

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:00 pm.

Councilors Present: Brownson, Rocka, Herman, West, and Mayor Jones (via telephone).

Councilors Excused: None

Staff Present: City Manager Estes, Contract Planner Morgan, Contract Planner Johnson, Parks and Recreation Director Williams, Finance Director Brooks, Fire Chief Crutchfield, Police Chief Spalding, Public Works Director Harrington, City Engineer Moore, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

## **PRESENTATIONS**

### **Item 3(a): 2020 Census Presentation**

Mark Czornij Partnership Specialist, Oregon Community Partnership and Engagement Program, United States Census Bureau, gave a presentation on the 2020 Census via PowerPoint, noting that handouts were available at the dais. He reviewed census goals and objectives; the importance and use of census data; recent census data specific to Astoria and the surrounding area; challenges that impact collecting data accurately; details about current data collection methods; privacy and confidentiality of the data collected; and information about local ambassador groups that help with outreach.

Mayor Jones said recently, Governor Brown signed a bill outlawing single-family zoning in cities with over 10,000 people and requiring those cities to allow multi-family dwellings in previously single-family zones. City Manager Estes added that in addition to the new legislation, there are other requirements, particularly for Public Works, that apply when the population of a city increases above 10,000. Astoria would become responsible for additional infrastructure.

## **REPORTS OF COUNCILORS**

**Item 4(a): Councilor Rocka** reported he spoke with Chief Spalding about a citizen concern. He appreciated that the Chief took the time to address that concern personally and completely. He attended the Regatta commemoration at the Maritime Memorial with Chief Spalding, Chief Crutchfield, and Director Pearson. He toured the Astoria Warehouse property and walked along the Riverwalk and downtown. He spoke with a disabled homeless person about the catch 22s he encountered as he tried to get help. He appreciated Nel Moffit and Rick Bowers for establishing relationships that make conversations like that possible and productive.

**Item 4(b): Councilor West** reported that Chief Spalding had helped her on a Sunday assisting a woman who was in a dangerous situation and looking for temporary housing. She previewed the City's new website at the August 8<sup>th</sup> work session, noting the site will be more user friendly. Representative Bonamici visited to talk about the 125<sup>th</sup> Regatta anniversary. She attended the first annual Chinook Tansey Point Treaty celebration on August 10<sup>th</sup> in Warrenton. The Chinook Tribe has just reacquired about 10 acres of land. Representatives of five different tribes attended the event. She also toured the Astoria Warehouse property.

**Item 4(c): Councilor Herman** reported that she attended the Regatta coronation and rode in Chief Crutchfield's command vehicle in the parade. She toured the Astoria Warehouse property as well. Her next Meet the Councilor event would be on Wednesday, August 28, 2019 from 4:30 pm to 6:00 pm in the Flag Room of the Library.

**Item 4(d): Councilor Brownson** reported that he toured the Astoria Warehouse. He was on the water during the Regatta. During the work session, Representative Bonamici read the congressional record on the Regatta. He introduced Astoria's new Planner, Barbara Fryer.



**Item 4(e): Mayor Jones** had no reports.

## **CHANGES TO AGENDA**

There were none.

## **CONSENT CALENDAR**

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of July 15, 2019
- 6(b) Trolley Barn Lease
- 6(c) Update of Memorandum of Agreement between City of Astoria Fire Department and United States Coast Guard Cutters regarding Fire Protection and Emergency Services at 17<sup>th</sup> Street Pier
- 6(d) Community Development Department Status Update

Councilor Rocka noted that in the minutes of the July 15, 2019 City Council meeting, Ron Maxstead was identified as Ron Maxwell. City Manager Estes confirmed the minutes would be corrected.

**City Council Action:** Motion made by Mayor Jones, seconded by Councilor Herman, to approve the Consent Calendar as corrected. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

## **REGULAR AGENDA ITEMS**

### **Item 7(a): Gillis/Stewardship Homes Appeal AP19-02**

On April 5, 2019, Stewardship Homes, LLC submitted a conditional use application (CU19-04) to locate a 5-room short-term lodging facility in an existing apartment building. The proposal would allow use of the five, one-bedroom units as short-term (less than 30-day) rentals. On May 21, 2019, Planning staff issued a staff report recommending denial of the application. On May 28, 2019, the Planning Commission conducted its first hearing on the application, after which they closed the evidentiary record and granted the applicant two weeks to submit final written argument. On June 11, 2019, the applicant submitted final written argument. On June 25, 2019, the Planning Commission deliberated and voted to deny the application. On July 12, 2019, the applicant appealed the decision (before the July 15, 2019 deadline), and August 19, 2019 was established as the hearing date before the City Council. The application was deemed complete on May 1, 2019, and the 120-day review period expires on August 28, 2019.

City Council will need to determine if the appeal will be "de novo" (meaning new testimony will be accepted) or "on the record" (meaning no new testimony will be accepted and the Council will only hear legal argument on the testimony already submitted).

Once the Council determines whether to hold a de novo or on the record hearing, it is recommended that the City Council conduct a public hearing and consider the appeal. The City Council may affirm, reverse or modify the decision of the Planning Commission.

Mayor Jones believed a de novo hearing should be conducted since this matter had not come before Council before. Councilors Rocka and Herman agreed, noting that additional testimony was already being submitted.

Councilor Brownson preferred to conduct an on the record hearing, but confirmed for the record that the consensus among Council was to conduct a de novo hearing.

Planner Morgan presented the written Staff report and noted that copies of recently received correspondence were available at the dais and at the table for the public.

Councilor Brownson opened the public hearing at 7:31 pm and asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. He asked if any members of Council had any conflicts of interest or ex parte contacts to declare. There were none. He 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 called for testimony from the Appellant.

Garrett Stevenson 1211 SW 5<sup>th</sup> Avenue, Suite 1900, Portland, Stewardship Homes, stated that if anyone asks for the record to be held open for any reason, he requested the normal seven days to submit final written arguments. Because the Applicant is the Appellant and has the burden of proof, he requested the opportunity to address any testimony by Staff or the City Attorney related to whether or not the application should be approved. A summary of his legal arguments had been submitted in a letter. He appreciated the hard work that Staff and the Planning Commissioners had done, but he disagreed about the meaning of the legal language and how the Code should be applied in this case. His legal arguments were as follows:

- Staff recommended denial due to lack of parking. Five parking spaces are required, but the project will provide two off-street parking spaces. The building is preexisting and there were not a lot of garages in the city when the building was built. They were not in the position to add parking. However, City Code allows projects with preexisting buildings that do not have room for additional off-street parking to pay in lieu for those parking spaces. They would agree to that payment as a condition of approval.
- Oral testimony given to the Planning Commission was about whether or not the application was in the best interest of the city. However, the criteria do not require a conditional use application be beneficial to the city. He did not believe that was the right way to make a decision on a quasi-judicial land use application with specific criteria. He believed all of the criteria had been met.
  - He asked the Council to consider how this project would be good for the city. The project would preserve and reinvest in an existing building that has been part of the city for generations. The project would facilitate and encourage tourism, which would help local and regional businesses, and the project would help finance Stewardship's other housing projects throughout the city. Stewardship Homes is primarily a housing builder and one goal of this project is to provide operating revenues for the housing development in Astoria. The project would also help convert a preexisting nonconforming use into a conforming use.
- Three different pieces of City Code and Comprehensive Plan provisions state parking is not required in the C-4 zone. ADC 2.425 states, "The uses permitted are intended to be compatible with the locale's pedestrian orientation and, as a result off-street parking, is not required." Section 7.180 states "uses in the C-4 zone are not required to provide off-street parking." CP 055.2 states "the City supports efforts to improve the parking problem in downtown. However, the C-4 zone will continue to not require off-street parking."
  - The City recognizes parking is limited downtown and had a chance to address that but decided not to.
  - The basis for requiring additional parking in ADC 11.040(a)(5) allows the Planning Commission in certain cases to increase required off-street parking. However, some off-street parking must be required first before it can be increased.
- The Applicants are not required to pay a fee in lieu of parking because no parking is required for this project. However, based on the concerns about parking, they have requested that the Planning Commission and Staff consider a fee in lieu program, as allowed by right in ADC 7.062. He requested that the City respond to this request. The Applicants would be happy to make that payment voluntarily because they are unable to provide off-street parking.
- The Planning Commission's decision was also based on concerns about short-term rentals and housing supply. Both of those concerns are not applicable to this application. The Applicants did not apply for a short-term rental use. They have applied for a hospitality use that specifically allows a conditional use in the zone. The zone allows for a hotel to be built and advertising it on Airbnb or VRBO is beside the point because the use is the same as any other hotel use.
  - State law requires that the City apply the criteria in effect when the application is made. When this application was made, there was no discussion of banning short-term rentals or eliminating any conditional uses for hospitality in the C-4 zone. Additionally, there was nothing in the books prohibiting the conversion of non-conforming residential use into a conforming hospitality use. He expected to be able to use the property as it was zoned on the day the application was submitted.
- There were concerns about whether the project was suitable at the proposed location. The Staff report stated that the site was easily accessible to the downtown area and Columbia River. The project will put people who want to visit or work in Astoria very close to the downtown, the river, and places people would want to use.
  - According to the Staff report, the only basis for the finding that the location is inappropriate is the lack of off-street parking, which is not required in this zone.



- This project does not violate the Comprehensive Plan. There is nothing in the Comprehensive Plan that prohibits converting a non-conforming residential use to a conforming hospitality use in a commercial zone. He had provided a detailed response to all of the Comprehensive Plan provisions that were mentioned during the last hearing. The application is consistent with all of the applicable Comprehensive Plan provisions and many of the Comprehensive Plan provisions mentioned at the hearing simply did not apply. The provisions and policies that do apply are those that affect downtown and the C-4 zone. This project is precisely consistent with the C-4 zone's intent. CP200(4) and (5) says, "encourage private development such as retail, restaurants, commercial, transient lodging, and making strategic investments in target industries. Provide a supportive environment for new businesses." CP204(3) says, "Encourage the growth of tourism as part of the economy."
- He believed the application met all of the criteria. He understood the drive to preserving housing in a growing city, but that is a citywide problem not for this application to solve. No bans on short-term housing or hospitality in downtown were in effect when the application was submitted. The C-4 zone is not a residential zone. They were not buying an apartment building in a multi-family zone, kicking everyone out, and turning it into a hotel. The C-4 zone is intended for this type of use. Denial of this application will not preserve affordable housing. There is no obligation on the part of Stewardship to maintain this use for affordable housing. He asked the Council to consider whether or not this project is allowed by the Code and whether or not the project has met the criteria.

Matt Gillis, Project Manager, 11650 SW 67<sup>th</sup> Avenue, Suite 210, Tigard, said over the last four years, his company consistently bought and renovated vacant homes and added them back into the housing inventory. He also considered building a 30+ unit apartment building and restoring Big Red. He purchased this building so the hotel units would fund repairs to single-family rentals in Astoria. The project would allow his company to do more residential units in the future. The zone is a commercial zone and the building was purchased prior to the new Code changes with the intent of turning it into a hotel. He did not know the Code changes were coming until he went to pick up the application because he never received letters from the City. He recently borrowed over \$100,000 and put over \$100,000 into fixing a six-unit apartment building in Astoria. He was very focused on housing. This property is the perfect location for a hotel use. It is on the outer edge of the downtown core. Guests could walk throughout town and not increase parking congestion in downtown. The property is only a few blocks from the Riverwalk and the trolley. People could walk to the bars and restaurants without drinking and driving. A park is right across the street where kids can play. The building will not add traffic congestion. It neighbors a park, a jail, a church, and an apartment building. The neighborhood is predominately commercial. Some of the buildings shown in the Staff report are in a residential zone one block away. Multifamily in this zone is a non-conforming use. There were no other suitable buildings for hotel use for sale in a similar price range when he was looking at options for this project. Big Red was not zoned appropriately. There was no building for sale that could have been retrofitted for this type of use. Only three commercial buildings have been sold in the last year, and they all sold prior to his purchase of this building. There were no other hotels for sale in this price range. The hotel units would allow fishermen to have a place to put their fish. There is a huge demand for hotel rooms during fishing season. The lack of hotel units holds back revenue growth for local businesses in August. The units could also host traveling nurses, physical therapists, construction workers working on bridge projects, family members visiting for the holidays, and community members needed a transitional spot. They would add needed short-term rental space with kitchens. This would bring revenue to the City and County, and guests would spend their money at local stores and restaurants. The Code directly says no parking is required in the C-4 zone. He already had two off-street parking spaces and one adjacent to the property. The Code also allows a 20 percent reduction for being close to the bus stop. The property is only three blocks away. This means that if parking were required for the hotel space, only four would be required. Approving this application would reduce the parking demand, per City Code. As a residential use, the Code states the building would need 6.5 spaces. As a hotel use, that would reduce to five, or to four with the transit reduction. He voluntarily proposed to pay the fee in lieu for three spaces. This proposal cannot be turned down based on Code criteria. According to the County's new housing strategy report, short-term rentals should be in commercial zones and not in residential zones. Although the zone is commercial, this has been morphed into an affordable housing issue. However, 122 new apartments have been proposed in Astoria this year, 40 at the Merwyn, 32 next door to Safeway, and 50 are proposed by the First Presbyterian Church. He asked the Council to approve the application because it met the Code criteria.

Councilor Brownson called for testimony in favor of the appeal.



Vickie Gillis Stewardship Homes, 2050 Beaver Creek Road, Suite 101-337, Oregon City, said her family has always loved Astoria. They purchased properties in Astoria to keep them and repair them. They purchased the commercial property with the intent of turning it into short-term rentals because they wanted to subsidize their other residential properties. When they were exploring the possibilities, this property met all of the Astoria Code requirements. Otherwise, they would not have started this process. They maintain the exterior of their houses as they were when they were originally built. This house was built in 1897. She has been on the property morning, noon, night, and weekends, and there is always parking available on the street. The only time she has not been on the property is Sunday mornings. She asked the City Council to honor the appeal.

Councilor Brownson called for testimony opposed to the appeal.

Sarah Meyer 555 Rivington, Astoria, said she had a photo collection of old pictures containing views of the backside of the building prior to 1890. She believed the City should consider the historical impact of the last building on that block. She was glad to hear the Applicants intend to maintain that era. The building is very historic for the town and it was built when Astoria did not have cars.

Pamela Mattson MacDonald 258 Commercial Street, Astoria, said she looked for so long to find another place to live when her former apartment was being torn apart. Astoria needs those five apartments for people who live here. There are a number of hotels in Astoria, Comfort Suites, Hotel Elliott, Cannery Pier Hotel, Holiday Inn, Motel 6, Astoria Riverwalk Inn, Hampton Inn, Atomic Motel, Crest Motel, Commodore, Norblad, Columbia Inn, and Astoria Rivershore Hotel. There are also a lot of bed and breakfasts and VRBOs. She did not know why Astoria needed more hotels. There are places to stay here. She has called a number of hotels and there are rooms available right now.

Councilor Brownson called for testimony impartial to the appeal. Seeing none, he called for rebuttal testimony from the Appellants.

Mr. Stevenson said he understood the pressure to provide housing for the people of this city. If the City wishes to reserve commercial zones for housing production, it is free to do so. However, the City has not done this and allows commercial uses to occur in commercial zones. He was simply asking to use the property as it is zoned. There are no criteria prohibiting the Applicant from doing what they are trying to do simply because the city has a lack of housing. One goal of this project is to provide cash flow income to do more housing projects in the city. This use is allowed in the C-4 zone, and he believed all the criteria have been met.

Councilor Brownson closed the public testimony portion of the hearing and called for Council discussion and deliberation. He asked Staff to restate the findings for denial of the request and explain how those findings held up as a right for denial.

Planner Morgan stated the order adopted by the Planning Commission was based on the findings in the Staff report, which related to the conditional use criteria that Staff believed were applicable and supported denial of the request.

City Manager Estes added that Page 31 of the Record included the legal memorandum provided by City Attorney Henningsgaard to the Planning Commission dated June 17, 2009. The memorandum stated, "The recommendation to deny this permit is based upon Staff's conclusion that Stewardship Homes did not meet the necessary criteria and that a hotel is not appropriate at the site. The Staff report states the request does not meet all applicable review criteria. A lack of parking would place pressure on the availability of parking for local residents and others. Although a ban on the conversion of residential to lodging units has not yet been enacted, the proposed ban underscores issues that short-term rentals pose to the City. Staff concludes that the applicant has failed to demonstrate compliance with Section 11.030(a)(1) and the conversion of this residential use to short-term rentals is not appropriate at this location." The memorandum also references that the Development Code allows hotels in the C-4 zone if, among other requirements, the applicant can demonstrate compliance with general requirements that appear in Article 11, including a requirement that the use is appropriate at the proposed location. Several factors that should be considered when determining whether the use is appropriate include accessibility for users such as customers and employees; availability of similar existing uses; availability of appropriately zoned sites; and desirability of other suitably zoned sites for the use. The memorandum also states, "Whether a particular use is appropriate creates a discretionary and subjective standard. The standard is flexible to allow consideration of factors other than those specifically mentioned and address impacts caused by



a particular development. The word "should" requires the applicant to address issues of accessibility, availability of similar existing uses, availability of other appropriately zoned sites, and the desirability of other suitably zoned sites. As noted in Staff's conclusion, the applicant has failed to demonstrate compliance with these concerns."

City Attorney Henningsgaard confirmed he had nothing more to add.

Councilor Brownson asked if Planner Morgan had any responses to the specific points raised by the Appellant.

Planner Morgan said the Staff report discussed appropriateness of the use and acknowledged that the ban on the conversion of housing to short-term rentals was not adopted at that time; however, the recommendation hinged on the appropriateness of that use in that location. There is a lot of discretion in the conditional use section of the Code, which allows the Planning Commission to make a decision. The decision is somewhat subjective.

Councilor Herman said according to the information the Council received, a conditional use is not a permitted use in a zone unless the Council can find that the proposed use will benefit the City in some way. The Appellant has made the case that transforming this building into a hotel or short-term rental would provide rooms for visitors. During most months of the year, there would be plenty of rooms. However, that is beside the point because the greater need is not more rooms for visitors, but for people to live. Five people would be removed from their homes and they are not likely to find a place to live in Astoria. The greatest need is for more housing, not vacation rentals. The Comprehensive Plan touches on that need by stating that Astoria has an extremely low vacancy rate, that housing is identified as a problem, and that maintaining the community's existing housing stock is a goal, as is the goal to maintain active and livable residential neighborhoods for all types of housing. The downtown is a commercial district, but this building is a residence for five or more people. In order for the conditional use to be granted, the Applicant must demonstrate that need.

Councilor West stated the Council has not moved towards any ban against converting residential into hotel or short-term rentals in commercial zones.

City Manager Estes clarified that Council had adopted that ban.

Councilor West said Planner Morgan and City Attorney Henningsgaard agreed there was room to interpret the Code. The Appellant's argument assumed that residents do not live in commercial zones. There are a number of people who live in commercial zones in apartments above downtown businesses. Saying the property is close to a park or a place to cook fish or a place to walk home after having a beer are things that residents also need. The second bullet point in the Council's vision statements is livability and quality of life for residents. The City Council's goals include supporting efforts to increase the housing supply using the County housing study as a guide. Astoria has lost 14 percent of its housing to vacation rentals or short-term rentals. All of the proposed apartments combined would not equal the amount of housing Astoria needs according to the housing study. She lost her apartment to a short-term rental after living in it for 13 years, so, she opposed the project.

Councilor Rocka said he goes through the neighborhood every day and was very familiar with the area. He was concerned about the appropriateness. Downtown ends at 7<sup>th</sup> Street, not 6<sup>th</sup> Street. The neighborhood is very residential. The property is next to a church that hosts many community groups. Twenty to 30 people wait in the street to get into their meetings. The park across the street is not a tourist park but is a magnet for mothers with kids and strollers. The proposed use is in direct opposition to the City's current needs. Occupancy will only be high for three months a year and the rest of the year the hotel will have 50 percent occupancy. This is not an outright use and the conditional use permit allows the City Council to have discretion in judgement. This does not seem like the right use for this property. Additionally, the ADHDA is opposed to the application.

Councilor West added that it was expensive to keep up many of the properties and old homes. She thanked the Applicants for the work they had done on their properties and encouraged them to continue.

Mayor Jones stated this appeal was about weighing two opposing legal arguments, not about what Astoria wants. The Appellant's attorney has identified two bases for the denial of their application, a lack of off-street parking and the recent vote by City Council to ban the conversion of residential units to short-term rental. They further argue that these reasons for denial are not permissible. City Attorney Henningsgaard has argued that the Appellant's appeal incorrectly interprets City Staff's recommendations and the Planning Commission's decision.



City Attorney Henningsgaard also stated that Development Code Article 11 includes a requirement that the use be appropriate at the proposed location. City Attorney Henningsgaard further advised the City Council that whether a use is appropriate creates a subjective and discretionary standard with flexibility to allow the consideration of factors other than those specifically mentioned, including adequacy of the site and consideration of transportation activities including parking among others and the City's goal of maintaining the existing housing stock. The Applicant made very strong arguments for the economic benefits to the community of the property being used as short-term lodging, arguments that he believed were valid. Nonetheless, he believed those arguments were moot for the reasons outlined by City Attorney Henningsgaard. He found City Attorney Henningsgaard's arguments more convincing and he agreed with the finding that the conversion of the residential use to short-term rentals is not appropriate at this location. He would affirm the Planning Commission's decision.

Councilor Brownson said since he had been on the Council, the lack of housing had been the major issue. Astoria is growing and there are real concerns about too much tourism. Too many hotels are a driving force. Existing hoteliers will say the additional hotels that are coming will create problems. He agreed with City Attorney Henningsgaard's interpretation of the City Council's discretion on this proposal. He noted that the City Council could vote on this appeal or remand the issue back to the Planning Commission.

City Manager Estes noted that in order for the City Council to remand the issue back to the Planning Commission, the Applicant would have to agree to extend the 120-day timeline.

**City Council Action:** Motion made by Mayor Jones, seconded by Councilor West, to tentatively deny Appeal AP19-02 of Conditional Use CU19-04 by Stewardship Homes LLC and direct Staff to prepare Findings in support of the denial to be adopted in a special meeting on Tuesday, August 27, 2019 at 5:30 pm. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Councilor Brownson called for a recess at 8:30 pm. The meeting reconvened at 8:41 pm.

#### **Item 7(b): Public Hearing and 1<sup>st</sup> Reading – Bridge Vista Overlay Code Amendment B**

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City has conducted work sessions on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone.

At a work session on February 19, 2019, the City Council reviewed the initial draft ordinance and requested that staff also include a reduction in the allowable height within the BVO from 35' (with variance possible to 45') to 28'. It was also concerned how this would impact the 30,000 square foot maximum for buildings. During the Planning Commission meetings, these two issues became the focus of public input and APC discussion. Therefore, in an attempt to proceed with the majority of the amendments that were not controversial, the APC split the amendment draft into two sections. One section would be just the height and gross square footage issue (A19-01B) allowing the rest of the amendment to proceed. A19-01B portion of the request was continued to the May 28, 2019 APC meeting. A19-01A portion of the request was adopted by the City Council at its July 1, 2019 meeting.

The Planning Commission (APC) considered a 28' height with 30,000 square foot maximum for buildings but determined that it did not achieve the intended goal of preserving views as well as reducing mass. The APC suggested that a maximum floor to area ratio (FAR) of 0.75 along with a maximum height of 35' would allow for slightly taller buildings that were compatible with the existing development in the Bridge Vista Area but that would be narrower to allow for some view corridors.

The Planning Commission held a public hearing on June 25, 2019 and July 23, 2019. The APC recommends that the City Council adopt the proposed amendments on the second part of the request (A19-01B). If the draft code meets Council's expectations, it would be in order for Council to hold a public hearing and conduct a first reading of the ordinance for Bridge Vista Overlay Zone Code amendments.



Councilor Brownson asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. He asked if any members of Council had any conflicts of interest or ex parte contacts to declare. There were none. He 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 opened the public hearing at 8:43 pm called for a presentation of the Staff report, which also served as testimony from the Applicant.

Planner Johnson presented the written Staff report via PowerPoint.

Councilor Herman confirmed with Staff that as long as the Astoria Warehouse site could have a 60-foot view corridor, they could have more than one 30,000-square-foot building on the property.

Councilor Rocka noted that the overwater standards also applied to on land development north of the river trail. Planner Johnson clarified that Section 14.100 for overwater development only applied to the non-limitation areas. However, water dependent uses would have limits on building widths and proximity to the shoreline. Additionally, view corridors would also be required.

Councilor Rocka asked if there were other things that exceeded the limits, like covered parking. Planner Johnson said if parking is within a building, the parking area would not count towards the FAR. The Council and Planning Commission adopted this to prevent large parking lots and encourage parking to be hidden within buildings.

Councilors Rocka and Brownson wanted to know how this would impact the size and height of buildings. Planner Johnson explained that interior parking would not have any impact on height limits but could allow for buildings with more square footage. However, only 75 percent of a lot can be built.

Councilor Rocka asked why Staff measured just halfway up a pitched roof and if mechanical equipment could still be installed on the top half. Planner Johnson said this was common practice in planning and has been in Astoria's Code since about the 1950s. The Council could change this, but doing so would require a ballot measure.

Councilor West understood that no lot could produce a building larger than 30,000 square feet. Planner Johnson clarified that 30,000 square feet was the maximum per building, but the 60-foot view corridor must be maintained regardless of the number of buildings on a site.

Councilor West asked what would happen if properties within a planned district were sold. Planner Johnson stated applications must be submitted by the property owner. If a master plan is approved, new property owners would be bound by the master plan. If the property owners did not comply with the master plan, the planned district would dissolve.

Councilor West asked if the master plans could request the allowance of buildings that exceed 30,000 square feet. Planner Johnson said no, but some building reconfigurations could be allowed.

Councilor Rocka asked what would happen if Astoria Warehouse sold a piece of their property in the meantime. Planner Johnson explained that currently the entire site is subject to the BVO because no planned district has been adopted. Once a planned district goes into effect, the new owner of any parcel would have to comply with a master plan or the BVO.

Councilor Rocka asked why Staff proposed an exemption for the pedestrian oriented overlay zone and how big the exemption area was. Planner Johnson pointed out the pedestrian oriented zone on the map and explained that the Uniontown Reborn proposal will address the development of the rest of Uniontown. The exempted area allows for a more cohesive pedestrian area throughout that part of town. Only three Port parcels are within the pedestrian area and a Port master plan would not allow the codes within the pedestrian area to be changed.

Councilor Rocka asked if these Code amendments would successfully address the issues in connection with the hotel at the foot of 2<sup>nd</sup> Street. Planner Johnson stated a lot of the issues were addressed in Amendment Request A19-01A. These amendments address building height, FAR, and building mass, all of which are being reduced from the existing limits.



Councilor Brownson asked Staff to clarify how an unobstructed view corridor was defined. Planner Johnson explained that the view corridor would act similar to the rights-of-way at the ends of streets. The normal width of a right-of-way along the waterfront is 60 feet, so a 60-foot view corridor maintains the same amount of area. Cars do park in rights-of-way, so it would be reasonable to expect that view corridors could be parking lots. She advised that clarifying language could be added.

Councilor Brownson added that uses like unloading could be allowed in view corridors. However, the Code should be clear about any uses that are allowed in view corridors.

Councilor Brownson called for testimony in favor of the application.

Phil Grillo 1300 SW 5<sup>th</sup>, Portland, land use attorney representing Astoria Warehouse, said he participated in all of the hearings and the work session. The proposed amendments are balanced and workable. He did not agree with everything but understood the reasons and believed this was a reasonable approach. The Astoria Warehouse site is unique because of its size and because it well built out. Any development would be redevelopment and one of the exiting buildings is taller than 28 feet. He supported the planned district concept for the site because the site is unique and because the planned district will allow flexibility. The 35-foot height limit would remain but some of the other development standards could be amended at the City Council's discretion. Additionally, a development would have to be proposed under those regulations. Moving to a FAR formula with a reasonable height limit is the way to go.

Frank Spence, 5169 Birch Street, Astoria, Port of Astoria Commissioner, said the Port appreciated that the Planning Commission and Staff identified the special needs and circumstances of the Port and Astoria Warehouse. He supported a special development district for the Port. Although the Port did not have a master plan at this time, the site is unique. Standing in front of the red building, the site line is of the back of Motel 6 and Suomi Hall. The property is below grade and with the ramp coming off the bridge, there will be cause for special circumstances and possible variances. The Port appreciated being exempted from the restrictions because 80 percent of the property within the overlay is owned by the two largest tract owners. The Port supports the special district for the Port of Astoria.

Martin View 1368 S. Main, Warrenton, Astoria Warehouse Site Manager, thanked Councilors for taking the time to walk through the warehouse property. The Northwest Natural Gas property is part of the master plan and the area has always been an economic hub for Astoria. The site pays quite a bit of property taxes as well. The main building is just under 35 feet tall.

Jim Knight, 42041 Eddy Point Lane, Astoria, said he endorsed the concept of a planned district for the Port and Astoria Warehouse. He believed a very comprehensive master plan with public involvement was necessary. There have been recent changes in ownership of hotel operators and talk of new development along the waterfront in the Port. He was interested in addressing the highest and best use of Port property. He could not think of a better time to get more input from the community. There is never too much talk about the development of properties that will last for many generations to come.

Councilor Brownson called for testimony against the application.

Jan Faber, 3015 Harrison Avenue, Astoria, stated it sounds like adoption of these Code amendments would not have affected the Fairfield issues at all, except for the height. The mass and scale was an issue and the Design Review Committee denied the application, which was appealed to City Council. The appeal was granted due to the interpretation of the Code that said the word "retained" only applied to existing structures and since the hotel would be a new structure that standard did not apply. He urged City Council to go through all of the Codes being adopted to see if the use of the "retained" is still there and make sure that the Code clearly states the word "retained" does not apply just to the renovation of existing structures. He was also concerned that the FAR might not achieve what was desired when the overall plan was being considered. He asked if the FAR would result in smaller footprint buildings with more views of the water and the sky. If not, then adopting this Code would not achieve much. He was also concerned about the exemption for water-dependent uses, which automatically limits heights to 35-feet. He also did not understand why there was an exception for recreation. Staff did clarify that recreation could not be passive recreational uses, but he did not understand why swimming, fishing, or boating would require a 35-foot building. He believed the exemption should be eliminated.



City Manager Estes clarified that the issues with the word "retained" had already been addressed by City Council and changes were adopted in June 2019.

Pamela Mattsen MacDonald 258 Commercial, Astoria, said she did not know if anyone understood how much 60 feet was, which is the length of a semi-truck and a bowling alley. A little slice is all we will be able to see.

Councilor Brownson called for testimony impartial to the application.

Mike Sensenbach 110 Kensington, Astoria, said he wanted to see something passed even if it was not this exact proposal. He had submitted written comments to Staff earlier that afternoon. However, a few things had come up during this discussion. An acre is just over 43,000 square feet, but the public has only heard about lot sizes of 10,000 and 20,000 square feet. The Astoria Warehouse site has just over seven acres of land. Allowing 30,000 square foot buildings with a 0.75 FAR would allow about eight 30,000 square foot buildings on the Astoria Warehouse site without a master plan. The proposed FAR applied to the Fairfield would not reduce building mass at all. The FAR would have to be 0.50 in order to impact the mass of that building by less than six percent. If the City Council wanted to show a good faith effort to do what the community has been asking for and address the problems, an FAR of 0.50 would be more appropriate. He did not believe those who spoke at the first Planning Commission hearing felt they had been heard. He urged the Council to revisit 30,000 square feet because the City did not need to allow additional buildings without a master plan.

Councilor Brownson called for rebuttal testimony and closing comments from Staff.

Planner Johnson stated the City had already adopted all of the criteria that would have addressed the design and orientation of buildings, and whether that criteria applies to new construction or existing buildings. The 60-foot view corridor is from building to building, just like the view corridor looking down 11<sup>th</sup> Street. She would need direction from Council on specific language changes that should be adopted. Staff could make those changes tonight so that the first reading could still be conducted. Changing the FAR to 0.50 could also be done tonight.

City Manager Estes noted the time was 9:45 pm. The remainder of the City Council agenda and a Development Commission meeting still needed to be completed. He asked how the Council wanted to proceed.

After discussion between the Council and Staff, the consensus among the Council was to address the rest of the agenda items and return to this agenda item at the end of the meeting.

The City Council proceeded to Regular Agenda Item 7 (c) and addressed the remaining agenda items at this time.

Immediately following the Astoria Development Commission meeting, the City Council returned to address Regular Agenda Item 7(b).

Staff displayed the map of the proposed planned districts on the screen.

Councilor Brownson called for questions of Staff.

Councilor Herman understood that a building could be up to 90 feet wide if the site were large enough. Planner Johnson stated there were no limitations on the width of a building, but an FAR had been proposed. Additionally, a building could be located anywhere on a lot. Depending on the size of a lot, a building could be 90 feet wide, but would still have to meet open space requirements.

Councilor West understood there was no maximum lot size in the Code. Planner Johnson clarified there were no maximum lot coverage restrictions in the BVO. However, landscaping requirements would reduce development and create open space.

Councilor Brownson closed the public hearing at 10:02 pm and called for Council discussion and deliberation.

Councilor Brownson stated he strongly supported the planned district for the Port of Astoria because the Port is struggling to deal with serious infrastructure and funding issues that require every tool available. The Port has



been asking for a planned district for the last year and they need the opportunity to bring a plan to the City vetted by their own public process unique to their location and circumstance. The restrictions in the planned district for the Port are greater than those being proposed for the Astoria Warehouse planned district, which constrains the Port's ability to enhance the west mooring basin and surrounding properties. He believed the Port should have just as much flexibility as Astoria Warehouse. He proposed to allow the following within the Port's planned district:

- Adding uses beyond those allowed by the BVO and the Shoreland Zone
- Allow an FAR of 1.00
- Allow the Port to move the boundaries of the pedestrian oriented area. The pedestrian oriented area would not allow the Port to expand in any way different from the BVO. He showed the location of the Port property within the pedestrian area on the map and said he wanted to give the Port the ability to move the pedestrian area to their property line. Moving that boundary could be negotiated in exchange for some trade-off. When a plan is presented to the Planning Commission and City Council, the City can work with the Port on what is presented. Planned districts are not easy to complete and are costly to pursue, so the BVO requirements will still be the easiest path for any new development. Additionally, both of the proposed planned districts sunset in five years and include a five-year review. The flexibilities he proposed would be beneficial to the community because the Port is beneficial to the community.

Mayor Jones said he was concerned about Staff, who had to be at work in the morning, and suggested that Council continue their discussion to the next meeting.

Councilor Brownson suggested the Council be allowed to discuss his proposed changes.

Councilor Rocka said he was willing to give the Port flexibility to present a plan, but he was not willing to give up the Council's authority to represent the interest of the citizens. The agenda packet is extremely detailed and he did not want the Council to lose sight of the desired outcome. With tourism booming, a lot of people elsewhere see a lot of opportunities in Astoria. Twenty years ago, these people would not have given Astoria a second look. The community leaders who saw the potential of the riverfront and worked to make it blossom have inspired others to open businesses and make Astoria a place that people want to be. The Council should take seriously those who come to testify. The City is trying to hold the door open for development on the riverfront without a real idea of what that might be. He wanted to figure out a way to be adaptable when good ideas that come along. The City should be wary of uses that are permitted outright. Benefits to the City should be a requirement for any development. He believed the FAR is a great idea and conditional use permits allow the City to use judgement and discretion. He preferred strict requirements, a 28-foot height limit, and a FAR. The planned districts for the Port and Astoria Warehouse are better than what has been proposed for the rest of the area because they give the City the chance to consider good ideas. The people who have good ideas for Astoria are welcome to come forward and will receive an enthusiastic hearing from the City Council.

Councilor Brownson added that the Port and Astoria Warehouse districts make up almost the entire developable area of the BVO. If City Council supported a 1.00 FAR and a 28-foot height limit, developers should still have the ability to come to the City with good ideas.

Councilor West she originally had mixed feelings about the planned districts because there is pretty much nothing left of the BVO once you exclude the two districts and the pedestrian area. There has already been an incredible amount of public input on this topic and she was nervous about this coming back to the Planning Commission and City Council. She supported the planned districts. She encouraged the Council to consider the big picture as indicated by the vision statement and Council goals. The issue is less about height and mass. The heart of the issue is the types of developments allowed. People do not care if a 10-story fish processing plant is built because that would provide jobs to Astorians and aligns with Astoria's unique character. People do not care if Fort George needs to build a 200-foot grain silo because Fort George has a proven record of giving back to the community. However, people do not want formula businesses. She wanted the City Council to consider a ban on formula businesses, which she understood could be extremely difficult. However, she believed it would be worthwhile. She also wanted to implement a moratorium on new building permits in the BVO and the Urban Core until the Community Development Director position has been filled. She wanted to feel good about the decisions the Council was making.



Mayor Jones noted the Council discussed a ban on formula businesses during their work session on strategy and visioning. Such a ban would require the Council to work with the City Attorney, take a long time, and require a very complex process. He recommended the Council discuss this at a work session.

Councilor West added that her research indicated it would take Astoria about a year to implement a ban. That is why she recommended a moratorium on new development permits in the BVO and Urban Core, which are the two areas the City is working to clean up the Code.

City Attorney Henningsgaard said State law limits the City's ability to declare a moratorium. Moratoriums can be declared for infrastructure deficiencies, but those deficiencies must be fixed within a certain period of time.

Mayor Jones stated the existing height restriction of 45 feet was adopted by City Council in 2015. During the hearings for the Fairfield Inn in the fall of 2018, there were numerous requests from the public for a height restriction of 35 feet. At the time, there were no requests to reduce heights below 35 feet. As a result of that input, in February, he proposed a significant but reasonable reduction of the maximum allowable height by 22 percent, which was from 45 feet to 35 feet. Subsequently, people have called for a 38 percent reduction from 45 feet to 28 feet, which he believed was unnecessarily extreme. Most of the people supporting 28 feet have stated this would help preserve river views. However, after standing in a variety of locations along the Riverwalk, Marine Drive, and in Uniontown, he did not believe that 28 feet would preserve views or access, or that 35 feet would eliminate view or access. The 28 feet is emotional and not based on any analytical foundations. He has read the minutes and listened to the recorded meetings of the Planning Commission and believed they worked very diligently and with great integrity to come up with solutions that actually do preserve river views and access. He believed the Planning Commission correctly noted that narrower buildings up to three stories with maximum lot coverages and minimum view corridors and an FAR actually preserve greater river views and access than short wide buildings or what would have been allowed under the two-story limits. The Commission also noted that buildings up to three stories are actually consistent and reflective of the Uniontown historic area. He supported Staff's recommendations, including the planned districts. The Port and Astoria Warehouse have exceptional potential to do the things that Council's vision statement says about supporting quality of life and livability while promoting a strong local economy. He was comfortable with all of the safeguards Staff has proposed.

Councilor Herman said 80 percent of the land in the BVO is owned by either the Port of Astoria Warehouse. If those two properties become planned districts, why did the City bother to create the BVO section of the Riverfront Vision Plan? She did not understand why the BVO restrictions should not apply to all of the land within that zone. She was concerned about the planned districts, noting that they have not been discussed by Council until now. She felt like a lot more discussion and public input was needed. Until the Council received the agenda packet a few days ago, she had not heard much about the planned districts. She was also concerned that members of the public felt they have not been listened to by City officials. The City has received at least 600 signatures from people requesting a 28-foot height limit. According to the Planning Commission meeting minutes, the argument against 28 feet is that wider buildings would be created and would block views. She questioned why the 30,000 square foot maximum was necessary. If the height limit is 28 feet, the square footage could also be reduced to 20,000 square feet. The new Astoria Co-op building at 23<sup>rd</sup> and Marine is 7,500 square feet, which is not small. Her concerns were not so much about the views, but about the scale of the buildings. Not that long ago, Astoria had gigantic three-story cannery buildings, but Astoria is not that town anymore. Height matters, but so does scale. She understood that the Planning Commission relied on a consultant, hired by the City, who arrived at 30,000 square feet. However, she believed it was an arbitrary number. She was not anti-business but wanted the City to be more restrictive. Astoria had already gained a great deal from tourism. She was also concerned that planned districts would require another year of public hearings and the public would wonder if the City would take their testimonies seriously. In the meantime, who knows what development would occur under the Codes that applied to those properties before the planned districts are approved.

City Manager Estes confirmed that would be the Codes currently being considered by the City Council.

Councilor Herman believed the Council should listen to all of the people who have come since 2008 to talk about what they feel is best for Astoria.

Councilor Brownson listed options for next steps.



**City Council Action:** Motion made by Mayor Jones to conduct the first reading of the ordinance amending the Bridge Vista Overlay Zone. Motion died for lack of a second.

Mayor Jones asked if the Council could vote on the planned districts separately.

Councilor West stated she wanted more time to consider the proposed Code amendments as a whole package.

Mayor Jones and Councilor Brownson said they preferred to continue this item to the next meeting.

City Manager Estes advised that if the Council wanted to hear public testimony at the next meeting, the public hearing would need to be re-opened. New issues were raised tonight that were not part of the discussion at earlier public hearings.

City Attorney Henningsgaard added that the breadth of this proposal qualifies it as a legislative decision. City Council does not need to worry about ex-parte contacts. Re-opening the public hearing would only give Council a respite for making a decision. Councilors are not prohibited from doing their own investigations and talking to people about this proposal. Additionally, the Council can receive evidence at any time. However, if the Council will allow the public to give testimony, he advised that the City let the public know.

Mayor Jones said he believed there had been ample opportunity for public comments. He recommended the public hearing remain closed and continue the Council discussion at the next meeting. The rest of the Councilors stated they agreed.

**City Council Action:** Motion by Mayor Jones, second by Councilor Brownson, to continue Council deliberation on Amendment Request A19-01B by the Community Development Director to Tuesday, September 3, 2019. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**Item 7(c): Second Reading and Adoption – Ordinance Modifying City Code 5.370 Relating to Consumption of Alcohol in Public**

The public hearing and first reading of this ordinance was held at the August 5, 2019 City Council meeting. The City of Astoria has experienced an increase in public intoxication and alcohol being consumed in public areas. This results in an ongoing and pervasive draw on resources. This includes responses by police, fire, and Medix. This also causes issues with public transportation at the transit center. There are also repeated and ongoing issues in public parks, especially in the downtown areas and on the Riverwalk.

The proposed modifications to this ordinance specifically outline the exceptions to the issue. It also describes the entities required to be contacted in order to get authorization to legally possess open containers of alcohol and legal consumption.

It is recommended that Council holding a second reading and consider adoption of the ordinance amending City Code 5.370.

Director Brooks conducted the second reading of the ordinance.

**City Council Action:** Motion made by Councilor Rocka, seconded by Councilor West to adopt the ordinance modifying City Code 5.370 relating to consumption of alcohol in public. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**Item 7(d): Second Reading and Adoption – Ordinance Modifying City Code 7.200 Relating to Burglary and Robbery Alarm Regulations**

The public hearing and first reading of this ordinance was held at the August 5, 2019 City Council meeting. Included is an ordinance which has proposed changes to the City Code on alarm regulations. The Astoria Police Department is committed to providing a high level of service and apprehending criminals. It is felt these changes would be beneficial in managing this program.



It is recommended that Council hold a second reading and consider adoption of the ordinance amending City Code 7.200.

Director Brooks conducted the second reading of the ordinance.

**City Council Action:** Motion made by Councilor Rocka, seconded by Councilor Herman to adopt the ordinance modifying City Code 7.200 relating to burglary and robbery alarm regulations. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**Item 7(e): Trolley Trestle Repair 2019 Authorization to Bid**

The City has received an inspection and design services contract from OBEC Consulting Engineers, Inc. (OBEC) to assist with completion of critical trestle, River Trail and park pier maintenance work. The City has approved the inspection, design and total fee for this contract of \$66,632.80. It is apparent that additional work was needed for a portion of trestle east of 11th Street to ensure it could support non-load limited vehicular traffic. This was needed to compliment the pending completion of the 11th Street waterfront bridge work a contract amendment for additional design and construction services associated with the 11th Street stub. The total fee for the contract amendment is \$40,060.80. Final design plans and a cost estimate were recently provided by OBEC. The repairs focus on the 6th to 11th Street trestle (including the 11th Street stub), the Mill Pond Trestle, and minor work on the 6th and 14th Street park piers. The engineer's estimate for this work is \$330,000. Funding is available in the Promote Astoria Fund for this work.

It is recommended that City Council authorize staff to solicit bids for the 2019 Trolley Trestle Repair Project.

Councilor Rocka recommended that the Council think about increasing the trolley fee from \$1.00 to \$2.00 with the extra \$1.00 going into a fund to pay for infrastructure maintenance.

City Manager Estes explained that the Trolley Association considered raising the fee when it was suggested by City Council a couple of years ago. However, the volunteer trolley operators expressed concerns so the association voted to allocate a percentage of their revenues to the City. Last year, the City received around \$6,000 or \$7,000.

Councilor Rocka suggested the City try again. Mayor Jones and Councilor Herman agreed.

**City Council Action:** Motion made by Councilor Rocka, seconded by Councilor West, to authorize staff to solicit bids for the 2019 Trolley Trestle Repair Project. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)**

There was none.

The City Council meeting recessed to convene the Astoria Development Commission meeting at 9:57 pm.

The City Council meeting reconvened and immediately returned to Regular Agenda Item 7(b) at 9:59

**ADJOURNMENT**

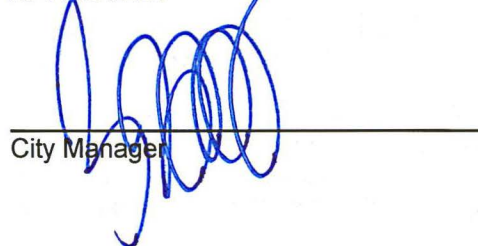
There being no further business, the meeting was adjourned at 10:46 pm.

**ATTEST:**



Finance Director

**APPROVED:**



City Manager