

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
June 28, 2016

CALL TO ORDER:

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

ROLL CALL:

Commissioners Present: President David Pearson, McLaren Innes, Sean Fitzpatrick, Daryl Moore, Jan Mitchell and Frank Spence.

Excused: Vice President Easom

Staff Present: Planner Nancy Ferber, City Attorney Henningsgaard, Parks Director Angela Cosby, and Parks Planner Ian Sisson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

President Pearson asked for approval of the minutes of the May 24, 2016 meeting. Commissioner Innes moved that the Astoria Planning Commission approve the minutes as presented; seconded by Commissioner Moore. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

CU16-04 Conditional Use CU16-04 by Oscar Nelson to locate light manufacturing (grow marijuana and soap making) in an existing retail/storage space at 487 W Marine in the C-3, General Commercial zone.

President Pearson 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 Fitzpatrick declared that he hires the property owner, who is a drywall contractor. However, this would not affect his decision. He believed his vote would be impartial.

President Pearson asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Innes asked for clarification about the landscaping requirements. Planner Ferber explained that landscaping was a requirement for temporary occupancy. When the property owner applied for temporary occupancy, he planted the only plants he was able to buy at the time. Therefore, Staff added the condition that plants must be maintained and landscaping would be reviewed in one year.

Commissioner Moore asked if the legality of the operation was a review criterion. Planner Ferber said distributing marijuana would trigger a review by the Oregon Liquor Control Commission (OLCC) and the Police Department. However, the Applicant would just be growing plants. Staff cannot create conditions of approval for illegal activities, so illegal activities are not reviewed. City Attorney Henningsgaard further explained that possessing

and growing marijuana is illegal under federal law, but is decriminalized under State law. He did not know how the decriminalization process would apply to research and development.

Commissioner Moore said he understood the APC was not tasked with reviewing the legality of operations and activities.

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

Oscar Nelson, 1444 Commercial St., Astoria, said since he filed the application, his wife has decided to move the soap and lotion making to another location. Medicinal cannabis would be grown in the facility. He and one other person at the facility will have medicinal licenses. The operation will conduct research and development for equipment. He would also like to sell plant starts if he can find a legal avenue to do so. He is part owner of Sweet Relief and is comfortable with the required documents and procedures. He believed the facility would have no impact on the community. No odors or adverse traffic would be generated. He has a garden store and a license to grow cannabis, so he would like to try out different equipment and techniques. He hoped the City would approve his request, allowing him to be an entrepreneur. He wanted the facility to be for light manufacturing so that he is not restricted to cannabis because he might want to produce root beer.

Commissioner Spence asked if the Applicant had received permits from the State. Mr. Nelson said not yet. However, once the permits are received, the plants would come in. The facility will remain empty until he receives the permits. He does everything legally and he has been careful and responsible. He confirmed that he had no plans to retail any of the cannabis. He might sell plant starts if it is legal, but his goal is to experiment with equipment and plants.

Commissioner Fitzpatrick confirmed that the facility on 13th Street had a grow operation in the basement.

President Pearson called for testimony in favor of or impartial to the application. There were none. He called for testimony opposed to the application.

Linda Stevens, 490 Hamburg, Astoria, said she owns her home and the home at 486 Hamburg. Both properties back up to the proposed grow operation and she did not want it in her neighborhood. The tenants in her duplex are very concerned and have talked about moving because they do not want to live next to a marijuana grow operation. She has nothing against Mr. Nelson and believed he was a great business man. She was only opposed because she lives next to the facility. She has owned her house since before the building was built. Mr. Nelson keeps saying that growing plants is what he wants to do for now, but then he wants to sell plants. If he were into rhododendrons, she would buy them by the buckets. However, she had concerns because her property borders the facility. She watches what goes on at the facility and does not want it in her backyard.

Commissioner Mitchell asked what Ms. Stevens' concerns were.

Ms. Stevens said currently, there seemed to be a lot of traffic, especially on weekends, but she did not want to get into the details of her concerns. She plans to put up a fence because the property owner over sprayed and killed her yard. She did not want marijuana growing, even if it is to find out which light would grow the plants better. Growing marijuana is a step toward more activity than the property can handle, especially parking. Large trucks go in and out of the gas station and what goes on is interesting. The community sees the front of the building, but does not see what goes on in the back.

President Pearson called for the Applicant's rebuttal.

Mr. Nelson said Ms. Stevens had valid concerns, but he was confident her concerns would be considered unfounded as time went on. He offered to give Ms. Stevens his personal number and invited her to call him with any concerns. He wanted to make sure he had a good business environment. The facility is currently a retail establishment, so there is traffic going in and out. The area in the back is employee parking. Her concerns are news to him, but if he needs to address something, he would make sure the issues are handled.

President Pearson closed the public hearing and called for Commission discussion and deliberation.

Commissioner Moore said it is difficult to consider residential zones adjacent to commercial zones. He understood residents being concerned about the commercial spaces, but the C-3 zone is zoned for this type of activity. He appreciated that the business owner is concerned about the neighbors.

Commissioner Fitzpatrick said he sympathized with residential property owners adjacent to commercial properties. He owned a property adjacent to the Applicant's last enterprise and he did not feel that it affected the use of his property.

President Pearson appreciated the neighbor's concerns. However, Staff has done an extensive review and set some meaningful conditions. The request meets all of the criteria the APC is asked to review.

Commissioner Innes believed the owner would respond to any of Ms. Stevens concerns if any issues occur after the business has begun. The APC cannot ignore the rules that go along with this type of application and review. She thanked Ms. Stevens for expressing her concerns.

Commissioner Spence said most of the activity would be due to the retail business, the indoor garden supply store. The grow room is 30-feet by 25-feet and would be enclosed. He did not believe this would have a negative impact on the neighbors because the Applicant is prohibited from allowing any light or odors to escape. He believed Ms. Stevens was concerned about the concept of marijuana being grown in the neighborhood. However, he believed the Applicant would be a good neighbor because he has been in the past. The zoning gives the Applicant the right to be in the facility and the operations are legally permitted.

Commissioner Mitchell agreed with the rest of the Commission. The large trucks that go in and out of the area create noise and fume issues. She did not believe the grow operation would create more of a hazard or problems for the neighborhood. The Applicant's downtown operation has been a very quiet business. Given the zoning, there is no way for the APC to deny this request. The Applicant has complied with Staff's requirements. Residents can request changes if the business becomes a problem.

Commissioner Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU16-04 by Oscar Nelson; seconded by Commissioner Innes. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

ITEM 4(b):

A16-03 Amendment A16-03 by Astoria Parks and Recreation Department to amend the Astoria Comprehensive Plan to include the Astoria Parks and Recreation Comprehensive Master Plan, city wide. This issue was continued from the May 24, 2016 meeting.

President Pearson 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 Mitchell stated she would abstain from voting because she did not attend the last hearing. However, she had read the Master Plan and the minutes of the hearing. City Attorney Henningsgaard said this was not a quasi-judicial hearing, so Commissioner Mitchell did not have to abstain. He explained this was a legislative hearing and the APC's decision would be a recommendation to City Council. Commissioner Mitchell understood and said she would participate.

President Pearson asked Staff to present the Staff report.

Planner Ferber said Staff would give a presentation in lieu of a Staff report. All correspondence received and text amendments made since the last hearing were included in the agenda packet.

Ian Sisson, Parks and Recreation Planner, 1555 W. Marine Dr., Astoria, presented the updates made to the draft Master Plan and Staff report, and a memorandum summarizing the modifications made since the last hearing.

The Citizen Advisory Committee and Parks Advisory Board unanimously voted to recommend that City Council adopt the Plan.

Commissioner Spence said the Citizen Advisory Committee and Parks Advisory Board raised the priority level of staffing and maintenance. He asked if this was reflected in the revised Plan. Mr. Sisson stated that the Plan communicates the priorities to decision makers in several ways. The implementation strategy prioritizes projects by recommendation completion dates for each action item. The recommendations are composed of narrative text and action items. Additionally, the Plan includes a matrix displaying the recommendations, projects, action items, and target completion dates. The executive summary also lists top priorities.

Commissioner Spence believed the City owns about 1300 parcels of land. Three years ago when the City discussed selling properties, the properties being considered for sale were not parks. He was in favor of selling any undevelopable parcels of vacant land to adjacent property owners. This would put those properties on the tax rolls and generate revenue for the City, which is needed to support the Parks and other departments. He believed the option to sell non-park properties should remain open.

President Pearson asked Staff to clarify what the APC was being asked to consider. Director Cosby explained that the Plan only applies to park land, not the other parcels that have been discussed in the past. The Plan identifies specific parks as underutilized and in over served areas. If the Plan is adopted, the City would consider repurposing or selling those parks.

President Pearson called for public comments.

George Hague, 1 3rd Street, Astoria, said he sent letters and email that had been included in the agenda packet. Mr. Sisson has done a wonderful job, but he was concerned about how the City would implement the Plan. One of the findings says the Plan identifies a higher than normal level of park land per capita and several underutilized parks. This finding will probably be used to satisfy a 20 year supply of residential or commercial land. The City will sell the underutilized parks to a private interest. In 100 years, the finding could be used again to sell even more parks in order to supply more residential and commercial properties. At some point, the City needs to maintain its parks. The report is full of statement after statement from residents opposed to selling parks. The citizens would like a higher level of service, but do not want the City to sell parks. The question about selling parks received negative responses, and then Staff separated it into two questions. The residents indicated a preference for allowing parks to return to a natural state rather than selling them. However, the Plan states the City will need more residential and commercial land over the next 20 years without indicating how much park lands will be needed in that time. Based on the projected population for 2036, Astoria's park lands will be within the recommended range. If the City sells parks and ends up with a deficit 20 years from now, it will be very difficult to buy more parcels. The minutes of a Citizen Advisory Committee meeting indicates the committee members were opposed to selling parks and were concerned that once park lands are sold, they can never be reclaimed. The APC needs to consider this. The cemetery takes a lot of Staff time because it is 100 acres. Staff is not doing as good a job as they used to on the cemetery because the City has cut the Parks budget each year since 2009. Since the department no longer has the funds to maintain its parks, the City has decided to sell some of the parks. This Plan does not state that revenues from park sales will benefit the Parks Department. The money would go into the General Fund. He attended the last Citizen Advisory Committee meeting where people were quite concerned about the sale of parks. Committee members believed they were only discussing the sale of ace parkland, which they referred to as real estate. However, the finding in the Staff report states several sites could be sold. Six or seven years from now when the City begins selling land, the public comments included in this Plan will be forgotten, but the finding will not. Page 41 of the Staff report indicates that selling underutilized parks did not rate favorably and that respondents preferred developing or reducing maintenance of those parks. Page 55 of the Staff report states the community has expressed that reconfiguration or alternative uses of facilities are strongly preferred to sales. City Staff was the only one of 13 focus groups mentioned selling parks. Yet now, the City will move forward with this finding in support of selling parks. This is not right. Astoria has an overage of basketball and volleyball courts; football, baseball, and softball fields; and playgrounds. He did not believe the City would try to get rid of those sports and playground facilities. This should have been presented in the Staff report, instead of the finding that parks should be repurposed to meet residential and commercial land needs. Staff will say this will be further investigated, but who will do the investigation? The same focus group that was in favor of selling? Staff will say this is subject to future public hearings, but how many people spoke on this issue last month? He had a problem with Staff's analysis. While he applauded the work done by Mr. Sisson and the Parks Department, he was concerned about the direction the City would go.

However, he would not be surprised if the APC recommended City Council adopt the Plan. This Plan could be recommended with limits to the sale of City parks. The APC could ask Mr. Sisson to revise his numbers to represent 2036 and show that park lands would be within the recommended range. The APC could also recommend that Council refrain from cutting Parks funding. If Parks had more funding, it would not be necessary to discuss selling parks. He believed the residents of 2036 would appreciate the City maintaining its current acreage. The park system should not be sliced and diced in order to deal with the issues. The Parks Department is responsible for many things he does not consider parks, yet their budget continues to decrease. The City should focus on ways to cut back on the non-park responsibilities that have been assigned to the Parks Department.

President Pearson closed the public hearing and called for Commission discussion and deliberation.

Commissioner Fitzpatrick asked Staff to respond to Mr. Hague's comments. Mr. Sisson clarified that the evaluation of land that could be sold or repurposed was directed towards lands that are not legally dedicated as park land in areas that are already over served. One such property is Birch Field in Alderbrook. The Astoria Recreation Center was also considered because the Plan recommends a feasibility study on combining the recreation center at the aquatic center site. This could potentially involve the sale of the old yacht club and current recreation center facility. Oceanview Cemetery was also a consideration. This would just be a matter of due diligence to determine what could be gained by land sales, like whether the revenue would go directly to the Parks Department or time saved by the maintenance department. Several acres of land are not dedicated park lands, nor are they considered part of the inventory of park lands. These properties include rights-of-ways and traffic triangles. Some Citizen Advisory Committee members supported the sale of land and the investigation of the sale of land. The overall sentiment of the Committee was that the City should do its due diligence and look into selling land because they preferred a more manageable park system that the maintenance crew could handle with existing resources. The level of service recommendations set by the state provides very large ranges for several categories of park lands. The recommendations are based on statewide medians and it is up to each community to decide the appropriate levels of service. Facilities managed by outside recreation providers, like the State or National parks services, can also contribute to levels of service in a community.

Commissioner Fitzpatrick wanted to know the process for selling the cemetery and asked about the annuity that provides for the perpetual care of the gravesites. Director Cosby said selling the cemetery would be a challenge. Staff has been open to selling the cemetery for quite some time. The State Cemetery Board would have to approve the sale of the developed portion of the cemetery. The undeveloped land could be sold and professionals have indicated that about 30 acres of the undeveloped land could be developed. The City has an irreducible fund with just less than \$1 million. About a year and a half ago, the City conducted an analysis of the fund and discovered that the interest has been \$2000 to \$3000 per year for the last 10 years. Prior to that, the fund was earning \$30,000 to \$40,000 per year that would go towards staffing and maintenance of the cemetery. In the 1970s, staffing was cut from seven to five full time employees. Staffing continued to be cut and in 1999, the number of full time employees went from two to zero. This has resulted in the current negative feedback about the cemetery.

Commissioner Fitzpatrick asked if the decrease in funding was related to the decrease in interest. Director Cosby confirmed that City funding was completely separate from the irreducible fund. The City has struggled financially to maintain a full service city and so many services in a small community is not typical. Many departments are stretched thin and the most severe cut was seven years ago when the Parks Department lost the majority of its full time employees. The Master Plan demonstrates that while funding and staffing were reduced, services were not.

President Pearson congratulated Director Cosby and Parks Staff for creating a plan that encompasses many concerns. He fully supported the Plan and was willing to recommend City Council adopt it.

Commissioner Innes said she would recommend the Plan as well. She believed the Plan provided the framework for solving several issues in phases. She was confident the right data would be examined and good decisions would be made. Citizens have enjoyed great services from the City, but not everyone can have what they want when they want it anymore.

Commissioner Spence said Mr. Hague made many good points. The City can never have enough open space and green space. He believed an oversupply of parks relative to population was immaterial. Land is not made, so

the City must utilize what it has wisely. He agreed with Mr. Hague and was not in favor of selling park lands. He supported utilizing park lands in different ways while maintaining them. Once the properties are gone, they can never be recaptured. Even with a lack of buildable lots, Astoria's population will continue to grow. The City needs to preserve and protect what it has. He would approve this request with comments in opposition of selling park lands and hoped Council would consider the comments.

Commissioner Mitchell said she believed there were some very particular things about Astoria that make this a special circumstance. The population has been between 9000 and 10,000 for 100 years or more. There is not a lot of buildable land, so the population cannot grow very much in Astoria. This makes population growth predictable. Also, there is a wealth of recreational land in the area. City parks and other parks are used daily, so people are not entirely dependent on what the City provides. Lands not being used as park space could be used in another functional way. However, people will only begin to speak up about selling land when the City starts to take action. If the City decides to sell an unused land, there will be much public participation. Therefore, she was not as concerned about land sales as Mr. Hague. She has not seen a city sell a park because it is not worth going through the grief. She believed Staff did a marvelous job creating a basic plan.

Commissioner Fitzpatrick thanked Director Cosby and Mr. Sisson for their work on the Plan and Mr. Hague for his presentation. The Plan points out the consequences of the shortfalls in the budget and the importance of figuring out how to staff and fund the parks.

Commissioner Innes moved that the Astoria Planning Commission found the proposed amendment to be necessary and recommends to the Astoria City Council that the proposed amendment be approved. seconded by Commissioner Fitzpatrick. Motion passed unanimously.

REPORTS OF OFFICERS/COMMISSIONERS:

Commissioner Fitzpatrick said at the last public hearing, he was surprised by the response from an Applicant when asked if he had a presentation, as the project was very large. Staff had invested considerable time assisting the Applicant with preparing the application and the Planning Commission invested considerable time reviewing the application. He expected the Applicant to thank Staff and Commissioners for their time, then either offer more information or state the Planner had done a good job of presenting the application and offer to answer questions. He believed Staff and the Commission felt the application was worthy of approval and the Commission unanimously voted to approve the request. However, he was still bothered by the Applicant's response when asked if he had a presentation, "nope." He understood an Applicant might be timid about approaching the microphone, but in the ten years since he began attending Planning Commission meetings, he has seen possibly more than 100 Applicants thank the City and provide input; he could not remember an Applicant who did not. He has even made long distance trips to Astoria to make sure Applicants understood he took their request seriously. Even if he had nothing to add, he thanked the Applicants. He asked if it would be out of line for a Commissioner to request that a public hearing be continued until the Applicant could provide a presentation that justifies their request. During the last public hearing, he was not sure how to react.

President Pearson said he disagreed with Commissioner Fitzpatrick. The application was very simple and all of the necessary information was provided in the Staff report. The Applicant did not deny the Commission access to any information and no questions were asked of the Applicant. He did not have any expectation, nor did he want there to be a perception that the Commission expected thanks for the work they do.

Commissioner Moore believed it would be difficult to draw such an arbitrary line about what constitutes a complicated request. He had been concerned that the Applicant would be significantly violating the Gateway Overlay Zone because the applicant did not provide a master plan for the campus area as recommended in the staff report to bring the project up to the standard in the future. The Applicant seemed to be confident the request would be approved without the need to address any questions about the project. The Commission had the opportunity to ask questions and the request could have been denied if questions went unanswered. It would be difficult to require a presentation for certain projects. He would not want to force people to make a presentation, but would encourage presentations and be available to support applications in the future.

Commissioner Innes said in this particular case, she felt like she could ask questions. She believed Commissioners did ask questions. It was regrettable that the Applicant did not have a long range plan, which put

Staff in an unfavorable position. However, she believed it would not have been appropriate to continue the hearing until a long range plan was presented.

Commissioner Fitzpatrick stated the Applicant requested a variance from the Gateway Overlay zone floor to area ratio requirement. Instead of explaining why the variance was being requested, the Applicant said nothing.

Commissioner Moore suggested Commissioners put a little more thought into future variance requests.

Commissioner Innes added she believed choosing between Applicants would create a slippery slope. Many people are uncomfortable making presentations.

Commissioner Fitzpatrick said this particular Applicant was a professional who was being paid to present the request. Sometimes he is unsure of the Commission's authority to make judgment calls and ability to state when he is not comfortable with the way an application is being presented. That request was one of the biggest the Planning Commission has had to review. He believed an Applicant requesting a major variance should offer an explanation or offer to answer questions.

Commissioner Spence said if the situation occurs again, Commissioner Fitzpatrick would recognize his ability to speak his mind. Commissioners have the right to bring up things that are bothersome or make motions at any time in a public forum.

Commissioner Mitchell suggested the people in charge of the project be told they need a different representative. Commissioner Moore noted that the Applicant put in the minimum effort required to have their request reviewed by the Planning Commission.

President Pearson said he was confident about the way he voted in that hearing. He was presented with all of the information he requested. The architect and project manager were present. No questions were asked and the Commission voted unanimously to approve the variance. The Commission can discuss procedures and the role of the Chair, but he believed a specific topic should be addressed, other than the Applicant's personality.

Commissioner Fitzpatrick clarified that he was not questioning the Commission's vote. He wanted to know what the Commission could do in those situations.

President Pearson said the hearing could have been continued or asked the Applicant for more information. He apologized for failing to make this clear. In the future, if Commissioners believe information is missing, the Commission could work with the Applicant.

City Attorney Henningsgaard reminded that the City is bound by the 120-day rule, which establishes a timeline for approving applications. Continuing a hearing could violate this rule and keeps the application on Staff's desk, occupying more Staff time. Commissioners can always ask questions of an Applicant. If Commissioners believe the record is deficient, the Commission could continue the hearing or deny the request. However, if all of the information has been presented, the Applicant has a right to make a presentation but does not have any obligation to speak.

Commissioner Spence confirmed that a special meeting had been scheduled for August 2nd.

PUBLIC COMMENTS:

George Hague, 1 3rd Street, Astoria, said his letters to the Planning Commission were buried in the end of the 88-page Staff report. It would be nice if Commissioners were notified where public comments were located within the reports. He suggested Commissioners read public comments first and then review the Staff's reports. Sometimes, Commissioners miss the public comments because they are behind 80 pages of material. He walks around the city every day and has noticed that some of the large garbage bins around town need to be updated. Other cities set standards for those types of containers. The large doors are sometimes left open, but some cities provide bins with side doors that make dumping easier. At some two- and three-story buildings, like hotels, large slats are placed over the bins so that people looking down do not see into the garbage. He believed Astoria should adopt these standards, maybe over a ten year period. Staff should encourage business and property owners to fix and update the bins. Also, he asked the Planning Commission to consider where the Sunday

Market would be located if a new library were built on Heritage Square. He has looked at the plans and understood all of the work that went into the plans. The City probably needs multi-family units above the library, but where would the residents park and where would the Sunday Market go? If the building were just a library, no cars would be parked at that location on Sundays, allowing the market to be located there. He hoped the Planning Commission and Staff could find a solution. As more multi-family units are built, the City will need more parks.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:00 pm.

APPROVED:



Community Development Director