



# AGENDA

## ASTORIA CITY COUNCIL

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Monday, November 19, 2018, 7:00 PM  
2<sup>nd</sup> Floor Council Chambers  
1095 Duane Street · Astoria OR 97103

**1) CALL TO ORDER**

**2) ROLL CALL**

**3) REPORTS OF COUNCILORS**

**4) CHANGES TO AGENDA**

**5) CONSENT**

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the City Council 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) City Council Minutes for November 8, 2018
- b) Board and Commission Meeting Minutes
  - (1) Draft Design Review Committee Meeting Minutes for October 9, 2018
  - (2) Draft Design Review Committee Meeting Minutes for October 25, 2018
  - (3) Draft Historic Landmarks Committee Meeting Minutes for October 16, 2018
- c) Waiver of Fees for Holiday Downtown Parking
- d) Addition of Job Titles for Schedule F-2 Salary and Change in Job Title for Schedule E – Resolution No 18-14

**6) REGULAR AGENDA ITEMS**

All agenda items are open for public comment following deliberation by the City Council. Rather than asking for public comment after each agenda item, the Mayor asks that audience members raise their hands if they want to speak to the item and they will be recognized. In order to respect everyone's time, comments will be limited to 3 minutes.

- a) Ordinances First Reading and Resolution: Homestay Lodging Code Amendments and Fee Resolution
- b) Sales Contract with Area Properties for Sale of City Owned Lots Over the Mill Pond

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

**8) EXECUTIVE SESSION**

- a) ORS 192.660(2)(i) – Performance Evaluation
- b) ORS 192.660(2)(h) – Legal Counsel



# **AGENDA**

## **ASTORIA DEVELOPMENT COMMISSION**

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November 19, 2018  
Immediately Follows Council Meeting

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) CHANGES TO AGENDA
- 4) CONSENT

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the 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) Astoria Development Commission Meeting Minutes for November 8, 2018

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

<p>THE MEETINGS ARE ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING THE CITY MANAGER'S OFFICE AT 503-325-5824.</p>
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## CITY OF ASTORIA

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### MEMORANDUM • CITY MANAGER

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**DATE:** NOVEMBER 14, 2018  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** ASTORIA CITY COUNCIL MEETING OF NOVEMBER 19, 2018

#### CONSENT CALENDAR

**Item 5(a): City Council Work Session Minutes for November 8, 2018**

The minutes of the City Council meeting are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

**Item 5(b): Board and Commission Meeting Minutes**

- (1) Draft Design Review Committee Meeting Minutes for October 9, 2018
- (2) Draft Design Review Committee Meeting Minutes for October 25, 2018
- (3) Draft Historic Landmarks Committee Meeting Minutes for October 16, 2018

The draft minutes of the above Boards and Commissions are included. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

**Item 5(c): Waiver of Fees for Holiday Downtown Parking**

The Association (ADHDA) is requesting that the City Council implement a waiver of overtime parking for the upcoming holiday season from Friday, November 23, 2018 through Wednesday, January 2, 2019. The intention is for no enforcement of overtime parking in the downtown, which includes the Heritage Square parking lot, as well as on-street parking; however, tickets will still be written for other violations in the Parking District, including parking by downtown employees within the District.

The City of Astoria has approved this request of ADHDA for several consecutive years; therefore, it is recommended that Council approve this request.

**Item 5(d): Addition of Job Titles for Schedule F-2 Salary and Change in Job Title for Schedule E – Resolution No 18-14**

There is a need to create a temporary on-call, position of Fire Department Project Manager in order to implement recommendations of duties and information after the successful recruitment of a new Fire Chief.

An addition of a part-time position for City Historian is required to recognize the resource provided to City staff and owners of historic properties in the historic review and/or designation process. This position has been filled for several years but it appears addition of the job title in the Wage and Salary resolutions was previously overlooked.

A job title change is proposed from Financial Analyst to Accountant which falls under Schedule E, Range 28. In order to fully align job duties within the finance department it has become necessary to review the duties of this position and the Financial Report Manager to ensure the required functions of the department are adequately address at the appropriate levels.

It is recommended that City Council approve the additions and change as noted to amend Salary Resolution No. 18-14.

## **REGULAR AGENDA ITEMS**

### **Item 6(a): Ordinances First Reading and Resolution: Homestay Lodging Code Amendments and Fee Resolution**

Over the last few years, the number of illegal transient lodging facilities in Astoria has increased substantially. Enforcement is difficult as the units are not identified by address or owner in the advertising platforms (such as Airbnb, VRBO, etc.) and it is time consuming and difficult for staff to research where the specific facilities are located in order to initiate code enforcement. At the December 13, 2017 and October 13, 2018 work sessions, staff reviewed the existing permit /enforcement process, approved facilities, and proposed Code amendments that would provide better codes, clarify terminology, establish a license process, and address code enforcement. The draft documents presented on October 13, 2018 included “tracked” changes to the draft code language and “annotated” notes explaining the intent and/or issues for specific code entries. These notes have been removed from the final draft but would be a reference document on some of the proposed changes. Based on Council input at the work sessions, staff have revised the draft amendments and prepared them for Council adoption.

Attached to this memo is a copy of the proposed draft Code amendment for Home Stay Lodging Licenses, and a proposed draft Code amendment for the Transient Lodging Tax. This proposal would put the regulations and license requirements into the City Code. However, since the Development Code includes some regulations related to transient lodging and identifies the specific zones in which they are allowed, some code amendments will be required to the Development Code so that it coincides with the proposed City Code. Once the Council adopts the City Code amendments, staff will proceed with the Development Code amendment process. Staff worked with the City Attorney on formatting the code amendments which resulted in a format that is different than the one presented at the October 13 work session. The details concerning how to process the licenses has been omitted from the code draft and will be presented at the December 3 City Council meeting (second reading of the



ordinance) as a separate "Procedural Process" for Council to review. These will be informational for staff as guidance in processing the licenses.

The Transient Room Tax portion of the City Code is also proposed to be amended to update the terminology and allow for third party collection of the room tax. With the third-party collection, an agreement with the City would be required, and liens for unpaid taxes would be applied to the operator, property owner, and third-party tax collector.

Some standards/requirements will be included in the Development Code rather than the City Code. These amendments will need to be processed as a land use amendment through the Planning Commission before City Council review and adoption. A Fee Resolution is also attached for consideration. The fees are proposed similar to some of the land use permit fees such as conditional uses and appeals as the licenses will require staff time for review, public notices, and enforcement. Per the Council's direction, the fees reflect estimated actual costs to process the licenses.

An ordinance amending the City Code to add Home Stay Lodging Licenses, an ordinance amending the Transient Room Tax, and a resolution to adopt fees associated with Home Stay Lodging licenses are attached.

If the draft code meets Council's expectations, it would be in order for Council to hold a first reading of the ordinance for the Home Stay Lodging Licenses and the ordinance for the Transient Room Tax. Two separate motions / votes and two separate readings would be needed. If the draft fee resolution is acceptable to the Council, it will be presented at the December 3, 2018 meeting for adoption along with the second reading and adoption of the ordinances.

**Item 6(b): Sales Contract with Area Properties for Sale of City Owned Lots Over the Mill Pond**

The City owns twelve lots platted over the south side of the Mill Pond that were gifted by the developer, Art Demuro (Venerable Properties), in 2012. The City has attempted to market the property since that time with no success. The issue of disposition of the properties was raised during this fiscal year's budget hearings.

This item was discussed at the August 6, 2018 City Council meeting and Council directed Staff to market the lots using a real estate agent. Staff contacted Mary Wickstrom of Area Properties. Mary and Laurie Duey were involved in the sale of City properties in 2014 and 2015. Area Properties was the only real estate firm to propose to sell City properties at that time. Due to their familiarity with the property and background, staff recommends renewing the contract with Area Properties. The City Attorney opines that this would be the appropriate course of action.

The sales contracts are attached. It is proposed that the price of each "pier" be priced at

\$45,000. The value was established based on Area Properties' evaluation both in 2013 and current values. Although some individual lots over water have been listed for \$30,000, the pier lots are problematic because of the need to build out the entire pier and develop it all at once. Each pier contains, theoretically, six lots or building sites; however, only offers for each pier would be entertained or accepted. The price, if accepted, would enable the City to recover its investment and decommission utilities.

Although the property will be listed generally on the MLS, the real estate agents will make an initial effort to contact all of the Mill Pond property owners to inform them of the proposal. The HOA board will also be contacted directly as a courtesy.

It is recommended that the Council authorize the City Manager to sign the sales contract.

## **EXECUTIVE SESSION**

**Item 8(a): ORS 192.660(2)(i) – Performance Evaluation**

**Item 8(b): ORS 192.660(2)(h) – Legal Counsel**

A special meeting of the Astoria Common Council was held at the above place at the hour of 8:56 am.

Councilors Present: Nemlowill, Jones, Price, Brownson, and Mayor LaMear.

Councilors Excused: None

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

The City Council recessed into Executive Session at 8:56 am.

**EXECUTIVE SESSION**

**Item 3(a): ORS192.660(2)(i) – Labor Negotiator Consultations**

The City Council met in Executive Session to discuss a performance evaluation.

The regular session reconvened at 10:08 am.

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

There was none.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:08 am.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
City Manager

**DESIGN REVIEW COMMITTEE**  
**Astoria City Hall**  
October 9, 2018

CALL TO ORDER:

President Rickenbach called the meeting to order at 5:30 p.m.

ROLL CALL – ITEM 2:

Commissioners Present: President Jared Rickenbach, Leanne Hensley, Hilarie Phelps and Sarah Jane Bardy.

Commissioners Excused: Vice President LJ Gunderson

Staff Present: Planner Nancy Ferber, City Manager Brett Estes, and City Attorney Blair Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES – ITEM 3:

President Rickenbach called for approval of the minutes of the June 25, 2018 and July 10, 2018 meetings.

**Item 3(a): June 25, 2018**

President Rickenbach noted the following correction to the June 25, 2018 minutes:

- Multiple Pages – Vice President Dieffenbach should be corrected to Vice President Gunderson.

**Item 3(b): July 10, 2018**

Commissioner Bardy moved to approve the June 25, 2018 minutes as corrected and the July 10, 2018 minutes as presented; seconded by Commissioner Hensley. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

DR18-01R Design Review Request (DR18-01R) by Craig Riegelneegg, Carleton Hart Architecture for Hollander Hospitality to construct a four-story hotel at 1 2<sup>nd</sup> Street (Map T8N R9W Section 7DA, Tax Lots 11800 and 11900; Lots 1, 2, 3, 4, Block 1, McClure; and Map T8N R9W Section 7DB, Tax Lot 1300, 1400, 1501, 1700; Unplatted lots fronting on Block 1, (Hinman's Astoria) in the C-3 Zone (General Commercial), Bridge Vista Overlay Zone (BVO), Flood Hazard Overlay (FHO), and CRESO Zone

President Rickenbach asked if anyone objected to the jurisdiction of the Design Review Committee to hear this matter at this time. There were no objections. He asked if any member of the Design Review Committee had any conflicts of interest or ex parte contacts to declare.

President Rickenbach declared that as a general contractor, he had a potential conflict of interest. The property owner had contacted his office a few weeks ago about doing some maintenance on the site, but his company declined because of his position on the Design Review Committee.

President Rickenbach called for a presentation of the Staff report.



Planner Ferber reviewed the Findings and Conditions contained in the Staff report. All correspondence received was included in the agenda packet. Staff recommended several findings be addressed by the Commission, and requested a continuance.

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

Craig Reigelneegg, 830 SW 10<sup>th</sup> Ave. Ste. 200, Portland, stated this was the second Design Review hearing for the hotel. He brought a revised design that was responsive to the feedback received at the last DRC hearing from the Commissioners and the community. He tried to address the considerations mentioned in every way possible while abiding by the Codes and the demands of the program and use. He believed significant changes had been made that did address the concerns. He adapted the building to the character of the late 19<sup>th</sup> Century working waterfront in Astoria, updated the methods and materials, and tried to be loyal to the context of past architecture. He gave a PowerPoint presentation on the new design, which Commissioners had hard copies of at the dais. The major design shifts were as follows:

- In the original design, the cladding did not match the traditional Astoria buildings closely enough. The cladding was modified to a grey V groove siding taken directly from some precedents. He removed the rust color on the board and batten siding as well.
- Concerns about the flat linear roof were addressed by modifying the roof to a pitched gable, which required some framing changes at an additional expense. The roof height was lower to be Code compliant with small variations following traditional industrial patterns.
- The mansard roofing material was not compatible with the existing Ship Inn. Therefore, the structure would be demolished and replaced with a new structure that conformed to all Code requirements, including setbacks, view corridors, and everything else in the Development Code. The new structure would have more glazing along the street front, and an entry canopy with clearstory glazing.
- Concerns about the form of the tower would be addressed by reducing its footprint and pushing back the projection to be enclosed within the pitched roof.
- He displayed an aerial view of the location and project site located northwest of the intersection of Marine Drive and 2<sup>nd</sup> Street. The Sanborne Maps indicate the previous Van Kamp Seafood building location, which was a greater size than the building he proposed. He showed examples of other buildings along the waterfront, including the Union Fishermen's Co-op building. These buildings set precedents for buildings smaller and larger than what he had proposed. He wanted to comply with the history and kept his building well within that range.
- He displayed context photographs of the site and said he intended to renovate the Stephanie's Cabin building for a new tenant as a separate project completed under a separate building permit. The existing building precludes any positioning or orientation of the hotel along the frontage. Because the building is existing non-conforming, compliance would be dealt with at the time of that project proposal. At this time, given fire lane access, he was not able to explore other orientations that would put the hotel in that location. He displayed the site plan showing the orientation, which was similar to the previous submittal except for an increased view corridor. The view corridor on 2<sup>nd</sup> Street was extended to 35 feet in either direction for a total of 70 feet. The fire access requirements and existing building prohibit any other orientation.
- Covered parking would be on the east side. The common area for the hotel would be in the middle with a new entry and lobby in place of the Ship Inn on the east side. The entry would be on the southeast corner. He was looking for guidance on an alternate defined area for the patio, which was currently proposed to be located on the north side. There is an existing stem wall from the Ship Inn and the Code prohibits any cut and fill along that boundary. If he could reuse the stem wall that would reduce the risk of erosion at the water's edge. He believed it was appropriate to keep the wall in place. That means the patio to the north would extend 2' 7" beyond the line shown on the screen.
- He showed the landscaping plan which would be developed to all of the City's requirements. The plantings would incorporate native and riparian species where appropriate and conform to all Code requirements. They would also provide required screening and buffering.
- He showed a summary of the research he did on working waterfronts and noted more details were included in his plan. Early design attempts explored contemporary interpretations of the historic features. Now, the plan more directly applied those features to siding profiles, window detailing, roof pitches, and other components. He displayed photographs of historic buildings with the same V groove siding, board and batten, and the color he proposed for the new hotel. He noted that rather than using the red on the entire building, it would be used as an accent. Many of the examples included a light/dark contrast between the trim and siding, which he adapted to the trim/siding relationship on the new design.



- He showed the elevation with the new materials and presented material samples to the Commissioners at the dais. The V groove and board and batten would be fiber cement and composite materials because modern availability, performance, and durability demands had changed. However, the profiles would match the old architecture. The board and batten siding was a 2 ½-inch band and a 12-inch spacing. The V groove was a 7-inch board. The base of the building was raw board formed concrete on the west portion. Trim detailing around the windows, other openings, and material transitions were based directly on classic details observed in the precedents. Frame profiles on the glazing were a play off the classic window frame shapes and putty glazed assemblies for contemporary performance requirements. They were Marvin Ultimate Clad Wood and Wasco Invent Retro. Trim and standing seam metal roofing would be 22-gauge with 1-inch high battens, which is compliant with Codes.
- The south elevation showed the ground floor, enclosed parking area with open metal grates aligned with the windows above, the vehicle entry in the center, the pedestrian entry on the east corner, and the circulation tower. Window details would be simulated divided lights with exterior muntins to get the closest appearance to true divided lights. The lights would be three high and two wide with symmetrical casements, one operable and one fixed. The windows would be recessed 3 ½ inches. The trim and surround boards would be installed around all sides and sized to meet the Code requirements. Crown molding would be in a configuration taken from their study with a projecting sloped water table on top that merged with the floor line and trim to create a continuous profile. That pattern would be repeated at the window sill and the sill of the mechanical unit below. Mechanical units would be concealed by a custom louver, which makes it completely invisible and acts as a textured infill panel.
- He showed the awning on the south elevation. The Staff reported questioned whether it was properly sized for the building entry or window. It extends 24 inches out from the wall, which is the maximum they could achieve while still meeting the Fire Department's requirement for ladder access. He wanted to break up the south façade visually and provide a cover for people walking underneath. He believed that was compliant with the intent of the Code. The southeast perspective showed a canopy, not an awning as it was called in the Staff report, extending across the entry area and supported independently by columns on one side. He believed it was proportioned well for the building. He showed a photograph of the canopy and said it had the same standing seam roofing. He displayed the entry detailing. Five of the six entry doors would be placed within glazed openings to keep the composition of the glazed opening rhythm. The doors would be integrated with side lights and transoms.
- He showed the details of the store front system with a high performance window system designed to imitate the profile of the older putty glazed profiles. They meet all of the contemporary requirements for wind and structural loading. The northeast perspective would have clearstory glazing that he believed met the intent of the Code by preserving the single gabled roof and applying industrial typology, which makes the north frontage more attractive. The roof pitches would be 3:12 and 2:13 on the east and west elevations. Roof details included a 24-inch projection at the typical eaves. He asked for clarity about whether that applied to the view corridor. Staff's findings suggested that the view corridor could be interpreted as a yard, so he would be allowed up to 24 inches. The east elevation would probably take about 18 inches to help cover the edge. The north elevation also showed the decks and rails visible on the river side. The ground floor would include the north patio and a long planter to create an attractive frontage for the Riverwalk. He showed the details of the patio doors, which would be the same compositional arrangement as the windows. Decking would be covered in a waterproof cement-based coating in an industrial finish. He displayed a photograph of the view along the river trail. The primary mass of the building was brought up in the findings. Compliance with the massing requirements are quite clear in the Code. The building form should be simple geometric shapes like squares and rectangles and triangles. He believed the building clearly complied with that. They were confined to the proposed dimensions on the south side by the historic context that included large singular wall planes. They wanted to do what they could to mitigate the depth of the façade and create visual interest with a floor line break, detailing, windows, grates, cladding, the awning, and the roofline. This created depth through means other than massing breaks.
- He showed the materials palette and details of the benches that match the benches on the Riverwalk and would be placed on the east side. He also showed the door hardware for the entries and patio, which all would be in a pewter finish on the exterior to contrast with the black color. Staff's findings also said that the specific aspects of the design should address sensitivity and craftsmanship of the site and the development as a product of the time. The product of the time is relative because he was being asked to respect historic context, so he viewed that as creating contemporary detailing that honors the classic appearance and still met all of the contemporary requirements. He believed the proposal demonstrated that. Craftsmanship represented by the product selection, detailing, and transitions tried to bridge the gap between the old and the new.



- There was a question in Staff's findings about the height as it pertained to the raised parapet area on the tower. He was under the 45-foot height limit for the average height of the roof, as determined by the Development Code. The section at the top of the circulation area included a roof top unit and associated screening, access to the unit, and the elevator overrun. He was claiming two exceptions in the Development Code, one for the mechanical unit and screening of the mechanical unit, and the other for the elevator overrun. There were some questions raised as to whether the area shown for the screening of the mechanical unit was within the tolerances he was aware of. Typically, the building would need three feet of clearance as a work area around the units. Some manufacturers require more or less than three feet. He also wanted to square the corner on the northeast part where the overrun comes across to the unit. It might be possible to chop off part of that corner, but he did not feel that would reduce the visual impact of the tower.
- He displayed the lighting plan to address Staff's findings and questions. Lighting Type F would be used on one light on the monument sign. It would swivel and he would be happy to create a valance around it to prevent a glare. Wall signs were reduced by removing the east facing sign because there were objections to the signage area and height. Signage would be lower on the building and only on the south elevation.
- Staff's findings mentioned the trash enclosure, which would allow proper clearance for the parking spaces next to it. However, he would be happy to put a stop in to prevent the door from swinging into one of the spaces.
- Staff's findings cited issues with scale, massing, and materials along the street facades, and he felt that the original characteristics that were referred to were applicable. The requirement only applied to the 2<sup>nd</sup> Street frontage, but the current design achieved a far higher percentage of glazing than the Ship Inn and maintained a single-story frontage on the street. The building entry would be located directly adjacent to the street on the southeast. The patio would be to the north and would have a lot of glass and transparency to engage the street while maintaining the required setbacks. It would also be of a similar scale as the Ship Inn and then the larger part of the building would step up on the west side.

Commissioner Phelps asked if the two sections of roofing on the one-story portion of the building that would replace the Ship Inn would both be the same pitch.

Mr. Riegelnegg explained that the roof with the equipment would be a flat roof in the middle with a pitch on both sides and they would be the same pitch as the roof with the clearstory, 3:12 on both sides. The canopy on the south side would be 2:12.

Commissioner Phelps recommended that Mr. Riegelnegg correct the height on the south elevation where the clearstory windows would be located.

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

Jan Faber, 3015 Harrison Ave, Astoria, said the remand by the City Council was not a rejection or a comment on any of the findings the DRC previously made on this matter. At the time of the hearing, the proponents came up with a brand new plan. Rather than consider the new plan without the DRC's input, the plan was remanded back to the DRC. This is just starting all over again. Astoria is not desperate at this time for this type of development. There was a time when the community wanted almost anything to come to town just because they needed the money and the jobs. Now, the community is in a command position. People want to move to this town. Tourists want to visit and people want to invest because of the uniqueness of Astoria. Imagine the waterfront lined with projects like this one. A lot of references were made to the working waterfront. Astoria is not a working waterfront anymore, and this is not a working waterfront project, so, it does not need to look like a cannery or a warehouse. It needs to look like the city; something attractive and something that fits in with the Victorian character of the city, not block buildings. He was dismayed by the constant reference to the City Code because the proponents have done nothing more than push the limits. This hotel plan looks like a box on its side. The reason the plan has that roofline is because the building would push right up to the 45-foot limit and there would be no room for design. He asked if the Applicant considered making a three-story building with peaks and designs. He did not believe so because they wanted to maximize profits. That is not the purpose of the DRC. The design review is supposed to see whether it has style, distinctive characteristics, and craftsmanship. The plan shows nothing more than a flat roof. If you Looking at the building from the front or the back, the roofline is straight across, not a single distinctive or stylistic characteristic. He tried to duplicate the window design with a box at home. He took a marker and ruler and drew a square. The design for all of the windows is just that. There are no overhangs or



peaks. The Applicants have just done the minimal setbacks. He would like the DRC to review this plan using the same criteria they used to review the project last time and see whether the Applicants had done anything to address the distinctive characteristics and the style he wanted in the city.

Elizabeth Menetrey, 3849 Grand Ave. Astoria, said she was glad to see that the view corridor of 35 feet from the center line of 2<sup>nd</sup> Street would be an entire 35-foot view corridor. She imagined there would be no parking or anything else going on in that 35 feet. A 10-foot setback for such a large building is the absolute minimum. They could do more. It looked like they were proposing balconies. When she walks along the river front she really did not want people looking down at her. A visual link between the people walking on the river and people up in their balconies, she did not see using a balcony as a setback. It is not a visual setback to her and people looking down on her as she walks on the river is really unappealing. The historic canneries were humungous, but this is not the criteria that the Commission needs to compare. The plan should be compared to what Astoria has now with scale. It is completely out of scale with what we have now.

Chris Farrar, 3023 Harrison, Astoria, said he had a mixed attitude about the project. He was impressed with all the work that the Applicants do to try to tweak their project and all the details they went into. He knew they spent countless hours, but just look at it. It is still just a big rectangular box blocking everybody's view of what people cherish in the city. If the Commission wants to destroy what the city is, then approve the big square box. It is ugly no matter how much trim work it has. The people who worked on it worked hard, listened, and tried to make the project fit, but it does not fit the town as the town is now. The way the town should move forward does not include blocking the river with big rectangular boxes with no imagination.

Mike Sensenbach 110 Kensington, Astoria, said he had questions about the maximum setbacks because they were just kind of briefly gone over by the presentation, which said they should be no more than five feet off of Marine Drive. Originally, the Applicant's were going to use the Ship Inn as an existing nonconforming structure, but he did not see where the building would be sited now. He understood the hotel could not physically be moved on the property, but perhaps building a hotel on this property would not fit for the setbacks that are allowed. Josephson's and Stephanie's Cabin are within five or 20 feet of the set back on Marine Drive. He agreed the building would block the river, but Marine Drive is something everyone goes past every day. It will just look weird with a bunch of different buildings at a bunch of different depths along the road.

President Rickenbach called for the Applicant's rebuttal.

Mr. Riegelneegg thanked everyone for their testimony. He heard comments on the style of the working waterfront and how maybe it is not the appropriate style for the site. He wanted to reiterate that on a number of fronts this is what they were pointed towards as the precedent to follow for this design. They worked with the City and the BVO's stated goal is essentially to honor the historic character of the working waterfront specifically referencing the fisheries and cannery buildings. He appreciated personal tastes, but he was pointed towards a very specific style and era. When it comes to the massing and shape of the building, he can reference a draw back directly to the working waterfront precedents. He tried through the details to introduce depth and texture on the façade, but the cannery buildings were large with broad planes. The maximum setback was brought up again, five feet off of Marine Drive. He displayed the site plan on the screen and said the Stephanie's Cabin would not be renovated as part of this project. It happens to fall on the property that the owner owns and it would share some access and fire lanes with the hotel. However, once that project begins it would be independent and would meet the requirements for the setback at the time. Moving the hotel would necessitate demolishing the building and he would not have enough room to orient the hotel on one side or the other. It would also force him to abandon 2<sup>nd</sup> Street, which had its own Code related demands. They would like to reuse the existing building to address the Marine Drive frontage at the time it proceeds. He believed that would be the wise choice.

President Rickenbach called for closing remarks from Staff.

Planner Ferber said the Commission still needed to flush out some criteria during deliberations. She displayed the Conclusions and Recommended Conditions (Pages 30 – 32 of the Staff report) on the screen. She said the Applicant addressed part of them already and read each Conclusion aloud. She noted the Recommended Conditions could be addressed by Staff.

President Rickenbach closed the public hearing and called for Committee discussion and deliberation.



Commissioner Hensley stated she definitely thought the trash enclosure needed a lid. She believed the Applicants worked really hard to incorporate a lot more details. The intent of the aesthetic of the project is appropriate overall for the location. She did not believe a Victorian look was appropriate for a waterfront. She appreciated the extensive material choices, but still believed there would be too many units. She knew the Applicants were bound by Marriott standards, but on the fourth floor, there is contention with the height. Maybe that should be examined again. She was not proposing the Applicants take another 20 units off, but it should be examined. She did not like that they had no use for Stephanie's Cabin because it was integral to the site. The first-floor plan was hardly adequate for dining. There were four tables and a six-seater for 62 units. She felt like there needed to be some massaging of the programming of the facility in conjunction with the Marriott standards. The City utility impacts should be studied more, and the traffic study should be reevaluated. She did not know if she was a fan of the balconies. She liked the architectural detail and the windows, but it seemed to be a problem amongst the community. She wondered if people would be hanging their towels out. But, overall, she believed the new plan was a much better submittal.

Commissioner Phelps said she was conflicted because she believed a lot of the problems the public are having with the mass and scale are actually due to the Astoria's Code allowing the height and size of the building. She was concerned about the downtown core that would be codified soon and hoped people would attend those meetings. The height is allowed by the Code, which encouraged rectangular buildings. Staff has recommended that the rectangle should be modulated in some way for some relief to the boxiness. She did not believe the roof's change in elevation had taken care of that modulation. She did not mind the balconies because other buildings along the river front have balconies. The pitch of the fourth story looked like wings, which she did not like.

Commissioner Bardy said she believed the clearstory was a nice design element that added some interest to an otherwise recommended rectangular shape. However, if its purpose was mainly to serve to let light in, it might be more effective if it faced south. She believed a lid should be put on the trash enclosure because it would be nice for the people on the hill. It is frustrating that the Code was written to allow a numerical height, which the proposed building is within. But, fortunately, the Code also talks about being within the scale for the neighborhood. The historic canneries that were out over the river and the condominiums were quite tall, but she did not believe they could be built currently. They all sat out over the water. The basic laws of perspective dictate that if something is far away it is smaller. A four-story building over the water did not take up as much visual space as something that sits directly in front of you on the river front. She preferred this design to the previous one. She liked the materials, the red board and batten, and the V groove siding. However, on the east elevation where there is a vertical split, she did not like the red board and batten on one side and the grey V groove on the other. She recommended the Applicant choose one cladding for the entire side. She believed that when debating what the Applicants want versus what the community wants it was important to weigh the whys. It was understandable that the Applicants wanted to build a four-story building because the fourth story would get more views, more rooms, and more profits. But she did not know if that would equally benefit the community. At the last meeting, 22 people spoke in opposition of this project. The two who spoke in favor were members of the Applicant's team. Every person who spoke in opposition shared one common concern, the scale. She believed the Commission needed to pay attention to that. A three-story version of this hotel would be a good compromise for everybody. She knew this was not unheard of for the Fairfield chain because she did some research. There are a number of Fairfields throughout the country that are three stories. If the Applicants wanted to maximize rooms, they could offset that because a lot of the underground parking would not be needed and more rooms could be put downstairs. They would not necessarily lose that many rooms. She believed the scale was too big for the neighborhood. The Commission needed to strike a balance between what benefits the Applicants and what benefits the community; making the building shorter would do that.

President Rickenbach said he believed if the building was out against Marine Drive the perspective would be horrible. He was fine with the location on site and the setbacks. He really appreciated that the Ship Inn building was gone and there would not be four stories on 2<sup>nd</sup> Street. The scale and massing against 2<sup>nd</sup> Street is tactful and the aerial space is open to the view corridor. The building is up to the edge, but that is what you do; you maximize a building on a property. He was fine that the Applicants were using 100 percent of the setbacks. It is really hard to visualize all of the details that have been added to the building. However, he believed all the details would help to bring the scale and massing down to where there are breaks in the wall. There are small details above the windows and overhangs down lower. The awning by the front entry would help. There are really nice details that are often times skipped over at this point in the application process. By adding the details to the application, the Commission has an understanding of what they are proposing and how it would be built. The



criteria have been met for the elevation of the building. The surrounds around the mechanical units and the elevator could be smaller or left boxier, but he was okay with the way they were shown. The site lines on the building are nice and he liked the setback and the balconies because it created some change in the lines. If the building was pushed up next to 2<sup>nd</sup> Street, he would have a bigger issue with the scale and massing, but it has been pulled back with the single-story building against 2<sup>nd</sup> Street. He believed that met the criteria for scale and massing because it did not feel that big. A lot of existing buildings feel much larger and heavier from Marine Drive.

Commissioner Phelps asked if developments off of secondary streets were required to have a lower height. Planner Ferber answered no, and explained that those buildings had to be set back to maintain a visual corridor.

Commissioner Phelps stated she was okay with the clearstory. She believed they were normally faced towards the north to get soft consistent light rather than glaring light and heat from the south. She asked if the Applicants had ever considered one length of rooms on the fourth story rather than two. That would provide more options for roof pitch and possibly allow for another set of balconies.

Commissioner Bardy said she agreed that the setbacks help open up the view on the river side of the building, but that does nothing for the south side, which is still a really tall wall. The building is still technically a 45- or 48-foot tall mass.

President Rickenbach called for a motion so the Commission could make a decision on Staff's Conclusions and Recommended Conditions.

Commissioner Hensley moved the Astoria Design Review Committee tentatively approve Design Review DR18-01R by Craig Riegelnegg with conditions and adopt the Findings and Conclusions contained in the Staff report. Motion was seconded by President Rickenbach.

Staff advised the Commission on options for next steps and reminded that they needed to direct Staff on findings in support of approval. Commissioners Phelps and Bardy said they would have moved to deny the request. President Rickenbach noted that voting now would result in a tie, which would be a denial of the request. The Commission could continue the hearing.

President Rickenbach reopened the public hearing and asked the Applicant to address the Commission.

Mark Hollander, Bellingham, WA, said he was the developer. The Commission seemed to be focused on the fourth floor. This project is not feasible with 22 fewer rooms, so that is a huge issue. The building could be spread out to make it three stories, but then it would create more frontage along the waterfront and the character of the building would change. The square footage of the building would also be affected. The building is efficient and the size of the building is at the limit, so that is a huge consideration. They have worked hard to try to get the building to conform to Marriott's standards to make the guest rooms work. They would worry about how the interior space functions. They run a lot of hotels so they would make it work. But the Commission is focused on the outside and what it looks like. One of the reasons for having four stories is so all three floors get a view. The garage area does not have a great view because the building sits below the walkway and the dock that sits in front of the hotel. So, guests on the ground floor would be looking at a handrail and they cannot experience an unobstructed view from the lobby. There is a lot of transparency in the lobby and close access to the waterfront, so he could make it work, but he did not want to drop a floor because it would not work at this site. Looking at the hotel from the walkway would not feel that tall compared to everything else in the neighborhood because the building is set down a ways. The perspective from Marine Drive is other single-story building sitting in front of the hotel which would also affect how the building looks from Marine Drive and would take away from the feeling that it is just so massive. This is not a massive hotel, 30,000 square feet is really an architectural accomplishment. Another benefit is that this building would provide some shielding from Marine Drive to those out on the waterfront. Marine Drive is very close to the promenade and the building would give some traffic protection and sound protection, which is a positive thing. If the Commission thinks he can drop the hotel, spread it out, and make it more like the Cannery Pier Hotel, then allow him to do that, but the Code does not allow it. He studied the Code, hired people to evaluate it and figure out what could be done on the site. Based on that, he completed a feasibility analysis and he's gone round and round to try to ask what they want within the Code. That is what he believed he was presenting. He did not know how many more times he could redesign this building and accomplish what the City demands within its Code. He purchased a property with a zoning code, and he had



been working within those parameters. He was trying to listen to the community. While there was some opposition, there were also a lot of people interested in his project. They do not necessarily show up at these meetings, but he believed there were a lot of people in support of the project. This would be a positive contribution to the community.

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

Jan Faber, 3015 Harrison, Astoria, said he had heard the feasibility term used by many developers. Feasibility does not mean it is possible; most of the time it just means maximum profit. There are three-story hotels that do fine. A lot of buildings are not four stories tall that seem to make it okay. The view belongs to everybody, not just for people in the hotel. When walking along the river, in some places he can actually see the hills or trees. But next to this building he would not see anything except sky and a shadow over the Riverwalk. He had never heard anyone complain about the sounds of Marine Drive while walking along the Riverwalk. Astoria does not need a wall to provide a sound barrier. When developers say they are bringing something to town, it is not to bring something to Astoria; it is for profit. Part of the Code the Applicant said he was dealing with is this Design Review Committee, the mass, the sensitivity, the craftsmanship, and the design features. Those things just are not being considered. He did not see any design features on the windows. The mass is just too great for a location along the Riverwalk and blocked the views of the river.

Elizabeth Menetrey, 3849 Grand, Astoria, said the Bridge Vista is very flawed. The Applicant looked at the Bridge Vista but that does not mean the Commission has to approve this project. This is what the community would be looking at for a very long time. This is a big decision. More hotels would be looking at what the Commission decides tonight.

Chris Farrar, 3023 Harrison, Astoria, said the people in the community who have spoken are all opposed and that means something. He did not see any written comments in favor of this project. He asked if the voices of the citizens of this community meant anything to the Commission. Some of the Commissioners are looking for a way to support the community because the Code seemed slack on allowing big square buildings dominating the horizon. He recommended the Commission focus on scale, how it fit with the community and what the community wants. It is great that people come to Astoria and want to make a profit from available property, but they ought to figure out a way to do it without intruding and ruining the community. Ruining the community will dry up the profit anyway.

Loretta Maxwell, 1574 Grand, Astoria, Grandview Bed and Breakfast, said she was brand new when the City was working on the Bridge Vista. She did not really know what setbacks meant. She thought it meant so the view could be to the river rather than along the river. She was not sure how that made the view better other than to not overpower people walking on the river front. Grandview is four stories high, but it is on a hillside about four blocks up from Marine Drive. People who stay at Grandview love the commanding view of the river. From one of the rooms, you can see where the river coming around from Tongue Point and beyond the bridge. She did not really charge a lot and she was not a hotel. If the Applicants want the expansive view, they should go up the hill then the railing would not be in the way, and the view would not be reserved for those only there for a day or two, and taking it away from the people who live here. It is really important to see the river, Washington, and the bridge. She was sorry the Applicants had spent likely tens of thousands of dollars to accomplish this, but it felt like the Applicants were stealing something from the community.

President Rickenbach called for the Applicants rebuttal.

Mr. Riegelnegg said he wanted to reiterate that the BVO was written and exists to maintain certain characteristics, and the prescriptive requirements were built in for a reason. He understood the concerns about the views. The development along the river front was zoned to present a pathway for something to be built. The other option would be to make the building longer and lower, which would not accomplish the goal of maintaining a view of the river front. He wanted to work within the confines and find the most feasible way to construct the hotel.

President Rickenbach called for closing remarks from Staff.



Planner Ferber noted the purpose of the BVO was to allow for development that was water dependent or water related and uses that are consistent for Astoria's working waterfront, encouraging designs that are compatible with the area's historic and working waterfront character and protecting views of and access to the Columbia River while enhancing open space landscaping.

Commissioner Phelps asked what the height limit was prior to the BVO. City Manager Estes said a variety of height limits were allowed along the waterfront, ranging from no height limit to 45 feet. The areas that allowed 45 feet had no provisions for reductions in mass.

Commissioner Phelps stated the Applicant had testified that he did not want to give up the fourth story, but would work with Staff to modulate other aspects of the exterior.

City Manager Estes reminded that the Commission must respond to the design that had been proposed and decide whether it met the criteria. The Commission has not been tasked with redesigning the proposal.

President Rickenbach closed the public hearing.

Commissioner Bardy believed it would be difficult to find anyone in this community who did not have a personal financial investment in the Holiday Inn, to say they are happy it went up. She believed 100 percent of the people who live in Astoria regret that ever happened. It was a mistake, and the City should not continue to make them. The BVO talks about scale, so she would say this did not meet the criteria based on scale. Mr. Hollander said he could not lose the fourth floor because the first floor did not have good enough views for the guests. Those guests would be here one or two nights. This community lives here. She owned a house on the hill she would probably die in and she believed the community's views were more important than someone who is passing through and staying one night. Mr. Hollander also said 30,000 square feet was not massive. It might not be massive compared to other hotels in other cities, but it is pretty massive for Astoria. This is mainly a bed and breakfast town. In her opinion, some large hotels have been mistakenly built recently that she believed everyone regretted. Mr. Hollander also said he held a public meeting and that it was important to him to get community input and have a good relationship with the community. She remembered the public meeting. She was unable to attend, but understood it was particularly heated and a lot of people wanted to go to it. A lot of Council members wanted to attend, but they could not because of when it was scheduled. Some people showed up but had to leave because it was delayed. So, the Applicants did not really get a good rate of everyone's opinion. If the Applicants had listened to those who did show up, their first proposal would have been more similar to what we are dealing with here tonight. The initial design showed that the Applicant's had not listened at all. She believed the whole community was offended when the Applicant's attorney reduced the waterfront to a pile of rocks, sticks, and rusty metal.

Commissioner Hensley said she knew how much hard work went into the submittals. She had been involved in reviewing projects in Astoria for three years and before that in municipalities with much more organized standards. The amount of research that had gone into this submittal she had not seen before. Everyone is judging the project based on the research is ironic because Columbia House Condominiums is hideous and that is what is being defended. The Holiday Inn is the same size and stature, but that is what happens with four stories. This is a much better submittal and she appreciated the amount of mindful detailing and diversity of materials. The only thing she was concerned about was that there was no plan for Stephanie's Cabin in coordination with the lack of dining. The Commission would be wasting time talking about setbacks and the number of floors. The views proposed in this submittal are a lot better.

President Rickenbach believed spreading the building out would really change the massing and the feel on 2<sup>nd</sup> Street. It would be more difficult to look at a three-story building as not having the right massing, but he liked the feel of pulling it in tighter even if it was a taller building that was not as long and spread out. Some other applicant could propose that.

Commissioner Hensley said when it comes down to the individual conclusions and conditions recommended by Staff, she did not see any reason why it would not pass the qualifications, which are a hodge-podge of different types of styles. Beyond the individual concerns people have, she would not vote against the project.

Commissioner Bardy asked if Commissioner Hensley disagreed that it was out of scale because that is a criterion.



Commissioner Hensley stated that with four floors, removing another 20 units would take the project in another direction and she was not sure that could be solved right now.

Commissioner Bardy asked if Commissioner Hensley believed it was within scale or out of scale; that is what the Commission is voting on.

Commissioner Hensley said she did not want to be vilified, as there was no happy medium. She believed it was out of scale, but given the context of what had been done, it was appropriate. She asked if the Commissioners had any specific concerns about the criteria beyond the fourth floor so she could amend her motion.

President Rickenbach suggested clarifying Items 1 through 9 to complete the motion.

Commissioner Hensley moved to amend the main motion that the Astoria Design Review Committee tentatively approve Design Review DR18-01R by Craig Riegelneegg with the conditions in the Staff report, ***pending the adoption of revised Findings of Fact at the next DRC meeting, date to be determined, regarding the nine plus the additional six conditions of approval.***

City Manager Estes confirmed that the issue of height of the area behind the screening met the intent of the Code; the issues of the scale and massing, as well as the sensitivity and craftsmanship had been addressed by the Applicant; that the form of the building and the clearstory design met the intent of the Code; the awnings as proposed were appropriate and met the intent of the Code, and that the setbacks had been met for the Marine Drive frontage. He confirmed the Commission wanted to add a condition of approval requiring a covered trash enclosure with a man door and to address lighting.

President Rickenbach seconded the amended motion. The motion failed in a tie of 2 to 2.

Ayes: President Rickenbach and Commissioner Hensley. Nays: Commissioners Phelps and Bardy.

City Attorney Henningsgaard said if there was an appeal, it would be good for the Commissioners who voted no to explain the basis of their decision. He believed an appeal was very likely. During the last appeal, City Council was having some difficulty understanding what the findings were. He was concerned about Guideline 14.115(B)2, which addressed the issue of scale. He believed the guideline only dealt with existing buildings, but Staff disagreed with him. The language states buildings should retain significant original characteristics of scale and that is the only time scale is mentioned in this Code section. You cannot retain something if it is not built. Retain means to keep. For those who believe that section applied, it would be helpful to explain their reasoning.

Commissioner Phelps understood that scale was not a consideration because of the way the Code is written.

City Attorney Henningsgaard stated the only Code section that talked about scale and massing was Section 14.115 (B)2 and it uses the words "buildings should retain."

Commissioner Bardy said she would conclude that must be some kind of typographical error. She could not imagine that as detailed as the Code is that the City would not write something in about scale and massing with new construction. She clarified she was not trying to rewrite the Code, but agreeing with Staff's interpretation of the Code.

City Attorney Henningsgaard clarified that if that is the basis of Commissioner Bardy's decision, she should make it part of the findings, which would go to City Council in the case of an appeal. Any other reasons she believed scale and massing applied should be put into the record as well.

Commissioner Phelps asked if the form of the building applied.

President Rickenbach asked Commissioner Phelps to explain on the record which Codes were the basis of her vote.

Commissioners Phelps and Bardy stated they were fine with all of Staff's conclusions except Conclusion 2 and Conclusion 5 (Staff report Pages 30 and 31, respectively). Commissioner Phelps added now that the Commission had been told that the City Attorney did not believe Number 2 applied to new buildings, she was asking about the wording in Number 5 on the form of the building.



City Attorney Henningsgaard explained that the Commission can only determine the intent of the Code by reading the exact language of the Code. The Commission could not put their own spin on what they believe the Code should say. Commissioners took an oath to follow the Code. The Purpose Section of the Code is not a criteria, it is an aide for the Commission to understand why the specific criteria were established, criteria such as height, setbacks, and all of the other objective criteria that the Commission must apply. The Purpose Section is included for people to understand why specific criteria were adopted by the City Council.

Commissioner Phelps said when she read the Code, she interpreted it the way Staff did. She believed Criterion 14.115(B)2 applied to existing buildings. After the downtown area is codified, she wanted the City to take another look at the Bridge Vista.

Commissioner Bardy said she believed scale mattered and was sorry that the Code had been interpreted in another way. If Astoria does not have something written about things being in scale of their surroundings, the City is in trouble for the future. When this Code went in, people did not want to build here. People were not investing in Astoria years ago and now they are coming quick. They are coming in on the south side, too, and if the City does not have anything in the Code about scale and is not willing to enforce it and consider how this affects buildings around, site lines, and views from the hill, then the city is in trouble. She hoped City Council respected that and she hoped they would not overturn this decision.

City Attorney Henningsgaard clarified that he meant to say her comments were particularly important and could guide Staff when making findings. But it is an important issue that could not be glossed over by just saying scale applies because there is a disagreement as to what that Code means. Commissioners Phelps and Bardy are the first step in helping to interpret that Code. Ultimately, City Council would have to interpret it. His interpretation was not gospel. As an attorney, it is his job to state his interpretation, but it is also the Commissioners' job to state their interpretation.

Commissioner Bardy said she just felt the Commissioners' roles were to enforce the Code, but also to represent the community. When there is such an overwhelming outcry about all the same issues, which is scale, she did not believe the Commission should ignore it.

City Manager Estes stated this was a denial and could be appealed to City Council. He was concerned because the findings were quite vague. City Attorney Henningsgaard added that it would be very helpful to include all of the comments, pro and con, in the findings. That way, if it were appealed, Council would be aware of the debate that occurred in this Commission. The comments would be the basis of the findings that Staff draws on.

City Manager Estes explained that the findings would outline both positions for the Commission to review before adopting at a future meeting. He requested a special meeting prior to the next regularly scheduled meeting to ensure compliance with the 120-day rule. Planner Ferber said she would need at least two weeks. Staff confirmed the Commission could review the findings on October 25, 2018 at 5:30 pm.

Commissioner Phelps said she worked for a planning department and served on a historic commission, but never worked in development. She was used to Staff giving their opinion on findings and stating whether or not a project met the Code. The Commission has not had much guidance from Staff on this project. It was difficult for her to be put in this position. For lesser projects, the Code has been met, but this project has been difficult.

City Manager Estes explained that in this case, Staff stated they believed the Code did apply and the City Attorney disagreed. Therefore, the Commission must determine whether the Code applied or not.

President Rickenbach asked Staff if they needed any more clarification from the Commission in order to write findings.

Planner Ferber stated there was no discussion of the awnings, canopy, or relocating the lobby to the other side of the building. There were a number of design alternatives the Commission could ask the Applicant to provide; however, the burden of proof is on the Applicant to demonstrate how the criteria have been met. As much as she would love to go down the list and state which criteria Staff believed had been met, the Code states the burden of proof is on the Applicant.

City Manager Estes said with all due respect to the planner, he did not want to discuss relocating the lobby. However, he did believe the Commission needed to go through the items.

President Rickenbach believed the Commission had already done that. The only concerns were Conclusions 2 and 5. The other items were discussed and they were fine, and that was part of the motion.

Commissioner Hensley said she was not trying to redesign Marriott's interior design standards, but since that is what she does, it was not feasible in her opinion. There was too much parking and it would make sense that the Applicant revisit the first floor spaces being given to amenities like dining, given that they have no plan for Stephanie's Cabin. Her biggest concern was where people would eat.

City Manager Estes confirmed there was a difference of opinion on Conclusions 2 and 5 and that there was a level of comfort on all the other items.

No rules of appeal were read into the record.

REPORTS OF OFFICERS/COMMISSIONERS – ITEM 5:

There were none.

STAFF UPDATES/ STATUS REPORTS – ITEM 6:

There were none.

PUBLIC COMMENTS:

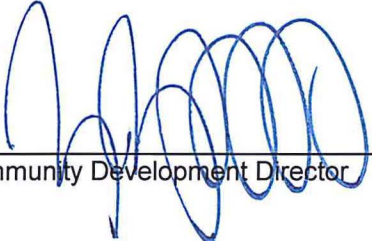
There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:39 p.m.

**APPROVED:**

*at the DRC 11/1/2018 meeting / no changes*

  
Community Development Director



## **DESIGN REVIEW COMMITTEE**

### **Astoria City Hall**

October 25, 2018

#### CALL TO ORDER:

President Rickenbach called the meeting to order at 5:30 p.m.

#### ROLL CALL – ITEM 2:

Commissioners Present: President Jared Rickenbach, Leanne Hensley, Hilarie Phelps and Sarah Jane Bardy.

Commissioners Excused: Vice President LJ Gunderson

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

#### APPROVAL OF MINUTES – ITEM 3: None

#### PUBLIC HEARINGS:

#### ITEM 4(a):

DR18-01R Design Review Request (DR18-01R) by Craig Riegelneegg, Carleton Hart Architecture for Hollander Hospitality to construct a four-story hotel at 1 2<sup>nd</sup> Street (Map T8N R9W Section 7DA, Tax Lots 11800 and 11900; Lots 1, 2, 3, 4, Block 1, McClure; and Map T8N R9W Section 7DB, Tax Lot 1300, 1400, 1501, 1700; Unplatted lots fronting on Block 1, (Hinman's Astoria) in the C-3 Zone (General Commercial), Bridge Vista Overlay Zone (BVO), Flood Hazard Overlay (FHO, and CRESO Zone.

More time is needed to prepare Findings of Fact. It is requested that DRC continue deliberation to a subsequent meeting.

President Rickenbach asked if anyone objected to the jurisdiction of the Design Review Committee to hear this matter at this time. There were no objections. He asked if any member of the Design Review Committee had any conflicts of interest or ex parte contacts to declare.

Commissioner Hensley declared that she met the principal architect from Carleton Hart at an AIA function in Portland by chance the day after the DRC's last meeting, but she did not discuss the project inappropriately and they were not doing any business together.

President Rickenbach declared that as a general contractor, he had a potential conflict of interest, but he had not been consulted on the project.

President Rickenbach called for a presentation of the Staff report.

Planner Ferber stated Staff needed an additional week in order to finalize the Findings of Fact and recommended continuing the hearing to adopt those Findings at the DRC's regularly scheduled meeting on November 1<sup>st</sup>.

President Rickenbach noted the public hearing had been closed at the last meeting.

Commissioner Hensley moved that the Design Review Committee continue deliberations on Design Review Request (DR18-01R) and adopt Findings on Thursday, November 1, 2018 at 5:30 pm; seconded by Commissioner Bardy. Motion passed unanimously.



REPORTS OF OFFICERS/COMMISSIONERS – ITEM 5:

There were none.

STAFF UPDATES/ STATUS REPORTS – ITEM 6:

There were none.

PUBLIC COMMENTS:

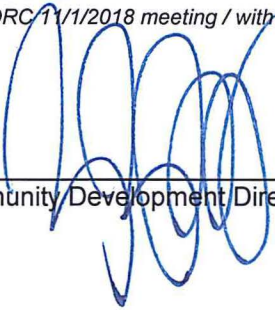
There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:35 p.m.

**APPROVED:**

*at the DRC 11/1/2018 meeting / with changes*

A handwritten signature in blue ink, consisting of several loops and curves, positioned above a horizontal line.

Community Development Director

## **HISTORIC LANDMARKS COMMISSION MEETING**

City Council Chambers

October 16, 2018

### CALL TO ORDER – ITEM 1:

A regular meeting of the Astoria Historic Landmarks Commission (HLC) was held at the above place at the hour of [5:15 pm](#).

### ROLL CALL – ITEM 2:

Commissioners Present: Vice President Michelle Dieffenbach, Commissioners Jack Osterberg, Paul Caruana, Mac Burns, Kevin McHone, and Katie Rathmell.

Commissioners Excused: President Gunderson.

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

### APPROVAL OF MINUTES – ITEM 3:

Vice President Dieffenbach asked if there were any changes to the minutes of September 18, 2018.

Commissioner Caruana noted there may be an error or he may have misspoken. He was quoted on Page 2 as saying, "...buildings do not usually rot from the floor to the ceiling." However, that did not make sense because buildings usually begin to rot around the base.

[\[2:40\]—No actual correction announced, such as deleting the sentence, etc\]](#)

Commissioner Burns moved to approve the minutes of September 18, 2018; seconded by Commissioner Caruana. Motion passed 4 to 0 to 2 with Vice President Dieffenbach and Commissioner McHone abstaining.

### PUBLIC HEARINGS:

Vice President Dieffenbach explained the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria were listed in the Staff report.

### ITEM 4(a):

DM18-01 Demolition Request (DM18-01) by Tim Janchar to demolish an existing garage at 1440 Irving Avenue in the R-3 Zone (High Density Residential). The structure is designated as historic in the Shively-McClure National Register Historic District and is associated with the single-family dwelling at 828 14<sup>th</sup> Street. Continued from 9/18/18 HLC meeting.

Vice President Dieffenbach asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. She asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare. None declared. Vice President Dieffenbach requested a presentation of the Staff report.

Planner Ferber presented the Staff report and recommended approval with conditions. No correspondence has been received.

Commissioner Osterberg asked for clarification regarding the Applicant's requirement to show proof that a local historic preservation group had been given the opportunity to salvage materials, which was on Page 7 of the Staff report. Planner Ferber explained that Staff already reached out to the organizations to make them aware of this demolition request. However, the language in the Code is outdated. Staff recommended as a condition of approval that the Applicant meet the requirements of the outreach when the request is approved.

Commissioner Osterberg noted that three conditions of approval referred to the salvage and recording the resource. However, none of them require that a local preservation group be given the opportunity to salvage and record. Condition 7 only states the Applicant shall salvage wood and other features, but the criteria speaks to

Historic Landmarks Commission

Minutes 10-16-18

Page 1 of 10

historic preservation groups being given the opportunity to salvage and record. He recommended that Condition 7 be amended to reflect the requirements in the criteria. Planner Ferber clarified that the Development Code allowed for conditions of demolition approval which were not required. The HLC may require that the property owner document with a local preservation group or give those groups the opportunity to salvage and record within 90 days. Because this request is tied to a new construction request, the property owner has proposed to salvage those materials themselves. However, she would be happy to change the conditions of approval.

Commissioner Burns confirmed that no correspondence had been received since the last hearing on this request.

Vice President Dieffenbach opened public testimony for the hearing and asked for the Applicant's presentation.

Mandy Ferguson, 828 14<sup>th</sup> Street, Astoria, said the Staff report still states there is a foundation underneath the structure; however, there has never been a foundation. Additionally, the white picket fence mentioned in the Staff report was not on the property when she purchased it. However, the Staff report seemed to indicate the fence would be rebuilt as part of the new construction request. She did not know about the fence until she started this permitting process. She would be happy to build a fence in the same style, but there is no fence on the property now.

Tim Janchar, 828 14<sup>th</sup> Street, Astoria, said there was a question about what he had done since moving in to restore the structure. He moved to the property in 2014. He purchased the home from the church and the garage was thrown in because it had no value. It was in the same condition then that it is now. In 2015, he was emailing Planner Ferber, historic architect [Jay Raskin, and Joel Bergmen. \[16:40\]](#) He had been inviting people to the site over the last three to four years trying to restore the structure. Last month, some one asked why he had not put gutters on the building. However, the building already has gutters.

Commissioner Rathmell asked if Mr. Janchar had contacted any of the Historic Preservation Programs or instructors at the college. She knew the building was valued in the neighborhood and was well known. She said John Goodenberger had stories about the building and those groups would be interested in doing restoration work.

Mr. Janchar confirmed that several years ago he had emailed [Chris who runs a class at the college. \[18:15\]](#) He had not been able to get anywhere with that contact. As he said last month, he would be interested in looking at salvaging the windows.

Commissioner Rathmell asked if Mr. Janchar would be interested in saving the building if he had students from the Historic Preservation Program work on it.

Mr. Janchar explained he was concerned with trying to save the building because the architects who looked at the building said it would need to be lifted, which would cost \$50,000 to \$70,000 and they could not guarantee that it would work. The building could just fall over. Additionally, he had been told that when trying to save the building, close to 90 percent of the material would need to be replaced. He could not take that financial risk.

Commissioner Rathmell noted the Applicant had received a bid from a company in Portland. She asked if Mr. Janchar had received any bids from local companies.

Mr. Janchar stated [Joel Bergmen \[19:50\]](#) quoted him a cost for the foundation and said he could not guarantee that would work. He saw no point in pursuing that further.

Commissioner Caruana asked how high the new structure would be, noting that it looked taller than the original structure.

Mr. Janchar said he intended to put a working loft in the building. The original building has a loft as well, but he wanted the new structure to have more headroom.

Planner Ferber noted the existing structure was 19' 9" to the peak of the roof and the new structure would be 21' 9½" to the peak. She asked if this was in reference to the demolition request.

Commissioners Caruana and McHone confirmed their concerns about the new structure were tied to the demolition request.

Commissioners Caruana and Rathmell agreed the details in the south elevation drawings on Page 5 of the Staff report for the new construction request made the new structure look much more than a few feet higher than the original structure.

Commissioner Caruana stated he was concerned that there was a real desire for more room in the loft and that trumps the desire to preserve the building. He was concerned that the Applicant was really giving up on an existing structure that could be saved because the new structure made more sense economically.

Mr. Janchar asked if Commissioner Caruana would feel okay if the new structure were the exact same height as the existing structure.

Commissioner Caruana said he was not sure, but that would be something to consider. He knew there were a lot of people tied to the building. The building has always stood out since it is so close to the street and it leaves a mark in peoples' minds. If the building were renovated, the Applicant might end up redoing most of the framing, leaving just remnants of the shell. If at least 50 percent of the exterior shell was incorporated into the new structure, it really would be the same building. However, if the new structure was taller, it would not be the same building even if materials from the original were incorporated. He wanted to find a balance between preserving what can be preserved and being mindful of the fact that some things have gone too far before someone made an effort to preserve them.

Mr. Janchar confirmed that Commissioner Caruana had visited the building. He would love to lift the building and save it as is, but he could not spend that much money on something that is already not guaranteed to work. The roof is rotting and the sign facing the street says, "Dangerous Building – Do Not Enter." He wanted to find a way to make something that would be aesthetically and functionally contributing.

Commissioner Caruana noted there was a chimney and asked if the building had a fireplace or wood stove.

Mr. Janchar said there is no chimney and asked the Commissioners to look at the photographs.

Commissioner Caruana clarified that the chimney was in the same photograph as the picket fence, which was an old photograph.

Mr. Janchar added that many historic features of the building were taken out and no one really noticed. He confirmed no remnants of the chimney were left.

Commissioner Caruana said when he went by the building, he could see a lot of rot. However, he had not been inside the building. He asked if most of the windows and siding could be reused if the Applicant were granted the demolition and new construction permits.

Mr. Janchar explained that most of the rot occurred where laurels were growing next to the building. Part of the wall that faces the laurels is gone. He had been talking to Trails End Recovery about preservation and was told only about 10 percent of the wood could be saved.

Commissioner Caruana said the building could be disassembled, a new building that looked exactly like the original on the exterior could be built, and then all of the salvaged siding could be reapplied to the new building on the sides of the building that face the public. That would essentially be the same as restoring the original building. In 2007, the roof of the Commodore Hotel blew off during restoration work on the lights. All of the plaster came off the walls. He removed every single piece of trim, labeled them, had the interior restored, and put the trim back where it came from. People know the building has been completely restored, but it still has all of its original integrity. It is hard to imagine this building being a replica. He believed there was enough material to recreate the building and reuse the siding.

Mr. Janchar asked who he could contact to see if that was feasible. If he did lift the building and cut away the rotten material, the new structure would be 80 to 90 percent new, but would cost a lot more than just building a new structure. The reason for the proposed new size was to comply with the City's setbacks.

Commissioner Caruana clarified he was not proposing that the building be lifted and rebuilt. He recommended the siding be pulled off and all salvageable pieces be put on the new building.

Mr. Janchar believed he would be willing to do that. He asked if he would be allowed to do that and still be at the sidewalk. Would the restructured building be grandfathered in?

Planner Ferber confirmed she would need to check with the building official. Putting the building right at the sidewalk would probably require a variance approved by the Planning Commission.

Mr. Janchar said he would be willing to demolish the building, save what could be saved, and building the new structure in the same spot.

Commissioner Caruana believed the new structure should be allowed to go in the exact same spot as the original structure. It did not seem that a variance would be hard to get.

Planner Ferber explained that in order to comply with the City's non-conforming structure standards, a variance would need to be approved by the Planning Commission. Any non-conforming structure that is destroyed by any means to an extent amounting to 80 percent of its fair market value, as indicated by the County assessor, should be reconstructed in conformity with provisions.

Commissioner Caruana believed one could argue that only the guts of the building are being replaced.

Vice President Dieffenbach believed the building would have to be left intact.

Mr. Janchar said only the middle of the building could be salvaged. The bottom and the roof are rotten.

Planner Ferber reviewed the criteria for demolition, which were the economic feasibility of rehabilitating the building, a demonstrated public need for a new use, and the compatibility of a new development.

Commissioner Burns asked if the Applicant received any bids other than the one included in the Staff report.

Mr. Janchar said not for the new structure. He only received a bid from [Joel Bergmen \[38:48\]](#) for the foundation.

Vice President Dieffenbach called for any presentations by persons in favor of the request. There were none. She called for testimony by persons impartial to the request.

[Kris Haefeker \[39:36\]](#) 687 12<sup>th</sup> Street, Astoria, said a couple of weeks ago he received a call to go look at the garage, which is a building that he loves. With many historic structures, it is difficult to decide where to start and where to stop. Sometimes a building might look really bad, but it is not. Other times, a building looks okay, but it is pretty bad. The floor is cobbled together. The west wall is in very bad shape. The studs are rotten quite a ways up and he was not sure about the soundness of the siding. He discussed lifting the building and putting a foundation underneath it, but that was a bit of a mind bender. He did not know what the result would be. The front doors did not look salvageable and it is obvious that the roof needs to be replaced. Most of the siding is in good shape and he would say about 70 percent of it could be reused in new construction. Some of the windows are salvageable as well. His opinion as a general contractor was that the building be disassembled and use the historic fabric in new construction. What was underneath the floor was a big question mark because none of the floor boards were pulled. He just restored a derelict building which had floor board that looked okay, but he pulled them to find them completely infested with powderposts. It would be nice to see a solid slab, a perimeter, a straight and safe structure, while giving the appearance of a historic structure.

Commissioner Rathmell asked what the plan was for the new building.

Mr. Haefeker stated he was not on the property to discuss the new building, just to assess the existing building.

Commissioner Burns asked Mr. Haefeker what he had done if he had purchased the property four or five years ago and were not a contractor.

Mr. Haefeker said he had considered that and had contemplated what he could do with such a challenging building. After seeing the building, he would disassemble it if possible. If it was his building, he would like to have a solid surface. One of the charms is that the building is up against the sidewalk, which is a historic feature. This is a tough call as the issues are not clear cut.

Vice President Dieffenbach called for any testimony against the application.

[Rachel Jensen \[45:35\]](#) Executive Director, Lower Columbia Preservation Society (LCPS), P.O. Box 1334, Astoria, said LCPS takes all requests for demolition of landmarks extremely seriously because demolition is forever. The Staff report does not indicate that notice of the original hearing was posted at the site as required by Article 9 of the Development Code. Article 9.020(d) states, "For Type 3 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 of the public right-of-way." Since public notice was not properly posted at the site, it might be necessary to postpone the hearing once again. When discussing this with LCPS members, she had heard that people were not aware, including people who lived nearby and next door. LCPS believed there were significant omissions from the findings in the Staff report, which must be addressed by the HLC. First, the Staff report does not include the proper historic survey form. The Commission and the public was supplied with a historic survey form for 8<sup>th</sup> to 18<sup>th</sup> Streets, not the survey form for the garage. The garage at 1440 Irving is listed individually in the 2002 inventory and is discussed individually within the nomination for the National Register Historic District. So, the omission of the survey form for the appropriate property downplays the historic importance of the structure and robs the Commission and the public of information that should be considered. Second, although the notice of the public hearing indicates several sections of the Comprehensive Plan were applicable to the request, there is no mention of the Comprehensive Plan in the Staff report. The Plan section specifically applicable to this hearing would be CP255.5, which states that every possible effort will be made to relocate historical structures as an alternative to demolition and to excavate archeological sites prior to alteration. Third, LCPS objected to the findings on Page 4 of the Staff report pertaining to Criterion 2 of Section 6.080C, that there is a demonstrated public need for the new use. In order to meet the criteria of a demonstrated public need for a new use, in part, City Staff cited the need for additional housing stock in Astoria and asserts the new structure could have a possible future use as a dwelling. The Applicant does not intend to use the structure as a dwelling. Therefore, a future possible use is not relevant to demonstrating a public need for this use. The Commission's determination should be based on the proposed use by the current owner and current zoning. On the bottom of Page 4, the Staff report states, "by constructing a new structure that closely matches the existing historic structure, the historic streetscape would be preserved." Nowhere in the City's historic preservation ordinance, Comprehensive Plan, or in the Secretary of Interior's Standards for the Treatment of Historic Properties is it asserted that the City can or should preserve local history by destroying authentic historic structures and replacing them with close matches of those buildings. LCPS opposes the demolition of historic landmarks, including demolition by neglect. It is the responsibility of people purchasing historic properties to do their due diligence to inspect what they are buying, research what restrictions may be place on the property, and to maintain their property once it is purchased. It is the responsibility of the Community Development Department to prevent demolition by neglect as spelled out in Astoria's City Codes. Much of the evidence put forth to prove this building is no longer salvageable is also evidence of willful neglect of the property either by the current owners or previous owners. This is yet another example of gentrification at work in the community, and this is how we lose Astoria's authentic historic fabric, one building demolished at a time.

Commissioner Burns asked why Ms. Jensen did not make her points to Staff over the last month.

Ms. Jensen explained that some of LCPS's concerns were not identified until recently. They had a lot to dig through because this is a complicated issue. They also had to talk to their attorney.

Commissioner Burns asked which concerns were only recently identified and which ones were known last month.

Ms. Jensen said within the last couple of days, LCPS just discovered the issue with the public notice. She had gone through the Staff report a couple of times before realizing the survey form was not for the correct property. The form in the Staff report was for the house, but there is also a survey form for the garage. She believed that was important.



Commissioner Burns asked what the LCPS would do if they owned the building. He also wanted Ms. Jensen's opinion on the idea of dismantling the building and reassembling it.

Ms. Jensen said if LCPS owned the property five years ago, they would have diverted the water away from the foundation to prevent the building from getting to this point. There are gutters on the building, but the photographs presented by the Applicant show that the gutters are not connected, and the downspouts fall off. They would have trimmed back the laurels and control any water leaking from above. Paint is always a great way to keep water from intruding into wood. They would get multiple bids on different ways of approaching saving the building. Their goal would be to save the exterior envelope as much as possible. It is wonderful to have a new use, but there has to be a creative and economical way to do something with it. The use might not be something the Applicants want. If this request was an exterior alteration, the HLC would have to decide if the new use would have minimal impacts. So, ideally, this would be made into a usable garage or another use that would not require so much destruction of what is already there.

Commissioner Osterberg asked if LCPS would be interested in salvaging or recording the resource if the HLC approved the demolition request.

Ms. Jensen said the best way to go would be to require that salvaged materials be installed on the new building. Recording the resource should be required as a condition of approval. LCPS would do what they could.

[Jan Gregor \[55:50\]](#) 1546 Franklin, Astoria, said he had been to the property twice. When it was on the market five years ago, he was looking for a garage and had called the real estate agent. When he learned the house was included, he was no longer interested. When someone buys in a historic district, they become a steward for what is there. He believed that if the Applicant just decided to split the property, someone else would take the garage. The Applicant could also move out and someone else would happily take the property. This property would be a good candidate for the school. He agreed disassembling the garage would be the way to go. Everyone who buys old houses has problems and this is a structure that should be saved if possible. When he visited the site, he thought 90 percent of the wood being bad was way off, especially the siding. If possible, the garage should be disassembled and rebuilt.

Vice President Dieffenbach called for the Applicant's rebuttal.

Ms. Ferguson said their intent was to salvage any materials they could and reuse them in the building. She did not understand the difference between deconstructing and how that is different from salvaging materials. She thought that was what they had been proposing to do, and asked what the difference was.

Commissioner Rathmell explained that pouring a foundation, shoring up the frame, and putting the building back together was not the same thing as taking everything down and rebuilding with a few pieces. She was not saying anything about lifting the garage. The suggestion was to remove the siding boards, saving framing that is worth saving, pouring a foundation, and putting the siding back on. Restoring rather than replacing is the idea. Restoration would be keeping the same footprint and materials except maybe the worst parts that are too rotted to use.

Ms. Ferguson said that made sense. She was concerned about getting a foundation underneath without the entire building being destroyed. She had been told the building needed to be lifted to pour a foundation.

Commissioner Caruana clarified that his proposal was to strip the building starting from the outside of all the siding, casings, and doors. Just disassemble the building with the main focus on the exterior fabric, and then make a proposal to rebuild the building exactly as it is with the same proportions, same location, same height, and same size barge boards to replicate what is there. That way, the people in the neighborhood see the same building with the same materials. If he owned the garage, he would strip the roof off, expose the old rafters, and incorporate the rafters into the walls. People love to see the reuse of as much of the building as possible. He did not think the Applicants would be very successful pulling the building down if it is not recreated just as it is. He proposed that the Applicants rebuild exactly what is there using all the materials. It would not be a difficult process. The building must be demolished anyway, so just demolish it very carefully and salvage the old materials. He recommended the Applicants get a variance to put the new building right where the existing building is now. The garage has always looked peculiar right on the edge of the sidewalk.

Ms. Ferguson asked if their proposal was still considered a demolition.

Commissioner Caruana said the building would not be demolished with a wrecking ball, it would just be disassembled and put back together with new materials and a foundation. It would be a new building, but people would consider it to be the old building if it had the same siding and layout on the sidewalk. He was just trying to offer a creative solution that was more likely to be successful. There would be more pushback when people learn about the project. The Applicants could run beams along the sides, tie the rafters to the wall, jack it up, and do work underneath. That would not be difficult, but the Applicants might need to replace everything he was talking about anyway. When a building is taken apart and rebuilt, plywood can be put on the exterior, it would be stronger structurally and it would last longer. The only extra labor costs would be the time to take the building apart.

Ms. Ferguson stated that was her intent. They never wanted to come in with a wrecking ball, smash the building down, and haul everything out. When she said they would try to salvage what they could, their idea was to work with someone who salvages materials from old buildings and evaluates what can be used.

Commissioner Caruana suggested the college get involved in the project.

Mr. Janchar asked the Commission to recommend a good contractor.

Commissioner Rathmell recommended John Goodenberger and [Lucian Swordloft \[1:05:12\]](#), who run the Historic Preservation Program at the college. She would give their contact information to the Applicants. She also noted four or five contractors in the room who did restoration work. She believed it was feasible for the Applicants to work with one of them to make the building sturdy and usable. The footprint and style of the new building is not the same and it is not the building people are in love with. The Applicants happened to buy a property that is iconic in Astoria. The bus stop is right in front of the property and people love the building. She recommended the Applicants take Commissioner Caruana's suggestions and keep the same footprint. If the Applicants showed interest, she and other Commissioners could help them get in touch with people who would be willing to work on the project.

Commissioner Burns asked if the Applicants were interested in taking the Commission's suggestions.

Mr. Janchar stated that was what he wanted to do four years ago, but he was not able to get anywhere. Maybe he did not go to the right people or go about it the right way. His initial intent was to make a sound building where the original building is located with as much of the original wood as possible. He was willing to do that but would need more help.

Commissioner Burns said the Applicants have an entire organization that, if they are passionate enough to come to the hearing to complain, they should be compassionate enough to help lead the Applicants to a solution.

Commissioner Caruana noted that the height of the existing structure is a couple of feet lower than the new one. He asked if the Applicants were willing reconstruct the original building to match what is there now.

Mr. Janchar stated he was fine with that.

Commissioner Caruana believed there was more than enough siding material and finishes to tell people it is an authentic historic structure. He encouraged the Applicants to apply for a variance because no one wants to see the building moved back five feet or ten feet.

Mr. Janchar said he wanted to save what he could and keep the same footprint.

Ms. Ferguson added that she assumed pulling things off systematically was how it had to be done since they planned to salvage things.

Commissioner Osterberg stated a professional could give the Applicants the information about what needed to be done during the disassembly. The Applicants do not have to come up with a process on their own. There are resources for finding out how to do it properly. The Applicants could get a lot of people in the community to agree that the project was done appropriately. Then, those people would have a better understanding of the Applicants



ability to achieve the goal or, where they fall short of the goal and must provide a new material because the original is so badly damaged.

Commissioner Caruana said it would be more appropriate for the Applicants to apply for a permit to remodel what is there. Disassembly is just a part of the remodel process. He did not believe the Applicants should continue with the demolition request because the process would be dragged out for a couple more sessions. The remodel could start with pulling off the siding and the roof, then there would be nothing left to save. The Applicants would no longer have a building, just a pile of reusable material that goes back on.

Mr. Janchar said he understood that just saving the middle part of the building was still important to people.

Vice President Dieffenbach closed the public testimony portion of the hearing and called for closing remarks of Staff.

Planner Ferber requested a recess because she had received text messages from City Manager Estes and City Attorney Henningsgaard about this hearing.

Vice President Dieffenbach called for a recess at 6:28 pm. [1:13:15] The meeting reconvened at 6:37 pm [1:22:26]

Planner Ferber stated her failure to post the public hearing notice on site was an oversight. She could post the notice if this request is continued. The City cannot approve or deny a request based on the Comprehensive Plan, especially since this request did not involve relocating the structure. The proposal was to rebuild the structure in conformance. The survey form was made available and she apologized that it had not been included in the agenda packet. Staff is not required to include survey forms, but she would provide it for reference in the future. The Commission could continue with the demolition request. However, the Applicants are willing to withdraw the application and the associated new construction request, and they would proceed with an exterior alteration request for this project. She recommended the Commission reopen the public hearing and allow the Applicants to state how they would like to proceed.

Commissioner Burns asked if this hearing could be continued for two or three months to give the Applicants time to explore the option that the Commission had been discussing. He did not want this proposal to be withdrawn only to have to start the whole process over again because the Applicants were told by three contractors that the Commission's suggestion was not possible. Planner Ferber explained that it would be a problem to have both a demolition request and an exterior alteration request at the same time. However, the Commission could give the Applicants the option to do some more homework. Continuing the hearing would require the Applicants sign a waiver to the 120-day rule.

Commissioner Osterberg understood an indefinite continuance could be approved and the Commission would not have to specify a date. Planner Ferber stated if no date and time were specified, she would have to renote the hearing. However, she would have to renote the hearing anyway.

Commissioner Osterberg believed State land use requirements included a 180-day rule that required the Applicants to come back for a decision within six months.

Vice President Dieffenbach said she was concerned because she did not believe taking the building down and reusing materials was an exterior alteration. She believed that was a demolition. Planner Ferber said the Code was not clear. There is no percentage cap on a demolition that states how much of a building can be demolished. It is up to the HLC to decide how to process this project. She recommended the Commission err on the side of calling it a demolition because the Code is not clear.

Commissioner Caruana said if this request was denied, it would go on record that there was a denial for a demolition. It would be better to approve this under whatever name it should be called, maybe an alteration, because this is not a demolition. Rotten studs inside of a structure would be demolished, but otherwise it would be the same structure. This is a very comprehensive remodel. He asked if the Commission wanted it on record that someone applied for a demolition permit and was denied.

Vice President Dieffenbach believed the demolition would be fine if the conditions were written the right way. Pulling down the structure is demolishing the building.

Commissioner Caruana disagreed.

Vice President Dieffenbach said none of the building would be kept intact. The Building Department would not look at the project as a refurbish.

Commissioner Rathmell added that the demolition request was attached to the new construction request. The HLC was not going to approve the new construction request, so the demolition request is null and void. The Commission cannot approve one but not the other.

Vice President Dieffenbach said the demolition request was not adequate.

Commissioner Rathmell believed that was irrelevant because the Applicants have to come back to the HLC with what they propose to do. If the HLC does not approve the demolition request, the Commission cannot just write out what the Applicants need to do.

Vice President Dieffenbach reopened the public hearing and asked the Applicants how they would like to proceed.

Ms. Ferguson said she and Mr. Janchar were happy to resubmit their project as a remodel. However, she feared hearing that the project might not be considered a remodel because of how much material would have to be taken off. She wanted to look into the project further and bring plans showing the exact same building and how much of the siding could be reused. The project might still have to proceed as a demolition. But, maybe she could give the HLC a better plan for exactly how the demolition would be done to salvage materials.

Mr. Janchar added that the best thing might be to withdraw the applications. He wanted to save as much of the building as possible and keep the same footprint. He was willing to allow the college to help with the windows and do what they want. However, he wanted the Commission to tell him specifically what to ask for.

Ms. Ferguson understood the HLC was saying this project might not fall under an exterior alteration.

Vice President Dieffenbach stated the Applicants could withdraw their applications and Staff could decide whether the project needed a demolition permit or an exterior alteration permit. That decision is not up to the HLC. The Applicants could return with a whole new application with a different design, not for a new building.

Planner Ferber explained that if the proposal had completely changed, it would be processed from scratch with a new notice, new agenda packet, new findings, and new proposed materials.

Commissioner Caruana understood the new proposal would also include the variance.

Vice President Dieffenbach did not believe it was critical for the Applicants to receive the variance prior to the Commission reviewing their request.

Commissioner Caruana stated the variance would be part of remodeling. If the renovation becomes so extensive that it is classified as a remodel even though the exterior would be used, the Applicants would want the variance in place.

Vice President Dieffenbach believed the Applicants would only need the variance in place before they start on the project. It would be up to the Applicants to decide when to start the variance request process.

Planner Ferber explained the variance would depend on the proposal.

Mr. Janchar stated he would like to withdraw the demolition and new construction requests. Any help moving forward would be appreciated.

Commissioner Osterberg asked if the public hearing for the new construction request would need to be opened.

Mr. Janchar confirmed he would withdraw both requests.

Planner Ferber believed the hearing for the new construction request still needed to be opened to hear from the Applicant and the public.

Vice President Dieffenbach asked if the Applicants understood what they needed to do.

Ms. Ferguson said she had a ton of questions that were beyond the scope of this hearing.

Mr. Janchar understood he needed to get some contractors to find out what could be saved and then make a proposal based on Planner Ferber's suggestion about which permit to apply for.

Commissioner Osterberg suggested the Applicants submit their conclusions to Staff and ask the City to provide direction or a response they can rely on in order to move forward. It is important that the Applicants get specific and clear direction about their plans.

Vice President Dieffenbach closed the public hearing.

**ITEM 4(b):**

NC18-04      New Construction Request (NC18-04) by Tim Janchar to construct an accessory structure at 1440 Irving Avenue associated with an existing single-family dwelling at 828 14<sup>th</sup> Street in the R-3 Zone (High Density Residential). The site is adjacent to structures designated as historic in the Shively McClure National Register Historic District. Continued from 9/18/18 HLC meeting.

Vice President Dieffenbach requested a presentation of the Staff report.

Planner Ferber understood the Applicants would be withdrawing the application.

Vice President Dieffenbach opened public testimony for the hearing and asked for the Applicant's presentation.

Tim Janchar, 828 14<sup>th</sup> Street, Astoria, stated he was withdrawing the application.

Vice President Dieffenbach called for any presentations by persons in favor of, impartial to, or against the application. Seeing none, she called for closing remarks of Staff. There were none. She closed the public hearing.

**REPORTS OF OFFICERS/COMMISSIONERS – ITEM 5:**

There were none.

**STAFF UPDATES – ITEM 6:**

Planner Ferber noted the next HLC meeting was rescheduled to Tuesday, November 20, 2018 and the agenda included five permit requests so far.

**PUBLIC COMMENTS – ITEM 7:**

There were none.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 6:55 pm.

**APPROVED:**

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Community Development Director



## CITY OF ASTORIA

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### **MEMORANDUM • CITY MANAGER**

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**DATE: NOVEMBER 14, 2018**  
**TO: MAYOR AND CITY COUNCIL**  
**FROM: BRETT ESTES, CITY MANAGER**  
**SUBJECT: WAVER OF FEES FOR HOLIDAY DOWNTOWN PARKING**

#### **DISCUSSION/ANALYSIS**

The Association (ADHDA) is requesting that the City Council implement a waiver of overtime parking for the upcoming holiday season from Friday, November 23, 2018 through Wednesday, January 2, 2019. The intention is for no enforcement of overtime parking in the downtown, which includes the Heritage Square parking lot, as well as on-street parking; however, tickets will still be written for other violations in the Parking District, including parking by downtown employees within the District.

#### **RECOMMENDATION**

The City of Astoria has approved this request of ADHDA for several consecutive years; therefore, it is recommended that Council approve this request.



## CITY OF ASTORIA

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### MEMORANDUM • FINANCE DEPARTMENT

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**DATE:** NOVEMBER 9, 2018  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** BRETT ESTES, CITY MANAGER  
**SUBJECT:** ADDITION OF JOB TITLES FOR SCHEDULE F-2 SALARY AND  
CHANGE IN JOB TITLE FOR SCHEDULE E - RESOLUTION NO 18-14

#### DISCUSSION/ANALYSIS

This memo proposes the creation of a temporary, on-call, position of Fire Department Project Manager in order to implement transition of duties and information after the successful recruitment of a new Fire Chief.

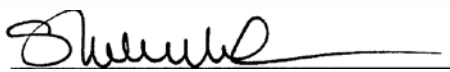
The position would be a temporary, non-benefited position under City personnel policies (no medical; sick leave earned per State Statute); would not exceed 129 hours per month (7 day period Monday through Sunday) or accumulative more than 200 hours in a calendar year and would fall within Schedule F-2, Range 3. Funds are available in the Fire Department to accommodate the addition of this temporary on-call position.

An addition of a part-time position for City Historian is required to recognize the resource provided to City staff and owners of historic properties in the historic review and/or designation process. This position has been filled for several years by John Goodenberger but it appears addition of the job title in the Wage and Salary resolutions was previously overlooked. This position is a non-benefited position under City personnel policies (no medical; sick leave earned per State Statute); would not exceed 129 hours per month (7 day period Monday through Sunday) and falls within Schedule F-2, Range 3. The Community Development Department budget has funds which anticipate time for this position.

Finally, a job title change is proposed from Financial Analyst to Accountant which falls under Schedule E, Range 28. In order to fully align job duties within the finance department it has become necessary to review the duties of this position and the Financial Report Manager to ensure the required functions of the department are adequately address at the appropriate levels. This job title change should allow the City to recruit for the appropriate experience and training to complete necessary functions within the Finance Department. A copy of the updated job description is attached for review.

#### RECOMMENDATION

It is recommended that City Council approve the additions and change of the described Job/Title/Duties and use of appropriate Schedules and Ranges as contained in Salary Resolution No. 18-14.

By: 

Susan Brooks, Director of Finance and  
Administrative Services



# Job Description

**Job Title:** Deputy Fire Chief - Temporary  
**Department:** Fire Department  
**Reports To:** Fire Chief  
**FLSA Status:** Nonexempt

**Prepared By:**  
**Prepared Date:** Oct, 2018  
**Approved By:**  
**Approved Date:**

## SUMMARY

This position is responsible for providing assistance to Fire Chief regarding activities and operations of the fire department including plans, training programs, volunteer and intern programs, safety programs, budgetary and planning information.

## ESSENTIAL DUTIES AND RESPONSIBILITIES other duties as assigned...

This description covers the most significant essential and auxiliary duties performed by this position for illustration purposes, but does not include other occasional work, which may be similar, related to, or a logical assignment for the position. The job description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

1. Assist with providing information and training as needed regarding Fire Department operations.
2. Provides historic context and data to the Fire Chief regarding operations, plans, programs, budgets, resources and reporting.
3. Provide understanding of training and documentation processes.

## JOB DUTIES

- Review of comprehensive training and accreditation programs for all personnel.
- Assistance with the preparation and review of budget for Fire Department inclusive of capital requirements.
- Review work environmental safety compliance, hazardous communications and public education.
- Provides additional clarification or assistance as required to transition duties to Fire Chief.
- Provide details on documentation requirements for hazardous materials, and Oregon State Mobilization reimbursement processes, login credentials to electronic devices, and department related websites.

## SUPERVISORY RESPONSIBILITIES

This position does not have any supervisory responsibilities.

## QUALIFICATIONS

Ability to perform essential job duties with or without reasonable accommodation and without posing a direct threat to safety or health of employee or others. To perform this job successfully, an



# Job Description

individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

## **EDUCATION and/or EXPERIENCE**

Eight years of progressively responsible work experience in the fire service including three-years at an officer level. A working knowledge of Emergency Medical Service principles, procedures, techniques, equipment and protocols is required. Employee should have the ability to apply standard firefighting techniques, be able to follow instructions and have excellent communication skills to include written and verbal methods.

## **LANGUAGE SKILLS**

Ability to read, analyze, and interpret common scientific and technical journals, financial reports, and legal documents. Ability to respond to common inquiries, work with regulatory agencies and communicate either orally or in writing with management team to disseminate information about processes and procedures. .

## **MATHEMATICAL SKILLS**

Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, area, circumference, and volume. Ability to apply concepts of basic algebra and geometry.

## **COMPUTER SKILLS**

Must be adept at using various applications including database, spreadsheet, report writing, project management, graphics, word processing, communicate by e-mail and use scheduling software.

## **REASONING ABILITY**

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

## **PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The employee must frequently lift and/or move up to 10 pounds and occasionally lift and/or move up to 25 pounds. While performing the duties of this job, the employee is regularly required to sit. The employee is frequently required to stand; walk and talk or hear. The employee is occasionally required to use hands to finger, handle, or feel; reach with hands and arms; climb or balance and stoop, kneel, crouch, or crawl.

## **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee may be exposed to outdoor weather conditions but will primarily be in an office setting. The noise level in the work environment is usually moderate.

**Employee Signature:** \_\_\_\_\_

**Employer Representative:** \_\_\_\_\_

**Date:** \_\_\_\_\_



# Job Description

**Job Title:** City Historian  
**Department:** Community Development  
**Reports To:** Community Development Director  
**FLSA Status:** Nonexempt

**Prepared By:** Xenium  
**Prepared Date:** July 2018  
**Approved By:**  
**Approved Date:**

## SUMMARY

This position is responsible for providing historic resource assistance to City staff as well as owners of historic properties working through the City of Astoria historic review and/or designation process by performing the following duties.

## ESSENTIAL DUTIES AND RESPONSIBILITIES other duties as assigned...

This description covers the most significant essential and auxiliary duties performed by this position for illustration purposes, but does not include other occasional work, which may be similar, related to, or a logical assignment for the position. The job description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

1. Works with property owners who are proceeding through the Historic Landmarks Commission process.
2. Provides historic information and data to City Department staff while being a technical resource for historic processes external to the City of Astoria.
3. Documents historic sites for inclusion in data sets or designations.

## JOB DUTIES

- Conducts archival research.
- Meets and coordinates with property owners proceeding through the HLC process.
- Assists in developing historically appropriate design scenarios for Landmarks Commission review.
- Writes technical reports on behalf of the City.
- Provides technical assistance and advises City staff.
- Provides other design assistance and technical support, as needed.
- Responsive to meeting requests and punctual in attending them.
- Maintains a professional appearance.
- Respectfully takes direction from the supervisor.
- Follows policies, procedures, and guidelines as described in the City of Astoria Personnel Manual, and other documentation related to this position.





# Job Description

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## **SUPERVISORY RESPONSIBILITIES**

This position does not have any supervisory responsibilities.

## **QUALIFICATIONS**

Ability to perform essential job duties with or without reasonable accommodation and without posing a direct threat to safety or health of employee or others. To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

## **EDUCATION and/or EXPERIENCE**

Bachelor's degree (B. A.) from four-year college or university; or one to two years related experience and/or training; or equivalent combination of education and experience.

A degree in historic preservation or architecture is preferred. Relative or appropriate experience includes but is not limited to teaching or working in the historic preservation field.

## **LANGUAGE SKILLS**

Ability to read, analyze, and interpret common scientific and technical journals, financial reports, and legal documents. Ability to respond to common inquiries or complaints from customers, regulatory agencies, or members of the business community. Ability to write speeches and articles for publication that conform to prescribed style and format. Ability to effectively present information to top management, public groups, and/or boards of directors.

## **MATHEMATICAL SKILLS**

Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, area, circumference, and volume. Ability to apply concepts of basic algebra and geometry.

## **COMPUTER SKILLS**

Job requires specialized computer skills. Must be adept at using various applications including database, spreadsheet, report writing, project management, graphics, word processing, presentation creation/editing, communicate by e-mail and use scheduling software.

## **REASONING ABILITY**

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

## **CERTIFICATES, LICENSES, REGISTRATIONS**

This position does not require any certificates, licenses, or registrations.

## **PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The employee must frequently lift and/or move up to 10 pounds and occasionally lift and/or move up to 25 pounds. While performing the duties of this job, the employee is regularly required to sit. The employee is frequently required to stand; walk and talk or hear. The employee is occasionally required to use hands to finger, handle, or feel; reach with hands and arms; climb or balance and stoop, kneel, crouch, or crawl.

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# Job Description

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## **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently exposed to outdoor weather conditions. The employee is occasionally exposed to wet or humid conditions (non-weather); work in high, precarious places; fumes or airborne particles; toxic or caustic chemicals and risk of electrical shock. The noise level in the work environment is usually moderate.

**Employee Signature:** \_\_\_\_\_

**Employer Representative:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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# Job Description

**Job Title:** Accountant

**Department:** Finance Department

**Reports To:** Director of Finance & Admin Svcs

**FLSA Status:** Exempt

**Prepared By:**

**Prepared Date:** October 2018

**Approved By:**

**Approved Date:**

## SUMMARY

This position is responsible for cash management activities, day to day finance department operations, general ledger transaction, bank reconciliations, managing business systems including maintenance, system reports and staff training

## ESSENTIAL DUTIES AND RESPONSIBILITIES other duties as assigned...

This description covers the most significant essential and auxiliary duties performed by this position for illustration purposes, and does not include other work, which may be similar, related to, or a logical assignment for the position. The job description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

1. Prepares daily deposits, maintains a daily cash balance worksheet, track credit card transactions and settlements; manages City's cash flow to meet operational requirements; directs cash flow to maximize interest earnings and reconciles all accounts.
2. Provides reconciliation of subsidiary systems to the general ledger and provides internal control audits across departments; review receipts and expenditures
3. Prepares data for OpenGov platform and makes suggestions for reporting content on site for public use.

## JOB DUTIES

- Provide essential backup to the monthly payroll process; data input; balance to general ledger; upload payroll deductions; assistance to ensure the City is compliant with pertinent laws, policies and procedures.
- Provides key component in the effective and efficient operations of Finance team by providing backup for counter, phone with excellent customer service.
- Conducts internal audits of departmental accounting systems; reviews receipts, receivables and expenditures for proper classification and budgetary allowance.
- Provides review of internal processing of accounts payable.
- Communicates on behalf of the City Manager directly with City Council and department heads, as needed.
- Manages City's business systems; performs system maintenance tasks and certain system operations, especially related to maintaining segregation of duties within the Finance Department.



# Job Description

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- Develops, improves and utilizes spreadsheets, databases and other computer applications required to carry out assigned studies, projects and reports.
- Utilizes data-extraction, query and reporting tools to efficiently meet financial reporting and analysis requirements.
- Trains, coaches and consults with other department customers in the use of financial reporting systems and provide end-user reporting tools and assistance.
- Work with vendors to verify business and operational transaction and to make suggestions for efficient and cost effective process changes or enhancements.
- Uses a variety of personal computer and network applications.
- Communicates clearly and concisely, both orally and in writing.
- Utilizes established policies of Federal, State and local statutes to support operations and verify compliance.
- Establishes and maintains cooperative working relationships with those contacted in the course of work.
- Balance responsibilities for multiple projects and deadlines to ensure timely results.
- Respectfully takes direction from Director of Finance and Administrative Services.

## **SUPERVISORY RESPONSIBILITIES**

This position does not have any supervisory responsibilities.

## **QUALIFICATIONS**

Ability to perform essential job duties with or without reasonable accommodation and without posing a direct threat to safety or health of employee or others. To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

## **EDUCATION and/or EXPERIENCE**

Bachelor's degree in finance, public administration, business administration or can show equivalent governmental experience and/or training; or equivalent combination of education and experience to meet requirements.

## **LANGUAGE SKILLS**

Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedure manuals. Ability to write routine reports and correspondence. Ability to speak effectively before groups of customers or employees of organization.

## **MATHEMATICAL SKILLS**

Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, and percentages. Ability to apply concepts of basic algebra and geometry. Basic budgeting skills to monitor and maintain department budget.

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# Job Description

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## **COMPUTER SKILLS**

Job requires specialized computer skills. Must be adept at using various applications including database, spreadsheet, report writing, project management, graphics, word processing, presentation creation/editing, communicate by e-mail and use scheduling software. Proficient use of recreation management system is needed.

## **REASONING ABILITY**

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

## **CERTIFICATES, LICENSES, REGISTRATIONS**

This position does not require any licenses or registrations.

## **WORK ENVIRONMENT AND PHYSICAL DEMANDS**

Work is performed indoors in an office setting. This position is exempt and may require more than a 40-hour work week at times, to meet periodic deadlines. In the performance of job duties, the employee is frequently required to sit; talk or hear; walk; use hands to finger, handle or feel objects, tools or controls; bend; twist; reach with hands and arms. Must be able to sit or stand and use computer for extended periods of time.

**Employee Signature:** \_\_\_\_\_

**Employer Representative:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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## CITY OF ASTORIA

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### MEMORANDUM • COMMUNITY DEVELOPMENT

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**DATE:** NOVEMBER 12, 2018  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** HOME STAY LODGING CODE

#### **BACKGROUND**

Over the last few years, the number of illegal transient lodging facilities in Astoria has increased substantially. Enforcement is difficult as the units are not identified by address or owner in the advertising platforms (such as Airbnb, VRBO, etc.) and it is time consuming and difficult for staff to research where the specific facilities are located in order to initiate code enforcement. At the December 13, 2017 work session, staff reviewed a list of facilities that were being advertised and noted the ones they could identify and of those, which ones had permits and were in compliance with the Codes. Staff also reviewed the current processes for obtaining permits and code enforcement. The City Council discussed the need for better codes, licenses, and enforcement and directed staff to research other cities' codes and draft an amendment to the City Code that would address this growing problem.

Staff researched transient lodging codes in multiple cities and counties and found a variety of ways that communities are dealing with these facilities. Staff drafted a City Code amendment that clarifies terminology, establishes a license process, and addresses code enforcement. At the October 13, 2018 work session, staff conducted a PowerPoint presentation to review the proposed amendments. The draft documents presented on October 13, 2018 included "tracked" changes to the draft code language and "annotated" notes explaining the intent and/or issues for specific code entries. These notes have been removed from the final draft but would be a reference document on some of the proposed changes. Based on Council input at that work session, staff has revised the draft amendments and prepared them for Council adoption.

Attached to this memo is a copy of the proposed draft Code amendment for Home Stay Lodging Licenses, and a proposed draft Code amendment for the Transient Lodging Tax. This proposal would put the regulations and license requirements into the City Code. However, since the Development Code includes some regulations related to transient lodging and identifies the specific zones in which they are allowed, some code amendments will be required to the Development Code so that it coincides with the proposed City Code. Once the Council adopts the City Code amendments, staff will proceed with the Development Code amendment process. Staff worked with the City Attorney on formatting the code amendments which resulted in a format that is different than the one presented at the October 13 work session. The details concerning how to process the licenses has been omitted from the code draft and will be presented at the December 3 City Council meeting (second reading of the ordinance) as a

separate “Procedural Process” for Council to review. These will be informational for staff as guidance in processing the licenses.

The following is a synopsis of the code requirements and issues that the Council directed to be included from the October work session:

- All Home Stay Lodging facilities will require a license, Occupational Tax, and pay Transient Room Tax. The license will be reviewed by the Community Development Department.
- Facility is limited to one or two bedrooms and shall not include a kitchen and must be owner occupied at the same time as the guest.
- License standards requirements: home safety inspection; payment of fees; off-street parking; license ID shall be placed on the advertising platform; applicant shall provide advertising platform ID number to City.
- Public notice will be sent to adjacent property owners when an application is being reviewed. Renewals will not require a public notice.
- License would be valid for two years and requires renewals to continue operation. Renewals will be reviewed for continued compliance with all standards and may be denied for non-compliance, unresolved violations, two or more violations within the last 12 months, or transient tax delinquent for six months or more.
- Enforcement will be through a citation process in Municipal Court. Advertising a transient lodging without a license or in violation of any of the license standards will be a violation.

The Transient Room Tax portion of the City Code is also proposed to be amended to update the terminology and allow for third party collection of the room tax. With the third-party collection, an agreement with the City would be required, and liens for unpaid taxes would be applied to the operator, property owner, and third-party tax collector.

Some standards/requirements will be included in the Development Code rather than the City Code. These amendments will need to be processed as a land use amendment through the Planning Commission before City Council review and adoption. The proposed amendments include the following and will be presented at a future date:

- Specific uses within each zone such as: Home Stay Lodging (HSL) as conditional use in R-1 Zone; HSL may not be located in an Accessory Dwelling Unit (ADU); HSL may not be on the same site in conjunction with an ADU in the R-1 Zone, but may be on the same property as an ADU in the R-2 and R-3 Zones as a conditional use.
- Structures built and used as residential structures in non-residential zones shall not be used for transient lodging.

A Fee Resolution is also attached for consideration. The fees are proposed similar to some of the land use permit fees such as conditional uses and appeals as the licenses will require staff time for review, public notices, and enforcement. Per the Council’s direction, the fees reflect estimated actual costs to process the licenses.

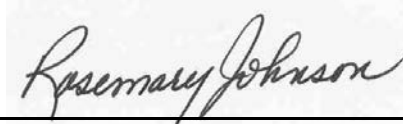
An ordinance amending the City Code to add Home Stay Lodging Licenses, an ordinance amending the Transient Room Tax, and a resolution to adopt fees associated with Home Stay Lodging licenses are attached.



## **RECOMMENDATION**

If the draft code meets Council's expectations, it would be in order for Council to hold a first reading of the ordinance for the Home Stay Lodging Licenses and the ordinance for the Transient Room Tax. Two separate motions / votes and two separate readings would be needed. If the draft fee resolution is acceptable to the Council, it will be presented at the December 3, 2018 meeting for adoption along with the second reading and adoption of the ordinances.

By:

A handwritten signature in cursive script that reads "Rosemary Johnson". The signature is written in black ink on a light-colored background.

Rosemary Johnson, Planning Consultant

## HOME STAY LODGING CODE

Annotated

November 12, 2018

### CITY CODE

*(Annotated: The Home Stay Lodging Code is included in the City Code rather than the Development Code at the suggestion of the City Attorney to allow for better code enforcement possibilities. This is also the way several cities handle the permits.)*

## HOME STAY LODGING

### DEVELOPMENT CODE

*(Annotate: Development Code amendments are needed to coincide with the City Code amendments so there is no conflict.)*

Section 1.400, Definitions, delete existing definitions and replace to read as follows:

*(Annotate: To avoid conflict in definitions if changes occur in the future, definitions are included in one code and referenced in the other code. Some are included in the City Code as noted.)*

**BED AND BREAKFAST:** Any transient lodging facility which contains between three (3) and seven (7) guest bedrooms, which is owner or manager occupied, and which provides a morning meal. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification.

*(Annotated: Do they need to provide a morning meal? B&B is allowed as follows:  
Outright Use: C-2, C-3, S-2A, HR, LS,  
Conditional Use: R-1, R-2, R-3, C-4, A-2, A-2A, A-3 in existing bldg, S-2, MH, AH-MP.)*

**DWELLING:** One or more rooms designed for permanent occupancy by one family and includes a kitchen.

**SINGLE-FAMILY:** A free-standing building containing one dwelling unit.

**TWO-FAMILY:** A free-standing building containing two dwelling units. May include two-unit rowhouses or duplexes, either renter-occupied or owner-occupied.

**MULTI-FAMILY:** A building containing three or more dwelling units. May include rowhouses, apartment buildings, or residential condominiums, either renter-occupied or owner-occupied.

**HOME STAY LODGING:** See Astoria City Code Section 8.755.

~~A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. Such facilities may or may not provide a morning meal.~~

A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. Such facilities may or may not provide a morning meal. Rooms used by transient guests shall not include a kitchen.

*(Annotated: CC determined that a full living unit should not be used as a HSL and full unit has been generally defined as having a kitchen.)*

HOTEL: A building in which lodging is provided for guests for compensation.

*(No change)*

MOTEL: ~~Same as "Hotel".~~ A building in which lodging is provided for guests for compensation and where the majority of rooms have direct access to the outside without the necessity of passing through the main lobby of the building.

Section 1.400, Definitions, add the following definitions:

KITCHEN: See Astoria City Code Section 8.755.

(City Code: Room for preparation of food and includes a cooking stove or ability to heat food other than with a microwave oven.)

OWNER OCCUPIED: Occupancy of a residence by an individual owner.

*(Annotated: It does not reference City Code definition as it would apply to more than HSL for Development Code.)*

PRIMARY RESIDENCE: Dwelling maintained as the permanent residence of the owner for not less than six months of the year.

*(Annotated: This is included to help avoid the issue such as person living in an adjacent home and only staying in the transient building on occasions, and to help maintain the housing stock so a building is not just used occasionally as a dwelling. It does not reference City Code definition as it would apply to more than HSL for Development Code.)*

TRANSIENT: A transient includes any person entitled to occupy a residence for less than 30 consecutive calendar days. The day a transient guest checks out shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

*(Annotated: This is similar to the definition for Occupational Tax purposes but removes reference to hotels and allowable extended occupancies. It does not reference City Code definition as it would apply to more than HSL for Development Code.)*

TRANSIENT LODGING FACILITY: Any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast establishment, home stay lodging, vacation rental, or other such transient lodging facility (such as Airbnb, VRBO, etc.). Transient Lodging Facility also means space in mobile home or trailer parks, or similar structure of space or portions thereof so occupied, provided such occupancy is for less than a 30-day period.

*(Annotated: With the addition of these other definitions, we would eliminate the reference to “other tourist lodging facility” in the Development Code so there is no confusion as to which classification each use is in. What other configuration of lodging facility could there be? The term “other tourist lodging facility is used in the C-2, C-3, C-4, MH zones only)*

VACATION RENTAL: A transient lodging facility available for transient rental, and which is not occupied by an owner or manager at the same time as the guests. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. For the purposes of this Code, a Vacation Rental is classified the same as a “hotel” or “motel”.

*(Annotated: This would clarify what we already do in classifying vacation rentals as a hotel which limits them to commercial zones. This is intended to protect a SFD from being used for transient lodging without an owner on-site which reduces the permanent available housing.)*

Section 2.025.8 (R-1 conditional use) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.065.6 (R-2 outright use, zone list of allowable uses) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.070.13 (R-2 conditional use, zone list of allowable uses) to be added to read as follows:

13. Home Stay Lodging in conjunction with an Accessory Dwelling Unit, which satisfies requirements in City Code Sections 8.750 to 8.800. May be processed as an Administrative Conditional Use.

Section 2.155.7 (R-3 outright use, zone list of allowable uses) to be replaced to read as follows:

Home Stay Lodging, which satisfies requirements in City Code Sections 8.750 to 8.800.

Section 2.160.12 (R-3 conditional use, zone list of allowable uses) to be added to read as follows:

12. Home Stay Lodging in conjunction with an Accessory Dwelling Unit, which satisfies requirements in City Code Sections 8.750 to 8.800. May be processed as an Administrative Use.

Section 2.585.14.b (A-3 conditional use, zone list of allowable uses) to be replaced to read as follows:

Bed and breakfast, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), or inn.

Section 2.350.3 (C-2 outright use), to be replaced to read as follows:

3. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:

- a. Structures or portions of structures constructed and/or previously occupied as a dwelling shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock.)

Section 2.390.10 (C-3 outright use), to be replaced to read as follows:

10. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:

- a. Structures or portions of structures constructed and/or previously occupied as a dwelling shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock.)

Section 2.435.4 (C-4 conditional use), to be replaced to read as follows:

4. Motel, hotel, bed and breakfast, inn, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility~~ and associated uses except as follows:

- a. Structures or portions of structures constructed and/or previously occupied as a dwelling shall not be used as a motel or hotel.

(Annotate: City Council determined that buildings or portions of buildings constructed and used as residences should not be allowed to be used for vacation rental transient lodging as it would reduce the housing stock.)

Section 2.894.2 (MH conditional use), to be replaced to read as follows:

2. Bed and breakfast, inn, or home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), ~~or other tourist lodging facility.~~

Section 14.132.1.b (A-4 ~~conditional~~<sup>[R1]</sup> use, zone list of allowable uses) to be replaced to read as follows:

Bed and breakfast, home stay lodging (which satisfies requirements in City Code Sections 8.750 to 8.800), or inn.

Section 8.160.A.1 (signs in residential zones) to be replaced to read as follows:

Sites with 1 or 2 dwelling units in a building, Home Occupations, and Home Stay Lodging.

Section 8.160.A.3 (signs in residential zones) to be replaced to read as follows:

Conditional Uses, except Home Stay Lodging.

Section 3.020.B.9 (Accessory Dwelling Unit) to be replaced to read as follows:

9. Home Stay Lodging.

Home Stay Lodging in conjunction with an Accessory Dwelling Unit may be allowed as follows:

- a. Home Stay Lodging is prohibited within an Accessory Dwelling Unit.

- b. Home Stay Lodging (which satisfies requirements in City Code Sections 8.750 to 8.800) may be allowed on properties in conjunction with an

Accessory Dwelling Unit as listed in the allowable uses within specific zones.

~~Homestay lodging is prohibited in accessory dwelling units created after May 17, 2017.~~

### 3.340. HOME STAY LODGING.

#### A. Purpose.

The City's purpose in regulating home stay lodgings is to allow for economic use of underutilized bedrooms in dwellings, and provide financial assistance to preserve both the housing stock and historic properties within the City and to ensure that Home Stay Lodging facilities are appropriately located; are compatible with surrounding allowed uses; are conducive to the public peace, health, safety, and welfare of the City; and do not reduce the number of potential long-term housing units; and support tourism.

#### B. Standards

1. Primary Residence. Every Home Stay Lodging shall be located in the owner's primary residence.
2. Occupancy. The Home Stay Lodging shall be owner occupied while occupied by transients.
3. Location. Home Stay Lodgings are not permitted in an Accessory Dwelling Unit but may be allowable in conjunction with an Accessory Dwelling Unit as follows:

a. Home Stay Lodging facility shall not be allowed within an Accessory Dwelling Unit.

b. R-1 Zone: Home Stay Lodging shall not be allowed in conjunction with an Accessory Dwelling Unit.

c. R-2 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.

d. R-3 Zone: Home Stay Lodging shall require an Administrative Conditional Use permit through the Community Development Department if located in conjunction with an Accessory Dwelling Unit.

(Annotated: ADU is an extra unit on a lot which is not sufficient for a duplex. To have both an ADU and an HSL would increase the impact to the neighborhood. CC determined that an HSL in R-2 or R-3 may be possible if the neighborhood development could accommodate it. While HSL is outright in the



R-2 and R-3 Zone, if done on a site that has an ADU, then a CU would be required to provide the additional impact review.)

4. No Kitchen. Home Stay Lodgings may not contain a kitchen.
5. Mobile vehicles. Home Stay Lodging shall not be located in motor homes, travel trailers, or other mobile vehicles.

Section 7.100, Off-Street Parking Space Requirements by Use, to be replaced to read as follows:

<u>Use Category</u>	<u>Minimum Parking per Land Use</u>
Bed and Breakfast, Inn	1 additional space for each bedroom used for transient lodging plus spaces required for <u>the dwelling and</u> associated uses such as assembly areas or restaurant.
Home Stay Lodging	1 additional space for each bedroom used for transient lodging plus spaces required <u>for the dwelling.</u>

(Annotate: This separated Home Stay Lodging from B&B as HSL cannot have the associated uses.)

Hotels, Motels, <u>other transient lodging facilities not listed,</u> and similar uses	1 space per guest room. See also, parking requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.
--	--

Section 9.010, Summary of Review Type, "Home Stay Lodging" to be replaced to read as follows:

<u>Approvals</u>	<u>Review Procedures</u>	<u>Applicable Regulations</u>
Home Stay Lodging	Type I, <u>Type II,</u> & Type III	<u>City Code Sections 8.750 to 8.800</u> <u>Section 11.180</u>

Section 9.010, Summary of Review Type, "Home Occupation" to be replaced to read as follows:

<u>Approvals</u>	<u>Review Procedures</u>	<u>Applicable Regulations</u>
Home Occupation	Class A: <u>Type I</u> <del>No permit</del> Class B: Type II	Section 3.095

(Annotated: This is included to correct an error in a previous code amendment as HO are reviewed administratively at the time of Occupational Tax approval.)

Section 9.020.C, PUBLIC NOTICE, Published Notice to be replaced to read as follows:

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

*(Annotated: This is included to correct an error in a previous code amendment.)*

Section 11.020. APPLICATION AND PROCEDURES, to be replaced to read as follows:

A. Procedures.

1. Application.

A request for a new, enlarged or otherwise altered development listed in the Development Code as a conditional use shall be made on forms provided by the Community Development Department. The Community Development Director shall specify what information is required for the application; additional information may be required where determined by the Director. and reviewed by the Astoria Planning Commission.

2. Public Notice.

Public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9 except as noted in Section 11.022.

B. Decision.

The Community Development Director and/or Planning Commission shall base their decision on whether the use complies with:

1. Applicable policies of the Comprehensive Plan.
2. Applicable aquatic and shoreland standards in Article 4.
3. For aquatic areas, whether the use or activity meets the resource capability and purpose of the zone in which it is proposed when such a determination is required in accordance with Article 5.
4. For aquatic uses, the findings of an Impact Assessment where required by Article 5.
5. Development standards of the applicable zone.
6. Basic conditional use standards of Section 11.030.
7. Appropriate conditional use standards of Section 11.130 to 11.170.

11.022. CLASSIFICATION OF CONDITIONAL USE REVIEW.

The Community Development Director shall decide the classification of any conditional use application. If the Community Development Director believes that substantial issues are involved in a conditional use application, the Director may schedule a public hearing in accordance with the procedures specified in Sections 9.020 to 9.030.

A. Type 2.

Type 2 includes minor conditional uses which are minimal uses and which will have little or no effect on adjacent property or users. Administrative approval by the Community Development Director of Type 2 conditional uses may be granted.

Type 2 conditional uses include:

1. Class B Home Occupation.
2. Home Stay Lodging in conjunction with an Accessory Dwelling Unit.

B. Type 3.

Type 3 includes conditional uses which are significant and are likely to create impacts on adjacent property or users. A Type 3 conditional use may be granted by the Planning Commission.

(Annotated: HSL w/ an ADU is intended by City Code to be processed by the Community Development Director rather than the APC. Class B Home Occupations are added as Admin CU process as these have minimal impacts but can be reviewed with public notice by the CDD.)

ORDINANCE NO. 18-\_\_\_\_\_

AN ORDINANCE AMENDING THE ASTORIA CITY CODE BY THE ADDITION OF SECTIONS 8.750 THROUGH 8.800 CONCERNING HOME STAY LODGING LICENSE AND ENFORCEMENT.

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria City Code Sections 8.750 through 8.800 pertaining to Home Stay Lodging Licenses is added to read as follows:

**“HOME STAY LODGING LICENSE**

**8.750. Purpose.**

The City’s purpose in regulating home stay lodgings is to allow for economic use of underutilized bedrooms in dwellings, and provide financial assistance to preserve both the housing stock and historic properties within the City and to ensure that Home Stay Lodging facilities are appropriately located; are compatible with surrounding allowed uses; are conducive to the public peace, health, safety, and welfare of the City; and do not reduce the number of potential long-term housing units; and support tourism.

**8.755. Definitions.**

Unless otherwise defined below, definitions in Section 1.400 of the Astoria Development Code apply. For the purposes of Section 8.750 to 8.800, the following definitions also apply:

HOME STAY LODGING: A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. Such facilities may or may not provide a morning meal. Rooms used by transient guests shall not include a kitchen.

KITCHEN: Room for preparation of food and includes a cooking stove or ability to heat food other than with a microwave oven.

OWNER: For purposes of this chapter the term owner only includes individuals, holding fee simple title to property, the beneficiaries of a revocable living trust, or a purchaser under a recorded instrument of sale. This does not include corporations, limited liability companies or similar organizations, an authorized agent of the owner, or those holding easements, leaseholds, or purchasers of less than fee interest

OWNER OCCUPIED: Occupancy of a residence by an individual owner.

PRIMARY RESIDENCE: Dwelling maintained as the permanent residence of the owner for not less than six months of the year.



TRANSIENT: For purposes of regulating Home Stay Lodgings a transient includes any person entitled to occupy a residence for less than 30 consecutive calendar days. The day a transient guest checks out shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

#### 8.760. License Required.

- (1) It is unlawful for any person to operate a Home Stay Lodging except as provided in and authorized by this chapter and without having first obtained a license from the City. Licenses required by this chapter shall be in addition to all other licenses and permits required by City ordinance, or State law.
- (2) Licenses are valid for a period not to exceed two years, from the date the license is issued or renewed to December 31 of the second calendar year of the license.
- (3) Licenses granted by this chapter are non-transferable.
- (4) A License shall in no way be a substitute nor eliminate the need to conform with all other Federal, State, and municipal laws, rules, and regulations.
- (5) A person may reapply for a Home Stay Lodging License which has been denied after a period of six (6) months from effective date of the denial.
- (6) A person may apply for a Home Stay Lodging License after a license or the right to apply for a license has been revoked after a period of one (1) year from effective date of the revocation.

#### 8.765. License Requirements.

- (1) Application.

An owner shall apply for a Home Stay Lodging License on the form provided by the City, along with the appropriate filing fee, and shall provide the following information:

- (a) The names, addresses, and telephone numbers for all owners.
- (b) At least two documents to show proof of owner occupancy such as voter registration, Clatsop County Tax Assessor records, ID/driver's license, and income tax information.
- (c) Proof of registration with the City Transient Room Tax Administrator pursuant to Code Section 8.045.6 along with proof that all applicable Transient Room Taxes have been paid.

- (d) Acknowledgement from the Community Development Department that use of the property as a Home Stay Lodging is allowed by the Astoria Development Code.
- (e) Proof of an Occupational Tax (business license) from the City of Astoria.
- (f) The applicant shall provide listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
- (g) A scaled site plan drawing including dimensions & location of the dwelling and on-site parking.
- (h) A scaled floor plan showing the location of the rooms to be used including location and size of egress windows in the transient lodging rooms.
- (i) An inspection report prepared within the last 30 days by the City Building Official or an Oregon Certified Home Inspector as defined by ORS 701.005(4) certifying compliance with the following standards:
  - (i) One functioning smoke detector in each sleeping room, with a minimum of two functioning smoke detectors in the dwelling and one functioning fire extinguisher at each exit.
  - (ii) Working carbon monoxide detector present on each floor with CO producing device or in garage.
  - (iii) Exterior doors shall be operations. All passageways to exterior doors shall be clear and unobstructed.
  - (iv) Electrical systems shall be serviceable with no visible defects or unsafe conditions.
  - (v) All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and properly installed.
  - (vi) Each sleeping room shall have an exterior exit that opens directly to the outside, or an emergency escape or rescue window.
  - (vii) The number of sleeping rooms with the residence.
  - (viii) The number of parking spaces on the property that meet the standards of Article 7 of the Astoria Development Code.

(2) Public Notice.

Prior to the issuance of a new Home Stay Lodging License, the City shall provide mailed notice as follows:

- (a) Not less than 15 days prior to the issuance of a license, notice shall be sent to all property owners within 100 feet, excluding rights-of-way, of the outside boundary of the Home Stay Lodging facility. 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 a license.
- (b) Notice may also be provided to others who may be affected or otherwise interested in the license application.
- (c) Notice is not required for license renewals.

(3) License Renewal Procedures.

- (a) Except as provided below the holder of a Home Stay Lodging license is entitled to renewal upon submission of a proper renewal application and fee. The City shall review every request to renew a Home Stay Lodging License in accordance with the following:
  - (i) Applications for license renewal shall be submitted on a form provided by the City with the appropriate filing fee.
  - (ii) License renewal requests may be submitted up to sixty (60) days prior to expiration of the previous license. A renewal may be approved prior to expiration of the previous license.
  - (iii) The applicant shall provide an inspection report described in Section 8.765(1)(i) prepared within 30 days of the renewal application.
  - (iv) The City shall make an appropriate investigation of the applicant's compliance with the requirements of this chapter prior to approving a renewal application.
- (b) The City may deny a request for renewal upon finding one or more of the following:
  - (i) An owner's failure to comply with any of the requirements of Section 8.775 or the Astoria Development Code.
  - (ii) Providing false information to the City in the original license application or in the application for license renewal.
  - (iii) Violation of any State law or City ordinance by the applicant or violation of any State law or City ordinance by a transient guest at the Home Stay Lodging facility.



- (iv) Failure to provide a report certifying compliance with the standards described in Section 8.765(1)(i).

(4) Notice of Decision.

Notice of the City's decision to issue or deny a license or a license renewal shall be provided to the applicant and all parties who provided written comments on the request. The notice of the decision shall include:

- (a) A brief description of the decision reached and, if the request is denied, the reasons justifying denial of the license application.
- (b) A statement that the decision may be appealed to the City Council by filing an appeal within 10 calendar days of the date that the final decision was mailed; and a description of the requirements for an appeal.
- (c) Appeal of a City's decision to issue or deny a license shall be to the Astoria City Council pursuant to Section 1.070.

8.770. Applicability.

- (1) The provisions of this ordinance shall apply to existing and new facilities within the City of Astoria. An existing facility that obtained City approval prior to January 1, 2019 but is not in compliance with the standards of this ordinance may remain operational as an approved, non-conforming Home Stay Lodging facility if compliance with the following standards is met:
  - (a) The facility shall comply with the fire/life/safety requirements described in Section 8.765(1)(i).
  - (b) The facility shall remain owner-occupied.
  - (c) The facility shall maintain the required approved off-street parking spaces.
  - (d) The owner shall obtain an Occupational Tax (business license) from the City of Astoria and shall pay the Transient Room Tax.
  - (e) The owner shall obtain a Home Stay Lodging license within six months of adoption of this ordinance.
- (2) The right to operate an approved non-conforming Home Stay Lodging facility is subject to revocation and the owner subject to civil fines pursuant to Section 8.800 upon a failure to comply with the provisions of this Section.

#### 8.775. Standards.

- (1) The facility shall be the owner's primary residence and occupied by the owner at the same time as the guest occupancy. In the case of multiple dwelling units in one building such as a duplex or triplex, etc., the owner shall live in the same unit as the guests.
- (2) The owner shall provide accurate listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
- (3) Rooms used by transient guests may not include a kitchen.
- (4) The Home Stay Lodging facility and all sleeping rooms shall remain in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, Traveler's Accommodation Statutes, and with the Uniform Housing Code.
- (5) The owner shall maintain compliance with the fire/life/safety requirements of Section 8.765(1)(i).
- (6) The owner shall comply with all City regulations affecting the operation of the facility including but not limited to the following:
  - (a) All signs shall conform to the sign requirements for the zone as specified in the Astoria Development Code Article 8.
  - (b) The owner of a Home Stay Lodging facility shall maintain an Occupational Tax (business license) from the City of Astoria, and all other City or State licenses or permits related to the operation of the facility.
  - (c) The owner shall maintain registration with the Finance Department and pay the Transient Room Tax as required in City Code Section 8.045.
- (7) Unless a Variance is obtained, parking shall be provided in accordance with Development Code Article 7. In addition to the requirements of Article 7, the following shall apply:
  - (a) The owner shall notify every guest / renter in writing of the required off-street parking and other parking spaces available to serve the transient rental guest.
  - (b) Parking shall not, under any circumstances, hinder the path of any emergency vehicle.
  - (c) Renters may be cited and fined under existing State and/or City law in the event they park illegally.

- (8) The owner shall include the City Home Stay Lodging license number on all advertising and with all Transient Lodging Facility Intermediaries.
- (9) The owner shall post a notice within the guest entry of the Home Stay Lodging facility or within each guest bedroom advising guests of the location of guest parking spaces, and Astoria City Municipal Code Section 5.025 that prohibits unnecessary noise. Content of the notice shall be reviewed and approved by the City.
- (10) The owner may not, or allow anyone else to, advertise, offer or represent for use, occupancy or rent, a Home Stay Lodging facility without a valid Home Stay Lodging License, advertise for full house rental, or advertise for inclusion of kitchen facilities.

8.800. Enforcement.

- (1) In addition to the penalties provided below, the City may sue in any court of competent jurisdiction and obtain any other relief provided by law.
- (2) Each of the following activities are declared as public nuisances and punishable by a fine of \$1,000.00, each violation constitutes a separate offense and each day that the violation is committed or permitted to continue constitutes a separate offense:
  - (i) Operating a Home Stay Lodging facility without having first obtained a license from the City.
  - (ii) Providing false information in the application for license or license renewal.
  - (iii) Violation of any provision of Section 8.775.
- (3) In addition to the fine specified above, the court hearing this matter shall revoke the license, right to apply for a license, or right to operate a non-conforming Home Stay Lodging of any person found to have violated any provision of Section 8.800(2) above.
- (4) If it prevails in any action to enforce the provisions of this Section the City shall be entitled to an award of reasonable attorney fees at trial and upon appeal.
- (5) Appeal of an enforcement action filed by the City in municipal court shall be to the Astoria City Council pursuant to Section 1.070."

Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Brett Estes, City Manager

ROLL CALL ON ADOPTION:                      YEA                      NAY                      ABSENT

Commissioner                      Nemlowill  
   Brownson  
   Price  
   Jones

Mayor LaMear



ORDINANCE NO. 18-\_\_\_\_\_

AN ORDINANCE AMENDING THE ASTORIA CITY CODE BY THE ADDITION OF SECTION 8.045 CONCERNING TRANSIENT ROOM TAX.

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria City Code Section 8.045 pertaining to Transient Room Tax is deleted in its entirety and replaced to read as follows:

“Transient Room Taxes

8.045 The term "ordinance" in the following sections refers to sections 8.045.1 to 8.045.18 of the Astoria Code.

8.045.1 Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (a) "~~Hotel~~Transient Lodging Facility: ~~means a~~Any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast establishment, home stay lodging, Airbnb vacation rental, or other such transient lodging facility (such as Airbnb, VRBO, etc.). Hotel Transient Lodging Facility also means space in mobile home or trailer parks, or similar structure of space or portions thereof so occupied, provided such occupancy is for less than a 30-day period. [Subsection (a) amended by Ordinance No. 90-07, Section 1, passed April 16, 1990.]
- (b) "~~City council~~" meansCity Council: The City Council of the City of Astoria, Oregon.
- (c) "~~Occupancy~~" meansOccupancy: The use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotelTransient Lodging Facility, or space in a mobile home or trailer park or portion thereof.
- (d) Operator: The person who is the proprietor of the hotelTransient Lodging Facility in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provision of this ordinance by either the principal or the managing agent shall be considered to be compliance by both.
- (e) Person: Any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

- (f) Cash Accounting: ~~T"Cash accounting" means~~ the operator does not enter the rent due from a transient on his records until rent is paid.
- (g) Accrual Accounting: ~~T"Accrual accounting" means~~ the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.
- (h) Rent: ~~T"Rent" means~~ the consideration charged, whether or not received by the operator, for the occupancy of space in a ~~hotel~~Transient Lodging Facility, valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction.
- (i) Rent Package Plan: ~~T"Rent package plan" means~~ the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

       The amount applicable to rent for determination of transient room tax under this ordinance shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package, and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

- (j) Tax: ~~E"Tax" means~~ either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.
- (k) Tax Administrator: The Finance Director of the City of Astoria, Oregon or his designee.
- (l) Transient: ~~A"Transient" means~~ any individual who exercises occupancy or is entitled to occupancy in a ~~hotel~~Transient Lodging Facility for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient guest checks out of the ~~hotel~~Transient Lodging Facility shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a ~~hotel~~Transient Lodging Facility shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. [Section 8.045.1 added by Section 1 of Ordinance No. 7505, passed June 2, 1975.]
- (m) Transient Lodging Facility Intermediary: A person, firm, or other third party entity other than a lodging provider that facilitates the retail sale of lodging and charges and collects the consideration charged including tax for occupancy of the lodging facility

- (n) Transient Lodging Tax Collector: An Operator or a Transient Lodging Facility Intermediary. Transient Lodging Tax Collector may also be referred to as "Operator".

#### 8.045.2 Tax Imposed.

For the privilege of occupancy in any ~~hotel~~Transient Lodging Facility on or after January 1, 2018, each transient shall pay a tax in the amount of 11 percent of the rent charged by the ~~operator~~Transient Lodging Tax Collector. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the ~~operator~~Transient Lodging Tax Collector to the City. The transient shall pay the tax to the ~~operator~~Transient Lodging Tax Collector of the ~~hotel~~Transient Lodging Facility at the time the rent is paid. The ~~operator~~Transient Lodging Tax Collector shall enter the tax on his records when the rent is collected, if the operator keeps his records on the cash accounting basis, and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the ~~operator~~Transient Lodging Tax Collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services, commodities, other than the furnishings of rooms, accommodations and space occupancy in mobile home parks or trailer parks."

[Section 8.045.2 added by Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 81-04, passed May 18, 1981; and Ordinance No. 90-07, passed April 16, 1990; amended by Ordinance No. 01-13, passed November 19, 2001.]

#### 8.045.3 Collection of Tax by ~~Operator~~Transient Lodging Tax Collector; Rules for Collection.

- (a) Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this ordinance, shall collect a tax from the occupant. The tax collected or accrued by the ~~operator~~Transient Lodging Tax Collector constitutes a debt owed by the ~~operator~~Transient Lodging Tax Collector to the City.
- (b) In all cases of credit or deferred payment of rent, the payment of tax to the ~~operator~~Transient Lodging Tax Collector may be deferred until the rent is paid, and the ~~operator~~Transient Lodging Tax Collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.
- (c) The tax administrator shall enforce provisions of this ordinance and shall have the power to adopt rules and regulations, approved by the City Manager, not inconsistent with this ordinance, as may be necessary to aid in the enforcement.
- (d) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted. [Section 8.045.3 added by Section 3 of Ordinance No. 75-05, passed June 2, 1975.]

- (e) In the case of the tax collection and payment by other than the Operator, the Transient Lodging Facility Intermediary shall enter into a written agreement with the City for said tax collection and payment prior to start of operation as a third-party tax collector. Such agreement shall not preclude State collection of taxes and other rights of the City in Federal, State, or local laws, rules, and regulations.

#### 8.045.4 Transient Lodging Tax Collector~~Operator~~'s Duties.

Each ~~operator~~Transient Lodging Tax Collector shall collect the tax imposed by this ordinance at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the ~~operator~~Transient Lodging Tax Collector's records and any receipt rendered by the ~~operator~~Transient Lodging Tax Collector. No ~~operator~~Transient Lodging Tax Collector of a ~~hotel~~Transient Lodging Facility shall advertise that the tax or any part of the tax will be assumed or absorbed by the ~~operator~~Transient Lodging Tax Collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this ordinance. [Section 8.045.4 added by Section 4 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.5 Exemptions.

No tax imposed under this ordinance shall be imposed upon:

- (a) Any occupant for more than 30 successive calendar days. (A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.)
- (b) Any occupant whose rent is of a value less ~~then~~than \$2.00 per day.
- ~~(c) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof.~~
- (d) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for the aged people, or to a public institution owned and operated by a unit of government. [Section 8.045.5 added by Section 5 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.6 Registration of Operator; Form and Contents; Execution; Certification of Authority.

- (a) Every person engaging or about to engage in business as an operator of a ~~hotel~~Transient Lodging Facility in this City shall register with the tax administrator on a form provided by him. Operators engaged in business at the time this ordinance is adopted must register not later than 30 calendar days after passage of this ordinance. Operators starting business after this ordinance is adopted must register within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.



(b) Registration sets forth the following:

- (1) Name under which the operator transacts or intends to transact business; and
- (2) ~~The~~ location of his place or places of business; and
- (3) Name and address of the real property owner of the business location; and
- (4) ~~Third-party~~ and identification number if utilizing a Transient Lodging Facility Intermediary; and
- (5) Such other information to facilitate the collection of the tax as the tax administrator may require.

(c) The registration shall be signed by the operator.

(d) The tax administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable, and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(e) Said certificate shall, among other things, state the following:

(1) The name of the operator.

(2) The address of the ~~hotel~~ Transient Lodging Facility.

(3) The date upon which the certificate was issued.

(4) "This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient lodgings tax ordinance of the City of Astoria by registration with the tax administrator for the purpose of collecting from transients the lodging tax imposed by said city and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a ~~hotel~~ Transient Lodging Facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Astoria. This certificate does not constitute a permit." [Section 8.045.6 added by Section 6 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.7 Due Date; Returns and Payments.

(a) The tax imposed by this ordinance shall be paid by the transient to the ~~operator~~ Transient Lodging Tax Collector at the time that rent is paid. All amounts of such taxes collected by any ~~operator~~ Transient Lodging Tax Collector are due and payable to the tax administrator on a quarterly-monthly basis on the 15th day of the following month ~~for the preceding three months~~, and are delinquent on the last day of

the month in which they are due. The tax administrator has authority to classify and/or district the ~~operator~~Transient Lodging Tax Collectors for determination of applicable tax periods and shall notify each ~~operator~~Transient Lodging Tax Collector of the due and delinquent dates for the ~~operator~~Transient Lodging Tax Collector's returns. The initial return under this ordinance may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable ~~monthly~~ quarterly period.

- (b) On or before the 15th day of the month following each ~~month~~quarter of collection, a return for the preceding ~~month~~quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every ~~operator~~Transient Lodging Tax Collector liable for payment of tax.
- (c) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of ~~operator~~Transient Lodging Tax Collector for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

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(1) If the return is submitted by a Transient Lodging Facility Intermediary, the return shall list the identification number of the Transient Lodging Facility and the amount remitted for that specific facility.

- (d) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (e) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any ~~operator~~Transient Lodging Tax Collector to whom an extension is granted shall pay interest at the rate of one-half of 1 percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this ordinance.
- (f) The tax administrator, if he deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in an individual case, may require returns and payment of the amount of taxes for other than ~~quarterly~~monthly periods. [Section 8.045.7 added by Section 7 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.8 Penalties and Interest.

- (a) Original delinquency.

Any ~~operator~~Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this

ordinance prior to delinquency shall pay 10 percent of the amount of the tax due in addition to the amount of the tax.

(b) Continued delinquency.

Any ~~operator~~Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the amount of the tax and the 10 percent penalty first imposed.

(c) Fraud.

If the tax administrator determines that the nonpayment of any remittance due under this ordinance is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in Subsections (a) and (b) of this section.

(d) Interest.

In addition to the penalties imposed, any ~~operator~~Transient Lodging Tax Collector who fails to remit any tax imposed by this ordinance shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due exclusive of penalties from the date on which the remittance first became delinquent, until paid.

(e) Penalties merged with tax.

Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(f) Petition for waiver.

Any ~~operator~~Transient Lodging Tax Collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the ~~operator~~Transient Lodging Tax Collector may petition the City Council for waiver and refund of the penalty or any portion thereof, and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. [Section 8.045.8 added by Section 8 of Ordinance No. 75-05, passed June 2, 1975.]

8.045.9 Deficiency Determinations; Evasion; ~~Operator~~Transient Lodging Tax Collector Delay.

- (a) Deficiency determinations. If the tax administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determination may be made of the amount due for one or more than one

period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.045.8.

- (1) In making a determination, the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 8.045.8.
- (2) The tax administrator shall give to the ~~operator~~Transient Lodging Tax Collector or occupant a written notice of his determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the ~~operator~~Transient Lodging Tax Collector at his address as it appears on the records of the tax administrator. In case of service by mail of any notice required by this ordinance, notice shall be served by registered mail, postage prepaid, return receipt requested.
- (3) Except in the case of fraud or intent to evade this ordinance or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the ~~monthly~~quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.
- (4) Any determination shall become due and payable immediately upon receipt of notice, and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the ~~operator~~Transient Lodging Tax Collector may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(b) Fraud; refusal to collect; evasion.

If any ~~operator~~Transient Lodging Tax Collector shall fail or refuse to collect said tax or to make, within the time provided in this ordinance, any report or remittance of said tax or any portion thereof required by this ordinance, or makes a fraudulent return or otherwise ~~wilfully~~willfully attempts to evade this ordinance, the tax administrator shall proceed in such manner as he may deem best to obtain the facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this ordinance from any ~~operator~~Transient Lodging Tax Collector who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such ~~operator~~Transient Lodging Tax Collector the tax, interest and penalties provided for by this ordinance. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of



notice, and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the ~~operator~~Transient Lodging Tax Collector may petition for redemption refund if the petition is filed before the determination becomes final as herein provided.

- (c) ~~Operator~~Transient Lodging Tax Collector delay.

If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount to be determined, as herein provided, shall be immediately due and payable, and the ~~operator~~Transient Lodging Tax Collector shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the ~~operator~~Transient Lodging Tax Collector may petition, after payment has been made, for redemption and refund of such determination if the petition is filed within 20 days from the date of service of notice by the tax administrator. [Section 8.045.9 added by Section 9 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.10 Redeterminations.

- (a) Any person against whom a determination is made under Section 8.045.9, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 8.045.9. If a petition for redetermination and refund is not filed within the time required in Section 8.045.9, the determination becomes final at the expiration of the allowable time.
- (b) If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing, and shall give him 20 days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.
- (c) The tax administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, such increase shall be payable immediately after the hearing.
- (d) The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the transient lodgings tax review committee within the 20 days after the service of such notice.
- (e) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the ~~operator~~Transient Lodging Tax Collector has first complied with the payment provisions hereof. [Section 8.045.10 added by Section 10 of Ordinance No. 75-05 passed June 2, 1975.]

#### 8.045.11 Security for Collection of Tax.

- (a) The tax administrator, whenever he deems it necessary to insure the compliance with this ordinance, may require the ~~operator~~Transient Lodging Tax Collector subject thereto to deposit with him such security in the form of cash, bond or other security in the amount of 25% of the quarterly average or higher as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the ~~operator~~Transient Lodging Tax Collector's estimated average applicable monthly ~~quarterly~~ liability for the period for which he files returns, determined in such a manner as the tax administrator deems proper, or \$5,000.00, whichever amount is less. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided. The ~~operator~~Transient Lodging Tax Collector has a right to appeal to the City Council any decision of the tax administrator made pursuant to this section. The ~~operator~~Transient Lodging Tax Collector's right to appeal is pursuant to Section 8.045.16 herein.
- (b) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the tax administrator may bring any action in the courts of this State, or any other state, or of the United States, in the name of the City, to collect the amount delinquent, together with penalties and interest. [Section 8.045.11 added by Section 11 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.12 Lien.

- (a) The tax imposed by Sections 8.045.1 to 8.045.17, together with the interest and penalties therein provided, and advertising costs which may be incurred when the same becomes delinquent, as set forth herein, shall be and, until paid, remain a lien from the date of its recording in the lien docket of the City and superior to all subsequent recorded liens on all real and tangible personal property, used in the ~~hotel~~Transient Lodging Facility of an operator within the City of Astoria, and may be foreclosed on and sold as may be necessary to discharge said lien. A lien shall be recorded by the tax administrator or his deputy whenever the ~~operator~~Transient Lodging Tax Collector is in default in payment of said tax and the lien is ordered by a resolution of the City Council. The lien shall be entered in the lien docket and on an electronic lien service provider such as "Net Assets" for the full value with separate amounts for tax and penalty. Interest shall commence from the date of entry in the lien docket. Interest shall accrue on the tax portion of the lien at 1 percent per month or fraction thereof without proration for portion of month.
- (b) In addition to the lien against the operator's property as noted in Section 8.045.12(a), the tax imposed by this Chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against the real property occupied by the Transient Lodging Facility, regardless of the ownership of said property. Recording of the lien shall be in accordance with Section 8.045.12(a).

- (c) In the case of a Transient Lodging Facility Intermediary, the tax imposed by this Chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against all property of the Transient Lodging Facility Intermediary as authorized by local, State or Federal law. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed on as provided by local, State or Federal law. Recording of the lien shall be in accordance with Section 8.045.12(a).
- (d) Other Remedies. Nothing herein contained shall prevent the City from exercising any right or seeking any remedy to which the City might otherwise be entitled or from filing a complaint with any appropriate governmental agency. This ordinance is in addition to any Federal, State, and other laws, rules and regulations, and methods of tax collection.
- (e) The lien shall be enforced as provided in Sections 2.185(3) to 2.185(5) of this code. [Section 8.045.12 added by Section 12 of Ordinance No. 75-05, passed June 2, 1975; and amended by Ordinance No. 79-02, passed February 5, 1979.]

#### 8.045.13 Refunds.

- (a) Refunds by the City to the ~~operator~~Transient Lodging Tax Collector.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this ordinance, it may be refunded; provided, a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded, or may be credited on any amount then due and payable from the ~~operator~~Transient Lodging Tax Collector from whom it was collected or by whom paid; and the balance may be refunded to such ~~operator~~Transient Lodging Tax Collector, his administrators, executors or assignees.

- (b) Refunds by City to transient.

Whenever the tax required by this ordinance has been collected by an ~~operator~~Transient Lodging Tax Collector and deposited by ~~operator~~Transient Lodging Tax Collector with the tax administrator, and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator, it may be refunded to the transient; provided, a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the tax administrator within three years from the date of payment.

- (c) Refunds by ~~operator~~Transient Lodging Tax Collector to tenant.

Whenever the tax required by this ordinance has been collected by the ~~operator~~Transient Lodging Tax Collector and it is later determined that the tenant occupies the ~~hotel~~Transient Lodging Facility for a period exceeding 30 days without interruption, the ~~operator~~Transient Lodging Tax Collector shall refund to such tenant the tax previously collected by the ~~operator~~Transient Lodging Tax Collector from that tenant as a transient. The ~~operator~~Transient Lodging Tax Collector shall account for such collection and refund to the tax administrator. If the ~~operator~~Transient Lodging Tax Collector has remitted the tax prior to the refund or credit to the tenant, he shall be entitled to a corresponding refund under this section. [Section 9.045.13 added by Section 13 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.14 Collection Fee.

Every ~~operator~~Transient Lodging Tax Collector liable for collection and remittance of the tax imposed by this ordinance may withhold 5 percent of the net tax herein collected, to cover the ~~operator~~Transient Lodging Tax Collector's expense in collection and remittance of said tax. [Section 9.045.14 added by Section 14 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.15 Administration.

(a) [Subsection (a) repealed by Ordinance No. 87-10, passed May 18, 1987.]

(b) Records required from ~~operator~~Transient Lodging Tax Collectors, etc.

Every ~~operator~~Transient Lodging Tax Collector shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the ~~operator~~Transient Lodging Tax Collector for a period of three years and six months after they come into being.

(c) Examination of records; investigations.

The tax administrator, or any person authorized in writing by him, may examine during normal business hours the books, papers and accounting records relating to room sales of any ~~operator~~Transient Lodging Tax Collector, after notification to the ~~operator~~Transient Lodging Tax Collector liable for the tax, and may investigate the business of the ~~operator~~Transient Lodging Tax Collector in order to verify the accuracy of any return made or, if no return is made by the ~~operator~~Transient Lodging Tax Collector, to ascertain and determine the amount required to be paid.

(d) Confidential Character of Information Obtained.

City will comply with the Public Records Law of the State of Oregon relating to the confidentiality of and allowable disclosure of records, reports or returns submitted pursuant to this transient room tax ordinance. [Subsection 8.045.15(d) repealed and replaced by Ordinance No. 1010, passed November 1, 2010.]



[Section 8.045.15 added by Section 15 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 87-10, passed May 18, 1987]

#### 8.045.16 Appeals to City Council.

Any person aggrieved by any decision of the tax administrator may appeal to the City Council by filing notice of appeal with the tax administrator within 20 days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator shall transmit said notice of appeal together with the file of said appealed matter to the council, who shall fix a time and place for hearing such appeal from the decision of the tax administrator. The council shall give the appellant not less than 20 days' written notice of the time and place of hearing of said appealed matter. Action by the council on appeals shall be decided by a majority of the members of the council present at the meeting where such appeal is considered. [Section 8.045.16 added by Section 16 of Ordinance No. 75-05, passed June 2, 1975.]

#### 8.045.17 Violations; Criminal and Civil Penalties and Remedies.

##### (a) Failure to Register or Report.

It is unlawful for any ~~operator~~Transient Lodging Tax Collector or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this ordinance. Any person willfully violating any of the provisions of this ordinance shall be subject to the penalties provided in Section 1.010 of this Code.

##### (b) Nonpayment – Civil and Criminal Remedies and Penalties.

An ~~operator~~Transient Lodging Tax Collector who, having collected transient room tax, and failing to remit them to the City, may, in addition to the penalties and lien imposed by this ordinance, be subject to the penalties provided in Section 1.010 of this Code, and be subject to civil action in a court of competent jurisdiction for conversion, money had and received or any other available civil remedy. At the City's discretion, the City may prosecute or have the ~~operator~~Transient Lodging Tax Collector prosecuted for a misdemeanor or felony, as the facts may warrant, when it appears the ~~operator~~Transient Lodging Tax Collector has committed theft as defined by Oregon statutes.

[Section 8.045.17 added by Sections 18 and 19 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 10-10, passed November 1, 2010.]

#### 8.045.18 Distribution and Management of Funds.

The transient room tax collected will be deposited as follows:

- (a) Fifty-three and nine tenths (53.9%) of the total taxes collected shall be deposited into the General Fund to fund City services.
- (b) Forty-six and one tenth percent (46.1%) of 9% of transient room tax collections shall be deposited into the Promote Astoria Fund.
- (c) Thirty percent (30%) of 2% of transient room tax collections adopted in Ordinance 17-11 shall be deposited into the General Fund to fund City services.
- (d) Seventy percent (70%) of 2% of transient room tax collections adopted in Ordinance 17-11 shall be deposited into the Promote Astoria Fund.

The tax transferred to the Promote Astoria Fund shall be used for tourism promotion and tourism-related facilities as defined in ORS 320.300 for the City of Astoria and immediate-surrounding areas.

Organizations receiving funds from the Promote Astoria Fund shall enter into a contract with the City that will include a scope of work and budget to be approved annually by the Astoria City Council. The contract will designate how the funds will be expended by contracting organizations.

Contracting organizations shall provide semi-annual financial reports, by August 1 and February 1, covering the six months ended June 30 and December 31, respectively, of each year. These reports shall provide a verified listing of the expenditures with adequate narrative, so the City can be satisfied as to the appropriateness of the expenditures. In addition, the Budget Committee of the City shall review such reports during the budget process and recommend to the City Council the continuance, discontinuance, or changes to a contract each year."

Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Brett Estes, City Manager

ROLL CALL ON ADOPTION:                      YEA                      NAY                      ABSENT

Commissioner                      Nemlowill

Brownson  
Price  
Jones

Mayor LaMear

RESOLUTION NO. 18-\_\_\_\_\_

A RESOLUTION OF THE CITY OF ASTORIA RELATING TO FEES FOR SERVICES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. Authority for Fees. The various departments of the City incur expenses in searching for and furnishing copies of records, reports, documents, and providing special services for private individuals and private concerns. The City Council deems it advisable, for the efficient conduct of the affairs of the various departments, that reasonable fees be charged for furnishing such records, reports, documents, and services. A deposit may be requested in advance of providing the requested information.

Section 2. Schedule of Fees. The schedule of fees as adopted in Schedule C (Community Development Department) established by Resolution 17-04, dated March 20, 2017, is hereby amended by the adoption of the following additional fees:

Home Stay Lodging License - \$500  
Home Stay Lodging License Renewal - \$150  
Home Stay Lodging Code compliance and Fire/Life/Safety Inspection - \$300  
Home Stay Lodging License Appeal - \$400

Section 3. Effective Date. The provisions of this Resolution shall become effective 30 days following its passage by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Brett Estes, City Manager

ROLL CALL ON ADOPTION:                      YEA                      NAY                      ABSENT

Commissioner                      Nemlowill  
   Brownson  
   Price  
   Jones

Mayor LaMear






## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

### MEMORANDUM • COMMUNITY DEVELOPMENT

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**DATE:** NOVEMBER 14, 2018  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** SALES CONTRACT WITH AREA PROPERTIES FOR SALE OF CITY OWNED LOTS OVER THE MILL POND

#### DISCUSSION / ANALYSIS

The City owns twelve lots platted over the south side of the Mill Pond that were gifted by the developer, Art Demuro (Venerable Properties), in 2012. The City has attempted to market the property since that time with no success. The issue of disposition of the properties was raised during this fiscal year's budget hearings.


This item was discussed at the August 6, 2018 City Council meeting and Council directed Staff to market the lots using a real estate agent. Staff contacted Mary Wickstrom of Area Properties. Mary and Laurie Duey were involved in the sale of City properties in 2014 and 2015. Area Properties was the only real estate firm to propose to sell City properties at that time. Due to their familiarity with the property and background, staff recommends renewing the contract with Area Properties. The City Attorney opines that this would be the appropriate course of action.

The sales contracts are attached. It is proposed that the price of each "pier" be priced at \$45,000. The value was established based on Area Properties' evaluation both in 2013 and current values. Although some individual lots over water have been listed for \$30,000, the pier lots are problematic because of the need to build out the entire pier and develop it all at once. Each pier contains, theoretically, six lots or building sites; however, only offers for each pier would be entertained or accepted. The price, if accepted, would enable the City to recover its investment and decommission utilities.

Although the property will be listed generally on the MLS, the real estate agents will make an initial effort to contact all of the Mill Pond property owners to inform them of the proposal. The HOA board will also be contacted directly as a courtesy.

#### RECOMMENDATION

It is recommended that the Council authorize the City Manager to sign the sales contract.

By:  \_\_\_\_\_

Mike Morgan, Contract Planner

attachments

TO: City of Astoria

FROM: Laurie Duey, Broker  
AREA Properties, Inc.

DATE: September 4, 2013

RE: City Properties

Attached is a suggested pricing for the current list of saleable city lots.

In determining these prices, I have taken into consideration vacant land sales within the last 12 calendar months in the City of Astoria. There were only 6 sales, 3 of which were Millpond. Of the remaining three, two were similar and the third was far superior to lots being offered for sale.

The first comp was 181 Exchange, listed for \$24,900 and sold for \$15,000. This was a 5,000 sq. ft. lot in similar location and similar build issues as many of the city properties.

The second sold property was at 518 Alameda. This property was 5,000 sq. ft. similar build issues (including geo), similar location, but a very good river view. This property listed for \$55,000 and sold for \$35,000.

The third comp was located at 10<sup>th</sup> & Klaskanine, listed for \$75,000 and sold for \$55,000. This is a superior sale of lots 5-8 (4 sites) and subsequently divided into 2 duplex lots for development. Lot size was 0.48 acres. The \$55,000 sales price for the entire parcel reflects a \$13,750 per site value

In addition, not factored in as a comp but a recent sale, the house/lot at 144 Duane sold for \$25,000. Lot size was 0.14 acres. The views were outstanding. The house had significant damage from the Duane/Bond slide, was in the slide area and needed to be removed. This sales price did not take into consideration demolition costs. This sales price does show land value (less demo) in a slide area.

Regarding the Millpond lots, prior to the city's ownership of these lots, I worked extensively with Art Demuro on the sale of these properties. Through discussions with Art and the Millpond board president, a plan was formulated to abandon the original pier lots as platted and market the pond front lots to property owners that would benefit from the unobstructed views. The thought behind this plan was that and after years of unsuccessful marketing in today's real estate environment, the piers were not an attractive venture for investors. At that time property owners were contacted, but we were not successful at putting together a complete purchase plan. I still believe that this would be the most prudent way to market the lots today – abandon the original plat and market the property at 4 pond lots. I would recommend addressing the Millpond Board



of Directors and see if the board would be interested in the purchase to retain these lots as open space/common ground. In pricing, the most recent pond lot sale was #36, which sold for \$21,000 on 6/14/13. My recommendation for pricing these lots, based on the above information would be approximately \$84,000.

Regarding the 900 block of 36<sup>th</sup> Street, this parcel is currently being used as access by adjacent property owners to their garages and the back of the property. These 4 individual parcels benefit each of the adjacent parcels similar to the recent street vacation adjacent to 2044 SE D Street for \$1,001.12. In comparison, there would be 4 similar parcels for a total of \$4,000. I would recommend adjacent property owners purchase the entire parcel and formulate a division of this parcel after closing that would benefit each of them as they see fit.

Regarding the larger parcels that are mostly comprised of slide area with only portions of these lots for sale, I have defaulted to Clatsop County tax values on these due to a lack of similar sales.

Summarizing the above sales comps, the average sales price is \$21,250 per site. This average is the basis for suggested pricing with adjustments for other factors relating to the specific lots. In addition, consideration being given to adjacent property owners is appropriate in that many of these adjacent property owners have been using the city properties for access, gardening and views. Many may not realize that even their homes, garages or permanent landscaping encroach on the city lands.

Finally, with respect to pricing of the larger parcels, I would recommend that the City obtain fee appraisals on these parcels.

City of Astoria			
Real Estate for Sale			
Property Address	RMV	AV	List Price
1st & West Grand	29,602	13,258	21,000
100 Block W. Exchange	22,201	11,951	25,000
100 Block W. Franklin	13,814	7,970	25,000
38th to 40th Lief Erickson			
200 Block Commercial	32,604	12,880	24,500
400 Block 3rd	44,714	17,674	15,000
400 Block Pleasant	144,853	64,925	65,000
600 Block 46th	28,141	11,112	50,000
600 Block Exchange	100	100	12,500
600 Block McClure	78,673	31,470	49,000
700 Block 45th	21,238	8,388	22,000
700 Block 46th	18,584	7,352	22,000
900 Block 36th	34,182	14,686	4,000
1500 Block 8th East Side	33,346	13,412	25,000
1500 Block 8th West Side	47,203	18,878	30,000
1500 Block 9th	14,160	5,658	20,000
1600 Block 5th & McClure	44,056	17,616	42,500
1600 Block 7th & McClure	641,981	33,573	175,000
1600 Block 10th	70,805	28,343	15,000
1700 Block 8th East Side	236,019	15,007	30,500
1840 4th Street	103,332	63,637	75,000
2200 Block Irving	9,501	3,749	9,500
2700 Block Grand	19,864	8,542	20,000
2700 Block Irving	27,248	11,713	28,000
2800 Block Grand	39,065	16,775	20,000
2900 Block Irving & Harrison	26,857	11,546	26,000
4600 Block Birch & Ash	13,274	0	20,000
4700 Block Ash	39,823	15,738	25,000
4800 Block Birch	13,274	5,234	19,000
4900 Block Birch West	53,097	10,966	48,500
4900 Block Birch East	26,548	10,493	24,500
5300 Block Alder	13,805	5,461	22,000
Commercial 44th to 45th			
Irving 35th to 38th	183,817	82,482	184,000
W. Niagara & 1st			TBD
Millpond Pier Lots			120,000

RMV trended because 0 tax

## Comments

Potential neighbor sale

Potential neighbor sale

2 sites - neighborhood conformity

Slide

Steep

Poor access. Pot. Neighbor sale

\$1000 ea adj PO GEO Haz

No improved legal access

County RMV Slide area

County RMV Slide area

County RMV Slide area

County RMV Slide area

Pump Station Lot

Very wet (tide gate)

Low, possible drainage

Still Researching

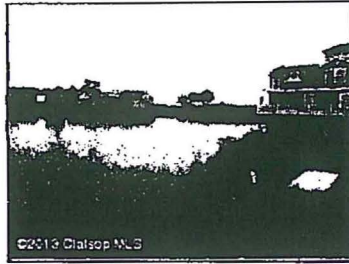
County RMV Slide area

Still Researching

\$10,000 per lot. Presented to

Millpond HOA 9/18/13





Lot 36 Mill Pond Village Astoria, OR 97103  
MLS #13-529

Mill Pond Village "Pond" lot with great Columbia river views!! Newer subdivision on the "Astoria River Walk" Close to city center, shopping & trolley lines. Seller has house plans for this site.

### Contract Information

<b>Listing Member</b>	Linda J. Stephens, GRI, CRS, SRES, ABR Cellular: 503-338-0552 Fax: 503-325-7577 Home: 3259796 Office: 800-325-6840 http://www.areaproperties.com	<b>Listing Office</b>	AREA Properties Office: 503-325-6848 Fax: 3257577 http://www.areaproperties.com
<b>Selling Office</b>	AREA Properties	<b>Selling Member</b>	Laurie Duey
<b>Agent Days On Market</b>	71	<b>Begin Date</b>	04/04/2013
<b>Sold Date</b>	06/14/2013	<b>Under Contract Date</b>	04/30/2013
<b>Status</b>	Closed	<b>Status Change Date</b>	06/17/2013
<b>Contingent</b>	No	<b>Original List Price</b>	29,000
<b>List Price</b>	29,000	<b>Sold Price</b>	21,000
<b>Financing</b>	Deed/Note	<b>BA Comm</b>	2.7
<b>Commission Code</b>	None		
<b>Directions</b>	Marine Dr to Mill Pond Village on 23rd Street.		
<b>Owner</b>	Pierson Living Trust		

### General Property Description

<b>Property Type</b>	Land-Residential	<b>Realtor.COM Type</b>	Land
<b>Lot Acres</b>	0.05		
<b>Private Remarks</b>	*A parking variance was done, may not be still available, seller owes back taxes.		
<b>Frontage</b>	Mill Pond	<b>View</b>	River
<b>View 2</b>	River		

### Location, Tax and Other Information

<b>Area</b>	AST	<b>County</b>	Clatsop
<b>Zoning</b>	AHMP	<b>Taxes</b>	1,014.49
<b>Tax Year</b>	2012	<b>Tax Remarks</b>	Back Taxes
<b>Subdivision</b>	Mill Pond Village		

Laurie Duey

AREA Properties  
AREA PROPERTIES  
1490 COMMERCIAL  
ASTORIA, OR 97103  
503-325-6848

lduey@charter.net

http://www.areaproperties.com







### Details

<b>Listing Type:</b>	Listing Type: Exclusive Right to Sell
<b>Tax Record:</b>	Tax Map: 80909CB; Tax Lot: 06830
<b>Miscellaneous:</b>	Corner Stakes: Partial; Survey: Yes; Grade: On; Street Surface: Paved; MFG Home Friendly?: No; Sign: Yes
<b>Condo/PUD:</b>	PUD/Assoc\$: 350.00; Condo PUD: Yearly
<b>Utilities:</b>	Water: At Street; Electric: At Street; Gas: At Street; Sewer: City-Street
<b>Financial:</b>	Foreclosure: No; Bank Owned: No; Short Sale: No; Encumbrance Type: FREE & CLEAR

*24 = 84000*

**Sold Properties**

**6 Properties**

	Price / Status / MLS #	Area	List Price	Sold Date	Sold Price	Agent Days on Market	Lot Acres
1 	<b>\$50,000</b> Lot 54 29th St. Astoria, OR 97103 Closed / 08-1779	AST	62,000	04/03/2012	50,000	1,307	0.03
2 	<b>\$35,000</b> 518 Alameda Ave Astoria, OR 97103 Closed / 11-280	AST	55,000	08/24/2012	35,000	529	0.12
3 	<b>\$15,000</b> 181 Exchange Astoria, OR 97103 Closed / 12-1028	AST	24,900	11/14/2012	15,000	407	0.11
4 	<b>\$21,000</b> Lot 36 Mill Pond Village Astoria, OR 97103 Closed / 13-529	AST	29,000	06/14/2013	21,000	71	0.05
5 	<b>\$55,000</b> Lot 23 Mill Pond Lane Astoria, OR 97103 Closed / 13-788	AST	65,000	06/13/2013	55,000	24	0.07
6 	<b>\$55,000</b> VL 10th & Klaskanine Lots 5-8 Astoria, OR 97103 Closed / 12-1058	AST	69,500	05/31/2013	55,000	301	0.48

Information is deemed to be reliable, but is not guaranteed. © 2013 MLS and FBS. Prepared by Laurie Duey on Wednesday, September 04, 2013 3:17 PM.

13750 dr  
5041 rd

Ave 5041 rd 21250



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

### COMMUNITY DEVELOPMENT

August 3, 2013

RE: City-Owned Property

2440-2490 Mill Pond Lane

Map T8N-R9W Section 9CB, Tax Lots 6888, 6889, 6890, 6891, 6892, 6893

Lots 80, 81, 82, 83, 84, 85, Mill Pond Village 3

six lots approximately approximately 12,630 square feet, 0.29 acres as follows:

Lot 80; 52' wide x 47' deep (1,878 square feet excluding public utility easement)

Lot 81; 42' wide x 53' deep (1,590 square feet excluding public utility easement)

Lot 82; 34' wide x 55' deep (1,350 square feet excluding public utility easement)

Lot 83; 34' wide x 55' deep (1,350 square feet excluding public utility easement)

Lot 84; 42' wide x 53' deep (1,590 square feet excluding public utility easement)

Lot 85; 52' wide x 45' deep (1,618 square feet excluding public utility easement)

AH-MP Zone, Attached Housing – Mill Pond

#### Minimum Standards:

Lot dimensions: no minimum

Lot size: no minimum

Setbacks: no City setbacks but there are Mill Pond Village Association required setbacks in the Architectural Guidelines

Off-street parking: two spaces per unit

Lot coverage: minimum 1:1 floor to lot area ratio

Buildable Lands Inventory: 0.29 acres

The above noted parcel is located in a mixed residential zone that allows single-family dwelling on any size lot with a minimum floor to area ratio to create a more dense development. The site is platted for six single-family dwellings on pile supported pier over Mill Pond with a central varied dimension easement area for utilities and vehicle access. Therefore, they would probably need to be developed as one project but then could be owned separately.

The site is not within 100' of a known geologic hazard area on the geologic map, however, the Mill Pond Development is considered as a geologic hazard. A geotechnical report or an update to the existing 1998 report by Geotechnical Engineering Services would be required. The property is not designated as historic and is not adjacent to a site designated as historic. The lot is located in Zone AE, "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12) of the Flood Insurance Rate Map,



Community Panel Number 410028-0229-E, dated September 17, 2010. All lots are over the Mill Pond with only a small portion of Lot 85 (Tax Lot 6891) on land.

It is located within the Gateway Area and is subject to review by the City's Design Review Committee. In addition, the Mill Pond Home Owners Association also has an architectural review committee with both design and greenbuilding guidelines. There is a Prospective Purchaser Agreement with DEQ No 98-01 dated January 6, 1999 concerning the previous contamination on the Mill Pond site. All structures at Mill Pond are required to have a fire suppression system for the entire building.

Mill Pond Lane is a 40' wide right-of-way improved its full width with roadway and sidewalks on both sides. There is a City-owned public park with pergola to the west of the site that is maintained by the Mill Pond Village Home Owners Association.

There is water and sewer available to the site.



This letter reflects the Codes in force at the time this letter was written and does not preclude any future adopted amendments to the Codes which would apply to the properties.

If you have any questions, or need additional information, please contact me at 503-338-5183 or [rjohnson@astoria.or.us](mailto:rjohnson@astoria.or.us).

Sincerely,  
THE CITY OF ASTORIA

Rosemary Johnson  
Planner

A handwritten signature in cursive script that reads "Rosemary Johnson".

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538

[rjohnson@astoria.or.us](mailto:rjohnson@astoria.or.us) • [www.astoria.or.us](http://www.astoria.or.us)

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## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

### COMMUNITY DEVELOPMENT

August 3, 2013

RE: City-Owned Property

2710-2760 Mill Pond Lane

Map T8N-R9W Section 9CB, Tax Lots 6882, 6883, 6884, 6885, 6886, 6887

Lots 74, 75, 76, 77, 78, 79, Mill Pond Village 3

six lots approximately approximately 12,197 square feet, 0.28 acres as follows:

Lot 74; 52' wide x 42' deep (1,543 square feet excluding public utility easement)

Lot 75; 42' wide x 53' deep (1,590 square feet excluding public utility easement)

Lot 76; 34' wide x 55' deep (1,350 square feet excluding public utility easement)

Lot 77; 34' wide x 55' deep (1,350 square feet excluding public utility easement)

Lot 78; 42' wide x 53' deep (1,590 square feet excluding public utility easement)

Lot 79; 52' wide x 42' deep (1,544 square feet excluding public utility easement)

AH-MP Zone, Attached Housing – Mill Pond

#### Minimum Standards:

Lot dimensions: no minimum

Lot size: no minimum

Setbacks: no City setbacks but there are Mill Pond Village Association required setbacks in the Architectural Guidelines

Off-street parking: two spaces per unit

Lot coverage: minimum 1:1 floor to lot area ratio

Buildable Lands Inventory: 0.28 acres

The above noted parcel is located in a mixed residential zone that allows single-family dwelling on any size lot with a minimum floor to area ratio to create a more dense development. The site is platted for six single-family dwellings on pile supported pier over Mill Pond with a central varied dimension easement area for utilities and vehicle access. Therefore, they would probably need to be developed as one project but then could be owned separately.

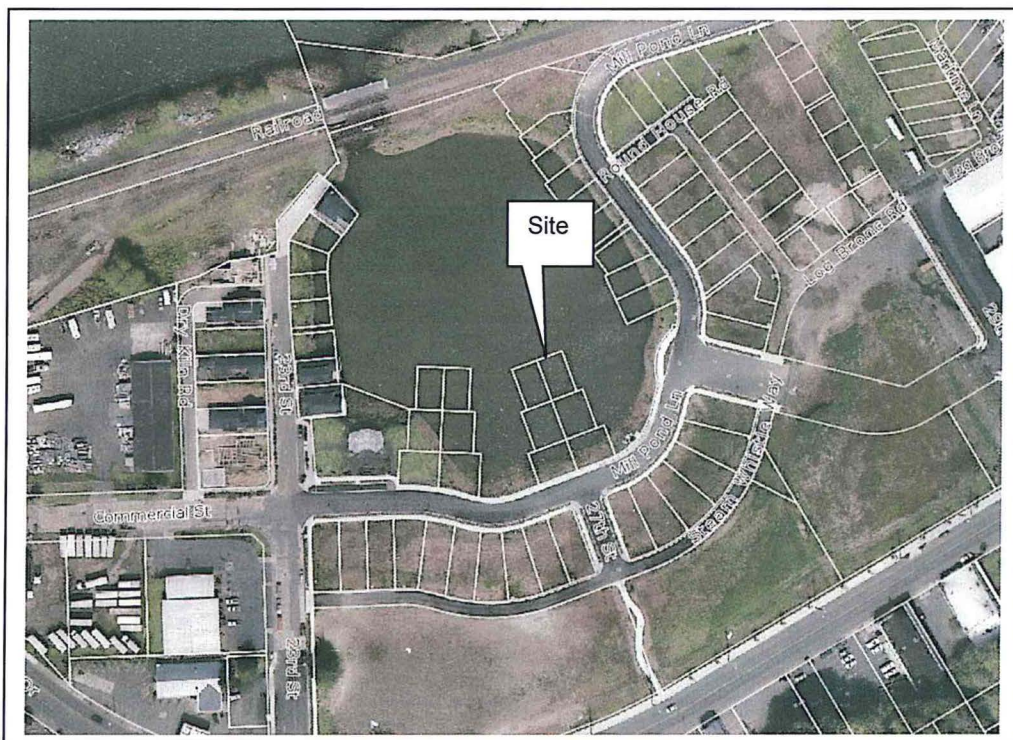
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If you have any questions, or need additional information, please contact me at 503-338-5183 or [rjohnson@astoria.or.us](mailto:rjohnson@astoria.or.us).

Sincerely,  
THE CITY OF ASTORIA

A handwritten signature in cursive script that reads 'Rosemary Johnson'.

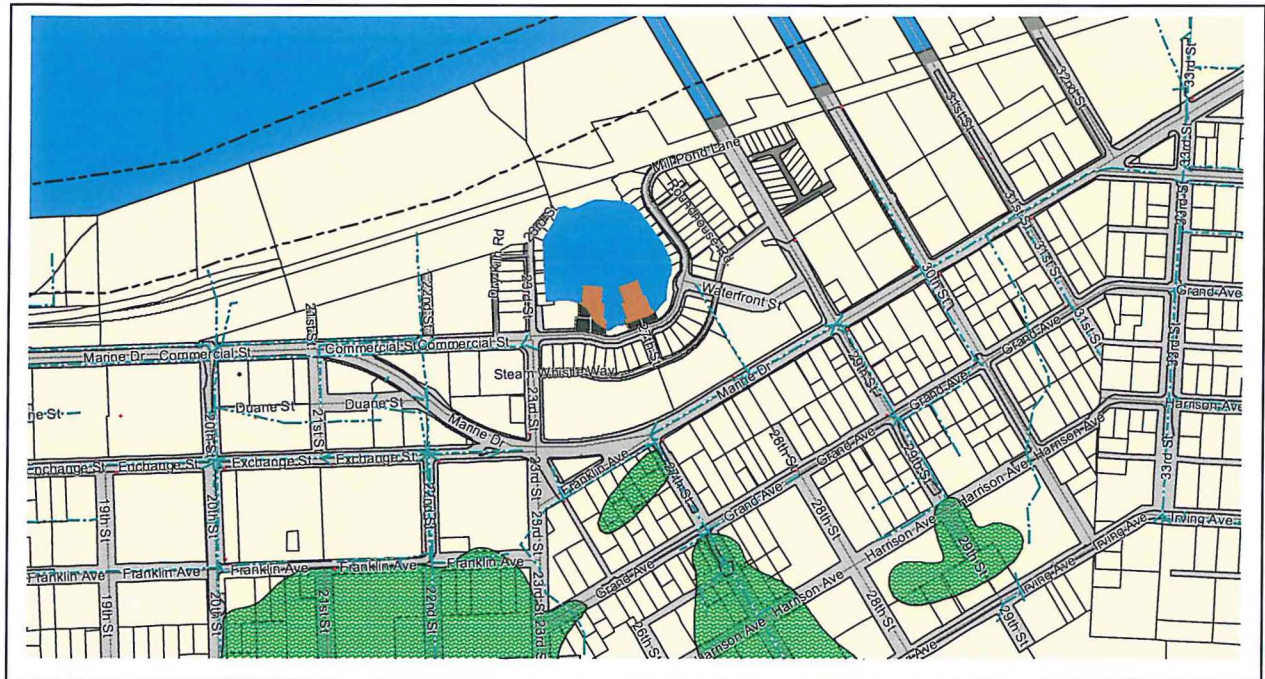
Rosemary Johnson  
Planner

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538

[rjohnson@astoria.or.us](mailto:rjohnson@astoria.or.us) • [www.astoria.or.us](http://www.astoria.or.us)

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2440 – 2490 Mill Pond Lane  
2710 – 2760 Mill Pond Lane  
Geologic Hazard





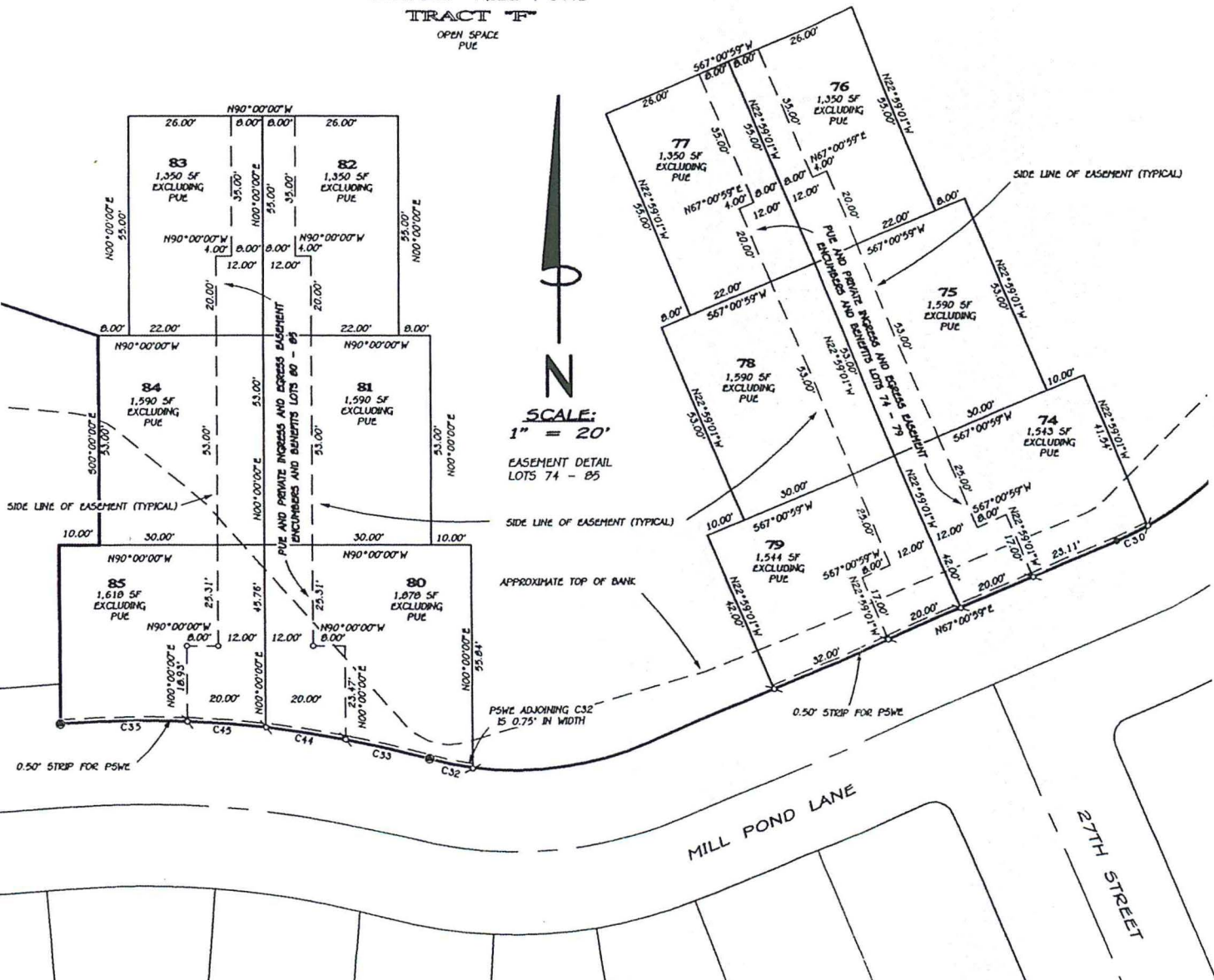
# MILL POND VILLAGE NO. 3

W 1/2 SECTION 9, T8N, R9W, W.M.  
CITY OF ASTORIA, CLATSOP COUNTY, OREGON

AUGUST 31, 2004

SHEET 6 of 7

CLATSOP MILL POND  
TRACT "F"  
OPEN SPACE  
PUE



CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	CHORD
C30	8.91'	85.50'	5°58'21"	8.91'
C32	11.07'	85.50'	7°25'07"	11.06'
C33	21.72'	274.50'	4°31'58"	21.71'
C35	32.02'	274.50'	6°41'03"	32.00'
C44	20.23'	274.50'	4°13'21"	20.23'
C45	20.06'	274.50'	4°11'15"	20.06'

## LEGEND

- INDICATES A FOUND & HOLD 5/8" REBAR WITH YELLOW PLASTIC CAP INSCRIBED "HLB & ASSOC. INC." PER MILL POND VILLAGE OR MILL POND VILLAGE NO. 2, OR MAP B-10668 UNLESS NOTED OTHERWISE.
- INDICATES A FOUND & HOLD BRASS SCREW AND WASHER INSCRIBED "HLB ASSOC." PER MILL POND VILLAGE NO. 2, UNLESS NOTED OTHERWISE.
- INDICATES A SET LEAD PLUG, BRASS SCREW AND 1" WASHER INSCRIBED "HLB ASSOC." PER MILL POND VILLAGE NO. 2, UNLESS NOTED OTHERWISE.
- INDICATES A SET 5/8" X 30" REBAR WITH YELLOW PLASTIC CAP INSCRIBED "HLB & ASSOC. INC."
- SF INDICATES SQUARE FEET
- PUE INDICATES PUBLIC UTILITY EASEMENT SEE EASEMENT NOTES ON SHEET 4
- PSWE INDICATES PUBLIC SIDEWALK & CURB EASEMENT

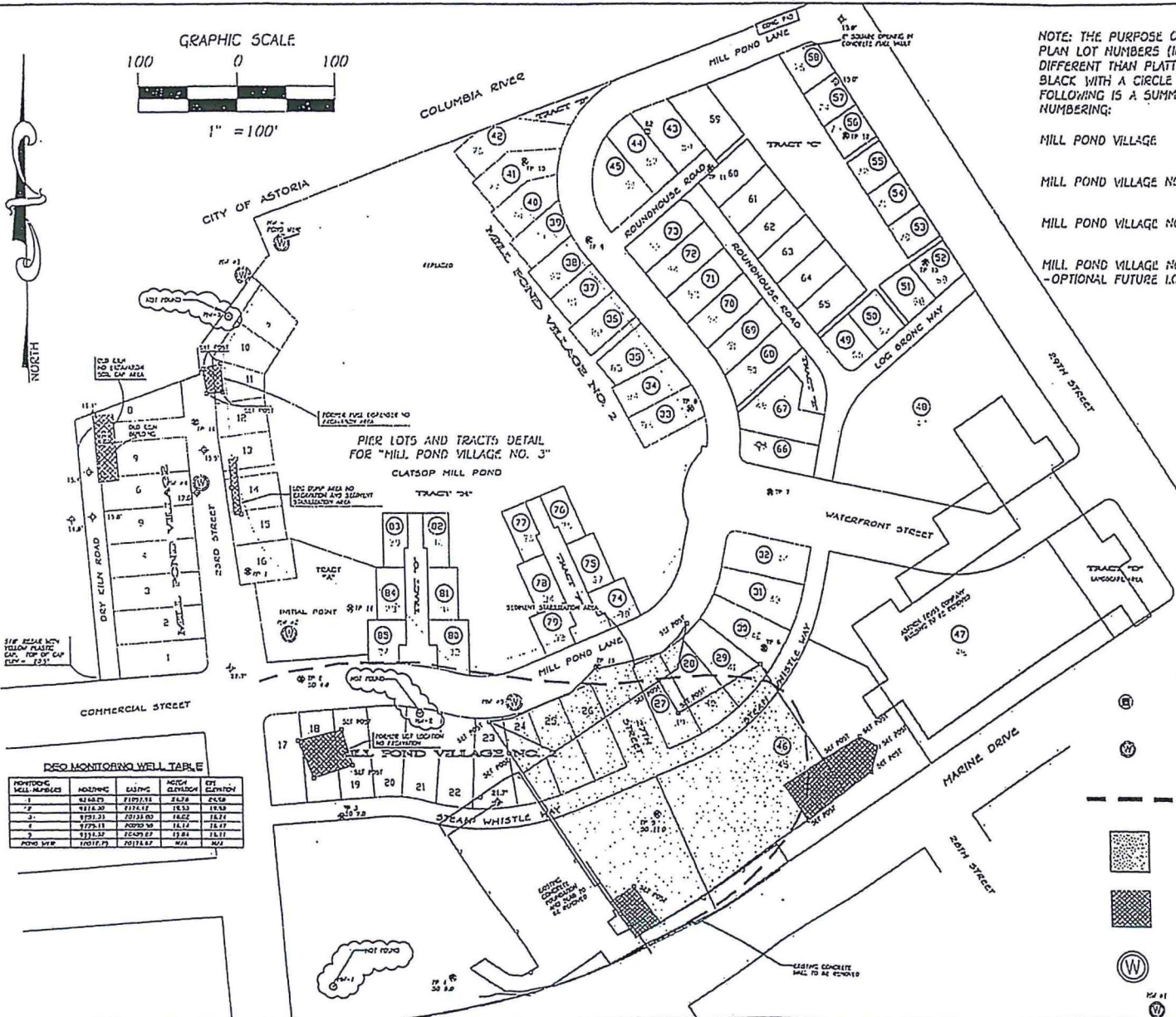
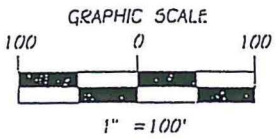


**HLB & Associates**  
INCORPORATED  
Surveying • Civil Engineering • Planning • Water Rights • Wetlands Consulting  
CLATSOP COUNTY PACIFIC COUNTY WILLAMETTE COUNTY  
4233A HWY 301 N. ASTORIA, OR 97103 17125 N. PACIFIC AVE. LONG BEACH, WA 98531 160 LARSEN AVE. PORTLAND, OR 97203  
(503) 738-5425 (503) 846-1494 FAX: (503) 738-7495 FAX: (503) 842-4094 FAX: (503) 868-5847  
WWW.HLBINC.COM









DEQ MONITORING WELL TABLE

MONITORING WELL NUMBER	HOLDING	EASTING	NORTH	DEPT. ELEVATION
1	1116.00	1171.13	14.54	14.54
2	1116.20	1171.12	14.53	14.53
3	1121.21	1171.00	14.62	14.62
4	1121.11	1170.98	14.61	14.61
5	1121.32	1170.97	14.61	14.61
6	1121.15	1171.67	14.61	14.61

NOTE: THE PURPOSE OF THIS MAP IS TO SHOW DESIGN PLAN LOT NUMBERS (INDICATED IN GRAY) THAT ARE DIFFERENT THAN PLATTED LOT NUMBERS (INDICATED IN BLACK WITH A CIRCLE AROUND THE NUMBER.) FOLLOWING IS A SUMMARY OF THE LOT AND TRACT NUMBERING:

- MILL POND VILLAGE LOTS 1 - 18 TRACT "A"
- MILL POND VILLAGE NO. 2 LOTS 17 - 26 & (27) - (46) TRACT "B"
- MILL POND VILLAGE NO. 3 LOTS (47) - (73) TRACTS "C, D & E"
- MILL POND VILLAGE NO. 3 - OPTIONAL FUTURE LOTS LOTS (74) - (85) TRACTS "F, G & H"

Community Development Dept.  
JAN 19 2006

LEGEND

- (G) INDICATES GEOTECHNICAL TEST PIT
- (W) INDICATES APPROXIMATE LOCATION OF EXISTING MONITORING WELL (TO BE ABANDONED)
- INDICATES APPROXIMATE AREA OF OBSERVED ORGANIC FILL SUBJECT TO SETTLEMENT
- [STIPPLE HATCH] STIPPLE HATCH INDICATES SOIL CAP AREA AS DETERMINED BY D.E.Q.
- [CROSS HATCH] CROSS HATCH INDICATES NO EXCAVATION AREA AS DETERMINED BY D.E.Q.
- (W) INDICATES NEW DEQ MONITORING WELL

**HJB & Associates**  
INCORPORATED  
Surveying • Civil Engineering • Planning • Water Rights • Wetland Consulting  
CLATSOP COUNTY  
1319 S. PARKWAY  
ASTORIA, OR 97103  
PHONE 325-2200  
FAX 325-2201  
WWW.HJBINC.COM

DESIGNED: JHI  
JOB NO.: J01-2010  
DATE: FEB. 25, 2004  
DRAWN: ICC  
CHECKED: JHI  
DWG NAME: J01-0210-01-01.DWG

MILL POND VILLAGE SUBDIVISION  
LOT & TRACT SCHEMATIC / DEQ OVERLAY



Clatsop Association of REALTORS®, MLS, Inc. Listing Agreement

PROPERTY ADDRESS: Vacant Land CITY Astoria STATE Or

1. **Exclusive Right to Sell.** In consideration for the services to be rendered by the undersigned PRINCIPAL BROKER, the undersigned SELLER hereby grants to PRINCIPAL BROKER the exclusive right to sell the property located at the address set forth above and more particularly described on the Listing Information Sheet hereto attached (the "Property").
2. **Term.** This Agreement is effective when signed, and shall terminate at 11:59 p.m. on 02/18/2019 Date marketing to begin, including input into Clatsop MLS, is \_\_\_\_\_. SELLER further allows PRINCIPAL BROKER a reasonable time after termination of this Agreement to close any transaction on which earnest money is then deposited. No extension or renewal of this Agreement shall be effective unless it is in writing signed by SELLER and PRINCIPAL BROKER.
3. **Right to Compensation.** In consideration for the services herein described, SELLER shall pay PRINCIPAL BROKER the brokerage fee set forth in Section 15 below if SELLER sells or agrees to sell the Property during the term of this Agreement or any extension or renewal hereof, or if PRINCIPAL BROKER or any cooperating broker including, but not limited to, a buyer's broker: (a) finds a buyer ready and willing to purchase the Property, or to lease the Property with an option to purchase the Property, for the price and terms set forth in the attached Clatsop MLS Listing Information Sheet or such other price and terms as SELLER may accept; (b) places SELLER in contact with a person to whom SELLER sells the Property or leases the Property with an option to purchase during the term of this Agreement or within \_\_\_\_\_ (\_\_\_\_\_) days after termination of this Agreement; or (c) is the procuring cause of an agreement to sell the Property or lease the Property with an option to purchase. Section 3(b) and (c) above shall not apply if, following the termination of this Agreement, SELLER lists the Property for sale with another duly licensed real estate broker and if the application of such section(s) would result in SELLER'S liability for more than one brokerage fee. The term "sale" shall include any exchange, trade, or lease option to which SELLER consents. In the event of an exchange, trade, or lease option, PRINCIPAL BROKER is permitted to represent and receive compensation from both parties.
4. **Services; Authority.** PRINCIPAL BROKER will market the Property, and in connection therewith, SELLER hereby authorizes PRINCIPAL BROKER to do the following: (a) place a "For Sale" sign on the Property and to remove all other similar signs; (b) turn on, or leave on, all utilities serving the Property and authorize utility providers to do so in order to show the Property, all at SELLER'S expense; (c) obtain and disclose any information pertaining to any present encumbrance on the Property; (d) if authorized pursuant to Section 12 below, obtain a key to the Property and place such key in a lockbox on the exterior of the Property, with recognition that SELLER bears any risk of loss or damage associated with the use of such lockbox (SELLER should consult SELLER'S homeowner's insurance policy to determine coverage); (e) have access to Property for purposes of showing it to prospective buyers at any reasonable hour; (f) place information regarding this listing and the Property in the Clatsop Multiple Listing Service; (g) accept deposits on SELLER'S behalf. PRINCIPAL BROKER is authorized to cooperate with other brokers and to divide with such other brokers any commissions or compensation payable under the Agreement; and (h) communicate with SELLER by telephone, facsimile and/or e-mail even after the term of this Listing. SELLER hereby authorizes Clatsop MLS to use, relicense, repurpose, display and otherwise deal with photos and data regarding the Property, without compensation to the SELLER. Such authority shall survive expiration or termination of this Agreement.
5. **Agency.** SELLER has received and read a copy of the Initial Agency Disclosure Pamphlet.
6. **SELLER'S Representation and Warranties.** SELLER hereby represents and warrants to PRINCIPAL BROKER (a) that the undersigned SELLER has full authority to enter into this Agreement and to convey the Property to a buyer; (b) that SELLER has completed the Disclosure Statement referred to in Section 11 if any, accurately based upon SELLER'S personal knowledge and information, and PRINCIPAL BROKER has not made any statement, representation, warranty, investigation, test or other inquiry into the accuracy or adequacy of SELLER'S disclosures; (c) the information on the attached Listing Information Sheet is correct and complete; (d) as of the date(s) of the sale of the Property and transfer of possession, all aspects of the Property will be in substantially their present condition; and (e) before closing of any transaction, SELLER will install an approved smoke detector in the building(s) located on the Property as required by law.
7. **Indemnity.** SELLER shall defend, indemnify and hold harmless PRINCIPAL BROKER, its licensees and any cooperating broker and its licensees from any liability, claims, damages, causes of action or suits arising out of, or relating to any breach of the representations and warranties set forth herein or in any agreement for the sale of the Property, and from the failure to disclose any material information to PRINCIPAL BROKER relating to the Property.
8. **Attorney's Fees.** If PRINCIPAL BROKER or any cooperating broker refers this Agreement to an attorney for collection of the compensation due hereunder, SELLER shall pay the costs and reasonable attorney's fees of PRINCIPAL BROKER or any cooperating broker regardless of whether mediation is conducted or arbitration or litigation is filed. If mediation is conducted or if arbitration or litigation is filed in connection with any dispute relating to this Agreement, the prevailing party shall be entitled to its attorneys' fees and costs in connection with such mediation, arbitration or litigation and in any appeal therefrom and enforcement thereof.
9. **Compliance with Law.** SELLER shall comply with all laws relating to the Property and the sale thereof, including without limitation, the obligation to offer the Property for sale to any person without regard to age, race, color, religion, sex, handicap, marital status, familial status, or national origin.
10. **Dispute Resolution.** SELLER and PRINCIPAL BROKER, including licensees of each, if any, agree that all claims, controversies or disputes, including those for rescission (hereinafter collectively referred to as "Claims"), relating directly or indirectly to this Agreement, shall be resolved in accordance with the procedures set forth herein which shall expressly



survive closing. Provided, however, the following matters shall not constitute Claims: (a) any proceeding to collect, interpret or enforce any mortgage, trust deed, land sale contract, or recorded construction lien; (b) a forcible entry and detainer action; (c) any dispute between REALTORS® which is subject to the Professional Standards Arbitration provisions of the National Association of REALTORS®. The filing of a notice of pending action("lis pendens") or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to use the procedures specified below.

Notwithstanding the following provisions, SELLER, PRINCIPAL BROKER and the licensees, if any, mutually agree that all Claims within the jurisdiction of the Small Claims Court shall be brought and decided there, in lieu of mediation, arbitration or litigation in any other court of law.

If SELLER was represented in this transaction by a licensee who was then a member of the National Association of REALTORS®, all claims shall be submitted to mediation in accordance with the procedures of the Home SELLER/Home Buyer Dispute Resolution System of the National Association of REALTORS® or other organization-adopted mediation program (collectively the "System"). Provided, however, if the System is not then available through the licensee's Association of REALTORS®, then the SELLER, PRINCIPAL BROKER and /or licensees shall not be required to engage in mediation.

All claims that have not been resolved by mediation, or otherwise, shall be submitted to final and binding private arbitration in accordance with Oregon Laws. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statutes of limitation or for purposes of filing a lis pendens. SELLER, PRINCIPAL BROKER and/or their licensees may use any professional arbitration company which provides such service to the county where the Property is located, as selected by the party first filing for arbitration. Provided, however, if no arbitration company has available services when the Claim arose, neither SELLER, PRINCIPAL BROKER, nor their respective licensees, if any, shall be required to participate in arbitration.

BY CONSENTING TO THIS PROVISION YOU ARE AGREEING THAT DISPUTES ARISING UNDER THIS AGREEMENT SHALL BE HEARD AND DECIDED BY ONE OR MORE NEUTRAL ARBITRATORS AND YOU ARE GIVING UP THE RIGHT TO HAVE THE MATTER TRIED BY A JUDGE OR JURY. THE RIGHT TO APPEAL AN ARBITRATION DECISION IS LIMITED UNDER OREGON LAW.

11. **Disclosure Statement.** Unless exempt, SELLER has completed a SELLER'S Property Disclosure Statement regarding the Property as provided by Oregon law, and SELLER hereby authorizes BROKER to (a) deliver a copy of such Disclosure Statement to any prospective Buyer; and (b) rely solely upon SELLER'S representations set forth in this Agreement and in the Disclosure Statement without further inquiry or diligence on BROKER'S part.

12. **Lockbox.** SELLER ☐ does ☐ does not (check one) authorize PRINCIPAL BROKER to place a lockbox on the

13. **Internet.** SELLER ☒ does ☐ does not (check one) authorize PRINCIPAL BROKER to advertise the Property on the internet.

14. **Modification.** No provision of this Agreement, including, without limitation, the amount of the brokerage fee set forth in Section 15, may be modified except in writing signed by SELLER and by PRINCIPAL BROKER.

15. **Brokerage Fee.** SELLER shall pay a brokerage fee as set forth in Section 3 above in an amount equal to 5.000 % of the selling price or option exercise price of the Property. SELLER hereby irrevocably assigns to PRINCIPAL BROKER the proceeds of such transaction to the extent of PRINCIPAL BROKER'S fee and irrevocably instructs the escrow agent, if any, to pay PRINCIPAL BROKER'S fee at closing out of such proceeds. List Price \$45,000.00 In the event of forfeiture of earnest money for any transaction relating to this listing service agreement, the earnest money shall be disbursed as follows: SELLER 100.000 % PRINCIPAL BROKER \_\_\_\_\_ % OR (check if applicable) ☐ to PRINCIPAL BROKER to the extent of the brokerage fee, with balance to SELLER.

Date of Broker's signature: \_\_\_\_\_ Date of SELLER'S signature: \_\_\_\_\_

Broker signature: Mary Wikstrom/Laurie Duey SELLER: \_\_\_\_\_  
City of Astoria a Municipal corporation of the State of Oregon

Firm Name: Area Properties SELLER\* \_\_\_\_\_

Date of PRINCIPAL BROKER'S signature: \_\_\_\_\_ Address \_\_\_\_\_

PRINCIPAL BROKER signature \_\_\_\_\_ Address \_\_\_\_\_

Phone (503)325-6848 Phone (w) \_\_\_\_\_ (h) \_\_\_\_\_

*\*If legal representative or attorney-in-fact, state capacity and name of real party in interest*

Revised 11/04



**CLATSOP ASSOCIATION OF REALTORS®, MLS, INC.**

MLS# \_\_\_\_\_

**BARE LAND** Information Sheet *Items with \* must be completed*

LO# \_\_\_\_\_

LISTING TYPE: \*

☒ ER ☐ EA

PROPERTY TYPE: \*

☒ Residential Land ☐ Commercial Land

BA COMP: \*

**2.25**

LO CODE

AS01

LA CODE

WIM/DUL

AREA \*

Astoria

PRICE \*

45,000.00

BEGIN DATE \*

11/16/2018

END DATE \*

02/18/2019

APPROXIMATE STREET ADDRESS \*

Mill Pond Lane

CITY \*

Astoria

COUNTY \*

Clatsop

STATE

Or

ZIP

97103

OWNER \*

City of Astoria a Municipal corporation of the State of

DIRECTIONS \*

Marine Dr. North of 23rd to Mill Pond Lane

LOT SIZE

.28

LOT ACRES \*

FRONTAGE

Mill Pond

VIEW

River

VIEW 2

Pond

PUBLIC REMARKS

PRIVATE REMARKS

CC&amp;Rs? \*

Yes

PUD/Assoc \$ \*

1800.00(\$300.00 per lot)

Monthly/Quarterly/Annual

Annual

ZONING\*

AH-MP

TAXES\*

0

TAX YEAR \*

2018

TAX REMARKS

Exempt

LEGAL DESCRIPTION \*

Lots 80 through 85 Mill Pond Village 3

TAX RECORD: ACCOUNT ID \*

54428 through 54433

TAX MAP # \*

80909CB

TAX LOT # \*

6888 through 6893

EXCLUSIONS

INCLUSIONS

CORNER STAKES? \* ☐ Yes ☒ No ☐ PartialSURVEY? \* ☐ Yes ☒ No ☐ RecordedGRADE: \* ☐ Above Grade ☐ Below ☐ OnCABLE TV? ☐ Yes ☐ No ☒ AvailableSTREET SURFACE: \* ☒ Paved ☐ Gravel ☐ DirtMFG HOME FRIENDLY? \* ☐ Yes ☒ No ☐ Unknown

UTILITIES \*

Water ☐ On property ☒ At Street ☐ 100'+ Away☐ None ☐ Private/Community/District☐ Spring ☐ WellElectric ☐ On property ☒ At Street ☐ 100'+ Away☐ NoneGas ☐ On property ☒ At Street ☐ 100'+ Away☐ None ☐ PropaneSewer ☐ On property ☒ At Street ☐ 100'+ Away☐ Common ☐ Private ☐ SepticSeptic ☐ Site Approval ☐ Septic Approval ☐ Septic In☐ Septic Denied ☐ Not Applied For

PRESENT ENCUMBRANCE: \*

none

TERMS SELLER IS WILLING TO CONSIDER: \*

Cash or Contract

ESCROW AT:

Ticor

LISTING TO BE MAINTAINED IN MLS FILE, BUT NOT PUBLISHED.  
AUTHORIZATION TO EXCLUDE IS ATTACHED.

Sellers initials:

Broker's initials:

I approve placement of a FOR SALE sign on subject property.

☒ Yes ☐ No

I acknowledge that the Broker's representative named herein has signed the function of the Clatsop Association of Realtors® Multiple Listing Service and the information contained herein will be referred to said Multiple Listing Service.

Owner Signature \_\_\_\_\_

City of Astoria a Municipal corporation of the

Agent Signature \_\_\_\_\_

Date \_\_\_\_\_

Agent Signature \_\_\_\_\_

Broker Review \_\_\_\_\_

Date \_\_\_\_\_

Mary Wikstrom/Laurie Duey

Rev 4/04



Clatsop Association of REALTORS®, MLS, Inc. Listing Agreement

PROPERTY ADDRESS: \_\_\_\_\_ Vacant Land CITY Astoria STATE Or

1. **Exclusive Right to Sell.** In consideration for the services to be rendered by the undersigned PRINCIPAL BROKER, the undersigned SELLER hereby grants to PRINCIPAL BROKER the exclusive right to sell the property located at the address set forth above and more particularly described on the Listing Information Sheet hereto attached (the "Property").

2. **Term.** This Agreement is effective when signed, and shall terminate at 11:59 p.m. on 02/18/2019 Date marketing to begin, including input into Clatsop MLS, is \_\_\_\_\_. SELLER further allows PRINCIPAL BROKER a reasonable

time after termination of this Agreement to close any transaction on which earnest money is then deposited. No extension or renewal of this Agreement shall be effective unless it is in writing signed by SELLER and PRINCIPAL BROKER.

3. **Right to Compensation.** In consideration for the services herein described, SELLER shall pay PRINCIPAL BROKER the brokerage fee set forth in Section 15 below if SELLER sells or agrees to sell the Property during the term of this Agreement or any extension or renewal hereof, or if PRINCIPAL BROKER or any cooperating broker including, but not limited to, a buyer's broker: (a) finds a buyer ready and willing to purchase the Property, or to lease the Property with an option to purchase the Property, for the price and terms set forth in the attached Clatsop MLS Listing Information Sheet or such other price and terms as SELLER may accept; (b) places SELLER in contact with a person to whom SELLER sells the Property or leases the Property with an option to purchase during the term of this Agreement or within \_\_\_\_\_ ( \_\_\_\_\_ ) days after termination of this Agreement; or (c) is the procuring cause of

an agreement to sell the Property or lease the Property with an option to purchase. Section 3(b) and (c) above shall not apply if, following the termination of this Agreement, SELLER lists the Property for sale with another duly licensed real estate broker and if the application of such section(s) would result in SELLER'S liability for more than one brokerage fee. The term "sale" shall include any exchange, trade, or lease option to which SELLER consents. In the event of an exchange, trade, or lease option, PRINCIPAL BROKER is permitted to represent and receive compensation from both parties.

4. **Services; Authority.** PRINCIPAL BROKER will market the Property, and in connection therewith, SELLER hereby authorizes PRINCIPAL BROKER to do the following: (a) place a "For Sale" sign on the Property and to remove all other similar signs; (b) turn on, or leave on, all utilities serving the Property and authorize utility providers to do so in order to show the Property, all at SELLER'S expense; (c) obtain and disclose any information pertaining to any present encumbrance on the Property; (d) if authorized pursuant to Section 12 below, obtain a key to the Property and place such key in a lockbox on the exterior of the Property, with recognition that SELLER bears any risk of loss or damage associated with the use of such lockbox (SELLER should consult SELLER'S homeowner's insurance policy to determine coverage); (e) have access to Property for purposes of showing it to prospective buyers at any reasonable hour; (f) place information regarding this listing and the Property in the Clatsop Multiple Listing Service; (g) accept deposits on SELLER'S behalf. PRINCIPAL BROKER is authorized to cooperate with other brokers and to divide with such other brokers any commissions or compensation payable under the Agreement; and (h) communicate with SELLER by telephone, facsimile and/or e-mail even after the term of this Listing. SELLER hereby authorizes Clatsop MLS to use, relicense, repurpose, display and otherwise deal with photos and data regarding the Property, without compensation to the SELLER. Such authority shall survive expiration or termination of this Agreement.

5. **Agency.** SELLER has received and read a copy of the Initial Agency Disclosure Pamphlet.

6. **SELLER'S Representation and Warranties.** SELLER hereby represents and warrants to PRINCIPAL BROKER (a) that the undersigned SELLER has full authority to enter into this Agreement and to convey the Property to a buyer; (b) that SELLER has completed the Disclosure Statement referred to in Section 11 if any, accurately based upon SELLER'S personal knowledge and information, and PRINCIPAL BROKER has not made any statement, representation, warranty, investigation, test or other inquiry into the accuracy or adequacy of SELLER'S disclosures; (c) the information on the attached Listing Information Sheet is correct and complete; (d) as of the date(s) of the sale of the Property and transfer of possession, all aspects of the Property will be in substantially their present condition; and (e) before closing of any transaction, SELLER will install an approved smoke detector in the building(s) located on the Property as required by law.

7. **Indemnity.** SELLER shall defend, indemnify and hold harmless PRINCIPAL BROKER, its licensees and any cooperating broker and its licensees from any liability, claims, damages, causes of action or suits arising out of, or relating to any breach of the representations and warranties set forth herein or in any agreement for the sale of the Property, and from the failure to disclose any material information to PRINCIPAL BROKER relating to the Property.

8. **Attorney's Fees.** If PRINCIPAL BROKER or any cooperating broker refers this Agreement to an attorney for collection of the compensation due hereunder, SELLER shall pay the costs and reasonable attorney's fees of PRINCIPAL BROKER or any cooperating broker regardless of whether mediation is conducted or arbitration or litigation is filed. If mediation is conducted or if arbitration or litigation is filed in connection with any dispute relating to this Agreement, the prevailing party shall be entitled to its attorneys' fees and costs in connection with such mediation, arbitration or litigation and in any appeal therefrom and enforcement thereof.

9. **Compliance with Law.** SELLER shall comply with all laws relating to the Property and the sale thereof, including without limitation, the obligation to offer the Property for sale to any person without regard to age, race, color, religion, sex, handicap, marital status, familial status, or national origin.

10. **Dispute Resolution.** SELLER and PRINCIPAL BROKER, including licensees of each, if any, agree that all claims, controversies or disputes, including those for rescission (hereinafter collectively referred to as "Claims"), relating directly or indirectly to this Agreement, shall be resolved in accordance with the procedures set forth herein which shall expressly



survive closing. Provided, however, the following matters shall not constitute Claims: (a) any proceeding to collect, interpret or enforce any mortgage, trust deed, land sale contract, or recorded construction lien; (b) a forcible entry and detainer action; (c) any dispute between REALTORS® which is subject to the Professional Standards Arbitration provisions of the National Association of REALTORS®. The filing of a notice of pending action ("lis pendens") or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to use the procedures specified below.

Notwithstanding the following provisions, SELLER, PRINCIPAL BROKER and the licensees, if any, mutually agree that all Claims within the jurisdiction of the Small Claims Court shall be brought and decided there, in lieu of mediation, arbitration or litigation in any other court of law.

If SELLER was represented in this transaction by a licensee who was then a member of the National Association of REALTORS®, all claims shall be submitted to mediation in accordance with the procedures of the Home SELLER/Home Buyer Dispute Resolution System of the National Association of REALTORS® or other organization-adopted mediation program (collectively the "System"). Provided, however, if the System is not then available through the licensee's Association of REALTORS®, then the SELLER, PRINCIPAL BROKER and /or licensees shall not be required to engage in mediation.

All claims that have not been resolved by mediation, or otherwise, shall be submitted to final and binding private arbitration in accordance with Oregon Laws. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statutes of limitation or for purposes of filing a lis pendens. SELLER, PRINCIPAL BROKER and/or their licensees may use any professional arbitration company which provides such service to the county where the Property is located, as selected by the party first filing for arbitration. Provided, however, if no arbitration company has available services when the Claim arose, neither SELLER, PRINCIPAL BROKER, nor their respective licensees, if any, shall be required to participate in arbitration.

BY CONSENTING TO THIS PROVISION YOU ARE AGREEING THAT DISPUTES ARISING UNDER THIS AGREEMENT SHALL BE HEARD AND DECIDED BY ONE OR MORE NEUTRAL ARBITRATORS AND YOU ARE GIVING UP THE RIGHT TO HAVE THE MATTER TRIED BY A JUDGE OR JURY. THE RIGHT TO APPEAL AN ARBITRATION DECISION IS LIMITED UNDER OREGON LAW.

11. **Disclosure Statement.** Unless exempt, SELLER has completed a SELLER'S Property Disclosure Statement regarding the Property as provided by Oregon law, and SELLER hereby authorizes BROKER to (a) deliver a copy of such Disclosure Statement to any prospective Buyer; and (b) rely solely upon SELLER'S representations set forth in this Agreement and in the Disclosure Statement without further inquiry or diligence on BROKER'S part.

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13. **Internet.** SELLER ☒ does ☐ does not (check one) authorize PRINCIPAL BROKER to advertise the Property on the internet.

14. **Modification.** No provision of this Agreement, including, without limitation, the amount of the brokerage fee set forth in Section 15, may be modified except in writing signed by SELLER and by PRINCIPAL BROKER.

15. **Brokerage Fee.** SELLER shall pay a brokerage fee as set forth in Section 3 above in an amount equal to 5.000 % of the selling price or option exercise price of the Property. SELLER hereby irrevocably assigns to PRINCIPAL BROKER the proceeds of such transaction to the extent of PRINCIPAL BROKER'S fee and irrevocably instructs the escrow agent, if any, to pay PRINCIPAL BROKER'S fee at closing out of such proceeds. List Price \$45,000.00. In the event of forfeiture of earnest money for any transaction relating to this listing service agreement, the earnest money shall be disbursed as follows: SELLER 100.000 % PRINCIPAL BROKER \_\_\_\_\_ % OR (check if applicable) ☐ PRINCIPAL BROKER to the extent of the brokerage fee, with balance to SELLER.

Date of Broker's signature: \_\_\_\_\_ Date of SELLER'S signature: \_\_\_\_\_

Broker signature: \_\_\_\_\_ SELLER: \_\_\_\_\_  
Mary Wikstrom/Laurie Duey City of Astoria a Municipal corporation of the State of Oregon

Firm Name: Area Properties SELLER\* \_\_\_\_\_

Date of PRINCIPAL BROKER'S signature: \_\_\_\_\_ Address \_\_\_\_\_

PRINCIPAL BROKER signature \_\_\_\_\_ Address \_\_\_\_\_

Phone (503)325-6848 Phone (w) \_\_\_\_\_ (h) \_\_\_\_\_

*\*If legal representative or attorney-in-fact, state capacity and name of real party in interest*

Revised 11/04



**CLATSOP ASSOCIATION OF REALTORS®, MLS, INC.**

MLS# \_\_\_\_\_

**BARE LAND** Information Sheet *Items with \* must be completed*

LO# \_\_\_\_\_

LISTING TYPE: \*

☒ ER ☐ EA

PROPERTY TYPE: \*

☒ Residential Land ☐ Commercial Land

BA COMP: \*

2.25

LO CODE

AS01

LA CODE

WIM/DUL

AREA \*

Astoria

PRICE \*

45,000.00

BEGIN DATE \*

11/16/2018

END DATE \*

02/18/2019

APPROXIMATE STREET ADDRESS \*

Mill Pond Lane

CITY \*

Astoria

COUNTY \*

Clatsop

STATE

Or

ZIP

97103

OWNER \*

City of Astoria a Municipal corporation of the State of

DIRECTIONS \*

Marine Dr. North of 23rd to Mill Pond Lane

LOT SIZE

.28

LOT ACRES \*

FRONTAGE

Mill Pond

VIEW

River

VIEW 2

Pond

PUBLIC REMARKS

PRIVATE REMARKS

CC&amp;Rs? \*

Yes

PUD/Assoc \$ \*

1800.00(\$300.00 per lot)

Monthly/Quarterly/Annual

Annual

ZONING\*

AH-MP

TAXES\*

0

TAX YEAR \*

2018

TAX REMARKS

Exempt

LEGAL DESCRIPTION \*

Lots 82 through 87 Mill Pond Village 3

TAX RECORD: ACCOUNT ID \*

54422 through 54427

TAX MAP # \*

80909CB

TAX LOT # \*

6888 through 6893

EXCLUSIONS

INCLUSIONS

CORNER STAKES? \* ☐ Yes ☒ No ☐ PartialSURVEY? \* ☐ Yes ☒ No ☐ RecordedGRADE: \* ☐ Above Grade ☐ Below ☐ OnCABLE TV? ☐ Yes ☐ No ☒ AvailableSTREET SURFACE: \* ☒ Paved ☐ Gravel ☐ DirtMFG HOME FRIENDLY? \* ☐ Yes ☒ No ☐ Unknown

UTILITIES \*

Water ☐ On property ☒ At Street ☐ 100'+ Away☐ None ☐ Private/Community/District☐ Spring ☐ WellElectric ☐ On property ☒ At Street ☐ 100'+ Away☐ NoneGas ☐ On property ☒ At Street ☐ 100'+ Away☐ None ☐ PropaneSewer ☐ On property ☒ At Street ☐ 100'+ Away☐ Common ☐ Private ☐ SepticSeptic ☐ Site Approval ☐ Septic Approval ☐ Septic In☐ Septic Denied ☐ Not Applied For

PRESENT ENCUMBRANCE: \*

none

TERMS SELLER IS WILLING TO CONSIDER: \*

Cash or Contract

ESCROW AT:

Ticor

LISTING TO BE MAINTAINED IN MLS FILE, BUT NOT PUBLISHED.

AUTHORIZATION TO EXCLUDE IS ATTACHED.

Sellers initials:

Broker's initials:

I approve placement of a FOR SALE sign on subject property.

☒ Yes ☐ No

I acknowledge that the Broker's representative named herein has explained the function of the Clatsop Association of Realtors® Multiple Listing Service and the information contained herein will be referred to said Multiple Listing Service.

Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

City of Astoria a Municipal corporation of the

Agent Signature \_\_\_\_\_ Date \_\_\_\_\_

Mary Wikstrom/Laurie Duey

Rev 4/04



# **AGENDA**

## **ASTORIA DEVELOPMENT COMMISSION**

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November 19, 2018  
Immediately Follows Council Meeting

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) CHANGES TO AGENDA
- 4) CONSENT

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the 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) Astoria Development Commission Meeting Minutes for November 8, 2018

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

<p>THE MEETINGS ARE ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING THE CITY MANAGER'S OFFICE AT 503-325-5824.</p>
--




CITY OF ASTORIA

Founded 1811 • Incorporated 1856

**MEMORANDUM • CITY MANAGER**

---

**DATE:** NOVEMBER 14, 2018  
**TO:** PRESIDENT AND COMMISSION  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** ASTORIA DEVELOPMENT COMMISSION (ADC) MEETING OF  
NOVEMBER 19, 2018

**CONSENT ITEMS**

Item 4(a): Astoria Development Commission Meeting Minutes for November 8, 2018.

The minutes of the ADC meeting are enclosed for review. The minutes were expedited in order to finalize the Liberty Theater Loan which was approved during this meeting.

Unless there are any corrections, it is recommended that Commission approve these minutes.



A regular meeting of the Astoria Development Commission was held at the above place at the hour of 8:30 am.

Commissioners Present: Price, Jones, Brownson, and Mayor LaMear. Councilor Nemlowill arrived at 8:32 am.

Commissioners Excused: None

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

**CHANGES TO AGENDA:**

No changes.

**CONSENT CALENDAR:**

The following items were presented on the Consent Calendar:

4(a) ADC Minutes of 9/17/18

**Commission Action:** Motion by Commissioner Price, seconded by Commissioner Brownson, to approve the Consent Calendar. Motion carried unanimously. Ayes: Commissioners Jones, Brownson and Price, and Mayor LaMear. Nays: None.

The Development Commission recessed into the Executive Session at 8:31 am

Councilor Nemlowill arrived at 8:32 am

**EXECUTIVE SESSION:**

**Item 5(a): ORS 192.660(2)(h) – Legal Counsel**

The Development Commission met in Executive Session to discuss legal proceedings.

The regular session reconvened at 8:52 am.

City Manager Estes said the Executive Session was held to follow up on a funding request from the Liberty Theater to assist with restoration. The request was for a grant of approximately \$45,000. The Development Commission was interested in providing financial support, but maybe for a lesser amount. There was also interest in providing a low interest loan for more than \$45,000. Craft3 and the Liberty Theatre have prepared a funding package to present to the Commission, which was discussed in Executive Session. The package consisted of a \$30,000 grant and a \$30,000 loan. The term of the loan is seven years at two percent interest. The interest would cover loan servicing expenses. Craft3 has completed background and financial checks on the Liberty Theatre and found no concerns.

**Commission Action:** Motion by Commissioner Nemlowill, seconded by Commissioner Price, that the Astoria Development Commission approve the terms and conditions of a \$30,000 loan and \$30,000 grant to Liberty Restoration, Incorporated, and authorize the Mayor to sign the loan documents. This complies with the Urban Renewal District Plan, which aims to promote economic vitality and improve aesthetics in downtown Astoria. Motion carried unanimously. Ayes: Commissioners Jones, Brownson and Price, and Mayor LaMear. Nays: None.

**NEW BUSINESS, MISCELLANEOUS, PUBLIC COMMENTS:**

There were none.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 8:55 am to convene the Astoria City Council meeting.

**ATTEST:**

\_\_\_\_\_  
Secretary

**APPROVED:**

\_\_\_\_\_  
City Manager