



AGENDA

ASTORIA DEVELOPMENT COMMISSION

March 2, 2015
Immediately Follows City Council Meeting
2nd Floor Council Chambers
1095 Duane Street • Astoria OR 97103

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. REPORTS OF COMMISSIONERS**
- 4. CHANGES TO AGENDA**
- 5. CONSENT CALENDAR**
The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the Astoria Development Commission requests to have any item considered separately. Members of the Community may have an item removed if they contact the City Manager by 5:00 p.m. the day of the meeting.
(a) ADC Minutes of 11/17/14
- 6. REGULAR AGENDA ITEMS**
(a) Astor Hotel Subordination Agreement (Community Development)

<p>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 JULIE YUILL, CITY MANAGER'S OFFICE, 503-325-5824.</p>



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

February 26, 2015

MEMORANDUM

TO: ASTORIA DEVELOPMENT COMMISSION (ADC)

FROM: BRETT ESTES, CITY MANAGER

SUBJECT: ADC MEETING OF MARCH 2, 2015

CONSENT CALENDAR

Item 5(a): ADC Minutes

The minutes of the ADC meeting of November 17, 2014 are enclosed for your review. Unless there are any corrections, it is recommended that the ADC approve these minutes.

REGULAR AGENDA ITEMS

Item 6(a): Astor Hotel Subordination Agreement (Community Development)

At its November 16, 2009 meeting, the Astoria Development Commission approved a financial assistance package to the owners of the Astor Hotel, Paul Caruana and Brian Faherty. The financial assistance came in the form of a low interest loan for exterior building improvements in the amount of \$346,000 as well as a grant in the amount of \$45,000 for parking lot and pedestrian improvements. The hotel owners and the Commission signed a trust deed on November 30, 2009 (recorded on December 7, 2009) under recording instrument number 200911455 of the records of Clatsop County. The owners of the building are currently engaged in negotiations with Verizon Wireless to install new cell transmission antennas on the roof of the building. In doing so, the owners are required to involve or include the Commission, as the lender, in any encumbrance on the property, such as a long term lease as described in the Subordination Agreement. Attached is the Subordination, Consent, Non-Disturbance, and Attornment Agreement for consideration. The Agreement allows the Astor Hotel owners to proceed with Verizon Wireless on negotiations for the new antennas and also protects the Development Commission's interests. The Agreement has been reviewed as to form by City Attorney Henningsgaard. It is recommended that the Commission authorize the Chair to sign the Subordination Agreement.

ASTORIA DEVELOPMENT COMMISSION

City Council Chambers

November 17, 2014

ADC JOURNAL OF PROCEEDINGS

A regular meeting of the Astoria Development Commission was held at the above place at the hour of 8:10 pm.

Commissioners Present: Herzig, Warr, LaMear, Mellin, Mayor Van Dusen

Commissioners Excused: None

Staff Present: City Manager Estes. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COMMISSIONERS: No reports.

CHANGES TO AGENDA: No changes.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

5(a): ADC Minutes of 10/20/14

Commission Action: Motion by Commissioner Warr, seconded by Commissioner Mellin, that the Astoria Development Commission approve the Consent Calendar. Motion carried unanimously. Ayes: Commissioners Warr, LaMear, Herzig and Mellin, and Mayor Van Dusen. Nays: None.

REGULAR AGENDA ITEMS:

Item 6(a): Transfer of Exchange Street Residence to Columbia Memorial Hospital (Community Development)

In 2008, the Astoria Development Commission (ADC) amended the Astor-East Urban Renewal Plan to authorize the purchase of a residence located at 1829 Exchange Street. The Plan amendment stated that *"The intent of the Development Commission is to acquire the property and hold it for future clearance and redevelopment, either by public or private parties, in conjunction with adjacent properties..."*, and on December 15, 2008, the ADC authorized Chairman Van Dusen to sign the purchase agreement to acquire the residence from Clatsop Community College. As an interim use, the City has maintained the building as a low-income housing rental since the purchase. The transfer of the residence to Columbia Memorial Hospital (CMH) was included as part of the four-party Agreement enabling the construction of the new sports complex at the City's solid waste disposal area for the School District. The transfer will help facilitate the proposed CMH expansion. The transfer of the property is for consideration other than cash as identified in the Agreement and, therefore, there will be no cash payment to the ADC for the property. A Warranty Deed has been prepared by City Attorney Blair Henningsgaard for transfer of the property to CMH. It is recommended that the Astoria Development Commission authorize the Chairman to sign the deed transferring ownership of the property located at 1829 Exchange Street to Columbia Memorial Hospital.

Commissioner LaMear asked what would happen to the residents. City Manager Estes said Clatsop Community Action had been managing the property that provided affordable housing to one family. Columbia Memorial Hospital will continue to honor the affordable housing agreement for at least one year. After one year, the hospital may have some other use for the residence.

Commission Action: Motion by Commissioner Mellin, seconded by Commissioner Warr, that the Astoria Development Commission authorize Chairman Van Dusen to sign the deed transferring ownership of the property located at 1829 Exchange Street to Columbia Memorial Hospital. Motion carried unanimously. Ayes: Commissioners Warr, LaMear, Herzig and Mellin, and Mayor Van Dusen. Nays: None.

Item 6(b): Duane Street Sidewalk Infill Project – Authorization to Award (Public Works)

At the October 20, 2014 Astoria Development Commission meeting, the Commission authorized Staff to solicit quotes for the Duane Street Sidewalk Infill Project. The project will provide sidewalk, transit, and ADA improvements on the north side of Duane Street between 16th and 17th Street. Several smaller areas of sidewalk infill and replacement will be completed on 17th Street between Duane Street and Marine Drive. Funding for the Duane Street Sidewalk Infill Project is recommended to come from the Astor-East Urban Renewal District. Staff used the informal Request for Quotes (RFQ) and the following quotes were received:

Contractor	Total Quote
Big River Construction	\$20,832.00
North Pacific Excavation	\$24,768.47
TFT Construction, Inc.	\$29,274.80
Clean Sweep Maintenance	\$29,486.48

It is recommended that the Astoria Development Commission authorize award of a construction contract to Big River Construction in the amount of \$20,832.00.

Commission Action: Motion by Commissioner LaMear, seconded by Commissioner Warr, that the Astoria Development Commission authorize award of a construction contract to Big River Construction in the amount of \$20,832.00. Motion carried unanimously. Ayes: Commissioners Warr, LaMear, Herzig and Mellin, and Mayor Van Dusen. Nays: None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:13 pm.

APPROVED:

City Manager



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

February 26, 2015

MEMORANDUM

TO: ASTORIA DEVELOPMENT COMMISSION
FROM: BRETT ESTES, CITY MANAGER
SUBJECT: ASTOR HOTEL SUBORDINATION AGREEMENT

DISCUSSION/ANALYSIS

At its November 16, 2009 meeting, the Astoria Development Commission approved a financial assistance package to the owners of the Astor Hotel, Paul Caruana and Brian Faherty. The financial assistance came in the form of a low interest loan for exterior building improvements in the amount of \$346,000 as well as a grant in the amount of \$45,000 for parking lot and pedestrian improvements. The hotel owners and the Commission signed a trust deed on November 30, 2009 (recorded on December 7, 2009) under recording instrument number 200911455 of the records of Clatsop County.

The owners of the building are currently engaged in negotiations with Verizon Wireless to install new cell transmission antennas on the roof of the building. In doing so, the owners are required to involve or include the Commission, as the lender, in any encumbrance on the property, such as a long term lease as described in the agreement. The subordination requires that:

“...the Lease, and the leasehold estate created thereby, and all of Tenant’s rights thereunder, shall be and shall at all times remain subject, subordinate, and inferior to the Trust Deed, and the lien thereof, and all rights of Lender thereunder.”

Attached is an agreement for consideration which would allow the Astor Hotel owners to proceed with Verizon Wireless on negotiations for the new antennas. The attached agreement protects the Development Commission’s interests and has been reviewed as to form by City Attorney Henningsgaard.

RECOMMENDATION

It is recommended that the Commission authorize the Chair to sign the attached agreement.

FILED FOR RECORD AT REQUEST OF
AND WHEN RECORDED RETURN TO:
Davis Wright Tremaine LLP
Attn: C. Eng
777 108th Avenue NE, Suite 2300
Bellevue, WA 98004-5149

(Space above this line is for Recorder's use.)

SUBORDINATION, CONSENT, NON-DISTURBANCE, AND
ATTORNMENMENT AGREEMENT

Grantor: Brian P. Faherty and Jill Faherty, and Paul Caruana

Grantee: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

Legal Description: Clatsop County, State of Oregon
Official legal description as Exhibit "A"

Assessor's Tax Parcel ID#: 22477; Map No. 80908CA06600

Reference # (if applicable): N/A

**SUBORDINATION, CONSENT, NON-DISTURBANCE, AND
ATTORNMENr AGREEMENT**

This SUBORDINATION, CONSENT, NON-DISTURBANCE, AND ATTORNMENr AGREEMENT ("Agreement") is made as of the _____ day of _____, 201__, among Astor East Urban Renewal District, whose address is 1095 Duane Street, Astoria, Oregon 97103 ("Lender"), Brian P. Faherty and Jill Faherty, and Paul Caruana, whose address is c/o Astor Hotel LLC, 1423 Commercial, Astoria, Oregon 97103 ("Landlord"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, with offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("Tenant").

RECITALS

A. Tenant is the lessee pursuant to a Building and Rooftop Lease Agreement ("Lease") dated _____, 201__, between Landlord and Tenant, of premises located at 342 14th Street, Astoria, County of Clatsop, State of Oregon ("Landlord's Property") as shown on Exhibit "A" attached hereto and made a part hereof.

B. Lender intends to make, or has made, a loan to Landlord. This loan is to be, or was, secured by a deed of trust on Landlord's Property ("Trust Deed"). A certain Trust Deed was executed by Landlord and Lender on November 30, 2009 recorded on December 7, 2009 under Recording Instrument Number 200911455 of the records of Clatsop County, in the State of Oregon.

C. In the Lease, Tenant has agreed to attorn to the beneficiary of any deed of trust given by Landlord that may encumber the Landlord's Property as Tenant's landlord under the Lease in the event of a foreclosure of Landlord's interest, provided that Tenant receives from every such deed of trust beneficiary a nondisturbance agreement that recognizes the validity of the Lease in the event of a foreclosure of Landlord's interest and also Tenant's right to remain in occupancy of the portion of the Landlord's Property leased by the Tenant ("Leased Premises"), pursuant to the terms of the Lease, as long as the Tenant is not in default of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement, the parties hereby agree as follows:

1. Subordination. Notwithstanding anything to the contrary set forth in the Lease, the Lease, and the leasehold estate created thereby, and all of Tenant's rights thereunder, shall be and shall at all times remain subject, subordinate, and inferior to the Trust Deed, and the lien thereof, and all rights of Lender thereunder.

2. Consent. Lender consents to the Lease and to the Tenant's use and occupancy of the Leased Premises under the Lease.

3. Non-Disturbance. So long as the Tenant is not in default (after the expiration of any applicable cure period) in the payment of rent or in the performance of any of the other covenants of the Lease that Tenant is to perform, the Tenant's possession of the Leased Premises and the Tenant's other

rights under the Lease, or any extensions or renewals thereof, shall not be diminished or interfered with by Lender. In addition, Lender shall not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Tenant's interest under the Lease or otherwise.

4. Nondisturbance, Foreclosure and Attornment.

a. If Lender, or any other purchaser at a foreclosure sale or sale under private power contained in the Trust Deed, becomes the owner of Landlord's Property, by reason of any foreclosure of the Trust Deed, the acceptance by Lender of a deed in lieu of foreclosure, or by any other manner, Lender or such other purchaser shall not terminate the Lease, and the Lease shall continue in full force and effect as a direct lease between Tenant and Lender, or such other purchaser, under all of the terms, covenant and conditions of the Lease for the remainder of the term thereof and any extensions or renewals thereof, with the same force and effect as if Lender or such other purchaser were the landlord under the Lease.

b. Immediately upon the succession of Lender or such other purchaser to the interest of the Landlord under the Lease, Tenant does hereby agree to attorn to Lender or such other purchaser as Tenant's landlord. The parties agree that such attornment shall be effective and self-operative without the execution of any further documents. Such attornment shall be subject to all terms, provisions and conditions of the Lease and all amendments and modifications thereof. So long as Tenant is not in default (after the expiration of any applicable cure periods) in the payment of rent and otherwise has not been determined by a court of competent jurisdiction to be in default under any of the material terms and conditions of the Lease, Lender or such other purchaser shall not disturb Tenant in Tenant's possession of the Leased Premises during the term of the Lease and any extensions or renewals thereof, or in the enjoyment of Tenant's rights under the Lease. Nothing in this Agreement shall be construed to limit Tenant's rights against Landlord for any breach of a Lease obligation that occurred prior to the date of takeover, or any claims arising out of such takeover. Tenant shall, from and after Lender's or such other purchaser's succession to the interest of Landlord under the Lease, have the same remedies against such party that Tenant might have had under the Lease against Landlord.

5. Modifications. This Agreement may be modified only by an agreement in writing signed by the parties hereto or their respective successors in interest. Nothing in this Agreement shall be construed as to require the consent of Lender to any amendments, modifications, renewals, or extensions of the Lease.

6. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, legal representatives, successors and assigns of the parties hereto.

7. Attorneys' Fees. If any of the parties hereto institutes any action or proceeding in court to enforce any of the provisions hereof, or any action for damages by reason of any alleged breach of any of the provisions hereof, then the prevailing parties in any such action or proceeding shall be entitled to receive from the losing parties such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing parties, together with the prevailing parties' other reasonable litigation costs and expenses.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which Landlord's Property is located without giving effect to the choice of law rules thereof.

LENDER: Astor East Urban Renewal District

By: _____
Name: _____
Title: _____
Date: _____

LANDLORD: Brian P. Faherty and Jill Faherty, and
Paul Caruana

By: _____
Name: Brian Faherty
Date: _____

By: _____
Name: Jill Faherty
Date: _____

By: _____
Name: Paul Caruana
Date: _____

TENANT: Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless

By: _____
Brian Mecum
Area Vice President Network
Date: _____

LENDER ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

On this day of _____, 201____, before me, a Notary Public in and for the State of _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that He/She was authorized to execute the instrument, and acknowledged it as the _____ of Astor East Urban Renewal District, to be the free and voluntary act and deed of said banking association for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires _____
Print Name _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 201____, before me, a Notary Public in and for the State of _____, personally appeared Brian Faherty, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument and acknowledged it to be his free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires _____
Print Name _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 201____, before me, a Notary Public in and for the State of _____, personally appeared Jill Faherty, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument and acknowledged it to be her free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires _____
Print Name _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201____, before me, a Notary Public in and for the State of _____, personally appeared Paul Caruana, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument and acknowledged it to be his free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires _____
Print Name _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On _____ before me, _____, Notary Public,
personally appeared Brian Mecum, who proved to me on the basis of satisfactory evidence to be the person
whose name is subscribed to the within instrument and acknowledged to me that he executed the same in
his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of
which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

EXHIBIT A
“Landlord’s Property”

Lots 4, 5 and 6, Block 135, SHIVELY’S, in the City of Astoria, Clatsop County, Oregon.