

From: Kevin Cronin

Sent: Tuesday, September 20, 2016 10:40 AM

To: 'Dave Pearson'; 'Daryl Moore'; 'FRANK R SPENCE'; 'jan mitchell'; 'Sean Fitzpatrick'; 'Kent Easom'; 'McLaren Innes'

Cc: 'Sherri Williams (swilliams@astoria.or.us)'; Nancy Ferber

Subject: RE: Astoria Planning Commission Meeting | September 27, 2016

Hello APC:

We're back in action next **Tuesday, September 27 at 630 pm.**

On tap for the evening is another look at the **Accessory Dwelling Unit** section of Article 3 and Article 9 – **Procedures** section in the **Development Code**.

As you may remember, we took a timeout last April. The City Council held a work session to discuss the package of amendments and provide direction on the proposed code amendments.

Based on this discussion, we feel confident there is support for moving forward with the above.

There needs to be more dialogue with the Council about the fate of the zoning categories contained in Article 2. At this time, I don't have a date scheduled for this discussion.

The proposed ADU amendments were slightly changed since the last meeting because of the decoupling with the zoning categories.

The staff report has not changed since the original findings are still valid.

However, the APC may wish to make changes and/or corrections and is always encouraged.

We'll also provide an update on other projects and hold a hearing to renew the Conservatory Music temporary use application.

In the meantime, if you have any questions, please let me know.

Packets should go out sometime later today.

Thanks for volunteering and being a vested part of the community.

-Kevin

Kevin A. Cronin, AICP
Community Development Director
City of Astoria
Community Development Department
1095 Duane Street
Astoria, OR 97103

503-338-5183 (w)
971-704-4821 (c)
kcronin@astoria.or.us
www.astoria.or.us



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AGENDA

ASTORIA PLANNING COMMISSION

September 27, 2016

6:30 p.m.

2nd Floor Council Chambers

1095 Duane Street • Astoria OR 97103

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a. July 26, 2016
 - b. August 2, 2016
4. PUBLIC HEARINGS
 - a. Permit Extension request for Conditional Use CU03-04 by Elisabeth Nelson for a temporary use permit for one year, to August 26, 2017 to operate the Astoria Conservatory of Music in the existing church structure at 1103 Grand Avenue in the R-3, High Density Residential zone.
 - b. Amendment A16-01 by Community Development Director to amend the Astoria Development Code, Article 9 Administrative Procedures, City Wide. Development Code Standards Articles 9 and 10 are applicable to the request.
 - c. Amendment A16-02 by the Community Development Director to amend the Astoria Development Code, Article 3: Accessory Dwelling Units, Article 1: Definitions section to encourage more housing options as part of a larger affordable housing strategy, City Wide. Development Code Standards Articles 9 and 10 are applicable to the request.
5. REPORT OF OFFICERS
6. PUBLIC COMMENTS (Non-Agenda Items)
7. ADJOURNMENT

THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING SHERRI WILLIAMS, COMMUNITY DEVELOPMENT DEPARTMENT, 503-338-5183.

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
July 26, 2016

CALL TO ORDER:

President Pearson called the meeting to order at 6:38 pm.

ROLL CALL:

Commissioners Present: President David Pearson, Vice President Kent Easom, McLaren Innes, Daryl Moore, Jan Mitchell and Frank Spence

Commissioners Excused: Sean Fitzpatrick

Staff Present: Community Development Director Kevin Cronin and Planner Nancy Ferber. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES: June 28, 2016

Commissioner Spence noted that he had made the comments in the last paragraph on Page 5, not Vice President Easom.

Vice President Easom noted he was not present at the June meeting, but was quoted throughout the minutes.

President Pearson moved that the Astoria Planning Commission table approval of the minutes until the next regular meeting for revisions; seconded by Commissioner Spence. 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):

CU16-07 Conditional Use CU16-07 by Katrina and Aaron Gasser to utilize a finished bedroom and bath in the basement for a home stay lodging at 774 Alameda in the R-1, Low Density Residential 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 Spence declared that he knew Katrina Gasser through the Kiwanis Club, but he did not believe this would affect his ability to make an impartial decision. He confirmed he had not discussed this project with Ms. Gasser.

Vice President Easom declared that his company manages the property next door to the Applicant's property. However, he did not believe this would change his decision.

President Pearson called for the Staff report.

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

Commissioner Innes asked if approving this request would create the potential for more home stay lodgings in R-1 zones. Planner Ferber confirmed that all home stay lodgings would require a Conditional Use Permit.

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

Katrina Gasser, 774 Alameda Avenue, Astoria, said she believed she had met all of the conditions and looked forward to hosting based on her understanding of the City's expectations.

Commissioner Spence asked how the Applicant planned to advertise the availability of the rental. Ms. Gasser said she would use the Airbnb application.

President Pearson called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he closed the public hearing and called for Commission discussion and deliberation.

Vice President Easom was concerned about parking three cars tandem with a guest. He believed cars would end up parking on the street, which would burden the neighborhood. The grassy area could not be made into a parking spot because of the location of the utility pole. He did not believe the parking requirement had been met.

President Pearson said he was okay with the three off-street parking spaces because there was no sidewalk. However, the situation would change if a sidewalk were installed.

Commissioner Spence agreed with Staff's conclusion that the criteria had been met and he had no objections.

Commissioner Mitchell did not believe it was likely that the City would install a sidewalk in the near future. She also believed the neighborhood would have to request sidewalks and participate in the process.

Planner Ferber said she had confirmed with Public Works that no pedestrian improvements were planned for that area. However, if pedestrian improvements were made in the future, parking would need to be moved to the grassy area. Director Cronin added that sidewalks could be installed through a variety of processes and programs, but it was not likely a sidewalk would be installed in that area anytime soon.

Commissioner Mitchell said she has stayed at lodgings advertised on Airbnb. It is up to the neighborhood to decide how onerous this home stay lodging would be, but no one has shown up in opposition. Therefore, she agreed with the Staff report. If a problem arises, it would be remedied in the future.

Commissioner Moore said he had no issues with the request.

Commissioner Innes said she was undecided. She was concerned about parking, but there was a chance that cars would not end up in the street. She planned to vote in favor of the request.

Commissioner Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU16-07 by Katrina and Aaron Gasser; seconded by Commissioner Mitchell. Motion passed 5 to 1. Ayes: President Pearson, Commissioners Moore, Mitchell, Spence, and Innes. Nays: Vice President Easom.

President Pearson read the rules of appeal into the record.

ITEM 4(b):

CU16-08 Conditional Use CU16-08 by Jeremy Towsey-French to locate a ciderworks (light manufacturing) and small taproom in an existing commercial building at 1343 Duane Street, Suite B in the C-4, Central 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. Hearing none, he asked Staff to present the Staff report.

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

Commissioner Spence asked why the building's address was on Duane Street when the building fronts 13th Street. Staff was unsure of the history of the building and confirmed for Vice President Easom that the entire building had one owner and three separate lease spaces. One space held Reach Break Brewing, one would hold the ciderworks, and Staff was unsure how the third space was being used.

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

Jeremy Towsey-French, 4005 NE Multnomah Street, Portland, said he appreciated Staff's guidance and assistance. He thanked the craft beverage community in Astoria for being welcoming and helpful. Astoria has always been his home away from home and he looked forward to making the city his home. He came from a small town in rural Iowa about the same size as Astoria, but it lacked the grace and charm of a rough coastal town. This is a large endeavor for his family, but it is also an important opportunity for him to be part of a business community that he has learned to respect and appreciate. He confirmed that the third space was used as an office and the owner did not intend to lease the space. He has a separate lease for the 650-foot space and his business is a separate legal entity. He has a handshake partnership with Reach Break because they rely on each other for restroom maintenance plans and other things. They have a very good relationship. For taxation purposes, the brewery and ciderworks must remain separate business entities.

President Pearson called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he closed the public hearing and called for Commission discussion and deliberation.

Vice President Easom believed the ciderworks was a great use of the building. Commissioner Mitchell believed the business would add life and complexity to the area. President Pearson agreed that the request met the criteria. Commissioner Innes said she loved that the area had been cleaned up and the exterior had been redone nicely.

Vice President Easom moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU16-08 by Jeremy Towsey-French; seconded by Commissioner Moore. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

STATUS REPORTS/ANNOUNCEMENTS:

Item 5(a): Parks Master Plan

Director Cronin stated the Parks Master Plan was approved by City Council and implementation of some projects would begin this year.

Item 5(b): Museum of Whimsy

Planner Ferber stated all of the conditions for Conditional Use Permit CU16-03 had been completed.

Item 5(c): Astor West Urban Renewal District Expansion Open House July 28, 2016

Director Cronin announced that the City and Chamber of Commerce were hosting the open house. Duane Street, the retaining wall, and the district's expansion will be discussed, but no presentation will be given. He explained that the open house format was in response to the current culture, as people do not want to spend more than five or ten minutes at a meeting.

Item 5(d): Planning Commission Meeting – August 2, 2016

Director Cronin said three applications would be reviewed at the August 2nd meeting. No public comments have been received yet, but Staff expected more audience members than usual. At this point, no regular meeting would be scheduled in August unless an item is continued from the August 2nd meeting.

Commissioner Spence asked if the Planning Commission would review any permits for Charlie's Chop House. Director Cronin said no, the business's use is permitted outright in the downtown area.

REPORTS OF OFFICERS/COMMISSIONERS:

Director Cronin briefly updated the Commission on efforts to deal with housing issues in the area. City Council supports accessory dwelling units (ADUs), so the Planning Commission will review ADUs at a public hearing in September. Codes pertaining to residential uses will be reviewed separately. Construction excise taxes have been approved by the legislature and Council has directed Staff to find out how much the City can generate. The tax is a percentage of the value of building permits and can be used for certain affordable housing projects. Staff is working on an economic development strategy five-year action plan and he hopes Council will approve a contract with a consultant by August 15th. After Labor Day, an open house with a panel presentation will be scheduled.

Vice President Easom asked when Staff would begin on the Downtown Core Vision Plan to finish the Riverfront Vision Plan. Director Cronin said Staff met with the Department of Land Conservation and Development (DLCD) to discuss funding opportunities for the project. Staff will not apply for funds until grants become available, which will be 2017 at the earliest. Staff is waiting to hear back on their grant proposal to redo the streetscape on West Marine Drive in Uniontown. If the City receives the grant, Staff would not have time for other projects as workloads are already being juggled.

Commissioner Mitchell was concerned about timing. She believed Astoria dodged a bullet in 2008. As a planner, she learned to go for the projects that could really change things when a good Council was in place and space was available. She understood Staff was overworked, but hoped the City did not repeat what happened in 2006 and 2007 along the waterfront and in downtown.

Director Cronin said he preferred to hire Columbia River Estuary Study Taskforce (CREST) and just let Staff administer the grant because the project will be very controversial. He was concerned that Staff would get bogged down by the project and other work would be jeopardized.

PUBLIC COMMENTS: None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:13 pm.

APPROVED:

Community Development Director

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
August 2, 2016

CALL TO ORDER:

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

ROLL CALL:

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

Staff Present: Community Development Director Kevin Cronin, City Attorney Blair Henningsgaard, and Planner Nancy Ferber. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

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. He announced that the public hearing for Item 3(b): Conditional Use CU16-06 would be conducted last.

ITEM 3(a):

CU16-05 Conditional Use CU16-05 by Robert Johnston to locate light manufacturing (smoking and packaging nuts) and retail sales in an existing commercial building at 1820 SE Front Street in the S-2, General Development Shorelands 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. Hearing none, he asked Staff to present the Staff report.

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

President Pearson opened the public hearing and confirmed the Applicant did not have a presentation. He called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he closed the public hearing and called for Commission discussion and deliberation.

Commissioner Fitzpatrick said there was no difference between cooking in the kitchen and mixing dry rubs in the kitchen. Commissioner Mitchell added there would be no expansion. The building has had trouble maintaining businesses, so this might help the business remain ongoing. President Pearson agreed that the proposal met the criteria the Commission had been asked to review.

Vice President Easom moved that the Astoria Planning Commission adopt the Findings and Conclusions with the conditions contained in the Staff report and approve Conditional Use CU16-05 by Robert Johnston; seconded by Commissioner Fitzpatrick. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

The Planning Commission proceeded to Item 3(c): Conditional Use CU16-09 at this time.

ITEM 3(c):

This Item was addressed immediately following Item 3(c): Conditional Use CU16-05.

CU16-09

Conditional Use CU16-09 by Becka Blacksten to locate a day care in an existing commercial building at 609 Bond Street 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. Hearing none, he asked Staff to present the Staff report.

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

President Pearson opened the public hearing and confirmed the Applicant did not have a presentation. He called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, closed the public hearing and called for Commission discussion and deliberation.

Commissioner Innes asked if the Applicant had discussed using the nearby park. Director Cronin confirmed Staff had discussed the park with the Applicant during the preapplication conference. The Applicant uses the park and she had been in contact with Parks Director Cosby about the use of the park.

Commissioner Innes said she was glad because it costs quite a bit to keep the park open.

Commissioner Fitzpatrick said the request seemed reasonable. The Applicant is already operating in the neighborhood and there are no issues with the existing business. The space seems like a logical place to grow into and it puts the daycare on the same side of the street as the park.

Commissioner Mitchell said she lives a few blocks from site. This is a good use because there are kids and school busses in the neighborhood. The community needs after school resources for kids. The park makes the location much nicer and she did not believe it would be overused. The daycare next to the park is a great connection.

Commissioner Spence said he visited the site and believed a fully equipped fenced and playground right behind the building is a great asset and benefit to the Applicant. He agreed there was a need for daycare.

Vice President Easom moved that the Astoria Planning Commission adopt the Findings and Conclusions with conditions contained in the Staff report and approve Conditional Use CU16-09 by Becka Blacksten; seconded by Commissioner Mitchell. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

The Planning Commission proceeded to Item 3(c): Conditional Use CU16-06 at this time.

ITEM 3(b):

This Item was addressed immediately following Item 3(c): Conditional Use CU16-09.

CU16-06

Conditional Use CU16-06 by Mo's Clam Chowder / Newport Pacific Corporation to locate a tourist oriented activity, indoor family entertainment (viewing chowder production) and eating/drinking establishment in an existing building at 101 15th Street in the A-2A, Aquatic Two A Development and S-2A, Tourist Oriented Shorelands 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 ex parte contacts. People have wanted to speak to him about this application at just about every event he has attended over the past six to eight weeks. He has suggested it would be best for everyone if people attended the public hearing to speak to the entire Planning Commission.

Vice President Easom declared ex parte contacts similar to Commissioner Fitzpatrick's, noting he had not discussed this request with anyone.

President Pearson asked Staff to present the Staff report.

Director Cronin reviewed the written Staff report. He reminded that audience members could refer to the criteria when providing testimony. If the request does meet the criteria, the Commission can place conditions of approval on the application or reverse Staff's recommendation. If Staff's recommendation is reversed, Staff will need to create findings in support of the decision. He also reminded that Planning Commission does not review designs, as the Design Review Committee is tasked with doing so. Additionally, there is no Design Overlay Zone for this property. Applicable criteria do not specify any type of architecture, vernacular, or other form based requirements. However, materials are specified in the Development Code. The only public comment received to date was available at the dais. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Fitzpatrick noted that each of the three uses in the building had its own parking requirements and it appeared as if more parking would be needed. Director Cronin said he used a stricter standard when calculating the necessary parking and the square footage was not included in the parking requirements for employees.

Commissioner Mitchell said the architectural drawing was nice, but it gave the impression of far more space between the railroad tracks, the right-of-way, and the building. She asked if the drawing assumed a parking lot would be built across the pilings. Director Cronin deferred to the Applicant to answer that question.

Vice President Easom asked if the Historic Landmarks Commission (HLC) would review this project. Director Cronin confirmed the building was outside of the Downtown Historic District, which was inventoried in the early 1990s. An inventory sheet was included in the Staff report.

Commissioner Mitchell asked if the Riverfront Vision Plan had any impact on this project. Director Cronin replied no, this building resides in the Urban Core, which is the last of the four sections of the riverfront identified by the Plan. Therefore, there were no additional regulations related to the Plan for this part of Astoria.

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

Jolie Mancroft, 589 S.E. Vista Drive, Newport, President of Newport Pacific, said over 40 years ago, her father approached Mo Niemi, who had established a restaurant 30 years prior, with idea to expand the business into other towns along the Oregon Coast. Over 16 years, they built restaurants in Lincoln City, Florence, and Cannon Beach. Although some might consider Mo's a chain restaurant, she felt that Mo's was far from that. They are a family business that is about guests, the wellbeing of their crew, and the success of the cities they reside in. Over the last 70 years, together with Mo's family, they have grown Mo's into a restaurant that serves delicious seafood and chowder with a smile. They are also committed to each community they reside in to make them unique and better places, from holding senior class fish fries to raising money for drug-free graduations, purchasing over 50 hanging baskets to line the streets of Lincoln City, donating endless pots of chowder for high school sporting events, holding fundraisers to combat bullying in schools, to feeding chowder to everyone who helps at beach clean-ups and sandcastle contests. She could go on and on about what they do each year to support their communities. Mo's strives to find the best way to support the communities with time and talent, not just cash donations. They also help communities by providing jobs with competitive wages, benefits, retirement plans, and scholarships to trade schools and universities. If they are able to build a Mo's in Astoria, they plan to employ about 30 full time employees and about 50 part time employees. When she was approached by former Mayor Willis Van Dusen about five years ago, he believed Mo's would be a great fit for Astoria. She still agrees to this day. Mo's in Astoria will be unique because it will be their only restaurant that will show guests how the chowder is made, give them the opportunity to learn about chowder production, the history of Mo's, and the history of Astoria. They will try to do everything possible to be good neighbors and attract people to Astoria.

Joey Sheer, 12965 SW Herman Road, Tualatin, AKS Engineering and Forestry, said he had been coming to Astoria his whole life, but this was the first time he had been in a professional capacity. He said it was funny that the Staff report mentioned Buoy Beer. Several years ago, he attended a planning conference in Portland, along with Astoria's Planning Department Staff and one of the men who opened Buoy Beer. The session he attended

was laid out as a model for successful collaboration between a city and a private business to get the brewery and restaurant off the ground. The seminar stuck with him and now he has come to this meeting to see references to Buoy Beer, which submitted a similar application. He has tried to model his approach in the same way in the context of uses and the waterfront location. He has worked with Staff, including the Fire Chief, to put the application together. He appreciated Staff's time and attention to answer their questions and work with him through the process.

Staff gave a good summary and provided some technical details. He gave a PowerPoint presentation that reviewed some of the key elements of the project, adding that the Staff report was much more detailed. Currently, the existing building is underutilized, as the vast majority of the space is vacant. The waterfront location is unique and ideal for an iconic Oregon seafood restaurant like Mo's. The site is located at the end of 15th Street along the Riverwalk, which makes it easily accessible to pedestrians, bicyclists, vehicles, the trolley, and public transit. He hoped the location would attract locals and tourists to the waterfront with spillover benefits for the surrounding businesses in the area. The restaurant will be open to the general public and the floor layout puts the waterfront front and center with a lot of windows and high ceilings that will give visitors stellar views. An outdoor patio and dining area with roll-up doors will provide visual access to the waterfront. The chowder production facility will be integrated with the restaurant, as illustrated on the preliminary building plans included in the agenda packet. This will provide visitors with an opportunity to observe how the famous Mo's clam chowder is made. The plan is for this area to be separated from the restaurant by windows or Plexiglas. Informational materials will explain the process and Mo's history, which is linked to the Oregon Coast history. Anyone who comes to the restaurant will have an opportunity to see the chowder making process and history. They are able to accommodate all of the required parking on the site and landscaping for the parking area in excess of the requirements. He displayed a Google street view of the existing façade and said a project architect developed the design shown in the application. Per the Findings and Conditions in the Staff report, they are willing to work with the City to revise the southern façade to provide a more appropriate window. He was confident they could work with the architect to create a façade that meets the Conditions and respects the storefront window design concept. Mo's is a family owned seafood business with a long history on the Oregon coast and except for their recent opening at Portland International Airport; this would be the first new Mo's in many decades. Clearly, they are very cautious and careful about when, where, and how they open new restaurants because they recognize that moving into a new city means becoming a part of that community. He supports Staff's findings and concurred with the conditions of approval. He respectfully requested the Planning Commission approve the application.

Commissioner Fitzpatrick said he recently saw the Mo's at the airport and asked how many locations they had. Ms. Mancroft said Newport Pacific had four locations and Mo's family owned two locations in Newport. Mo's family is part of Newport Pacific. She explained that they did not look for an establishment at the airport. The airport came to them in Cannon Beach and said they wanted to give a little taste of all places in Oregon in the airport. The airport also has Made in Oregon, Henry's Tavern, and places where people can enjoy a little taste of all of Oregon. The Mo's at the airport is a small quick service place that serves fish and chips and chowder. It is good exposure for the coast.

Commissioner Fitzpatrick asked where the ingredients in the clam chowder came from. Ms. Mancroft said the potatoes come from Washington or Idaho, depending on the year. The bacon comes from Columbia, depending on supplies. This has been an extremely crazy clam season, so the surf clams are from the east coast. Sometimes they get razor clams, depending on availability. They go through hundreds of thousands of pounds of clams, so sometime they are cut off from the Oregon coast and have to get them somewhere else. All of the other ingredients come from a local distributor.

Commissioner Moore said the parking diagram in the Staff report does not indicate where the railroad tracks or the trolley tracks are located. He asked if the tracks and Riverwalk were outside of the diagram and if there was room for people to walk across the parking lot. He also wanted to know if the parking lot was 15 feet from the railroad tracks. Mr. Sheer said he did not know the exact distance from the tracks. Director Cronin displayed a map and explained the location of the Riverwalk relative to the parking lot. He noted the sidewalk, the area for vehicles, and the off-street parking area. The Riverwalk will not cross into the property, just adjacent and parallel to the property. He did not have an overlay of the tracks or the continuance of the Riverwalk, but Staff has assumed the Riverwalk would remain adjacent and parallel to the parking. Mr. Sheer added that the building front is actually being moved back to accommodate more space. That is why some of the diagrams make the space look tighter.

Commissioner Mitchell asked how much of the building would be cut off. Ms. Mancroft said the building would be reduced from 20,000 square feet to a 16,000 square foot building.

Commissioner Moore confirmed the assumption was that the parking would not impede the Riverwalk and people will not have to walk around the parking lot. Commissioner Mitchell added that cars go by that location, not just people walking. Therefore, a lane of at least 11 feet will be necessary.

Commissioner Innes could not understand where the loading zone began. She asked how a truck would get into the loading zone and if it would back up to the building. Mr. Sheer said the truck would come through the u-shaped area of the parking lot. Loading is typically done during off hours, so vehicles will not be parked in the area. Trucks should be able to pull through. The area has been designed to accommodate emergency services, so trucks should be able to enter and exit going forward.

Commissioner Innes said she was unable to tell from the map where the street becomes a loading zone, but she assumed the loading zone was close to the building. Mr. Sheer referred to the diagram on the screen and explained where the loading zone began. Director Cronin added that the foot of 15th Street is vacated and the Applicant's property begins on the other side of the railroad.

Commissioner Mitchell understood the parking lot provided about 10 parking spaces. She asked where the rest of the parking would be located. Mr. Sheer said the property extension to the east contains a long narrow strip with existing stripped parking currently reserved for Vintage Hardware. Ms. Mancroft added there were 20 more parking spots in that area.

Commissioner Mitchell said those parking spots were used, but not for Vintage Hardware. Director Cronin said Staff would suggest the Applicant relabel the parking. Mr. Sheer noted the parking was not located in a public right-of-way, but on private property.

Commissioner Mitchell said she still believed the parking was a bit crowded.

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

Jesse Miller, 2908 Marine Drive, Apartment 1, Astoria, urged the Planning Commission to vote yes for Mo's. He is a full-time college student at Clatsop Community College. He and many other students would like to have a very nice restaurant that is affordable and within walking distance of the college.

Willis Van Dusen, 2314 Irving, Astoria, said his business, Van Dusen Beverages, is the oldest family business in Oregon established in 1849. He was here in support of another family business and urged the Planning Commission to vote in favor of Mo's. Mo's chowder is the type of business Astoria needs. When he was mayor, he and former City Manager Paul Benoit worked very hard to get Ms. Mancroft to consider Astoria. This is the fourth location and this is best location. They had considered the old train depot at the Maritime Museum, the old Red Lion and Riverwalk Inn, the Seafarer, and Pier 39. This location is the best. He spent from 1985 to 2015 on Astoria City Council, the last 24 years as Mayor. He worked very hard with the team to develop this Riverwalk and the zoning and the planning. This is the perfect use and they are the perfect family. He reminded that Burlington Northern abandoned Astoria and the City fought to get the right-of-way. Tom Carmichael and Pat Lavis sued the City because they wanted to put buildings on the right-of-way, but the City of Astoria prevailed. The one stretch of the Riverwalk that is privately owned is this property. He was glad the Commissioners asked if the Riverwalk would remain. The property is leased. It is the only property from Alderbrook to the roundabout that is not public property. The Riverwalk started with the 6th Street tower, then the 17th Street Dock, the Maritime Memorial, and slowly more projects were added. But it was always a working riverfront. He strongly believed this was the perfect business and that it met the criteria.

Another reason Astoria needs Mo's is because the town needs more business women. Ms. Mancroft runs Mo's by herself. Someone at the Sunday Market said they did not want Mo's in Astoria because they were a chain. However, Astoria has Pig and Pancake. Bob and William Poole started out in Seaside, Astoria, and Cannon Beach. They were a very small family owned business. Astoria also has Fultano's. Robert Fulton wanted to start the chain to get buying power and now there are several Fultano's. Doogers, started by Doug Reece, his college roommate, had locations in Seaside, Warrenton, and Cannon Beach. When he lost his Cannon Beach

restaurant, he put one in Long Beach. Jason Thiel owns Gino's Pizza. Englund Marine is also a family owned chain. Those are not like Target, Wal-Mart, or Sam's Club. Van Dusen Beverages has been doing business with Mo's for 30 years. His dad dealt with Tom Becker, Ms. Mancroft's grandfather, 30 years ago in Cannon Beach. He was 32 at the time and delivered their products to Mo's. The two companies got to know each other very well. Ms. Mancroft was not involved with the business at that time, but she has developed into a very successful and confident young woman. He believed Astoria should help her become part of the community. He was proud of what Ms. Mancroft has done for Mo's. He is president of the trolley association and part of the problem with Mo's is that Ms. Mancroft must work on parking and getting to and from Mo's without using automobiles. Ms. Mancroft has already approached the trolley association, which is very willing to work with her. The trolley could add another stop or create a different schedule to help alleviate part of the parking problem and congestion. This is a great project and he hoped the Commission would approve it.

Loren Matthews, 8120 7th Street, Astoria, said he has lived in Astoria for 58 years and served on City Council for a total of 12 years over two terms. He has also been very involved with the Chamber of Commerce and the Scandinavian Festival. He was on Council with Mr. Van Dusen when the City began talking about starting the Riverwalk. The old Riverwalk was dingy. The railroad did not want anyone in the area, so the Riverwalk was built in stages. It turned out very nice and has brought the city back to the waterfront, especially with the trolley. In 1999, 15,000 people rode the trolley, but last year there were over 50,000 riders on a limited schedule. He has eaten at Mo's and believed it was a good restaurant. Many people look forward to going to Mo's and he believed it would be a great addition to the area. As the Riverwalk has developed over the last few years, this area was neglected a little bit. However, the area is going through resurgence with two new restaurants and Mo's will only enhance the area. Later this month, the Scandinavian Festival will present a proposal to City Council to build in People's Park, right across from Mo's. The Rotary Club built a viewing platform in the park, but it was removed because it had rotted. The Scandinavian Club had been looking for a place to establish a monument in honor of the Scandinavians who came to Astoria in the late 1800s and early 1900s. They would like to put the monument in People's Park. He believed Mo's would enhance the park and make the area viable. He urged the Commission to vote yes. The height will not interfere with that stretch of the track.

Bruce Connor, 323 Alameda, Astoria, said he owns Sundial Travel and Tours and is the marketing director for the Port of Astoria. He spoke with Chris Holen at Baked Alaska and Peter Roscoe of Fulio's, who are prospective competitors, about Mo's coming to Astoria. He wanted to find out if sales would be diluted by another restaurant, but they both agreed Mo's would enhance the businesses. Mo's marketing is excellent and they would market the City of Astoria in a way that has not been done. The competitors were positive and said they would welcome another restaurant into their cluster. He encouraged the Commission to vote yes.

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

Dan O'Donnell, 992 15th Street, Astoria, said he was not opposed to Mo's as a business or restaurant, but he was opposed to the industrial kitchen Mo's would use as part of the facility, which is marked as a secondary function of the building. However, the Applicants have stated the industrial kitchen would be used to process hundreds of thousands of pounds of clams in Astoria's downtown riverfront area. He was also concerned about parking, safety, and riverfront access. The initial conditional use application talked about the proposed use being a seafood restaurant, office, and industrial kitchen, with an emphasis on the industrial kitchen, which everyone seems to be glossing over. The kitchen will be 40 percent of the building and used to process clams and making chowder. There is no mention of the tourist use in the initial proposed use. He believed this was because it was one of the conditions of using the space. The ability to see the chowder making through a Plexiglas window has somehow made this a tourist attraction. He believed this was just a way to get past the conditions of approval. Page 1 of the Staff report mentions the building will be used as tourist-oriented retail sales and light manufacturing. This light manufacturing was previously referred to as an industrial kitchen.

- Page 2 of the Staff report acknowledges that the building was only built in 1924, but the Riverwalk itself is historic even if it is not classified that way, and that there is limited one-way access for vehicles along the Riverwalk. This is a particularly difficult choke area for traffic. He believed anyone who had tried to drive through that area on a Sunday would agree that the traffic gets quite heavy. Many of the one-way streets in the area get convoluted and crossing over Commercial along 15th Street on busy days is very difficult. This will not make things any easier.

- Page 3 of the Staff report mentions the proposed chowder production will be an accessory use, yet it takes up 40 percent of the building and will be processing hundreds of thousands of pounds of clams and many gallons of dairy. Staff began with an unfounded assumption that the uses were aligned, but he preferred they had not included this assumption in the Staff report. It would have been better for Staff to start this from a neutral perspective. Page 4 of the Staff report says the Applicants intend to locate an eating and drinking establishment, tourist-oriented retail sales, and indoor family entertainment, which are allowed conditional uses. Industrial kitchen is not mentioned. Essentially, we are talking about a clam chowder factory. He understood this factory would produce clam chowder for all of the other retail outlets, including Costco. This will be a non-trivial, non-restaurant amount of chowder that will be produced downtown on the Riverfront.
- The Staff report also states that any exterior alterations would need to comply with Article 4, but the front of the building will be demolished to make room for the car park. The diagram shows a two-story tower at the front with a neon blue Mo's sign, which does not fit in with the style of the Astoria riverfront.
- Page 6 of the Staff report indicates the chowder production will take up approximately 5,300 square feet, which is about 40 percent of the building. That is not an accessory usage. They are setting up a factory downtown. The Applicant has said they would try to curtail truck deliveries to off peak times, but there is no guarantee. We do not know what size trucks will come through or how many trucks. Even though the car park is designed with a u-turn, there are cars all around the area that the trucks will have to negotiate with. It will be a very tight fit for people trying to get through.
- Page 9 of the Staff report mentions odor, which is particularly important. Section M states that no use shall generate odor. When people talk about old Astoria, they talk about how Astoria used to smell like fish. People used to hate how much Astoria smelled like fish. He did not understand how hundreds of thousands of pounds of clams could be processed without any mention of air filtration or odor mitigation to keep downtown on the Riverwalk from smelling like clams. The Findings gloss over this issue, saying the production process would generate some odor common to cooking food processes such as a restaurant. This will not be clam chowder production at a restaurant scale. This is 5,000 square feet of clam production. Staff does not consider this extensive or a nuisance. He disagreed and said the odor would be quite noticeable from several blocks away.
- Page 13 of the Staff report says Mo's chowder would give a competitive edge to the foodie production field in Astoria. He did not know how Mo's chowder tasted, but doubted it could be considered a foodie niche. It is more of a comfort food or general seafood. Section S says light manufacturing as food production is an accessory to the eating, drinking, and retail sales. He disagreed.
- The Staff report also says the building would be reconfigured for pedestrian-related access. This is another big issue. People will be walking and bicycling through the car park area and there is no reference in the Staff report about a bicycle thoroughfare. Many people use the bike path to get from one end of town to the other. The continuous Riverwalk will be cut to put the car park in because there is not enough room for the number of people expected. This hinders bike access and makes it dangerous. Staff has agreed that the proposed façade is not appropriate. Section T says consideration should be given to sidewalks, bike paths, and other transportation and that suitability should be determined in part by potential impacts of these facilities on safety, traffic flow, control, and emergency vehicle movements. Anyone who lives within earshot of Commercial or Bond can hear the fire engines take ten minutes to get from one end to the other because there is so much traffic. This will not make things better. There are many one way streets and a section where people try to cross Commercial. This will overload the area with more traffic than it can handle.
- Page 14 of the Staff report says if the actual traffic count exceeds the planned amount, or the parking strategy is ineffective, a traffic study will be required and mitigation measures determined. This will be difficult one year after the fact. The location is bordered by water and one of the biggest streets in town. The only place to get more parking space is People Place Park. That would eat into the green space and could prevent the Scandinavian monument.
- Page 15, Section U of the Staff report says food production along with the restaurant will require more water than some other uses generally in the downtown area; however, supply is not an issue. This is because it is an industrial kitchen. Let's not forget this. He has not seen anywhere in the document how much water the Applicant plans on using or where the water will be disposed of. It would be interesting to know how all of these clams will be processed without extra infrastructure for the water. He wanted to know where the chowder was currently being made and whether Staff could have done a study on how much they produce, what goes into their systems and what comes out of their systems. He asked if an impact study had been done on the current chowder manufacturing facility. He asked why the facility needed to be brought downtown. He was not objecting to the restaurant, but he does not welcome a clam factory on the riverfront.
- Page 16 of the Staff report says the request does not meet all applicable review criteria as submitted. So, obviously more work and more consideration is necessary. He was still not sure whether the rail lines were

included in the plan and this should be considered more before approving this request. Traffic mitigation will be too late after one year and the Staff report makes no mention of bike access for what is our highway for cyclists getting through town. Visitors to Astoria spend an estimated \$135 to \$140 million because of the historic buildings, magnificent river, and quality, unique restaurants, not for the McDonald's, Pig and Pancake, Burger King, or Fultano's. Astoria's vision, which is still incomplete, should preserve the riverfront. We should use this as an opportunity to finish Astoria's Riverfront Vision Plan to preserve the riverfront, walking spaces, reduce fish and industrial smells in the downtown area, and preserve historic values. Once these riverfront spaces are gone, they are gone for good. This is a particularly important space because it is the one that will cut the Riverwalk in half. He questioned why the City would bring an industrial kitchen to a downtown riverfront location when there are plenty of places to do this away from the gateway to the downtown.

Zach Tutor, 1592 Franklin, Astoria, said he has not done any research like others have, but as a 20-year resident of Astoria, he has many friends who work in the service industry. Mo's is a great company, but something like that coming to Astoria takes away from the small businesses. This is counterproductive in Astoria because we are about a small, growing community. People come in off the boats and ride the trolley. Many elderly people do not leave the trolley and seeing Mo's as they ride will distract them from walking through town to find a place to eat and see other places. Half of the fun in Astoria is walking through town to find a place to eat and finding a cute shop to look at. He did not believe Mo's was right for that location in Astoria. There are many other locations to put a Mo's and Astoria should be looking at putting other things in that building.

President Pearson called for the Applicants' rebuttal.

Mr. Sheer said Staff addressed the commercial kitchen in the Staff report and said he agreed with the Findings. The Findings reflect a consistency on the part of the City about how accessory uses, light manufacturing and commercial scale uses, are treated. Buoy Beer is manufacturing beer at their location and the City found that was an accessory use because it is a minor square footage compared to the overall use and is in conjunction with the other activities going on at the site. The same thing is true for Mo's, which is primarily a restaurant by square footage and traffic. The kitchen facility is an accessory to the restaurant and there will be crossover that will provide an opportunity for entertainment and education. Mo's is very proud of their history and he tried to include some of it in the application. It is a good story to tell and it ties into the history of the Oregon coast. He believed this would be a legitimate amusement or entertainment factor. In regards to parking and safety, he met with the Fire Chief who was concerned with emergency vehicle access to the site. The proposed design is reflective of changes made in response to the Fire Chief's comments. As far as he knows, all of the parking and safety requirements have been met. Emergency services must deal with traffic congestion and they have done their best to address the issue.

Ms. Mancroft said all of their chowder was currently being produced in Newport on the third story of the original Mo's. They are looking for another location because their current location is at capacity, especially during the summer. They try to keep up and keep everything within the Food and Drug Administration (FDA) guidelines. They are surviving, but if given the opportunity to build another restaurant in Astoria, they will need to build another chowder factory. No matter where they go, they would have to build a combined facility in order to save money. Buying one piece of property instead of two is more economically savvy. The Astoria facility will not take over all of the chowder production, but will just take over maybe the north half of their locations. No decisions have been made about how much each production facility will make. The clams are produced in an outside clam producing facility and they arrive at Mo's already chopped. Mo's does not have shells and there will not be a huge issue with garbage odors. They do have garbage, but not any more than a restaurant would produce. The chowder facility will use less water than the restaurant because the chowder is not full of water. The only reason the infrastructure needs to be updated is to add sprinklers to the pilings and the restaurant portion of the building.

Mr. Sheer added that the Public Works Department had a representative at the preapplication meeting. All of the questions about infrastructure and building codes were addressed. He also believed the site is so attractive because it has the potential of being a high traffic location. Mo's will not develop the building or any of the parking on any areas within public rights-of-way or existing easements. He hoped cyclists would be riding on the river trail, not on the private property. Obviously, it is in Mo's best interest to have a safe environment.

Ms. Mancroft said she had proposed to install a stop sign, so cars stop on their way out of the turnaround. Additionally, Mo's never accepts deliveries during business hours and truck drivers know that they cannot deliver

any product between 10:00 am and 7:30 pm. Deliveries are always made during the morning hours, so trucks should not be a huge problem.

Mr. Sheer reiterated that Staff has addressed all of the applicable criteria in good detail. The application meets all of the criteria. Staff has also recommended conditions that would allow the application to meet the criteria and Mo's agrees with those conditions of approval. He asked the Commission to consider the application based on the criteria that has been presented and their past interpretations of the criteria.

Mr. Van Dusen confirmed that no deliveries could be made to Mo's during their business hours.

Ms. Mancroft did not believe deliveries could be made to any restaurant during business hours.

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

Commissioner Moore said he reviewed the City's Codes regarding light manufacturing and industrial kitchens. In April 2014, the Code was amended to include examples of light manufacturing like food products, breweries, distilleries, clothing, electronics, and wood working. Heavy manufacturing is defined differently. He believed an industrial kitchen meets the definition of light manufacturing in the Codes.

Commissioner Mitchell said she remembered the area before the Riverwalk. She moved to Astoria in part because it was a working town. A lot of the planning that went into the Riverwalk was for a working waterfront. There is no attempt here to become a Santa Cruz, Carmel, or Cannon Beach. Astoria has a deep history of loggers and fisherman and it did not smell as good as Buoy Beer when it was a shrimp processing facility. However, people walked their dogs in that area anyway. This is part of what makes Astoria authentic. We have held on to our connection to the river, fish, the odors, the sounds of the water, and all that is common to Astoria. Therefore, she did not believe the City needed make things pretty. She appreciated the comments about small businesses and Mo's being a family operation. She had not considered some of the other businesses that the community loves that have expanded beyond the area. She was not persuaded that the odor of chopping onions and potatoes would be an issue and people like to see how things are made. She believed Mo's would fit with the nature of the location. She noted that the Planning Commission makes recommendations, not decisions, and therefore suggested that the Applicant's make a map that delineates the railroad right-of-way, car lanes, and bike lanes. Such a map will make it easier for City Council to make a decision.

Director Cronin clarified that the Planning Commission would be making a decision on this application. This is not a legislative amendment, so a quasi judicial decision must be made.

Commissioner Fitzpatrick thanked everyone who spoke. He understood that public hearings can be an imposition on one's schedule, but he appreciated all of the views and opinions. He was concerned about parking and did not believe 31 spaces would be enough. He was also concerned about the Riverfront Vision Plan because this site is in the portion of the Plan that the Planning Commission has not yet reviewed. The Commission has had some very impassioned discussions about the Plan and almost everyone who has spoken about the Plan has said no hotels or restaurants on the north side of the trolley tracks. However, the Commission has not had the opportunity to look into this area of the riverfront. He was concerned that the current Codes do not prohibit hotels or restaurants in this location.

Commissioner Spence believed the facility would definitely need a lot more water. Findings on Page 16 of the Staff report state the existing water supply is inadequate and a review by the Fire Department will require the facility to have a fire suppression system throughout the building. Contractors are working with the Public Works Department and will pay for a larger water line to the facility. Staff has indicated that even with the larger water line, the new use would not overburden existing utilities. The Commission must review facts and their opinions and biases should not be taken into consideration when making a decision. Astoria has a Development Code and a Comprehensive Plan and if applicants meet the conditions that are spelled out, they are entitled to have the business at that location, regardless of their name. Staff has done an excellent job. The public does not see that there are 17 pages in the Staff report, which is single-spaced and quotes each section of the various Codes and conditions that the Applicants must meet. He believed, and Staff's Findings state that, the Applicants have met the criteria. He supported Staff's recommendation for approval.

Vice President Easom said he found no reason to deny the request.

Commissioner Moore said he was concerned about traffic, but was also confident that Staff could evaluate the potential impact. Their evaluation and his visualization of the project did not seem to change much. Vintage Hardware is pretty popular and they take in quite a bit of traffic. The parking diagram may actually provide a clearer delineation of where pedestrians and bicyclists should be going, which might be closer to the railroad tracks than the parked cars. There is no easement for the Riverwalk in front of that property, so anything the Applicant does to allow access is a positive change for that section of the Riverwalk. The Planning Commission does not review the neon signs. He said he was in favor of the application, despite the comments suggesting the request be denied. There are no facts that would inhibit a positive vote.

Commissioner Innes said after reviewing the facts, she saw no reason to deny the request.

Commissioner Mitchell was concerned about the condition requiring a traffic assessment after one year. The City will not give away a park to accommodate parking, so she wanted to know what Staff would do if more parking were needed. Director Cronin said Staff would work directly with the Applicant on a parking demand mapping strategy, which considers ways to reduce demand for off-street parking in that location and on-street parking in the downtown area. This provides an incentive to promote bicycle, pedestrian, and public transit traffic to employees.

Commissioner Mitchell said getting around the area, particularly on weekends, is already crazy. Director Cronin added that the current traffic analysis indicates there are no issues.

President Pearson noted this project is in A-2A zone, no visibility of the waterfront will be lost, and it uses an existing structure built in 1924. The building has been modified many times throughout its uses, which is typical of any healthy working waterfront. This project is a natural evolution of that. Significant visual and pedestrian access will be preserved, in addition to the trolley line and Riverwalk. Every other aspect of this location will remain as is and the project meets all of the City's parking requirements. Making chowder in a town that once had 38 canneries along the waterfront will have a minimal impact on manufacturing along the waterfront. This fits with Astoria's heritage and meets the economic development policy, which the Commission is also asked to review. He believed this would be a good reuse of the property and he fully supported the request.

Commissioner Spence moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU16-06 by Mo's Clam Chowder / Newport Pacific Corporation; seconded by Commissioner Moore. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

The Planning Commission proceeded to Item 4: Reports of Officers and Commissioners at this time.

REPORTS OF OFFICERS/COMMISSIONERS:

This Item was addressed immediately following Item 3(c): Conditional Use CU16-06.

Director Cronin updated the Commission on the following:

- Library Director Meet and Greet – Thursday, August 4th at the Barbey Center from 4:30 pm to 5:30 pm.
- No Planning Commission meeting would be held on August 23rd.
- Corrections to the June minutes would be presented for approval and a public hearing on accessory dwelling units would be held at the next Planning Commission meeting in September.
- Building Official/Code Enforcement Officer - Three candidates were interviewed, but none would work for out for Astoria. Therefore, the contract with Building Department LLC has been extended. He would meet with the County Building Official and County Community Development Director on Thursday to discuss options. He has also discussed sharing a building official with Cannon Beach.

Vice President Easom believed the City needed to fill the position urgently, but understood the budget constraints. Director Cronin noted that the last fiscal year ended with about \$380,000 in revenue. This will not increase unless fees increase. If he is unable to work something out with the contractor, the county, or Cannon Beach, he will raise the salary for the position and try to recruit again.

Director Cronin noted that all of the Conditional Use Permits approved over the last six months have turned into businesses.

Commissioner Mitchell asked for an update on the request for a chowder boat near the marina. Director Cronin said he believed the Applicant has decided not pursue a lease with the Port at this time.

Commissioner Mitchell understood Staff time was limited, but wanted the City to move ahead with the remainder of the Riverfront Vision Plan. The City dodged a bullet in 2007 and 2008, as the project discussed tonight would have been a condominium. Commissioner Moore recommended Commissioner Mitchell take her concerns to City Council. Director Cronin explained that Staff time and funding were necessary. The City has been lucky to receive grants from the State to fund consultant time for the previous sections of the Plan. Staff has contacted the Department of Land Conservation (DLCD) about the next round of grants, which will be awarded spring or summer of 2017. Additionally, Staff is working to complete City Council Goals from the last fiscal year. However, City Council has not set goals for the new fiscal year because one of last year's goals is a Strategic Plan.

Commissioner Moore thanked Staff for the Staff reports they prepared for tonight's public hearings.

PUBLIC COMMENTS:

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:24 pm.

APPROVED:

Community Development Director

STAFF REPORT AND FINDINGS OF FACT

September 20, 2016

TO: ASTORIA PLANNING COMMISSION

FROM: NANCY FERBER, PLANNER 

SUBJECT: PERMIT EXTENSION REQUEST ON CONDITIONAL USE PERMIT (CU03-04)
BY ELISABETH NELSON / ASTORIA CONSERVATORY OF MUSIC AT 1103
GRAND AVENUE

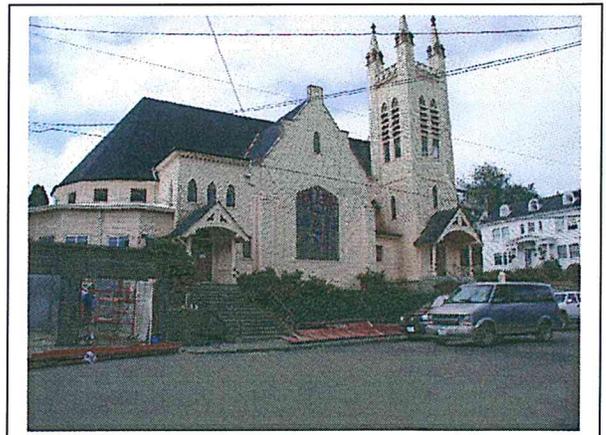
I. BACKGROUND SUMMARY

- A. Applicant: Elisabeth Nelson
Astoria Conservatory of Music
PO Box 81
Astoria OR 97103
- B. Owner: First Presbyterian Church
1103 Grand
Astoria OR 97103
- C. Location: 1103 Grand Avenue; Map T8N-R9W Section 8CD, Tax Lot 5700;
Lots 1, 2, 13, 14, Block 91, McClure's
- D. Zone: R-3 (High Density Residential)
- E. Permit: To locate a school of music as a Temporary Use in an existing
building; approved August 26, 2003
- F. Request: For a one year extension to August 26, 2017
- G. Previous Applications Required annual extensions since original permit in 2003

II. BACKGROUND

A. Subject Property

The subject property is located within the R-3 (High Density Residential), on the south side of Grand Avenue at 11th Street. The building is currently used as the First Presbyterian Church and associated offices and class rooms. The adjacent church hall is located on Harrison Avenue and 11th and is used by an aerobics class.



B. Original Permit.

At its August 26, 2003 meeting, the Astoria Planning Commission (APC) approved a Conditional Use Permit (CU03-04) by Elisabeth Nelson/Astoria Conservatory of Music to locate the music school as a temporary use in the existing church facility. The Findings of Fact and conditions as approved on August 26, 2003 are hereby incorporated as part of this document.

At its November 26, 2014 meeting, the APC approved a one year extension on the permit to August 26, 2015.

The Development Code previously stated that a permit was valid for one year unless an extension was granted. In a LUBA decision for Astoria, it was determined that extensions were limited to only one extension. On April 19, 2010, the City Council amended the Permit Extension portion of the Code to allow a permit to be initially valid for two years with multiple extensions and with no maximum for the number of years a temporary use permit would be valid. Permits approved prior to adoption of the Code are subject to the amended Code.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on September 2, 2016 and to parties on the Record pursuant to Section 9.100.B.3.b. A notice of public hearing was published in the *Daily Astorian* on September 20, 2016. Any comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

A. Development Code Section 3.240.A, Duration of Permits on Temporary Use, states that

- “1. *A temporary use permit shall expire one year from the date of Final Decision unless an extension has been granted.*
2. *Prior to permit expiration, the applicant may request extensions in accordance with Section 9.100(B.2.a & b) and 9.100(B.3 & 4). A permit remains valid, if a timely request for extension has been filed, until an extension is granted or denied.”*

Finding: The original permit was issued on August 26, 2003 under the previous Code on permit extensions. The permit has received one extension each year with the most recent extension to August 26, 2016. An application for extension was received on August 1, 2016 prior to the permit expiration and therefore the permit is still valid pending review of this request.

B. Section 9.100.B.1.c, Permit Extensions, states that *“One year extensions may be granted in accordance with the requirements of this Section as follows:*

1. Permit Extension Time Limit.

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

Finding: The permit is for a Temporary Use and therefore is not subject to the maximum number of permit extensions.

C. Development Code Section 9.100.B.2, Permit Extension Criteria states that *“The granting authority may grant a permit extension upon written findings that the request complies with the following:*

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

Finding: No major changes have been made to the original approved project. This criteria is met.

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

Finding: The Comprehensive Plan has been amended relative to formatting and the Buildable Lands Inventory but would not impact the proposed project approval. The Development Code sections concerning permit extensions have been amended but would not impact the proposed project approval. No other Development Code sections have been amended that are relevant to this project. This criteria is met.

Finding: The application meets the criteria to allow a one year extension to August 26, 2017.

D. Development Code Section 9.100.B.3 & 4 concerning Permit Extensions states that

“3. Permit Extension Procedures

- a. *Applications for permit extensions shall be submitted in accordance with the Administrative Procedures in Article 9. Permit extension requests shall be submitted to the Community Development Department prior to permit expiration.*
- b. *Public notice and procedures on applications for permit extension requests shall be in accordance with the Administrative Procedures in Article 9. However, in addition to mailed notice as*

required in Article 9, notice shall be provided also to those on the record for the original permit, associated appeals, and associated extensions.

- c. The Administrative decision, public hearing, and/or Commission/Committee decision concerning a permit extension may occur after the permit would have expired but for a timely filed request for a permit extension.*

4. Appeals.

The decision concerning a permit extension may be appealed. Appeals shall be made in accordance with Administrative Procedures in Article 9. Appeals on permit extensions shall be limited to the issues relevant to the permit extension criteria only and not to issues relevant to the original permit approval.”

Finding: The applicant applied for the extension on August 1, 2016 prior to the expiration of the permit. Notices were mailed as noted in Section II above. The original permit was not appealed.

V. CONCLUSION

The request, in balance, meets all the applicable review criteria. Staff recommends approval of the request with the following conditions:

- 1. The Findings of Fact and conditions as approved on August 26, 2003 shall remain applicable to this permit extension.

The applicant should be aware of the following requirement:

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



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

Original Permit No. CU03-04

Fee: \$100.00 ^{Paid 8-1-16}

PERMIT EXTENSION & RENEWAL APPLICATION

Property Address: 1103 Grand

Lot 1, 2, 13, 14 Block 91 Subdivision McClure

Map 8CD Tax Lot 5700 Zone R-3

Applicant Name: Elisabeth Nelson

Mailing Address: PO Box 81

Phone: 503-325-4014 Business Phone: 503-325-3237 Email: lisa@astoriainmusic.com

Property Owner's Name: First Presbyterian Church of Astoria

Mailing Address: 1103 Grand Ave.

Business Name (if applicable): Astoria Conservatory of Music

Signature of Applicant: Elisabeth Nelson Date: 8/1/16

Signature of Property Owner: see attached - Date: _____

Approved Permit to be Extended: CU03-04

Date of Original Approval: 8-26-03

Proposed One Year Extension Date: 8-26-17

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

Continue use to operate a school of music in existing commercial building - one year extension request

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

<i>For office use only:</i>			
Application Complete:	<u>8-1-16</u>	Permit Info Into D-Base:	<u>staff</u>
Labels Prepared:	<u>9-4-16</u>	Tentative Meeting Date:	<u>9-27-16</u>
120 Days:	<u>11-28-16</u>		



CITY OF ASTORIA
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 COMMUNITY DEVELOPMENT

CITY OF ASTORIA

AUG 17 REC'D

Original Permit No. CU 03-04

BUILDING CODES
 Fee: \$100.00

PERMIT EXTENSION & RENEWAL APPLICATION

Property Address: 1103 Grand

Lot _____ Block _____ Subdivision _____

Map _____ Tax Lot _____ Zone _____

Applicant Name: Elisabeth Nelson

Mailing Address: PO Box 81

Phone: 503-325-4014 Business Phone: 503-325-3237 Email: lisa@astoriainusic.com

Property Owner's Name: First Presbyterian Church of Astoria

Mailing Address: 1103 Grand Ave.

Business Name (if applicable): Astoria Conservatory of Music

Signature of Applicant: Elisabeth Nelson Date: 8/1/16

Signature of Property Owner: x Janice Wall - secretary Date: 8/17/16

Approved Permit to be Extended: _____

Date of Original Approval: _____

Proposed One Year Extension Date: _____

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

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

<i>For office use only:</i>			
Application Complete:		Permit Info Into D-Base:	
Labels Prepared:		Tentative Meeting Date:	
120 Days:			



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT

April 19, 2016

TO: ASTORIA PLANNING COMMISSION

FROM: KEVIN A. CRONIN, AICP, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: AMENDMENT REQUEST (A16-01) BY COMMUNITY DEVELOPMENT DIRECTOR TO AMEND ARTICLE 9 – ADMINISTRATIVE REVIEW PROCEDURES IN DEVELOPMENT CODE

I. BACKGROUND SUMMARY

- A. Applicant: Kevin A. Cronin, AICP
Community Development Department
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Astoria Development Code to update and streamline the administrative review procedures for types of land use applications.
- C. Location: Citywide
- D. Concurrent Application: A16-02 Affordable Housing Amendments

II. BACKGROUND

Article 9 of the Development Code describes administrative procedures for reviewing land use applications. This section has not been substantially updated, but has had specific amendments to implement other adopted plans such as a historic preservation ordinance (2013), solar energy standards (2013), and the Transportation System Plan (2014). The City Council adopted a FY 15-16 goal to... “promote positive economic development through strengthening partnerships and streamlining processes.” The proposed amendments streamline and categorize types of applications for easier processing. Specifically, it creates a shared set of expectations between the applicant and city staff for how the City processes certain applications from “over the counter” review to legislative amendments such as this request.

The proposed Development Code text amendments include:

1. A new reference table that categorizes all land use applications from Type I through Type IV with differing levels of review requirements. Currently, this section is silent on types of applications and does not list the various zoning related applications that are required for review.
2. Add a section that spells out the Community Development Director's roles and responsibilities. Although these roles are commonplace in planning departments, not all customers are aware of these expectations and shine a level of transparency to the process for applicants.
3. Add a zoning checklist for incoming applicants to encourage a thorough and smooth application submittal and create a shared set of expectations from the pre-application phase to when the applicant submits a full application. A checklist does not exist and was identified as a simple tool to help both staff and applicants track the requirements for each application that may have different needs. An example is attached for reference.
4. Increase the notice radius requirement from 100 to 200 feet for most applications and add an onsite notice provision to encourage transparency and communication in the land use process. Currently, only property owners receive notice. On site notice conveys information to renters and the larger neighborhood to engage in the planning process.
5. Make miscellaneous "housekeeping" amendments related to references to the above noted amendments.

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

The Planning Commission held two work sessions open to the public on February 23 and March 22 where the Commission reviewed the purpose and intent and proposed code amendments. In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on April 19, 2016. The proposed amendment is legislative (Type IV) as it applies citywide. Finally, notice of Planning Commission meetings is also broadcast via email to those on an interested parties list.

B. City Council

The City Council is expected to hold a public hearing on May 16, 2016 if the Planning Commission recommends approval of the code amendments.

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 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.*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 9 concerning Administrative Procedures. The amendment would create new categories for all land use applications and streamline the development review process. The proposed amendments are applicable to the entire Development Code and therefore a citywide regulation. Processing as a legislative action is required.

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 Council adopted a FY 15-16 goal to streamline the development process. As part of a larger evaluation of the development review process, the Community Development Director identified needed changes to Article 9 to implement the goal and has initiated the text amendment.

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

Finding: The proposed amendments create streamlined development review standards to encourage a compact urban form. The proposed ordinance is intended to provide the guidance to help achieve these goals through the overall development review process.

3. 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: The Planning Commission has held two work sessions over the last two months with notices sent to interested parties via an email list, and posted to the City website. Anyone interested in the proposed changes was encouraged to submit suggestions and comments. In addition, the proposed changes include a wider notice radius and on site notice for quasi-judicial hearings (Type III).

- 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 does not directly address or impact land and water use needs. However, streamlining the development review process will facilitate the redevelopment of private properties and indirectly encourage the use of more land.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code as well as implements a City Council goal. Staff recommends that the Planning Commission recommend adoption of the proposed amendments to the City Council and schedule a public hearing to take public comment.

ARTICLE 9

ADMINISTRATIVE PROCEDURES

9.010 Application Information and General Review Procedures 9 - 1
9.015 Community Development Director Duties..... 9 - 7
9.020 Public Notice 9 - 38
9.030 Quasi - Judicial Public Hearing Procedures and Requirements.. 9 - 610
9.040 Appeals 9 - 105
9.050 Final Action on Application for Permit or Zone Change
Request 9 - 173
9.060 Compliance with Conditions of Approval 9 - 183
9.070 Limitations on Refiling of Application..... 9 - 183
9.080 Filing Fees 9 - 183
9.090 Additional Costs 9 - 183
9.100 Time Limit on Permits..... 9 - 183

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.

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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 1-4 below. Table 9.010 lists the City's land use and development approvals and corresponding review procedure(s).

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1. Type I Procedure (Staff Review – Zoning Checklist). Type I decisions are made by the City Planning Official, 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).

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2. Type II Procedure (Administrative/Staff Review with Notice). Type II decisions are made by the City Planning Official, with public notice and an opportunity for appeal to the

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Planning Commission. Alternatively the City Planning Official may refer a Type II application to the Planning Commission for its review and decision in a public meeting.

3. Type III Procedure (Quasi-Judicial Review – Public Hearing). Type III decisions are made by the Planning Commission 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.

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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.

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Table 9.010 – Summary of Approvals by Type of Review Procedure

Approvals**	Review Procedures	Applicable Regulations
Zoning Checklist Review*	Type I	Applicants are required to complete a Zoning Checklist before applying for any permit or approval. See Section 9.010.A.4
Access to a Street	Type I	Article 3.005 and the standards of the applicable roadway authority (City/County/ODOT)
<u>Accessory Dwelling Unit</u>	Type I	<u>Section 3.020</u>
Annexation	Type IV	See Oregon Revised Statute 222
Appeal	Type II-IV	Article 9.040
Code Text Amendment	Type IV	Article 10.070
Comprehensive Plan Amendment	Type IV	Article 9.10.050
Conditional Use Permit	Type III	Article 11.1
Design Review (Gateway Overlay)	Type III	Article 14
<u>Historic Properties</u>		
Demolition	Type II, III	Article 6.080
Exterior Alteration	Type II, III	Article 6.050
Landmark Designation	Type III	Article 6.040
Historic District Establishment	Type IV	Article 6.030
Historic Designation Removal	Type I	ORS 197.772
New Construction	Type III	Article 6.070
Erosion Control & Grading	Type I	Article 3.305
Extension Request	Type I, II, III	Article 9.100
Home Occupation		Class A: No permit Class B: Type II See Article 3.095
Legal Lot Determination	Type I	Article 1.350
Master Planned Development*		
— Concept Plan	Type III	Article 10.070
— Detailed Plan	Type III	Article 10.070
Miscellaneous Review	Type III	Article 8.080

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Table 9.010 – Summary of Approvals by Type of Review Procedure		
Approvals**	Review Procedures	Applicable Regulations
Modification to Approval or Condition of Approval	Type I, II or III	Article 10
Non-Conforming Use or Structure, Expansion of	Type I, II or III	Article 3.180-3.200
<u>Parking Exception</u>	<u>Type II</u>	<u>Article 7.062</u>
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Type III Type I	Article 13.200 & 13.300 Article 13.120
Property Line Adjustments, including Lot Consolidations*	Type I	Article 13.120
<u>Microwave Satellite Dish</u>	<u>Type I, III</u>	<u>Article 3.150</u>
<u>Sign</u>	<u>Type I, II, III</u>	<u>Article 8.060</u>
Site Design Review*	Type II or III	Article X
Subdivision or Replat of >3 lots Preliminary Plat Final Plat	Type III Type I	Article 13.100 Article 13.130
<u>Wireless Communication Facility</u>	<u>Type II, III</u>	<u>Article 15.090</u>
Variance Zoning Map Change	Type II Type III or IV	-Article 12.060 Article 10.050, 10.070

**New Additions to Administrative Procedures

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*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.

City of Astoria
Development Code

A. Content.

An application for a land use action or permit shall consist of:

1. A complete application form and all supporting documents and evidence, including a site plan, elevations, and other pertinent information related to the subject property or structure.
2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property. A notarized signature of the property owner may be required to verify consent.
3. Legal description of the property affected by the application.
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.

B. Submittal.

A complete application and all supporting documents and evidence must be submitted at least 28 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.

C. Complete Application.

If the application is complete when first submitted, or the applicant submits the requested additional information within 180 days from the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time a complete application was first submitted.

D. Incomplete Application.

If an application for a permit or zone change is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. -The applicant shall be given the opportunity to submit the additional information required. -The application shall be deemed complete upon receipt of the additional information required. -If the applicant refuses to submit the required additional information, the application shall be deemed complete on the 31st day after the governing body first received the application.

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City of Astoria
Development Code

E. 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)

F. Staff Report.

Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.

(Section 9.010.F amended by Ordinance 14-03, 4-21-14)

G. Pre-Application Meeting.

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

(Section 9.010.G added by Ordinance 13-10, 11-4-13; Amended by Ordinance 14-03, 4-21-14)

H. Determination of Permit Process.

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

(Section 9.010.H added by Ordinance 13-10, 11-4-13; amended by Ordinance 14-03, 4-21-14)

I. Applications for Development Review.

1. Applications for development review may be initiated by one or more of the following:

a. One or more owners of the property which is the subject of the

City of Astoria
Development Code

application; or

- b. One or more purchasers or representatives of such property who submit a written approval of the property owner; or
- c. One or more lessees in possession of such property who submits written consent of one or more owner's to make such application; or
- d. Person or entity authorized by the Board or Commission; or
- e. A Department of the City of Astoria when dealing with land involving public works, parks, economic development, or other City projects; or
- f. A public utility or transportation agency, when dealing with land involving the location of facilities necessary for public service; or
- g. Any of the above may be represented by an agent who submits written authorization by his principal to make such application.

(Section 9.010.I added by Ordinance 14-03, 4-21-14)

J. Coordinated Review.

- 1. In addition to the general notice provisions set forth in Section 9.020, the City shall invite the Oregon Department of Transportation (ODOT) and/or any other transportation facility and public and utility service providers potentially affected by the application to pre-application conferences, as applicable. The City shall provide notice of a public hearing or an administrative action to potentially affected transportation facility and service providers.
- 2. Coordinated review of applications with ODOT and/or any other applicable transportation facility and service providers may also occur through Traffic Impact Study provisions, pursuant to Subsection 3.015.A.5.

(Section 9.010.J added by Ordinance 14-03, 4-21-14)

9.015. Community Development Director Duties. The Community Development Director, or designee, shall perform all of the following duties with regard to administration of this Code:

- A. Prepare application forms based on the provisions of this Code and applicable state law;
- B. Prepare required notices and process applications for review and action;

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City of Astoria
Development Code

- C. Assist the Historic Landmarks Commission, Design Review Commission, Planning Commission and City Council in administering the hearings process;
- D. Answer questions from the public regarding the City's land use regulations;
- E. Prepare staff reports summarizing pending applications, including applicable decision criteria;
- F. Prepare findings consistent with City decisions on land use and development applications;
- G. Prepare notices of final decisions, file the notices in the City's records, and mail a copy of the notices to all parties entitled to notice under this Code; and
- H. Maintain and preserve the file and public record for each application.

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9.020. PUBLIC NOTICE.

A. Mailed Notice - Content.

A notice of a public hearing or an administrative action shall contain the following information:

1. The name of the applicant.
2. The date, time, place of hearing and who is holding the public hearing, or conducting the administrative action.
3. The street address or other easily understood geographical reference to the subject property.
4. The nature of the application and the proposed use or uses which could be authorized.
5. A list of the applicable criteria from the Development Code and Comprehensive Plan that apply to the application at issue.
6. A statement that a failure to raise an issue in person or by letter precludes appeal and that failure to specify which criterion the comment is directed precludes an appeal based on that criterion.
7. A statement describing where the complete application, criteria and other relevant information is available for review, how written comments may be

City of Astoria
Development Code

submitted, applicable appeal procedures, and the name of a representative to contact and the telephone number where additional information may be obtained.

8. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
9. A statement that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost.
10. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

B. Mailed Notice - Distribution, Time Requirements.

1. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:
 - a. Legislative amendment to the Development Code text or Land Use and Zoning Map - None.
 - b. Quasi-judicial amendment to the Development Code text or Land Use and Zoning Map - 4200 feet.
 - c. Conditional Use - 2400 feet.
 - d. Variance - 2400 feet.
 - e. Miscellaneous Review - 2400 feet.
 - f. Historic Property Exterior Alterations, New Construction, Demolition or Moving Permits - 2400 feet.
 - g. Historic District Establishment - Owners of property abutting or within the boundaries of the proposed District.
(Section 9.020(B.1.g) amended by Ordinance 13-10, 11-4-13)
 - h. Appeals - Parties to the record.
 - i. Design Review - 2400 feet.
(Section 9.020(B.i) added by Ordinance 98-04, 5-4-98)

City of Astoria
Development Code

- j. Wireless Communication Facility – 500 feet.
(Section 9.020(B.1.j) added by Ordinance 13-10, 11-4-13)
- k. Solar Facility, Administrative Conditional Use – 100 feet.
(Section 9.020(B.1.k) added by Ordinance 13-10, 11-4-13)
- l. Solar Facility, Planning Commission Conditional Use – 250 feet.”
(Section 9.020(B.1.l) added by Ordinance 13-10, 11-4-13)

- 2. Addresses for a mailed notice required by this Code shall be obtained from the County Assessor's real property tax records. Failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice. In addition to persons to receive notice as required by the matter under consideration, the Community Development Director may provide notice to others he has reason to believe are affected or otherwise represent an interest that may be affected by the proposed action.
- 3. Notice shall be mailed not less than 20 days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 days prior to the first evidentiary hearing.

(Section 9.020(B.2.3 & 4) amended and renumbered by Ordinance 13-10, 11-4-13)

C. Published Notice.

Notice shall be given for any proposed quasi-judicial (Type III) or legislative (Type IV) land use action by publication in a newspaper of general circulation in the City of Astoria.

- D. 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.

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9.030 QUASI-JUDICIAL PUBLIC HEARING PROCEDURES AND REQUIREMENTS.

A. Procedural Entitlements.

Article 9 - Page 10

(Adopted 10-8-92)

City of Astoria
Development Code

The following procedural entitlements shall be provided at the public hearing:

1. An impartial review as free from potential conflicts of interest and prehearing *ex parte* contact as is reasonably possible.
2. No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:
 - a. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
 - b. The member has a direct private interest in the proposal.
 - c. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.
3. Body Members shall reveal any prehearing or *ex parte* contacts with regard to any matter and shall state the parties right to rebut the substance of the communication at the commencement of the first public hearing following the prehearing or *ex parte* contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations.
4. A party to a hearing, or a member of a hearing body, may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, *ex parte* contact or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion.
5. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the

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City of Astoria
Development Code

nature and extent of each interest.

6. A reasonable opportunity for those persons potentially affected by the proposal to present evidence.
7. A reasonable opportunity for rebuttal of new material.

B. Rights of Disqualified Member of the Hearing Body.

1. An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents his or her own personal interests at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.
2. Except for hearings on legislative actions conducted by the governing body, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

C. Burden and Nature of Proof.

The burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.

D. Nature of Proceedings.

An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

1. Before receiving testimony on the issue, the following shall be addressed:
 - a. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.
 - b. Any abstentions or disqualification based on conflict of interest, personal bias, or ex parte contacts, shall be determined. Parties to the hearing shall have the opportunity to rebut the substance of an ex parte communication.
 - c. A statement by the chairperson presiding that:

City of Astoria
Development Code

- 1) Testimony and evidence must be directed toward the applicable criteria.
 - 2) Failure to address a criterion during the hearing precludes an appeal based on that criteria.
 - d. Staff, in the context of a staff report, will describe the applicable criteria against which the application will be reviewed.
2. Presentations and Evidence.
- a. The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.
 - b. The presiding person may set reasonable time limits for oral presentations. The presiding person may determine not to receive cumulative, repetitive, immaterial or abusive testimony.
3. Evidence shall be received from staff and from proponents and opponents.
- a. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs.
 - b. Members of the hearing body may take official notice of judicially cognizable facts of a general, technical or scientific nature. Such notice shall be stated and may be rebutted.
 - c. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. If the request to ask a question is approved, the presiding officer will direct the question to the relevant person, unless the presiding officer specifies otherwise.
4. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. The time and date when the hearing is to resume may be announced.
5. When the hearing has been closed the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.
- a. No testimony shall be accepted after the close of the public hearing unless the hearing body provides an opportunity for review and rebutting of that testimony.
6. Unless there is a continuance, if a participant so requests before the

City of Astoria
Development Code

conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178.

7. When the hearing body reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.

E. Decision.

Following the procedure described in Section 9.030, the hearing body shall approve, approve with conditions, or deny the application. If the hearing is in the nature of an appeal, the body may affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.

1. The decision of the hearing body shall be by a written order signed by the entire hearing body present voting for the order.
2. The order shall incorporate findings of fact and conclusions that include:
 - a. A statement of the applicable criteria and standards against which the proposal was tested.
 - b. A statement of the facts upon which the hearing body relied in establishing compliance or noncompliance with each applicable criteria or standard, briefly stating how those facts support the decision.
 - c. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.
3. The written order is the final decision in the matter and the date of the order is the date that it is mailed.

F. Record of Proceedings.

The proceedings shall be recorded stenographically or electronically.

1. The hearing body shall, where practicable, retain as part of the hearing records, each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.

City of Astoria
Development Code

2. The findings shall be included in the record.
3. A person shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

G. Notice of Decision.

Notice of decision by a hearing body shall be provided to all parties to the hearing. The notice of the decision shall include:

1. A brief description of the decisions reached.
2. A statement that the decision may be appealed by filing an appeal within 15 calendar days of the date that the final order was mailed.
3. A description of the requirements for an appeal, including the type of appeal that may be requested.
4. A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing.
5. A statement that the complete case, including the final order is available for review at the City.

9.040. APPEALS.

A. Administrative Permit.

A decision on the issuance of an administrative permit or action concerning a land use matter may be appealed to the Commission by the applicant or by a party who responded in writing to the notice of the proposed development by filing an appeal with the Community Development Director within 15 days of the mailing of the decision Order. The notice of appeal that is filed with the City shall indicate the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

B. Commission or Committee Decision.

A decision of the Commission or Committee concerning a quasi-judicial land use matter may be appealed to the City Council by the applicant, a party to the hearing, or by a party who responded in writing, by filing an appeal within 15 days of the mailing of the Order. The notice of appeal filed with the City shall contain the information outlined in Section 9.040(D).

City of Astoria
Development Code

(Section 9.040(B) amended by Ordinance 98-04, 5-4-98)

C. Commission Recommendation.

In cases involving textual changes to the Development Code or Comprehensive Plan, or changes to the Land Use and Zoning Map, where the Commission action is limited to making a recommendation to the City Council, the recommendation is not subject to appeal. A final decision on the part of the City Council is, however, appealable to the Land Use Board of Appeals (LUBA).

D. Contents of Appeal.

A request for appeal of a Commission or Committee decision shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision.
2. A statement of the interest of the person seeking review and that he was a party to the initial proceedings.
3. The specific grounds relied upon for the review, including a statement that the criteria against which review is being requested were addressed at the Commission or Committee hearing.

(Section 9.040(D) amended by Ordinance 98-04, 5-4-98)

E. Review on the Record.

1. If an appeal is confined to the record of the proceeding, the record shall include:
 - a. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
 - b. The final order and findings of fact adopted in support of the decision being appealed.
 - c. The request for an appeal filed by the appellant.
 - d. The minutes of the public hearing.
2. Public notice shall indicate the date, time and place of the review and the issues that are the subject of the review.

City of Astoria
Development Code

3. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.
4. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.
5. The appellant shall bear the burden of proof.

F. Review Consisting of Additional Evidence or De Novo Review.

1. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing.
2. Hearings on appeal, either de novo or limited to additional evidence on specific issues, shall be conducted in accordance with the requirements of Section 9.030.

G. Review Body Decision.

1. Upon review, the reviewing body may affirm, reverse, or modify the decision of the lower body or staff.
2. Notice of the reviewing body decision shall be provided to all parties to the hearing. The notice of the decision shall include:
 - a. A brief description of the decision reached.
 - b. A statement that the decision may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days.
 - c. A statement that the complete case, including the final order is available for review at the City.

9.050. FINAL ACTION ON APPLICATION FOR PERMIT OR ZONE CHANGE REQUEST.

The City shall take final action on an application for a permit or zone change within 120 days of the receipt of a complete application including resolution of all appeals. The 120 day period does not apply to an amendment to the Comprehensive Plan or Development Code, or the adoption of a new land use regulation. At the request of the applicant, the 120 day period may be extended for a reasonable period of time.

City of Astoria
Development Code

9.060. COMPLIANCE WITH CONDITIONS OF APPROVAL.

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.

9.070. LIMITATIONS ON REFILEING OF APPLICATION.

Applications for which a substantially similar application has been denied will be heard by the Planning Commission only after a period of six (6) months has elapsed from date of the earlier decision, unless the Planning Commission finds that special circumstances justify earlier reapplication.

9.080. FILING FEES.

A schedule of permit fees shall be established by resolution and paid to the City upon the filing of an application. Such fees shall not be refundable.

9.090. ADDITIONAL COSTS.

Where the City Manager deems it necessary, in the interest of public health, safety or welfare, to incur additional costs, such as the hiring of independent geotechnical experts or other technical expertise during the course of land use proceedings, such costs shall be borne by the applicant or appellant, as determined by the City Manager. Such costs shall not exceed actual costs.

9.100. TIME LIMIT ON PERMITS.

A. Duration of Permits.

1. Except as otherwise provided in this Code, a permit shall expire two years from the date of Final Decision unless substantial construction has taken place or use has begun. However, extensions for permits may be granted as provided in this section. A permit remains valid, if a timely request for extension has been filed, until an extension is granted or denied with the following limitations:
 - a. Any work completed by the applicant after the date the permit would have expired, but for the extension request, is at the applicant's own risk; and
 - b. Any work completed after the date the permit would have expired shall not be considered in determining if substantial construction has been completed until a permit extension has been granted; and

City of Astoria
Development Code

- c. No additional building and/or use permits associated with the permit may be issued until an extension has been granted.

2. Phased Permits.

- a. The initial phase of a phased permit and/or project shall expire two years from the date of Final Decision unless substantial construction or use has begun.
- b. Additional phases of an approved phased permit and/or project shall expire two years from the date of completion of construction for the previous phase, unless substantial construction or use has begun on that subsequent phase. Completion of construction of a phase shall be determined by issuance of a temporary and/or final Certificate of Occupancy from the Building Official.

B. Permit Extensions.

Permit extension may be granted for all land use permits. Extensions may also be granted for time limits applicable to non-conforming buildings and/or non-conforming uses located over water between 16th and 41st Streets as described in Sections 3.180.D and 3.190.F. One year extensions may be granted in accordance with the requirements of this Section as follows:

(Section 9.100.B amended by Ord 14-09, 10-6-14)

1. Permit Extension Time Limit.

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

Article 9 - Page 19

(Adopted 10-8-92)

City of Astoria
Development Code

2. Permit Extension Criteria.

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

- a. The project proposal has not been modified in such a manner as to conflict with the original findings of fact for approval; and
- b. The proposed project does not conflict with any changes to the Comprehensive Plan or Development Code which were adopted since the last permit expiration date; and
- c. The applicant has demonstrated that progress has been made on the project since the date of the original decision on the permit with regard to items such as, but not limited to:
 - 1) Submittal of permit applications to City, State and Federal agencies;
 - 2) Contracts for geologic or other site specific reports have been signed and are in effect;
 - 3) Project site and/or building engineering, architectural design, or construction has begun.
- d. In lieu of compliance with Section 2.c above, the applicant may demonstrate that poor economic conditions exist in the market that would advise against proceeding with the project.

3. Permit Extension Procedures.

- a. Applications for permit extensions shall be submitted in accordance with the Administrative Procedures in Article 9. Permit extension requests shall be submitted to the Community Development Department prior to permit expiration.
- b. Public notice and procedures on applications for permit extension requests shall be in accordance with the Administrative Procedures in Article 9. However, in addition to mailed notice as required in Article 9, notice shall be provided also to those on the record for the original permit, associated appeals, and associated extensions.
- c. The Administrative decision, public hearing, and/or Commission/Committee decision concerning a permit extension may occur after the permit would have expired but for a timely filed request

Article 9 - Page 20

(Adopted 10-8-92)

City of Astoria
Development Code

for a permit extension.

4. Appeals.

The decision concerning a permit extension may be appealed. Appeals shall be made in accordance with Administrative Procedures in Article 9. Appeals on permit extensions shall be limited to the issues relevant to the permit extension criteria only and not to issues relevant to the original permit approval.

C. Amendments to Existing Permits.

When an approved permit is amended, the following shall apply concerning the Final Decision date for the permit:

1. If the amendment requires public notice as a land use decision, the Final Decision date of the amendment shall apply to the entire permit; or
2. If the amendment is a minor administrative decision and does not require public notice as a land use decision, the Final Decision date of the original permit, including any extensions, shall continue as the Final Decision date for the entire permit.

(Section 9.100, amended by Ordinance 10-06, 4-19-10)

STAFF REPORT AND FINDINGS OF FACT

April 19, 2016

TO: PLANNING COMMISSION

FROM: KEVIN A CRONIN, AICP, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: AMENDMENT REQUEST (A16-02) BY COMMUNITY DEVELOPMENT DIRECTOR TO THE DEVELOPMENT CODE CONCERNING USES WITHIN THE R-x AND C-x Zones.

I. BACKGROUND SUMMARY

A. Applicant: Kevin A. Cronin, AICP
Community Development Director
City of Astoria
1095 Duane Street
Astoria, OR 97103

B. Request: Amend the Development Code to include definitions for tiny homes and townhouses, adding standards for attached single family units, adding flexibility for front yard setback for historic building patterns, removing restrictions for accessory dwelling units (ADUs), and allowing “tiny homes” as ADUs.

Development Code Sections: Article 1: Definitions, Article 2: R-1, R-2, R-3, C-1, C-3, C-4, & Article 3: Accessory Dwelling Units

C. Location: Citywide

D. Zone: Multiple (see above)

E. Previous Applications: A concurrent application (A16-01) is being heard by the Planning Commission to amend Article 9 – Procedures.

II. BACKGROUND

The Astoria Development Code (Code) outlines what is allowable in each zoning district with specific standards to implement the zone, including: density, lot size, setbacks, lot coverage, and height. In addition to purely residential zones (R-x), the Development Code encourages a compact urban form through mixed use development in traditional commercial zones (C-x) which is the historic building pattern in Astoria and the rest of the country prior to WW II. The Code also allows accessory

dwelling units - also called “mother-in-law units” or “granny flats” – in certain zones under strict conditions.

The City Council set a FY 15-16 goal: “Promote housing that Astorians can afford.” As a result, the Community Development Department conducted a full analysis of housing in Astoria to provide policymakers a baseline of information on the local housing crisis. The “Housing Study” (2015) outlines a range of issues from population, household income, demographics, housing production, housing costs, local examples of affordable housing, and recommendations. City staff presented the study to the Planning Commission in August 2015 and City Council in September 2015 in a special work session and followed it up with a list of recommendations in November 2015 referred to as the ‘affordable housing strategy.’ The strategy included a “Problem Definition” that the Council has adopted to address the lack of housing opportunities for local residents and employers.

Regional supply is at an all-time low in every housing category and demand is at an all-time high as a result of the North Coast’s historically low unemployment rate among other factors (City/County Building Permits 2011-2016). With this backdrop, the Community Development Department has proposed a set of new zoning standards to achieve the goal of creating more housing supply. The following objectives will help achieve this goal:

- Reduce the minimum lot size from 5,000 to 4,500 SF. This will create more developable lots through 2-3 lot partitions from land that typically has a single-family detached dwelling. In many cases this is already happening through granting of 122 variances since 2009. The change codifies what is happening in practice.
- Create clear and objective standards for single family attached units (rowhouses/townhouses) for R-x zones. A case study (Attachment 2) illustrates two examples of each attached unit building type.
- Reduce minimum lots sizes for duplexes and multi-family units under certain conditions.
- Provide more flexibility in C-x zones to facilitate mixed-use development.
- Reduce the restrictions on accessory dwelling units to encourage more basement and garage conversions as well as for construction of new units built above new garages or as part of new single family detached construction.
- Allow and encourage “tiny homes” to be placed on a single family lot under certain conditions.

A summary table of the code revisions can be found on Attachment 1. The Planning Commission has held two work sessions (February 23 and March 22) to review the proposed revisions. If the APC recommends approval, the proposal will be forwarded to the City Council for consideration tentatively at their May 16, 2016 meeting.

III. PUBLIC REVIEW AND COMMENT

Planning Commission

A public notice was mailed to Neighborhood Associations and interested parties on April 5, 2016. In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on April 19, 2011. The proposed amendments are legislative as they apply citywide. Any comments received will be made available at the Planning Commission meeting.

IV. FINDINGS OF FACT

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

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

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

1. *An amendment to the text of the Development Code or Comprehensive Plan.*
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 various zones to encourage housing opportunities. The Code is applicable citywide in any of the proposed zones. Processing as a quasi-judicial action would be inappropriate.

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

1. CP.005(5) concerning 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 Comprehensive Plan and Development Code establish specific uses allowed in each zone. The evolving development pattern over the last 10 years has seen an increased need for affordable housing and a need for adaptive reuse of existing commercial properties. The

proposed amendments are aimed at addressing inconsistencies between residential and commercial zones to encourage more housing options.

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

CP. 015(2) concerning General Land and Water Use Goals states that *"It is a goal of the plan to encourage the development of public and private lands within the city limits, particularly areas that are presently serviced with sewer and water, prior to the extension of public facilities to areas outside the City."*

Finding: The proposed amendment would allow for continued compact urban form development of an area currently serviced by City utilities and maximizes the recent investments in stormwater treatment. The R-x and C-x zones that are under review allows residential uses and the ability to utilize land more efficiently, including existing commercial buildings, and would encourage redevelopment of vacant properties and houses. It will also allow almost all parts of a commercial building to be used reducing the amount of vacant space. In addition, the City's Buildable Lands Inventory (2011) indicates the supply of residential land is at a deficit of 15 acres. The proposed changes will allow Astoria to maximize existing land within the urban growth boundary (UGB) by encouraging infill and redevelopment of underutilized properties.

3. CP.220.5 concerning Housing Policies states that *"Low and moderate income housing should be encouraged throughout the City, and should not be concentrated in one area."*

CP.220.8 concerning Housing Policies states that *"Astoria's historic neighborhoods are recognized as some of the City's most significant assets, and should be protected through the Historic Preservation Ordinance, and other City actions to protect individual structures and neighborhoods. Wherever possible, renovation of existing structures should be carried out in lieu of demolition or new construction."*

Finding: The ability to use land efficiently will allow property owners to partition lots and use the proceeds to finance improvements to existing historic structures. It would also allow adaptive reuse of existing buildings providing income for the building owners and in turn will facilitate restoration and maintenance of historic buildings in the various zones.

Finding: The request is consistent with the Comprehensive Plan as a result of the findings stated above.

- D. Statewide Planning Goal 12 concerning Transportation requires that cities review transportation related issues when considering land use amendments. Oregon Administrative Rules (OAR) Section 660-012-0060(1) concerning Transportation Planning Rule (TPR) - Plan and Land Use Regulation Amendments stated that *“Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in Section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. . .”* The OAR text continues to identify the requirements for compliance with the TPR and specific review that must be made to show compliance. The full text is not copied in this staff report but is available upon request.

Finding: The proposed amendments in total encourage infill and redevelopment thereby encouraging a compact urban form that facilitates alternative transportation options. Residential use on most floors is allowed as an outright use in most zones. The amendments primarily would only change the parameters for lot sizes and density requirements. Therefore, the traffic impact would be minimal for any residential use regardless of the proposal as long as it is consistent with the zoning code. The proposed amendment codifies attached single family units that is already being built and apply it to R-x zones. Therefore it should not impact the transportation facilities in and adjacent to the proposed zones. Finally, the Transportation System Plan (2013) contemplated the development of a compact urban form on the overall service levels and by policy encourages infill and redevelopment. The amendment is not subject to review under the TPR.

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

Finding: The proposed amendment would allow expanded residential use within the R-x and C-x zones that would be similar to other allowable uses within the zone. Existing utilities and services are available for this type of use. Reuse of the underutilized portions of properties and buildings would be consistent with the compact urban form of development the City needs to conserve land area for development within the UBG. 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 approval of the proposed amendment to the City Council for a public hearing, review, and adoption.

3.020. ACCESSORY DWELLING UNITS (ADUs).

A. Purpose.

The purpose of this Section is to promote more efficient use of large, older homes; provide more affordable housing; allow individuals and smaller households to retain large, older houses as residences; and maintain the single-family character of the house and neighborhood.

B. Standards.

1. Size.

a. Primary Structure.

A house with an Accessory Dwelling Unit must have at least 1,400 square feet of floor area prior to creation of the Accessory Dwelling Unit. The floor area of the garage or other non-living space, such as an unfinished basement, may not be used in the calculation of the total square footage. ~~Any finished area used to determine floor area of the primary unit must have been completed at least ten years prior to the application for an Accessory Dwelling Unit. This date shall be determined by proof to be submitted by the applicant, such as the final inspection report date of a building permit.~~

b. Accessory Dwelling Unit.

An Accessory Dwelling Unit shall not exceed 40% of the primary structure or 800 square feet in size, whichever is smaller.

2. Creation of the Unit.

a. The Accessory Dwelling Unit may be created ~~only~~ through an internal conversion of an existing living area, basement, attic, other existing attached accessory buildings, ~~such as a garage, or areas over attached or detached garages.~~ New units can be built in new garages. ~~Accessory Dwelling Units shall not be permitted in structures detached from the primary residence, including but not limited to guest cottages, detached garages, or workshops.~~

b. To differentiate an Accessory Dwelling Unit from a two-family dwelling, all utilities such as water, electric, or gas, shall remain as single service utilities. -The Accessory Dwelling Unit shall not have its own utility services, except if the separate services existed prior to January 1, 2004. This does not apply to utilities providing

service to communication devices such as telephone, television, and other communication devices.

- c. An Accessory Dwelling Unit shall be subordinate to the existing single-family dwelling and may not be subdivided or otherwise segregated in ownership from the primary residence structure.
- d. Tiny Homes: A tiny home as defined in Article 1, Section 1.400 may be located on a single family lot and treated as an accessory dwelling unit. A tiny home must be mounted on a foundation, anchored to the foundation with hurricane straps, tie-downs or other engineered measures to withstand wind load, and hooked up to city utilities.

3. Location of Entrances.

In addition to the main entrance, one entrance to the house for the ADU may be located on the side or rear of the house. An additional entrance shall not alter the appearance in such a way that the structure appears to be a two-family dwelling, unless the house contained additional front doors prior to the conversion.

4. Zones in Which Permitted.

Accessory Dwelling Units are permitted outright or conditional allowed as an accessory use to any existing single-family dwelling in all zones. Construction of new single family units with ADUs are also allowed and encouraged.

5. Owner Occupancy.

- a. The property owner shall occupy either the principal unit or the Accessory Dwelling Unit as their permanent primary residence, and at no time receive rent for the owner-occupied unit.
- b. The property owner shall provide a covenant or deed restriction in a form acceptable to the City and suitable for recording with the County, providing notice to future owners of the subject lot that the existence of the Accessory Dwelling Unit is predicated upon the occupancy of either the Accessory Dwelling Unit or the principal dwelling unit by the property owner.

6. Lot Size.

A home with an Accessory Dwelling Unit in the R-1 Zone (Low Density Residential) shall be located on a minimum lot size of 5,000 square feet. There is no minimum lot size for other zones.

7. Off-Street Parking Requirements.

In addition to the two spaces required for the primary unit, the Accessory Dwelling Unit shall have one additional off-street parking space. If on street parking is available on a city street, one space may be credited to the requirement of three total spaces.

8. Age of Home.

~~An Accessory Dwelling Unit may be allowed in homes originally constructed a minimum of 50 years prior to the application for the Accessory Dwelling Unit.~~

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C. Permits.

1. Permit Required.

A Type I permit is required for the establishment of an Accessory Dwelling Unit. The property owner shall submit an application to the Community Development Department on a form provided by the City.

2. Expiration of Permit.

An Accessory Dwelling Unit permit shall automatically expire if any of the following occurs:

- a. The Accessory Dwelling Unit is substantially altered and is no longer in conformance with the plans as approved by the Astoria Planning Commission, Community Development Director, and/or the Building Official; or
- b. The subject lot ceases to provide the approved number of parking spaces; or
- c. The property owner ceases to reside in either the principal or the Accessory Dwelling Unit.

D. Non-conforming Accessory Dwelling Units.

1. The portion of a single-family dwelling which meets the definition of Accessory Dwelling Unit which was in existence prior to January 1, 2004, may continue in existence provided the following requirements are met:
 - a. An application for an Accessory Dwelling Unit is submitted to the Community Development Department for review.
 - b. The Accessory Dwelling Unit complies with the minimum requirements of the Building Codes as adopted by the City of Astoria.
 - c. The Accessory Dwelling Unit complies with the requirements of this Section 3.020 concerning "Accessory Dwelling Units".
2. The Community Development Director may approve a permit submitted for a non-conforming unit that does not meet all of the above requirements, except those relative to building code requirements, as follows:
 - a. The permit review shall be in accordance with Article 9 concerning Type II administrative decisions. The Community Development Department shall notify property owners of record in accordance with 9.010 to 9.020 at least twenty (20) days prior to the issuance of a permit for a Non-conforming Accessory Dwelling Unit. The notice shall set forth the standards required and the nature of the non-conformity.
 - b. Permits for a Non-conforming Accessory Dwelling Unit may be issued after the notice period by the Community Development Director where the Director has made written findings as follows:
 - 1) That full compliance would be impractical; -and
 - 2) That neither present nor anticipated future use of the unit reasonably require strict or literal interpretation and enforcement of the requirements of this code; and
 - 3) That the granting of the permit will not create a safety hazard.
3. A decision of the Community Development Director may be appealed to the Planning Commission in accordance with 9.040.

(Section 3.020 Added by Ordinance 04-10, 11/1/04)

Additions to Definitions Section of Development Code

Article 1: Section 1.400

Tiny Home: An accessory dwelling unit that is less than 500 square feet, a manufactured dwelling constructed off site according to Section 1.400, and either certified by HUD manufactured dwelling standards for permanent living or through Recreation Vehicle Industry Association safety standards for temporary living. A minimum of 150 square feet per occupant shall be required up to two occupants maximum per tiny home.

Townhouse: One of a continuous row of dwellings having at least three distinct architectural features and style, such as color, form, and massing, having at least one common wall with its neighbor and on a fee simple lot per unit.

Comment [KC1]: Proposed additions to the Development Code require additions to the definition section.

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