

A G E N D A
ASTORIA PLANNING COMMISSION

Astoria City Hall Waldorf Room, 1095 Duane Street, Astoria

Tuesday, January 22, 2013

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

1. CALL TO ORDER
2. INTRODUCTION OF NEW MEMBER
3. ROLL CALL
4. ELECTION OF OFFICERS
 - a. In accordance with Sections 1.110 and 1.115 of the Astoria Development Code, the APC needs to elect officers for 2013. The 2012 officers were President Zetty Nemlowill, Vice President Mark Cary, and Secretary Sherri Williams.
5. MINUTES
 - a. November 27, 2012
6. PUBLIC HEARINGS
 - a. Conditional Use CU12-05 by Brian Reichert to operate a drive-through food service as a temporary use in an existing commercial building at 230 - 37th Street in the S-1, Marine Industrial Shorelands zone. Staff recommends approve of the request with conditions.
7. REPORT OF OFFICERS
8. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
November 27, 2012

CALL TO ORDER:

President Nemlowill called the meeting to order at 7:04 p.m.

ROLL CALL:

Commissioners Present: President Zetty Nemlowill, Vice-President Mark Cary, Annie Oliver, Tryan Hartill, McLaren Innes and Al Tollefson

Commissioners Excused: Thor Norgaard.

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

APPROVAL OF MINUTES – ITEM 3(a):

President Nemlowill asked for approval of the minutes of the October 23, 2012 meeting. Commissioner Oliver moved to approve the minutes; seconded by Commissioner Hartill. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

V12-14 Parking Variance V12-14 by Robert Stang from the required six off-street parking spaces to provide 2 off-street spaces for a 4-unit residential use in an existing structure at 1585 Exchange in the C-3, General Commercial zone. Staff recommends approval of the request.

President Nemlowill asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Nemlowill asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. None declared.

Planner Johnson reviewed the written Staff Report, noting that no correspondence has been received and that staff recommends approval of the request with no conditions.

Commissioner Oliver asked if the Applicant could rent parking spaces. Planner Johnson explained that renting parking spaces is a possibility; however, if the Applicant ever lost the rented parking, the Applicant would still have to return for a parking variance. Should Owens-Adair rent parking to the Applicant, then Owens-Adair would have to apply for a parking variance.

President Nemlowill opened the public hearing and called for testimony from the Applicant.

Robert Stang, 3834 Franklin Ave., stated Staff's presentation had included the all findings, etc. He noted that he, Jason Banks, 90569 Highway 202, and Simo Ranta, present by proxy, were available to answer any questions from the Planning Commission.

President Nemlowill asked why the Applicants decided to divide the property into a four-plex. Mr. Stang explained that four-plexes would lie out nicely in the old building and would be beneficial financially. He believed the tenants would have sufficient parking given the availability of off-street parking. Mr. Stang clarified that he had not had any contact with any of the neighbors.

Commissioner Oliver noted the application stated "SFD with retail and/or restaurant" and asked for clarification on these terms. Planner Johnson explained the building's previous use was a single-family dwelling with retail space; that is not what is being requested at this time.

President Nemlowill called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, she closed the public hearing and called for Commissioner comments.

Commissioner Hartill stated that when the building was built in 1923, it was a four-unit apartment and the tenants had cars then. This seems to be going back to the same use, so he is comfortable with the variance. The rest of the Commission agreed.

President Nemlowill commented that since no one testified in opposition to the variance and Staff did not report any problems when the building was used previously as a heavier use than a single-family dwelling, she does not have a problem with the variance.

Commissioner Oliver moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Parking Variance V12-14, seconded by Commissioner Hartill. Motion passed unanimously.

President Nemlowill read the rules of appeal into the record.

ITEM 4(b):

V12-15 Variance V12-15 by Gary M. Mauro from the maximum fence height to install an 8' tall fence along the south side property line of an existing single-family dwelling. The 8' high fence would be set back 20' from the front property line at 1098 14th Street in the R-1, Low Density Residential zone. Staff recommends approval of the request with conditions.

President Nemlowill asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Nemlowill asked if any member of the Planning Commission had a conflict of interest or any ex-parte contacts to declare. None declared.

Planner Johnson reviewed the written Staff report, noting that no correspondence has been received and Staff recommends approval of the request.

President Nemlowill opened the public hearing and called for testimony from the Applicant.

Gary Mauro, 1098 14th Street, Astoria, stated the application was as Staff presented and what was shown in the picture, and that he is available answer any questions.

President Nemlowill asked how the Applicant's neighbors felt about the project. Mr. Mauro stated he has not heard anything or received any correspondence from his neighbors, but one neighbor is present in the audience.

Mr. Mauro commented on the following statement on Page 4 of the Staff report, "The condition of the neighbor's property does not constitute a nuisance violation." He noted the application was originally submitted in October 2012 and asked if the City would be in a position to comment on the condition of the property in 2011, 2010, or 2009 going back to around 2003. Planner Johnson explained statements made in the Staff report are as of the date of the report and do not refer to any future events. At the time of this application, the property did not have a nuisance violation.

President Nemlowill called for testimony in favor of, impartial or opposed to the application.

Ernie Petersen, 1136 14th Street, Astoria, spoke in favor of the application. He and the Applicant have been neighbors for several years and he wants Mr. Mauro to have a fence. He noticed the plans show a portion of the fence trellis overhanging onto his property and he does not want any overhang that extends onto his property. He had told the Applicant several years ago that he did not mind a fence as long as it stayed on Mr. Mauro's property. He measured 305 feet from the City property marker located at 15th and Lexington to establish the front and side of the property. The location indicated on the applicant's site plan is exactly the property line based

on City records. He noticed the 20-foot setback is the third block of the Applicant's foundation at the front of the Applicant's porch. He does not have a problem with the fence being built at the front porch, but it is beyond /this close to the 20-foot setback and while he did not object to that, he does not want the fence on or over his property.

President Nemlowill asked if Mr. Petersen believes the setback appears to be less than 20 feet based on his measurements. Mr. Petersen explained that the front porch on the front of the house is about 3 feet beyond the 20-foot setback from the property line. He measured from the 30-foot center line in the street, not the center of the street, but by the City marker which is slightly off from the center of the street, but based on the marker, 20 feet from the front of the Applicant's lot is about 3 feet behind the beginning of their porch. He reiterated that he has no objection to the fence being at the porch, but he does want the fence on his property.

Planner Johnson explained that the City uses utility maps that show the front property line and distance from the curb, which is an easier way to measure, although not exact compared to measurements obtained through a survey. The exact measurements can be verified using the utility map. Staff would ensure measurement is taken from the front property line shown on the utility map when the Applicant comes in for the building permit.

Mr. Petersen stated he has no objection to how far forward the fence extends, but he does not want to lose view of the river. It appears on the picture in the Staff Report that the fence would overlap onto his property. He does not want any part of the fence overhanging onto his property, which is his only concern. Planner Johnson stated that every portion of the fence would remain on the Applicant's property, including footings. The diagrams just show approximately where the fence will sit; however, it cannot go over the property line. This would be reviewed during the building permit process.

Vice President Cary asked if a fence could be built exactly on the property line. Planner Johnson explained a fence could be placed on a property line if designed properly, however, every part of the fence, including footings, must remain on the Applicant's property. Director Estes believed the trellis detail at the top of the fence is a concern, but Planner Johnson will work with the Applicant to make sure the trellis remains on the Applicant's property. He noted the City does not verify the exact location of a property line, which is usually worked out between the two adjacent property owners.

President Nemlowill confirmed Mr. Mauro had no rebuttal to Mr. Peterson's comments. She asked if Mr. Petersen was satisfied that the project would be considered more closely during the building permit process. Mr. Petersen said he was fine with that, adding he wants his neighbor to be happy and is here to support the project but also to protect his own property line.

President Nemlowill asked if a condition could be added to the variance request so it appears on the record. Planner Johnson stated the City already requires that all portions of the fence shall remain on the Applicant's property. President Nemlowill said she wants to take Mr. Petersen's comments into account and adding a condition stating that all portions of the fence shall remain on the Applicant's property would make it clear.

There being no further public testimony, President Nemlowill closed the public hearing and called for Commissioner comments.

Commissioner Innes believed this was a solution for both parties. She understood the added condition would be a redundancy because of the building permit.

Commissioner Oliver noted the Planning Commission does not get to make both parties happy very often.

Vice President Cary said he had no issues with the application as written, but suggested the applicant get a simple four-point survey to prevent future issues.

President Nemlowill reopened the public hearing.

Mr. Mauro asked if overhang applies to existing vegetation. Planner Johnson stated that is a civil matter between property owners. The City does not address landscape overhangs.

President Nemlowill closed the public hearing.

Commissioner Oliver moved that the Astoria Planning Commission to adopt the Findings and Conclusions contained in the Staff report with the addition of Condition #2, Page 7: "All portions of the fence shall remain within the property lines, including any overhang.", and approve Variance V12-15, seconded by Commissioner Innes. Motion passes unanimously.

President Nemlow will read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

President Nemlow will note Drew Herzig's question during the Traffic Safety Committee meeting and asked when the joint work session to discuss solar energy and pedestrian safety would be rescheduled. Director Estes replied after January 1, 2013. He assured that the meeting would be coordinated with Planning Commissioners and City Councilors to schedule the meeting at a convenient time. He confirmed City Council wants to discuss both issues in a joint session.

Planner Johnson noted no public hearings are scheduled for the December 18, 2012 meeting and the deadline to add items to the agenda has passed. She confirmed the election of officers occurs in January.

President Nemlow will and Commissioner Innes supported canceling the December meeting as Commissioner Innes will be absent.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:30 p.m.

ATTEST:

APPROVED:

Secretary

Community Development Director /
Assistant City Manager

STAFF REPORT AND FINDINGS OF FACT

January 4, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: CONDITIONAL USE REQUEST (CU12-05) BY BRIAN REICHERT TO OPERATE A DRIVE THROUGH FOOD BUILDING AT 230 37th STREET AS A TEMPORARY USE

I. BACKGROUND SUMMARY

- A. Applicant: Brian Reichert
4743 Cedar Street
Astoria OR 97103
- B. Owner: Port of Astoria
10 Pier 1 Suite 108
Astoria OR 97103
- C. Location: 230 37th Street; Map T8N-R9W Section 9AC, Tax Lot 100; Lots 1 & 8, and east 25' Lots 2 & 7, Block 1, Adairs Port of Upper Astoria, and vacated portion of alley
- D. Proposal: To operate a drive-through food service in an existing building as a temporary use
- E. Zone: S-1 (Marine Industrial Shoreland)

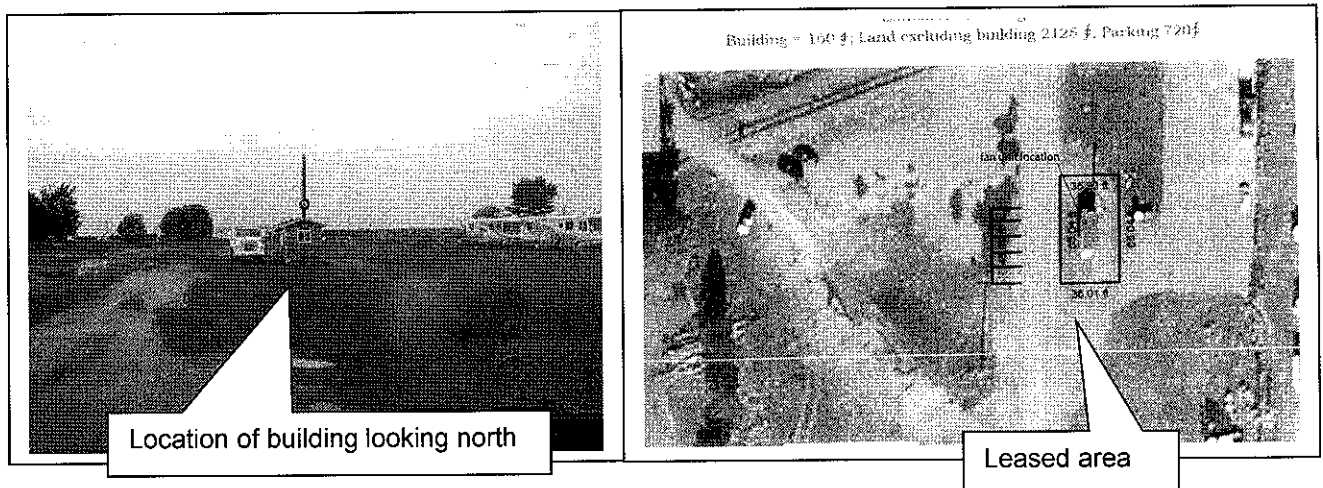
II. BACKGROUND

A. Subject Property

The subject property is located within the S-1 Zone (Marine Industrial Shoreland), on the north side of Lief Erikson Drive at 37th Street. The site is developed with a previous espresso stand which was approved as a temporary use through Conditional Use permits (CU03-01, CU06-03, CU09-07, and CU12-03). Since its original construction in 2003, it has ceased operation and the permits have expired several times. The use ceased recently and the permit remains active, however the building was acquired by the Port which is the underlying property owner.

The design and location of the structure on this lot were reviewed and approved by the Historic Landmarks Commission (HLC) on May 16, 2006 and the applicant has submitted an Amendment to Existing Permits (AEP12-21) to install a restaurant grade vent on the roof of the building which requires additional HLC review.

The site is currently developed with a 160 square foot espresso stand and has been underutilized for many years. The subject property is approximately 38,000 square feet (0.9 acres) of land area; however, the applicant will only be leasing an approximate 36' x 65' (2,285 square feet) area on the east side of the 37th Street right-of-way for the building, and an approximate 45' x 16' (720 square feet) area on the west side of the 37th Street right-of-way for parking. The site is a rectangle shape with frontage on 37th Street which is set back 240' from Lief Erikson Drive. The northern portion of the site is flat with a rise of approximately 30' toward Lief Erikson Drive. The 37th Street right-of-way is paved to a width of approximately 18' with no curbs or sidewalks. The site is partial gravel with a concrete area.



B. Adjacent Neighborhood and Historic Property

The site is bounded on the north by the City railroad line, on the south by Lief Erikson Drive, on the east by the former Lovell Trailer Court, and on the west by a vacant lot owned by the Port adjacent to the Animal Hospital building formerly known at the OSU Seafood Lab.

C. Proposed Use

The applicant proposes to change the operation from an espresso stand with drive through window to a food service stand with drive through window at this site as a temporary use on a year to year basis. The previous APC approvals were specifically for an "espresso stand". Since the use is a temporary use and the nature of the business is proposed to change, it requires additional review by the APC.

The request is for a Temporary Use which is a Conditional Use in the S-1 Zone. Temporary Use is defined in the Development Code as "A use or activity involving minimal capital investment that does not result in the permanent alteration of the site or construction of new buildings, and is removed from the site within one year, unless otherwise extended". There is an existing concrete slab at the subject location. The applicant is proposing to continue with the existing building on the site but change the nature of the business. The applicant has a month-to-month rental agreement with the Port of Astoria for use of the site.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on December 31, 2012. A notice of public hearing was published in the Daily Astorian on January 15, 2013. Comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 2.660(5) identifies *"Temporary use meeting the requirements of Section 3.240"* as a use allowed conditionally in the S-1 Zone.

Finding: The applicant is proposing to operate a food service stand with drive through as a Temporary Use in the S-1 Zone. Temporary uses meeting the requirements of Sections 3.240 is listed as a use allowed conditionally in the S-1 Zone.

- B. Section 2.665(1) states that *"All uses shall satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4."*

Section 4.160(1) Residential, Commercial and Industrial Development standards of the Columbia River Estuary and Shoreland Regional Standards states that *"sign placement shall not impair views of water areas. Signs shall be constructed against existing buildings whenever feasible. Off-premise outdoor advertising shall not be allowed in aquatic areas."*

Finding: Signage is not proposed with this application. A sign permit will be required for any signs at this location and will be reviewed against this Development Code standard and the Sign Code standards.

- C. Section 3.240(A) states that *"Temporary Uses are those which involve minimal capital investment, and which comply with the following standards: (A) Time Limit. Authorization for a temporary use shall be valid for a period of one (1) year after issuance. Prior to expiration, the applicant may request an extension. The Planning Commission, at its discretion, may extend authorization for an additional period up to one year. In extending a temporary use, the Planning Commission may impose any conditions which it deems necessary to protect the interests of the community."*

Finding: The use as proposed by the applicant involves minimal capital investment. The applicant is proposing to continue to operate the existing prefabricated building on the site, but due to the change in the nature of the business, there would be changes to the cooking facilities including installation of a restaurant grade exhaust vent on the roof. The mobility of the structure makes it possible to move at the termination of the permit or lease from the Port of Astoria. The applicant is aware that the temporary use is valid for 12 months, and that extension of the Temporary Use permit shall be in accordance with Section 9.020 except that it shall be mailed only to persons who provided written or oral testimony at the original public hearing.

- D. Section 3.240(B) states that *Security. The Planning Commission may require that the applicant furnish the City with a performance bond or other negotiable instrument up to, and not to exceed, the value of the improvements or the cost of removal of the improvements, whichever is greater. This requirement may be made in order to assure that any conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission, and the standards established in granting the use.*

Finding: Security for improvements is not required as there are no proposed permanent improvements and the building can be removed at any time.

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

1. Section CP.150(E.3) concerning Water-Dependent Development Shoreland states that *"Temporary uses involving an existing structure or involving new facilities requiring a minimal capital investment and no permanent structures"* is a permitted use.

Finding: The proposed use is temporary, requires minimal capital investment and there will not be a permanent structure as the building is removable.

2. Section CP.360(8) states that *"Access along arterial streets and highways will be limited to existing side streets wherever possible, or to common access points. The clustering of commercial uses will be employed in new, larger developments, and proper traffic control will be provided by the developer as the City Engineer may deem necessary. The District Engineer of the State Highway Division will be asked to comment on all new access proposals along State or Federal routes."*

Finding: Access to the proposed food stand will be from 37th Street, an existing side street and not directly from Lief Erikson Drive which is an arterial street. The proposed structure is a 160 square foot temporary structure and is not classified as a large development. It is the only building proposed to be located on the 15,400 square foot lot. The Oregon Department of Transportation (ODOT) Astoria and Salem offices were notified at the time the espresso stand project was originally submitted. Additional notification was sent for the new proposed use. No comments were received from ODOT at this time. No additional comments from the City Engineer were received.

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

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

Finding: The proposed use is appropriate as a Temporary Use at this location. The area was vacant and underutilized and is located on a side street easily accessible from Lief Erikson Drive. The site is a rectangle shape with approximately 65' of frontage on 37th Street which is set back over 250' from Lief Erikson Drive. The site has ample driving area for customers to access the building from both sides of the drive-through and continue to drive back onto 37th Street. The use will have little impact on the immediate site, as there will not be any permanent structure.

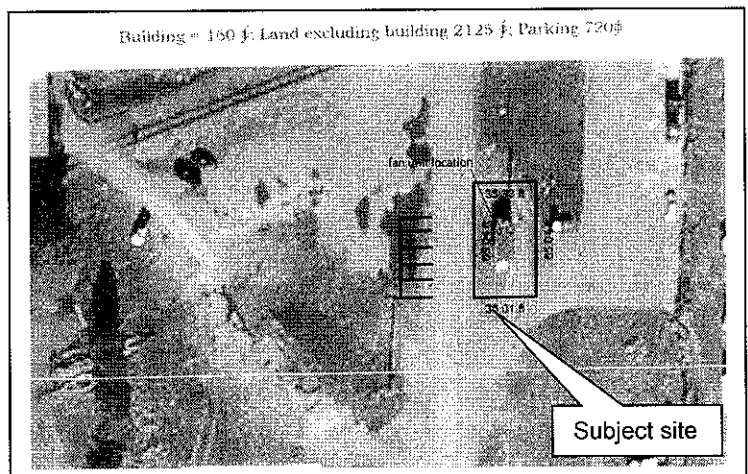
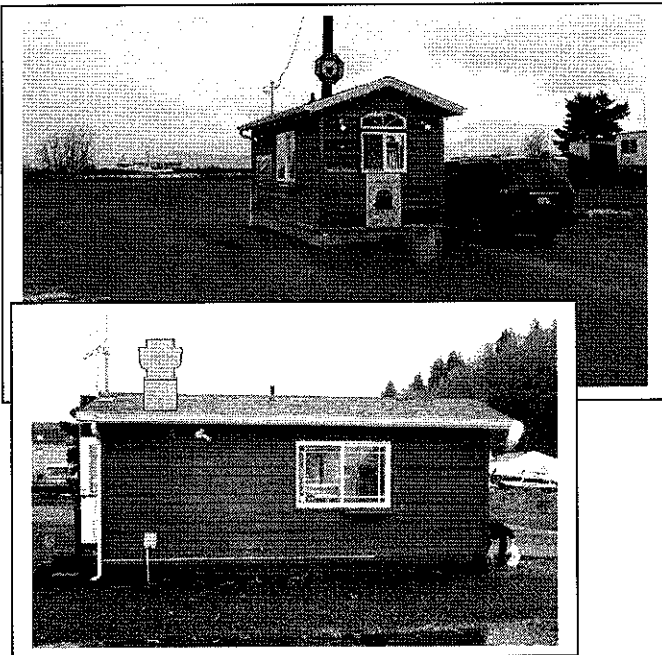
The original permit was the result of the business moving from a previous location at 3300 Lief Erikson Drive (Hauke Sentry Market) when the site was demolished for construction of the new Safeway store in 2003. Other zones such as General Commercial (C-3), are more appropriate if the use was proposed as a permanent (not temporary) use, however suitable real property in the C-3 Zone on the east side of Astoria was not available at that time. Other sites are not as desirable as the proposed site has an existing building that will serve the applicant's needs without additional construction. The original stand opened at this site in 2003. At that time, it was determined that there was a need for an espresso drive-through service in this area of Astoria.

With the change to "food" service rather than espresso, it was determined that the change was significant enough in the nature of the business that additional APC review was required. The food service will have a different clientele and would generate more exhausts from the on-site cooking. The previous espresso stand had located an outdoor grill which generated several complaints due to its location and creation of smoke and odors impacting the residents in the trailer court to the east. As part of a permit extension request on the temporary use, the APC required that the "outdoor grill" be removed as it was not part of the original conditional use approval. The proposed food service preparation would be confined within the building but would have a roof top exhaust vent. This venting should create less odors than the previous grill and should not create smoke like the outdoor grill produced.

There are no other drive-through food services on the east side of Astoria. Other locations include McDonald's, Burger King, Dairy Queen, and KFC, which are all located on Marine Drive west of downtown and on West Marine Drive. The site does not allow "eating and drinking establishments" but does allow "temporary use" especially for under utilized sites or buildings. With the existing building and the "temporary" nature of the use and building, location of the proposed drive through food service at this location is appropriate.

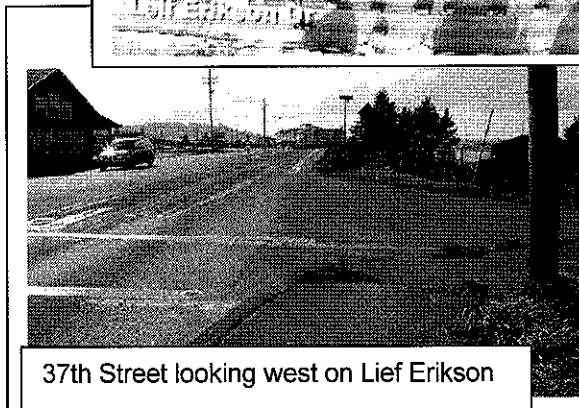
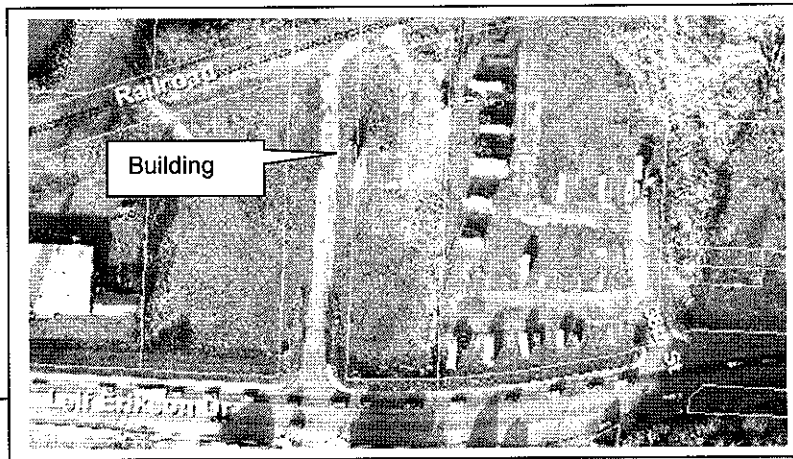
2. Section 11.030(A)(2) requires that *"an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other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

Finding: The site is approximately 65' x 36' and the site plan indicates ample room for the drive-through loop and access to and from the site from 37th Street. The northern portion of the site is flat with a rise of approximately 30' toward Lief Erikson Drive. The site is partially graveled, has a concrete pad, and there is a graveled level driving area. The site is easily accessed off of Lief Erikson Drive which is an arterial street in Astoria. The applicant has also leased four or five parking spaces from the Port adjacent to the site.

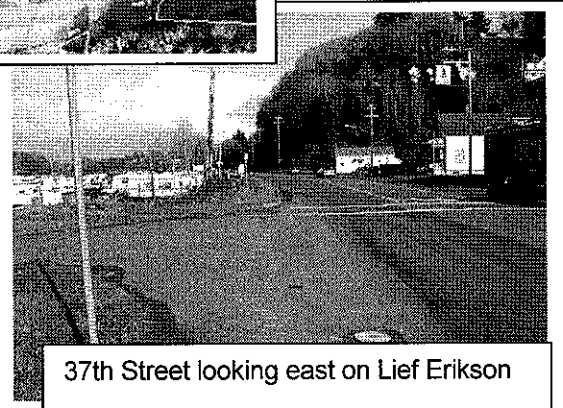


The intersection at 37th Street and Lief Erikson Drive has been the subject of discussions over the last few years relative to traffic. Lief Erikson Drive curves to the south both to the east and west of this intersection. As a result, the visibility from the south side of the intersection is more limited than the visibility from the north side. Vehicles exiting 37th Street from the proposed site have good visibility in excess of 800' in both directions of Lief Erikson Drive. Likewise, traffic on Lief Erickson Drive entering 37th Street from either direction have good visibility of on-coming traffic in excess of 800'. There is vegetation on the northwest corner of 37th Street which could impair visibility if allowed to grow and expand. The applicant should keep the vegetation on that corner cut to maintain visibility to the west.

Since the original espresso business opened in 2003, the City has not received any complaints concerning traffic related to this business.



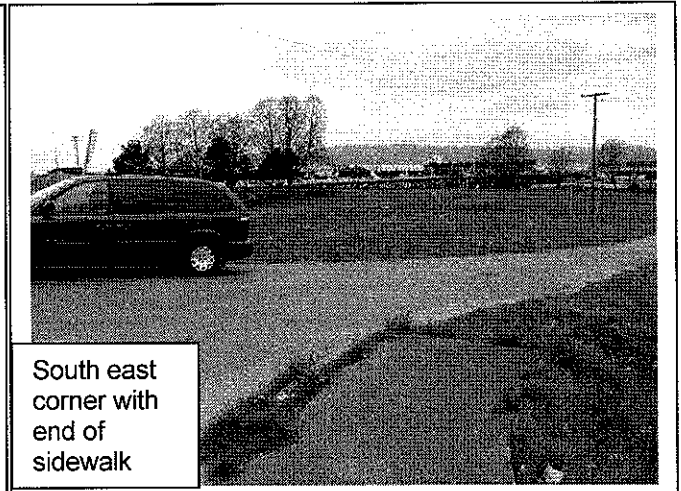
37th Street looking west on Lief Erikson



37th Street looking east on Lief Erikson

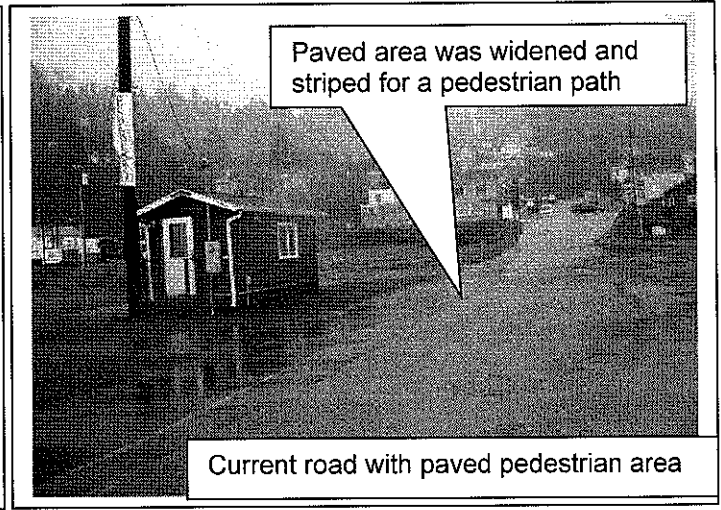
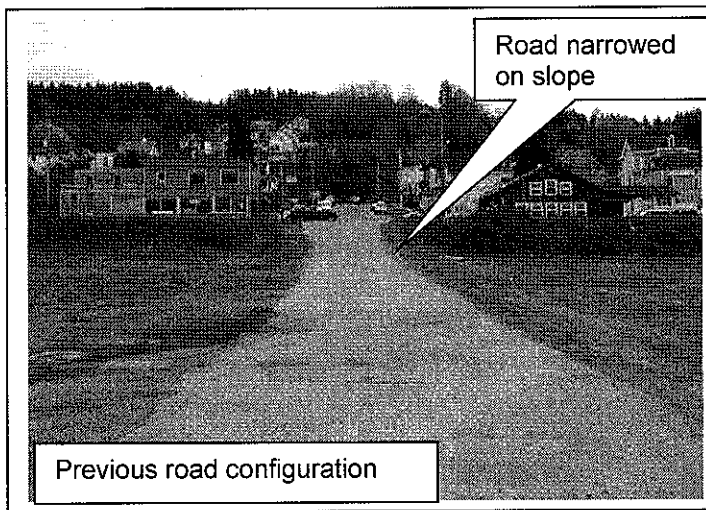


Southwest corner with brush



South east corner with end of sidewalk

The apron of 37th Street is paved to a width of 40' reducing down to 20' that would allow two vehicles to enter and exit the street at the same time. However, the paved area narrows to 18' wide as it lowers to the level of the proposed site from Lief Erikson Drive and then the unpaved area widens to allow vehicles to pass on the unpaved shoulders. There is ample room for the volume of traffic generated by this operation based on the previous owner's operation. However, some of this changed as the City and ODOT constructed intersection improvements at 37th Street and Lief Erikson Drive in the last few years. These improvements are beneficial to the proposed operation.



There is ample parking available for employees, customers, and maneuvering of vehicles. The nature of the drive-through establishment will limit the number of customers that actually stop at this location. No indoor or outdoor seating would be available, but customers may choose to park their vehicles and eat. The applicant is leasing four or five parking spaces from the Port adjacent to the site. Only one space is required by the Code.

The change from an espresso stand to a food service stand may result in additional need for solid waste disposal. The applicant has contacted Western Oregon Waste A Recology Co. to verify the size and location for solid waste disposal. At this time, they will use a standard 90 gallon pick up can similar to the residential size container. This would not require an enclosure. Should a larger outdoor disposal site such as a dumpster be required in the future, it may need to be screened from view and may need additional review by the Historic Landmarks Commission.

The 37th Street right-of-way is paved to a width of approximately 18' with an additional 5' wide pavement that is striped for a pedestrian walkway; there are no curbs or sidewalks. This street is used by residents of Uppertown for access to the River Trail and Riverfront. The use is proposed as a temporary use which is for minimal capital improvement projects. Access to the site will be on a sub-standard roadway. City standards for a minor local street would be 28' wide with a 5' sidewalk on one side. The existing roadway has some shoulder width in addition to the 18' paved area, but would not support a standard width roadway without the addition of fill. Due to the temporary nature of the use, it would not be feasible to make road improvements at this time. ODOT made some improvements to the intersection which included improvements for a pedestrian path from Lief Erikson Drive to the City River Trail.

The original permit (CU03-01) contained a condition that "Prior to any permit extension, the APC shall review the need for the applicant or property owner to improve the street width to 28' and the need to install a

pedestrian sidewalk on 37th Street north from Lief Erikson Drive." As noted above, ODOT and the City have installed a 5' wide pedestrian walkway on one side of 37th Street. The Port has also completed some improvements to the overall larger site to provide better parking for the adjacent East End Mooring Basin. There have been no complaints or incidents reported to the Community Development Department relevant to the former business and the need for additional street or sidewalk improvements.

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

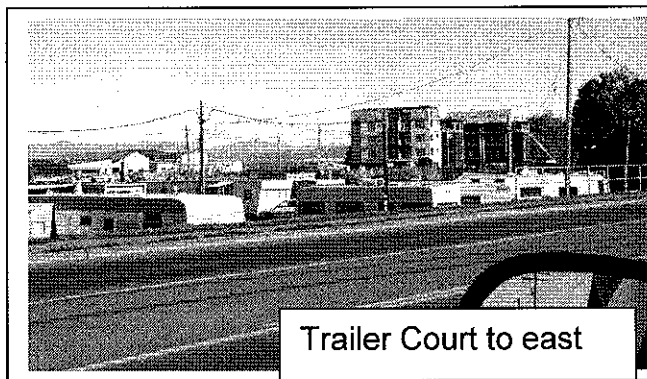
Finding: All utilities are available in the area and are capable of serving the use. The use will not overburden the utilities and services.

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

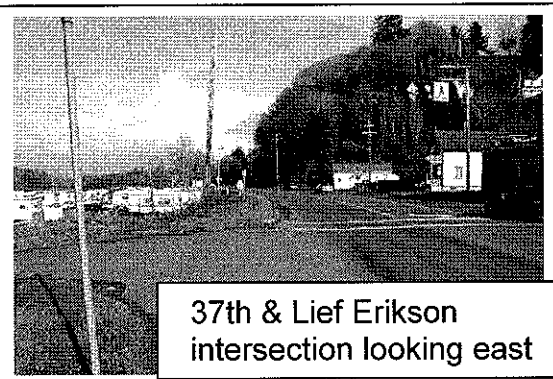
Finding: The subject site is flat, graveled, and no new permanent construction is proposed.

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

Finding: The site is adjacent to the River Trail and is buffered from other adjacent uses by distance and some vegetation. There are trees separating the site from the animal clinic (former MTC site) to the west, and a fence separates the site from the former trailer court. The proposed location is approximately 330' from other uses along the south side of Lief Erikson Drive. The development along the north side of Lief Erikson Drive is changing. The trailer court to the east is built from the railroad line to the Lief Erikson Drive right-of-way. The animal clinic building on 36th Street is located approximately 70' from Lief Erikson Drive about at mid-block toward the River. At 39th Street buildings are at various distances from the highway. Two Columbia Loft Condominiums have been constructed, Pier 39 has expanded its operation out over the River, and the Hampton Inn Hotel with landscaping has been completed. Across Lief Erikson Drive, Geno's and the Astoria Coffee Company buildings are located close to the sidewalk along the right-of-way. Other buildings to the east are further back and to the west is open tennis court and ball fields. Buildings in this area are spread out and not compact.



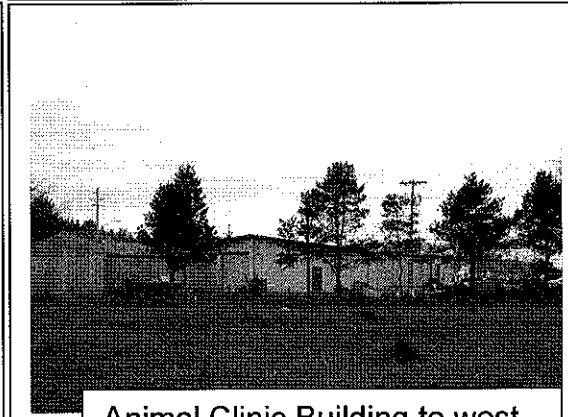
Trailer Court to east



37th & Lief Erikson
intersection looking east



37th Street looking west



Animal Clinic Building to west



Hampton Inn under construction at
39th Street looking west

The change in the nature of the business from espresso to food service could have a greater impact on adjacent properties with the increase in odor emissions and/or some smoke. It should not create the smoke situation that occurred with the outdoor grill that was there for a short time with the previous operation. The amount of odors from this small operation should be minimal and should be less than would be expected from an industrial site.

V. CONCLUSION AND RECOMMENDATION

The request, in balance, meets all the applicable review criteria. The applicant should be aware of the following requirements:

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

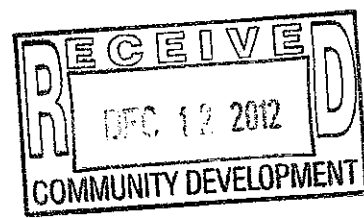
The applicant shall obtain all necessary City and building permits prior to the start of construction.

Staff recommends approval of the permit with the following conditions:

1. The permit is valid for one year. Prior to expiration, the applicant may request an extension. The Planning Commission, at its discretion, may extend authorization for an additional period up to one year at a time.
2. The vegetation on the northwest corner shall be kept trimmed to not block visibility.
3. Signage shall be in compliance with the provisions of the Sign Code.
4. The applicant shall verify with Western Oregon Waste A Recology Co. on the size and location of any solid waste disposal site. The applicant shall submit WOW approval to the Planner prior to operation.
5. If a larger outdoor solid waste disposal area is required in the future, the applicant shall work with the Planner on any needed screening of the area.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856
COMMUNITY DEVELOPMENT



No. CU 12-05

Fee: \$250.00

pd-

CONDITIONAL USE APPLICATION

Property Address: 230-37th
Lot 1/8 E 825' L 2 1/2 7 Block 1 Subdivision Adairs Brt of Upper Ast. m
Map 9AC Tax Lot 100 Zone S-1
Applicant Name: Brian Reichert Reichert
Mailing Address: 4743 CEDAR ST ASTORIA OR 97103
Phone: 503 325 5626 Business Phone: 325 5626 Email: breichert@msn.com
Property Owner's Name: Port of Astoria
Mailing Address: 10 Pier 1 Suite 108 ASTORIA OR 97103
Business Name (if applicable): Dad Vegan LLC
Signature of Applicant: Brian Reichert Date: 12-10-12
Signature of Property Owner: Mike Weston, Port Date: 12-12-12
Existing Use: Drive through Espresso as temp use
Proposed Use: Drive through food service as temp use in existing bldg.
Square Footage of Building/Site: 160 # Bldg ; site 2285 # leased area + 720 # parking
Proposed Off-Street Parking Spaces: 5 spaces

Previous CU 12-03
to operate a drive-through food service as a temp use in an existing comml bldg.
SITE PLAN: A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines and dimensions of all structures, parking areas, and/or signs. Scaled free-hand drawings are acceptable. due by 20th of month - 4th Tues mtg.

For office use only:			
Application Complete:		Permit Info Into D-Base:	12/17/12
Labels Prepared:	12/17/12	Tentative APC Meeting Date:	1/22/13
120 Days:			

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

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

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

No change Same as CU 12-03

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

No change Same as CU 12-03

Verify w/ WOW ample waste disposal area

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

No change

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

No change Same as CU 12-03

Addition of roof vent for food service

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

No additional required

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

Exhibit A - Bad Vegan
Building = 160 f; Land excluding building 2125 f; Parking 720f

