.

Because of flaws in the notice identified elsewhere in these findings, it was not necessary for the Port to participate in Planning Commission hearing on MR99-07. The City finds that the appeal satisfies the conditions in section 9.040(D).

6. Notice of the City Council's public hearing for the appeal was published in the *Daily Astorian* on 11 October 1999. The City Council held a public hearing on 18 October 1999. Mayor VanDusen asked whether there were any objections to the Council's hearing the appeal. A letter dated 12 October 1999 from John C. Pinkstaff, an attorney representing S&H Inc., objects on the ground that the City Council lacks jurisdiction to hear the appeal of the Planning Commission's interpretation. The reasons for this view are outlined in Mr. Pinkstaff's letter. For the reasons described elsewhere in these findings, the City Council finds the appeal has been filed in a timely manner and that the City Council has jurisdiction to hear the matter. Mayor VanDusen asked Council member if they had any conflicts of interest or *ex parte* contacts concerning MR99-07 or AP99-04. None were declared. Mayor VanDusen noted that applicable criteria are identified in documents available from the Community Development Director; and that failure to raise an issue may preclude an appeal based on that issue; and that parties may ask that the record be left open for an additional seven days after the close of the hearing. After receiving testimony, the City Council closed the public hearing on 18 October 1999. There were no requests to keep the record open for an additional seven days.

7. The substantive question posed by this appeal is whether the Planning Commission's interpretation in MR99-07 is correct. The Planning Commission decided that "video sale and rental" should be classified as "tourist-oriented retail sales" for purposes of section 2.350(4) of the C-2 zone. Based on the City Council's review of the information available to the Planning Commission, the City's zoning ordinance and comprehensive plan, and on testimony received at the City Council hearing on this appeal, the City Council finds that the Planning Commission's interpretation in MR99-07 is incorrect. This is based on the following facts:

a. The City's intent when creating the use category "Tourist-oriented retail sales or service establishment" in the C-2 zone, and similar use categories in other zones, was to describe a smaller group of uses than are allowed under the broader category "retail sales establishment". "Tourist-oriented retail sales" are intended to be a subset of "retail sales". The Planning Commission's interpretation of "tourist-oriented retail sales" in MR99-07 is broader than was intended when the City created the use category "Tourist-oriented retail sales or service establishment".

b. The C-2 zone has a narrower purpose than other commercial zones, such as the General Commercial zone (C-3). The purpose of the C-2 zone is at zoning ordinance section 2.345, and reads as follows:

The intent of this zone is primarily to provide suitable locations for tourist commercial facilities and certain tourist related establishments. In part, this means that areas in the zone should be in close proximity to an arterial street or highway. It also means that uses allowed should be more limited than those permitted in the C-3 or C-4 zones. Regulations for the zone are designed to enhance the attractiveness and convenience of the facilities for tourist use and achieve compatibility with adjacent residential areas and overall community design objectives.

The purpose of the C-3 zone is at section 2.385 and reads as follows:

This zone is primarily for a wide range of commercial businesses, including most of those allowed in other commercial zones. Compared to the C-4 zone, the C-3 zone is more appropriate for uses requiring a high degree of accessibility to vehicular traffic, low intensity uses on large tracts of land, most repair services, and small warehousing and wholesaling operations. Unlike the C-4 zone, there are maximum lot coverage, landscaping, and off-street parking requirements for all uses.

The City Council finds that the C-2 zone's narrow purpose implies that the phrase "tourist-oriented retail sales" should be interpreted in a manner that covers fewer uses than would be allowed under the phrase "retail sales" in the C-3 zone.

c. The Planning Commission's decision in MR99-07 is based, in part, on the notion that visitors to the City are likely to be interested in renting a video for viewing in their motel room. While this is not disputed, it results in too broad an interpretation of the

phrase "tourist-oriented retail sales", because tourists are also likely to need groceries, car parts, prescription medicines, soap, eyeglasses, diapers, veterinary services, and nearly all of the other goods and services needed by City residents. It is not the City's intent to allow virtually any type of retail business under "tourist-oriented retail sales" simply because tourists trade there.

d. Several definitions from section 1.400 of the City's zoning ordinance help distinguish tourist-oriented retail sales from the broader category of retail sales, especially the definitions of Non-Tourist Oriented, Retail Sales Establishment, and Tourist-Oriented Sales or Service. The City Council interprets these phrases and their definitions in the context of the zones in which these phrases appear. The C-2 zone's purpose, reproduced elsewhere in these findings, leads the City Council to conclude that the phrase "tourist-oriented" means primarily oriented toward trade with visitors. "Tourist-oriented retail sales" clearly includes businesses like souvenir shops, and probably includes many other kinds of retail businesses as well; however, this appeal does not require that the City Council identify the full list of businesses that qualify as "tourist-oriented retail sales". AP99-04 only requires that the City Council determine whether video sales and rental fits within this category in the C-2 zone. Based on the definitions of these phrases and on the purpose of the C-2 zone, the City Council finds that "tourist-oriented retail sales" does not include video sales and rental establishments.

8. In addition to oral testimony received at the 18 October 1999 hearing, the City Council relies on the following documents in the record to reach this decision:

The City's Development Code;

The City's Comprehensive Plan;

A memorandum dated 13 October 1999 from Community Development Director Paul Benoit to City Manager Rod Leland, plus an attached summary of zones with a distinction between tourist-oriented and non-tourist-oriented sales establishments;

A letter dated 6 October 1999 from City Attorney Jeanyse Snow to City Attorney Dan Van Thiel;

A letter dated 12 October 1999 from John C. Pinkstaff of the law firm McEwen, Gisvold, Rankin, Carter & Streinz, LLP, to the Astoria City Council;

The Notice of Appeal for AP99-04, dated 22 September 1999, plus an attached letter from Port of Astoria director Peter Gearin to City Manager Rod Leland, dated 20 September 1999;

The Planning Commission's order number MR99-07, dated 24 August 1999;

A staff report dated 19 August 1999 from Community Development Department Administrative Assistant Rosemary Johnson to the Astoria Planning Commission;

Minutes from the Astoria Planning Commission meeting of 24 August 1999 as they pertain to MR99-07;

A memorandum dated 23 August 1999 from Kirk Fausett to Community Development Director Paul Benoit, and an attached letter, undated, from Paul Nichols;

Public hearing notices for the 18 October 1999 City Council hearing on AP99-04, and for the 24 August 1999 Planning Commission hearing on MR99-07.

October 13, 1999

TO: ROD LELAND, CITY MANAGER

FROM: PAUL BENOIT, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: APPEAL (AP99-04) BY PORT OF ASTORIA OF MISCELLANEOUS REVIEW
REQUEST (MR99-07) FOR INTERPRETATION

BACKGROUND

In response to a request by a developer who is proposing to locate a video sale and rental establishment in a C-2 Zone (Tourist Oriented Commercial), staff submitted a request to the Astoria Planning Commission for an interpretation of whether "video sale and rental" should be classified as "tourist-oriented retail sales". As the interpretation would apply to all zones that make the distinction between "tourist-oriented" and "non-tourist-oriented" retail sales, not just to the C-2 Zone (see Attachment A, list of zones), staff, in accordance with procedures for a legislative hearing, published the notice of public hearing in the newspaper but did not mail notices to adjacent property owners.

On August 24, 1999, the Astoria Planning Commission held a public hearing and made the interpretation that "video sales and rental establishments" should be classified as "tourist-oriented retail sales". An appeal of that decision could be made by anyone with "standing" within 15 days of the decision which would be by September 9, 1999.

On September 13, 1999, the Port of Astoria was advised of the decision, and as adjacent property owner to the proposed location on West Marine Drive, believed they should have been notified of the public hearing. On September 22, 1999, within ten days of hearing of the decision, the Port of Astoria appealed (AP99-04) the decision of the Astoria Planning Commission. City Attorney Jeanyse Snow has reviewed the appeal and has advised that she believes the Port should have been notified and does have the right to appeal the decision (see Attachment B, letter from City Attorney Snow, dated October 6, 1999). On October 13, 1999, the City received a letter from John Pinkstaff of McEwen Gisvold Rankin Carter & Streinz LLP, dated October 12, 1999 disputing the Port's standing to appeal the issue (see Attachment C). Mr. Pinkstaff represents S & H Inc., owners of the proposed location on West Marine Drive.

The City Council should first decide whether or not the Port has standing to appeal the Planning Commission decision. If the Council agrees with City Attorney Snow's interpretation, then it should proceed with the appeal hearing. Any procedural errors concerning mailed notices have been corrected with the notification for the appeal hearing.

A complete record of the issue has been compiled and is attached for your information. A public hearing on the Appeal has been advertised and is scheduled for the October 18, 1999 City Council meeting.

On 5-13-99 Call to Rosemary from Hollywood Video, Charlie Arbing, 4100 Newport Place #660, Newport Beach CA 92660, phone 949-476-2700, for 316 West Marine to locate 6,000 square foot standard building. Advised them not tourist oriented and would need to comply with conditional use for non-tourist uses. Also advised of historic review and that "cookie cutter" corporate building would need to be reviewed by HLC as they will probably require a different design as they did with the KFC. They called a second time and got the same answer.

Call from Kirk Fausett asking the same question. Advised him of the same answer given to Hollywood Video.

6-18-99 (?) Kirk called Paul and got same answer. Advised that he could go to APC for interpretation.

6-24-99 Paul said to take interpretation to apc for August 24. did not make Kirk apply and staff took it to apc.

8-23-99 fax from Kirk with letter from Blockbuster Video, Kirk states "This is the info I got from a competitor to Hollywood Video and in a tourist oriented town.

8-24-99 APC meeting clearly idicates that it was in response to a specific site but would have far reaching effect. "While it is common knowledge that they are looking at the property to the east of the KFC on West Marine Drive, the interpretation would be applied to any C-2 Zone."

The following zones make a distinction between “tourist-oriented retail sales or service establishments” and “non-tourist-oriented retail sales”.

C-2 Zone (Tourist-Oriented Commercial)

Outright Use

Tourist-oriented retail sales or service establishment

Conditional Use

Non-tourist-oriented retail sales or service establishment, less than 50% of gross floor area and not on ground floor

A-2 Zone (Aquatic Two Development)

Conditional Use

Tourist-oriented retail sales or service establishment which provides significant visual access to the waterfront

A-2A Zone (Aquatic Two-A Development)

Conditional Use

Tourist-oriented retail sales or service establishment which provides significant visual access to the waterfront

S-2A Zone (Tourist-Oriented Shoreland)

Outright Use

Tourist-oriented retail sales or service establishment

Conditional Use

Non-tourist-oriented retail sales or service establishment

“Retail sales establishments” are allowed as an outright use in the following zones:

- C-1 (Neighborhood Commercial)**
- C-3 (General Commercial)**
- C-4 (Central Commercial)**
- MH (Maritime Heritage)**
- FA (Family Activity)**
- CA (Campus)**
- HR (Hospitality/Recreation)**
- LS (Local Service)**

“Retail sales establishments” are allowed as a conditional use in the following zones:

- S-2 (General Development Shoreland)**
- AH-HC (Attached Housing-Health Care)**
- HC (Health Care)**
- AH-MP (Attached Housing-Mill Pond)**

HAROLD A. SNOW
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ROBERT C. MACDONALD
1921-1997
IN MEMORIAM

TELEPHONE (503) 325-2511

RECEIVED

FACSIMILE (503) 325-6453

OCT - 8 1999
COMMUNITY
DEVELOPMENT DEPT.

October 6, 1999

COPY

Dan Van Thiel
#10 Sixth Street, Suite 204
PO Box 688
Astoria, Oregon 97103

Re: Port of Astoria appeal to
Astoria City Council : zoning

Dear Dan:

At the next meeting (I believe) of the City Council there will be an appeal by the Port of Astoria of a decision by the Planning Commission on an "interpretation." The issue was basically whether a video rental store was within the definition of a "tourist-oriented retail sales or service establishment."

At the Planning Commission level, Staff treated this interpretation as a legislative matter, and did not send any individual notices to property owners. The interpretation question did arise, however, out of the request of someone who is interested in locating a video rental store next to the Kentucky Fried Chicken business.

After the appeal time (10 days) ran, the Port of Astoria sought to appeal it. The Port of Astoria is one of the nearby property owners that would have received mailed notice if this had been treated as a quasi judicial (as opposed to legislative) hearing.

So the threshold question is whether or not the Port can appeal within 10 days of when it learned of the decision, i.e., should it have been processed as a quasi judicial matter? Since the question arose in the context of a specific business and a particular location, I am of the opinion that it should have been treated as a quasi judicial matter and the Port has standing to appeal. The Port apparently did appeal within 10 days of the date it learned of the decision.

October 6, 1999

If you agree, then the City Council can be advised to go ahead and hear the appeal. Mailed notice of the appeal hearing (as well as notice by publication) was properly made to property owners. So the Council can, at the same meeting, proceed to hear the merits of the appeal. The proper notice, etc., at the appeal level cures any procedural defects at the Planning Commission level.

If you want to discuss this, please feel free to call.

Very truly yours,

SNOW & SNOW

Jeanyse R. Snow

JRS/dh

CC: Paul Benoit

C:\Wpdata\JRS\LET\VanThiel Port appeal.wpd

RECEIVED

OCT 13 1999

**COMMUNITY
DEVELOPMENT DEPT.**

**MCEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP**
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johnp@mgrcs.com

October 12, 1999

City of Astoria City Council
1095 Duane St.
Astoria, Oregon 97103

Re: Appeal (AP99-04) by Port of Astoria of August 24, 1999 code interpretation ruling by the Astoria Planning Commission in MR99-07

Dear City Council:

This office represents S & H, Inc. This matter is before the Astoria City Council ("Council") pursuant to an appeal (AP99-04) by Port of Astoria of August 24, 1999, of a code interpretation ruling by the Astoria Planning Commission in MR99-07 which found that "video sales and rental establishment" qualifies as a "tourist-oriented retail sales or service establishment" which is permitted outright in the C-2 (Tourist Oriented Commercial) zone.¹

Please enter this letter into the record.

1. There is no jurisdiction to hear the appeal of the Planning Commission's interpretation.

The Planning Department was correct when it initially treated the interpretation issue in MR99-07 as a legislative, rather than a quasi-judicial, decision, and therefore followed the form of notice required under the Astoria Development Code for legislative matters, that is, published

¹In addition to the C-2 zone, the appeal notice also references three other zones: A-2 (Aquatic Two Development) and A-2A (Aquatic Two A Development) and S-2A (Tourist Oriented Shoreland) Zones. To the extent that the focus of the planning commission order and findings was on the C-2 zone, the interpretational issue was whether a video sale and rental establishment may be classified as a "tourist-oriented retail sales or service establishment" which is an outright permitted use in the C-2 zone. To the extent that the Planning Commission's focus was broader, including all property "within the City limits of Astoria," (see Order No. MR99-07), the "tourist-oriented retail sales or service" is classified more restrictively in the other three zones: as a conditional use in the A-2 and A-2A zones, and contains the additional requirement of "significant visual access to the waterfront" to qualify as a permitted use in the S-2A zone. However, for purposes of this discussion, we will focus on the C-2 zone, but also assume a city wide interpretation in which the interpretation of the term "tourist-oriented retail sales or service establishment" will have a common meaning in these three other zones as well, even if the application of the term is more restrictive in those zones than in the C-2 zone.

MCEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP

City of Astoria City Council
October 12, 1999
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notice, not mailed notice to individual affected property owners. The Council can affirm the Planning Department's procedural action for the following reasons:

- A. The city-wide zoning district interpretation was more of an administrative or legislative decision than a quasi-judicial decision

For purposes of determining the type of hearing and type of notice required for a land use decision, a distinction must be drawn between administrative or legislative decisions versus quasi-judicial decisions. The test for determining whether a matter is legislative or quasi-judicial consists of consideration of three questions identified by the Oregon Supreme Court in *Strawberry Hill 4-Wheelers v. Board of Commissioners of Clackamas County*, 280 Or 3, 10-11 (1979):

1. Is the process bound to result in a decision?
2. Is the decision bound to apply preexisting criteria to concrete facts?
3. Is the action directed at a closely circumscribed factual situation or a relatively small number of persons?

The more definitely these questions are answered in the negative, the more likely the decision under consideration is a legislative land use decision. *Valerio v. Union County*, 34 Or LUBA 983, 984 (LUBA No. 97-150; decided 10/27/97); *Waite v. City of La Grande*, 31 Or LUBA 77, 81 (1996). The answer to each of the questions must be weighed; no single answer is determinative. *Id.* (citing *Estate of Paul Gold v. City of Portland*, 87 Or App 45, 740 P2d 812, rev den 304 Or 405 (1987)).

1. The process was not necessarily bound to result in a decision.

As far as we know, there was no formal application or application fee for the review in MR 99-07 by the Planning Commission. If there was an applicant in MR 99-07, it was the Planning Director. Thus, the decision was not a permit subject to the statutory time limits or "120-day rule" under ORS 227.178² because it was not an application for a "permit." See ORS 227.160(2)(b).³

²ORS 227.178 provides in part:

"the governing body of a city or its designee shall take final action on an application for a permit . . . within 120 days after the application is deemed complete."

³ORS 227.160 provides in part:

As used in ORS 227.160 to 227.185:

Where the city had no permit application before it and it was entitled to proceed or not proceed as it saw fit, the decision was administrative or legislative and not quasi-judicial. See *Dames v. City of Medford*, 10 Or LUBA 179, 191 (1984); *Dames v. City of Medford*, 426, 427(1984)⁴

Therefore, based on the first factor, the interpretative action was administrative or legislative and not quasi-judicial in nature.

2. The decision was not bound to apply preexisting criteria to concrete facts.

Unlike an application of a development permit for a specific parcel, this request for an interpretation of the definition of a term in the ordinance did not involve any specific facts about a particular property. Instead, the request was whether "video sales and rental establishments" generally come within the definition of the definition of "tourist-oriented sales or service establishment," a term which is applied in at least four different zoning districts.⁵ In contrast, an

* * *

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

* * *

(B) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted, with the zone, and the determination applies only to land with an urban growth boundary;"

⁴ As LUBA stated in *Dames, supra*, 10 Or LUBA at fn 5:

"In this case, the Board tends to believe the decision has more of an administrative quality or a legislative quality than a quasi-judicial quality. The decision includes application of fixed policies and does not involve the making of new policy. In this manner, the decision is rather more like a quasi-judicial decision than a legislative one. However, while the decision may be seen as affecting a relatively small number of people living along the street, the decision has an effect on the whole traffic pattern of the area. The widening thus touches the lives and habitats of a great number of citizens of Medford. Also, there is nothing in this decision which is at all like an application which must be seen to its eventual conclusion. That is, there is no application for a permit in the same manner as an application may be tendered for a conditional use permit. The decision of the city to proceed with the widening project is entirely the city's which the city was free to initiate, not initiate or halt as it saw fit. For these reasons, the Board tends to feel that the decision is more like a legislative or administrative decision, than a quasi-judicial one. See *Strawberry Hill 4-Wheelers v. Board of Commissioners of Clackamas County*, 280 Or 3, 10-11 (1979) and *Neuberger v. City of Portland*, 288 Or 155, 603 P2d 771 (1979)." (Emphasis added)

⁵The interpretation also had ramifications for three other zoning districts, the A-2, A-2A and S-2A zones, as discussed in footnote 1.

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City of Astoria City Council
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application for a development permit for a specific property would be quasi-judicial in nature.⁶ See *Columbia Hills Development Co. v. Columbia County*, ___ Or LUBA ___ (LUBA No 97-160 and 97-161; decided 8/17/98) (Order Motion to Dismiss).⁷

Although it has been suggested that the second factor is arguably present to some extent in nearly all land use decisions, insofar as there are preexisting criteria (e.g. the comprehensive plan) applicable to concrete facts⁸, in this case there is no specific proposal which concerns a particular property with concrete facts. Instead, there is only a definition of a term applicable in four city-wide zoning districts. In the absence of specific details regarding a proposed development and particular site of the development, it cannot be said to be "bound to apply preexisting criteria to concrete facts."

Based on this second factor, the interpretative action was administrative or legislative and not quasi-judicial in nature.

3. The action was not directed at a closely circumscribed factual situation or a relatively small number of persons.

The interpretation will affect a variety of factual situations and people, but it also affects all land within an entire zone. As such, the interpretation cannot be viewed as "directed at a closely circumscribed factual situation or a relatively small number of persons." See *Valerio v. Union County*, 34 Or LUBA 983, 984 (LUBA No. 97-150; decided 10/27/97); and *Waite v. City of La Grande*, 31 Or LUBA 77, 81 (1996).

It may be argued that it was known that one or more specific properties in the C-2 zone were being considered for a possible video store. However, as discussed above, no application

⁶Indeed, if one accepts the Planning Commission's interpretation that a video sales and rental establishment qualifies as a "tourist-oriented retail sales or service establishment" and an application for a building permit for a video store is filed, then we understand that there would be a design review requirement, and that, as such, the application of design review criteria to the concrete facts pertaining to the particular development would be quasi-judicial. Such a future quasi-judicial decision on a specific land use application affecting a single property stands in stark contrast to the present legislative action involving interpretation of a term applied in three zoning districts on a city-wide basis.

⁷In *Columbia Hills Development Co. v. Columbia County*, *supra*, LUBA denied a motion to intervene based on inadequate notice of a legislative interpretation, where the county had provided notice to property owners within 250 feet for a building permit application, but only provided published notice of a legislative interpretation stating that it made a legislative decision because the interpretation affected property owners throughout the county. Id. At 310-311.

⁸See *Valerio v. Union County*, *supra* at 984.

City of Astoria City Council
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had been made, no property had been selected, and as a result, the decision of the Planning Commission was general in nature: "The Astoria Planning Commission finds that a 'video sales and rental establishment' shall be classified as 'tourist-oriented retail sales or service establishment.'" See, Planning Commission Order No. MR99-07, dated August 24, 1999.

The Director's request was for an interpretation of the zoning district definition as it applied in the C-2 zone on a city-wide basis. Although the developer who requested to construct a video sales and rental establishment in the C-2 Zone was known to be looking at certain property, "the interpretation would be applied to any C-2 Zone." See, Planning Commission Minutes 8-24-99. Moreover, the factual situation was very general and not at all a closely circumscribed factual situation. The testimony related to video stores in locations other than the property in which the developer was considering. This is not a decision which focused on the specific details of a proposed development or the characteristics of particular parcels relative to the proposed use so as to be directed at a narrow factual situation, affecting few persons. See, *Casey Jones Well Drilling v. City of Lowell*, 35 Or LUBA 680, 683 (1997) (holding that where only the second factor is answered in the affirmative, the city's decision amending its mobile home park ordinance was a legislative decision, and the notice and hearing requirements for a quasi-judicial action under ORS 197.763 did not apply.) Given the fact that the interpretation applied in at least four zoning districts city-wide, one cannot say that only a small, number of property owners were to be affected by the interpretation.

Based on the third factor, the interpretative action was administrative or legislative and not quasi-judicial in nature..

Under the three factors announced in *Strawberry 4-Wheelers v. Bd. Of Comr's for Benton Co.*, *supra*, it is clear that the action was administrative or legislative, not quasi-judicial, in nature.

- B. The Planning Department did not err in failing to send mailed notice of the hearing on the interpretation to all property located within a certain distance of the C-2, A-2, A-2A, and S-2A zones.

The statutes governing required notices and hearings establish different requirements for legislative land use decision, permit decisions and quasi-judicial land use decisions.⁹

⁹See *Waite v. City of La Grande*, *supra* at 81 (stating that where the challenged decisions clearly were not actions on a "permit" as that term is defined in ORS 227.160, the notice requirements of ORS 227.175(10)(a) do not apply.

MCEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP

City of Astoria City Council
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Page 6

Likewise, the local development code makes the same distinction. Mailed notice is required for quasi-judicial actions, whereas published notice is all that is required for a legislative decision. See Section 9.020 b.1.a.. Being a city-wide C-2 zoning district interpretation, there was no specific property which was the subject of the notice.

As a result, published notice is all that is required for a legislative interpretation. The notice of the Planning Commission hearing was adequate. There was no procedural error regarding the notice of the Planning Commission hearing. If this argument is rejected, then the Council has effectively said that the Planning Department was required to send mailed notice to all property within 100 feet of all C-2, A-2, A-2A and S-2A zones within the city. This would seem to raise practical problems and set a precedent which requires mailed notice for all such future general interpretation actions by the City.

- C. The appeal of the Planning Commission's decision was untimely and should be dismissed for lack of jurisdiction.

Administrative action may be appealed to the Commission within 15 days of the mailing of the decision Order. See Astoria Development Code (ADC) Sec. 9.040 A. The Planning Commission's Decision was made August 25, 1999. The appeal was filed September 22, 1999, more than 15 days after mailing of the decision Order.

2. Even if the appeal is considered, the Planning Commission's interpretation that a video sale and rental establishment is an outright permitted use in the C-2 Tourist Commercial Zone was correct and should be affirmed by the City Council.

- A. Uses permitted outright in the C-2 Tourist Commercial Zone include "tourist-oriented retail sales or service establishment."

The outright permitted uses in the C-2 Tourist Commercial Zone include "tourist-oriented retail sales or service establishment." (Emphasis added) See, ADC section 2.350

"The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission . . . on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations."

" * * *

"(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

"(A) Within 100 feet of the property which is the subject of the notice."

- B. The definition of "tourist oriented sales or service" in the C-2 Tourist Commercial Zone includes uses or activities which are reasonably expected to be of interest to visitors.

The definition of "tourist oriented sales or service" in the C-2 Tourist Commercial Zone includes "uses or activities which are reasonably expected to be of interest to visitors." See, ADC section 1.400. This is a general standard, capable of encompassing a variety of uses, and the failure to specifically list video stores is not an indication that video stores or any other uses which are reasonably expected to be of interest to visitors (such as a book store or gift shop) cannot be allowed as outright permitted uses in the C-2 zone.

- C. In light of the text and context of the term, a "video sales and rental establishment" qualifies as a "tourist oriented sales or service" because it is a use which is "reasonably expected to be of interest to visitors."

1. Text

A video store is a use which falls within the plain meaning of the phrase "reasonably expected to be of interest to visitors."

Tourists are likely to want or need places to serve their traveling and entertainment needs. Watching movies, eating ice cream, or buying gifts and cards come to mind as commonly understood visitor activities. Although none of these are specifically listed in the list of uses in ADO 2.350, it is reasonable to assume that these activities are examples of tourist-oriented facilities because they are reasonably expected to be desired by tourists in the area. By contrast, a home furnishing store or plumbing store may not be within the plain meaning of this phrase because it may be less likely to appeal to the entertainment or traveling needs of visitors.

2. Context

The definition should be read in conjunction with the purpose section of the C-2 zone section of the ordinance. The purpose of the C-2 zone, provides that "Regulations for the zone are designed to enhance the attractiveness and convenience of the facilities for tourist use and achieve compatibility with adjacent residential areas and overall community design objectives." (emphasis added) See ADC section 2.345

Tourists who are seeking entertainment can be reasonably expected to be interested in buying or renting video movies to watch (in their motel, rental house or RV). It enhances the

MCEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP

City of Astoria City Council
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Page 8

convenience for tourists to have video rentals at a location in close proximity to other tourist oriented uses, such as restaurants, book stores and gift shops.

The fact that residents in nearby residential areas will also go to a video store in a C-2 zone demonstrates that the interpretation rendered by the Planning Commission will also achieve compatibility with adjacent residential areas.

Conclusion

First, the City Council can find that the interpretation was a legislative, not a quasi-judicial, action, that published notice was adequate, and that the appeal in this case should be denied because it was untimely.

Second, even if the appeal is held to be timely, the City Council can find that the Planning Commission was correct in its interpretation that a video sales and rental store is an outright permitted use in the C-2 zone as a "tourist-related retail sales or service establishment" because it can be reasonably expected to be of interest to visitors.

Thank you in advance for your consideration in this matter.

Very truly yours,



John C. Pinkstaff

copy: ✓ Ms. Rosemary Johnson, Community Development Department
Mr. Todd Stewart



805 SW Broadway, Suite 2400, Portland, OR 97205

CORINNE CELKO
Admitted in Oregon
(503) 467-0396
corinne@emergelawgroup.com

January 23, 2019

VIA REGULAR US MAIL

City of Astoria
Community Development
Planning Commission
1095 Duane Street
Astoria, OR 97103

CITY OF ASTORIA
JAN 23 2019
BUILDING CODES

Re: Deshé, Inc. Request for Miscellaneous Review—Request for Interpretation

Dear Sir/Madame:

Our firm represents Deshé, Inc., a retail marijuana applicant who requests interpretation of a City of Astoria Development Code definition. Please find enclosed the request for Miscellaneous Review along with our check number 2125 in the amount of \$350.00 as payment of the fee for commission review.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Corinne Celko', is written over a faint, larger version of the signature.

Corinne Celko
Attorney

cc: Client



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

Fee Paid Date 1-23-19 By check 2125 NFMR 19-01

\$350.00 Commission

Fee: \$200.00 Administrative

MISCELLANEOUS REVIEW (Part 1 – Add Specific Misc. Review Docs)

Property Address: 3930 Abbey Lane, Astoria, Oregon 97103Lot _____ Block _____ Subdivision Cannery Loft CondoMap T8NR9W Sec 9AA Tax Lot 90106 Zone S-2AApplicant Name: Jeremy LumachiMailing Address: 17763 SE 82nd Drive, Suite D, Gladstone, Oregon 97027Phone: (208)286-8172 Business Phone: _____ Email: info@deshefarms.comProperty Owner's Name: Nomadic Properties LLCMailing Address: 3621 SW Humphrey Blvd, Portland, OR 97221Business Name (if applicable): Deshe' Inc.

Signature of Applicant:

Jeremy Lumachi

Signature of Property Owner:

[Signature]Proposed Construction / Use: Request for interpretation of "tourist-oriented retail sales or service" to include Applicant's recreational cannabis retail store (see attached Miscellaneous Review Narrative)**For office use only:**

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

JAN 23 2019

BUILDING CODES

Miscellaneous Review Narrative of Deshe' Inc.

Deshe' Inc. ("Deshe'") was formed with the intent of establishing a recreational cannabis retail store located at 3930 Abbey Lane, Astoria, Oregon 97103 (the "**Property**"). Oregon is one of only ten states that allow adult-use cannabis sales and many out-of-state visitors flock to Oregon to take advantage of the legalization of recreational cannabis. In addition to the sale of cannabis, the Deshe' retail store will showcase visual artwork, glass-blown pipes, and other handcrafted goods made by local artists that will be available for purchase. Deshe' will also sell its cannabis in packaging with a distinguishing attribute that highlights the character of the City of Astoria. Deshe' believes tourists will appreciate the aesthetic of an Astoria recreational cannabis retail store dedicated to displaying the unique artistry and craftsmanship of the Oregon coastal region.

A. Standard of Review

Deshe' requests that the Astoria Planning Commission make an interpretation as to whether a recreational cannabis retail store that showcases and sells cannabis, local art, and handcrafted goods is classified as a "tourist-oriented retail sales establishment." Under ORS 197.829, "[t]he Land Use Board of Appeals [LUBA] shall affirm a local government's interpretation of its...land use regulations, unless the board determines that the local government's interpretation: (a) is inconsistent with the express language of the...land use regulation; (b) is inconsistent with the purpose for the...land use regulation; [or] (c) is inconsistent with the underlying policy that provides the basis for the...land use regulation..."

Similarly, in *Church v. Grant County*, the Oregon Court of Appeals stated "[t]he legitimacy of an interpretation of a local plan and ordinance provision depends on its consistency with the terms of the provision, the context of the provision, and the purpose or policy behind the provisions." 187 Or. App. 518, 524 (2003). The standard of review under *Church* mirrors that of ORS 197.829: a local government's interpretation of its land use regulations requires consistency with the express language, context, and purpose of the regulation.

State law provides that "whether a local government's interpretation is 'inconsistent'...depends on whether the interpretation is plausible...." *Foland v. Jackson County*, 215 Or. App. 157, 164 (2007). As discussed in more detail below, the Deshe' retail store is a "tourist oriented retail sales establishment" because it complies with the express language, context, and purpose of the definition "tourist-oriented sales or service."

B. Analysis

1. The Deshe' retail store will comply with the express language of the definition of "tourist-oriented sales or service"

The Property is located in the S-2A (Tourist Oriented Shoreland) Zone in the City of Astoria. Although cannabis dispensaries are not specifically listed as a permitted use in the S-2A Zone, Section 2.705 of the City of Astoria Development Code (the "**Development Code**") lists "tourist oriented retail sales establishment" as a permitted use in the S-2A Zone. "Tourist-oriented sales or service" is defined in Section 1.400 of the Development Code as "[a] use or business which devotes 50% or more of its gross

floor area to uses or activities which are open or physically accessible to the public, and are reasonably expected to be of interest to visitors.”

Deshe’ will devote more than 50% of its floor area to uses that are open or physically accessible to the public. Substantially all of the floor area of the Deshe’ retail store will be open and physically accessible to the public. Although cannabis dispensaries can only legally admit individuals 21 years or older, dispensaries are still “open or physically accessible to the public.” It would be implausible to categorize breweries, vineyards, comedy clubs, and other venues as not open to the public simply because entry is only granted to those over the age of 21. Cannabis dispensaries are similar to those establishments in that they grant restricted access based on age but otherwise do not differentiate among its guests. Therefore, substantially all of the floor area of the Deshe’ retail store will be open and physically accessible to the public.

Additionally, the cannabis, artwork, and handcrafted goods offered for sale at Deshe’ are reasonably expected to be of interest to visitors in part because the goods are locally made or grown. The City of Astoria’s City Council (the “**City Council**”) has previously considered the question of whether a business is a “tourist-oriented sales or service.” In Order No. AP99-04 on MR99-07 In the Matter of an Appeal of a Miscellaneous Review (the “**Order**”), the City Council considered whether a video rental store should be classified as a “tourist-oriented retail sales or service establishment” in a C-2 Zone. The statements made in the Order are instructive in determining whether a cannabis recreational retail store is classified as a “tourist oriented retail sales establishment.”

In the Order, the City Council stated “[T]ourists are likely to need groceries, car parts, prescription medicines, eyeglasses, diapers, veterinary services and nearly all of the other goods and services needed by City residents. It is not the City’s intent to allow virtually any type of retail business under ‘tourist-oriented retail sales’ simply because tourists trade there.”

However, while it is true that tourists purchase basic necessities when travelling and such establishments should not be considered “tourist-oriented,” the cannabis, artwork, and handcrafted goods that will be offered at Deshe’ simply do not fall under those typical categories of items. Most visitors travelling to Astoria would not purchase Deshe’s items out of necessity; it is more likely a visitor would purchase items at Deshe’ because of the special character of the items offered for sale and as a token reminder of their time in Astoria.

Deshe’ will dedicate substantially more than 50% of its gross floor area to uses that are physically open and accessible to the 21+ public and will showcase and sell items which are reasonably expected to be of interest to visitors. It would be implausible, and therefore inconsistent with the express language of Section 1.400 of the Development Code, to interpret “tourist-oriented retail sales or service” as not including a recreational cannabis retail store dedicated to showcasing and selling the artwork and goods of local residents to tourists visiting Astoria.

2. The Deshe’ retail store fits within the context of the definition of “tourist-oriented sales or service”

The Deshe’ retail store squarely fits within the permitted use “tourist oriented retail sales establishment” in the S-2A Zone. “Retail Sales Establishment” is defined in Section 1.400 of the Development Code as “[b]usinesses, including a restaurant or bar, which are primarily engaged in selling

merchandise to customers for personal, household, or farm use.” This definition is extremely broad and would include basically any items offered for sale. Clearly the City of Astoria did not intend “tourist oriented” to modify such a broad category of retail sales.

The Development Code Section 1.030 provides only one rule of local government interpretation: “If the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by another provision of this Code or of any other ordinance of the City, the provision which is *more restrictive* shall govern.” In line with this view, the City Council stated in its Order, “[t]he City’s intent when creating the use category ‘tourist oriented retail sales or service establishment’ in the C-2 zone, *and similar use categories in other zones*, was to describe a smaller group of uses than are allowed under the broader category ‘retail sales establishment.’” The City Council went on to state that “‘tourist-oriented retail sales’ means primarily oriented toward trade with visitors . . . like souvenir shops”

Even under the most restrictive interpretation, Deshe’ more specifically fits under the narrower category “tourist-oriented retail sales or service” rather than the broader category “retail sales establishment.” Deshe’ intends to operate in a narrower manner than typical retail sales establishments in that it will operate as a quasi-souvenir shop offering items for sale that are of particular interest to visitors of Astoria. Deshe’ will sell flower and other cannabis items that attract out-of-state visitors who do not have access to recreational marijuana. By purchasing cannabis at Deshe’, visitors will have the opportunity to take their cannabis out of the store in special packaging that highlights the hallmarks of Astoria. Deshe’ will also sell artwork, local glass-blown pipes, and other handcrafted items that are unique to Oregon and its renowned coastline.

A recreational cannabis retail store showcasing and selling local art and handcrafted goods would not be as successful if built in the more inland area of Astoria. Tourists visiting Astoria are specifically drawn to the coastline, and the unique, local items offered for sale by Deshe’ will be of particular interest to out-of-state visitors as well as Oregonians visiting Astoria. For this reason, characterizing Deshe’ under the broader category “retail sales establishment,” rather than the narrower category “tourist-oriented retail sales establishment,” is implausible and does not align with the context of the “tourist-oriented sales and service” definition.

3. The Deshe’ retail store will satisfy the purpose underlying the definition of “tourist-oriented sales or service”

Deshe’ will fully satisfy the purpose underlying the definition of “tourist-oriented sales or service.” Section 2.700 of the Development Code provides that the purpose of the S-2A Zone is “to provide for mixed-use tourist-oriented development that retains and takes advantage of the working waterfront character of the area.”

The modern-day reality of the working waterfront character of Astoria is reflected in the permitted uses listed for the S-2A Zone. Along with “tourist-oriented retail sales establishments,” other permitted uses in the S-2A Zone include eating, drinking, and entertaining establishments, hotels, theaters, and museums. Deshe’ will add diversity to the current mix of tourist operations already permitted in the S-2A Zone.

A recreational cannabis retail store located near Astoria's waterfront is an attraction to visitors and will further encourage tourists to visit and learn about the historical waterfront area. Additionally, the regionally local artwork showcased and sold at Deshe' may at times include historical images of the working waterfront character of Astoria, providing visitors to the retail store an added opportunity to view and learn about the culture and history of the area.

C. Conclusion

Since the legalization of recreational marijuana in Oregon, cannabis dispensaries have become a popular tourist destination for out-of-state visitors. Although Deshe' will not be solely visited by tourists, the Deshe' retail store is slanted towards tourists. Virtually all of Deshe's floor area will be open and physically accessible to the public and the cannabis, artwork, and handcrafted pipes and goods offered for sale are reasonably expected to be of interest to visitors. It would be implausible and inconsistent with the express language, context, and purpose of the definition to deny Deshe' status as a "tourist-oriented retail sales establishment." Therefore, Deshe' should be granted permission to operate in Astoria's S-2A Zone.



CITY OF ASTORIA

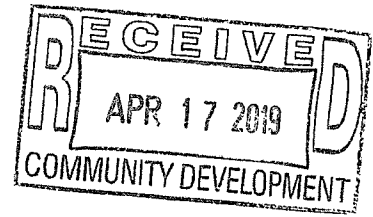
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MEMORANDUM • COMMUNITY DEVELOPMENT

DATE: APRIL 17, 2019
TO: PLANNING COMMISSION
FROM: BRETT ESTES, AICP, CITY MANAGER
SUBJECT: SUPPLEMENTAL COVER MEMO FOR STAFF REPORT, MR 19-01

A cover memorandum dated April 15, 2019 transmitted testimony received by April 16, 2019. Additional testimony was received on April 17th and is attached to the supplemental cover memorandum.

April 6, 2019



Mayor Bruce Jones and Astoria City Planning Commission
1095 Duane Street
Astoria, OR 97103

Dear Sir,

We purchased our Cannery Loft condo in 2010. Not once did we ever imagine the possibility that a marijuana shop would ever be part of a predominantly residential complex. In 2010 we did not have laws that allowed for that type of activity. This is a major concern since we have family and friends with children who come to visit. In our building there are families with young children. It is our opinion that the value of our condo will be greatly compromised by marijuana activity, and the clientele that would frequent this type of business.

We have signed the Cannery Loft petition against allowing a marijuana business. We would like to request that any zoning change would eliminate any possibility of a marijuana business from going forward.

One suggestion would be to re-zone the commercial space to all residential condominiums since there is a lack of housing in Astoria.

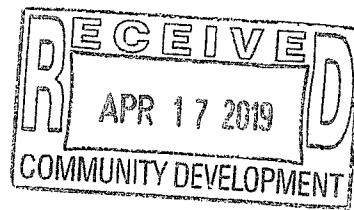
Sincerely,

W. Broussard

Kathy R. Broussard

William and Kathy Broussard
3930 Abbey Lane #204 A
Astoria, OR 97103

Phone 503.524.9011



To Whom It May Concern:

It has come to our attention that a CBD distribution center or sales office wants to be placed in our residential building. When we purchased our unit we were promised that it would be certain business such as accounting and not on of sales.

I am very much against having this in our building for the following reasons:
My office in McMinnville has a CBD sales across the street. It brings lots of traffic in a small concentrated area (not appropriate for residential). It also has a distinct odor and it permeates through the building. That is similar to chemicals or smoking. Also most of those people that we have seen are always smoking cigarettes outside of the building. Again an issue for residential area.

I don't have an issue with CBD use. I think it is useful. However a better location is exactly across the street from the Cannery Lofts. It is a business units and is less than 1/2 block away. I think that would be a better location for the business and should be highly considered.

Sincerely

Gene Dixon

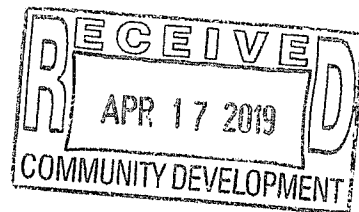
and

Ingrid Viljak

4-15-2019

309 B

PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE



We the undersigned are in agreement with the Planning Commission's consideration for S2-A Permitted Use for "tourist retails sales" which would not allow a marijuana facility to be licensed to operate within a predominantly residential building and mixed use property that includes a residence.

We also strongly recommend that pursuant to the City Council decision for Conditional Use Permit (CU16-10- December 2016), that we the undersigned also ask that an amendment to the zoning codes be addressed so the issue of mixed use buildings and marijuana facilities are clearly defined so this matter can be resolved once and for all.

Our property occupies 2 buildings on 39th and Abbey Lane, known as the "Cannery Loft Condominiums" and this complex is predominantly residential with 63 residential units and 17 commercial units. The residential units occupy the 3 floors directly above the ground floor commercial units. Please keep this into consideration when making any future decision on zoning interpretations.

1. Brian A. Jepsen
Signature

203A
Unit #

2. Penny J. Jepsen
Signature

203A
Unit #


PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE



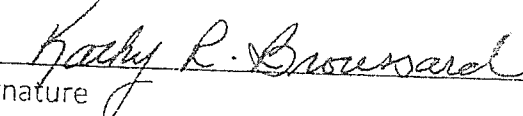
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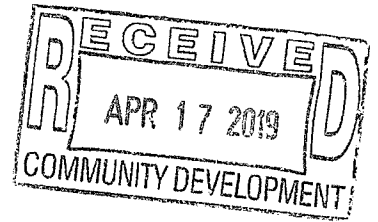
1. 
Signature W. F. BROUSSARD

204A
Unit #

2. 
Signature

204 A
Unit #

PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE



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1.

Signature

2.

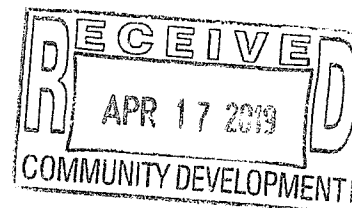
Signature

Unit #

Unit #

205 A

411 B



**PETITION UPDATES FOR ZONING INTERPRETATION
FOR
S2-A PERMITTED USE**

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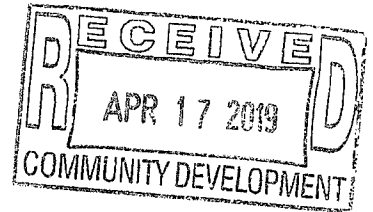
1. Lisa Ackerman
Signature

Unit #210A

2. _____
Signature

Unit #

PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE



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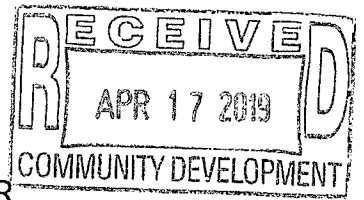
1. Rachell van Colclitz
Signature

303A
Unit #

2. _____
Signature

Unit #

Representing myself as a homeowner



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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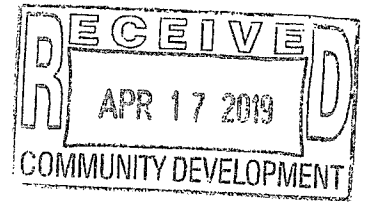
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1. Larry Sullivan
Signature

304 A
Unit #

2. Margaret A. Blom
Signature

304 B
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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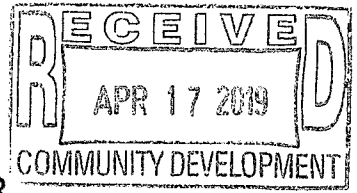
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1. *Catherine Mung*
Signature

305 A
Unit #

2. *William C Colwell*
Signature

305 A
Unit #

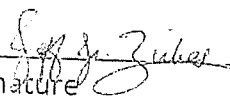


PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

We the undersigned are in agreement with the Planning Commission's consideration for S2-A **Permitted Use** for "tourist retails sales" which would not allow a marijuana facility to be licensed to operate within a predominantly residential building and mixed use property that includes a residence.

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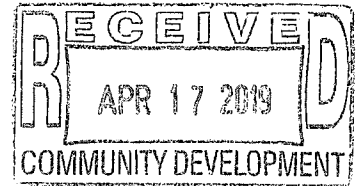
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1. 
Signature

307A
Unit #

2. _____
Signature

Unit #



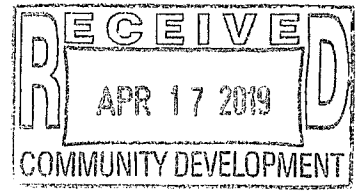
**PETITION UPDATES FOR ZONING INTERPRETATION
FOR
S2-A PERMITTED USE**

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1. *Jean Dantora* *308 A*
Signature *Representing myself as a concerned homeowner* Unit #
2. _____
Signature _____ Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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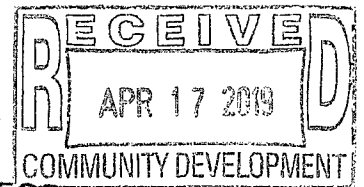
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1. Shirley A. Green
Signature

A-310
Unit #

2. _____
Signature

Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

We the undersigned are in agreement with the Planning Commission's consideration for S2-A Permitted Use for "tourist retail sales" which would not allow a marijuana facility to be licensed to operate within a predominantly residential building and mixed use property that includes a residence.

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John Doeby

1.

Signature

2.

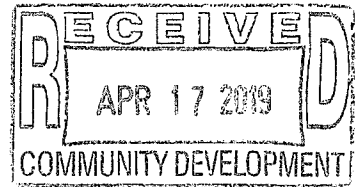
Signature

Unit #

Unit #

402 A

402 A



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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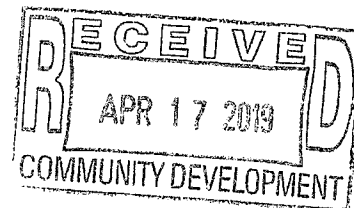
1. Joe Bakken
Signature

406A

Unit #

2. _____
Signature

Unit #



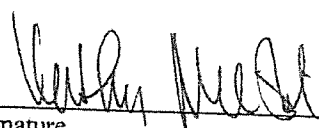
**PETITION UPDATES FOR ZONING INTERPRETATION
FOR**

S2-A PERMITTED USE

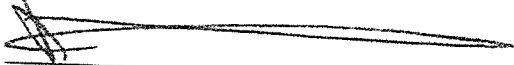
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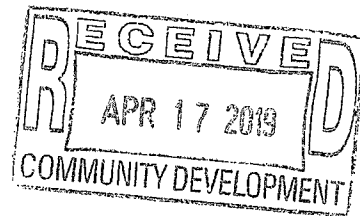
1. 
Signature

407A
Unit #

2. 
Signature

407A
Unit #


PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE



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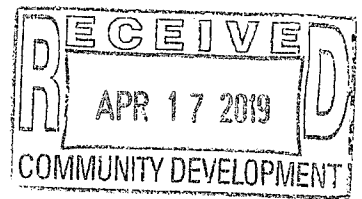
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1. 
Signature

410 A
Unit #

2. _____
Signature

Unit #

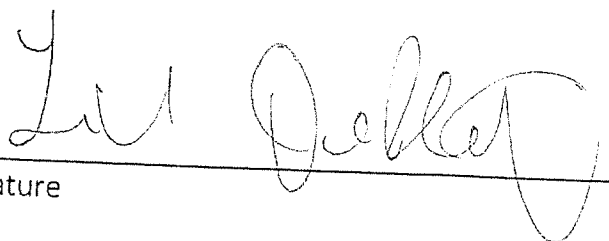


**PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE**

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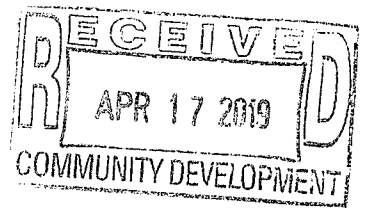
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1. 
Signature

202B
Unit #

2. _____
Signature

Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR S2-A PERMITTED USE

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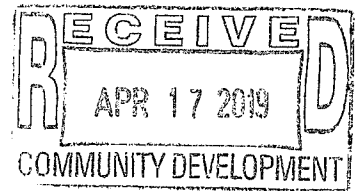
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1. 
Signature

203 B
Unit #

2. 
Signature

203 B
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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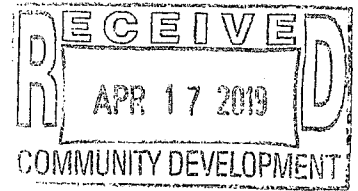
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1. Russell Calahan
Signature

204-B
Unit #

2. Donna Calahan
Signature

204-B
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR S2-A PERMITTED USE

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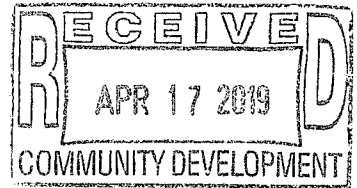
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1. Paul R. Gu
Signature

B207
Unit #

2. Linda M. Rogers
Signature

B207
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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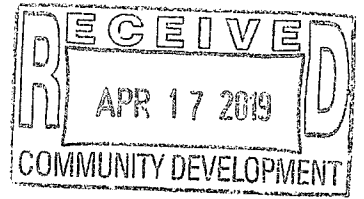
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1. Philip A. Matteo
Signature PHILIP A. MATTEO

B-210
Unit #

2. Angela Matteo
Signature ANGELA MATTEO

B-210
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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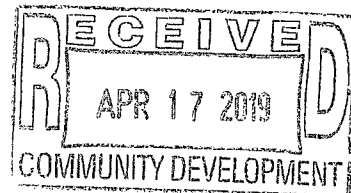
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1. Candice L. Huston
Signature

211 B
Unit #

2. _____
Signature

Unit #



**PETITION UPDATES FOR ZONING INTERPRETATION
FOR
S2-A PERMITTED USE**

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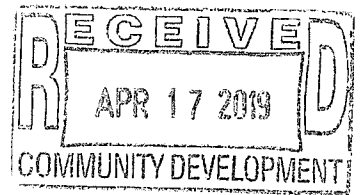
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1. Steve Flath
Signature STEVE FLATH

Unit # 301B

2. Paul Brodie
Signature PAUL BRODIE

Unit # 301B



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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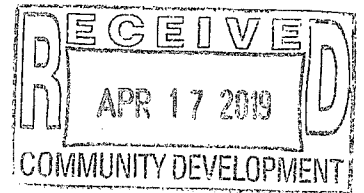
1. Signature

Ernst Schultze

Unit # B306

2. _____
Signature

Unit #

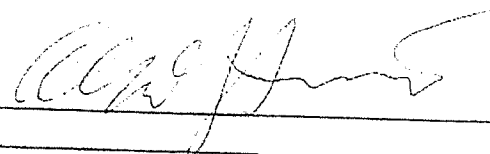


PETITION UPDATES FOR ZONING INTERPRETATION
FOR
S2-A PERMITTED USE

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1. 

Signature

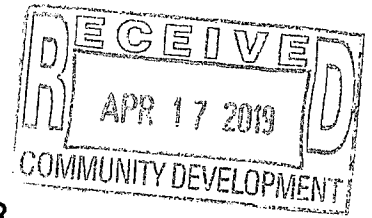
307B

Unit #

2. _____

Signature

Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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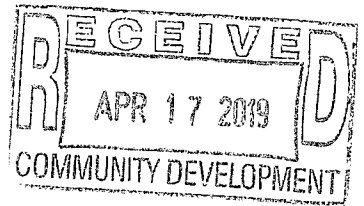
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1 [Signature]
Signature

309B
Unit #

2 [Signature]
Signature

309B
Unit #



**PETITION UPDATES FOR ZONING INTERPRETATION
FOR**

S2-A PERMITTED USE

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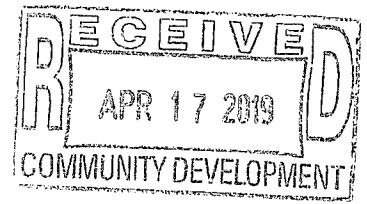
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1. Karen Angier
Signature

A 403
Unit #

2. [Signature]
Signature

A 403
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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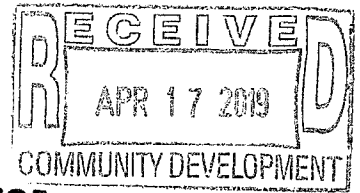
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1. [Signature]
Signature

405 B
Unit #

2. [Signature]
Signature

405 B
Unit #



**PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE**

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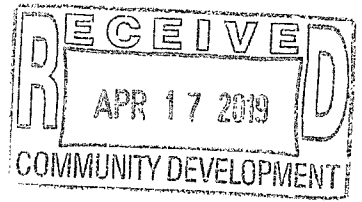
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1. *R. J. Monahan*
Signature

406 B
Unit #

2. *Julia A. Monahan, representing myself as a Co-owner*
Signature

406 B
Unit #



PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

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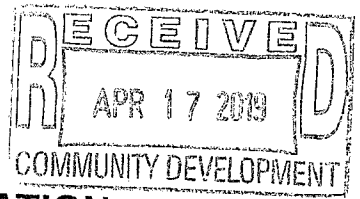
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1. [Signature]
Signature

409B
Unit #

2. [Signature]
Signature

409B
Unit #

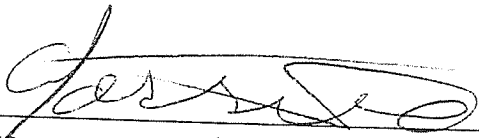


**PETITION UPDATES FOR ZONING INTERPRETATION
FOR
S2-A PERMITTED USE**

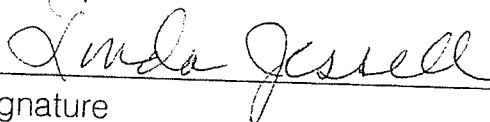
We the undersigned are in agreement with the Planning Commission's consideration for S2-A **Permitted Use** for "tourist retails sales" which would not allow a marijuana facility to be licensed to operate within a predominantly residential building and mixed use property that includes a residence.

We also strongly recommend that pursuant to the City Council decision for **Conditional Use Permit** (CU16-10- December 2016), that we the undersigned also ask that an amendment to the zoning codes be addressed so the issue of mixed use buildings and marijuana facilities are clearly defined so this matter can be resolved once and for all.

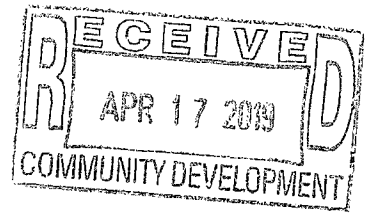
Our property occupies 2 buildings on 39th and Abbey Lane, known as the "Cannery Loft Condominiums" and this complex is predominantly residential with 63 residential units and 17 commercial units. The residential units occupy the 3 floors directly above the ground floor commercial units. Please keep this into consideration when making any future decision on zoning interpretations.

1. 
Signature

410B
Unit #

2. 
Signature

410B
Unit #

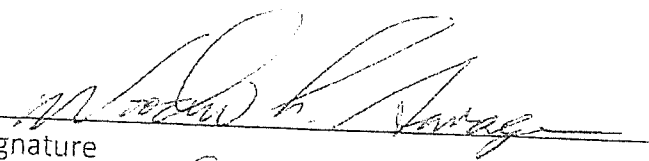


PETITION UPDATES FOR ZONING INTERPRETATION FOR
S2-A PERMITTED USE

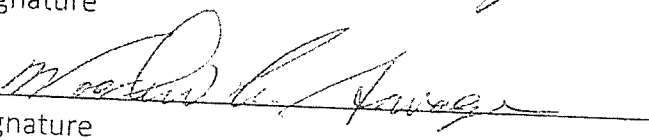
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1. 
Signature

411B
Unit #

2. 
Signature

205A
Unit #



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

April 17, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

SUBJECT: AMENDMENT REQUEST (A19-01) FOR BRIDGE VISTA OVERLAY AND RIVERFRONT VISION PLAN AREAS

I. BACKGROUND SUMMARY

- A. Applicant: Community Development Department
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Development Code concerning waterfront development; clarify code interpretations; define and add mass and scale standards; reduce allowable height in BVO; amend CGO, NGO language to be consistent with the proposed BVO language.
- C. Location: Bridge Vista Overlay Area (BVO - Portway to 2nd Streets, West Marine / Marine Drive to the Columbia River Pierhead Line); Civic Greenway Overlay Area (CGO - 16th to 41st Street, Marine Drive/ Lief Erikson Drive to the Columbia River Pierhead Line); Neighborhood Greenway Overlay Area (NGO - 41st to east end of Alderbrook Lagoon); and Gateway Overlay Zone (GOZ - 23rd to 41st Street, Marine Drive / Lief Erikson Drive to the Columbia River Pierhead Line; and 16th to 23rd Street approximately from Franklin Avenue to the Columbia River Pierhead Line))

II. BACKGROUND

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. Significant public involvement opportunities were designed to gain public input. This process was initiated to plan for these issues in a comprehensive manner and to set a framework for the future of the study area. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Lief Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront

Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City is currently conducting work sessions with the APC and City Council on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone.

Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street.

On July 10, 2018 the Historic Landmarks Commission (HLC) and the Design Review Committee (DRC) denied the requests (NC18-01 and DR18-01) which were subsequently appealed by the applicant. A combined public hearing on the HLC Appeal (AP18-04) and DRC Appeal (AP18-03) was held at the August 23, 2018 City Council meeting. At that Council public hearing, the applicants submitted revised proposed plans. The Council tentatively approved the HLC Appeal and reversed the HLC denial, thereby tentatively approving the New Construction Request (NC18-01) pending adoption of Findings of Fact. The Council remanded the Design Review Request (DR18-01) back to the Design Review Committee for additional consideration.

The applicants submitted revised plans (DR18-01R) for consideration on remand and the Design Review Committee held a public hearing on October 9, 2018. At that meeting, the DRC found that the revised application met all design guidelines except for two and denied the request with a split 2 to 2 vote. The two guidelines in question were *Design Guideline* ADC 14.115(B)(2)(a) which provides: "Buildings should retain significant original characteristics of scale, massing, and building material along street facades" and *Design Guideline* ADC 14.115(B)(2)(f) which provides: "Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular." The decision was appealed by Hollander Hospitality (AP18-05) on November 13, 2018. The City Council elected to hear the appeal on the record and restricted its consideration of the application of design guidelines ADC 14.115(B)(2)(a) and ADC 14.115(B)(2)(f). At the December 20, 2018 meeting, the City Council considered the appeal. This was the first major project reviewed under the newly adopted BVO codes. During the public hearing, the Council noted concerns with specific language in the BVO codes that were not clear and did not reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. Some of the issues included: statement that certain sections of the code control over other sections when there is a conflict between requirements; clarify which design standards apply to new construction and which apply to alterations to existing structures; clarify how the stepbacks are applied to the structure; clarify that mass and scale review applies to the entire structure and not just the street facade; and identify what structures and/or area is included when reviewing compatibility with the proposed structure.

During the development meetings with the hotel applicant, there were differences in interpretation of other sections of the BVO that staff resolved with the applicant. Staff identified minor language amendments that would make the code clearer and/or consistent with other sections of the code. They include: clarify how to apply the north/south view corridor measurement; clarify that the maximum square footage applies to all buildings of the development; allow an exception to window percentage on elevator shaft elevation; clarify requirements for riparian shoreline areas south of River Trail; add that balconies shall not encroach into the stepback area; and clarify the type and design of outdoor storage area enclosures and whether they are included in the maximum gross square footage for the site.

Similar language appears in the Gateway Overlay Zone (GOZ), Neighborhood Greenway Overlay Zone (NGO), and Civic Greenway Overlay Zone (CGO). All Riverfront Vision Plan areas are proposed to be amended to correct and/or clarify the code language at the same time.

At a work session on February 19, 2019 with the City Council concerning the proposed amendments, the Council recommended that the building height on both the land and over-water areas be limited to a maximum height of 28' (two stories) to keep development at a pedestrian scale. They noted that the mass of even a two-story building could be a concern, and that the 30,000 square foot maximum for buildings may still be a concern. At that time, it was unclear if a solution was feasible to consider with the City Council intent to adopt the proposed amendments in a timely manner.

Proposed amendments to the Development Code will include:

1. Amend definitions: "Standards" to say standards not guidelines; Building Mass, Gross Floor Area, Design Review, Granting Authority, add graphic to "adjacent"
2. Add definitions for: Building Scale, Gross Floor Area, "Mass, Building", Outdoor Storage Area, Historic Building, Historic Site, Historic Object, Historic Structure; add definitions to Article 14 for River Trail
3. Change name of Design Review Committee to Commission
4. Change responsibilities of Design Review Committee to include all design review except Article 6, Historic
5. Amend figure map to only show Pedestrian-Oriented District; BVO
6. Remove "conflict between Sections" from individual sections and change to "conflict between Articles" so that Overlay Zones control over base zone requirements; add that more stringent provision in Article 14 shall control; and clarify conflict with historic review; CGO, BVO, NGO
7. Add map of Pedestrian-Oriented District to 14.115.I for signs
8. Clarify that a project must comply with all design standards to be reviewed administratively or need to go to DRC; CGO, NGO
9. Clarify that the N/S view corridor only applies to the half on each side of the street centerline; add graphic; CGO, BVO
10. Add that balconies and fixed awnings shall not encroach into stepback; CGO, BVO
11. Clarify that shoreland areas in Section 14.095 are on-land and add list also to on-land section 14.100.C.

12. Reduce height from 35' to 28' in BVO; allow for variance and an exception for affordable housing.
13. Clarify that 30,000 sqft max is for all buildings of a single development; add list of included features;
14. Add "Exterior Lighting" to match other sections; add window details used by DRC and written into other sections; add exterior wall siding detail used by DRC and written into other sections
15. Clarify that garage windows count toward window percentage
16. Reformat 14.115.B to separate standards for all uses, standards for non-industrial uses, guidelines for new construction, and guidelines for existing buildings; clarify that mass and scale of entire building is reviewed; add facade variation standard for non-industrial uses with additional design features; clarify how mass and scale should be considered and which buildings to compare
16. Add exception for percentage of window coverage for elevator elevations and facade facing Columbia River
17. Add standards for outdoor storage area enclosures
18. Amend Exception to Building Height Limitations to clarify additional non-essential areas not exempt from height limitation add that height is limited to minimal height required for exempt feature; prohibit additions or signs to these features
19. Prohibit signs on exempt building height features in Sign Code
20. Clarify requirements for riparian shoreline areas south of River Trail; CGO; BVO; NGO
21. Change maximum height of street trees on north-south streets to 35'; CGO, BVO
22. Add Section 14.138.B.1 for Landscaping in NGO which was erroneously omitted
23. Add section to put design review of overlay zones relative to "adjacent" historic structure under HLC and then DRC would only review if historic structure is not "adjacent"; GO, BVO, NGO, CGO
24. Add and amend Other Applicable Use Standards in all zones that overlay zones apply and clarify what applies to AH-MP with the multiple overlay zones
25. Add clear and objective design standards for residential development
26. Add gender/number neutral statement
27. Amend Section 7.100 to clarify "gross floor area" for parking calculation

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to all property owners with the Bridge Vista Overlay Area, Neighborhood Associations, various agencies, and interested parties on March 5, 2019. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on March 19, 2019. State required Measure 56 mailing was mailed to all property owners within the Bridge Vista Overlay Area. The proposed amendment is legislative as it applies City-wide in the specific zones. As required per Article 9, on site notice was posted on March 12, 2019 in the affected overlay areas as follows: one near 2nd street at the previous appeal site (BVO); one on the corner of 30th and Marine Drive (CGO); and one near 43rd and Lief Erikson Drive (CGO).

The Astoria Planning Commission opened the public hearing at the March 26, 2019 meeting and continued the public hearing to the April 23, 2019 meeting. While additional public notice was not required, additional public notice was provided.

B. State Agencies

Although concurrence or approval by State agencies is not required for adoption of the proposed amendments, the City has provided a copy of the draft amendments to representatives of the Oregon Departments of Transportation (ODOT) and Land Conservation and Development (DLCD) as part of the planning process.

IV. FINDINGS OF FACT

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

Finding: The proposed amendments to the Development Code is being initiated by the Community Development Director on behalf of the City Council.

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

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

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 14 concerning Riverfront Overlay Zones, Article 1 concerning definitions and commissions, and Article 3 concerning building height exemptions and outdoor storage areas. The amendment would amend existing and create new overlay zone standards.

The proposed amendments are applicable to a large area of the City. Processing as a legislative action is appropriate.

- C. Section 10.070(A)(1) concerning Text Amendments, requires that *“The amendment is consistent with the Comprehensive Plan.”*

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

Finding: The City accepted the Riverfront Vision Plan in 2009 as a long-range planning framework to address the changing needs and desires of the citizens concerning Riverfront development and the need to protect the environment. Codes to implement the Vision Plan concepts were adopted

by the Council. The City Council directed staff to initiate Development Code amendments to clarify some of the adopted language, reduce the maximum building height in the BVO, and add additional standards to address the concerns with clarity of the code and the desires of the public.

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

Finding: The proposed amendments will amend the BVO, CGO, and NGO codes that implemented the Riverfront Vision Plan. The amendments include clarification of existing design standards for development, protection of scenic views and vistas such as with the lower maximum height, and the development of Outdoor Storage Area standards.

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

CP.015(1), General Land & Water Goals states that *"Because of the City's strong water orientation, the Plan supports continuing regional efforts to manage the Columbia River estuary and shorelands. The City's land use controls, within this regional context, will be aimed at protecting the estuary environment and at promoting the best use of the City's shorelands."*

Finding: The proposed amendments will clarify and strengthen the existing Riverfront Vision Plan area overlay zones development standards. The design and landscaping standards protect the historic character of the City and waterfront areas. The reduction in allowable height and development along the shoreland in this area and on parcels extending over the water, and the use of native vegetation will help protect the estuary environment. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.020(2), Community Growth, Plan Strategy, states that *"The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section."*

CP.203, Economic Development Goal 4 and Goal 4 Policies, goal states *"Continue to encourage water-dependent industries to locate where there is deep water, adequate back-up space, and adequate public facilities."*

Policies states *"1. Maintain areas of the City in order to provide sufficient land for water dependent as well as non-water dependent industries."*

Finding: While the proposed amendments amend existing design criteria and limit development height within the Bridge Vista Area, it does not prohibit development and continues to support development of water-related and water-dependent uses in the shoreland and aquatic zones in the Bridge Vista area. It would allow flexibility for some limited other development. Structure height, width, and size would be regulated so there would not be large amounts of over water development near the Maritime Memorial / Astoria Megler Bridge and near the former cannery site near 2nd Street which is limited to uses such as moorage, and other piers and dock activities. The code clarification, reduction in building height, and addition of outdoor storage area standards would allow some development in this area where some over-water and in-water activity has occurred in the past while preserving the broad vistas as viewed from the River Trail and adjacent and hillside properties.

No change to allowable uses is proposed with this amendment. The existing uses would continue to be allowed within these zones and in other portions of the City.

The requirements for shoreland and estuary development in Development Codes Articles 4 and 5 would remain applicable to any development in this area.

5. CP.020.2 states that *"The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section."*

Finding: The Riverfront Vision Plan recognizes the need for development but balances that with the need to protect the vistas and views of the Columbia River, the Astoria-Megler Bridge, and the surrounding landscape. By establishing four Plan areas with different focus for development, the various sections of the Riverfront could be developed in a flexible manner. Bridge Vista Area is envisioned as more of a marine related area for overwater and shoreland development while allowing flexibility of development south of the River Trail. However, the City Council has found that the BVO code as written provided for too much flexibility and was not clear on some of the requirements such as how to review mass and scale of new buildings. The proposed amendments would still allow for some flexibility but would reduce the height and scale of buildings both on land and over water. Overall, the objectives for this area are met with the proposed allowable type and level development on land and elsewhere along the Riverfront.

6. CP.210(1), Economic Element, Economic Development Recommendations, states that *"In the City's waterfront areas, the City will continue to promote a combination of tourist-oriented development, industrial development*

associated with the City's working waterfront, and water-related and dependent industries, and distribution and sales of goods and services for Astoria residents and businesses. These efforts will be guided by and consistent with the Astoria Riverfront Vision Plan."

Finding: The proposed amendments would not change the allowable uses in the Riverfront overlay zones. It would reduce the height from potential 45' in some areas to 28' maximum in the BVO with the possibility of a variance up to 35'. A two-story and possible three-story building would continue to allow some development along the waterfront while reducing the mass and scale of the buildings.

7. CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

Finding: The proposed amendments create increased visual and physical linkages along the Columbia River with limitation on development and special siting standards for buildings and landscaping. The proposed amendments include additional architectural design that is consistent and reflective of the Uniontown historic area. The proposed amendments are intended to protect the views of the River which is one of the main tourist attractions to Astoria. Major loss of these views would be a detrimental impact to Astoria's economy and livability.

8. CP.038.1, Port-Uniontown Overlay Area Policies, states that *"The City will use the vision established in the Port/Uniontown Transportation Refinement Plan (2007) to direct future development in the Port- Uniontown Overlay Area. The overall Comprehensive Plan Policies are to:*
- a. Promote development that complements the surrounding areas of Downtown and the West End.*
 - b. Enhance existing primary uses, such as Port of Astoria facilities, the marina, visitor services, open space, trails, and small businesses and neighborhoods.*
 - c. Support redevelopment of former industrial sites and vacant and underutilized lots*
 - d. Stimulate development interest by establishing complementary surrounding land uses and quality development and design, and by improving transportation conditions through road construction and connections, circulation plans, and access management plans.*
 - e. Establish visual and physical linkages within and around the Port-Uniontown Overlay Area, with emphasis on the Columbia River waterfront.*
 - f. Create a pedestrian-friendly environment through the District by increasing connectivity throughout the Port-Uniontown Overlay Area, orienting buildings toward adjacent streets and pathways, extending the River Trail, adding and improving sidewalks, and enhancing the*

streetscape with landscaping, human-scale lighting, seating, and other amenities.

Finding: The proposed amendments would retain the existing zoning which allows a range of allowed land uses in these areas. The revisions and/or clarifications of the design and siting standards would preserve and/or create view corridors and preserve portions of the waterfront for vistas and views that are currently could be developed with taller buildings in the BVO. The proposal balances the need for development and the need for public access to the waterfront by recognizing the visual connection to the river from the hillsides, the River, the River Trail, and from the highway by allowing the mixed uses but at a smaller, pedestrian scale.

The majority of the Port-owned property (Piers 1, 2, 3) are not within the BVO and not subject to the Riverfront Vision requirements. The east area of Port property including the existing former Astoria Riverwalk Inn and the area between the Inn and the Maritime Memorial are included in the BVO area. These areas are intended to be pedestrian-friendly and are partially within the Pedestrian-Oriented District.

9. CP.038, Port-Uniontown Overlay Area Policies, states that

- “2. The City will implement the Port-Uniontown Overlay Area element of the Comprehensive Plan through its Design Review process and amendments to the Development Code that provide design and development standards.*
- 3. The City, through the Development Code, will develop a set of design standards for the Port-Uniontown Overlay Area that address building massing and orientation, architecture, access and parking, streetscape, landscaping, and other elements. These standards will apply to development projects in the District as defined in the Development Code.*
- 4. To the extent possible, the design and development standards are intended to be clear and objective so that most proposed development can be evaluated administratively. The Design Review Committee, created and enabled by the Development Code, will review appeals of administrative decisions and proposals that vary from the standards and yet may still embody the spirit of the Port-Uniontown Overlay Area.”*

Finding: The proposed amendments would clarify the existing design review guidelines and standards based on the existing historic and waterfront development design of the Uniontown and Port area. There are separate guidelines and standards for industrial versus non-industrial development acknowledging the differences in the needs of the nature of the different uses within the buildings. The design review would be conducted either by the existing Design Review Committee or

administratively by the Planner. The guidelines and standards include a combination of clear and objective standards and guidelines that allow the City more discretion to allow flexibility in meeting the intent of the guidelines. However, as adopted, several sections were not as clear as needed and left too much open to interpretation. The standards and guidelines are proposed to be amended to allow for clearer ease of administration and interpretation.

The responsibilities of the Design Review Committee (DRC) were limited to the Gateway Overlay Zone in Article 1 of the Development Code. It was intended that the DRC be the review body for all design review except for Article 6, Historic Properties, which is the responsibility of the Historic Landmarks Commission. At the time the DRC was established, the Gateway Overlay Zone was the only overlay zone for the Riverfront. The proposed amendments would expand the DRC responsibilities to all design review except historic and change the Committee to a Commission.

10. CP.068, Astoria Riverfront Vision Overlay Area Policies, states that

- "1. Promote physical and visual access to the river. The overall Comprehensive Plan objectives are to:*
- a. Maintain current areas of open space and create new open space areas.*
 - b. Provide for public access to the river within private developments.*
 - c. Retain public ownership of key sites along the riverfront.*
 - d. Protect view sheds along the river, including corridors and panoramas from key viewpoints.*
 - e. Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views."*

Finding: The proposed amendments would further preserve visual access to the Riverfront with the reduced height and clarification of mass and scale review. They also create design review and siting standards to limit the size, height, and design of buildings to reduce the mass and scale on the entire development site.

The reduction in height limits the use of alternative development forms relative to narrower/taller profiles, however, with a height variance and/or the affordable housing exception, additional height can be designed.

- "2. Encourage a mix of uses that supports Astoria's "working waterfront" and the City's economy. The overall Comprehensive Plan objectives are to:*
- a. Maintain the authentic feel of the riverfront.*
 - b. Prioritize siting of water-related businesses along the river.*

- c. *Allow for some residential development along the riverfront, emphasizing smaller-scale work force (moderate income) housing.*
- d. *Allow for development that supports downtown and other commercial areas.*
- e. *Limit development in areas with most significant impacts on open space, view, or other resources.*
- f. *Promote uses that provide jobs and support the local economy.”*

Finding: The proposed amendments would not change the allowable uses but would reduce the height to help preserve views and allow for development that is more in scale with the existing riverfront.

A proposed height exception to 35' for affordable housing projects would allow additional height without a variance to encourage this use. A requirement concerning the level of income and the length of time the building must be available for the affordable housing is included in the proposed language.

- “3. *Support new development that respects Astoria's historic character. The overall Comprehensive Plan objectives are to:*
 - a. *Enhance or refine Development Code to achieve vision principles.*
 - b. *Implement design review, design standards, or other tools to guide the appearance of new development.*
 - c. *Devote resources to rehabilitating old structures.”*

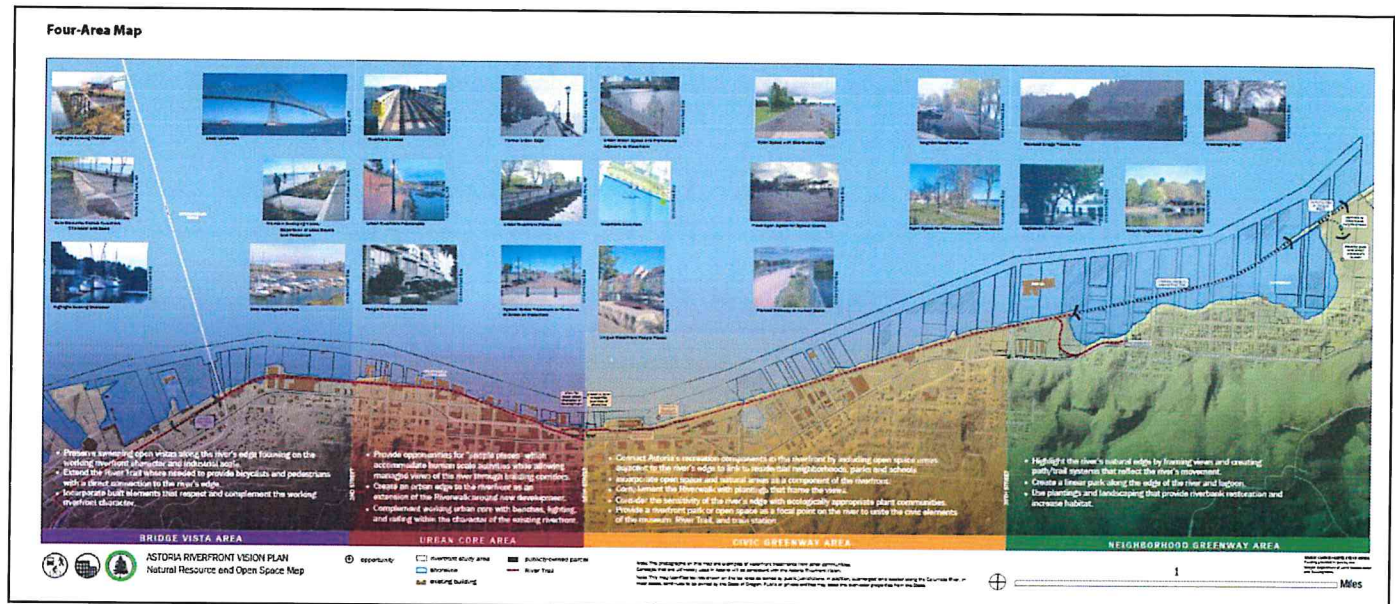
Finding: The proposed amendments would create new and amend existing design review guidelines and standards that reflect the historic character of the Uniontown area for both commercial and industrial waterfront buildings and uses. The proposal would still allow for repair, restoration, and reconstruction of existing historic buildings.

- “4. *Protect the health of the river and adjacent natural areas. The overall Comprehensive Plan objectives are to:*
 - a. *Protect natural areas for wildlife viewing.*
 - b. *Replace invasive plants with native species.*
 - c. *Incorporate natural elements in the design of future public and private improvements.”*

Finding: The existing code would remain, but the proposed amendments would clarify the location of riparian areas for the use of native plants along the Riverfront.

Findings: The *Astoria Riverfront Vision Plan* was accepted by the City Council on December 7, 2009. The *Astoria Riverfront Vision Plan* was developed to address a series of land use, transportation, and scenic,

natural, and historic resource issues along the Columbia riverfront in the City. The area spans from Pier 3 in the west to Tongue Point in the east along the Columbia River, and is divided into four sub-areas.

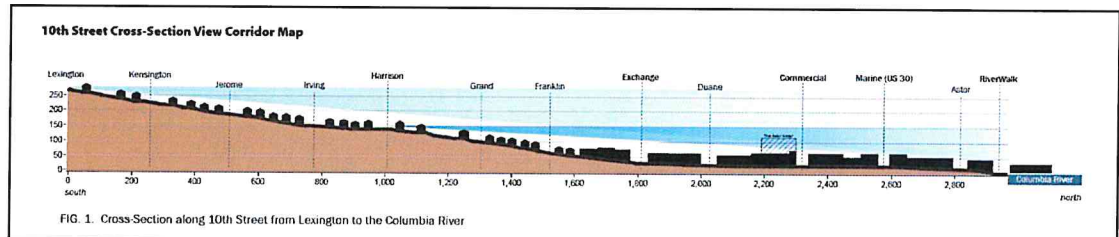


The subsequent Comprehensive Plan amendments were adopted on April 21, 2014. The subarea Development Code implementation sections were adopted as follows: Bridge Vista Overlay Zone (BVO) was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street. During the public hearing on an appeal of that issue as noted in the Background information in this document, the Council noted concerns with specific language in the BVO codes that were not clear and did not reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. Some of the issues included: statement that certain sections of the code control over other sections when there is a conflict between requirements; clarify which design standards apply to new construction and which apply to alterations to existing structures; clarify how the setbacks are applied to the structure; clarify that mass and scale review applies to the entire structure and not just the street facade; and identify what structures and/or area is included when reviewing compatibility with the proposed structure. There were several other issues that staff identified as needing clarification.

In addition, based on public input, the City Council requested that the BVO area height be reduced to 28' from the current 35' height allowance. The current code would allow a variance up to 45' high. The proposed amendments would allow a variance to 35' and an exception without the need for a variance for affordable housing projects. The Riverfront Vision Plan for BVO on Page 37 states *"Trading building height for width (mass) may be desirable in some instances, but a maximum height should be established and enforced. That maximum height likely would be on the order of one story above the base height."* The base height is not specified in the Plan. With a "base height" of 28' and the allowance for an additional story with a variance or housing project exception, the proposed amendment would be consistent with the Plan. Comprehensive Plan Section CP.068.1.e states *"Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views."* The Comprehensive Plan does not specify a height, but notes that a narrower/taller profile is an alternative. The proposed amendment does allow for the additional height through the variance and/or affordable housing exception and therefore is consistent with the Comprehensive Plan.

The Riverfront Vision Plan (Page 21) addresses the view from the "hillside" and the impact of buildings up to 45' high. The Plan states *"The photographs to the right and left were taken from the top of the 11th Street stairs at Jerome Avenue. These photos help illustrate that if new or existing development was built to the maximum height allowable in the downtown district (45'), the resulting development would not substantially impact the region-wide views from the hillside."*



This section is background information for all four of the Riverfront Plan areas. During the visioning process, there was public concern not only for the height of the building as viewed at grade level but also how it would be viewed from the hillsides. This illustration was intended to address that concern and does not state that 45' height should be permitted in all areas. The specific height for each Plan area would be determined during the code "implementation" process. When the BVO codes were adopted, the 35' height with allowance to 45' high was considered as appropriate for this area. However, when applied to the first new development proposed for this area, the public and City Council determined that the 45' height did not meet the intent of the Riverfront Vision Plan for development that was compatible with the existing development of the area. The Plan (Page 37) for BVO states *"The Bridge Vista area is adjacent to the Uniontown*

Neighborhood and design should be consistent with the character of the Uniontown-Alameda Historic District.” The character of this area is generally two or three stories high and 45’ is the exception. Therefore, a reduction to 28’ with allowance to 35’ would be consistent with the Uniontown area and would be consistent with the Riverfront Vision Plan. The City has followed a land use process that identified a vision for the area, implemented code language, and then through the application of the code found that the “interpretation” of how to apply the codes was problematic and did not follow the intent of the Vision Plan. The proposed amendments are being considered through the public review process and are intended as refinement and clarification of the interpretation of the Vision Plan relative to height.

The adopted Vision Plan and Comprehensive Plan do not address specific issues such as height, setbacks, uses, etc. They give guidelines for how to implement the goals of the Vision Plan such as *Promote physical and visual access to the river; Encourage a mix of uses that supports Astoria's "working waterfront" and the City's economy; Support new development that respects Astoria's historic character; Protect the health of the river and adjacent natural areas; and Enhance the River Trail.* These goals can conflict at times and the implementation of the Plan has been controversial in interpretation. The proposed amendments would not change the allowable uses within the Overlay Zone areas but would address the mass and scale of buildings and their compatibility with the character of Astoria. The working waterfront once had multiple buildings that were between one and three stories tall. Most of the existing building in Astoria are one and two stories tall with a few taller buildings along the waterfront and in other areas. There has been a lot of discussion on what a “working waterfront” should be and whether large hotels are what was envisioned. Section CP.068.2 refers to encouraging water-related business and maintaining an authentic feel of the riverfront. The proposed amendments would reduce the height of buildings keeping them in scale with most other buildings in the area and would allow for the protection of the River Trail environment.

Some of the design related amendments would help to maintain the historic character of Astoria while allowing for buildings that are not necessarily historic in design.

Most of the proposed amendments are for the Bridge Vista Area but some are to clarify language and/or be consistent with other sections of the Code and would be applicable to all of the overlay zone areas.

While possibly limiting the feasibility of some new development due to the economics of construction, the proposed amendments do not prohibit development or uses beyond what the Code allows now. The amendments are in direct response to citizen concerns and the City Council desire to clarify how to interpret the existing Code based on how they interpret the Riverfront Vision Plan and the intended results of the Code as originally

adopted. The proposed amendments would be consistent with the goals of this Comprehensive Plan section.

11. CP.140.C, Columbia River Estuary Aquatic and Shoreland Designations, Development Aquatic, states *"Development Aquatic areas are designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses. The objective of the Development Aquatic designation is to ensure optimum utilization of appropriate aquatic areas by providing for intensive development. Such areas include deepwater adjacent to or near the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material, areas of minimal biological significance needed for uses requiring alteration of the estuary, and areas that are not in Conservation or Natural designation. These areas are in the Aquatic One Development Zone (A-1), the Aquatic Two Development Zone (A-2), the Aquatic Two-A Development Zone (A-2A)."*

CP.140.E, Columbia River Estuary Aquatic and Shoreland Designations, Development Shoreland, states *"Development Shoreland areas are designated to provide for water-related and water-dependent development along the estuary's shoreline. These areas may present opportunities to develop uses that complement uses in Downtown Astoria, consistent with the City's Riverfront Vision Plan. Development Shoreland areas include urban or developed shorelands with little or no natural resource value, and shorelands with existing water-dependent or water-related uses. Development Shoreland areas may include scenic vistas of the Columbia River that may be an important planning objective to protect, consistent with the City's Riverfront Vision Plan. These areas are in the General Development Shorelands Zone (S-2), or the Tourist-Oriented Shorelands Zone (S-2A). Some of these areas are in residential or commercial zones with a Shorelands Overlay Zone."*

Finding: The Aquatic and Shoreland designations are not proposed to be changed, but the height in the Bridge Vista Area is proposed to be reduced from 45' to 28'. The height limitations would be for all uses and activities. The objective of the Riverfront Vision Plan is to protect some vistas of the Columbia River which is the intent of the proposed height reduction. The proposed amendments are consistent with the intent of this CP section.

12. CP.186.C, Cumulative Impacts, Cumulative Impact Analysis, states that

1. *Public Access.*

Activities generating cumulative impacts on public access can both enhance and reduce opportunities for public access to the waters and shorelines of the Columbia River Estuary. Public access is treated broadly here to include both physical and visual access. . .

Boat ramps and marinas have a strongly beneficial cumulative impact on public access for the boating public. Private individual

moorages on the other hand can have negative cumulative impacts with respect to public access if allowed to overcrowd particular waterways. Continuous development of individual moorages along a reach of the Columbia River Estuary or a tributary can block public shoreline access and inhibit small boat navigation, having a strongly negative cumulative impact. The regional estuarine construction policies and standards encourage community docks and piers and discourage individual moorages. . .

Port development is often not fully compatible with public access; however, the cumulative impact of port development on public access is expected to be minor. Port development is limited to only a few sites in the estuary. Full development of all existing designated Development and Water Dependent Development shorelands would not significantly reduce public access opportunities in the Columbia River Estuary, but may have locally significant effects. . .

5. Recreation/Tourism.

Discussion of cumulative impacts on recreation and tourism includes estuary-oriented recreation undertaken by both local residents and by visitors from outside the region. Many impacts may be largely aesthetic in nature. . .

Boat ramps, marinas, and moorages have a generally positive impact on recreation and tourism, though there may also be a negative aesthetic component. The net cumulative impact is probably positive, however, because the estuary is large relative to the extent of existing recreational boat facilities. . .

Port development may generate both positive and negative impacts with respect to tourism and recreation. The passage of deep draft vessels up and down the Columbia River Estuary, together with associated tug, barge, and wharf activities, are significant elements of the Columbia River Estuary's attractiveness for visitors. Port development may also, however, generate negative impacts on recreational fishing and public access (see "Columbia River Estuary Regional Management Plan" Subsections 5.3.3. and 5.3.1.). Net cumulative impacts are believed to be positive. . .

Finding: The existing code limits some Riverfront areas to water-related and water-dependent uses consistent with the fishing industry and Port activities. It also limits some important public view areas to development at shoreland height maximum. This supports boat ramps, marinas, moorages, etc. that are considered to be a positive impact on recreation and tourism. The proposed amendments are intended to minimize the cumulative negative impacts along the Riverfront by preserving some areas for marine development and protecting some vistas and views. The proposed

amendments would reduce any future over-water or on-land development, where allowed, to 28' high in the BVO area to provide more visual access to the river from the River Trail, highway, hillside to the south, and from the River and lessen the cumulative negative impacts of larger developments.

13. CP.185(M), Regional Estuary and Shoreland Policies, Public Access Policies, states that *"Public access" is used broadly here to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to Columbia River Estuary shorelands and aquatic areas."*

CP.185(M.2 to 5), Regional Estuary and Shoreland Policies, Public Access Policies, states that

- "2. Public access in urban areas shall be preserved and enhanced through waterfront restoration and public facilities construction, and other actions consistent with Astoria's public access plan.*
- 3. Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreline access to areas traditionally used for fishing, hunting or other shoreline activities. . .*
- 5. Astoria will develop and implement programs for increasing public access."*

CP.185(N.2), Regional Estuary and Shoreland Policies, Recreation and Tourism Policies, states that *"Recreation uses in waterfront areas shall take maximum advantage of their proximity to the water by: providing water access points or waterfront viewing areas; and building designs that are visually u {typo from original ordinance} with the waterfront."*

CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policy 1 states *"Provide public access to the waterfront wherever feasible and protect existing access. The importance of the downtown waterfront in terms of aesthetics, public access and business improvement cannot be overemphasized. The City supports the concept of the "People Places Plan," and encourages local organizations in the construction and maintenance of waterfront parks and viewing areas."*

Finding: One of the reasons the Riverfront Vision Plan was developed was to enhance public access to the estuary and allow for preservation of public open space and park areas along the Columbia River. Public access includes both physical and visual access. The River Trail along the Columbia River is used by locals as well as visitors and is maintained for its aesthetic values as well as for its transportation values. The Bridge Vista Area was identified as an area to allow some development while preserving visual and public access. The Urban Core Area was identified for more

intense development and the Civic Greenway Area was identified for more open space. The existing on-land building and landscaping setback and stepbacks create wider view corridors from West Marine / Marine Drive. However, the design, mass, and scale of the proposed new development of the hotel at 2nd Street did not achieve the expectations of the adopted guidelines and standards. The City Council found them to be too flexible in their interpretation, and somewhat confusing as to how to apply mass and scale review to the proposal. Therefore, the Council has requested a height reduction for the BVO and some clarification of the existing language to retain some flexibility in design, but to give more guidance on how to apply certain sections of the code.

The submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands. Much of the waterfront area is not currently leased. The upland property owner has the first right of refusal for use of the submerged land area. However, anyone can lease from DLS. While there are tax lots platted out into the River, the tax lot owner does not pay taxes on the lot other than for improvements that are located on the lot. By State law, the public has rights to both physical and visual access to the water.

The proposed amendments would protect public visual and physical access to the River. The proposed amendment would limit the size, height, and design of development to minimize the impact on public access. The original standards were based on the visual impacts of the dimensions and site location of the existing Cannery Pier Hotel (10 Basin Street) located on the west end of the River Trail, and two other over-water structures at 100 31st Street (Big Red) and 100 39th Street (Pier 39). The proposed height reduction is based on the visual impact of the proposed hotel which was approved with the existing guidelines and standards and the public concern that the size of the structure is not compatible with the desired development of the BVO area and Riverfront.

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

Finding: The proposed amendment allows for some over-water development while reducing the height. The existing code encourages and/or requires the use of native plants along the Riverfront and the proposed amendment would clarify the location of "riparian" areas. The standards maintain open areas for protection of the estuary habitat and to maintain vistas and views.

15. CP.204(3 & 4), Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings,*

neighborhoods and sites and unique waterfront location in order to attract visitors and new industry.” The Policies state

3. *Encourage the growth of tourism as a part of the economy.*
 - a. *Consider zoning standards that improve the attractiveness of the City, including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.*
4. *Protect historic resources such as downtown buildings to maintain local character and attract visitors.”*

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

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

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

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

Finding: The existing code includes design standards to allow for development that is consistent with the design of the historic Uniontown area and that is compatible with the existing development within the area. However, when applying the existing code language, the City Council found that language was inconsistent and that it was unclear how to preserve compatibility with “historic” structures and/or buildings without a clear understanding of what area was included in the review and how a new building could be compatible with a non-habitable structure such as the cannery boiler at 2nd Street.

The River and River Trail are important tourism/economic assets for the City and would be protected from incompatible development with the proposed amendments. The proposed amendments clarify some height exemptions, reduce the height of structures in the BVO, and clarify how to review for compatibility, mass, and scale with the existing historic and/or other existing structures. The proposed code amendments would also protect more of the scenic views of the Columbia River waterfront with

standards for height, design, and mass/scale of development. The area west of 2nd Street was the site of a former fish processing facility. This site contains a good example of the former pile field, a portion of the facility (a boiler), and historic ballast rock piles. The site and remaining structures/features are designated historic. The City Council found it difficult to review a 45' tall hotel for compatibility with a non-habitable boiler and ballast rock piles. The proposed amendment would clarify how to apply the standards in these situations and still protect the historic site.

With the review by the Historic Landmarks Commission (HLC) of any project "adjacent" to a historic property, the proposed amendments would also allow a single Commission review of the design criteria relative to historic compatibility. If the HLC is required to review the project, they would also review the historic compatibility aspects of the Design Review overlay zone rather than the Design Review Committee (DRC). The DRC would continue to review all other portions of the overlay zone design review. This would reduce any conflict between the review by different Commissions.

16. CP.270, Parks, Recreation, and Open Space Element, Goals states that *"The City of Astoria will work:*
1. *To develop a balanced park system.*
 2. *To reflect Astoria's special qualities and characteristics. . .*
 5. *To provide or encourage waterfront parks. . .*
 7. *To promote general beautification. . .*
 12. *The City will continue its efforts to improve public access to the shoreline through:*
 - a. *The construction of public access points, pathways, and street ends;*
 - b. *The encouragement of public access projects in conjunction with private waterfront development actions, possibly through the use of local improvement districts and/or grant funds; and*
 - c. *The protection of street ends and other public lands from vacation or sale where there is the potential for public access to the water. The City will work with the Division of State Lands (DSL) to determine the status of submerged and submersible lands adjacent to the City street ends."*

Finding: The City has established a River Trail along the Columbia River as a City park. The Riverfront Vision Plan identifies this as a public area and encourages protection of a portion of the public views and vistas in the Bridge Vista Area. The RVP for the Bridge Vista Planning Area identified Land Use Assumptions and Objectives which state that *"This area is an appropriate location for new overwater development, should it occur. However, specific areas should remain open to preserve broad view of the river..."*

As noted above, the submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands. Much of the

waterfront area is not currently leased. By State law, the public has rights to both physical and visual access to the water.

The proposed amendments address the design, size, height, for development on both the water and land side of the River Trail with the reduction in height for BVO from 45' to 28' and with clarification of the design guidelines and standards. The limitation of building size and height would protect the waterfront park from incompatible intrusions.

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

Finding: Throughout the process of drafting the original Riverfront overlay areas ordinances, the City provided extensive public outreach. With the review of the recent HLC and DRC permits for the hotel and the subsequent appeal hearing, the public were provided many opportunities to be involved in the process. Invitations and notices were sent to interested parties, neighborhood associations, property owners, stakeholders, email lists, web site, notices in the *Daily Astorian*, etc. to advise them of the opportunity to provide suggestions and comments. The Council considered the public input but recognized that the current proposal would need to be evaluated against the existing code, and that the code was unclear on several issues. Due to the lack of clarity and the extensive public comments, the City Council initiated the process to amend the code to better address the needs of the reviewing bodies and the desires of the general public. A work session with public input was held by the City Council at their February 19, 2019 meeting. A code amendment is being processed through additional public hearings before the Planning Commission and the City Council to address these concerns.

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

Finding: The request is consistent with the Comprehensive Plan.

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

Finding: The proposed amendment will satisfy land use needs in that it will allow for the development of private properties while protecting the vistas and views along the Bridge Vista Area of the River Trail. The proposed amendment further limits the allowable development height in this area thereby reducing some of the impacts associated with a more intensive development.

Change in allowable uses is not being proposed and will not change the Buildable Lands Inventory statistics. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

E. Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) states that:

- “(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) Change standards implementing a functional classification system; or*
 - (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”*

Finding: No map amendment is proposed. No change in use is proposed. The proposed amendments would impact the height and design of buildings and would establish standards for outdoor storage area enclosures. The proposed amendments will not impact transportation facilities. The proposed amendments comply with the Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) requirements.

- F. ORS 197.303 and ORS 197.307 relate to State required standards for certain housing in urban growth areas. The ORS state the following:

“ORS 197.303, Needed Housing Defined.

- (1) As used in ORS 197.307 (Effect of need for certain housing in urban growth areas), “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:*
 - (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;*
 - (b) Government assisted housing;*
 - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 (Policy) to 197.490 (Restriction on establishment of park);*
 - (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and*
 - (e) Housing for farmworkers.”*

“ORS 197.307, Effect of need for certain housing in urban growth areas

- approval standards for residential development*
 - placement standards for approval of manufactured dwellings*
- (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.*
 - (2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.*
 - (3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.*
 - (4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:*
 - (a) May include, but are not limited to, one or more provisions regulating the density or height of a development.*
 - (b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.*
 - (5) The provisions of subsection (4) of this section do not apply to:*

- (a) *An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.*
- (b) *An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.*
- (6) *In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:*
 - (a) *The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;*
 - (b) *The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and*
 - (c) *The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.*
- (7) *Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:*
 - (a) *Set approval standards under which a particular housing type is permitted outright;*
 - (b) *Impose special conditions upon approval of a specific development proposal; or*
 - (c) *Establish approval procedures."*

Finding: State regulations require cities and counties to zone for all types of housing. The ORS defines "needed housing" to include affordable, low income, and very low-income housing types. ORS 197.307 addresses the determination of needed housing, allowable standards, and a clear process for design review. The City of Astoria conducted a Buildable Lands Inventory which was adopted in 2011. The report noted that there was surplus land zoned for medium and high-density residential development but a deficit of low-density residential land for an overall deficit of land zoned for residential use. There have been minor zone amendments since 2011 but the overall surplus and deficit is about the same. Multi-family residential use is also allowed in some non-residential zones allowing for more high-density residential development. The proposed amendments would still allow for multi-family dwellings in the commercial zone and would not reduce the "residentially zoned" land supply.

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027

Type of Use	R1	R2	R3	AH-MP	Total
Land Need	115.4	51.2	67.0	2.7	236.3*
Land Supply	25.20	74.99	119.18	1.49	220.86
Surplus/(Deficit)	(90.20)	23.79	52.18	(1.21)	(15.44)*

Source: Wingard Planning & Development Services

* Note: Scrivener's Error in actual figure. BLI shows 236.4 and (15.54) but should be 236.3 and (15.44).

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027				
Growth Scenario	Type of Use	Commercial (Office/Retail)	Industrial/Other	Total
Medium	Land Need	38.2	11.5	49.7
	Land Supply	17.1	39.3	56.4
Surplus/(Deficit)	Surplus/(Deficit)	(21.1)	27.8	6.7

Source: Cogan Owens Cogan

The proposed amendment includes the addition of “clear and objective standards” for residential development. The proposed standards are similar to those adopted for the Civic Greenway Overlay area and allow for administrative review of projects meeting the specific design standards. Developers may choose this direct method with no deviation or go through the public process which allows more flexibility and discretion in the design.

The proposed amendments would be in compliance with the above noted ORS requirements relative to housing.

- G. The Clatsop County Housing Strategies Report (January 2019 Draft) addresses housing issues in the County and the five jurisdictions within the County including Astoria. The Report has not yet been adopted by the communities.

1. The Draft (Page 3, Introduction and Overview) states that *“The strategies presented in this report reflect the following overarching findings that have come to light during this process. These findings apply on a county-wide basis, and apply to the individual cities to different degrees:*

1) Sufficient Supply, but Not the Right Types of Housing

- ☐ *Technically, there seems to be a sufficient supply of land and number of housing units to meet both current and future needs. However, much of this supply serves the second home and short-term rental market, leaving insufficient supply for year-round residents to both purchase or rent. In addition, some of the supply of future residential land suffers from a variety of constraints related to natural features and hazards, infrastructure challenges, or other issues.*

2) Add the Right Types of Supply

- ☐ *Strategies should focus on adding the right type of supply, meaning home-buying opportunities at affordable price points, and more multi-family rental housing.*
- ☐ *Adding “missing middle” housing types such as townhomes, cottage clusters, and medium density housing can help to meeting the needs of first-time homebuyers. This housing, if not*

located in the most sought- after beach locations, should be less attractive to second home buyers.

- *Increased multi-family rental housing development should be encouraged to serve the local service, tourism, and other working-class sectors.”*

Finding: Astoria has addressed part of the first issue “Sufficient Supply, but Not the Right Types of Housing” as described in this section by regulating transient lodging that could otherwise be utilized for year-round residents. Vacation homes and other short-term rentals that are not occupied by owners at the same time as guests are prohibited in Astoria. There is a large portion of the available “residential” property in Astoria that has constraints such as natural features and infrastructure challenges. These properties are available for development but are more challenging. The second issue of “Add the Right Types of Supply” addresses the need for affordable housing not just high-end housing and even suggests that it not be located “. . . in the most sought-after beach locations. . .” which for Astoria is the Riverfront locations. The City has adopted standards for a Compact Residential Zone to allow for cottage clusters and more affordable housing development. These standards could be applied to any area with a zone change to implement it. The City also has a Planned Development Overlay Zone that allows for development flexibility which could accommodate more affordable housing. The Riverfront area is generally not the area that would be developed for affordable housing as it would be considered more desirable for high-end housing especially due to the higher costs to develop along the waterfront. The proposed amendments to the Bridge Vista area would reduce the base height of buildings to 28’ which would still allow housing above the first floor. In addition, the proposed amendments would allow a height exception without a variance to 35’ to allow for affordable housing. Standards for income level and availability of the units as affordable housing for a minimum of 20 years are included.

2. The Housing Study (Page 4, Section 2, Housing Trends, Key Findings) states *“The overall findings of our technical analysis of current housing conditions (Appendix A) include: . . .*
 - *Newly-built housing supply will tend to be more expensive housing, as it is up-to-date and in better condition than older housing. However, adding new supply for higher-income households is necessary to allow the older housing supply to “filter” to those with more modest income.*
 - *Denser forms of housing, such as townhomes and condos rather than single family homes, may help create some smaller and lower-priced housing stock that can serve first-time and lower-income buyers. In addition, housing in areas less attractive to tourists (for instance, further from the beach or the town center) may be less likely to be consumed by second home seekers or investors. . .”*

Finding: Housing for first-time and lower-income buyers could be provided through the Compact Residential Zone, Planned Development Overlay Zone, and in existing medium and high-density zoned areas which are currently noted as being in surplus in the Buildable Lands Inventory. As noted above, some of these areas may be more challenging to develop. However, the proposed amendments would allow for housing to be developed along the Riverfront but as noted in the Study, these may not likely be developed as affordable housing.

3. The Housing Study, Land Supply Strategy 3 (Page 8, Refine BLI Data and Results - for Warrenton and Astoria) states *"The City of Astoria noted major constraints associated with federally owned land within the UGB. This land is shown as potentially buildable in the current BLI results but may not in fact be available for development during the planning period, based on constraints associated with federal ownership and management of this area. The City should work with other government agencies to clarify the status of this land and remove it from the BLI as appropriate. . ."*

Finding: As noted in the Report, the City has other strategies available for addressing the availability of land for residential development. The reduction in height for the small area along the Riverfront in Bridge Vista would reduce one floor of housing (45' to 35' reductions) in a more high-end development area and would not eliminate the possibility of some housing in this area.

4. The Housing Study, Policy and Development Code Strategy 4 (Page 14, Support High Density Housing in Commercial Zones) identifies the following as possible code amendment strategies:
*"Allow multi-family housing outright.
Consider allowing single-family attached housing.
Allow vertical mixed-use development outright.
Adopt a minimum density standard.
Tailor development and density standards."*

Finding: The proposed code amendments would not change the allowable uses in the Bridge Vista area. Multi-family residential development in the C-3 General Commercial Zone in this area would be allowed outright. As noted above the Compact Residential Zone is a possibility for potential rezoning. The proposed amendments would continue to allow housing above commercial uses in mixed-use development projects.

Finding: While not an adopted Report, this Report was referenced by the attorney for Astoria Warehousing in a letter dated April 9, 2019 which is attached to this document. The above Findings address some of the issues raised in this letter and other issues in the Draft Report. Overall, the proposed amendments would not be in conflict with the strategies identified in the Report

as there are multiple suggested strategies and the proposed amendments would not prohibit residential development in some areas of the Bridge Vista Overlay area.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Planning Commission hold a public hearing and recommend that the City Council adopt the proposed amendments.

CODE AMENDMENT SYNOPSIS
4-17-19

Article 14 Riverfront Vision - Interpretations for Clarification, Updates

Code Section	Code Designation	Proposed Change
1.400	Definitions	Amend: "Standards" to say standards not guidelines ; Building Mass, Gross Floor Area, Design Review, Granting Authority; add graphic to Adjacent
1.400	Definitions	Add definitions for: Building Scale, Gross Floor Area (exclude garages), Outdoor Storage Area, Historic Building, Historic Site, Historic Object, Historic Structure
14.001	Definitions	Add definition for: River Trail, Visual Impact
1.045	Number and Gender	Add section for number & gender neutral words
1.101 1.103 1.105 1.120 9.015.3	Commissions; Admistration	Change name of Design Review Committee to Commission
1.101 1.103	Commissions	Change responsibilities of Design Review Committee to include all design review except Article 6, Historic
14.095	Uses Prohibited for Overwater Development	Amend title to clarify also for shoreland zones
14.100.C	Uses Prohibited for On-Land Development	Add to see 14.095.B for shoreland zone prohibited uses.
14.090	Figure for zone location	Amend figure map to only show Pedestrian-Oriented District; BVO
14.002 14.055 14.060 14.100 14.113 14.115.I 14.133	Conflict between Sections	Remove "conflict between Sections" from individual sections and change to "conflict between Articles" so that Overlay Zones control over base zone requirements; add that more stringent provision in Article 14 shall control; CGO, BVO, NGO; add section on conflict when reviewing adjacent historic "structures"
14.115.I	Signs, BVO	Add map of Pedestrian-Oriented District
14.040.A 14.131.B	Applicable criteria for design review	Clarify that must comply with all design standards to be reviewed administratively or need to go to DRC; CGO, NGO
14.015.C 14.040.C 14.090.A 14.131.D	Applicability and Review Procedures	Put design review of overlay zones relative to "adjacent" historic structure under HLC and then DRC would only review if historic structure is not "adjacent"; GO, BVO, NGO, CGO

Code Section	Code Designation	Proposed Change
6.070.C		
14.060.B 14.113.B.1.a	Setbacks, On-Land	Clarify that the N/S view corridor only applies to the half on each side of the street centerline; add graphic; CGO, BVO
14.100.C.2	Standards for Overwater Development, BVO	Amend height from 35' to 28' and remove stepback requirement ; remove stepback requirement; allow 35' for water-dependent uses; change title of figure 14.100-2
14.100.D.2	Standards for Overwater Development, BVO	Amend reference to area
14.113.C.2 14.113.A	Standards for On Land Development, BVO	Remove stepback requirement Amend to allow 35' height with variance and stepback; add height exception to 35' for affordable housing; balconies or fixed awnings shall not encroach into stepback; balconies allowed below stepback
14.060.C.2	Stepbacks, On-Land	Add that balconies and fixed awnings shall not encroach into stepback; CGO
14.115.G.3	Awnings, BVO	Add awnings not encroach into stepback area
14.113.D	Building Size, On-Land	Clarify that 30,000 sqft max is for all buildings of a single development; refer to definition of gross floor area; (***) possibly add exception for Astoria Warehousing Plan District per APC direction)
14.030.F	Design Standards GOZ	Add "Exterior Lighting" to match other sections; add window details used by DRC and written into other sections; add exterior wall siding detail used by DRC and written into other sections
14.065.A.2.b	Residential window design, CGO	Clarify that garage windows count toward window percentage; rearrange wording
14.115.B	Building Style, BVO	Reformat to separate standard for all uses, standards for non-industrial uses, guidelines for new construction, and guidelines for existing buildings; clarify that mass and scale of entire building is reviewed; add facade variation standard for non-industrial uses with additional design features; clarify how mass and scale should be considered and which buildings to compare;
14.115.E.4.b	Windows, BVO	Add exception for percentage of window coverage for elevator elevations
3.215	Outdoor Storage Area Enclosures	Add standards for outdoor storage area enclosures
3.975.A.2	Exception to Building Height Limitations	Amend to clarify additional non-essential areas not exempt from height limitation; add that height is limited to minimal height required for exempt feature
3.075.A.4	Exception to Building Height Limitations	Add limitations to additions and prohibit signs on exempt height features

Code Section	Code Designation	Proposed Change
8.050.12	Prohibited Signs	Add that signs are prohibited on building height exempt features
14.075.A.1 14.075.A.2 14.120.A. 14.120.B 14.138.A	Landscaping	Clarify requirements for riparian shoreline areas south of River Trail; CGO; BVO; NGO
14.138.B.1	Landscaping, NGO	Add Section B.1 which was erroneously omitted from the original document
14.075.A.3.a 14.120.C.4	Landscaping, street trees	Change maximum height of street trees on north-south streets to 35'; CGO, BVO
2.900.11 2.972.11 2.981.10 2.992.10	Other Applicable Use Standards	Amend to add reference to CGO; MH, HR, LS, AH-MP
2.992.12 2.992.13 14.030.F 14.055.E 14.060.D 14.070.A.1	Other Applicable Use Standards	Add to clarify what overlay sections apply to AH-MP
2.095.10 2.415.13 2.590.10 2.615.9 2.860.10	Other Applicable Use Standards; Development Standards and Procedural Requirements	Add that NGO applies; R-2, C-3, IN, A-3, A-4
2.415.11 2.485.13 2.515.13 2.540.12 2.565.10 2.665.11 2.715.10	Other Applicable Use Standards; Development Standards and Procedural Requirements	Add that CGO applies; C-3, GI, A-1, A-2, A-2A, S-1, S-2A
2.415.12 2.515.14 2.540.13 2.656.11 2.690.12	Other Applicable Use Standards; Development Standards and Procedural Requirements	Add that BVO applies; C-3, A-1, A-2, A-2A, S-2
7.100	Minimum Parking Space Requirements	Add that "gross floor area" used for parking calculation does not include outdoor storage areas but does include outdoor seating areas
14.114	Residential Design Standards - BVO	Add clear and objective standards for administrative review of residential design

DEVELOPMENT CODE UPDATES

Annotated

April 17, 2019

ARTICLE 14 - RIVERFRONT VISION PLAN CORRECTIONS, UPDATES, CLARIFICATIONS

Legend:

Annotated - staff notes for intent and/or explanation of amendment

Changes after the DLCD Notice was sent to track updates to send to DLCD

Changes after the 3-26-19 APC meeting

CORRECTIONS

Section 1.400, Definitions, specific definitions are hereby deleted in their entirety and replaced to read as follows:

STANDARDS: For the purpose of the Riverfront Vision Plan Overlay Zones, the term guidelines-standards shall mean code provisions that require or prohibit specific design features, incorporate numerical or other clear and objective standards, and provide for limited or no discretion by the appropriate review body to interpret and apply the standard.

DEFINITION CLARIFICATIONS AND ADDITIONS

Section 1.400, Definitions, definitions are added read as follows:

BUILDING SCALE: See "Scale, Building".

BUILDINGS, HISTORIC: Buildings which are designated as historic within Astoria are structures intended to shelter human activity. Examples include a house, barn, hotel, church or similar construction. The term building, as in outbuilding, can be used to refer to historically and functionally related units, such as a courthouse and a jail, or a barn and a house.

GROSS FLOOR AREA: See "Floor Area, Gross".

MASS, BUILDING: See "Building Mass".

OBJECTS, HISTORIC: Objects which are designated as historic within Astoria are usually artistic in nature, or small in scale when compared to structures and buildings. Though objects may be movable, they are generally associated with a specific setting or environment. Examples of objects include monuments, sculptures, and fountains.

OUTDOOR STORAGE AREA: An area for storage of materials, products, solid waste disposal collection, recycling, utilities, mechanical equipment, and other storage unless otherwise defined. This does not include roof top equipment enclosures.

(Annotated: Most zones require outdoor storage areas to be enclosed but there is no definition. This is how we have used the definition.)

SCALE, BUILDING: The appearance of a structure in relation to other structures in the vicinity. Scale is affected by variations in height, setbacks, and stepbacks of upper stories.

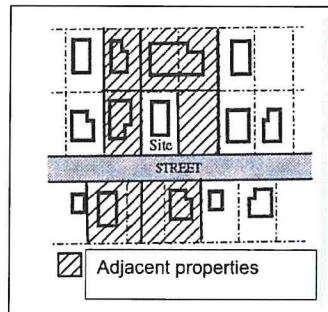
SITES, HISTORIC: Sites which are designated as historic within Astoria may include discrete areas significant solely for activities in that location in the past, such as battlefields, significant archaeological finds, designed landscapes (parks and gardens), and other locations whose significance is not related to a building or structure.

STRUCTURES, HISTORIC: Structures which are designated as historic within Astoria differ from buildings, in that they are functional constructions meant to be used for purposes other than sheltering human activity. Examples include, an aircraft, a ship, a grain elevator, a gazebo and a bridge.

(Annotated: Historic definitions were from the NPS standards and would be applicable City-wide.)

Section 1.400, Definitions, specific definitions are hereby deleted in their entirety and replaced to read as follows:

ADJACENT: Contiguous to, including those properties which would share an edge or boundary if there were no intervening streets, alleys, or other rights-of-way.



(Annotated: graphic added for clarity.)

BUILDING MASS: The height, width, and depth of a structure including non-enclosed features such as unenclosed stairs and unenclosed decks. The mass of a structure is determined by the volume of the building; variation in building shape and form; the relationship between a structure and the size of adjacent structures; and the building site and its relationship to the sidewalk and street, and importance to “human” scale. Building mass includes the bulk of a building which is the qualitative visual perception of the composition and shape of a structure’s mass. Mass and bulk are affected by variations in stepbacks of upper stories, height, setbacks.

(Annotated: Staff will look at other definitions of “mass”. It is intended to look at the entire site and impact of the size on other buildings in the area.)

FLOOR AREA, GROSS: The sum of gross horizontal areas of the several floors of a building, measured from the exterior face of the exterior walls or from the center line of walls separating two buildings, including garages, and structures on all abutting tax lots associated

with a development. It does but not include ing the following, unless otherwise noted in specific code Sections:

- a. Attic space providing headroom of less than seven feet.
- b. Basement providing headroom of less than seven feet. , ~~if the floor above is less than six feet above grade.~~
- c. ~~Uncovered~~ Unenclosed steps or fire escapes.
- d. ~~Private Garages, carports for a maximum of four vehicles; or unenclosed porches; unenclosed decks greater than 12" high; or unenclosed balconies less than 100 square feet combined for all balconies on the same facade.~~
- e. Accessory uncovered off-street parking or loading spaces.
- f. Covered porticos and pedestrian entrances less than 50 square feet.
- g. Outdoor storage area enclosures less than 120 square feet. The square footage of multiple enclosures within 10' of each other shall be considered as one structure for the combined total square footage.

(Annotated: Garages are useable space and in some cases are used for more than parking such as workshops, craft areas, laundry areas, etc. When looking at gross floor area, this area is useable unlike low attics and basements. However, the APC determined that it is better have the parking hidden than to encourage open parking lots. Basements with 7' ceilings can be usable space even if less than 6' of daylight area. Balconies and porches are useable area and can become cluttered with items adding to useable floor area and mass of the structure. ~~Large covered carports add to the mass on the site.~~)

DESIGN REVIEW: A process of review whereby the Historic Landmarks Commission, Design Review Commission ~~Committee~~, Planner, or their designee, evaluates new construction, or the alteration of buildings, structures, appurtenances, objects, signs, sites and districts for appropriateness.

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

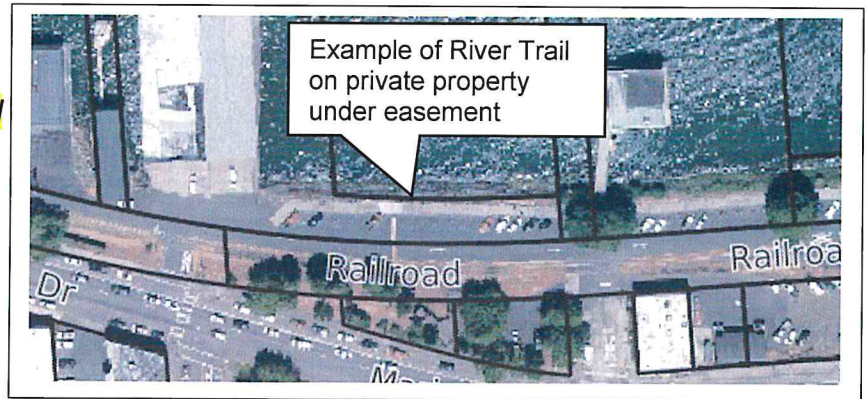
(Annotated: The definitions "Design Review" and "Granting Authority" would need to be amended if DRC is changed from Committee to Commission.)

Section 14.001, Definitions for Article 14, specific definitions are added to read as follows:

RIVER TRAIL: The entire width of the railbanked former railroad right-of-way property and/or easements, including the improved portions of the trail along the Columbia River, not just the improved portions of the Trail. The former railroad right-of-way property is generally 50' wide

in most areas but may include larger areas. The portion of the River Trail between 6th Street and 17th Street is also referred to as the River Walk.

(Annotated: This definition would only apply to Article 14, not the entire Code. River Trail is referred to in the Overlay Zones as described in this definition. The Trail is not entirely within the RR right-of-way in some areas but is intended to be considered when dealing with the Riverfront Vision overlay zone reviews.)



VISUAL IMPACT: A change in the appearance, or view, of the built or natural landscape and urban areas resulting from the development which can be positive (improvement) or negative (deterioration). It shall cover obvious change to geological topography and any other obstacle such as buildings or walls that limit the view of nature as well as the landscape's harmony. Visual Impact is assessed largely by qualitative judgements, involving human appreciation of, and interaction with, landscape and the value they give to a place.

(Annotated: This definition would only apply to Article 14, not the entire Code. Visual impact is used when reviewing design compatibility. This clarifies that it is more than just numerical relationships but also aesthetic.)

UPDATE AND CLARIFICATION

Section 1.045, Number and Gender, is added to read as follows:

"In this code, words in the singular number may include the plural and words in the plural number may include the singular. Words in this code in the masculine gender may include the feminine and the neuter."

(Annotated: The City Code contains the above language to address gender within the Code. As we process code amendments, we will attempt to amend the references to a gender neutral term. Until the entire code can be updated, we are adding the City Code language.)

Section 1.101, Establishment of Design Review Committee, is hereby deleted and replaced to read as follows:

"1.101. ESTABLISHMENT OF DESIGN REVIEW COMMITTEE COMMISSION.

There is hereby created a Design Review Committee Commission whose responsibilities are limited to the Gateway Overlay Area design review in the Astoria Development Code other than those in Article 6, Historic Properties Ordinance, which is the responsibility of the Historic Landmarks Commission."

Section 1.103, Purpose and Duties of the Design Review Committee, is hereby deleted and replaced to read as follows:

"1.103. PURPOSE AND DUTIES OF THE DESIGN REVIEW COMMITTEE COMMISSION.

- A. The purpose of the Design Review Committee Commission is to evaluate the design of proposed projects based on established design review guidelines in Section 14.020 through 14.030 the Astoria Development Code other than those in Article 6, Historic Properties Ordinance. The Committee Commission will function in compliance with the procedures of Article 9 of the Astoria Development Code."

1. ~~Review of Uses Permitted Outright.~~

~~When reviewing the design proposal for a Use Permitted Outright, the Design Review Committee will have the authority to make a decision on the request. That decision shall be appealable to the City Council.~~

2. ~~Review of Conditional Uses.~~

~~When reviewing the design proposal for a Conditional Use, the Design Review Committee will serve as an advisory body and will have the authority to make a recommendation to the Planning Commission. When the Committee action is limited to making a recommendation to the Planning Commission, the recommendation is not subject to appeal. A final decision on the part of the Planning Commission is, however, appealable to the City Council."~~

Section 1.105, Membership, is hereby deleted and replaced to read as follows:

1.105. MEMBERSHIP.

- A. The Planning Commission and Historic Landmarks Commission shall each consist of seven members to be appointed by the City's Mayor, and such additional ex officio, nonvoting members as the City Council may from time to time determine are necessary. The following apply to each the Planning Commission and the Historic Landmarks Commission.

1. Not more than two members may be nonresidents of the City.

- B. The Design Review Commission Committee shall consist of five members to be appointed by the City's Mayor, and such additional ex officio, non-voting members as the City Council may from time to time determine are necessary. The following apply to the Design Review Commission Committee.

1. The Design Review Commission Committee shall consist of five individuals and will include a builder, a design professional (architect, landscape architect, building designer, or artist), a businessperson, a citizen representative, and a Historic Landmarks Commission representative.

2. Not more than one member may be a nonresident of the City.

C. The following shall apply to each the Planning Commission, Historic Landmarks Commission, and Design Review Commission ~~Committee~~.

1. Each member of the Commission or Committee shall hold office for four (4) years. Terms of Commission or Committee members shall be staggered so that not more than two positions will expire in any one year. Members may be reappointed. Ex officio members shall hold their office at the pleasure of the City Council. Not more than two City officials shall be ex officio, non-voting members in accordance with ORS 227.030.
2. A vacancy on the Commission or Committee, whether by death, resignation or removal by the Mayor, shall be filled for the unexpired term.
3. A member may be removed by the Mayor at the Mayor's discretion.
4. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade or profession.
5. A member of the Commission or Committee shall not participate in any Commission or Committee proceeding or action in which any of the following has a direct or substantial financial interest: the member or his ~~their~~ spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which ~~he is~~ they are then serving or ~~has~~ have served within the previous two years, or any business with which ~~he is~~ they are negotiating for or ~~has~~ have an arrangement or understand concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Commission or Committee where the action is being taken.
6. Members of the Commission or Committee receive no compensation.

Section 1.120, Meetings, is deleted in its entirety and replaced to read as follows:

1.120. MEETINGS.

A. Quorum.

1. Four voting members shall constitute a quorum for the Planning Commission or Historic Landmarks Commission.

2. Three voting members shall constitute a quorum for the Design Review Commission ~~Committee~~.

B. Procedures.

The Commission or Committee may make and alter rules and regulations for its government and procedure consistent with the laws of the State of Oregon and with the City Charter and this Code. The Planning Commission and Historic Landmarks Commission should meet at least once per month. The Design Review Commission ~~Committee~~ should meet as needed.

(Annotated: At the time the DRC was established, the only design review was the Gateway Overlay Zone. However, it was anticipated that future design review would be established, and the DRC would have that responsibility. We now have several Overlay Zones that the DRC reviews. There is no longer a need for their review to be just a recommendation to the Planning Commission on designs for a conditional use. The DRC decision is appealable to the City Council directly. With the expanded review, staff suggests changing name from Committee to Commission as they act similar to the HLC. The term "Commission/Committee" remains in the code as other committees could occur and would need to be added back in and it does not change the current use if it remains included.)

Section 14.095, Uses Prohibited for Overwater Development, title is deleted in its entirety and replaced to read as follows:

14.095. Uses Prohibited for Overwater and Shoreland Area Development.

Section 14.110.C, Uses Prohibited for On-Land Development is added to read as follows:

C. Shoreland Zones.

The following uses and activities and their accessory uses and activities are prohibited in Shoreland Zones in the Bridge Vista Overlay Zone. Permitted uses are identified in the base zones in Article 2.

1. Fossil fuel and petroleum product terminals.
2. Auto sales and gas stations.
3. Wood processing.
4. Professional offices, medical offices.
5. Indoor entertainment.
6. Hotels/motels. Facilities existing prior to 2013 may be repaired, replaced, and/or redeveloped with hotels/motels.
7. Conference center. Except if located south of the River Trail property.
8. Residential uses, including manufactured dwellings.

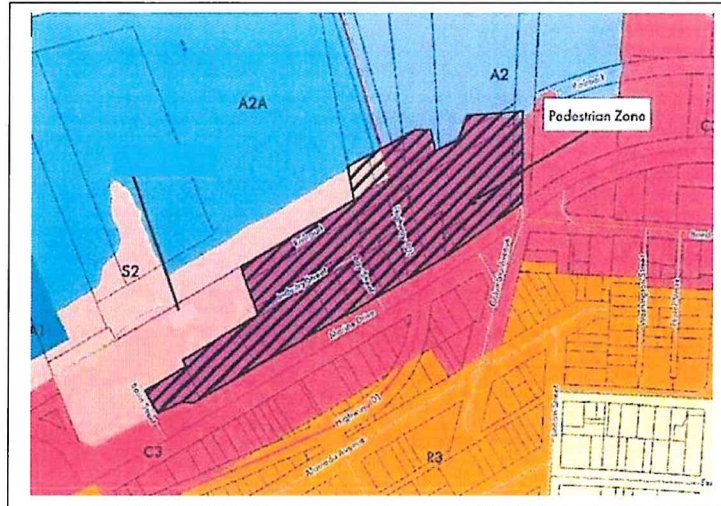
(Annotated: Section 14.095 is titled "Over-water" yet it has prohibited "shoreland" uses listed. This is because part of 14.095 also refers to some shoreland areas. The title is being changed and the same list is being added to the on-land area for clarity.)

Section 9.015.3, Community Development Director Duties, is deleted in its entirety and replaced to read as follows:

3. Assist the Historic Landmarks Commission, Design Review Commission ~~Committee~~, Planning Commission, and City Council in administering the hearings process;

Section 14.090, Figure 14.090-2, Pedestrian-Oriented District and Amended Commercial Zone, is deleted in its entirety and replaced as follows:

Figure 14.090-2, Pedestrian-Oriented District and Amended Commercial Zone



(Annotated: The only change is to eliminate the "New or Amended Commercial Zone". It was hashed like the Pedestrian Zone which caused confusion. The graphic is to identify the Pedestrian Zone, so the other part of the graphic is not necessary.)

CONFLICT BETWEEN SECTIONS AND TERMS

Section 14.002, Conflict within the Code, is hereby added to read as follows:

14.002. Resolving Conflicts within the Code.

- A. This article shall control in the event of a conflict with other sections of the Astoria Development Code.
- B. The more stringent provision shall control in the event of a conflict between Article 14 and any overlay zone.

(Annotated: The current Code has several references to conflict between "Sections" which has led to application of the Code different than intended when written. This addition at the front of the Article 14 for Overlay Zones would make it clear that the Overlay Article shall control over the remaining Code. The following Sections are amended as 14.002 would apply.)

C. When applying design review guidelines, the following rules apply:

1. The terms “building” and “structure” may be used interchangeably in the Riverfront overlay zones (Gateway Overlay, Bridge Vista Overlay, Neighborhood Greenway Overlay, Civic Greenway Overlay, and Urban Core Overlay).

2. The following guidelines apply when reviewing visual impact to a historic building/structure:

a. The relationship to historic “buildings” is more important than the relationship to historic structures, sites, or objects.

b. The visual impact upon an historic “structure”, site, or object shall be considered rather than a simple comparison of the relative mass, scale and/or size.

c. The proposed construction should respect both the existing and/or the original historic spatial relationship between buildings.

d. The proposed construction should be appropriately located and scaled with respect to an historic building/structure, site, or object to maintain the historic character of the site and setting.

e. New construction should be located so that it will not negatively impact the character of an historic building, site, or setting.

f. The design and materials of any proposed construction should include elements that relate favorably to, but do not need to replicate, the design and materials of the historic structure.

(Annotated: There are historic designated structures that require HLC review such as the 2nd Street boiler, Tidal Rock, 14th Street Ferry Landing, etc. It is difficult to compare these features to new buildings. The intent is to be sure they do not visually impact the historic feature. Some of the above language comes from the Secretary of Interiors Standards for new construction in historic areas.)

Section 14.055, Standards for Overwater Development in the Civic Greenway Overlay Zone, introduction paragraphs are hereby deleted in its entirety and replaced to read as follows:

‘The following development standards apply to overwater development in the Civic Greenway Overlay Zone. The Overwater Development standards shall also apply to on-land development north of the River Trail / 50’ wide railroad line property between 19th and 41st Streets. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~

Maintenance, repair, or restoration of buildings existing prior to 2013 shall be exempt from the standards of this Section 14.055. Additions and/or new construction on these buildings shall be subject to these standards.”

(Annotated: With the definition of River Trail, the addition of “50’ wide RR property” is not needed.)

Section 14.060, Standards for On-Land Development in the Civic Greenway Overlay Zone, introduction paragraph is hereby deleted in its entirety and replaced to read as follows:

“The following development standards apply to on-land development in the Civic Greenway Overlay Zone south of the River Trail / ~~50’ wide railroad line property~~. The Overwater Development standards shall apply to on-land development north of the River Trail / 50’ wide railroad line property. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~”

Section 14.100.A, Standards for Overwater Development in the Bridge Vista Overlay Zone, is hereby deleted in its entirety and replaced to read as follows:

A. Applicability.

The following development standards apply to overwater development and to on-land development north of the River Trail / ~~50 feet wide railroad line property~~ in the Bridge Vista Overlay Zone in areas shown in Figure 14-090-1. These Limitation Areas are located approximately 200 Feet from Shoreline or 300 Feet from the north edge of the River Trail right-of-way as shown in Figure 14-090-1. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~

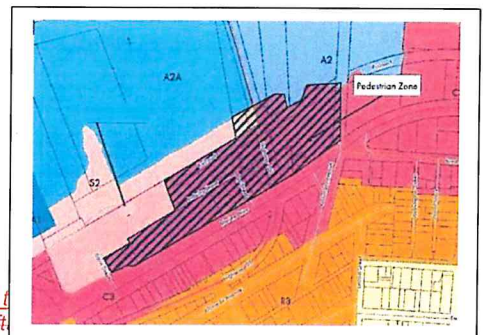
Section 14.113, Standards for On-Land Development in the Bridge Vista Overlay Zone, is hereby deleted in its entirety and replaced to read as follows:

“The following development standards apply to on-land development in the Bridge Vista Overlay Zone south of the River Trail / ~~50 feet wide railroad line property~~. The Overwater Development standards shall apply to on-land development north of the River Trail / 50 feet wide railroad line property. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~”

Section 14.115.I, Design Standards and Guidelines in the Bridge Vista Overlay Zone, is hereby deleted in its entirety and replaced to read as follows:

I. Signs.

Signs in the Bridge Vista Overlay Zone are subject to the requirements in Article 8 (Sign Regulations) of the Astoria Development Code. The following additional



standards apply to signs in the Pedestrian-Oriented District. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~

(Annotated: Also adding a Pedestrian-Oriented District map for clarity.)

Section 14.133, Standards for Overwater Development in the Neighborhood Greenway Overlay Zone introduction paragraphs, are hereby deleted in its entirety and replaced to read as follows:

“The following development standards apply to overwater development in the Neighborhood Greenway Overlay Zone. The Overwater Development standards shall also apply to on-land development north of the River Trail and/or 50’ wide railroad line property between 41st Street and approximately 54th Street. ~~In the event of a conflict between this Section and other Sections of the Astoria Development Code, this Section shall control.~~

Maintenance, repair, or restoration of buildings existing prior to 2002 (See Section 2.585.14 and 14.132.1) shall be exempt from the standards of this Section. Additions and/or new construction on these buildings shall be subject to these standards.”

Section 14.040.A, Applicability and Review Procedures in the Civic Greenway Overlay Area is hereby deleted in its entirety and replaced to read as follows:

A. Residential Development.

Applications may be reviewed administratively subject to the Design Review Standards in Section 14.065 or through the public design review process subject to the Design Review Guidelines in Section 14.025. Any deviation from the standards in Section 14.065 would require the complete application to be reviewed through the public design review process.

(Annotated: There has been questions as to whether an application could be processed administratively with just portions going through design review. The intent was that it is an either / or decision, not split review. State requires an administrative direct process option for residential design review.)

Section 14.131.B, Applicability and Review Procedures in the Neighborhood Greenway Overlay Area is hereby deleted in its entirety and replaced to read as follows:

B. Residential Development

Applications for multi-family dwellings may be reviewed administratively subject to the Design Review Standards in Section 14.134 or through the public design review process subject to the Design Review Guidelines in Section 14.135. Any deviation

from the standards in Section 14.065 require the complete application to be reviewed through the public design review process.

Section 14.015.C, General Provisions for Gateway Overlay Zone, is added to read as follows:

C. Historic Design Review.

When a development proposal is required to be reviewed by the Historic Landmarks Commission due to its proximity adjacent to a designated historic building, structure, site, or object, the Historic Landmarks Commission shall include review of the Gateway Overlay sections relative to historic compatibility. If the proposed development is not “adjacent” to a historic property (as defined in Section 1.400) and not subject to review by the Historic Landmarks Commission, then the historic review of the Gateway Overlay Zone shall be completed by the Design Review Commission.

(Annotated: When referring to the specific requirements of the Historic Landmarks Commission for “adjacent” properties, quotation marks are used for emphasis as it is different than adjacency for design review.)

Section 14.040.C, Applicability and Review Procedures in the Civic Greenway Overlay Zone, is added to read as follows:

C. Historic Design Review.

When a development proposal is required to be reviewed by the Historic Landmarks Commission due to its proximity adjacent to a designated historic building, structure, site, or object, the Historic Landmarks Commission shall include review of the Civic Greenway Overlay sections relative to historic compatibility. If the proposed development is not “adjacent” to a historic property (as defined in Section 1.400) and not subject to review by the Historic Landmarks Commission, then the historic review of the Civic Greenway Overlay Zone shall be completed by the Design Review Commission.

Section 14.090.A, Applicability and Review Procedures in the Bridge Vista Overlay Zone, is added to read as follows:

A. Historic Design Review.

When a development proposal is required to be reviewed by the Historic Landmarks Commission due to its proximity adjacent to a designated historic building, structure, site, or object, the Historic Landmarks Commission shall include review of the Bridge Vista Overlay sections relative to historic compatibility. If the proposed development is not “adjacent” to a historic property (as defined in Section 1.400) and not subject to review by the Historic Landmarks Commission, then the historic review of the Bridge Vista Overlay Zone shall be completed by the Design Review Commission.

Section 14.131.D, Applicability and Review Procedures in the Neighborhood Greenway Overlay Zone is added to read as follows:

D. Historic Design Review.

When a development proposal is required to be reviewed by the Historic Landmarks Commission due to its proximity adjacent to a designated historic building, structure, site, or object, the Historic Landmarks Commission shall include review of the Neighborhood Greenway Overlay sections relative to historic compatibility. If the proposed development is not "adjacent" to a historic property (as defined in Section 1.400) and not subject to review by the Historic Landmarks Commission, then the historic review of the Neighborhood Greenway Overlay Zone shall be completed by the Design Review Commission.

Section 6.070.C, Historic Properties Ordinance, New Construction, is added to read as follows:

C. Historic Design Review in Overlay Zones.

When reviewing a New Construction permit application within a Riverfront Vision Overlay Zone, the Historic Landmarks Commission review shall apply to all historic designated buildings visible within three blocks of the project site not just the adjacent historic structure. The additional Overlay Zone design review standards of Section 14.002.C shall apply. If the proposed development is not "adjacent" to a historic property (as defined in Section 1.400) and not subject to review by the Historic Landmarks Commission, then the historic review of the Overlay Zone shall be completed by the Design Review Commission.

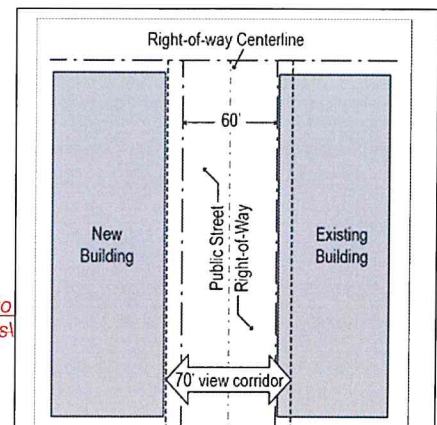
(Annotated: In some cases, the HLC will also be reviewing a project since it is adjacent to a historic property. The Overlay zones contain some review against historic properties that may not be adjacent and therefore not reviewed by the HLC. To avoid duplicate review of historic sections, it may be more efficient to have the HLC review the historic sections if they are already reviewing the project. If it does not require HLC review, then the DRC would include the historic sections in their review.)

SETBACKS AND STEPBACKS

Section 14.060.B, Standards for On-Land Development in the Civic Greenway Overlay Area is deleted in its entirety and replaced to read as follows:

B. Setbacks.

A minimum view corridor width of 70 feet, centered on the right-of-way centerline, shall be provided on north-south rights-of-way between Marine Drive/Lief Erikson



Drive and the Columbia River. Buildings shall be set back in order to achieve the 70-foot view corridor. If existing development on one side of the right-of-way does not meet the setback, the new development on the other side of the right-of-way is only required to provide its half of the view corridor width.

(Annotated: This additional line is added due to questions that arose on the hotel project of not providing their half of the setback since the opposite side of the street had a larger setback. The intent is that each side of the street is required to provide half of the setback - no more, no less.)

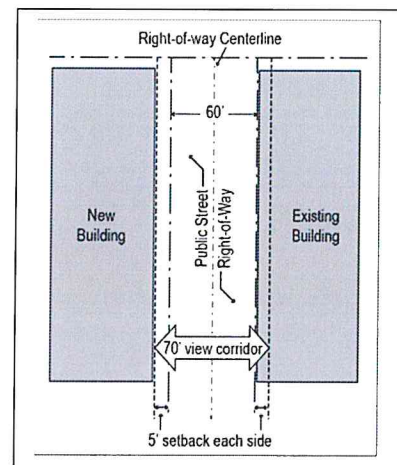
Section 14.113.B.1.a, Standards for On-Land Development in the Bridge Vista Overlay Area is deleted in its entirety and replaced to read as follows:

B. Setbacks.

1. Minimum Setbacks.

a. North-South Rights-of-Way between West Marine Drive / Marine Drive and the Columbia River.

A minimum view corridor width of 70 feet, centered on the right-of-way centerline, shall be provided on north-south rights-of-way between West Marine Drive / Marine Drive and the Columbia River. Buildings shall be set back in order to achieve the 70-foot view corridor. If existing development on one side of the right-of-way does not meet the setback, the new development on the other side of the right-of-way is only required to provide its half of the view corridor width.



Section 14.100.C.2, Standards for Overwater Development, Distance from Shore and Height for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures ~~Outside~~ Within Overwater Development Non-Limitation Areas (Figure -14.090-1). The maximum height shall be 35 ~~28~~ feet from the top of the existing adjacent riverbank. No variance may be granted for an exception to this height limitation, except as follows:

a. Water-dependent uses over water may construct water-dependent / water-related needed facilities up to 35'. The added feature is subject to all other design and/or location standards of the Code.

Figure 14.100-2: Maximum Building Height Outside of Within Overwater Development Non-Limitation Areas

(Annotated: With the reduction to 28', the APC noted that an exception should be made for water-dependent / water-related uses for needed additional height for those uses.)

Section 14.100.D.2, Standards for Overwater Development, Building Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures outside of within the overwater development Non-Limitation Areas (Figure 14.090-1). There shall be no maximum gross floor area for buildings located in these areas.

Section 14.113.A, Standards for On-Land Development, Height for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

A. Height.

1. Maximum building height is 35 28 feet ~~except as noted in subsection (2) of this section.~~
2. A variance may be granted for a building height up to 45 35 feet, is permitted when building stories above 24 15 feet or one story are stepped back at least 10 feet in accordance with Section 14.113.C and in accordance with Article 12 for Variances.

(Annotated: The APC discussed the possibility of height variances to 35' but only if the upper stories were stepped back, but not just an automatic height exception. QUESTION: With the variance criteria that there be a "hardship", what type of hardship would qualify for a height variance? Specialized variances such as for signs and parking have their own criteria. Should some form of special criteria be developed for Riverfront Vision overlay zone height variances?)

3. Exceptions to building height restrictions may be granted through provisions in Section 3.075.
4. Building height exception up to 35 feet is permitted without a variance for buildings that include multi-family housing when 25 percent of proposed units are set aside for affordable housing that is available to renters or purchasers earning no more than 80 percent of median income and paying no more than 30 percent of total household income in rent or mortgage. The affordable housing requirement shall apply to the property for a minimum of 20 years.

(Annotated: The APC discussed the issue of needed affordable housing. This language is in the Urban Core draft amendment and would allow additional height if it includes affordable housing without needing to go through the variance process.)

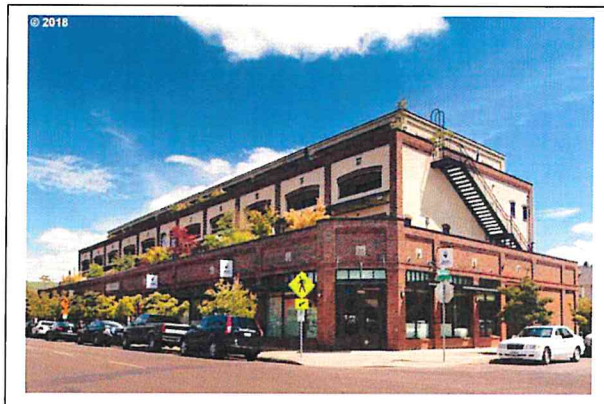
Section 14.113.C.2, Standards for On-Land Development, Stepbacks in the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Additional Building Height.

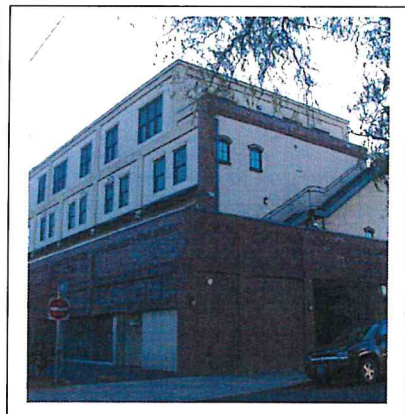
A variance may be granted for additional building height in accordance with Article 12 and Article 9 procedures with the following conditions:

- a. Where the height of a building or building addition is proposed to exceed 24 ~~15~~ feet or one story, at least that portion of the building exceeding 24 ~~15~~ feet or one story, shall provide a stepback of at least 10 feet from the front plane of the proposed building or building addition that faces the street right-of-way or the River Trail.
- b. Balconies and/or fixed awnings (see Section 14.115.G.3) shall not encroach into the required 10-foot stepback area; buildings must be stepped back further in order to accommodate balconies.
- c. Balcony railings constructed to a maximum height of 28' are not encroachments when the building facade above the top of rail is stepped back 10'.

(Annotated: During the hotel review in BVO, it was agreed balconies should not be in the stepback area and that is what is proposed for Urban Core. We want it consistent for all RVP. The APC discussed the possibility of a variance to the 28' but through a variance and with the stepbacks.)



Front and street sides of this example have larger stepback. Rear of building has a slight stepback which shows the difference in mass and scale impact.



Section 14.060.C, Standards for On-Land Development in the Civic Greenway Overlay Area is deleted in its entirety and replaced to read as follows:

C. Stepbacks.

2. Additional Building Height.

Where the height of a building or building addition is proposed to exceed 28 feet, at least that portion of the building exceeding 28 feet, shall provide a stepback of at least 10 feet from the front plane of the proposed building or building addition that faces the street right-of-way or the River Trail. Balconies and/or fixed awnings shall not encroach into the required 10-foot stepback area; buildings must be stepped back further in order to accommodate balconies and/or fixed awnings.

Balcony railings constructed to a maximum height of 28' are not encroachments when the building facade above the top of rail is stepped back 10'.

(Annotated: During the hotel review in BVO, it was agreed balconies should not be in the stepback area and that is what is proposed for Urban Core. We want it consistent for all RVP.)

Section 14.115.G.3, Design Standards and Guidelines, Awnings in the Bridge Vista Overlay Area is deleted in its entirety and replaced to read as follows:

3. Standards for Awning locations Along River Trail and North/South Rights-of-Way.

Awnings are generally discouraged and shall not project into the setback and/or stepback areas.

BUILDING SIZE

Section 14.113.D, Standards for On-Land Development in the Bridge Vista Overlay Area is deleted in its entirety and replaced to read as follows:

D. Size.

The gross floor area of on-land development commercial-uses in the Bridge Vista Overlay Zone shall be a maximum of 30,000 square feet for all buildings which are part of a single development regardless of tax lot lines and/or phased construction (See definition of "Gross Floor Area".)

(*** add reference to Astoria Warehousing District if APC directs)

~~Gross Floor Area shall include the following:~~

- ~~1. Structures on all abutting tax lots associated with the development;~~
- ~~2. Covered parking for greater than four vehicles; and garages;~~
- ~~3. Covered porticos and pedestrian entrances greater than 50 square feet.~~

4. Outdoor storage area enclosures greater than 120 square feet. The square footage of multiple enclosures within 10' of each other shall be considered as one structure for the combined total square footage.

(Annotated: All of these features add to the mass of the building which is what this section was intended to reduce. The new definition of "gross floor area" clarifies the following. Need to clarify that two buildings on the same development are not each allowed 30,000 sqft. Want to allow covered entrances, but large porticos to cover guest parking at check in add to the mass. Trash and equipment enclosures can be quite big. If in separate structures, they can add up to site massing. The 10' separation would be the width of a parking space and would reduce the visual impact. If the separation is less, the visual impact is greater, and it would need to be included in the 30,000 sqft max.)

BUILDING DESIGN

Section 14.030.F, Other Applicable Use Standards in Gateway Overlay Zone, is amended by the addition to read as follows:

14.030. OTHER APPLICABLE USE STANDARDS.

F. Design Standards.

1. Exterior lighting.

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

OR: 1. Exterior lighting.

Exterior lighting shall comply with the standards in Section 3.128.

(Annotated: We are proposing a general lighting standard in Section 3.128 and just referencing it elsewhere to be consistent. Once that is adopted, this section would be amended to reference the new general standards.)

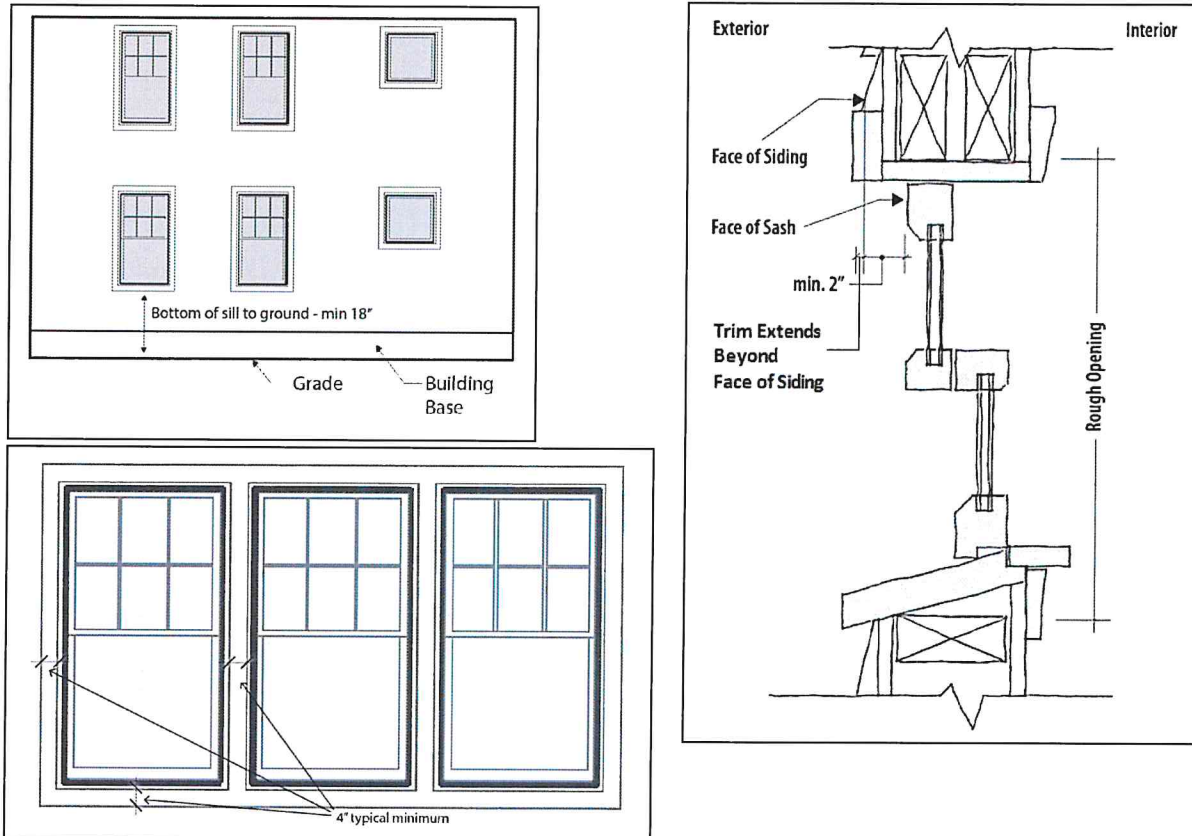
2. Window detailing.

Windows shall have casings/trim, sills, and crown moldings. Window detailing shall meet the following requirements.

- a. Casings/trim shall have minimum dimensions of 5/4 inch x 4 inch and shall extend beyond the facade siding. Exceptions may be granted.

- b. Windows shall be recessed a minimum distance of two (2) inches from the trim surface to ensure a shadow line/effect.
- c. The bottom of the sill shall be a minimum of 18 inches above the ground or floor elevation.
- d. Windows shall be clear and not tinted or reflective.
- e. Vinyl shutters are prohibited.

Window Detailing – Trim and casement location and dimensions



3. Exterior Wall Treatments / Siding.

- a. Fiber cement siding shall be smooth and not textured.
- B. Solid waste disposal area and mechanical equipment enclosures should be sided to match the main structures.

(Annotated: The DRC has determined that the above are minimum standards when interpreting the GOZ guidelines. They requested that staff do the code amendment when possible about two years ago.)

14.065.A.2.b, Residential Design Standards, Residential Design, Window Design, in the Civic Greenway Overlay Area, is deleted in its entirety and replaced to read as follows:

- b. Window area. Window area shall cover a minimum of 30% of all street-facing facade areas visible from a right-of-way or River Trail and shall not exceed 50% of street-facing the facade areas visible from a right-of-way or River Trail. Windows in garage doors may count toward facade window area.

(Annotated: Staff have used garage windows in this calculation, but it is unclear in the Code for developers.)

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

~~B. Building Style and Form.~~

~~1. Standards for All Uses.~~

~~Projecting wall-mounted mechanical units are prohibited where they are visible from a public right-of-way or the River Trail. Projecting wall-mounted mechanical units are allowed where they are not visible from a public right-of-way or River Trail.~~

~~2. Guidelines for All Uses.~~

~~a. Buildings should retain significant original characteristics of scale, massing, and building material along street facades.~~

~~b. Additions to buildings should not deform or adversely affect the composition of the facade or be out of scale with the building.~~

~~c. Distinctive stylistic features or examples of skilled craftsmanship should be treated with sensitivity. All buildings should be respected and recognized as products of their time.~~

~~d. Mid-century "slip covers" should be removed when possible.~~

~~e. Solid waste disposal, outdoor storage, and utility and mechanical equipment should be enclosed and screened from view (Figure 14.115-1). Rooftop equipment should be screened from view by a parapet wall,~~

~~a screen made of a primary exterior finish building material used elsewhere on the building, or by a setback such that it is not visible from adjacent properties and rights-of-way up to approximately 100 feet away.~~

Figure 14.115-1: Screening Waste Disposal, Outdoor Storage, and Utility/Mechanical Equipment



Examples of recommended solid waste disposal area and mechanical equipment enclosures.

- f. ~~Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular (Figure 14.115-2).~~

Figure 14.115-2: Geometric Building Form



- g. ~~Incompatible additions or building alterations using contemporary materials, forms, or colors on building facades are discouraged.~~

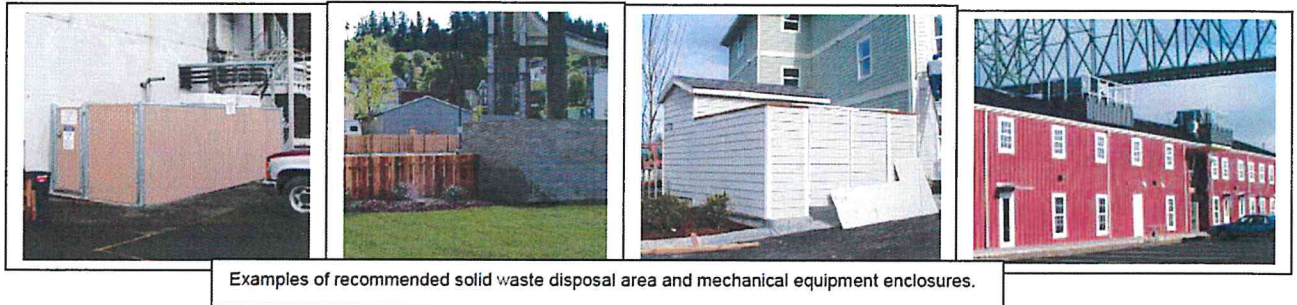
B. Building Style and Form.

1. Standards for All Uses.

- a. Projecting wall-mounted mechanical units are prohibited where they are visible from a public right-of-way or the River Trail. Projecting wall-mounted mechanical units are allowed where they are not visible from a public right-of-way or River Trail.
- b. Solid waste disposal, outdoor storage, and utility and mechanical equipment shall be enclosed and screened from view (14.115-1). A cover shall be required if screened items can be viewed from above. Rooftop equipment shall be screened from view by a parapet wall, a screen made of a primary exterior finish building material used elsewhere on the building, or by a setback such that it is not visible from

adjacent properties and rights-of-way up to approximately 100 feet away.
Also see Section 3.215, Outdoor Storage Areas and Enclosures.

Figure 14.115-1: Screening Waste Disposal, Outdoor Storage, and Utility/Mechanical Equipment



2. Guidelines for All New Construction.

- a. ~~Distinctive stylistic features or examples of skilled craftsmanship of existing buildings proposed for alteration and/or of adjacent buildings should be treated with sensitivity.~~
- a. The design should respect Buildings should retain significant original characteristics, scale, and massing of adjacent structures and material. Buildings should be designed so that they are not substantially different in character from adjacent structures in terms of size, mass, or architectural form. do not "stand out" prominently when seen from a distance so as to negatively impact the streetscape. Also see Section 14.002.C, Resolving Conflicts within the Code.
- b. New Construction should respect Buildings should retain significant characteristics of composition and material of adjacent structures along street facades Also see Section 14.002.C, Resolving Conflict within the Code.
- c. Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular (14.115-2).

Figure 14.115-2: Geometric Building Form



3. Guidelines for All Existing Buildings.

- a. Distinctive stylistic features or examples of skilled craftsmanship of existing buildings and/or structures proposed for renovation, alteration, and/or additions and/or of adjacent buildings for new construction should be treated with sensitivity. All buildings should be respected and recognized as products of their time.
- b. Renovations, alterations, and/or additions to existing buildings should respect Buildings should retain significant original characteristics of adjacent structure scale and massing and material for the entire structure, and should be designed so that they are not substantially different in terms of size, mass, or architectural form. Development should be designed so that structures do not “stand out” prominently when seen from a distance so as to negatively impact the streetscape. Also see Section 14.002.C, Resolving Conflicts within the Code.
- c. Renovations, alterations, and/or additions should retain and/or respect Buildings should retain significant original characteristics of the existing structure composition and material along street facades, for the entire structure. Also see Section 14.002.C, Resolving Conflicts within the Code.
- d. Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular (14.115-2).
- e. Mid-century “slip covers” which are not part of the original historic design construction should be removed when possible.
- f. Incompatible additions or building alterations using contemporary materials, forms, or colors on building facades are discouraged.

4. Standards for Non-Industrial Uses.

- a. Facade Variation.

All non-industrial buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or other similar elements to preclude large expanses of uninterrupted building surfaces in areas which are visible to the public. Design features shall occur at a minimum of every thirty (30) feet for all building facades visible from a public right-of-way or River Trail.

The facade shall contain at least two (2) of the following features:

- 1) Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of six (6) feet;
- 2) Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of two (2) feet and runs horizontally for a minimum length of four (4) feet;
- 3) Offsets or breaks in roof elevation of two (2) feet or greater in height;
- 4) Outdoor seating area, plaza, or other interactive landscaped area adjacent to the building that is specifically identified and/or covered, and approved by the review authority; and/or
- 5) Other similar facade variations approved by the review authority.

Figure 14.115-2.a: Facade Variation



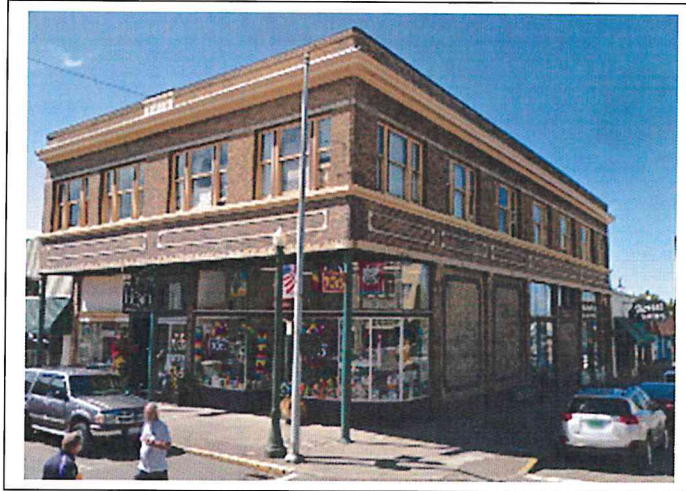
b. Base, Middle, and Top of Building.

All non-industrial buildings shall have a clear and distinct base, middle and top to break up vertical mass (Figure 14.115-2.b). All facades visible from a right-of-way or River Trail shall utilize horizontal bands and/or

changes in color, material, form and/or pattern to differentiate the base, middle, and top of the building, subject to the following requirements:

- (1) Horizontal bands or other changes in pattern or material shall be a minimum of 8 inches high (the length of a standard brick) and shall project a minimum of one inch from the building face.
- (2) Changes in building massing and form may also be used to differentiate a building's base, middle, and top. This may include architectural setbacks or projections, measuring a minimum of 3 inches.

Figure 14.115-2.b: Base, Middle, Top of Building



(Annotated: This is the language proposed for Urban Core Overlay. We will add a graphic once it is developed for Urban Core.)

5. Guidelines for Non-Industrial Uses

- a. The massing, scale, and configuration of non-industrial buildings should be similar to historic structures that are visible from the public right-of-way within three blocks of the development site.
- b. Non-Industrial buildings should be compatible with the vertical proportions of historic facades and the simple vertical massing of historic structures that are visible from the public right-of-way within three blocks of the development site.
- c. The location, size, and design of windows and doors in non-industrial buildings should be compatible with historic structures that are visible from the public right-of-way within three blocks of the development site.
- d. Development should be designed so that structures are not substantially different in character from adjacent buildings in terms of size, mass, or

architectural form. do not “stand out” prominently when seen from a distance so as to negatively impact the streetscape.

(Annotated: This was the section that created the confusion during the hotel appeal. We have reorganized it to clarify what applied to new and renovated buildings, what buildings to compare new construction to, and how building facades should have features to reduce the visual mass of a box. This is similar to the wording being proposed in the Urban Core Area. The term structure rather than building should be used due to the historic issues.)

Section 14.115.E.4.b, Design Standards and Guidelines in the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

E. Windows.

4. Coverage Standards for Non-Industrial Uses.

b. Outside Pedestrian-Oriented District.

Outside the Pedestrian-Oriented District, at least 40% of the ground-floor street-facing facades of non-industrial uses facing a right-of-way or River Trail shall be covered by windows and at least 30% of the upper-floor street-facing facades facing a right-of-way should be covered by windows, except as follows:

- 1) At least 20% of the ground-floor facades and 10% of the upper-floor facades of non-industrial uses north of River Trail visible from the Columbia River shall be covered by windows.
- 2) An exception to the window coverage standard ~~reduction in the window percentage may be allowed for the portion of a building facade that includes an elevator shaft with the inclusion of architectural detail / design features in amounts equal to the minimum window coverage requirement~~ in sufficient amounts. Such architectural details shall include but not be limited to a ~~such as~~ change in material, horizontal projections, engaged columns or pilasters, belt course, moldings, clock, or other similar features. ~~to avoid blank walls shall be required.~~

(Annotated: With the hotel in BVO, the elevator made it hard to meet the percentage. In UC, we propose architectural exception for elevator facades in lieu of windows. If better wording is developed for UC, we would amend this section. Wording on the exceptions was changed to match the proposed UC code.)

Section 3.215, Outdoor Storage Area Enclosures, is added to read as follows:

3.215. OUTDOOR STORAGE AREA ENCLOSURES.

1. Outdoor Storage Area Enclosure Required.

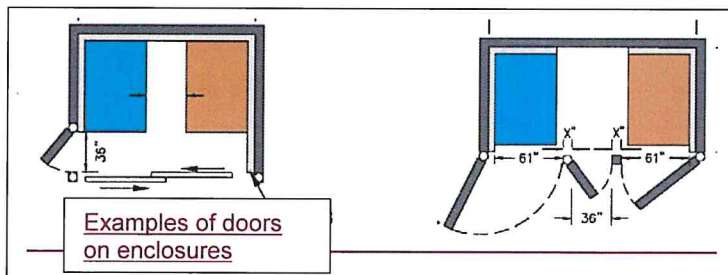
Outdoor storage areas shall be enclosed to provide physical and/or visual buffers. Required enclosures shall be maintained in such condition as to not become so defective, unsightly, or in such condition of deterioration, disrepair, or unsanitary condition that the same causes potential depreciation of the values of surrounding properties or is materially detrimental to nearby properties and/or improvements.

2. Applicability.

The provisions of this Section shall apply to all new construction or major renovation of the existing structures, where "major renovation" is defined as construction valued at 25% or more of the assessed value of the existing structure, unless otherwise specified by the provisions in this Section. The provisions shall also apply to all new storage areas; relocation of an existing storage area; and/or expansion of an existing storage area.

3. In addition to other Code requirements such as Historic and/or Design Review, enclosures shall be provided as follows:

- a. Outdoor storage areas shall be enclosed by appropriate vegetation, fencing, or walls, except for single-family and two-family residential use.
- b. Section 3.215 does not apply to outdoor retail sales areas.
- c. An enclosed storage area visible from other properties and/or rights-of-way ~~above~~ shall be required to include a cover to buffer the view from other properties and/or rights-of-way ~~above the facility~~. The minimum clearance inside a covered enclosure shall be 7'6" with a 6'8" high entryway for pedestrian access.
- d. Enclosed storage areas greater than 7' tall shall contain a pedestrian access door in addition to the main service doors.
- e. The design and location of any enclosed solid waste disposal storage area shall be reviewed and approved by the collection service company.
- f. Unless approved by the Planner, access to enclosed storage areas shall not be blocked by parking spaces.



Covered
storage
area



(Annotated: Outdoor enclosed storage area language appears in various sections of the Code. Not all zones include the same requirement language. Residential zones do not require enclosed areas. This would require enclosures for all new construction, relocation of storage areas, or expansion of areas and apply to the entire City except residential zones. This is the way we have applied the requirement. Details on how to locate and design the enclosure is new language but similar to what we look for in proposals. The cover is to prevent view of the contents from other properties especially from the hillside above and/or adjacent buildings.)

3.075.A.2, Exception to Building Height Limitations, is deleted in its entirety and replaced to read as follows:

(included just for formatting reference: "The features listed in this Section shall be exempt from the height limits established by the Code, provided the limitations indicated for each are observed.")

2. The minimum height required for elevators, stairs, mechanical penthouses, fire towers, skylights, flag poles, aerials, and similar objects but not including storage space or other equipment.

(Annotated: This was an issue between the developer and staff as to how much of the height exemption was allowed due to other uses within the exempt area. This is intended to limit the exemption to just features that are required to be on the roof.)

3.075.A.4, Exception to Building Height Limitations, is added to read as follows:

4. Exempt rooftop features shall not contain equipment, signage, and/or exterior attachments other than communication services equipment, to the exterior of any enclosure.

Section 8.050.12, Prohibited Signs, is added to read as follows:

12. Signs shall not be installed on portions of structures exempt from building height such as elevator shafts and/or rooftop equipment enclosures.

(Annotated: A few elevator shafts have been used for full building signage which draws more attention to the additional height of the building which in some cases is exempt from the maximum height. This would not allow sign on these rooftop portions of structures.)

LANDSCAPING

Section 14.075.A.1, Landscaping, Title and introduction, in the Civic Greenway Overlay Area, is deleted and replaced to read as follows:

1. River side and/or riparian standards.

The following standards apply to landscaping on the river side of the River Trail and to riparian areas to the south of the River Trail ~~in the area between the River Trail and the shoreline~~, which is defined as the landward limit of Columbia River aquatic vegetation or, where aquatic vegetation is absent, the Mean Higher High Water.

Section 14.075.A.2, Landscaping, Title and introduction, in the Civic Greenway Overlay Area, is deleted and replaced to read as follows:

2. Land side or upland standards.

The following standards apply to landscaping along the frontage of parcels abutting the River Trail to the south except where riparian areas are located to the south of the River Trail. Riparian areas are subject to the standards of Section 14.075.A.1.

Section 14.120.A, Landscaping, Title and introduction, in the Bridge Vista Overlay Area, is deleted and replaced to read as follows:

- A. River Side and/or Riparian Standards.

The following standards apply to landscaping on the river side of the River Trail and to riparian areas to the south of the River Trail, which is defined as the landward limit of Columbia River aquatic vegetation or, where aquatic vegetation is absent, the Mean Higher High Water.

Section 14.120.B, Landscaping, introduction, in the Bridge Vista Overlay Area, is deleted and replaced to read as follows:

- B. Land Side or Upland Standards.

The following standards apply to landscaping along the frontage of parcels abutting the River Trail to the south except where riparian areas are located to the south of the River Trail. Riparian areas are subject to the standards of Section 14.120.A.

Section 14.138.A, Landscaping, Title and introduction, in the Neighborhood Greenway Overlay Area, is deleted and replaced to read as follows:

- A. River Side and/or Riparian Standards.

The following standards apply to landscaping on the river side of the River Trail and to riparian areas to the south of the River Trail, which is defined as the landward limit of Columbia River aquatic vegetation or, where aquatic vegetation is absent, the Mean Higher High Water.

Section 14.138.B.1 Landscaping, in the Neighborhood Greenway Overlay Area, added to read as follows:

B. Land Side or Upland Standards.

The following standards apply to landscaping along the frontage of parcels abutting the River Trail to the south except where riparian areas are located to the south of the River Trail. Riparian areas are subject to the standards of Section 14.138.A.

1. Height and Spacing.

a. Maximum spacing of trees.

(1) Twenty (20) feet on center for non-industrial uses

(2) Fifteen (15) feet on center for industrial uses

b. Maximum spacing of shrubs

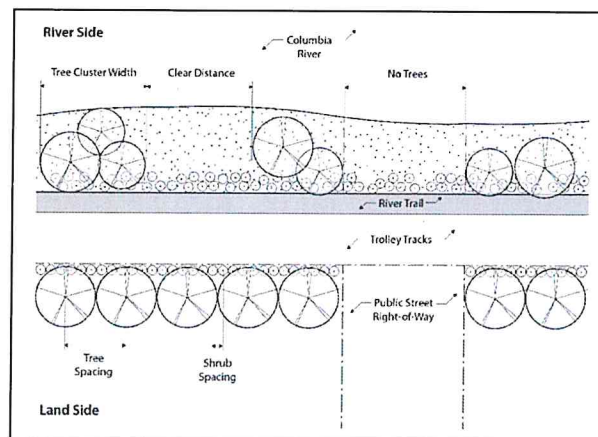
(1) Five (5) feet on center for non-industrial uses

(2) Three (3) feet on center for industrial uses

c. Ground cover landscaping is required in between shrubs and trees.

d. Trees shall not exceed 35 feet in height at maturity

Figure 14.138-2: Land Side Landscaping



(Annotated: The section heading "B" and #1 of on-land landscaping was inadvertently omitted from the final draft of the code amendment for the Neighborhood Greenway Overlay. It is added here to correct that omission.)

Section 14.075.A.3.a, Landscaping, Street Trees, in the Civic Greenway Overlay Area, is deleted and replaced to read as follows:

- a. Maximum height for street trees along north-south streets between Marine Drive and the Columbia River is 45 35 feet.

Section 14.120.C.4, Landscaping, Street Trees, in the Bridge Vista Overlay Area, is deleted and replaced to read as follows:

4. Maximum height for street trees along north-south streets between West Marine Drive / Marine Drive and the Columbia River is 45 35 feet.

Section 2.900.11, Other Applicable Use Standards in the Maritime Heritage Zone is deleted in its entirety and replaced to read as follows:

11. All uses will comply with the requirements of the Gateway Overlay Zone in Sections 14.005 to 14.030 and/or the Civic Greenway Overlay Zone in Sections 14.035 to 14.075 as applicable.

Section 2.972.11, Other Applicable Use Standards in the Hospitality Recreation Zone is deleted in its entirety and replaced to read as follows:

11. All uses will comply with the requirements of the Gateway Overlay Zone in Sections 14.005 to 14.030 and/or the Civic Greenway Overlay Zone in Sections 14.035 to 14.075 as applicable.

Section 2.981.10, Other Applicable Use Standards in the Local Service Zone is deleted in its entirety and replaced to read as follows:

10. All uses will comply with the requirements of the Gateway Overlay Zone in Sections 14.005 to 14.030 and/or the Civic Greenway Overlay Zone in Sections 14.035 to 14.075 as applicable.

Section 2.992.10, Other Applicable Use Standards in the Attached Housing-Mill Pond Zone is deleted in its entirety and replaced to read as follows:

10. All uses will comply with the requirements of the Gateway Overlay Zone in Sections 14.005 to 14.030 and/or the Civic Greenway Overlay Zone in Sections 14.035 to 14.075 as applicable.

Section 2.992.12 and 2.992.13, Other Applicable Use Standards in the Attached Housing-Mill Pond Zone are added to read as follows:

12. For purposes of applying the Gateway Overlay and Civic Greenway Overlay Zones, the Astoria Mill Pond shall be deemed as on-land development not "over-water".

13. Section 14.060, Standards for On-Land Development of the Civic Greenway Overlay Zone do not apply to on-land or over-water Mill Pond single-family and/or two-family residential development in the AH-MP Zone (Attached Housing-Mill Pond).

Section 14.030, Other Applicable Use Standards of the Gateway Overlay Zone, introduction is added to read as follows:

The following standards are applicable to all uses within the Gateway Overlay Zone except as noted in Section 14.030.F below.

Section 14.030.F, Other Applicable Use Standards of the Gateway Overlay Zone, is added to read as follows:

F. Exceptions to Other Applicable Use Standards.

1. Sections 14.030.A to 14.030.D, Other Applicable Use Standards of the Gateway Overlay Zones (MH, FA, CA, HC, AH-HC, HR, LS, AH-MP) do not apply to over-water development in the Civic Greenway Overlay Zone. Section 14.030, Underground Utilities, do apply.

Section 14.055.E, Standards for Overwater Development in the Civic Greenway is deleted in its entirety and replaced to read as follows:

E. ~~Exceptions to Other Development~~ Standards for Overwater Development.

1. The Section 14.030.A to 14.030.D, Other Applicable Use Standards of the Gateway Overlay Zones (MH, FA, CA, HC, AH-HC, HR, LS, AH-MP) do not apply to overwater development in the Civic Greenway Overlay Zone. Section 14.030.E, Underground Utilities, do apply.
2. Section 14.055, Standards for Overwater Development of the Civic Greenway Overlay Zone, do not apply to over-water Mill Pond single-family and/or two-family residential development in the AH-MP Zone (Attached Housing-Mill Pond).

Section 14.060.D, Standards for On-Land Development in the Civic Greenway Overlay Zone is added to read as follows:

D. Exceptions to Standard for On-Land Development.

1. Section 14.060.A to Section 14.060.C, Standards for On-Land Development of the Civic Greenway Overlay Zone do not apply to on-land or overwater Mill Pond single-family and/or two-family residential development in the AH-MP Zone (Attached Housing-Mill Pond).

Section 14.070.A.1, Other Development Standards of the Civic Greenway Overlay Zone is deleted in its entirety and replaced to read as follows:

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

1. Floor area ratios.

Floor area ratio and height standards in Section 14.030.B.1 and Section 14.030.B.2, Other Applicable Use Standards of the Gateway Overlay Zone do not apply to on-land development in the Civic Greenway Overlay Zone. Other use standards in Section 14.030, Other Applicable Use Standards of the Gateway Overlay Zone do apply.

Section 2.095.10, Other Applicable Use Standards in the R-2 Zone is added to read as follows:

10. All uses located within the Neighborhood Greenway Overlay Zone area will comply with the requirements of the Neighborhood Greenway Overlay Zone in Sections 14.130 to 14.138.

Section 2.415.13, Other Applicable Use Standards in the C-3 Zone is added to read as follows:

13. All uses located within the Neighborhood Greenway Overlay Zone area will comply with the requirements of the Neighborhood Greenway Overlay Zone in Sections 14.130 to 14.138.

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

10. All uses located within the Neighborhood Greenway Overlay Zone area will comply with the requirements of the Neighborhood Greenway Overlay Zone in Sections 14.130 to 14.138.

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

9. All uses located within the Neighborhood Greenway Overlay Zone area will comply with the requirements of the Neighborhood Greenway Overlay Zone in Sections 14.130 to 14.138.

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

10. All uses located within the Neighborhood Greenway Overlay Zone area will comply with the requirements of the Neighborhood Greenway Overlay Zone in Sections 14.130 to 14.138.

Section 2.415.11, Other Applicable Use Standards in the C-3 Zone is added to read as follows:

11. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

Section 2.485.13, Other Applicable Use Standards in the GI Zone is added to read as follows:

13. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

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

13. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

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

12. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

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

10. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

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

11. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

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

10. All uses located within the Civic Greenway Overlay Zone area will comply with the requirements of the Civic Greenway Overlay Zone in Sections 14.035 to 14.075.

Section 2.415.12, Other Applicable Use Standards in the C-3 Zone is added to read as follows:

12. All uses located within the Bridge Vista Overlay Zone area will comply with the requirements of the Bridge Vista Overlay Zone in Sections 14.085 to 14.125.

Section 2.515.14, Development Standards and Procedural Requirements in the A-1 Zone is added to read as follows:

14. All uses located within the Bridge Vista Overlay Zone area will comply with the requirements of the Bridge Vista Overlay Zone in Sections 14.085 to 14.125.

Section 2.540.13, Development Standards and Procedural Requirements in the A-2 Zone is added to read as follows:

13. All uses located within the Bridge Vista Overlay Zone area will comply with the requirements of the Bridge Vista Overlay Zone in Sections 14.085 to 14.125.

Section 2.565.11, Development Standards and Procedural Requirements in the A-2A Zone is added to read as follows:

11. All uses located within the Bridge Vista Overlay Zone area will comply with the requirements of the Bridge Vista Overlay Zone in Sections 14.085 to 14.125.

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

12. All uses located within the Bridge Vista Overlay Zone area will comply with the requirements of the Bridge Vista Overlay Zone in Sections 14.085 to 14.125.

Section 7.100, Minimum Parking Space Requirements, introduction is deleted in its entirety and replaced to read as follows:

Table 7.100 – Off-Street Parking Space Requirements by Use.

The following are minimum off-street parking requirements by use category. The Community Development Director or Planning Commission, as applicable, may increase the required off-street parking based on anticipated need for a specific conditional use.

For off-street parking requirement calculations, “gross floor area” as defined in Section 1.400 shall not include outdoor storage areas. Gross floor area for off-street parking calculations shall include exterior space utilized for the use which results in expanded use on the site such as outdoor seating area for an eating/drinking establishment.

(Annotated: With the revised definition of “gross floor area”, we need to clarify that outdoor enclosures for solid waste or utilities is not part of the calculation for needed parking spaces. However, since we are amending this section, it is a good time to clarify that additional seating area equates to additional guests to the site so additional parking is needed.)

Section 14.114, Residential Design Standards for the Bridge Vista Overlay Area is added to read as follows:

14.114. RESIDENTIAL DESIGN STANDARDS.

A. Applicability.

The following design standards apply to all new construction or major renovation of residential development, where “major renovation” is defined as construction valued at 25% or more of the assessed value of the existing structure.

B. Residential Design.

Residential development proposed in the Bridge Vista Overlay Zone may be reviewed in accordance with one of two review options: (1) pursuant to design review procedures and the design review guidelines applicable to all building types established in Section 14.115; or (2) pursuant to procedures for administrative review by the Community Development Director established in Article 9 and the following design review standards for residential development. Any deviation from the following design standards in Section 14.114 would require the complete application to be reviewed through the public design review process as noted in Option 1.

The following design standards apply to the administrative review of residential development and apply to all dwelling unit types (single-family, two-family, and multi-family dwelling unit buildings), unless specified otherwise. All other standards of the Bridge Vista Overlay Zone shall be applicable.

1. Building Forms.

- a. All dwelling unit buildings shall be based on a rectangular or square form.
- b. Single-family and two-family dwelling units must have a front porch, at least six (6) feet deep and 60 square feet in area.

Figure 14.114-1: Residential Building Form

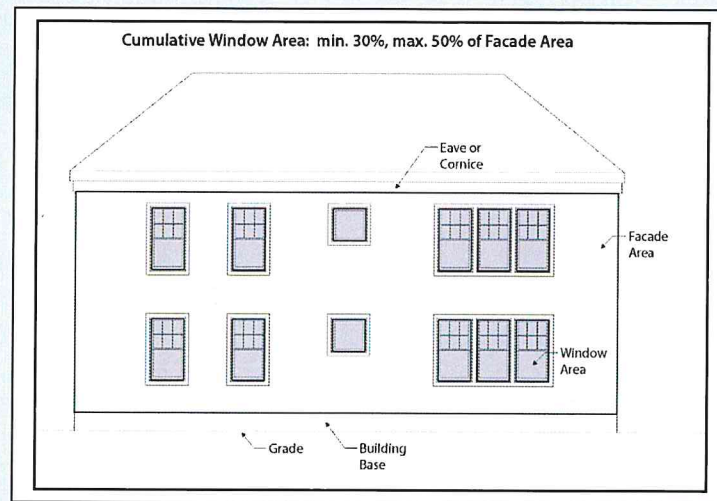


2. Window Design.

The following design standards apply to all facades for all dwelling unit types.

- a. Windows required. All facades facing a right-of-way, River Trail, or common open space shall have windows.
- b. Window area. Window area shall cover a minimum of 30% of all facade areas facing a right-of-way, River Trail, or common open space, and shall not exceed 50% of facade areas facing a right-of-way.

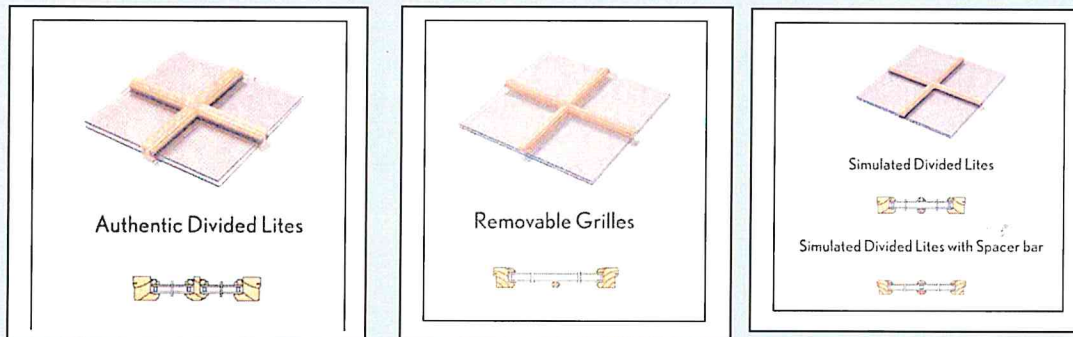
Figure 14.114-2: Window Area



c. Window lites. Window lite design shall be one of the following:

- 1) Single-lite windows; or
- 2) Multiple-lite true-divided windows; or
- 3) Combination of single and multiple-lite true-divided windows; or
- 4) Applied muntins with profile facing window exterior to create exterior shadow lines.

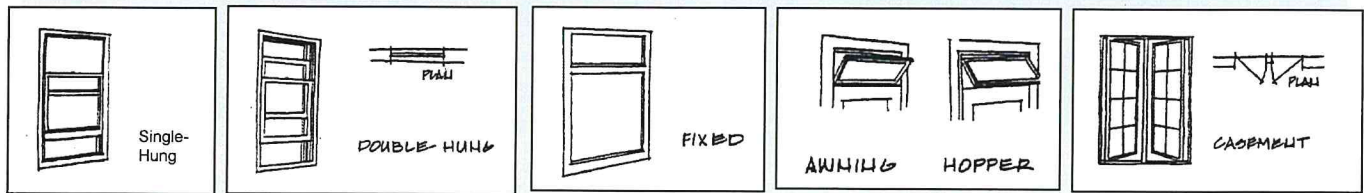
Figure 14.114-3: Window Lites



d. Windows shall be fixed or open in one of the following configurations:

- 1) Fixed window; or
- 2) Single-hung windows; or
- 3) Double-hung windows; or
- 4) Awning or hopper windows; or
- 5) Casement windows.

Figure 14.114-4: Fixed and Opening Windows

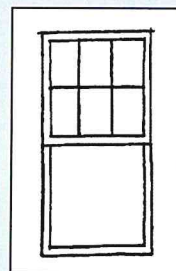


e. Window shape. Window shape shall be one of the following:

- 1) Vertical rectangle; or
- 2) Square.
- 3) Arched or decorative windows are permitted but should not exceed more than 30% of the total window coverage on all facades of the building.

Figure 14.114-5: Window Shapes

Vertical rectangular window



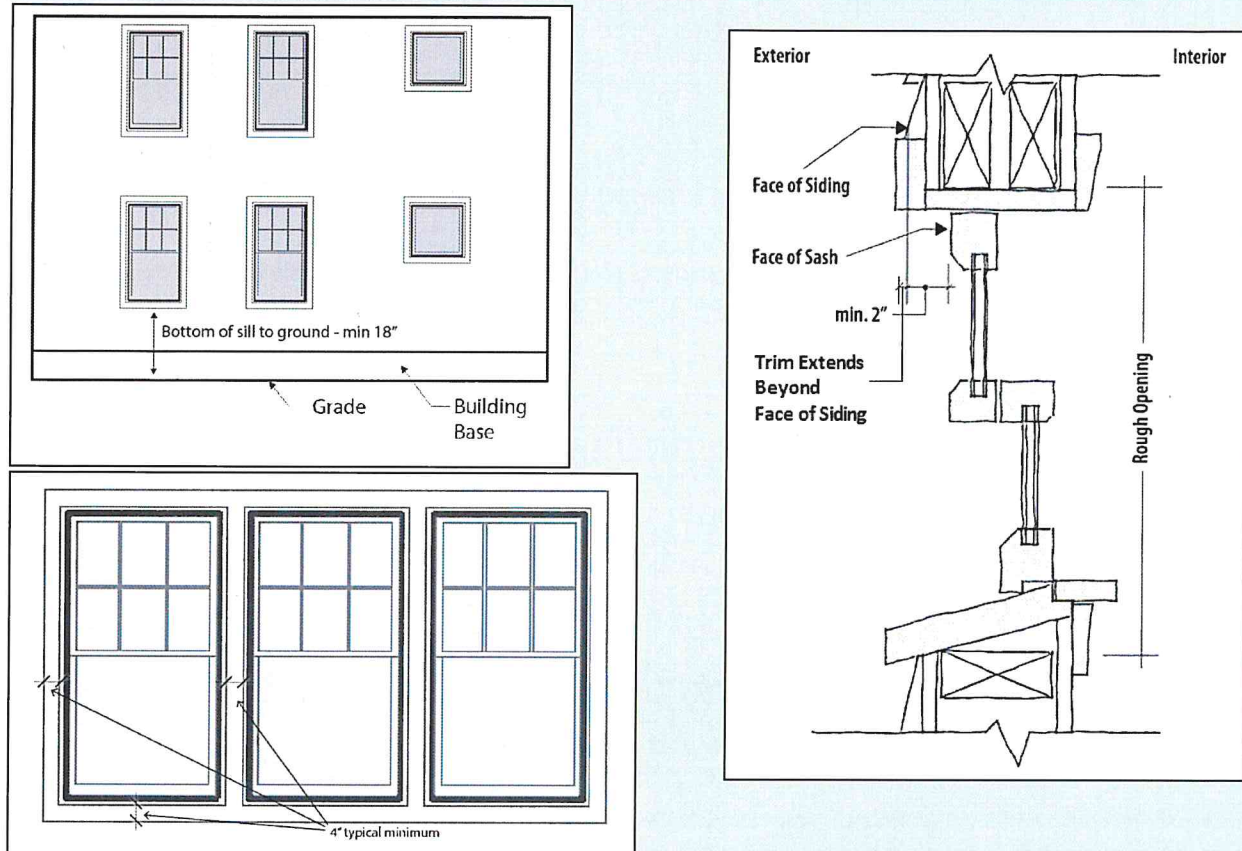
Examples of arched or decorative windows



f. Window detailing. Windows shall have casings/trim, sills, and crown moldings. Window detailing shall meet the following requirements.

- 1) Casings/trim shall have minimum dimensions of 5/4 inch x 4 inch and shall extend beyond the facade siding.
- 2) Windows shall be recessed a minimum distance of two (2) inches from the trim surface to ensure a shadow line/effect.
- 3) The bottom of the sill shall be a minimum of 18 inches above the ground or floor elevation.

Figure 14.114-6: Window Detailing – Trim and casement location and dimensions

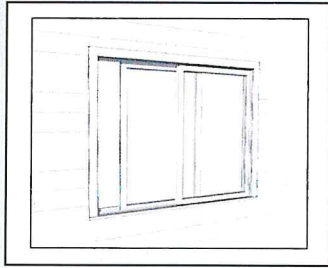


g. Window design prohibited. The follow window design features are prohibited.

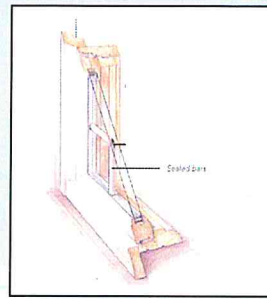
- 1) Applied muntins that have no profile.
- 2) Smoked, tinted, or frosted glass, except for bathroom windows not on the facade facing a right-of-way.
- 3) Mirrored glass.
- 4) Horizontal sliding windows.
- 5) Aluminum frame windows.
- 6) Vinyl windows.
- 7) Blocked-out windows.
- 8) Windows that extend beyond the plane of the building facade.

Figure 14.114-7: Window Design Prohibited

Horizontal sliding window



Muntins with no profile

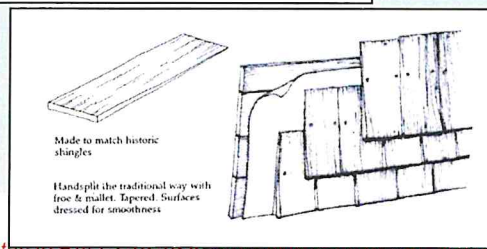
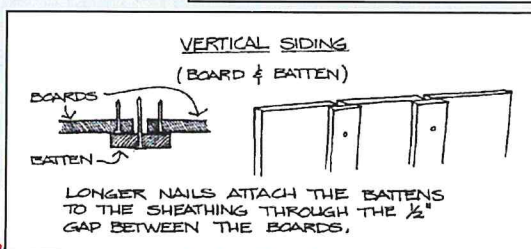
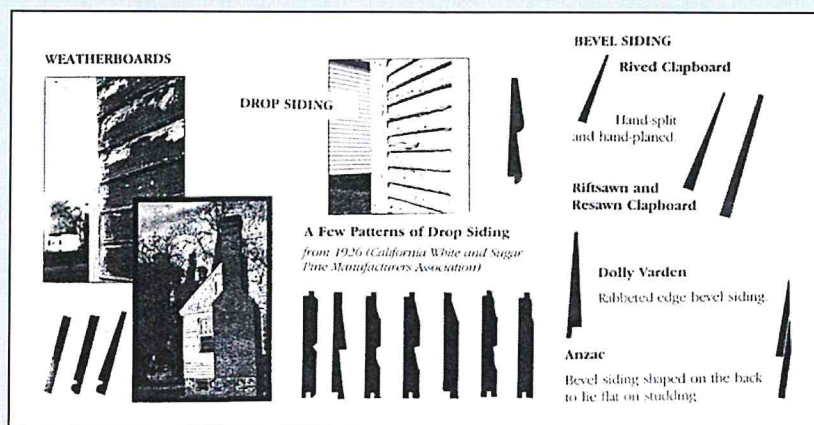


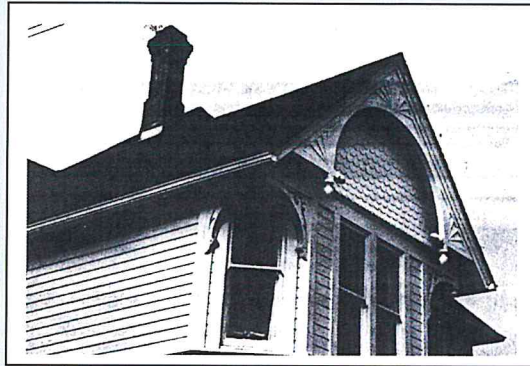
3. Exterior Wall Treatments and Materials.

The following design standards apply to all dwelling unit types.

- a. A minimum of 80% of exterior walls shall be constructed of one or more of the following sets of treatments and materials.
 - 1) Drop siding; or
 - 2) Weatherboard siding; or
 - 3) Clapboard; or
 - 4) Rectangular wood shingle; or
 - 5) Decorative wood shingle; or
 - 6) Board and batten.
- b. Horizontal siding shall have six inches or less exposure.
- c. Vertical board and batten shall have true battens.
- d. Fiber cement siding shall be smooth, not textured.

Figure 14.114-8: Exterior Walls – Permitted Materials





- d. Paneled material shall be applied in a manner which avoids the occurrence of seams along the wall plane. Where seams cannot be avoided, they shall be located in a manner that relates logically to windows and other architectural features of the facade. Horizontal seams shall be covered by a trim board or cornice piece.

Figure 14.114-9: Exterior Walls – Seam Treatment

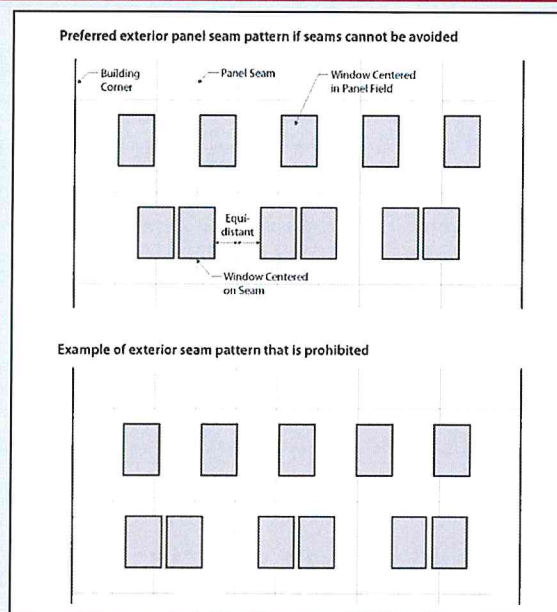
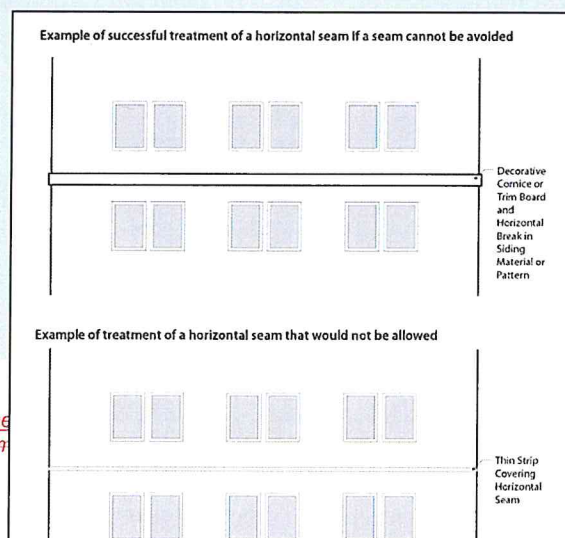


Figure 14.114-10: Exterior Walls – Horizontal Seam Treatment



e. Exterior wall treatments and materials prohibited. The following types of treatments and materials are prohibited.

- 1) Exposed textured concrete block;
- 2) Flagstone or other applied stone products;
- 3) Precast concrete or decorative concrete panels;
- 4) Wood shakes;
- 5) Plywood paneling;
- 6) Cladding materials such as corrugated metal panels or spandrel glass;
- 7) Neon or other fluorescent colors;
- 8) Bright or primary wall colors for the entire wall surface;
- 9) Painted brick; and
- 10) Non-durable materials such as synthetic stucco or shingles at the ground floor.

Figure 14.114-11: Exterior Wall Treatments and Materials Prohibited

Applied stone



Textured concrete



4. Roof Elements.

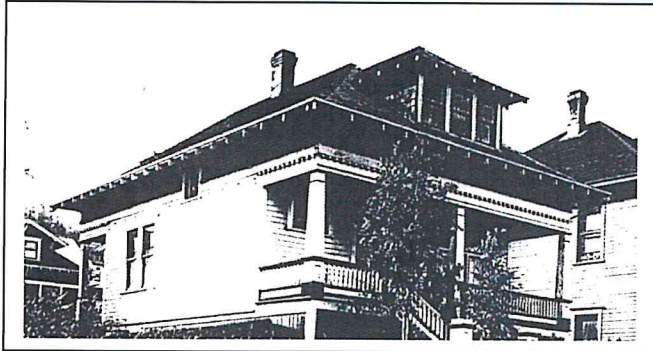
The following design standards apply to all dwelling unit types.

a. Roof design shall be one of the following:

- 1) Steep (minimum 5:12 pitch) gable with broad (minimum 1 foot) eaves;
- 2) Steep (minimum 5:12 pitch) hip with broad (minimum 1 foot) eaves; or
- 3) An "Italianate" style hip, gable, or cube roof with a minimum roof pitch of 4:12 and broad (minimum 1 foot) eaves.

Figure 14.114-12: Roof Design Permitted

Steep pitched hip roof with
broad eaves and dormer elements



Italianate Roof



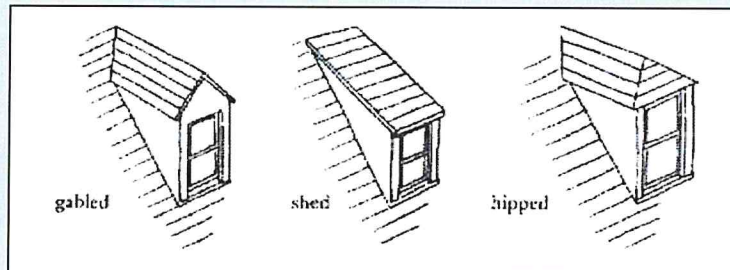
4) A roof may consist of sections of flat roof for up to 75% of the roof area.

b. Roof elements permitted. The following roof design elements are permitted.

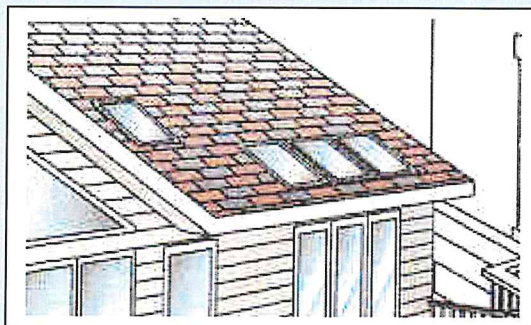
- 1) Dormers with gable, hip, or shed roofs.
- 2) Flat panel skylights or roof windows on secondary elevations.

Figure 14.114-13: Roof Elements Permitted

Gabled, shed, and hipped dormers



Flat panel skylights

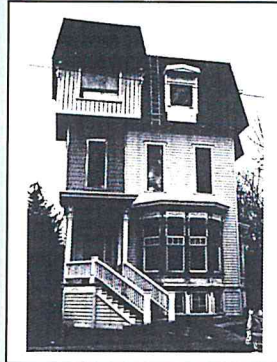


c. Roof elements prohibited. The following roof design elements are prohibited.

- 1) False mansard or other applied forms.
- 2) Dome skylights.

Figure 14.114-14: Roof Elements Prohibited

False mansard roof



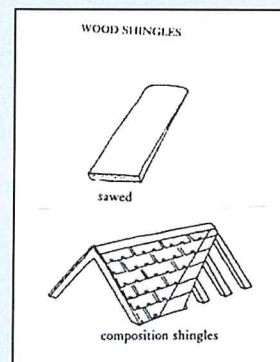
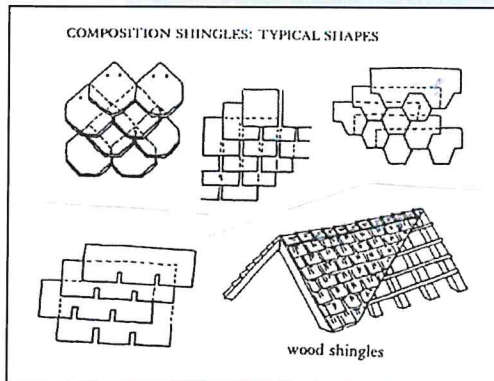
5. Roofing Materials.

The following design standards apply to all dwelling unit types.

a. Roofing material. Roofing shall be one of the following materials:

- 1) Wood shingle; or**
- 2) Composition roofing; or**
- 3) Metal with no-profile seams or low-profile seams (less than 1/4 inch x 1 1/4 inch).**

Figure 14.114-15: Roofing Material Permitted



b. Roofing material color. Roofing material shall be gray, brown, dark green, black, or deep red. Other subdued colors may be approved by the Community Development Director.

c. Roofing materials prohibited. The following roofing materials are prohibited.

- 1) High profile standing seam (1/4 inch x 1 1/4 inch or greater) metal roof.**
- 2) Brightly colored roofing material, as determined by the Community Development Director.**

Figure 14.114-16: Roofing Material Prohibited

High profile metal seam roof



6. Signs.

Signs are subject to the sign provisions in Section 8.040 and 8.160.

7. Doors.

The following design standards apply to all dwelling unit types.

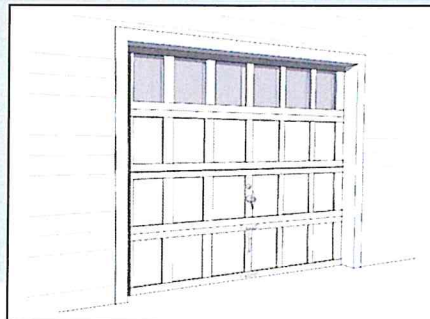
- a. Doors shall have at least one light (glass) panel.
- b. Sliding doors are not permitted on the ground floor of the front facade.
- c. All materials are permitted.
- d. Metal or metal-clad doors shall be painted.

8. Garage Doors.

The following design standards apply to attached and detached garages:

- a. Each garage door shall be a maximum of ten (10) feet in width and seven (7) feet in height.
- b. A minimum of 10% of each garage door shall be window panels, raised trim, or other architectural details.

Figure 14.114-17: Garage Doors Permitted



(Annotated: State regulations require that residential design review processes include an administrative review process that does not require public hearing/review. The above standards are similar to those adopted in the CGO and NGO. Developers may choose this direct method with no deviation or go through the public process which allows more flexibility and discretion in the design.)



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

April 17, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

SUBJECT: AMENDMENT (A19-01) RIVERFRONT VISION PLAN - ASTORIA WAREHOUSING

At the Astoria Planning Commission meeting on March 26, 2019, the attorney for Astoria Warehousing addressed the APC during the public hearing on the proposed amendments for the Bridge Vista Overlay area. He expressed concerns with the proposed amendments and the impact it would have on the Astoria Warehousing site at 70 W Marine Drive and requested that the public hearing be continued. The APC continued the hearing to April 23, 2019.

The issues raised about the Astoria Warehousing site include the fact that the site is approximately 12 acres (5 acres on land and 7 acres over water) and that the height and maximum gross square footage of development would be an extreme hardship on redevelopment of the site due to the large size of the site. Another issue raised was the lack of clear and objective design standards for residential development, among others. Staff has address several of the attorney's concerns. However, the overall issue of the size of the site and development constraints should be discussed by the APC to determine what direction the code should take on this issue. Staff has prepared draft code amendment language for the Astoria Warehousing site similar to the adopted code language in the Civic Greenway Overlay Zone that addressed a similar issue with the East Mooring Basin. This draft language is being presented as a starting point for discussion purposes as a possible solution to the Astoria Warehousing issue.

If the APC determines that the attached draft language or some other code amendment is appropriate, it would be added to the other proposed code amendments for consideration.

(Annotate: The following is language from the East Basin Plan District in CGO that could be applied to the area currently occupied by Astoria Warehousing and NW Natural Gas. This is a large area over five acres and proposed and existing limitation within the BVO could limit redevelopment of this area.)

14.127. ASTORIA WAREHOUSING PLAN DISTRICT.

The property situated approximately between Columbia Avenue to the west, 1st Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.127.A the Plan District shall be known as the Astoria Warehouse Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area;
2. Existing base and overlay zone provisions are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

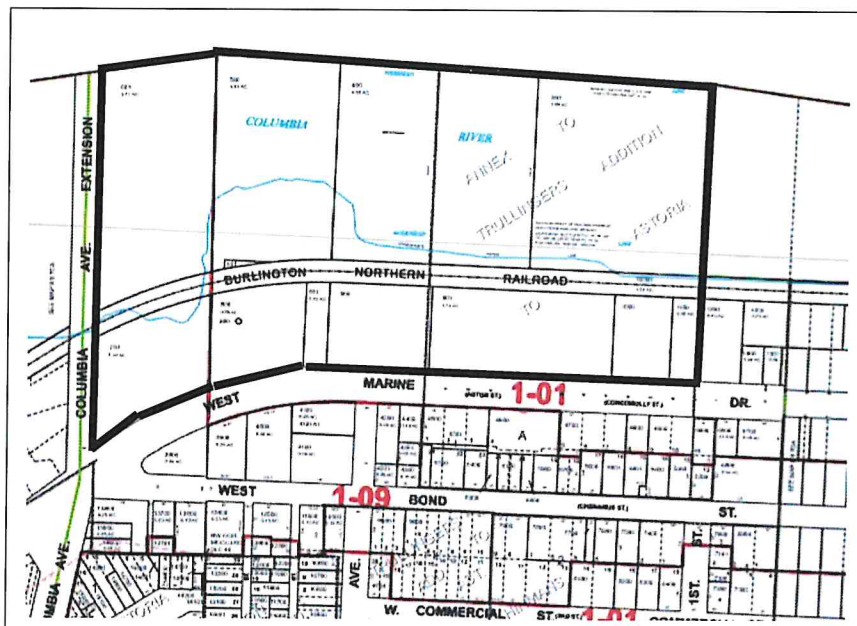
B. Review.

After adoption of Astoria Warehousing Plan District regulations, the Planning Commission shall periodically review the Astoria Warehousing Plan District and its regulations to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

C. Mapping.

The boundaries of the Astoria Warehousing Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive

between Columbia Avenue and 1st Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.



(Annotated: The District could include the Astoria Warehousing and NW Natural Gas properties as both of these are large adjacent sites that could be developed as a larger project.)

D. Standards.

The standards for the on-land area within the Astoria Warehousing Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such changes may include:

1. Adding uses;
2. Changes to building height limits;
3. Setback or view corridor modifications;
4. Building size and permissible footprint.

(Annotated: Excluded the water area to continue with the intent of the BVO to protect some views in this area and prevent possible intensive over-water development contrary to Riverfront Vision Plan.)

E. Application Procedure.

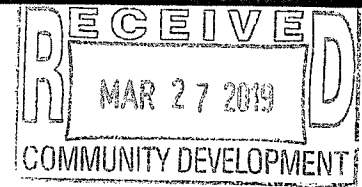
1. An application to establish the Astoria Warehousing Plan District shall be processed through the following procedures:
 - a. The City or property owner/owners within the Plan District may apply to establish development regulations that affect one or more properties within the Astoria Warehousing Plan District.
 - b. An application to establish regulations that would govern development within the Astoria Warehousing Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10.
 - c. An application to establish the boundaries of the Astoria Warehousing Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
2. An application to apply the Astoria Warehousing Plan District regulations to a specific project shall be processed through the following procedures:
 - a. The property owner shall be the applicant or co-applicant on all applications.
 - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.128 to 14.129. ASTORIA WAREHOUSING PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)

Tiffany Taylor

From: Rachel <raculr@gmail.com>
Sent: Wednesday, March 27, 2019 10:37 AM
To: Tiffany Taylor
Subject: Re: Bridge vista



Thank you. Tiffany. I must make a correction however. The reference town is Springdale UT.

> On Mar 27, 2019, at 9:48 AM, Tiffany Taylor <ttaylor@astoria.or.us> wrote:

>
> Rachel,
>
> THANK YOU for submitting your comments. I will be sure and forward them to the project planners.
>
>

> TIFFANY TAYLOR
> ADMINISTRATIVE ASSISTANT
> COMMUNITY DEVELOPMENT DEPARTMENT
> 1095 Duane Street Astoria OR 97103
> ttaylor@astoria.or.us
> 503-338-5183 (phone)
> 503-338-6538 (fax)

> -----Original Message-----

> From: Rachel [mailto:raculr@gmail.com]
> Sent: Wednesday, March 27, 2019 9:33 AM
> To: Tiffany Taylor <ttaylor@astoria.or.us>; Jim <jstoffer@charter.net>
> Subject: Bridge vista

>
> It was interesting to hear commentary at the planning commission meeting last evening, to hear the concerns from property owners and from community members, and to realize the difficulty that the commission and the council has with placing restrictions on building, particularly with the coming development of Astoria Warehousing property. Indeed this is an opportunity to have something lovely on the waterfront.

> We visited a small town in Utah this past winter, Glendale, UT, and noticed that commercial buildings there were no taller than two stories, were developed campus style, and though there is pressure in the town to provide short term housing for many people, they have prevented high rise buildings.

> I have just looked at the Glendale City planning department website and note that they have some interesting means of writing regulation for height restrictions and regulation of a color palette.

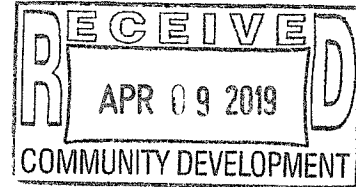
> I do think that Astoria is on the edge of remaining a wonderful place to live, as well as a place people like to visit. I think also that with due diligence we can retain that feeling, or we can become less appealing for residents and for visitors.

> Rachel Ulrich

>

April 9, 2019

Planning Commission
City of Astoria
1095 Duane Street
Astoria, Oregon 97103



Re: Amendment Request (A 19-01) (Riverfront Overlay Zone/Bridge Vista Overlay Zone)

Dear Commissioners:

Introduction

I am writing on behalf of Astoria Warehousing Inc. (AWI) to supplement the testimony I provided on March 26, 2019. AWI remains opposed to the new height and building square footage limitations proposed in the March 19 staff report. As of the date of this letter we are not aware of any changes to the twenty four amendment groups listed on pages 3-4 of the March 19 staff report. We reserve our right to provide additional testimony if any changes to these amendments are proposed.

Key Considerations

1. Several of the proposed amendments would be a fundamental change to the City's development code. At least six of the twenty four amendment groups listed in the March 19 staff report at pages 3 and 4 are not merely housekeeping amendments, or a "quick fix" to minor ambiguities in the development code. Instead, amendment groups 1, 2, 6, 12, 13, and 18 involve fundamental changes to the definitions and development standards in the C3 and Bridge Vista Overlay (BVO) zones.

These fundamental changes would limit development in the C3/BVO zones and on the AWI site specifically. For example, reducing the height allowed in the BVO zone from 45 to 28 feet, effectively reduces the number of stories that can be built from four to two. There is no factual basis in the record justifying a 28 foot height limitation in the C3/BVO zones. Even if there was a factual basis for the proposed change, reducing the height limit from 45 to 28 feet, with no flexibility, is both unfair and impractical. By comparison, the City's most restrictive zone in terms of height, is its single family residential zone. The single family zone has a height limit of 28 feet and allows flexibility under a variety of circumstances. In fact, many of the City's single family residential zones contain buildings that are taller than 28 feet. Therefore, as

a practical matter the City is proposing a fundamental change in the height limit in the C3/BVO zone that is more restrictive than the height limit in the City's single family zones.

2. Several of the proposed amendments would negatively affect the residential use of private property and the development of needed housing in the C3/BVO Zone. As stated in my earlier testimony, the uses that would primarily occupy the upper stories of waterfront development in the C3/BVO zone are residential or lodging uses. While some industrial and commercial uses may need taller buildings to accommodate ground floor activities, office use, or storage, the primary uses that would occupy upper stories in a mixed use waterfront zone like the C3/BVO zone are residential or lodging uses, not commercial or industrial uses. The fact that residential uses occupy the upper floors of development in most mixed use zones along the waterfront can be readily seen in other mixed use waterfront zones in Astoria, and throughout Oregon. In Oregon, residential uses and needed housing are subject to a number of protections, as detailed below. The City's ability to regulate residential uses and needed housing is therefore limited as a matter of state law.

3. Several of the proposed amendments would be unlawful. The proposed height and building square footage limitations, and other proposed changes in amendment groups 1, 2, 6, 12, 13 and 18, are unlawful for at least the following reasons:

a) Several of the proposed amendments that would limit the height and building coverage of needed housing in the C3/BVO zones violate ORS 195.305 (Measure 49) because they would cause a decrease in the fair market value of private property that can be developed for residential use. ORS 195.305 entitles property owners to receive just compensation from the City when any new or amended land use regulation that affects the residential use of private property, decreases its fair market value. In the alternative, ORS 195.305 would require the city to waive the offending regulation. As explained above, several of the proposed amendment groups regulate building height and building coverage on property that allows residential use. Therefore, these amendments give rise to a M49 claim.

b) Several of the development standards that apply to residential development in the C3/BVO zone violate ORS 197.307 and 197.303, because they regulate needed housing without providing clear and objective approval standards. These standards were discussed at the hearing on March 26 and should be amended accordingly, as they have been in other zones. We are willing to work with the City to develop reasonable development standards for housing in the C3/BVO zones that are clear and objective and that are consistent with the City's comprehensive plan, and that are consistent with the intent and purposes of the zoning district.

c) The proposed amendments that would limit height and building coverage in the C3/BVO zone violate the City of Astoria's Comprehensive Plan. At the hearing on March 26, several commissioners correctly stated that the proposed height limit violates the City's Comprehensive Plan. In particular, Commissioner Moore cited to

Comprehensive Plan Policy 68(e), and the Riverfront Vision Plan at page 37. These provisions require the City to use various techniques to maintain access to the river, including setbacks from the River Trail and public rights of way, and step-backs above a certain building height or number of stories.

In particular, the Riverfront Vision Plan specifically states that:

“These techniques will maintain a sense of openness, and preserve sunlight and views. Trading building height for width (mass) may be desirable in some instances, but a maximum height should be established and enforced. That maximum height likely would be on the order of one story above the base height.”

In this case, the base height in the C3/BVO zone is 35 feet. One story above the base height in the C3 zone would be 45 feet, which is precisely the maximum building height in the C3/BVO zone as it currently exists. In other words, the existing height and setback provisions in the C3/BVO zones specifically implement the City’s adopted comprehensive plan. On the other hand, the proposed height limit of 28 feet would conflict with the city’s adopted comprehensive plan and should therefore be denied.

It should also be noted that the proposed height limit of 28’ is not supported by an adequate factual basis, and is contrary to relevant legislative facts in the City’s comprehensive plan. For example, Figure 1 on page 21 of the RVP (*see* Attachment 1), contains a cross-section of the Astoria hillside along the 10th Street right-of-way between Lexington and the Columbia River. That page also contains two photos from the top of 11th Street at Jerome Avenue. The City considered these photos and the cross-section drawing on page 21, when it adopted the RVP as part of its comprehensive plan, and specifically found that:

“These photos help illustrate that if new or existing development was built to the maximum height allowable in the downtown district (45’), the resulting development would not substantially impact the region-wide views from the hillside.” (RVP at 21)

In short, the City’s comprehensive plan expressly states that the 45 foot height limit will not substantially impact views from the hillside. These City cannot amend its development code based on factual assumptions that conflict with findings of fact in its comprehensive plan.

With regard to the proposed 30,000 square foot building coverage restriction, if that restriction is interpreted in these amendments to include all non-industrial uses on a single site, it could deter significantly impact large opportunity sites from redeveloping. For example, the AWI is approximately 12 acres in size, with roughly 5 acres of upland and 7 acres over water. Even if the 30,000 sq. ft. limitation only applied to the 5 acre (435,600 sq. ft.) upland portion of the site, the resulting FAR (Floor Area Ratio) would be only 0.13 for all commercial and residential uses (i.e. non-industrial uses) on the

upland portion of the site. If the over-water portion of the site was included, the resulting FAR would be significantly less. Such a drastic building coverage limitation is plainly contrary to the purpose and intent of both the C3 and BVO zones. This drastic limitation would also be contrary to applicable comprehensive plan goals and policies regarding commercial and residential uses along the working waterfront.

d) Several of the proposed amendments that would regulate needed housing would violate Statewide Planning Goal 10 (Housing). Goal 10 and its administrative rules require the City to “Provide for the housing needs of the citizens of the state.” In particular, it requires the city to inventory buildable lands and plan for the availability of an adequate number of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households, and allow for flexibility of housing location, type and density.

In that regard, Clatsop County and its five incorporated cities, including the City of Astoria, have recently undertaken an in-depth study of the current and projected housing needs and conditions across the county, and have provided recommended strategies to better align the regional housing supply with local needs, both now and in the future. *See* Clatsop County Housing Strategies Report, January 2019. (Report). Two of the primary findings of that report are as follows:

1) “Sufficient Supply, but not the Right Types of Housing.” Housing should be located where infrastructure already exists, near jobs, at price points where year-round residents can purchase or rent. (*See* Report, p. 3)

2) “Add the Right Types of Supply.” Add missing middle housing types such as townhomes, cottage clusters and medium density housing. Increased multi-family rental housing should be encouraged to serve the local service, tourism, and other working-class sectors. (*See* Report, p. 3)

Two of the primary strategies and incentives in that report include the following:

“Strategy 4: Support High Density Housing in Commercial Zones (Applicable jurisdictions: all cities)” The report finds that many Clatsop County jurisdictions recognize the benefits of high density housing in commercial zones, but that regulatory barriers to high density housing often exist, such as unreasonable lot coverage and building heights, which effectively prohibit higher density residential development in commercial zones. (*See* Report, p. 14-15)

“Incentive 1: Streamline Permitting and Review Process (Applicable jurisdictions: All cities)” As noted above, “needed housing” applications, which include virtually all types of housing in the City, must be approvable based on a set of clear and objective standards, pursuant to ORS 197.307. Recent statewide legislation also requires that cities with a population over 5,000 provide a 100-day review and land use decision

making process on all qualified affordable housing applications. With regard to needed housing in the C3/BVO zones, the City's land use decision making process does not meet these basic requirements and therefore does not provide the incentives its own plan recommends, to support needed higher density housing in commercial zones along the waterfront. (See Report, p. 25)

e) Several of the proposed amendments that regulate height and building coverage for non-industrial uses would violate Statewide Planning Goal 2 (Land Use Planning). Goal 2 requires the City to establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual base for such decisions and actions. In this case, there is no factual basis for limiting heights in the C3/BVO zone to 25 feet. On the contrary, there are legislative facts in the River Vision Plan which conclusively prove that:

"If new or existing development was built to the maximum height allowable in the downtown district ("45'), the resulting development would not substantially impact the region-wide views from the hillside."

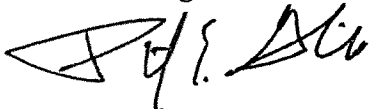
Under Statewide Planning Goal 2, the City cannot adopt amendments to its development code that are inconsistent with its comprehensive plan, or that are not supported by an adequate factual base. In this case, the proposed height limit of 28 feet is not supported by an adequate factual basis, and it would conflict with relevant facts and policies in its adopted comprehensive plan.

Conclusion

For all of the above reasons, we urge the Planning Commission to deny amendment group 1, 2, 6, 12, 13 and 18, to the extent these regulations propose a limitation on height or building square footage that is more restrictive than the City's current regulations. We also urge the commission to work with property owners to create a reasonable set of clear and objective standards for needed housing in the C3/BVO zone, as required by ORS 197.307. For the reasons described above, several of the proposed amendments are not a "quick fix", and instead are fundamental changes to the in Astoria Development Code that would violate the City of Astoria's Comprehensive Plan and several provisions of state law. Thank you again for your time and consideration.

Respectfully submitted,

Davis Wright Tremaine LLP



Phillip E. Grillo

10th Street Cross-Section View Corridor Map

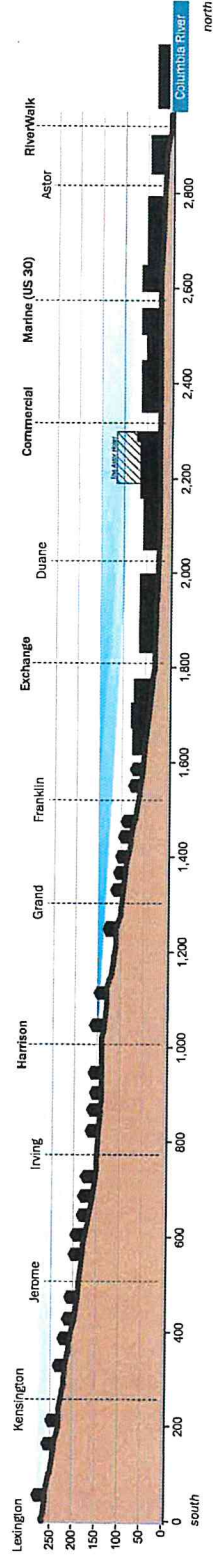


FIG. 1. Cross-Section along 10th Street from Lexington to the Columbia River



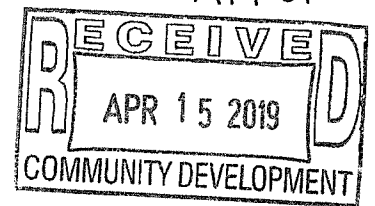
10TH STREET CROSS-SECTION VIEW CORRIDOR
ASTORIA RIVERFRONT VISION PLAN
APR 2009



Figure 1 above illustrates the cross-section of the Astoria hillside along the 10th Street right-of-way between Lexington and the Columbia River. The solid building forms show the general height and mass of development for each tier of the slope. The conical shapes in shades of blue represent the view corridor from either Lexington or Harrison Street.

As illustrated, there are few buildings in Astoria's downtown district that disrupt the view of the Columbia River and distant mountains from the hillside locations, particularly along the right-of-way corridor. The Astor Hotel, standing 8 stories high (over 90 feet), is the tallest building in Astoria. Even its commanding presence does not dramatically impact the expansive views from the hillside.

The photographs to the right and left were taken from the top of the 11th Street stairs at Jerome Avenue. These photos help illustrate that if new or existing development was built to the maximum height allowable in the downtown district (45'), the resulting development would not substantially impact the region-wide views from the hillside.



OPEN LETTER TO THE PLANNING COMMISSION AND THE CITY COUNCIL:

In 2006, a month or so after the National Lewis and Clark Bicentennial event here was completed, I saw a woman with a stack of addressed Fort Clatsop post cards and asked her about her visit. It turned out that she was a journalist from England following the "Trail". She then said **"So much of America now looks the same. Astoria has kept its sense of place. Whatever you do, don't lose it!"** Then she got onto the bus for PDX and was gone.

Astoria has had more than a few pivotal moments in its nearly 200 year history, and we're embarking on yet another. A bunch of us are following the arm wrestle over the future of our cherished waterfront now playing out at the Planning Commission hearings.

This seems to be characterized as the property owners (waterfront) vs. the homeowners/area residents, with local officials trying to find a way to balance needs and interests.

You may wonder why some Astoria residents are so opinionated about our town. I've been here only 25 years. In that time, I've seen citizens :

- cleaning brush by the railroad tracks, seen then as a dangerous place
- meeting cruise ships in all sorts of weather,
- scraping paint off scruffy Liberty Theater store front windowsills,
- planting flowers in Downtown baskets and tubs
- closing down 3 drug infested restaurants on Commercial by buying a beer while looking square and middle class (a real story),
- raising money for equipment at our favorite and independent movie house,
- serving on boards and baking pies, cookies, and cakes for fund raisers,
- Celebrating our Scandinavian heritage with an annual festival
- creating bowls to fund raise for victims of domestic violence,
- artists donating work for good causes,
- fending off 2 massive and nasty LNG terminals,
- welcoming new businesses,
- buying from local farmers, and creating the Food Web

- taking late night crisis calls, advocating for children in the courts
- creating art walks,
- supporting high school bands and sports,
- cleaning graffiti,
- putting up Christmas flags and Halloween witches,
- handing out hundreds of pounds of candy on Halloween
- giving to and receiving from the Co-op,
- making SMART readers, and being lunch buddies.
- setting up and tearing down the Crab Festival operations,
- raising \$26 K from a spaghetti fundraiser and restoring the Trolley
- running that trolley with volunteers
- restoring and re-purposing the Armory
- celebrating bicentennials for Astoria and for the Lewis and Clark journey.
- donating to and receiving from our library.

We are community of volunteers. It is a wonderful community, full of people who will help, and some who need the help. It is a community whose citizens are heavily invested in this place. This is the reason why people like those of us who show up at public meetings and voice our opinions to those of you with the ability and responsibility to make and implement policy for our community.

I've also had my good experiences with many of those business and property owners, now seen sitting together at the back of the Council Chambers. One of them re-surfaced the lovely fir floors at our 1890 house. Another fixed our plumbing. I enjoyed buying fresh tuna loins by the 20 pound bag from another. I'm glad that the Elliot was restored, as well as the Astor Hotel and the many others with careful and expensive efforts of local craftsmen and women, hired by local developers. You all make this an easy and rewarding place to make our home.

We who live here benefit from the array of restaurants, coffee shops, and independent shops which out-of-town visitors help to support.

Yes, tourism is a fortunate fact of our lives now. It was not always so. Many of us worked at creating off-season events, did Rain parades, encouraged the visits of the cruise ships, brought the Lewis and Clark bicentennial event here instead of Portland, sold tickets, helped at local theater, supported the County Fair, Crab Festival, Scandinavian Festival, decorated Downtown, tried for a by-pass, held out for the round-about despite ODOT's uncertainty, re-built the Fort Clatsop replica for the 2nd time, worked on the riverwalk and the trolley, and supported our Chamber in advertising what an enchanting place it is to visit.

Local government has stretched its workforce to provide the best service with existing resources, and has done its best to manage this historically significant place.

But we are attractive not only to weekend and summer visitors, but to those whose corporate businesses make money off of "attractive " locations. There are more examples of cities which have lost their views of the mountains, river, shore--you name it-- than those who have had the guts and mechanisms to retain what made them what they were.

So, here we are, with something like 700 hotel rooms plus B&Bs etc. and another 100 or so approved. Astoria's population is likely to stay around the 10,000 mark. Our streets cannot be widened, our water and sewer systems are sustainably designed and well managed, but extensive growth could compromise what we residents have paid/ are paying for. New development is not required to contribute to systems paid for by residents over time, beyond their monthly rates. Room taxes bring a portion back to local governments, but do not significantly alter our budget realities.

We hear of a potential for 3 more hotel proposals in the coming year. How does Astoria really benefit from more hotels?

We do need to consider seriously what we have to lose unless we place enough

value on the waterfront "front yard" . We need to fashion a plan that speaks to today's realities. Our waterfront could have been significantly altered in 2009-2012, had the financial industry not tanked. The Riverfront Vision Plan still contains much that was then the thinking of a Council influenced by many long term property owners/stakeholders who hoped to build condos over the River, converting or tearing down what existed. We dodged a bullet. I hope that they found other ways to create business opportunities.

Similarly, we see the desire of the Port of Astoria to avoid any change along the waterfront which could influence their ability to rescue their financial situation . I understand the need of the Port to find ways to save their agency and build upon their economic well-being, and hopefully on that of the county. But a vision of a waterfront lined with hotels doesn't express the desires of the community, or a recognition of the limitations of the City's streets and infrastructure.

The City Council has these issues at the top of its to-do list. The Planning Commission is hearing proposed changes and the support or opposition of those who attend. There are a bunch of us speaking up for local residents who wish to retain visual access to the River. Our faces become so familiar that we begin be disregarded or tolerated, as you are tired of hearing what we have to say. Public hearings are not for the faint of heart. **Residents who do not experience being listened to then stay away.** Some of us--former public employees accustomed to sitting through long hearings, or simply the more stubborn--continue to show up.

We brought a petition with over 400 signatures(and have more) in support of waterfront protection to the City Council, obtained in just 10 days with minimal publicity. We could gather another 400 signatures if that would make a difference. My sense is that the Planning Commission doesn't want to hear how we "feel", but just what testimony regarding what can be allowed under existing regulations. But we do "feel" those experiences which bring joy about living in this place. How the community feels can and must influence the decisions to be made.

The existing Comprehensive Plan was not all written the same period, and it does require thoughtful walking through to bring those earlier values into use as determining how best 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." Planner Johnson provided that careful "walk through" at the time the 2nd Street hotel project was approved. It can still be done. **The health of our economic development is driven by our environment**, and it is worth our collective efforts to plan for our best future and that of our natural setting.

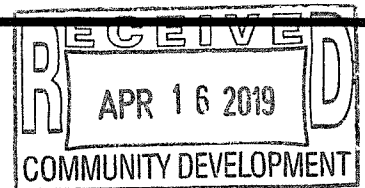
Interpretation of the City's Plan does not have to be limited to linear thinking; you are able to plan creatively for the community, if you are willing to do so. You can think out of the box. If the existing plan no longer fits the circumstances now facing our village, it can be updated. Staff is able to work through a balance between allowing an appropriate use for long-standing property owners and keeping us from becoming a "theme park " or Disney-ized version of Astoria.

Despite the thinly disguised threats and outright condescension of attorneys hired by out of town developers, you do have a right and responsibility to set policy and implement ordinances consistent with Oregon's planning law and a Comprehensive Plan updated to recognize today's values and realities. I ask you to be the ones to make the difference in Astoria's future.

Jan Mitchell
362 Duane, Astoria
503 836-7820

Tiffany Taylor

From: Terrie Bay Powers <trrbaypowers@gmail.com>
Sent: Monday, April 15, 2019 2:54 PM
To: Tiffany Taylor
Subject: Tuesday night meeting



Hi Tiffany, I hope I am not too late to make comments for tomorrow night's meeting. We planned to attend but now won't be able to.

I urge the commissioners to not let themselves be intimidated by high priced attorneys and to do what will be best for Astoria, going forward. This is the time to make the zoning laws that will permit our city's character to continue – not only for tourists but for the tax paying residents who love this town.

No law is going to be "FAIR" to everyone but that doesn't mean you should have them in place.

With this in mind, I urge the commission to amend the Bridge plan (and the rest of the waterfront) to:

- A. Put in place a 28 foot limit on future building including whatever rooftop equipment there is.
- B. Set back and step backs.
- C. Green park space as a requirement for development
- D. PARKING FOR BOTH CUSTOMERS AND EMPLOYEES

Our city is a jewel and a delight. Please don't let big money determine its future.

Sincerely Rick and Terrie Powers

Sent from Mail for Windows 10



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

April 17, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, SPECIAL PROJECTS PLANNER

SUBJECT: AMENDMENT REQUEST (A19-02) ON TRANSIENT LODGING

I. BACKGROUND SUMMARY

- A. Applicant: Community Development Department
On behalf of the City Council
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Development Code concerning Transient Lodging, amend and add definitions, add reference to City Code Home Stay Lodging regulations, establish standards for transient lodging in conjunction with Home Stay Lodging, allow administrative conditional use permits, limit transition of residential units in commercial zones to transient lodging, and other miscellaneous updates.
- C. Location: City-wide

II. BACKGROUND

Over the last few years, the number of illegal transient lodging facilities in Astoria has increased substantially. Enforcement is difficult as the units are not identified by address or owner in the advertising platforms (such as Airbnb, VRBO, etc.) and it is time consuming and difficult for staff to research where the specific facilities are located in order to initiate code enforcement. The advertising platforms have helped to increase the number of units in communities but have added to the problem in that they do not reveal their client information and do not require proof that the use is allowed in an area or what permits are necessary. As a result, many home owners have utilized these companies without checking with local authorities about operation of a commercial use within their home.

The City Council discussed the need for better codes, licenses, and enforcement and directed staff to research other cities' codes and draft an amendment to the City Code that would address this growing problem. Staff researched transient lodging codes in multiple cities and counties and found a variety of ways that communities are dealing with these facilities. Staff drafted a City Code amendment that clarified terminology, established a license process, and addressed code enforcement. At its December 3, 2018 meeting, the City Council adopted City

Code amendment for Home Stay Lodging Licenses, and the Transient Lodging Tax. This amendment put the regulations and license requirements into the City Code. However, since the Development Code includes some regulations related to transient lodging and identifies the specific zones in which they are allowed, some code amendments will be required to the Development Code so that it coincides with the adopted City Code. The following is a synopsis of the code requirements and issues addressed in the City Code:

- All Home Stay Lodging facilities will require a license, Occupational Tax, and pay Transient Room Tax. The license will be reviewed by the Community Development Department.
- Facility is limited to one or two bedrooms and shall not include a kitchen and must be owner occupied at the same time as the guest.
- License standards requirements: home safety inspection; payment of fees; off-street parking; license ID shall be placed on the advertising platform; applicant shall provide advertising platform ID number to City.
- Public notice will be sent to adjacent property owners when an application is being reviewed. Renewals will not require a public notice.
- License would be valid for two years and requires renewals to continue operation. Renewals will be reviewed for continued compliance with all standards and may be denied for non-compliance, unresolved violations, or transient tax delinquent for six months or more.
- Enforcement will be through a citation process in Municipal Court. Advertising a transient lodging without a license or in violation of any of the license standards will be a violation.

The Transient Room Tax portion of the City Code was amended to update the terminology and allow for third party collection of the room tax. With the third-party collection, an agreement with the City would be required, and liens for unpaid taxes would be applied to the operator, property owner, and third-party tax collector.

Some standards/requirements will be included in the Development Code rather than the City Code. These amendments will need to be processed as a land use amendment through the Planning Commission before City Council review and adoption. The proposed amendments include the following:

- Specific uses within each zone such as: Home Stay Lodging (HSL) as conditional use in R-1 Zone; HSL may not be on the same site in conjunction with an ADU in the R-1 Zone but may be on the same property as an ADU in the R-2 and R-3 Zones as a conditional use.
- Structures built and used as residential structures in non-residential zones shall not be used for transient lodging with some exceptions for former hotel structures.
- Amend and add definitions for various transient lodging related terms.
- Add HSL purpose & standards to coincide with City Code
- Transient lodging not allowed in mobile vehicles.
- Clarify HSL parking requirement.
- Add Community Development Director to process for Admin Conditional Use.
- Section 11.022 on classification of Conditional Use review.

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to Neighborhood Associations, various agencies, and interested parties on April 2, 2019. In accordance with ORS 227.186(5), State required Measure 56 mailing, a notice was mailed on April 2, 2019 to all property owners within the City advising “. . . *that the City has proposed a land use regulation that may affect the permissible uses of your property and other properties.*” In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on April 16, 2019. In accordance with Section 9.020.D, a notice was posted on March 29, 2019 at the following locations: corner of 30th and Marine Dr. and near the corner of 43rd and Lief Erikson Dr. The proposed amendment is legislative as it applies City-wide.

B. State Agencies

Although concurrence or approval by State agencies is not required for adoption of the proposed amendments, the City has provided a copy of the draft amendments to representatives of the Oregon Departments of Transportation (ODOT), Land Conservation and Development (DLCD) and Department of State Lands (DLS) as part of the planning process.

IV. FINDINGS OF FACT

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

Development Code Section 10.020.B states that *“An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed.”*

Finding: The proposed amendments to the Development Code are being initiated by the Community Development Director on behalf of the City Council. The City Council has adopted a licensing procedure in the City Code for Home Stay Lodgings and identified the need to amend the Development Code to coincide with the HSL license process and to adopt additional regulations concerning other transient lodging facilities.

- B. Section 10.050.A states that *“The following amendment actions are considered legislative under this Code:*
1. *An amendment to the text of the Development Code or Comprehensive Plan.*

2. *A zone change action that the Community Development Director has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.*

Finding: The proposed amendment is to amend the text of the Astoria Development Code concerning transient lodging regulations City wide. The amendment would create new standards. The proposed amendments are applicable to the entire City and represents a relatively broad policy change. Processing as a legislative action is appropriate.

- C. Section 10.070.A.1 concerning Text Amendments, requires that *"The amendment is consistent with the Comprehensive Plan."*

1. CP.015.1, General Land & Water Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

CP.035.2, West End Area Policies, states *"The quiet residential character of the west end will be protected through the City's Development Code."*

CP.045.2, Central Residential Area Policies, states *"Historic areas (neighborhoods with high concentrations of pre-1911 homes) will be protected through zoning regulations and the use of public lands for relocation of structures."*

CP.075.2, Uppertown Area Policies, states *"The predominantly residential character of the area upland of Marine Drive/Lief Erikson Drive will be preserved."*

CP.085.2, Alderbrook Area Policies, states *"The residential character of Alderbrook will be protected through the designation of the aquatic area from 41st Street to Tongue Point as natural, and by the present zoning pattern. Development in the 100-year flood area shall be subject to the requirements of the City's Flood Hazard Overlay Zone."*

CP.088.2, Emerald Heights Area Policies. States *"The multi-family residential character of Emerald Heights Area will be protected through the present zoning pattern. Additional residential development is encouraged in this area."*

Finding: The proposed amendments create development standards for transient lodging standards and guidelines to protect the character of the residential neighborhoods. Astoria has seen a major increase in tourism

and an increase in transient lodging in residential zones. The Development Code allows for Home Stay Lodging (HSL), Bed and Breakfast (B&B), and Inns in the various residential zones, but has standards that include the need for owner occupancy and off-street parking. These facilities are required to have an Occupational Tax (business license) and pay transient room tax. However, in recent years there has been an increase in unpermitted facilities that are not paying the required taxes, do not provide off-street parking, and are not owner occupied. Some homes are operating as vacation rentals where the entire house is rented to a guest.

Transient lodging, in and of itself, is not detrimental to the City. However, when it is operated without paying the appropriate taxes, no off-street parking, and without an on-site owner in residence, it can become a nuisance to a neighborhood. The lack of off-street parking creates a parking situation in some neighborhoods that have narrow streets and limited on-street parking. Use of homes without the benefit of the owner in residence creates multiple issues that are detrimental to the other residents in the neighborhood. Guests are not generally a problem, but they are on vacation and can tend to get loud and/or have multiple vehicles and people at the home. With the owner on site, the owner can keep their guests in compliance with City regulations. Otherwise, adjacent property owners are required to either live with the situation or report it to the Police which causes everyone embarrassment and only solves the issue for the current guests, not the new ones the next weekend. Therefore, HSL, B&B, and Inns are allowed but vacation rentals (which are classified as motels) are not. This would help to protect the quiet residential character of the neighborhoods.

2. CP.020.9, Community Growth - Plan Strategy, states *"The Buildable Lands Inventory completed in April 2011 identified a deficit of 15.54 net acres of residential buildable lands. In order to address this deficit, OAR 660-24-0050 requires that the City amend the Plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the boundary or by expanding the UGB, or both."*

CP.215.1, Housing Element, Issues and Conclusions, Vacancy Rates, states *"... North coast trends in second homes and short-term rentals reached an average of 20.5% in 2007 with a State average of 2.5%. Astoria was well below this with 1.9%; however, this number is expected to increase over the next 20 years. Housing stock needed to accommodate this trend could change the amount of residentially zoned land needed to accommodate growth through 2027. The Buildable Lands Inventory dated April 2011 addresses this issue in depth and recommends that the City review and revise the assumptions made in the Inventory after the 2010 US Census results are finalized."*

CP.215.5, Housing Element, Issues and Conclusions, Low- and Moderate-Income Housing, states *"Because of the large number of older buildings in Astoria, there is great potential for reuse of existing structures for housing."*

The John Jacob Astor Apartments and Owens-Adair Apartments projects are both examples of successful renovations. The City could encourage this trend by working with developers, applying for grant funds, and looking for ways of fostering both historic preservation and provision of low-cost housing. Organizations, including the Clatsop County Housing Authority, the Clatsop Community Action Agency, Northwest Oregon Housing Authority, for-profit corporations, and other local and regional non-profit groups and public agencies have been involved in providing low cost housing in Clatsop County. County-wide efforts are being made to address the need for workforce housing on the entire North coast."

CP.218.1, Housing Element, Housing Goals, *"Provide opportunities for development of a wide variety of housing types and price ranges within the Urban Growth Boundary."*

CP.218.2, Housing Element, Housing Goals, states *"Maintain and rehabilitate the community's existing housing stock."*

CP.220.1, Housing Element, Housing Policies, states *"Maintain attractive and livable residential neighborhoods, for all types of housing."*

CP.220.5, Housing Element, Housing Policies, states *"Encourage low- and moderate-income housing throughout the City, not concentrated in one area."*

CP.220.6, Housing Element, Housing Policies, states *"Protect neighborhoods from incompatible uses, including large scale commercial, industrial, and public uses or activities."*

Finding: The Buildable Lands Inventory (BLI) identified a deficit of low density residential buildable lands. The Comprehensive Plan indicates a goal of having a variety of housing types and price ranges, and the preservation of existing historic housing stock. The City Council 2018-2019 Goals included *"Implement the provisions contained in the City of Astoria Affordable Housing Study to increase the number of housing units within the City, for permanent residents. Special attention should be given to derelict and/or vacant properties."* The 2019-2021 City Council goals adopted April 15, 2019 include *"Support efforts to increase the housing supply (both market rate and affordable), using the County Housing Study as a guide."* and *"Maintain Astoria's unique character through economic development and zoning which reflects on those values."* The City Council has expressed concerns that the use of residences for transient lodging, especially vacation rentals, is a threat to the available housing stock. There is currently a lack of affordable housing for the existing employees and Astoria residents. While the Council agrees that transient lodging in owner occupied homes may be an acceptable use in residential areas, it also sees the prohibition of use of full homes for transient lodging as one way to keep the existing housing available for long term housing. Therefore, the Council

determined that transient lodging in residential areas should not include a kitchen in the guest area as this would equate to a living unit.

The Council also identified the conversion of residential units in commercial zones for transient lodging as contrary to the goal to provide affordable housing. The Council suggested that structures built and/or currently used for residences should not be converted to transient lodging. A proposed amendment would prohibit the conversion. However, there are several existing former hotels that are currently either vacant and/or have been converted to residences. An exception for these buildings to allow conversion back to a hotel use is proposed as it would only impact a few buildings (Waldorf Hotel 1067 Duane; JJAstor Hotel 342 14th; Elliot Hotel 357 12th; Norblad Building 443 14th; Commodore Hotel 258 14th) and would allow for economic ability to maintain these larger buildings.

3. CP.195.7, Economic Element, Conclusions and Problems, states *"Tourism in Clatsop County has increased in recent years, and the Astoria area has been the recipient of some of this economic activity. Astoria is becoming a "destination" like the communities on the ocean beaches. The quantity of lodging facilities in the City have increased in recent years to accommodate the needs except during peak tourist times. The Columbia River Maritime Museum is a major tourist attraction. In recent years, there has been construction of private facilities which can accommodate moderate sized gatherings and conventions. Tourism is an economic activity which has several disadvantages, such as low wages, and seasonality. However, Astoria has a highly seasonal work force which tourism, particularly the convention business during the winter, could counteract. Astoria has begun to capitalize on its scenic, historic character; proper emphasis on it through advertising and public projects has the potential of stimulating the City's tourist economy."*

CP.200.4, Economic Development Goal 1 and Goal 1 Policies, states *"Goal: The City of Astoria will strengthen, improve, and diversify the area's economy to increase local employment opportunities. Policies: Encourage private development such as retail, restaurants, commercial services, transient lodging, and make strategic investments in target industries."*

CP.206.2, Economic Development Goal 7 and Goal 7 Policies, states *"Goal: Encourage successful home-based businesses. Policies: Encourage home occupations, cottage industries and activities which have little impact on the surrounding neighborhoods through the City's Development Code."*

Finding: Tourism is a major industry for Astoria. The year-round nature of tourist activities has created a need for additional transient lodging facilities. Astoria has seen an influx of hotels/motels over the last few years with two or three new ones proposed in the next year or two. The use of private homes as HSL and B&B's has also increased. The City encourages home occupations and activities in residential areas but only if they have *"little*

impact on the surrounding neighborhoods". Adoption of the proposed amendments would allow for controlled use of private residences as transient lodging so as to protect the residential character of the neighborhoods while allowing for this tourist base industry to exist. Commercial activities related to tourism such as vacation rentals are a major impact to the quiet residential character of the area and to the loss of long term, affordable housing. The proposed amendments would prevent the loss of housing to accommodate transient lodging thereby preserving Astoria for Astorians first.

4. CP.175.G.1, Uppertown / Alderbrook Subarea Plan, Subarea Policies, states that *"The Alderbrook area has unique characteristics and values. Plan amendments which would allow higher-intensity uses than those now present are discouraged."*

CP.185.O, Residential, Commercial and Industrial Development Policies, states that "Policies in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas. Within the context of this subsection, residential uses include single and multifamily structures, mobile homes, and floating residences (subject to an exception to Oregon Statewide Planning Goal 16). Duck shacks, recreational vehicles, hotels, motels and bed-and-breakfast facilities are not considered residential structures for purposes of this subsection. Commercial structures and uses include all retail or wholesale storage, service or sales facilities and uses, whether water-dependent, water-related, or non-dependent, non-related. Industrial uses and activities include facilities for fabrication, assembly, and processing, whether water-dependent, water-related or non-dependent, non-related. . ."

Finding: The proposed amendments would limit the allowable transient lodging uses in all zones. Uses would be regulated to assure low-impact in residential areas and limit the loss of housing. These proposed regulations are consistent with this Comprehensive Plan section which protects the waterfront area for the low-impact marine uses. Any project proposed would be subject to compliance with this section at the time of project proposal.

5. CP.204.3 & CP.204.4, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policies state
 3. *Encourage the growth of tourism as a part of the economy.*
 - a. *Consider zoning standards that improve the attractiveness of the City, including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.*

4. *Protect historic resources such as downtown buildings to maintain local character and attract visitors."*

CP.250.1, Historic Preservation Goals states that *"The City will Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

CP.200.6, Economic Development Goals states that the City will *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

CP.205.5, Economic Development Policies states that *"The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the City shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements."*

Finding: The proposed amendments will establish standards for transient lodging to allow facilities in residential areas which would support the tourism industry while protecting the quiet character of the neighborhoods. Allowing transient lodging in homes provides the owners with some additional income to help with preservation of the buildings, many of which are designated as historic. However, the unique characteristics of the neighborhoods are proposed to be protected by the addition of standards to prohibit vacation rentals and the loss of full-time residents.

6. CP.470.1, Citizen Involvement states that *"Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies."*

Finding: Throughout the process of drafting the proposed ordinance, the City has provided public outreach. The City Council addressed the issue of Home Stay Lodgings, the need for license procedures, enforcement, and how to protect the loss of affordable housing. They held two work sessions on 12-13-2017 and 10-10-2018. The Council held a public hearing on 11-19-2018 and the City Code amendments were adopted on 12-3-2019. The Planning Commission held a work session on 2-26-2019. Notices were sent to interested parties, neighborhood associations, email lists, web site, etc. In addition, a State required Measure 56 mailing was sent to every property owner in Astoria. Anyone interested in the proposed ordinance was encouraged to submit suggestions and comments. Work sessions were open for discussion with the public to allow for interactive feedback from the early stage of the adoption process. There were numerous "Letters to the Editor" in the Daily Astorian and some articles.

The City was very conscious of the interest in protection of the residential character of neighborhoods and the potential loss of long-term housing. The proposed amendments will be in compliance with State regulations and will establish a permit process that is easy for both the citizens and staff.

Finding: The request is consistent with the Comprehensive Plan.

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

Finding: The proposed amendment will satisfy land use needs in that it will allow for the use of private properties for transient lodging while protecting the housing stock and quiet character of the neighborhoods. The protection of long-term housing supports the need for residential area as identified in the Buildable Lands Inventory. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Planning Commission recommend adoption of the proposed amendments to the City Council.

CODE AMENDMENT SYNOPSIS
3-5-19

Home Stay Lodging and Transient Lodging

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

DEVELOPMENT CODE UPDATES

Annotated

March 24, 2019

CITY CODE

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

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

HOME STAY LODGING

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

Section 1.400, Definitions, delete existing specific definitions in their entirety and replace to read as follows:

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

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

(Annotated: B&B is allowed as follows: Outright Use: C-2, C-3, S-2A, HR, LS, Conditional Use: R-1, R-2, R-3, C-4, A-2, A-2A, A-3 in existing bldg, S-2, MH, AH-MP.)

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

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

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

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

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

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

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

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

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

Section 1.400, Definitions, specific definitions are added to read as follows:

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

OWNER OCCUPIED: Occupancy of a residence by an individual owner

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

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

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

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

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

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

TOURIST LODGING FACILITY: See “Transient Lodging Facility”.

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

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

TRANSIENT LODGING FACILITY: Any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast establishment, home stay lodging, vacation rental, or other such transient lodging facility known by their advertising and/or management platform names. Transient Lodging Facility also means space in mobile home or trailer parks, or similar structure of space or portions thereof so occupied, provided such occupancy is for less than a 30-day period.

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

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

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

Section 2.025.8 (R-1 conditional use) is deleted in its entirety and replaced to read as follows:

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

Section 2.065.6 (R-2 outright use, zone list of allowable uses) is deleted in its entirety and replaced to read as follows:

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

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

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

Section 2.155.7 (R-3 outright use, zone list of allowable uses) is deleted in its entirety and replaced to read as follows:

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

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

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

Section 2.585.14.b (A-3 conditional use, zone list of allowable uses) is deleted in its entirety and replaced to read as follows:

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

Section 2.350.3 (C-2 outright use), is deleted in its entirety and replaced to read as follows:

3. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:
 - a. Structures or portions of structures occupied as a residential dwelling unit after January 1, 2019 and/or originally constructed as a residential dwelling unit may not be used as a motel or hotel, except as noted in Section 2.350.3.b.
 - b. Structures or portions of structures originally constructed as a motel or hotel of greater than three units may be utilized as a motel and/or hotel regardless of current use as residential units.

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

Section 2.390.10 (C-3 outright use), is deleted in its entirety and replaced to read as follows:

10. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:
 - a. Structures or portions of structures occupied as a residential dwelling unit after January 1, 2019 and/or originally constructed as a residential dwelling unit may not be used as a motel or hotel, except as noted in Section 2.390.10.b.
 - b. Structures or portions of structures originally constructed as a motel or hotel of greater than three units may be utilized as a motel and/or hotel regardless of current use as residential units.

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

Section 2.435.4 (C-4 conditional use), is deleted in its entirety and replaced to read as follows:

4. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:
 - a. Structures or portions of structures occupied as a residential dwelling unit after January 1, 2019 and/or originally constructed as a residential dwelling unit may not be used as a motel or hotel, except as noted in Section 2.435.4.b.
 - b. Structures or portions of structures originally constructed as a motel or hotel of greater than three units may be utilized as a motel and/or hotel regardless of current use as residential units.

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

Section 2.894.2 (MH conditional use), is deleted in its entirety and replaced to read as follows:

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

Section 14.132.1.b (A-4 conditional use, zone list of allowable uses) is deleted in its entirety and replaced to read as follows:

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

Section 8.160.A.1 (signs in residential zones) is deleted in its entirety and replaced to read as follows:

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

Section 8.160.A.3 (signs in residential zones) is deleted in its entirety and replaced to read as follows:

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

Section 3.020.B.9 (Accessory Dwelling Unit) is deleted in its entirety and replaced to read as follows:

9. Home Stay Lodging.

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

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

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

(Annotated: If owner lives in ADU and has a bedroom for HSL, it would be the same impact as if it were in the primary unit, just in different unit.)

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

Section 3.100, Home Stay Lodging, is added to read as follows:

3.100. HOME STAY LODGING.

A. Purpose.

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

B. Standards

1. Primary Residence. Every Home Stay Lodging shall be located in the owner's primary residence.
2. Occupancy. The Home Stay Lodging shall be owner occupied while occupied by transients.
3. Location. Home Stay Lodgings may be allowable in conjunction with an Accessory Dwelling Unit as follows:

- a. R-1 Zone: Home Stay Lodging shall not be allowed in conjunction with an Accessory Dwelling Unit.
- b. R-2 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.
- c. R-3 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.

(Annotated: ADU is an extra unit on a lot which is not sufficient for a duplex. To have both an ADU and an HSL would increase the impact to the neighborhood. CC determined that an HSL in R-2 or R-3 may be possible if the neighborhood development could accommodate it. While HSL is outright in the R-2 and R-3 Zone, if done on a site that has an ADU, then a CU would be required to provide the additional impact review.)

- d. Home Stay Lodging facility shall not be allowed within an Accessory Dwelling Unit.

(Annotated: If owner lives in ADU and has a bedroom for HSL, it would be the same impact as if it were in the primary unit, just in different unit. However, there could be other impacts that have not been researched yet, so it is recommended that the HSL shall be only in the primary unit at this time.)

- 4. No Kitchen. Home Stay Lodgings may not contain a kitchen.
- 5. Mobile vehicles. Home Stay Lodging shall not be located in motor homes, travel trailers, or other mobile vehicles.

Section 7.100, Off-Street Parking Space Requirements by Use, is deleted in its entirety and replaced to read as follows:

<u>Use Category</u>	<u>Minimum Parking per Land Use</u>
Bed and Breakfast, Inn	1 additional off-street space for each bedroom used for transient lodging plus off-street spaces required for the dwelling and associated uses such as assembly areas or restaurant.
Home Stay Lodging	1 additional off-street space for each bedroom used for transient lodging plus off-street spaces required for the dwelling.

(Annotate: This separated Home Stay Lodging from B&B as HSL cannot have the associated uses.)

Hotels, Motels, other transient lodging facilities not listed, and similar uses

1 space per guest room. See also, parking requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.

Section 11.020. Conditional Use, APPLICATION AND PROCEDURES, is deleted in its entirety and replaced to read as follows:

A. Procedures.

1. Application.

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

2. Public Notice.

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

B. Decision.

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

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

Section 11.022, Classification of Conditional Use Review, is added to read as follows:

11.022. CLASSIFICATION OF CONDITIONAL USE REVIEW.

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

Permits shall be processed and reviewed as a Type II or Type III permit in accordance with the procedures specified in Sections 9.020 to 9.030 as follows:

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

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

Type II conditional uses include:

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

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

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

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



CITY OF ASTORIA
1095 Duane Street
Astoria OR 97103
503-338-5183

A 19-02

☐ Fee Paid Date 2-19-19 No fee By

Fee: \$750.00

AMENDMENT

Property Address: City Wide

Lot Block Subdivision

Map Tax Lot Zone

Code or Map to be Amended: See attached

Applicant Name: Community Development Dept

Mailing Address: 1095 Duane, Astoria

Phone: 503-338-5183

Business Phone:

Property Owner's Name: Various

Mailing Address:

Business Name (if applicable):

Signature of Applicant: Planning Consultant, Project Manager, Rosemary Johnson

Signature of Property Owner:

Amend zone uses for City Code reference to Home Stay Lodging (HSL) requirements; amend and add definitions on transient lodging; add HSL standards; add administrative conditional use process; clarify parking &

Proposed Amendment sign for HSL;

For office use only:

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

FILING INFORMATION: Astoria Planning Commission meets at 7:00 pm on the fourth Tuesday of each month. 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 the acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission is recommended.

Briefly address each of the Amendment Criteria and state why this request should be approved. (Use additional sheets if necessary.)

A. Text Amendment *(Please provide draft language of proposed text amendment)*

Before an amendment to the text of the Code is approved, findings will be made that the following criteria are satisfied.

1. The amendment is consistent with the Comprehensive Plan.

CP supports tourism and transient lodging

2. The amendment will not adversely affect the ability of the City to satisfy land and water use needs.

Intent of amendment is to clarify and update existing codes to coincide with City Code on Home Stay Lodging and set standards for review including streamline the process for the conditional use as administrative

B. Map Amendment *(Please provide a map showing the proposed area to be amended.*

Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the Comprehensive Plan:

2. The amendment will:

- a. Satisfy land and water use needs; or

- b. Meet transportation demands; or

c. Provide community facilities and services:

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.

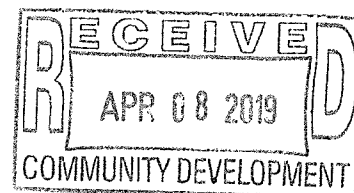
4. Resource lands, such as wetlands are protected.

5. The amendment is compatible with the land use development pattern in the vicinity of the request.

PLANS: A site plan indicating location of any proposed zone change is required.

Tiffany Taylor

From: Colonna, Brian <Brian.Colonna@Schwab.com>
Sent: Monday, April 8, 2019 11:34 AM
To: Tiffany Taylor
Subject: RE: Amendment A19-0, A19-02 and A19-04.



Hello Tiffanie,

Thank you for the call and your time today, it was very helpful.

As mentioned, my only concern with the transient lodging amendment is the gray area of my wife and I splitting our time from our home in California and our home in Astoria (which will be primary) and considering the possibility of Air B&B when not in Astoria which may be a few months out of the year.

Understanding the need for housing in Astoria and what the City is trying to do, our situation seems a bit different in that it just wouldn't be practical to try to rent our unit a month here and there as I don't believe there is a local need for that. If there is we would be happy to consider but our local property manager doesn't see that need either.

Thank you taking my comments to the City Council for consideration.

Brian Colonna

From: Colonna, Brian
Sent: Monday, April 8, 2019 10:35 AM
To: 'ttaylor@astoria.or.us' <ttaylor@astoria.or.us>
Subject: Amendment A19-0, A19-02 and A19-04.

Hello,

I received the attached Notice of Public Hearing with respect to the above mentioned Amendments, however, I will not be in town on April 23 and would to receive information on the proposed Amendments.

Could someone call me at (415) 740-5786 or forward the Amendments with a summary of the proposed changes?

Thank you,
 Brian Colonna

**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	4-2-19
Email	4-2-19
Web	4-2-19
Pub	4-16-19

The City of Astoria Planning Commission will hold a public hearing on Tuesday, April 23, 2019 at **6:00 p.m.**, at the **Judge Guy Boyington Building, 857 Commercial St.**, Astoria. The purpose of the hearing is to consider the following request(s):

1. *Continued from March 26, 2019 meeting: Miscellaneous Request (MR19-01) by Jeremy Lumachi for an interpretation as to whether a retail store that sells cannabis and related materials is classified as a "tourist-oriented retail sales and service establishment" per the Astoria Development Code. This review is limited to the interpretation of the terminology of the use and does not include review of the applicant's ability to meet the requirements for development within the S-2A zone or at a specific location.
2. * Continued from March 26, 2019 meeting: Amendment Request (A19-01) by Community Development Director to amend Development Code sections concerning Riverfront overlay zone requirements, reduce height in Bridge Vista Overlay to 28', add definitions for mass and scale, add standards for Outdoor Storage Area Enclosures, clarify how to apply various sections of the code for design review, clarify exceptions to building height, expand responsibilities of Design Review Committee, and other miscellaneous updates.
3. Amendment Request (A19-02) by Community Development Director to amend Development Code sections concerning Transient Lodging, amend and add definitions, add reference to City Code Home Stay Lodging regulations, establish standards for transient lodging in conjunction with Home Stay Lodging, allow administrative conditional use permits, limit transition of residential units in commercial zones to transient lodging, and other miscellaneous updates. Development Code Sections 1.400, 3.020, 7.100, 8.160, 11.020, 14.132, Articles 2, 9, 10; and Comprehensive Plan Sections CP.005 to CP.028 General, CP.190 to CP.210 Economic Element, CP.215 to CP.230 Housing are applicable to the request.
4. Amendment Request (A19-04) by Community Development Director to amend Development Code sections concerning miscellaneous issues, allow additional administrative variances, allow additional front and street side setback averaging, allow certain stairs as an exception to setback, allow arbor and gateways in fences, amend lighting standards, amend outdoor storage area enclosure standards, amend and add definitions, allow residential use behind commercial use in C-4 zone, codify several legal interpretations of code application, add 15' setback for parking from top of bank, expand non-conforming uses and structures to allow continuation of certain residential use, clarify off-street parking requirements, and other miscellaneous updates. Development Code Sections 1.400, 2.430, 7.100, 7.110, 7.170, 8.040, 8.050, 11.140, 14.510, 15.020, Articles 3, 9, 10, 12; Comprehensive Plan Sections CP.005 to CP.028 General, CP.190 to CP.210 Economic Element, CP.215 to CP.230 Housing 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.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

April 17, 2019

TO: ASTORIA PLANNING COMMISSION
FROM: ROSEMARY JOHNSON, SPECIAL PROJECTS PLANNER
SUBJECT: AMENDMENT REQUEST (A19-04) FOR MISCELLANEOUS ISSUES

I. BACKGROUND SUMMARY

- A. Applicant: Community Development Department
On behalf of the City Council
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Development Code concerning miscellaneous issues, allow additional administrative variances, allow additional front and street side setback averaging, allow certain stairs as an exception to setback, allow arbor and gateways in fences, amend lighting standards, amend outdoor storage area enclosure standards, amend and add definitions, allow residential use behind commercial use in C-4 zone, codify several legal interpretations of code application, add 15' setback for parking from top of bank, expand non-conforming uses and structures to allow continuation of certain residential use, clarify off-street parking requirements, and other miscellaneous updates.
- C. Location: City-wide

II. BACKGROUND

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

Processes:

- Amend and add code on process for code interpretations

- allow Temporary Use renewals to be administrative Type II permit
- identify when site notice can be removed
- change pre-application meeting to “may be” required
- Add lot coverage, fence height, maximum two off-street parking variances for multi-family and non-residential uses, and all one and two-family dwelling parking to Type II
- Amend “Class 1 and 2” designations to Type II and Type III to coincide with other permit process references in the Code

Setbacks and Exceptions:

- Add “street side yard” to allowable average setbacks; allow corner lots to average with lot across right of way; add new graphics; add alley setback exception
- Allow required stairs and landings for existing doors to encroach into setback; allow ADA ramp as an exception; allow new 3’ wide stairs to encroach into setback
- Allow encroachments beyond property line and in setback areas to remain if being reduced under certain conditions
- Allow arbor and gateway entrances to be 8’ tall; allow fence on alley street side to be 6’ tall; identify how height is measured; exempt trees from fence height limitation; clarify hedges meeting setbacks are exempt from fence height limitation; add graphic
- Add administrative approval of exception of two spaces for required landscape planters every 10 spaces

Interpretations for Clarifications:

- Definitions: Amend: add electric vehicle charging station to Automotive Service Station; delete trees from Fence; add “or recreation establishment” to “Indoor Family Entertainment” (2.894, 2.908, 2.968); add “12: above ground” to “Lot Coverage”; add moped to “retail sales establishment”; clarify “Microwave Receiving Dish” not transmit; clarify “Tourist Oriented Sales or Service” to a use not primarily used by general public
- Definitions: Add: Construction Service Establishment, Indoor Entertainment, Industrial, Transportation Service Establishment, Wind Energy Facility
- Allow recorded easement to satisfy access requirement
- Add to clarify public access includes physical and visual access as required by State
- Inns: Add that associated business activities are not subject to Section 3.230; add starting time for restaurant
- Manufactured Homes: Add location, size, and construction prior to occupancy for enclosed storage area; add new classifications of historic properties
- Home Occupations: Change “employee” to “person associated with the business”; quantify customers per week; allow non-resident employees if they don’t come to site
- Microwave Receiving Dish: Change size from 18” o 20” to meet industry standard for residential dishes; Add screening requirement to clarify; Add standard to prohibit on front or street side facades of historic structures which is current interpretation; Add to Wireless Communication Facility that code does not apply to Microwave Receiving Dish
- Parking: Add 2.5’ extend beyond guard allowance to coincide with 7.100.D.4; Clarify that no more than four spaces “in same block” can back into public street; Add requirement of 15’ landscape buffer between top of bank and parking, storage, driving areas
- Public Notice: Clarify “parties to record” are for permit being appealed; Add explanation on how to calculate mailed public notice
- Add process for amendments to approved plans as Type I, II, or III permits

- Refiling Applications: Change to all commissions not just APC; clarify that if permit withdrawn prior to hearing there is no waiting period for resubmittal

Miscellaneous Updates:

- Definitions: Add “Fair Market Value” to clarify not value of new construction and exception;
- Add residential in the rear of first floor in C-4 Zone
- Non-conforming Uses and Structures: add exception to time for reuse for existing residences with conditions; Add allowance for second utility meters on existing non-conforming residential units
- Parking: Clarify that allowed on-street parking spaces to meet parking requirements remain as public spaces; Add allowance for existing on-street parking not within the paved surface to count toward off-street parking requirement but with limitations on recreational vehicle parking; Add that required parking calculation is for employees and customers;
- Administrative Process: Delete table; add footnotes of table to intro; Add how fees are determined for applications when the review Type is changed; Delete reference to pre-application meeting; Add that permit application grants City staff permission to enter exterior portion of property for processing the permit; Change application due date from 28 days to 30 days; Delete “concomitant application” as it is redundant; Add Committee to Commission reference
- Add section on process for legal lot determinations including requirement for combining of lots on deed

Signs:

- Definition: Add “Billboard Vehicle”
- Add animation sign on vehicles and billboard vehicles as prohibited; add other signs on vehicles allowed
- Clarify angle of projecting sign to count as one sign

Lighting:

- Add and/or amend to have uniform City-wide standards lighting

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to Neighborhood Associations, various agencies, and interested parties on April 2, 2019. In accordance with ORS 227.186(5), State required Measure 56 mailing, a notice was mailed on April 2, 2019 to all property owners within the City advising “. . . *that the City has proposed a land use regulation that may affect the permissible uses of your property and other properties.*” In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on April 16, 2019. In accordance with Section 9.020.D, a notice was posted on March 29, 2019 at the following locations: corner of 30th and Marine Dr. and near the corner of 43rd and Lief Erikson Dr. The proposed amendment is legislative as it applies City-wide.

B. State Agencies

Although concurrence or approval by State agencies is not required for adoption of the proposed amendments, the City has provided a copy of the draft amendments to representatives of the Oregon Departments of Transportation (ODOT), Land Conservation and Development (DLCD) and Department of State Lands (DLS) as part of the planning process.

IV. FINDINGS OF FACT

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

Development Code Section 10.020.B states that *"An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed."*

Finding: The proposed amendments to the Development Code are being initiated by the Community Development Director.

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

1. *An amendment to the text of the Development Code or Comprehensive Plan.*
2. *A zone change action that the Community Development Director has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate."*

Finding: The proposed amendment is to amend the text of the Astoria Development Code various sections concerning administrative procedures, definitions, signs, lighting, parking, etc. which are applicable City wide. The amendment would create new standards. The proposed amendments are applicable to the entire City and represents a relatively broad policy change. Processing as a legislative action is appropriate.

- C. Section 10.070.A.1 concerning Text Amendments, requires that *"The amendment is consistent with the Comprehensive Plan."*
1. CP.010.6, General Development Policies, Natural Features states, *"Efforts will be made to maintain streams, ravines and undeveloped shorelands in*

their natural state. In the zoning and subdivision ordinances, stream bank setbacks will be required to protect stream bank vegetation, minimize the need for shoreline protection, and maintain the capacity of natural drainages."

CP.185.I.6, Regional Estuary and Shoreland Policies, Land Transportation System Policies, states *"Construction of new land transportation facilities and maintenance of existing land transportation facilities shall be undertaken in a manner that minimizes expected impacts on aquatic and shoreland estuarine resources."*

CP.185.T, Regional Estuary and Shoreland Policies, Implementation Policies, states

- "4. CREST will provide planning assistance to member agencies, review local comprehensive plans and shoreline management master programs, and make recommendations which will result in coordination and conformance with the Columbia River Estuary Regional Management Plan.*
- 5. CREST will provide technical information and assistance to members and other agencies for Columbia River Estuary Regional Management Plan implementation."*

Finding: The proposed standard for parking, travel lanes, and storage areas to be 15' away from top of bank on the shoreline was the recommendation of CREST to protect the estuary. CREST provides guidance to the City concerning the estuary and impacts of development. The 15' provides a landscaped barrier between the vehicular development and the estuary.

2. CP.020.9, General Development Policies, Community Growth - Plan Strategy, states *"The Buildable Lands Inventory completed in April 2011 identified a deficit of 15.54 net acres of residential buildable lands. In order to address this deficit, OAR 660-24-0050 requires that the City amend the Plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the boundary or by expanding the UGB, or both."*

CP.025.1, General Development Policies, Policies Pertaining to Land Use Categories and Density Requirements, states *"Density requirements are established in the Comprehensive Plan and implemented in the Development Code. The land use categories are drawn on the City's official zoning map. Minimum lot sizes, as specified in the Development Code standards, are intended to regulate the density of housing units. Both the units per acre and the square footage requirements are based on net acreage, or the amount of buildable land exclusive of rights-of-way, wetlands, water areas, or other unbuildable land."*

CP.055.4, Downtown Area Policies, states *"The City encourages the reuse of existing buildings prior to the expansion of commercial zones."*

CP.202.4, Economic Development Goal 3 and Goal 3 Policies, states *"Goal: Strengthen the City's downtown core as the retail center of the region, with the support from the Astoria Downtown Historic District Association."*

Policies: 4. Promote upper story/high density housing in the downtown existing and new construction."

CP.215.1, Housing Element, Issues and Conclusions, Vacancy Rates, states *" . . . North coast trends in second homes and short-term rentals reached an average of 20.5% in 2007 with a State average of 2.5%. Astoria was well below this with 1.9%; however, this number is expected to increase over the next 20 years. Housing stock needed to accommodate this trend could change the amount of residentially zoned land needed to accommodate growth through 2027. The Buildable Lands Inventory dated April 2011 addresses this issue in depth and recommends that the City review and revise the assumptions made in the Inventory after the 2010 US Census results are finalized."*

CP.215.5, Housing Element, Issues and Conclusions, Low- and Moderate-Income Housing, states *"Because of the large number of older buildings in Astoria, there is great potential for reuse of existing structures for housing. The John Jacob Astor Apartments and Owens-Adair Apartments projects are both examples of successful renovations. The City could encourage this trend by working with developers, applying for grant funds, and looking for ways of fostering both historic preservation and provision of low-cost housing. Organizations, including the Clatsop County Housing Authority, the Clatsop Community Action Agency, Northwest Oregon Housing Authority, for-profit corporations, and other local and regional non-profit groups and public agencies have been involved in providing low cost housing in Clatsop County. County-wide efforts are being made to address the need for workforce housing on the entire North coast."*

CP.218, Housing Goals states

- "1. Provide opportunities for development of a wide variety of housing types and price ranges within the Urban Growth Boundary.*
- 2. Maintain and rehabilitate the community's existing housing stock."*

CP.220, Housing Policies states

- "1. Maintain attractive and livable residential neighborhoods, for all types of housing. . .*
- 5. Encourage low- and moderate-income housing throughout the City, not concentrated in one area.*
- 6. Protect neighborhoods from incompatible uses, including large scale commercial, industrial, and public uses or activities. . .*

15. *Ensure that multi-family developments in primarily single-family neighborhoods are designed to be compatible with the surrounding neighborhood, in terms of scale, bulk, use of materials and landscaping. . .*
20. *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.250.1, Historic Preservation Goals, states *"The City will: Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

Finding: Several of the proposed amendments address housing issues. One proposal is to allow residences behind commercial facilities on the ground floor in the downtown C-4 Zone. Housing is allowed above and below the first floor. The C-3 Zone was amended a few years ago to allow this use. As an example, it allows for a small residence in the rear for the owner with an office or personal service establishment in the front. Reuse of the existing downtown buildings for a variety of uses complies with the Comprehensive Plan goal of use of existing building before new construction.

The Buildable Lands Inventory has identified a deficit of low density residential zoned property. The Comprehensive Plan indicates a goal of having a variety of housing types and price ranges, and the preservation of existing historic housing stock. The City Council 2018-2019 Goals included *"Implement the provisions contained in the City of Astoria Affordable Housing Study to increase the number of housing units within the City, for permanent residents. Special attention should be given to derelict and/or vacant properties."* The 2019-2021 City Council goals adopted April 15, 2019 include *"Support efforts to increase the housing supply (both market rate and affordable), using the County Housing Study as a guide."* a and *"Maintain Astoria's unique character through economic development and zoning which reflects on those values."* There is currently a lack of affordable housing for the existing employees and Astoria residents. Some of the proposed amendments would expand the allowable residential uses. It would allow existing non-conforming structures and uses to be reutilized as dwellings even if they have not been used for several years. These dwellings currently cannot use the additional units if they have been vacant for over one year. The exception would not exceed allowable density but would allow more units on substandard lots.

Several proposed amendments would allow for alterations to existing structures such as constructing new stairs within a setback for an existing door, street side yard averaging, and allowing exceptions to setbacks for

existing structures located beyond the property lines. Other proposed amendments would allow for ADA accessible ramps in setbacks, and for arbors to exceed fence height. These amendments all support use of existing structures over new construction and make it easier for property owners to alter their existing structures to make them more habitable.

3. CP.185.T.1, Regional Estuary and Shoreland Policies, Implementation Policies, states "Pre-permit application meetings and site visits shall be encouraged."

Finding: The City staff hold pre-application meetings with applicants on most applications. Recently the code was amended to state that every permit "shall" have a pre-application meeting. This has proved to be unnecessary as some applications are either very simple, or staff has worked with the applicant throughout the entire planning process, so that an actual "pre-application" meeting is not necessary. The proposed change would state that the meeting "may be" required. Most major applications and projects impacting the estuary would still require pre-application meetings.

4. CP.202.3, Economic Development Goal 3 and Goal 3 Policies, states "Goal: Strengthen the City's downtown core as the retail center of the region, with the support from the Astoria Downtown Historic District Association.
Policies: 3. Support the efforts of the downtown merchants to improve the appearance of the commercial core. Maintain and enhance all public infrastructures to create a pleasant and convenient business environment including elements such as signage, pocket parks, sidewalks and parking lots."

Development Code Section 8.050.3, Prohibited Signs, states "*Signs which flash, revolve, rotate, swing, undulate or otherwise attract attention through the movement or flashing of parts of the sign, including inflatable signs, large balloons, flags, pennants, or similar devices.*"

Finding: The Sign Code has been developed over the years to limit the size and number of signs throughout the City to preserve the character of historic Astoria. The existing code does not allow signs to move, flash, or draw attention by movement. This is important to the character of Astoria and has been accepted by the Downtown Association and many merchants. The Sign Code attempts to keep signage in scale with the community and prevents businesses from getting into "sign wars" with each business wanting more or bigger signs. The proposed amendments would address newer style signs that currently are prohibited by the existing code, but the language may not be as clear as the sign companies seem to think. The use of "feather" flags draws attention by movement and therefore are prohibited. The current trend of using vehicles solely for the purpose of advertising is becoming an issue. These vehicles have no other purpose

than to drive through the streets with billboards on the truck bed for advertising. They drive up and down streets, park at various locations for several hours at a time then move on to another location. Some of these vehicles are equipped with moveable text / animation signs which are regulated and limited in Astoria. The proposed amendments would define these types of signs, prohibit them in Astoria, and would clarify that advertising on vehicles that are used to transport people or goods is still allowed. These would be vehicles such as U-Haul, Pepsi delivery, buses, real estate company car, etc. Content of the sign is not considered in accordance with Oregon State Constitution for freedom of speech, but it is limiting “moving” signs.



Billboard truck/trailer	Animated billboard truck	Animated sign
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5. CP.206.1, Economic Development Goal 7 and Goal 7 Policies, states “Goal: Encourage successful home-based businesses. Policies: Encourage home occupations, cottage industries and activities which have little impact on the surrounding neighborhoods through the City’s Development Code.”

CP.208.5, Economic Development Strategies and Actions, states “Update home occupation ordinance provisions as needed to encourage home occupations, but limit associated negative impacts such as traffic, on-street parking, and noise.”

CP.220.7, Housing Policies, states “Permit home occupations which generate minimal impacts as an outright use in most cases.”

Finding: The proposed amendments to Home Occupation, and Restaurant associated with an Inn sections allow some non-residential uses but with standards that protect the neighborhood from incompatible commercial uses. Most of these proposed changes just clarify how the staff has interpreted and applied the existing ordinance rather than actual changes to the code. The proposed amendment would clarify that “employee” means anyone associated with the business. Over the years, many business owners have questioned and/or argued that a “partner” or an independent contractor with their business is not an employee. The intent of the code is to limit the number of people associated with the business coming to the home which could potentially be a negative impact to the neighborhood. With the clarification, the proposed amendment would also all non-resident

employees who do not come to the home to be processed as a Class A Home Occupation which is a Type I permit rather than as a Type II Class B Home Occupation.

Inns are allowed to have associated restaurants with a conditional use permit in residential zones. The proposed amendment would clarify the hours of operation for this use.

6. CP.015.1, General Land & Water Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

CP.035.2, West End Area Policies, states *"The quiet residential character of the west end will be protected through the City's Development Code."*

CP.045.2, Central Residential Area Policies, states *"Historic areas (neighborhoods with high concentrations of pre-1911 homes) will be protected through zoning regulations and the use of public lands for relocation of structures."*

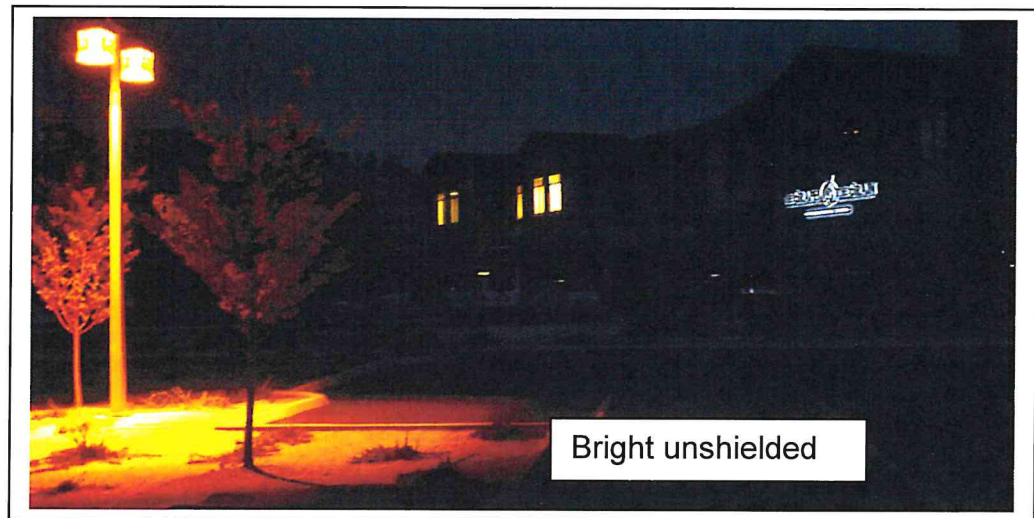
CP.075.2, Uppertown Area Policies, states *"The predominantly residential character of the area upland of Marine Drive/Lief Erikson Drive will be preserved."*

CP.085.2, Alderbrook Area Policies, states *"The residential character of Alderbrook will be protected through the designation of the aquatic area from 41st Street to Tongue Point as natural, and by the present zoning pattern. Development in the 100-year flood area shall be subject to the requirements of the City's Flood Hazard Overlay Zone."*

CP.088.2, Emerald Heights Area Policies. States *"The multi-family residential character of Emerald Heights Area will be protected through the present zoning pattern. Additional residential development is encouraged in this area."*

Finding: The proposed amendments create development standards for several issues that would add to the quiet character of neighborhoods and maintain the character of Astoria. The current lighting standards throughout the code have slightly different wording and some zones do not include reference to lighting. The proposed amendment would reduce inappropriate glare into other properties and/or rights-of-way. The proposed amendments would make the standards uniform City-wide. The draft language uses ideas from Dark Sky Association standards which is universally recognized as the leading codes to prevent light pollution and for

safe and comfortable lighting. The standards recognize that bright lights that glare into rights-of-way or other properties create dark, blind spots that are counter-productive to good lighting for security.



Proposed amendments for Home Occupation, setback exemptions, parking exceptions, and streamlined procedures will add flexibility for property owners while still protecting the character of the neighborhoods. The proposed sign standards would prohibit incompatible signage and sign traffic from detracting from the quiet neighborhood and downtown historic character with signs that not consistent with the overall size and location of existing signage.

7. CP.470.1, Citizen Involvement states that *"Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies."*

Finding: Throughout the process of drafting the proposed ordinance, the City has provided public outreach. The Planning Commission held a work session on 2-26-2019. Notices were sent to interested parties, neighborhood associations, email lists, web site, etc. Anyone interested in the proposed ordinance was encouraged to submit suggestions and comments. Work sessions were open for discussion with the public to allow for interactive feedback from the early stage of the adoption process.

Over the years, staff has identified codes and processes that required property owners to delay projects pending approval of Type III permits through the Planning Commission. Several proposed amendments would allow for exceptions and Type I approvals while other would be processed administratively as Type II permits. This would save time and money for both staff and property owners. The City was very conscious of the interest in protection of the residential character of neighborhoods and the potential loss of long-term housing. The proposed definitions are intended to allow

for clearer interpretation of the Code. The proposed amendments will be in compliance with State regulations and will establish a permit process that is easy for both the citizens and staff.

Finding: The request is consistent with the Comprehensive Plan.

- D. Section 10.070.A.2 concerning Text Amendments requires that *“The amendment will not adversely affect the ability of the City to satisfy land and water use needs.”*

Finding: The proposed amendment will satisfy land use needs in that it will allow for better use of private properties for residential dwellings while protecting the quiet character of the neighborhoods. The proposed amendments will allow flexibility in some housing standards and parking standards. This supports the need for residential area as identified in the Buildable Lands Inventory. Proposed amendments to lighting and signage standards would protect visual character of the City. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Planning Commission recommend adoption of the proposed amendments to the City Council.

CODE AMENDMENT SYNOPSIS
3-24-19

Corrections

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

Process and Procedures

Code Section	Code Designation	Proposed Change
1.030	Interpretations	Amended and code interpretation process added; similar use determination renumbered from 1.360
1.360	Similar Use Determination	Deleted and renumbered as 1.030.B
9.100.B.1.b	Administrative Procedures	Allow all Temporary Use Permit extensions to be Admin Type II
9.020.D	Public Notice, Posted	Add notice can be removed after 1st public hearing
9.010.I	Pre-Application Meeting	Change pre-application meeting from mandatory to "may be" required
12.060.A 12.060.B.1	Variances	Add lot coverage, fence height, maximum two off-street parking variances for multi-family and non-residential uses, and all one and two-family dwelling parking to Type II
12.060 12.090 12.100 12.110 12.120	Variances	Amend "Class 1 and 2" designations to Type II and Type III to coincide with other permit process references in the Code

Setbacks & Other Exceptions

Code Section	Code Designation	Proposed Change
3.070.B	Exceptions to Yards	Add "street side yard" to allowable average setbacks; allow corner lots to average with lot across right of way; add new graphics; add alley setback exception
3.070.C	Exceptions to Yards	Allow required stairs and landings for existing doors to encroach into setback; allow ADA ramp

Code Section	Code Designation	Proposed Change
		as an exception; allow new 3' wide stairs as an exception
3.070.E	Exceptions to Yards	Allow encroachments beyond property line and in setback areas to remain if being reduced under certain conditions
3.035.A	Accessory Structures	Allow arbor and gateway entrances to be 8' tall; allow fence on alley street side to be 6' tall; identify how height is measured; exempt trees from fence height limitation; clarify hedges meeting setbacks are exempt from fence height limitation; add graphics
3.120.A.8	Landscaping in Parking Areas	Add administrative approval of exception of two spaces for required landscape planters every 10 spaces

Interpretations for Clarification

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

Code Section	Code Designation	Proposed Change
3.140.A.7	Manufactured Home on Individual Lot	Add new classifications of historic properties
3.095	Home Occupation	Change “employee” to “person associated with the business”; quantify customers per week; allow non-resident employees if they don’t come to site
3.150.A.1	Microwave Receiving Dish	Change size from 18” o 20” to meet industry standard for residential dishes
3.150.A.2	Microwave Receiving Dish	Add screening requirement to clarify
3.150.B	Microwave Receiving Dish	Add standard to prohibit on front or street side facades of historic structures which is current interpretation
6.070.A	Historic, New Construction	Add graphic on “adjacent” properties
7.110.C	Parking and Loading, Bumper Guards	Add 2.5’ extend beyond guard allowance to coincide with 7.100.D.4
7.100.E	Parking and Loading, Access	Clarify that no more than four spaces “in same block” can back into public street
7.160.E	Minimum Loading Space Requirements	Add allowance to use right-of-way for loading area with City Engineer approval
9.020.B.1.h	Public Notice, Mailed	Clarify “parties to record” are for permit being appealed
9.020.B.3	Public Notice	Add explanation on how to calculate mailed public notice
9.060	Compliance with Conditions of Approval	Add process for amendments to approved plans as Type I, II, or III permits
9.070	Limitation on Refiling of Application	Change to all commissions not just APC; clarify that if permit withdrawn prior to hearing there is no waiting period for resubmittal
12.030.C	Variance Criteria	Clarify variance allowed for lot dimension not density
15.020.B.4	Wireless Communication Facilities	Add that code does not apply to Microwave Receiving Dish
14.510.4 3.120.A.15 7.170.B 4.160.2.e	Development Standards, CRESO; Landscape Requirements; Landscaping of Outdoor Storage or Parking Areas	Add requirement of 15’ landscape buffer between top of bank and parking, storage, driving areas

Miscellaneous Updates

Code Section	Code Designation	Proposed Change
1.400	Definitions	Add "Fair Market Value" to clarify not value of new construction and exception; Historic Demolition;
2.430.15	C-4 Outright Uses	Add residential in the rear of first floor
3.180.C.1	Non-Conforming Uses	Add exception to time for reuse for existing residences with conditions
3.190.C	Non-Conforming Structures	Add allowance for second utility meters on existing non-conforming residential units
7.030.C	Off-Street Parking and Loading, Location	Clarify that allowed on-street parking spaces to meet parking requirements remain as public spaces
7.030.D	Off-Street Parking and Loading, Location	Add allowance for existing on-street parking not within the paved surface to count toward off-street parking requirement; RV's not allowed in this area
7.060.C	Off-Street Vehicle Parking Requirements	Add that required parking is also for employees but limited to less than 50% for employees
7.110.H.2	Parking and Loading Areas	Add that required parking shall not be used for storage of vehicles or equipment for more than one week; limitations on recreational vehicle parking;
7.100	Minimum Parking Space Requirements	Amend to state parking is calculated for employees and customers
11.140	Public or Semi-Public Use	Add how to review a public use in residential neighborhoods
9.010.A 9.010.B	Administrative, Applicability of Review Process	Delete table; add footnotes of table to intro
9.010.B.2	Administrative, Applicability of Review Process	Add how fees are determined for applications when the review Type is changed
9.010.C.4	Administrative, Applicability of Review Process	Delete reference to pre-application meeting
9.010.C.5	Administrative, Applicability of Review Process	Add that permit application grants City staff permission to enter exterior portion of property for processing the permit
9.010.D	Administrative, Applicability of Review Process	Change application due date from 28 days to 30 days
9.010.G	Administrative, Application and General Review	Delete "concomitant application" as it is redundant

Code Section	Code Designation	Proposed Change
9.010.K	Administrative, Application and General Review	Add Committee to Commission reference
3.158	Legal Lot Determination	Add section on process for legal lot determinations including requirement for combining of lots on deed

Signs

Code Section	Code Designation	Proposed Change
1.400	Definitions	Add "Billboard Vehicle"
8.040.A.14	Exempt Signs	Add that political signs installed no more than 60 days prior to election
8.050.A.B	Prohibited Signs	Add animation sign on vehicles and billboard vehicles; add other signs on vehicles allowed
8.080.M.4.b.4	Moveable Text Sign	Add prohibition on moving vehicles
8.070.A.1 8.080.C.4	Sign Face Area Projecting Signs	Clarify angle of projecting sign to count as one sign

DEVELOPMENT CODE UPDATES

Annotated

April 17, 2019

CORRECTIONS

Section 9.020.C, PUBLIC NOTICE, Published Notice, is deleted in its entirety and replaced to read as follows:

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

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

Section 2.540.7, Development Standards and Procedural Requirements in the A-2 Zone is deleted in its entirety and replaced to read as follows:

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

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

PROCESS AND PROCEDURES

1.030. INTERPRETATION.

A. Applicability.

If the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by another provision of this Code or of any other Ordinance of the City, the provision which is more restrictive shall govern.

B. Authorization of Similar Uses.

The Community Development Director and/or the Planning Commission may rule that a use not specifically permitted in a zone shall be permitted in a zone if it is similar to the permitted uses in the zone, if its effect on adjacent properties is substantially the same as the permitted uses, and if it is not specifically designated as a permitted use in another zone. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Community Development Director and/or Planning Commission finds are similar to those that are prohibited, are not allowed. (formerly 1.360)

C. Code Interpretations.

This section provides a process for resolving differences in the interpretation of the Code text.

D. Code Interpretation Procedure.

Requests for code interpretations, including, but not limited to, similar use determinations, shall be made in writing to the Community Development Director and shall be processed as follows:

1. Where an interpretation requires discretion, the applicant shall submit a Miscellaneous Review Permit application for a Code Interpretation with applicable fee for a Type II permit. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request. The Community Development Director shall review relevant background information, including, but not limited to, other relevant Code sections and previous City land use decisions, and follow the Type II decision-making procedures in Article 9.
2. The Community Development Director may refer the application to the Planning Commission and follow Type III decision-making procedures in Article 9.
3. Where a code interpretation may have significant City-wide policy implications, the Community Development Director may bypass the procedures in Sections

1.030.D.1 to 1.030.D.2 and refer the request directly to the City Council for its legislative review in a public hearing. Such public hearings shall be conducted following Type IV procedure of Article 9.

4. All decisions on a code interpretation shall be made in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application in accordance with Article 9.

(Annotated: This is the process we currently follow. This would establish procedures in the code.)

Section 1.360, Authorization of Similar Uses, is deleted in its entirety.

~~The Planning Commission may rule that a use not specifically permitted in a zone shall be permitted in a zone if it is similar to the permitted uses in the zone, if its effect on adjacent properties is substantially the same as the permitted uses, and if it is not specifically designated as a permitted use in another zone.~~ (renumbered as 1.030.B)

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

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

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

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

D. Posted Notice.

For Type III applications, at least 14 days before the first hearing, the Community Development Director or designee shall post notice of the hearing on the project site in clear view from a public right-of-way. Posting near the main entryway inside a storefront window of a commercial or industrial building visible to the public is allowable. For applications that are not site specific, the Community Development Director may select an appropriate site or sites to post the notice. Posted notice may be removed after the first public hearing has been held.

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

I. Pre-Application Meeting.

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

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

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

12.060. CLASSIFICATION OF VARIANCES.

A. ~~Class 1~~ Type II.

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

~~Class 1~~Type II variances include:

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

B. ~~Class 2~~ Type III.

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

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

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

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

12.090. ACTION ON ~~CLASS 1~~ TYPE II VARIANCE APPLICATION.

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

12.100. APPEAL OF A ~~CLASS 1~~ TYPE II VARIANCE.

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

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

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

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

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

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

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

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

SETBACKS & OTHER EXCEPTIONS

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

B. Front and Street Side Yard Exceptions.

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

1. Lots with Development on Both Abutting Lots.

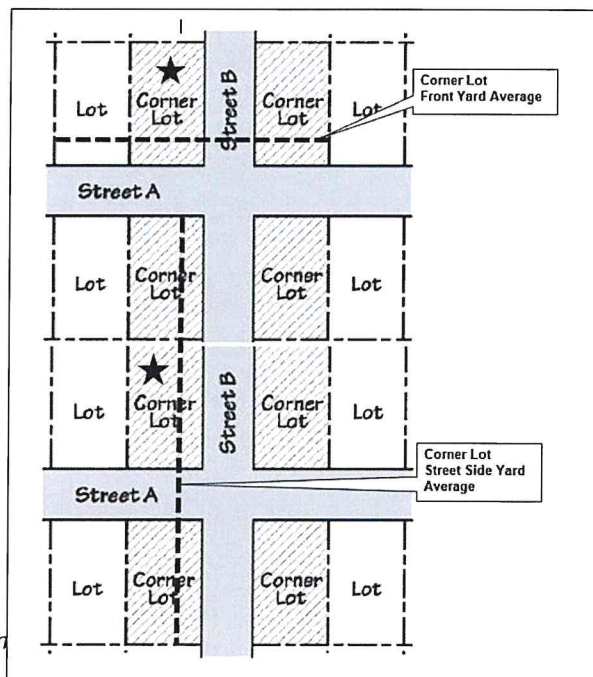
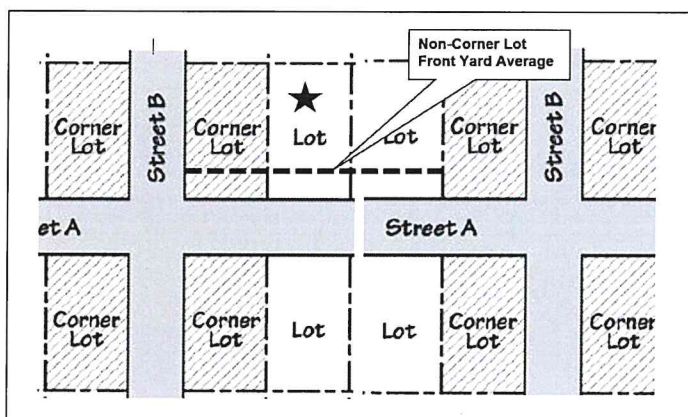
If there are dwellings on both abutting lots with front and/or street side yards, as applicable, of less than the required depth for the zone, the front and/or street side yard of the lot may equal the average front and/or street side yard of the abutting lots.

2. Lots with Development on only One Abutting Lot.

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

3. Corner Lot.

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



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

4. Alley Setback.

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

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

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

C. Structures Within Yards.

The following structures may be located within the required yard setback area unless otherwise limited by compliance with other requirements such as Building Codes, Attached Housing-Mill Pond Zone construction restrictions, or other Code requirements.

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

(Annotated: This would allow required entry stairs to be constructed without a variance to access buildings that have doors without stairs, sometimes missing for years. Allowing stairs on new construction would be limited to just the stairs.)

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

E. Existing Encroachments Beyond the Property Line.

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

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

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

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

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

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

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

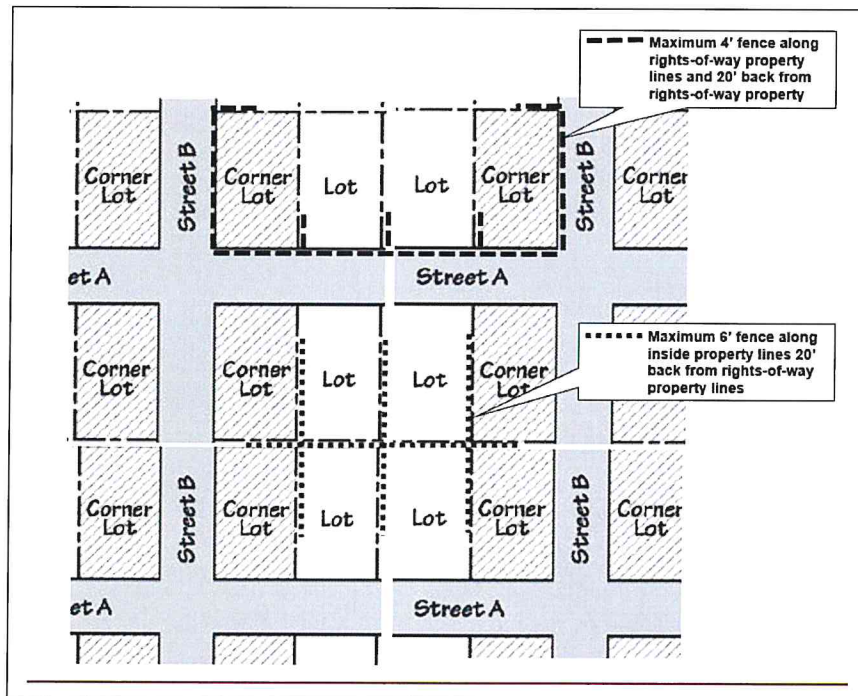
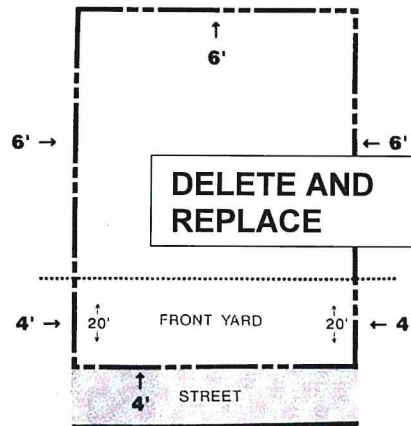
Section 3.035.A, ACCESSORY STRUCTURES, Fences, Walls, and Hedges, is deleted in its entirety and replaced to read as follows:

3.035. ACCESSORY STRUCTURES.

A. Fences, Walls, and Hedges.

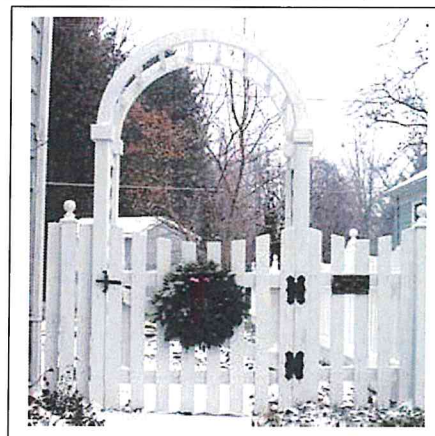
1. Except as provided in City Code Section 6.100 concerning Clear Vision Area, fences, walls, or mature hedges not over 48 inches in height may occupy the required front yard of any lot, or the required side yard along the flanking street of a corner lot.
2. Fences or hedges located back of the required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

3. Fence or hedges located back of the required front or flanking street side yard along an unimproved alley right-of-way shall be considered as an inside property line and shall not exceed a height of six (6).



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

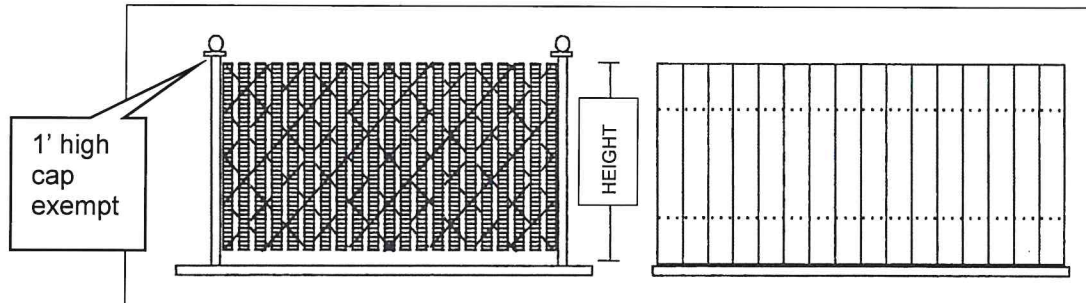
(Annotated: Gateways in fences are common and it is unreasonable to state they must



comply with the 4' fence height or
get a variance.)

5. Fence height shall be measured to the highest portion of the fence on the fence owner's side as follows:

a. Posts, caps, and/or lights not exceeding one foot above the maximum allowable fence height are excluded from maximum fence height;



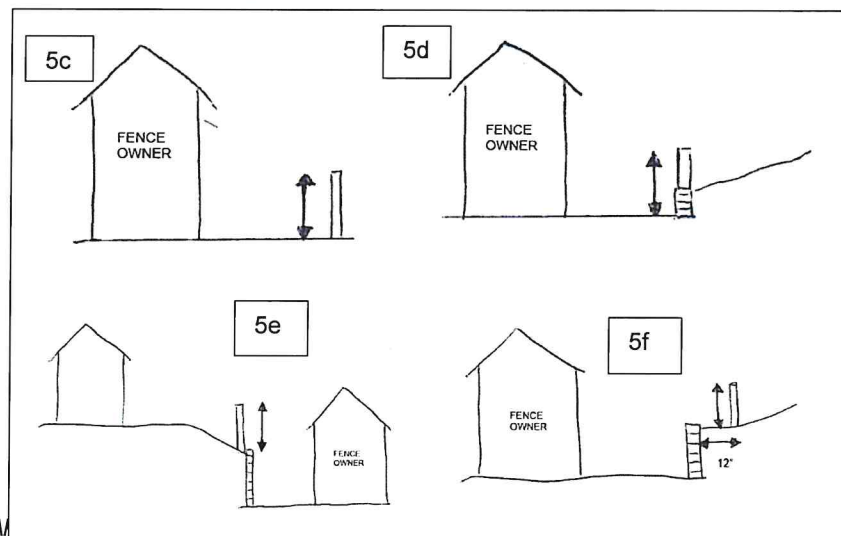
b. Arbors and gateways as noted in Section 3.035.A.4;

c. Fence at grade level shall be measured from grade level on the fence owner's side of the property;

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

e. Fence on top of a retaining wall or other similar structure greater than 3' high shall be measured from grade level at the top of the retaining wall;

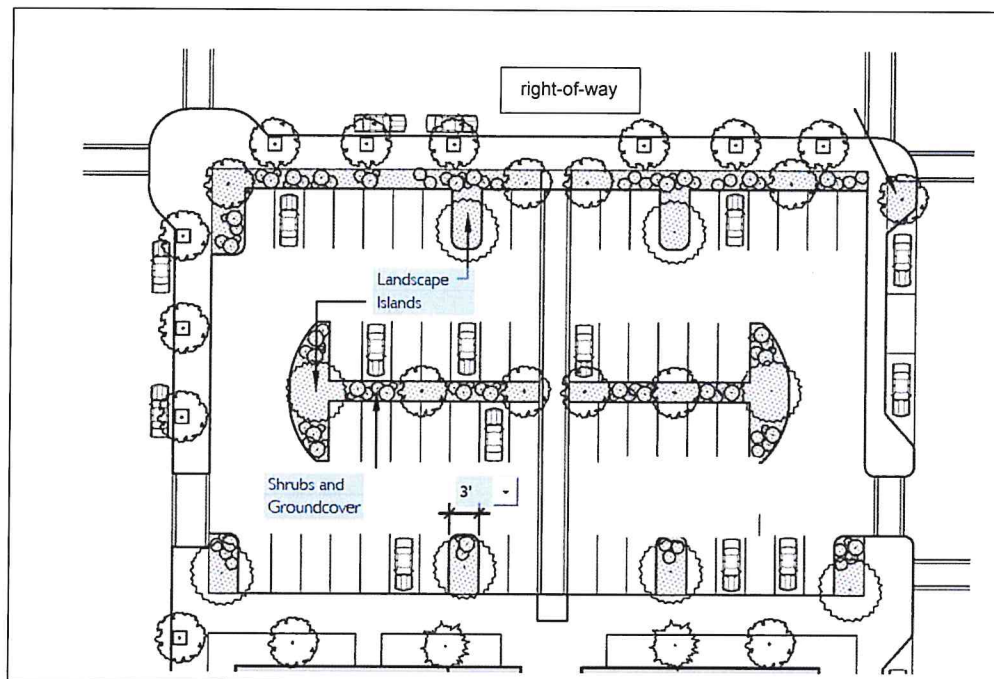
f. Fence set back 12" from the top of the retaining wall or other similar structure regardless of height shall be measured from grade level at the top of the retaining wall.



6. Trees and other intermittent landscaping are exempt from the height limitation except as noted in City Code Section 6.100 concerning Clear Vision Area.
7. Fences or hedges located 20' back of the required front yard, 15' back of the required flanking street side yard, 5' back of the required side yard, or back of the rear yard as required by the zone are exempt from the fence height limitation but are limited by the height of the zone.

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

8. Parking areas with 20 spaces or more shall have a minimum of one landscaping divider per ten (10) parking spaces. Each ten (10) parking spaces shall be bordered by a landscaped area. Such area shall consist of a curbed planter of at least three (3) feet by 16 feet, or at least 48 square feet. Each planter shall contain at least one (1) tree, along with hedge or shrub material. An exception to allow a maximum of one row of parking spaces within a parking area to exceed the maximum ten spaces between landscaped planters by one or two spaces may be approved as an administrative Type I permit if the amount of overall required landscaping is not reduced.



INTERPRETATIONS FOR CLARIFICATION

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

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

(Annotated: Electric vehicle charging station located in a parking lot could be classified as part of the "commercial parking lot" portion of the facility. However, if there are additional signs other than those on the charging unit similar to a freestanding gas pricing, then it would be classified as "automotive service station" due to the higher impact to the area. Generally, it would be classified as "automotive service station" as it is similar to sale of auto accessories more than gasoline due to the difference in impact of the fuel. Need to address how to handle small lots like ones in the downtown that may not be associated with a use but could have charging stations. If the parking lot is the use could the charging stations be considered as accessory to the "parking lot" use?)

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

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

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

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

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

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

"MICROWAVE RECEIVING DISH: Any conical or dish shaped device or structure used for receiving television or other telecommunication signals transmitted from satellites or earth-based transmitters. Microwave receiving dishes may also be known as "Television Receive Only" (TVRO) dishes, "Satellite Direct Service" (SDS) dishes, "Multi-Distance Service" (MDS) dishes and "Earth Stations". Microwave receiving dish is for receiving only and shall not transmit, repeat, or reflect signals."

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

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

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

(Annotated: Miscellaneous Review MR99-07 and Appeal AP99-04 determined that a video store was not tourist-oriented sales or service just because tourists use them as they are of general interest no different than a pharmacy or grocery store. There is a current MR being reviewed to determine if marijuana shops are tourist-oriented. Need to look at the 50% requirement and determine if this meets the intent of the use and how best to define this use.)

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

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

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

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

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

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

(Annotated: This was the interpretation made to clarify taxi style use versus rental by an individual for personal use. It was removed from the draft as it would be better located in the City Code.)

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

(Annotated: We used this definition to apply to a surry that was proposed to transport guests by reservation on a tour of brew pubs. There would be no pick up and drop off other than those with reservations for the tour. It was removed from the draft as it would be better located in the City Code.)

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

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

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

(Annotated: This is similar to the definition in City Code for taxi type vehicles for licensing purposes. It was removed from the draft as it would be better located in the City Code.)

WIND ENERGY FACILITY: A system that converts wind energy into electricity through the use of a wind turbine generator and may include a nacelle, rotor, blade, tower, and/or turbine pad. A Small-Scale Wind Energy Facility shall be a system of less than 90' in height, rotor blade of less than 22' (380 square foot swept area). A Small-Scale Facility is classified as a "utility" and is subject to the height limitations of the zone. All other facilities are prohibited.

(Annotated: APC made an interpretation MR09-02 that wind energy facility was classified the same as “utility” and would be subject to the height limitation of the zone until such time as the City adopts a Wind Energy Code. Currently, a “utility” is only allowed in the G1 and S-2 Zones.)

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

“3.005. ACCESS TO STREETS.

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

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

“B. Access.

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

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

D. Applicability.

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

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

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

F. Associated Business Activities.

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

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

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

B. Hours of Operation.

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

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

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

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

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

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

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

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

“3.095. HOME OCCUPATIONS.

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

A. Class A.

A Class A home occupation is one where the residents use their home as a place of work, with no non-resident persons associated with the business employees, and with

only an occasional customer coming to the site a maximum of twice per week. Examples include artists, crafts people, writers, and consultants. Class A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work. A Class A business is only conducted within the dwelling itself, and not in accessory structures.

B. Class B.

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

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

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

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

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

3.150. MICROWAVE RECEIVING DISH.

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

1. Residential Zones.

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

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

2. Non-Residential Zones.

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

a. _____ to ensure they have minimal visual impact; and

b. screened by sight obscuring fences, dense landscape buffers, and/or location of dish such as it is not highly visible.

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

3. Permits.

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

"B. Historic Properties.

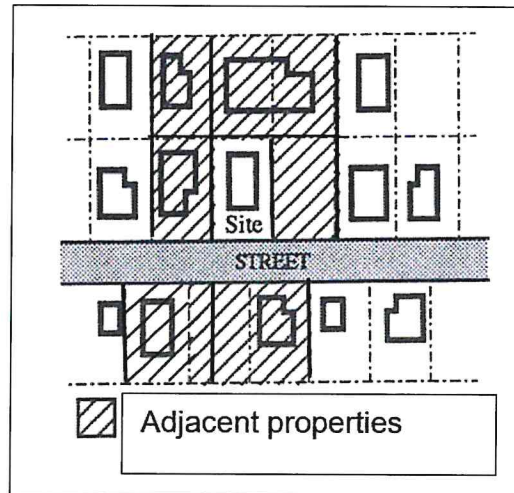
A Microwave Receiving Dish shall not be located on the front or street side facade of a structure designated as historic."

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

Section 6.070.A, New Construction, Certificate of Appropriateness, is deleted in its entirety and replaced to read as follows:

No person, corporation, or other entity shall construct a new structure adjacent to or across a public right-of-way from a Historic Landmark as described in Section 6.040, without first obtaining a Certificate of Appropriateness from the Historic Landmarks Commission.

In obtaining a Certificate of Appropriateness as required above, the applicant shall file an application on a form furnished for that purpose with the Community Development Department.



(Annotated: The graphic is added to make it clear which properties are “adjacent”).

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

“C. Bumper guards or wheel barriers.

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

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

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

E. Access.

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

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

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

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

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

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

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

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

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

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

1. Minor changes that would have no impact or minimal impact to the design, use, or location of the project shall be reviewed administratively as a Type I permit.
2. All other proposed changes shall be reviewed as an administrative Type II permit or as a Type III permit as determined by the Community Development Director.

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

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

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

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

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

Example:

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

Lot is 5,000 square feet - standard for SFD

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

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

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

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

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

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

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

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

4. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline. Except as otherwise noted, parked vehicle bumpers may overhang a maximum of 2.5' beyond a bumper guard into the landscaped area.

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

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

Except as otherwise noted, parked vehicle bumpers may overhang a maximum of 2.5' beyond a bumper guard into the landscaped area.

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

- A. A minimum of 5% of the gross parking lot area shall be designed and maintained as landscaped area, subject to the standards in Sections 3.105 through 3.120. This requirement shall apply to all parking lots with an area of 600 square feet or greater. Approved sight obscuring fences or vegetative buffers shall be constructed where commercial parking lots abut Residential Zones. The minimum 5% landscaping shall be counted as part of the total landscaping required for the property.
- B. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline. Except as otherwise noted, parked vehicle bumpers may overhang a maximum of 2.5' beyond a bumper guard into the landscaped area.

4.160.2.e, Columbia River Estuary and Shoreland Regional Standards Residential, Commercial and Industrial Development, is added to read as follows:

- e. There shall be a 15' landscaped buffer area maintained between outdoor storage areas, parking areas, and/or driving surfaces and the top of bank along the shoreline. Except as otherwise noted, parked vehicle bumpers may overhang a maximum of 2.5' beyond a bumper guard into the landscaped area.

(Annotated: CREST advised us years ago that 15' was a good buffer for the shoreline for development of parking and driving areas. We have used this measurement for all new areas.)

MISCELLANEOUS CODE UPDATES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lot is 5,000 square feet - standard for SFD

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

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

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

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

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

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

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

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

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

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

C. Allowed On-Street Parking.

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

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

D. Existing Parking within Right-of-Way.

Existing parking areas located within a right-of-way between the property line and the paved portion of the right-of-way may be counted toward the required off-street parking spaces as follows:

1. The parking area shall exist at the time of the proposed use application;
2. The parking area shall meet minimum parking space dimensions and not extend into pedestrian walkway/sidewalk, or into adjacent properties;
3. The City Engineer shall review and approve the location of the parking space;
4. The applicant shall obtain an administrative Type I permit for use of the area for parking.
5. Recreational vehicles shall not be parked and/or stored in the parking areas located within a right-of-way between the property line and the paved portion of the right-of-way as allowed in Section 7.030.D.



(Annotated: Some areas in the City have smaller improved widths of the right-of-way creating large areas between the sidewalk and the property line within the right-of-way. These areas are typically used for landscaping and parking by the adjacent owners. When calculating "off-street" parking, these areas are not off-street, and the applicant is required to get a variance to count this area toward their required parking. If the area is large enough for an approved parking space, the variance is usually granted. By allowing this area to be counted, it will avoid the cost and time to process the variances and would have the same end result.)

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

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

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

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

~~3. Required off street parking spaces for single family or two family dwellings may be used for storage of one recreational vehicle (occupancy of the vehicle is prohibited) provided other vehicles associated with the dwelling can be parked off street.~~

Section 7.100, Minimum Parking Space Requirements, Table 7.100 – Off-Street Parking Space Requirements by Use, introduction is deleted in its entirety and replaced to read as follows:

The following are minimum off-street parking requirements by use category. The Community Development Director or Planning Commission, as applicable, may increase the required off-street parking based on anticipated need for a specific conditional use. Off-street vehicle parking requirements are calculated for employee and customer/client uses.

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

~~“11.140. PUBLIC OR SEMI-PUBLIC USE.~~

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

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

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

~~“9.010. APPLICATION INFORMATION AND GENERAL REVIEW PROCEDURES.~~

A. Purpose.

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

B. Applicability of Review Procedures.

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

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

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

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

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

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

a. If the Community Development Director refers a Type II application to the Commission/Committee at the time of the application, it will be classified as a Type III with associated fees.

b. If the Community Development Director refers a Type II application to the Commission/Committee after the public notice has been issued, it will be classified as a Type III with no additional fees.

- c. If the applicant requests that a Type II application be referred to the Commission/Committee after the public notice has been issued, it will be classified as a Type III and the applicant shall pay the difference of the fees.

(Annotated: This clarifies which fees would be applicable if a Type II is changed to a Type III review.)

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

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

4. Type IV Procedure (Legislative Review).

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

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

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

C. Content.

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

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

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

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

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

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

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

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

D. Submittal.

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

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

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

G. Multiple Requests.

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

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

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

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

I. Pre-Application Meeting.

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

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

Section 9.010.K.d, Application Information and General Review Procedures, Applications for Development Review is hereby deleted in its entirety and replaced to read as follows:

- d. Person or entity authorized by the Board or Commission/Commission; or

Section 3.158, Legal Lot Determination, is added to read as follows:

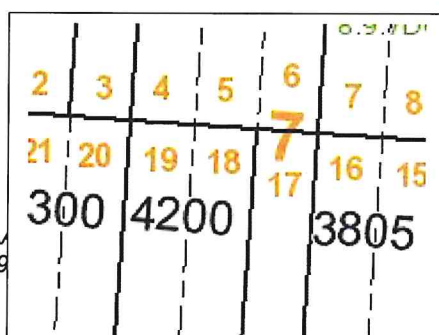
3.158. LEGAL LOT DETERMINATION.

A. Process.

The Community Development Director or the Planner may determine whether a lot individually or in combination with contiguous property held in a single ownership has an area or dimension meeting the lot size requirements of the zone in which the property is located for a proposed use. Requests for a Legal Lot Determination shall be submitted in writing to the Community Development Department for review and approval. The Community Development Director or Planner may require a current title report or other evidence of ownership prior to making a determination. Conditions of any Determination shall include conditions as are necessary for the lot, individually or in combination with contiguous property, to be deemed as "buildable" in accordance with City regulations. The existence of a County Tax Lot designation is not considered as a determination of "legal lot" for zoning purposes. This determination may be used to review subsequent applications to the department.

B. Combining of Lots.

When a project will extend into adjacent lots, parcels, or tracts whether to meet lot size requirements, for the placement of structures or accessory uses, or to provide for requirements such as parking, the Community Development Director or Planner shall require that the properties be combined either through a Property Line Adjustment or by recording a deed or memorandum containing a covenant preventing the separate sale, transfer, or encumbrance of either property except in compliance with building codes, City of Astoria Development Code, and other applicable land use regulations.



Example: To build on Tax Lot 4200, the sale, transfer or encumbrance of platted lots 18 & 19 would need to be restricted by a recorded deed or memorandum.

(Annotated: This is the process we do but there is nothing in the Code to address this process. Combining of lots on the deed prevents loss of property for a project that is necessary for that project to be in compliance with the code. We had lots of problems in years past with sale, foreclosure, divorce settlement, etc. of property that resulted in lots that were not buildable and structures that no longer met code. One structure actually lost part of the structure as it was built over a property line.)

OUTDOOR STORAGE AREA ENCLOSURES

Section 2.235.2, Other Applicable Standards, in the CR Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~

Section 2.335.2, Other Applicable Use Standards, in the C-1 Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate hedges, fencing or walls, and will~~ shall not exceed 100 square feet in size.

Section 2.375.3, Other Applicable Use Standards, in the C-2 Zone, is deleted in its entirety and replaced to read as follows:

3. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate hedges, fencing or walls, and will~~ shall not exceed 100 square feet in size.

Section 2.415.3, Other Applicable Use Standards, in the C-3 Zone, is deleted in its entirety and replaced to read as follows:

3. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.445.4, Other Applicable Use Standards, in the C-4 Zone, is deleted in its entirety and replaced to read as follows:

4. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate hedges, fencing or walls, and will~~ shall not exceed 100 square feet in size.

Section 2.485.1, Other Applicable Use Standards, in the GI Zone, is deleted in its entirety and replaced to read as follows:

1. Outdoor Storage.

All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~

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

13. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

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

12. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

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

10. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

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

10. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

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

9. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

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

11. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

Section 2.690.2, Development Standards and Procedural Requirements, in the S-2 Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~

Section 2.715.2, Development Standards and Procedural Requirements, in the S-2A Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~

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

6. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

Section 2.860.3, Other Applicable Use Standards, in the IN Zone, is deleted in its entirety and replaced to read as follows:

3. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas~~will be enclosed by appropriate vegetation, fencing, or walls.~~

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

3. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas.

Section 2.902.2, Other Applicable Use Standards, in the MH Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.916.2, Other Applicable Use Standards, in the FA Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.934.2, Other Applicable Use Standards, in the AH-HC Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.948.2, Other Applicable Use Standards, in the HC Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.964.2, Other Applicable Use Standards, in the CA Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.972.2, Other Applicable Use Standards, in the HR Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.981.2, Other Applicable Use Standards, in the LS Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

Section 2.992.2, Other Applicable Use Standards, in the AH-MP Zone, is deleted in its entirety and replaced to read as follows:

2. All uses shall comply with the requirements of Section 3.215 for outdoor storage areas ~~will be enclosed by appropriate vegetation, fencing, or walls.~~ This requirement does not apply to outdoor retail sales areas.

SIGNS

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

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

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

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

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

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

This prohibition does not include the following signs:

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

8.080.M.4.b.4, Specific Sign Regulations (Applicable to All Zones), Changeable Text Signs, Standards, Location, is added to read as follows:

- 4) The sign shall not be located on a moving vehicle.

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



Billboard truck/trailer



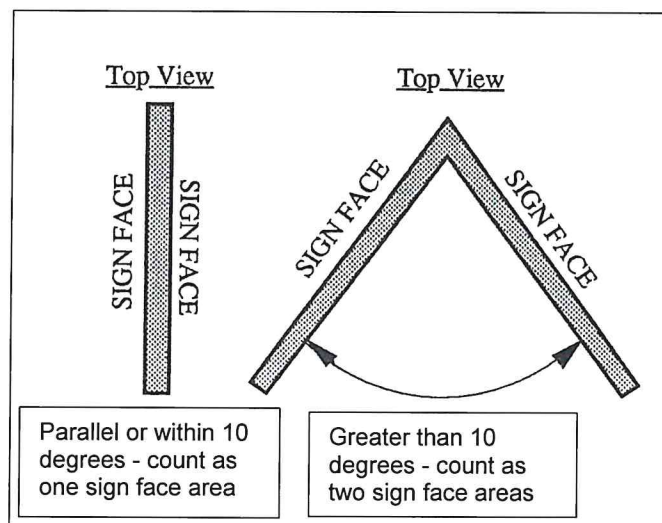
Animated billboard truck



Animated sign truck

Section 8.070.A.1, General Sign Regulations, Sign Face Area, is deleted in its entirety and replaced to read as follows:

1. The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet surrounding the sign face [See 8.120(A.1), Figure 1]. Sign area does not include foundations, supports, and other essential structures which do not serve as a backdrop or border to the sign. Only one (1) side of a double-faced sign is counted in measuring the sign face area, except for a double-faced changeable text sign. If the sign faces are not parallel or within 10 degrees of parallel, each is considered one sign face and both faces are counted.'



8.080.C.4, Specific Sign Regulations (Applicable to All Zones), Projecting Signs, is deleted in its entirety and replaced to read as follows:

4. Angle of sign. The angle between the two sides of a projecting sign may not be greater than ~~30~~10°, and the two sides may not be visible at the same time from adjacent properties or streets. Signs that are greater than ~~30~~10° shall be counted as two signs in number and square footage.

CODE AMENDMENT SYNOPSIS
4-17-19

Lighting Standards

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

14.137.A.1		
15.065.B.8.b	Wireless Communication Facility	Replace existing <u>lighting standard</u> language to <u>make uniform throughout code</u> reference to 3.128;
16.040.H.2	Solar Facilities	Replace existing <u>lighting standard</u> language to <u>make uniform throughout code</u> reference to 3.128;
3.210.A.4	Parking, Off-Street Sales and Storage Lots	Replace existing <u>lighting standard</u> language to <u>make uniform throughout code</u> reference to 3.128;
7.110.F	Parking, Parking and Loading Area	Replace existing <u>lighting standard</u> language to <u>make uniform throughout code</u> reference to 3.128;
8.070.G	Sign Regulations, Glare	<u>Replace existing lighting standard language to make uniform throughout code</u> Add reference to 3.128

LIGHTING

3-7-19

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

3.128. LIGHTING STANDARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Lighting.

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

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

S. Lighting.

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

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

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

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

2. Exterior lighting.

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

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

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

H. Lighting.

2. Standards Regarding Glare for All Uses.

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

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

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

1. Exterior lighting.

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

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

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

8. Lighting.

- b. ~~Exterior lighting shall not glare onto adjacent properties.~~

Exterior lighting shall comply with applicable lighting standards in Section 3.128.

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

H. Lighting.

2. ~~Required exterior lighting shall not glare onto other properties or rights-of-way.~~

Exterior lighting shall comply with applicable lighting standards in Section 3.128.

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

A. Requirements.

4. ~~Security or display lighting shall not encroach on abutting or nearby residential property.~~

Security, or display, or outdoor lighting shall comply with applicable lighting standards in Section 3.128.

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

F. Lighting.

~~Parking or loading areas that will be used at nighttime shall be lighted. Outdoor lighting shall be directed away from any adjacent residential zone or public street.~~

All areas shall comply with applicable lighting standards in Section 3.128.



CITY OF ASTORIA
1095 Duane Street
Astoria OR 97103
503-338-5183

A 19-04

☐ Fee Paid Date 2-19-19 No fee By

Fee: \$750.00

AMENDMENT

Property Address: City Wide

Lot Block Subdivision

Map Tax Lot Zone

Code or Map to be Amended: See attached

Applicant Name: Community Development Dept

Mailing Address: 1095 Duane, Astoria

Phone: 503-338-5183 Business Phone:

Property Owner's Name: Various

Mailing Address:

Business Name (if applicable): Rosemary Johnson

Signature of Applicant: Planning Consultant, Project Manager, Rosemary Johnson

Signature of Property Owner:

Amend various sections to update; correct errors; expand exceptions to yards; clarify height exceptions; amend and add definitions; add clarifications from previous code interpretations; amend parking regulations to clarify; clarify public notices and pre-application meetings;

Proposed Amendment add billboard vehicles to sign code

For office use only:

Application Complete:		Permit Info into D-Base:	
Labels Prepared:		Permit Info into D-Base:	
120 Days:			

FILING INFORMATION: Astoria Planning Commission meets at 7:00 pm on the fourth Tuesday of each month. 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 the acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission is recommended.

Briefly address each of the Amendment Criteria and state why this request should be approved. (Use additional sheets if necessary.)

A. Text Amendment *(Please provide draft language of proposed text amendment)*

Before an amendment to the text of the Code is approved, findings will be made that the following criteria are satisfied.

1. The amendment is consistent with the Comprehensive Plan.

CP supports streamlined public process

2. The amendment will not adversely affect the ability of the City to satisfy land and water use needs.

Intent of amendment is to clarify and update existing codes to codify previous interpretations; add exceptions to yards to support residential use; add prohibition for moving billboard vehicles to maintain historic character and traffic safety

B. Map Amendment *(Please provide a map showing the proposed area to be amended.*

Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the Comprehensive Plan:

2. The amendment will:

- a. Satisfy land and water use needs; or

- b. Meet transportation demands; or

c. Provide community facilities and services:

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.

4. Resource lands, such as wetlands are protected.

5. The amendment is compatible with the land use development pattern in the vicinity of the request.

PLANS: A site plan indicating location of any proposed zone change is required.

original

**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	4-2-19
Email	4-2-19
Web	4-2-19
Pub	4-16-19

The City of Astoria Planning Commission will hold a public hearing on Tuesday, April 23, 2019 at **6:00 p.m.**, at the **Judge Guy Boyington Building, 857 Commercial St., Astoria**. The purpose of the hearing is to consider the following request(s):

1. *Continued from March 26, 2019 meeting: Miscellaneous Request (MR19-01) by Jeremy Lumachi for an interpretation as to whether a retail store that sells cannabis and related materials is classified as a "tourist-oriented retail sales and service establishment" per the Astoria Development Code. This review is limited to the interpretation of the terminology of the use and does not include review of the applicant's ability to meet the requirements for development within the S-2A zone or at a specific location.
2. * Continued from March 26, 2019 meeting: Amendment Request (A19-01) by Community Development Director to amend Development Code sections concerning Riverfront overlay zone requirements, reduce height in Bridge Vista Overlay to 28', add definitions for mass and scale, add standards for Outdoor Storage Area Enclosures, clarify how to apply various sections of the code for design review, clarify exceptions to building height, expand responsibilities of Design Review Committee, and other miscellaneous updates.
3. Amendment Request (A19-02) by Community Development Director to amend Development Code sections concerning Transient Lodging, amend and add definitions, add reference to City Code Home Stay Lodging regulations, establish standards for transient lodging in conjunction with Home Stay Lodging, allow administrative conditional use permits, limit transition of residential units in commercial zones to transient lodging, and other miscellaneous updates. Development Code Sections 1.400, 3.020, 7.100, 8.160, 11.020, 14.132, Articles 2, 9, 10; and Comprehensive Plan Sections CP.005 to CP.028 General, CP.190 to CP.210 Economic Element, CP.215 to CP.230 Housing are applicable to the request.
4. Amendment Request (A19-04) by Community Development Director to amend Development Code sections concerning miscellaneous issues, allow additional administrative variances, allow additional front and street side setback averaging, allow certain stairs as an exception to setback, allow arbor and gateways in fences, amend lighting standards, amend outdoor storage area enclosure standards, amend and add definitions, allow residential use behind commercial use in C-4 zone, codify several legal interpretations of code application, add 15' setback for parking from top of bank, expand non-conforming uses and structures to allow continuation of certain residential use, clarify off-street parking requirements, and other miscellaneous updates. Development Code Sections 1.400, 2.430, 7.100, 7.110, 7.170, 8.040, 8.050, 11.140, 14.510, 15.020, Articles 3, 9, 10, 12; Comprehensive Plan Sections CP.005 to CP.028 General, CP.190 to CP.210 Economic Element, CP.215 to CP.230 Housing 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.