



AGENDA

ASTORIA CITY COUNCIL

Monday, October 21, 2019
7:00 PM
2nd Floor Council Chambers
1095 Duane Street, Astoria OR 97103

1. CALL TO ORDER

2. ROLL CALL

3. PRESENTATION

3.a [Tobacco Retail Licensing Presentation](#)

4. REPORTS OF COUNCILORS

5. CHANGES TO AGENDA

6. CONSENT CALENDAR

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.

6.a [Astoria City Council Meeting Minutes for September 3, 2019](#)

6.b [Boards and Commission Meeting Minutes](#)

1. Astoria Planning Commission June 25, 2019 / approved
2. Design Review Commission July 11, 2019 / draft
3. Historic Landmarks Commission July 16, 2019 / draft
4. Astoria Planning Commission July 23, 2019 / draft
5. Traffic Safety Advisory Committee July 23, 2019 / draft

6.c [Police Department Status Update](#)

7. 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.

7.a [Second Reading and Adoption - Amendment Request \(A19-01B\) Bridge Vista Overlay Zone Codes](#)

7.b [Lease Agreement for 17th Street Dock East End](#)

7.c [3rd Street & Lexington Ave. Sanitary Sewer Replacement - Change Order #1](#)

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

THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING THE CITY MANAGER'S OFFICE, 503-325-5824.



CITY OF ASTORIA

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MEMORANDUM • CITY MANAGER

DATE: OCTOBER 15, 2019
TO: MAYOR AND CITY COUNCIL
FROM: BRETT ESTES, CITY MANAGER
SUBJECT: ASTORIA CITY COUNCIL MEETING OF MONDAY, OCTOBER 21, 2019

PRESENTATION

3.a Tobacco Retail Licensing Presentation

Clatsop County Department of Public Health Director, Michael McNickle will present the updated ordinance.

CONSENT CALENDAR

6.a [Astoria City Council Meeting Minutes for September 3, 2019](#)

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

6.b [Boards and Commission Meeting Minutes](#)

1. Astoria Planning Commission June 25, 2019 / approved
2. Design Review Commission July 11, 2019 / draft
3. Historic Landmarks Commission July 16, 2019 / draft
4. Astoria Planning Commission July 23, 2019 / draft
5. Traffic Safety Advisory Committee July 23, 2019 / draft

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

6.c [Police Department Status Update](#)

The Status Report for the department listed above is attached. The reports are provided for informational purposes only.

REGULAR AGENDA ITEMS

7.a [Second Reading and Adoption - Amendment Request \(A19-01B\) Bridge Vista Overlay Zone Codes](#)

At its September 30, 2019 meeting, the City Council held a public hearing and deliberated on the proposed amendments. The issue of the existing two view corridors at Basin and Bay Street was discussed as those views could be lost

with future development. The City Council suggested additional code language that would protect those view corridors while allowing for some possible exceptions if the Port West Mooring Basin Plan District is approved in the future. Due to this change, the public hearing was reopened for this issue only for public input at the October 7, 2019 City Council meeting. The City Council conducted a first reading of the Ordinance including this proposed change at the September 30, 2019 meeting. At the October 7, 2019 meeting, the proposed amended view corridor language was read in full, the Council held a public hearing on the view corridor issue and closed the public hearing.

The draft ordinance and Findings of Fact are attached for Council consideration.

If the draft code meets Council's expectations, it would be in order for Council to conduct a second reading and adopt the ordinance as amended for Bridge Vista Overlay Zone Code amendments.

7.b [Lease Agreement for 17th Street Dock East End](#)

At the October 7th City Council Meeting staff presented a comparison of the lease proposals from American Queen Steamboat Company (AQSC) and American Cruise Lines (ACL) including criteria to compare the proposals. In summary it was staff's determination that the ACL lease addressed the City's objectives the best. Representatives from both ACL and AQSC were present at the meeting and had an opportunity to answer questions from Council, express their concerns and had a dialog on most of the topics of concern.

Staff was given direction to finalize negotiations of the lease agreement with ACL, incorporating the items discussed at the meeting, and bring it back to the October 21st Council meeting for review.

It is recommended that City Council approve the attached lease with ACL.

7.c [3rd Street & Lexington Ave. Sanitary Sewer Replacement - Change Order #1](#)

Recently, the Public Works Department discovered a portion of seriously deteriorated sanitary sewer pipe between 3rd Street and 4th Street on Lexington Ave. The pipe was partially collapsed, impeding flow, and in need of immediate replacement. City Council approved advanced authorization of a construction contract to complete the needed work at the September 10, 2019 City Council meeting. The advance authorization was for a not to exceed amount of \$125,000.

Upon completion of project procurement, City staff executed a contract for \$72,370 with Advanced Excavation to complete the sanitary sewer replacement. This is well under the construction estimate for the project. Advanced Excavation has completed a majority of the contract work to date. Additionally, Public Works Operations staff are in the process of re-establishing permanent water service in this area due to a needed water main relocation associated with utility proximity.

City staff had planned to solicit a separate contract for water main relocation and surface restoration. Our Public Works Operations staff was able to

schedule and complete the water main work, so at this time only the surface restoration remains. Advanced Excavation provided an estimate to complete this additional scope of work in the amount of \$66,718. Change Order #1 is attached to this memo and contains additional details. The overall cost of this change order is consistent with pricing received for similar past work.

Funding for this change order is available in the Public Works Improvement Fund for Sanitary Sewer Main Rehabilitation.

It is recommended that City Council authorize the City Manager to sign Change Order #1 for surface restoration work associated with the 3rd St. and Lexington Ave. Sanitary Sewer Replacement Project.

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

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

Councilors Excused: None

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

REPORTS OF COUNCILORS

Item 3(a): Councilor Rocka had no reports.

Item 3(b): Councilor West reported that all of the Councilors enjoyed the ribbon cutting in downtown at Pier 11. Her next meet and greet would be on Thursday, September 5th at 4:30 pm at Alderbrook Hall. She invited everyone to attend, noting that people could leave early enough to attend the Design Review Committee meeting.

Item 3(c): Councilor Herman reported that she held a meet the Councilor event at the library last Wednesday and met with a small but animated group. She also met with Library Director Pearson about a week ago to learn about the library and discuss its future. She met with Police Officer Hanson to discuss the work he does with homeless individuals in the community. She attended the ribbon cutting and it was great to see such a good crowd. She was especially gratified to see the crowds on the deck of Astoria Brewing Company. Although the construction was absolutely necessary, it affected local businesses in the area. She was glad to see the crowds were back. She attended the badge pinning ceremony for three Astoria firefighters. Gage Piquet is a new permanent hire but not new to the Fire Department; Zach Plant was promoted to engineer; and Tom Jaworski was promoted to lieutenant.

Item 3(d): Councilor Brownson reported he was happy to see the bridge opening. He joined Councilor Herman for the Fire Department promotions and badge pinning.

Item 3(e): Mayor Jones reported that the September 16th meeting had been moved to September 30th and the September 12th work session had been moved to September 10th. Public notices will be published. He reported that constituents have requested that the Parks and Recreation Department participate in the Silver and Fit Program. The Aquatic Center already provides the Silver Sneakers program, which allows seniors receiving certain medical care to use the facilities for free. The senior rate is \$5.50 per entry. Silver Sneakers pays \$3.35 and the City pays \$2.25 for the program. Director Williams is looking into the impact of participating in Silver and Fit and more information would be provided at a future meeting.

CHANGES TO AGENDA

No changes.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 5(a) City Council Minutes of 8/5/19
- 5(b) City Council Work Session Minutes of 8/8/19
- 5(c) Liquor License Application from Hotel Management Services LLC and Marine Astoria Hotel LLC doing business as Holiday Inn Express & Suites Astoria located at 204 West Marine Drive for a Limited On-Premises Sales License
- 5(d) FY2019-2020 Dispatch Service Agreement

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

REGULAR AGENDA ITEMS

Item 6(a): Mill Pond Sale – Consideration of Public Hearing

In November 2018, the City Council authorized staff to contract with a real estate firm to market the “pier lots” which the City owns. The pier lots are twelve platted lots donated to the City by the developer of the Mill Pond, Art DeMuro of Venerable Properties, in 2012. A potential buyer has provided an offer in the amount of \$35,000. The potential buyer, John Dulcich, is intending to develop all or a portion of the pier lots. If the City Council is interested in considering the offer from Mr. Dulcich, a public hearing must be held in accordance with the City Code Real Property Sale Procedures. After a public hearing is held, the City Council may decide to sell or not sell the lots.

It is recommended that Council consider scheduling a public hearing for 7:00 pm September 30, 2019.

Mayor Jones said he was on City Council last year when the decision was made to sell the properties. At that time, he believed selling was the right thing to do since the lots were intended for residential development and the City needed to stop paying the homeowner's association (HOA) fees. Recently, he agreed with one other Councilor that the City should decommission the lots because they had not received any offers. Now, the City has an offer. He supported a public hearing at the next meeting.

Councilor Rocka agreed. He asked if the buyer would be under the same development constraints as the rest of Mill Pond Village. City Manager Estes explained that any development of those properties would have to follow the City's Development Code. Additionally, there is a separate set of covenants, conditions, and restrictions (CC&R) that would apply which are not enforced by the City.

Councilors Herman, West, and Brownson stated they supported scheduling a public hearing.

Mayor Jones called for public comments, reminding that this was not the public hearing.

Cheryl Story 2605 Mill Pond, Astoria, said she and John Ryan were instrumental in trying to help the City get out from under the fees and voluntarily submitted the donation. They thought they were moving forward when this offer came through at the 11th hour. They were trying to figure out if the City would consider another offer from Mill Pond if they could see about their donation level. It just does not seem correct to have the City paying the HOA for no good reason, and they were just trying to help the City get out from under the annual fees and save money if there were not going to be any offers. They also just wanted to protect things. She asked if the City would be interested in entertaining another offer from Mill Pond related to donations. She was not offering. She was just asking.

Mayor Jones asked if any other party were to make an offer to purchase the property at the public hearing on September 30th, would both offers be considered during one hearing or would a second hearing be required. City Manager Estes explained that the purpose of the public hearing is to allow individuals to speak to this exact issue. City Attorney Henningsgaard added that until the City has a signed agreement, anyone can make an offer to purchase the property while it is up for sale.

Mayor Jones said the previous offer made by some of the individuals, not the HOA, was to make a donation in exchange for decommissioning the lots. Upon decommissioning, the lots would no longer generate property tax. That offer had not been removed and was still in effect as a standing offer.

Karen Haynes 2505 Mill Pond Lane, Astoria, said she has lived in Mill Pond for two weeks and has been in Astoria for over four years. At the end of June, she came upon the property that she now occupies. Her realtor was very up front about the piers that were a potential development in the future. That weighed very heavily on her mind as she thought about the property. On July 2nd, she read in the newspaper that the City Council directed the City Manager to work with the neighbors on decommissioning the lots. She believed her issues had

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been removed, so by July 5th she had a purchase agreement with the seller. She felt like she had been led to the possibility of working with the City in good faith on developing and looking at this process and the potential of decommissioning the lots. She suggested that work be done so that at the public hearing, the Council has both pieces of information, the offer from a private developer and an understanding of the process of decommissioning the lots. She suggested that exploration be completed prior to the public hearing.

Melanie Ryan 2495 Mill Pond Lane, Astoria, said she had lived in Mill Pond for about three years. She has come to know her neighbors and the wildlife in the area. The pond and the park provide sustenance, shelter, and a safe refuge for a variety of animals, birds, and fish that pass through during seasonal migrations, reproduce, and thrive. Their presence helps maintain the ecological balance needed to sustain life for species. She was concerned that if the development of the pier lots is approved instead of working with the Mill Pond homeowners to protect the integrity of the park, pond, and its inhabitants, their habitat will be lost. Pushed out by human activity, animals will not feel safe enough to return. She asked the City Council to consider the wildlife living in the Mill Pond area and to continue working with the homeowners who have banded together to protect their habitat. Three new homes have already been approved to build on the little pond. With 12 more homes, the latter allocated for a partial build in the center of the existing City park, the wildlife will have no other choice but to relocate. There is a blue heron who was raised around the pond and left it for him to watch over. There are three mink that live on the banks by the inlet. There are deer that eat the leaves off her cherry trees. They use the crosswalk on Highway 30 at night. There are four river otter who ate most of the duck eggs on the banks of the pond. Several duck species have reproduced in the area. Some species are migratory and some live on the pond year-round. Mill Pond residents have learned to co-exist with the wildlife.

Paul Haynes 2505 Mill Pond Lane, Astoria, asked City Council to work with the neighborhood first to flush out the possibilities and compare that to cash offers from other people. As of this summer, there has been interest in the neighbors talking to the City Council about how to help the neighborhood while providing the City with what it needs in exchange for those lots. Having comparables will be helpful because the established market is fuzzy about building condominiums over the top of a pond. He requested that the hearing be scheduled further out than September 30th so that he could work with Staff on what the neighborhood could bring to the table and end up with a winning solution.

Arlie Jensen 2455 Mill Pond Lane, Astoria, said she was a life-long resident of the area. The pond is an icon of Astoria. She was fortunate to live on the pond and enjoy it daily but the City walks by it every day. The City has been so skilled in managing and ensuring the remaining vistas of the river have remained open. The Council has stood by the community in terms of minimizing growth where it will impact the community's ability to see the river. Mill Pond was a mill when she was a child. She has seen wedding parties, prom parties, and the Regatta court get photographed on the park. The most important thing to do is protect the pond for everyone. By a wonderful happenstance, the City has gained control of those lots. If the lots were in the hands of a developer, this conversation would not be happening. The sale will be to a developer to build 12 condominiums on small lots. The City should figure out a way to maintain the vista permanently.

Mayor Jones noted the Council wanted to hear these types of comments during the public hearing.

City Council Action: Motion made by Mayor Jones, seconded by Commissioner Herman, to schedule a public hearing for 7:00 pm September 30, 2019 to consider the sale of City-owned pier lots in Mill Pond. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(b): American Cruise Lines Lease

The City has received a request from American Cruise Lines (ACL) to lease the river boat moorage located at the east end of the 17th Street Dock. We currently rent the area on a per day basis. Staff has reviewed the lease and has discussed lease terms in depth with ACL and have determined that leasing the area could be beneficial to the City.

It is recommended that City Council consider the lease with American Cruise Lines for the east moorage of the 17th Street Dock.

Mayor Jones explained that American Queen was a competitor of American Cruise Lines. American Queen just learned of the lease agreement today and objected to the Council making a decision on the lease tonight.

City Manager Estes noted that Eric Denley, American Queen Steamship Company (AQSC) was on the telephone to participate in the discussion. Mr. Denley had previously provided written comments to the Council.

Eric Denley, American Queen Steamship Company, noted that Michael Edith, President of Organized Cruise Division, American Queen Steamship Company, was also on the phone.

Mayor Jones explained that the City owns and controls the use of the 17th Street pier. As the river cruise industry has grown in the last several years, City Staff have begun serving as a travel service for the river cruise boats. Staff takes calls to make reservations, fields disputes between companies vying for the same dates, and this consumes significant time and effort. The Council needs to consider whether the City should hire a company to manage the river cruise boats. They also need to decide if the City should approve the proposed lease or allow other companies to make separate offers.

Director Harrington added that the dock is currently being leased to the Coast Guard. The east end of the dock contains a facility that the river boats use, which is old and in poor condition. The City does periodic repairs and the proposed lease includes a request for the City to make improvements to accommodate American Cruise Lines as well as other vessels. Currently, the City has a debt service on the dock and is not in position to take on additional debt service. This is a great opportunity for the private sector to take the risk instead of the residents of Astoria. The letter from American Queen included comments about a monopoly and the opportunity for their competitor to set their own schedules. He believed the company paying the lease and building the improvements would need to accommodate themselves first, but they have expressed interest in writing into the lease that they would also accommodate other vessels. Additionally, facilities are also available at the Port. Based on City Council goals, Staff is looking for ways to create efficiencies. Currently, Staff is managing infrastructure, roads, sewers, storm systems, sanitation systems, a watershed, a railroad and a river boat company reservation system. It would make sense to put river boat reservations into the responsible hands of the private sector.

Mayor Jones stated he loved the concept of a private company making improvement to the mooring dolphins and managing the process. He asked the City Attorney why the City was allowed to use sole source contracting instead of putting it out for bids.

City Attorney Henningsgaard explained that because the property is City-owned, the use is considered a proprietary function. The City does not require bid processes for leases. As managers of the City's property, it is up to Council to decide how to handle the proposal.

Mr. Denley stated his company was just made aware of the proposal that morning. The proposed lease creates a 32-year monopoly with one party that utilize a public facility for their own commercial development and financial benefit while excluding other competitors. He requested the ability to discuss their concerns with the City and an opportunity to provide creative and thoughtful proposals and resolutions to help any burdens on the City. His letter outlined concerns with Section 4.1 of the proposed lease. The term is an extensive period of time and the lease is fully exclusive. Quite a bit of discretion is given to the lease holder to include competitors, set pricing, and operate the facility for their sole benefit, without any input from the City, the public, or any competitor. He appreciated the competition within the river cruise space. The two main competitors that operate year-round on the river are American Cruise Lines and American Queen Steamboat Company. This seems like the City is choosing one company over the other without allowing both to be part of the process. He was not sure how his company was made aware of this hearing, but he was thankful they were. AQSC is in Astoria every week and there would have been ample opportunity for someone to reach out and engage in a discussion with them. He asked City Council to reject the lease and do a request for proposals (RFP) that could be bid on with transparency. The City could receive competitive bids and the public would have the opportunity to decide how their assets are utilized for the next 32 years. At a minimum, he asked that the City refrain from voting on the lease and do additional due diligence and engagement with interested parties.

Charlie Robertson, Vice President, American Cruise Lines, said his company, a family-owned business, operated three of the river boats on the river and represented about two-thirds of the total dockings at the facility they have proposed to lease. They are also building additional ships for the river, which will increase the capacity they would like to bring. Therefore, additional port infrastructure is necessary. ACL wanted to work with the town to improve the existing facility. If they are going to make a large capital investment, significant time would be needed to recover that investment. ACL has heard the City's desire not to exclude any one competitor and that

is why they wrote into the lease that when their boats are not scheduled for docking, any other vessel could schedule to use it. They love partnering with Astoria and working with many people in the community to provide tours. Currently, they bring visitors about three times a week and they expect that to grow over the next few years.

Director Harrington noted that Parcel 1 is the existing area being used and Parcel 2 would be the area of proposed expansion.

Allen Lassiter, Attorney for American Cruise Lines, stated the lease is not a 32-year monopoly. Other steam ship companies will not be excluded. When ACL is not scheduled to be at the dock, other cruise lines will be accommodated. The lease is not anti-competitive, nor is it for the sole benefit of ACL. ACL is undertaking a big investment and needs the time to recoup that investment. The cruise line's goal is to partner with the City to achieve tourism growth and economic benefits to the City.

City Attorney Henningsgaard said this lease was being negotiated for at least six weeks and one of the City's goals was to allocate risk. In this case, the tenant is accepting the risk of dock maintenance and the responsibility of improving and enlarging the dock. The tenant is also taking an economic risk of a potential downturn in the cruise line industry. Cruise lines are pretty dependent on the economy and the City's coffers will suffer if there is no guaranteed income. In this case, the lease provides the City with a guarantee of a minimum amount of income. The income is estimated to be approximately the same as what the City currently receives from the cruise line market. The lease requires the tenant to accommodate other operators and requires that accommodation be done in good faith. The City has the ability to monitor the usage of the dock. He believed the lease was fair to all concerned and was a good deal for the City.

Mr. Denley said he understood the equity of the lease. He was asking that this not be a unilateral discussion. There are more than just two parties interested in that facility, so he was suggesting an open and transparent process with an opportunity for a variety of interests to be expressed to meet the City's goals. His company would be more than willing to help the City meet their goals. They desire a safe, secure, and reliable docking location for their passengers, so he believed their interests were aligned. He objected to the lease. AQSC has been a known participant in the river cruise industry in Astoria since 2012 and he was alarmed that his company was not even given an invitation or an opportunity to participate or speak to anybody from the City when this issue was raised. He believed the City had the intent that the lease holder would operate in good faith, he also wanted City Council to review Section 4.1 of the lease. There are no checks or limitations on the lease holders discretion and ability to allow access, set fees, and run the terminal for the next 32 years.

Mayor Jones stated he had conflicting thoughts. On one hand, he wanted to say hats off to the company that came up with the lease idea and came forward with it first. If the City was a private sector company, they would not have a public meeting and would simply approve the deal. On the other hand, the City is a public body and he believed it was necessary to provide others the opportunity to make competing bids. He did not like being put in the middle of competing businesses. The companies that compete for dock space and passenger share on the river are tough competitors, as they should be.

Councilor Rocka said he supported getting the Public Works Department out of the cruise business. Until he read the lease, he also supported the idea of having support for the infrastructure on the dock. Before hearing from AQSC, he had received local comments about turning a public dock over to a private company. Section 4.1 of the lease give the tenant the absolute right to set any price they want, which he believed was a problem. The tenant could set a price that would make it unfeasible for another company to use the dock. The tenant's ships would take precedent on the dock, which he understood. However, the tenants would also have the right to change the schedule if it becomes commercially impractical. Other cruise lines would not be able to count on their dock reservations. It did not seem like the City would have any recourse if the company did not perform as expected. Additionally, the City could not get out of the lease. He wanted infrastructure support but did not support the lease.

Councilor West stated she was also concerned about the lack of recourse if the dock is not being maintain to what the City considers to be necessary standards. She strongly supported Public Works. The list of services they provide is longer than most people realize and cruise ships should not be on that list. She recognized that ACL would be taking on a tremendous amount of responsibility. She asked if Mr. Denley would be interested in entertaining a similar lease or participating in a bid process.

Mr. Denley said yes, absolutely. This process is not very inclusive. He applauded a company that brings a solution to a public entity, but he believed this lease was very self-serving to the company that brought it to the City. AQSC was interested in collaborating on a mutually beneficial agreement, but they did not know or understand that Astoria had a problem that needed to be fixed. He was sympathetic to the City's challenges and wanted his company to be included in the discussion to help the City find long-term solutions that provide fair access to a public facility.

Councilor West said her bottom line was supporting Public Works and she was not opposed to receiving additional bids or discussions. She was concerned about the ability of the tenant to charge whatever they wanted. However, she assumed the tenant would not want to alienate other companies because they would need the business.

Councilor Herman stated she was concerned that AQSC was not notified of this process. She appreciated what both of the cruise lines do for the community. As a matter of courtesy, the City should give AQSC an opportunity to present a proposal. The City has a lot of expensive infrastructure to maintain on the backs of property tax payers. She did not want to dismiss the offer from ACL because she believed it was a great offer. She recommended setting a reasonable deadline.

Councilor Rocka added that a bidding war between the two companies might not be an ideal solution. He wanted the companies to present a proposal to share the expenses of redoing the dock and share the scheduling. That would be better than having one company in control.

Mayor Jones believed the significant cost of the infrastructure investments would result in one company getting the least.

Councilor West wanted more provisions in the lease that protected the tenant.

Mayor Jones added that any time two boats want the 17th Street dock at the same time, one must go to the Port. The Port is happy to have the business. He did not believe the tenant would price themselves out of having other vessels there because they would want the money. The tenant would want a boat tied up every day of the year to generate revenue and would likely charge market rate.

Director Harrington said three boats currently use the dock, American Emperor, Queen of the West, and Wilderness Discoverer. This year, Wilderness Discoverer only made six visits, while the other made more than 40 visits each. The American Emperor provides \$29,500 in revenue and the total revenue is about \$73,000. Cutting out a competitor would be throwing away about \$30,000 in revenue. Staff does not have the capacity to do the designs and permits necessary to make the infrastructure improvements.

Councilor Brownson stated he believed the offer was a great opportunity for the City's long-term security. However, he wanted more assurance that there were protections for fair pricing and scheduling. Additionally, he would not be averse to seeing an RFP because competition could be good for the City.

Mayor Jones said he was not in favor of throwing out the proposal and starting over with an RFP. He recommended the City Council delay any decision until September 30th and allow other entities to make competing proposals to be considered at that time. He confirmed the annual debt service on the pier was about \$85,000 and the City was working to pay it down early.

City Manager Estes noted the total amount owed was \$1,043,843.

Mayor Jones said seeking an opportunity like this was farsighted of City staff, which he appreciated.

City Manager Estes explained this lease was proposed to Council in response to an offer that was initiated by a letter of interest and City Council must decide how to address this and move forward.

Mayor Jones confirmed that this was the normal process when a private entity comes to the City offering to buy or lease something. Negotiations are confidential until a proposal is ready to be put on the City Council agenda.

Mr. Denley said his company had a problem trying to define what they should be responding to. Is it a request on behalf of the City or an offer made by an interested competitive party acting in their own interest? AQSC valued the opportunity to make a proposal but requested an RFP process because parameters would be established.

City Manager Estes explained that under City Code, someone makes an offer to the City and the Council sets a public hearing where other offers can be received.

Mr. Lassiter agreed with the process and said ACL already has quotes on construction. He added that ACL would like to have the dock filled every single day to subsidize their expenses and enhance the revenue. It would be counterproductive to price others out of the market.

Councilor Rocka asked what assurance another company would have that they could reserve dock time.

Mr. Lassiter said if ACL was managing the schedule, the only way it would be changed would be due to unforeseen events, like a weather event that changed everyone's timing. It was not their intention to tell a company at the last minute that they could not show up.

Councilor Rocka asked what commercially impractical meant to a lawyer.

Mr. Lassiter stated in a normal commercial setting, the schedule would not work and could not function.

Councilor Herman asked if the company was prepared to honor the cruise dates already scheduled through 2021.

Mr. Robinson said ACL had not seen AQSC's schedule for either year. However, it was not their intent to exclude them from the city or cancel their scheduled port calls needlessly.

Councilor Herman asked if Mr. Denley planned to present an offer on September 30th.

Mr. Denley said yes. However, they only heard about this earlier in the day and were limited to putting a proposal together.

City Council Action: Motion made by Councilor Herman, seconded by Councilor Brownson, to continue the discussion of the lease with American Cruise Lines for the east moorage of the 17th Street Dock to September 30, 2019. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Mr. Robinson requested full transparency. Since AQSC had the ability to see ACL's proposal, ACL wanted the opportunity to see AQSC's proposal.

City Attorney Henningsgaard confirmed he would ensure a fair process.

City Manager Estes noted that many items on the September 30th agenda would require lengthy discussions. He recommended the meeting begin at 5:30 pm or 6:00 pm. The next City Council meeting would be on October 7th.

City Council Action: Motion made by Mayor Jones, seconded by Councilor Rocka, to amend the motion to continue the discussion of the lease with American Cruise Lines for the east moorage of the 17th Street Dock to October 7, 2019. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(c): Council Discussion Regarding Internment of Ashes on Church Grounds

Mayor Jones has received a letter from Grace Episcopal Church, who would like to formally request that the city modify the code allowing Grace Church to construct a Columbarium for the respectful internment of ashes on church grounds. Many Episcopal Churches in Oregon have a variety of Columbarium styles on their grounds. Mayor Jones has added this agenda item so Council can determine how to proceed.

Mayor Jones asked if the Code specifically prohibited ashes or burials within in the City limits.

City Attorney Henningsgaard explained that this part of the Code was written in 1896 and only discusses the burial of bodies, which is defined by statute to include the burial of ashes.

City Manager Estes confirmed he had spoken to each of the Councilors about this request and the general consensus was that there was interest in a Code amendment to allow the church to install a columbarium for the internment of ashes.

City Council Action: Motion made by Councilor Rocka, seconded by Councilor Herman to direct Staff to draft an ordinance separating bodies from ashes and permitting the internment of ashes within Astoria city limits. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Mayor Jones called for a recess at 8:28 pm. The meeting reconvened at 8:42 pm.

Item 6(d): Continuation of Deliberation and First Reading – Bridge Vista Overlay Code Amendment B

City Council opened and closed the public hearing for the proposed amendment and motioned to continue to deliberate at this meeting. Staff has provided additional information to assist with the discussion.

If the draft code meets Council's expectations, it would be in order for Council to conduct a first reading of the ordinance for Bridge Vista Overlay Zone Code amendments.

Planner Johnson presented via Power Point the information and changes requested by the Council at the last meeting. Her presentation included graphics showing how the new Codes could be applied by showing buildings of various sizes, different types of parking, and view corridors.

Councilor Herman understood that if parking was not underground, not at ground level, and not part of the building would count toward the height.

Planner Johnson explained that parking would not count towards square footage, but the height of the building would include a parking level.

Mayor Jones called for Council discussion and deliberation. He thanked Staff for spending so much time diligently wading through the issues and exploring all of the possible solutions. He also thanked the citizens who had commented. Everyone treasures the waterfront and the view of the river. He appreciated all of the personal views on how the City should protect the views and the waterfront. The City is still working on the BVO instead of the Urban Core because of the Fairfield Inn. All of the public hearings associated with that project made it clear the community's sentiment was the four-story height limit established by a public process two years ago was considered too high for developments between Marine Drive and the water. Secondly, there is a clear underlying sentiment that some are opposed to any corporate or chain development particularly if the developer is not a local person. The elected officials are charged with being responsive to the community's desires and to support a thriving local economy. The actions of elected officials in land use decisions can affect the monetary value of private property. The Planning Commission wrestled very openly and at great length with the competing needs of economic development, respect for private property rights, and the concerns of residents. The Commission explicitly acknowledged that to anyone passing by on Marine Drive and from anywhere in Uniontown, there is no difference between a 28-foot tall building and a 35-foot tall building. The Commission's recommendations indicated a conclusion that restricting the mass of a building through a FAR with a 35-foot height restriction would be far more effective at protecting river views than simply imposing a lower height. One argument was in favor of the 28-foot height limit because it would discourage chain developments, which require at least 35-feet to build. The more national chains that come to Astoria, the less unique Astoria becomes. Astoria's uniqueness is the community's value proposition but blocking corporate chains through a back door of unreasonably low height restrictions is an abuse of the City's power to restrict private property rights. If chains are to be addressed, the City should do so forthrightly and head on. According to the Chamber of Commerce, there are 650 hotel rooms in Astoria. That includes bed and breakfasts, but not home stays. The Bouy Beer project, Adrift Hotel, Fairfield Inn, Walt Postlewait's project, and the anticipated hotel on the south slope will add about 225 hotel rooms over the next several years. He fully supported the Commission's recommendations on the BVO and said he wanted to direct Staff to draft Code amendments restricting formula hotels and restaurants.

Councilor Brownson recommended the following minor amendments:

- Section 14.124(d)(5) - The planned district areas should be excluded from the pedestrian oriented area because the pedestrian oriented areas will restrict development in those areas.
- Allow up to a 0.75 FAR because a 0.5 FAR is too small.

He said he supported the Planning Commission's Scenario 1 with his recommended amendments. He was also in favor of working on a Code to restrict formula businesses.

Councilor Rocka said he had no objections to Councilor Brownson's proposed amendments. He believed the FAR recommendations solved one of the biggest problems. He asked what public access meant in Scenario 3.

Planner Johnson explained that most of the view corridors would be across privately-owned properties, not through rights-of-way, because the area had very few rights-of-way. Scenario 1 included just a view corridor and the owner could restrict physical access. Scenario 3 suggested allowing buildings heights up to 35 feet if physical public access was provided.

Councilor Rocka confirmed that the Council had the right to approve an FAR of 0.6. He agreed that a 0.5 FAR seemed too restrictive. Most of the area includes exceptions. There is an exception for the Port, one for Astoria Warehouse, and one for water-dependent uses. All of the exceptions are appropriate. However, the decision made tonight will state the City's values. The Council does not want to damage anyone's property value, but property values apply to people who own homes as well. Views of the river impact property values. Some appealing trades have been offered in Scenario 3, which Council just saw for the first time at this meeting. The height of 28 feet was chosen because most of the buildings in downtown are 28 feet tall. The building that vary from that are exceptions. He believed an FAR between 0.5 and 0.75 would be appropriate.

Councilor Herman stated she agreed that Staff should begin working on an ordinance to prohibit formula hotels and restaurants. The waterfront is a treasure that belongs to everyone and preserving the waterfront through views ensures that the City maintains its investment. Astoria is unique and the City would be selling itself short if it allowed three story buildings and a 0.75 FAR. The Merwyn Hotel is four stories and 24,000 square feet and will have 40 one-bedroom apartments. The City can allow property owners on the waterfront to make a profit while still preserving views. Currently, there are very few views in Uniontown, but someone could buy the warehousing site and take those buildings down. The zoning needs to be very specific and strict so that Astoria does not end up with a wall of buildings like it has now. She did not support the plan districts. Plan districts can be allowed when existing basin overlay provisions limited to those identified in Section 14.124(d) are inadequate to achieve a desired public benefit as identified by the City Council and/or to address identified needs or problems in the area. Well, the City has not proven that the Riverfront Vision Plan is inadequate. She did not like talking about the plan districts as though they had already been approved.

Councilor West said this was a difficult decision for her to make. She agreed most people did not want chain hotels and restaurants because they exploit the local economy without giving back. Development is still possible under Scenarios 2 and 3. Protecting the Riverwalk is just as important as development.

Councilor Rocka asked Planner Johnson to clarify what a plan district was. He understood a plan district would provide certain properties to propose a plan the owners believed would benefit the community. The Council would have the authority to approve or deny the plan.

Planner Johnson said that was correct and explained the Code just defines the process by which a future determination would be made about whether a plan district was necessary.

Councilor Rocka stated he liked the idea of plan districts because something might come along in the future that the City had not thought of. He had no problem with water-dependent uses either because they add to the feel of the city. Additionally, he could go along with 28-foot height limits. He supported Scenario 2.

Mayor Jones clarified that with an FAR of 0.75, a two-story building would only cover up to 37.5 percent of a lot and a three-story building would only cover up to 22.5 percent of a lot. He asked if increasing FAR on the second floor was ever considered. A higher FAR with a second or third story would preserve the view corridor and make development more economically feasible.

Planner Johnson stated that would counter the concept of the FAR. However, instead of an FAR, the footprint of the ground floor and the total building height could be limited. This would result in a maximum percentage of lot coverage with a maximum height. For example, the ground floor could not exceed 50 percent of the lot, as in the residential zones. She recommended the total square footage of buildings also be limited.

Councilor Herman said she liked the idea of limiting the footprint because that would allow a two-story building that would still preserve views. She confirmed with Planner Johnson that any new development on the Astoria Warehouse site would be required to include 60-foot view corridors between buildings.

Councilor Brownson believed the combination of an FAR and a view corridor would result in vast view corridors relative to any development that has come before. A two-story building will cover less than half the lot and leave a wide area undeveloped. Based on where the City started, the recommended amendments are far beyond where Astoria needs to go and he was uncomfortable with that. It is important to allow the plan districts. The Port's survival and economic viability is very important to Astoria. Any changes made within the Port district would have very little visual impact and would have an enormous aesthetic impact. If the Codes are too restrictive, growth and development will be stifled. There are a lot of areas that need work and the community wants those areas to look better for residents and visitors. The plan districts will sunset in five years, so the Port and Astoria Warehouse only have five years to come up with a plan. During that five years, no one will have forgotten this process. At the end of the five years, the Council gets to take another look at the Code to determine if the plan districts still make sense. He cautioned against being overly restrictive. Staff has done a good job of outlining what needs to be done in the area and what would be appropriate.

Mayor Jones reminded that every member of Council was proposing significant reductions in allowable height and significant increases and protection of the waterfront. Not one Councilor has advocated for the status quo. He added that he agreed with everything Councilor Herman said about protecting the waterfront. However, he disagreed with the specific tactic to achieving that goal. Councilor Herman wanted a 28-foot height limit, but he supported a 35-foot height limit. He believed the Planning Commission's proposal would protect the waterfront. Only allowing a 35-foot building to cover one quarter of a lot is an extraordinary improvement over what is currently allowed and is extremely responsive to citizen's desire to protect the waterfront.

City Council Action: Motion made by Mayor Jones, seconded by Councilor Brownson to conduct a first reading of the ordinance for Bridge Vista Overlay Zone Code amendments, with the minor editorial corrections suggested by Councilor Brownson. Motion failed 2 to 3. Ayes: Councilor Brownson and Mayor Jones; Nays: Councilors Herman, Rocka, and West.

Councilor Rocka explained that Councilors were trying to find a way to come together with something that works for all of them. He liked the idea of restricting formula hotels. The City dodged a bullet in 2007 with condominiums, so building height and mass does make a difference. It is difficult to consider any scenario that might come up. He agreed with Councilor Brownson that the Council was possibly being too restrictive, but believed Council was trying to get this right.

Mayor Jones asked if Councilors would consider Scenario 2 or 3 with a higher FAR.

Councilor Rocka stated limiting buildings to 20,000 square feet on each site would be more restrictive.

Councilor West said she would consider Scenario 3 with a height limit of 35 feet and low FAR. She was less concerned about views and more concerned about being considerate to development.

City Manager Estes noted that the scenarios were hypothetical scenarios based on concepts provided by City Council at the last meeting. They were meant to be a discussion tool and not necessarily set options. He recommended Councilors discuss each line item separately. The Council agreed.

The Council and Staff discussed each line item as follows:

Lot Coverage

All of the Councilors agreed that when there is more than one building on a lot, is 60 feet enough of a view corridor. The Councilors and Staff discussed the height and square footage of existing buildings in the area. Staff encouraged Council to think about the types of development they wanted in the BVO. The majority of the

Council agreed that instead of an FAR, up to 50 percent lot coverage and up to 30,000 square feet per building would be appropriate.

Building Orientation

Staff reviewed their consideration of limiting building widths and explained why they recommended buildings be longer than they are wide on a north/south orientation. Councilors had no objections to this recommendation.

Building Height

Staff shared the heights of existing buildings in the area to give Councilors some perspective. Staff also shared details about the limited amount of public access to the water and provided options for requiring access through private property in exchange for allowing taller buildings. The consensus among Councilors was to limit building heights to 28 feet, or 35 feet when public access is provided.

City Council Action: Motion made by Mayor Jones, seconded by Councilor Rocka to direct Staff to make the following changes to the Bridge Vista Overlay Zone Code amendments for Council review and consideration of a first reading on September 30, 2019:

- Replace the FAR with a maximum lot coverage of 50 percent and a maximum of 30,000 square feet per building
 - A maximum building height of 28 feet, or 35 feet when public access is provided
 - Make editorial amendments to plan district language as recommended by Councilor Brownson
- Motion passed unanimously. Ayes: Councilors Rocka, West, Herman, Brownson and Mayor Jones; Nays: None.

City Council Action: Motion made by Mayor Jones, seconded by Councilor Brownson, to continue deliberation on the Bridge Vista Overlay Zone Code amendments to September 30, 2019. Motion passed unanimously. Ayes: Councilors Rocka, West, Herman, Brownson and Mayor Jones; Nays: None.

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

Bradly Marine 443 14th Street, Astoria, said he was concerned about traffic and pedestrian safety on the Riverwalk. Last week, he was forced off the Riverwalk by a Recology truck while rollerblading. The truck driver said he had been doing his job for 43 years and had the right of way everywhere on the Riverwalk. When he challenged the truck driver, the truck driver said, "If you have a problem with that, come over here and say it to my face." He read Oregon Revised Statutes (ORS) differently than the truck driver. When this incident was brought to the attention of the police, the police sided with the truck driver and he was fundamentally made to feel that he was lucky to be alive. He spent many hours over the weekend reading ORS and Astoria City Codes. He has since spoken to Chief Spalding and other officers who assured him they were looking into the issue. However, he was concerned about safety at the intersections of 31st, 36th, and 39th Streets. He had been reassured that all traffic on the Riverwalk has the right of way over any motor vehicles and that the City would look into new signage to help protect people. However, there seems to be some ambiguity as to what the statutes read and who has the right of way. The Riverwalk is an asset that he uses regularly. He planned to stay in touch with Councilor Herman and hoped signs would be put up to protect people in the future.

Cindy Price, P.O. Box 477, Astoria, Planning Commissioner, said by replacing the 0.75 FAR with a 50 percent lot coverage, the Council effectively approved a 1.5 FAR.

EXECUTIVE SESSION

The Council recessed into Executive Session at 10:21 pm

Item 8(a): ORS192.660(2)(i) – Performance Evaluations of Public Officers and Employees

The City Council will meet in executive session to discuss a performance evaluation.

The regular session reconvened at 11:34 pm

Mayor Jones noted the City Council conducted a performance evaluation on City Manager Estes and unanimously agreed he had been doing a fantastic job for the community.

City Council Action: Motion by Mayor Jones, seconded by Councilor Brownson, to adjust City Manager Estes' cost of living compensation by 3 percent. Motion passed unanimously. Ayes: Councilors Rocka, West, Herman, Brownson and Mayor Jones; Nays: None.

Mayor Jones noted he had hoped the Council would agree to move forward with restricting formula hotels in exchange for Scenario 1 of the Bridge Vista Overlay amendments. He understood it would be difficult to implement such a restriction that would withstand legal challenges, but it could be done.

City Council Action: Motion by Mayor Jones, seconded by Councilor Herman, to direct Staff to pursue restrictions on formula hotels and restaurants. Motion passed unanimously. Ayes: Councilors Rocka, West, Herman, Brownson and Mayor Jones; Nays: None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:37 pm.

ATTEST:

APPROVED:

Finance Director

City Manager

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
June 25, 2019

CALL TO ORDER:

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

ROLL CALL:

Commissioners Present: Vice President Daryl Moore, Jennifer Cameron-Lattek, Patrick Corcoran, Cindy Price, and Brookley Henri.

Commissioners Excused: President Sean Fitzpatrick and Chris Womack.

Staff Present: Contract Planner Robin Scholetzky, Contract Planner Rosemary Johnson, Contract Planner Mike Morgan, Planner Nancy Ferber, and City Attorney Blair Henningsgaard. Contract Planner Scholetzky attended via telephone for Item 4(d) beginning at 8:48 pm. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

Item 3(a): May 7, 2019

Vice President Moore called for approval of the May 7, 2019 minutes.

Commissioner Price moved to approve the minutes of May 7, 2019 as presented; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

Item 3(b): May 28, 2019

Vice President Moore called for approval of the May 28, 2019 minutes.

Commissioner Price moved to approve the minutes of May 28, 2019 as presented; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

CU19-04 *APC discussion and deliberation continued from the May 28, 2019 meeting.* Conditional Use Request (CU19-04) by Stewardship Homes LLC to locate a 5-room, short term lodging facility in an existing apartment building at 641 Commercial Street (Map T8N R9W Section 8CB, Tax Lot 7300, Lot 2, Block 29, McClures) in the C-4 (Central Commercial) zone.

Vice President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

Vice President Moore declared that earlier in the day, he received an email with comments on the conditional use. The public hearing had already been closed and no discussion occurred. He did not read the comments completely and the comments were not applicable.

City Attorney Henningsgaard confirmed that Commissioners Price and Cameron-Lattek received the same email from Andrea Mazzerella. Commissioner Price stated she read the email. Commissioner Cameron-Lattek said she glanced through the email but did not read it. City Attorney Henningsgaard explained that the email created two issues in the process. First, it constitutes ex parte contact. Second, in any land use application, the Applicant has the right to submit the final argument. The Applicant was allowed two weeks to submit their final argument. The email could be construed as a final argument, so it would be appropriate to allow the Applicant to address the email.

Matthew Gillis, 11650 SW 67th Ave. #210, Tigard, said the comments in the email were about the Applicant's, what they would do with the money, and how that would affect the City. Stewardship does a lot of long-term rentals in Astoria and plans to continue. This permit would help them fund other projects flipping vacant houses and putting them back on the housing market as rentals. They have already brought eight rentals back on to the housing market in Astoria. This property is zoned commercial and is in a walkable area that is zoned for a hotel type situation.

Vice President called for presentation of the Staff report.

Planner Morgan reviewed the written Staff report and a memorandum containing additional materials for consideration. He noted the findings in the original Staff report were for denial of the request. If the Commission approves the request, new findings would need to be written.

Vice President Moore noted the public hearing had already been closed and called for Commission discussion and deliberation.

Commissioner Price stated she continued to agree with Staff that the request does not meet all applicable review criteria.

Commissioner Corcoran said he believed the requested use on this particular property would not be beneficial to the city.

Commissioner Cameron-Lattek agreed with Staff's findings. The request would not comply with the Comprehensive Plan's housing goals and policies to maintain existing housing stock in neighborhoods.

Commissioner Henri stated she was leaning towards denying the application because she did not believe there was any benefit to the conditional use. Property use and parking could improve the property, but she could not justify that it would benefit the community.

Vice President Moore said historically this Planning Commission and Council has interpreted the parking requirements as an ability to increase parking for any conditional use. However, arguments against that aside, the housing element of the Comprehensive Plan CP218.2 clearly states "maintain and rehabilitate the community's existing housing stock." Approving this application would reduce existing housing stock. Therefore, he was against the request.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and deny Conditional Use CU19-04 by Stewardship Homes LLC; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

Vice President Moore read the rules of appeal into the record.

ITEM 4(b):

CU19-05 Conditional Use Request (CU19-05) by Rob Webb and Mark Otten on behalf of PacificCorp to perform in water remediation work (use is considered "active restoration") to address contamination present in sediment adjacent to 2nd Street south of the pierhead line (Map T8N R9W Section 7DA, Tax Lot 100) in the A-2 Aquatic Two Development) zone.

Vice President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. There were none. Vice President Moore asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report via PowerPoint. Only one public comment was received and distributed. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Price asked if the Division of State Lands (DSL) permit was contingent on the conditional use permit. Planner Ferber said yes and explained that additional notification had already been sent out. The public input period for the DSL permit was still open.

Commissioner Corcoran asked if non-aqueous phased (NAP) materials was otherwise known as goo. Planner Ferber stated she had not heard that. The materials are sediments that dissolve in water but cannot be remediated.

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

Rob Webb, 72 Holiday Lane, Leavenworth, WA, said he did not have a presentation but could answer technical questions about the engineering.

Commissioner Cameron-Lattek asked how much of the pilot project was being done now. She also wanted to know if this was a smaller disruption in preparation for a bigger disruption later.

Mr. Webb said this work would provide a final remedy. However, until it is in place, proven, and meets all the requirements, the Department of Environmental Quality (DEQ) wanted to call it a pilot project. It is a proven technology using a manufactured product of geo-tech stile with an organo-clay imbedded between it that absorbs the NAP materials from below. He confirmed that 18 inches would be deep enough. The materials on the lower beach area are stable but the steeper bank behind it is erosional. Digging too deep would destabilize the slope. Additionally, there is a long term management plan with DEQ in place requiring the site to be inspected after any significant storm.

Commissioner Henri asked if the trench would be an anchor trench.

Mr. Webb explained the trench was done during the investigation.

Commissioner Henri asked if the geo-tech stile would be secured with the clay layer.

Mr. Webb said the geo-composite is a layer of non-biodegradable fabric with an organo-clay material and another layer of fabric that is needle punched together like a quilt. Three layers of that will be installed with a small excavator by pulling back the upper 18 inches of the existing materials. This material will be put in and then the upper 18 inches will be replaced on top. The work will be done on low tide cycles.

Commissioner Henri asked if this would be a 30-year remedy.

Mr. Webb stated the lifespan is a couple hundred years, but the lease with DSL is 30 years.

Commissioner Corcoran asked if excavation activities would be done in the middle of the night?

Mr. Webb said he did not want work to occur at night. The project has been set up to complete the work during the summertime daylight low tides. The best nighttime low tides are in December and January when work is very dangerous. Permission has been granted by Fish and Wildlife and other agencies to do the work in the summertime. The last low tide window for this year is August 29th through September 2nd.

Vice President Moore called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Henri said the project looked sound and it was a necessary project.

Commissioner Price thanked Planners Ferber and Morgan for such a comprehensive packet. She was concerned that it had taken seven years to get this far. She agreed with the Staff report.

Commissioner Cameron-Lattek moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU19-05 by Rob Webb and Mark Otten; seconded by Commissioner Price. Motion passed unanimously.

Vice President Moore read the rules of appeal into the record.

ITEM 4(c):

A19-01B

Continued from the May 28, 2019 meeting. Amendment Request (A19-01B) by Community Development Director to amend Development Code sections concerning issues relative to height and maximum gross square footage in the Bridge Vista Overlay Area (exempted sections from A19-01A) as well as continued discussions regarding potential sub-areas within the Bridge Vista Overlay Zone.

Vice President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of

interest or ex parte contacts to declare. There were none. Vice President Moore asked Staff to present the Staff report.

Planner Johnson reviewed the written Staff report. New code language was written based on feedback provided by the Commission at the last meeting. However, since then, Staff found concerns about language regarding how the code could be applied. As currently written, the draft amendments might not work or achieve desired results. Public feedback indicates the same concerns. She confirmed that Commissioners had copies of all correspondence that was received, including a petition to which additional names would be added as part of the hearing. She recommended the Commission take more public comment and provide direction on better language.

Vice President Moore opened the public hearing and called any testimony on the application.

Olene Salivi, 509 Kensington Ave. Astoria, suggested that for everything that gets developed on a particular lot, have an equal amount left open. It is overwhelming how many people do not want to see heights and seaside type development on the waterfront. If the amendments are approved or the City goes back to 48 feet, then the Commission is not listening.

Phil Grillo, Astoria Warehouse, said he agreed that more work needs to be done. Vice President Moore's idea was to have 60 feet of view corridor and up to 90 feet or 60% of the lot. This 60/90 rule is unreasonable for the Astoria Warehouse site. According to the geographical information system (GIS) the frontage along Marine Drive is about 1,025 linear feet. Taking 60 feet of view corridor plus the 90 feet of maximum of building width, the site would only accommodate 6.8 sets of these view corridors and buildings. There would be six or seven view corridors in that linear space, which would be difficult to do on the site. He referred to Page 8 of the Staff report, which contained an unintentionally misleading drawing of the 60/90 rule. The depth of the building does not go back that far because of the railroad tracks and the pedestrian lane. This is a significant deterrent rather than an incentive to redevelop because it would be too difficult to redevelop into six or seven sets of small buildings. This also creates a significant limitation on parking and interior access. The buildings that go back to the trolley line cannot be accessed from the back by vehicles. This means parking would have to be in the view corridor spaces and curb cuts would be necessary on Highway 30. He did not believe the City would get too much sympathy with Oregon Department of Transportation (ODOT) to create six or seven curb cuts on one lot. This would also discourage working waterfront type uses and housing because those uses want to be oriented towards the river, not perpendicular to it. He suggested aligning the view corridors with the upland cross streets. Hume and 2nd are both improved streets and there is a dedicated right of way for 1st Street. There are view corridors on Bond Street that allow views through the Astoria Warehouse site. This is consistent city-wide and is appropriate for moving forward. He also suggested making that modification through the planned district for the site to meet the demands of redeveloping the site. Otherwise, the Planning Commission will create an incentive to not redevelop the site. He would gladly participate in a workshop because he believed that level of discussion would be necessary.

Elizabeth Menetrey, 3849 Grand Ave, Astoria, presented a new petition with 80 more signatures to Planner Johnson. The petition says the signers would like heights to stay at 28 feet, with variances for heights up to 35 feet. Going back up to 45 feet seems iron after what happened with the Fairfield Inn. There's been so much comment and concern from the public and City Council. The petition also says no over water development beyond bank height. However, if the use was water dependent, she did not have any problem with 45 feet over the water. She was concerned about variances for affordable housing. She wanted to know how many units would be in a building, what the income levels would be, and why there should be a time limit. The Planning Commission needs to be careful to allow for enough affordable housing. And, if the buildings are going to be 45 feet, the city has to get a good bang for their buck for affordable housing. She was concerned about the Port of Astoria's west mooring basin planned district because Hollander Hospitality has leasing on the land and he wants 45 feet. She did not believe he wanted to build affordable housing and did not want him to be able to build 45-foot-high hotels in the planned district.

Jim Knight, 42041 Eddy Point Lane, Knappa, said he was speaking as a private citizen. He encouraged the Planning Commission to recommend the creation of a special district for the central waterfront. This issue is very complicated and needs some work and more conversation to understand the needs of the community for this area of the Port. The Port is community property. Commissions and Staff come and go, but the community remains and elected officials are left to make decisions that reflect the interests of that community. It is difficult to discern the will of the people when there are a variety of solutions and interests. This is a rare opportunity to work collaboratively on a master plan with the community. The process would be an in-depth planning process

with the Port, the Port's tenants, adjoining property owners, and the community at large. The process to create a special district provides a much more robust strategy that addresses the relationships of cruise ships, tourism, existing businesses, parking needs, and Uniontown. The community can create a beautiful gathering area for residents year round, and maintain and augment the views of the river. He recommended the Commission make a recommendation to City Council to allow a planning process that includes master planning for the district.

Mike Sensenbach, 110 Kensington, Astoria, said at dinner that evening, his six-year-old son said, "What is the point of living here if you can't see the water?" He believed views of the water was one of the main draws for people wanting to come to and live in Astoria. He did not want to see the City overcomplicate the amendments because that could provide opportunities for people to point to loopholes or come up with their own interpretations of language. He believed this was how the City got stuck in the Fairfield debacle. He wanted the height limit to be 28 feet with no exceptions and without leaving anything open to interpretation. Additionally, if the original intention was 35 feet, three stories, and 30,000 square feet, the size should be shrunk proportionally to 20,000 square feet. He did not want the Commission to consider special plan districts. The BVO was not designed to have special districts, they are unnecessary, and it overly complicates the code. He wanted the code kept simple and straight forward. The less language in the code the fewer debates on the right interpretation.

Lorrie Durheim, 398 Atlantic, Astoria, said she agreed with Mr. Sensenbach. People live in Astoria because they want to see the water.

Susan Transue, 91817 Highway 202, Apt. 16, Astoria, Port of Astoria, Director of Operations, said she had been in the community for almost three years and she loved the views. However, she also worked for the Port so she saw things in a different light than most people in the community. More discussion is needed before a decision is made. The Port should be considered a separate district because it is a County-owned business and this Commission is making a decision for the City. Also, more community members should be able to speak about what they feel is needed. The Port needs the special district so it can develop businesses and bring tourism.

Chris Farrar, 3023 Harrison Ave, Astoria, said he agreed the code language should be kept simple. He was concerned that the process was taking so long. The longer it takes, the more chance there is for someone to submit an application for a project under the current codes. The codes need to be tightened in a hurry by making the height limit 28 feet across the board and keeping the mass small. He would not allow for structures above that to be excluded in the height, so air conditioning units and other equipment should be considered part of the height. He agreed that marine oriented activities that can show they require a much taller height should have a lot more flexibility. He was not in favor of the special districts, but the Port is a County property. County residents have a right to have input and probably are not represented at City meetings. The height and mass limitations should apply to the entire blue area on the map, even if there were special districts. He did not believe housing should be located right along the water in a tsunami zone. Additionally, the allowable uses should not include hotels at all in the blue area. Allow existing hotels to stay, but Astoria does need more hotels because they draw great crowds of traffic and there is already too much traffic. Other businesses operating in the area would not be operating in the dark of night. Residents and hotel guests would be asleep and if a tsunami hit a lot of people would die. This community would be irresponsible to allow that.

Ted Thomas, 398 Atlantic, Astoria, said a special district was referred to as a business. A special district is not a business, it is a government. Governments are exempt from anti-trust laws. The opportunity for real estate development and collusion is enormous when there is a special district.

Dorothy Olson, 127 Washington Street, Astoria, said she agreed that the code should be kept simple. She also wanted the height limit to be 28 feet because she lived in the area and wanted to see over the buildings that are there already. Astoria definitely needs more affordable housing. In a tsunami, housing would go right into the water pretty quick, but Astoria needs affordable housing. Keeping restaurants and businesses along the water would probably be a better idea unless it was low income subsidized Section 8 housing.

Vice President Moore closed the public testimony portion of the hearing and called for a recess at 7:38 pm. The meeting reconvened at 7:43 pm.

Vice President Moore called for comments of Staff.

Planner Johnson said even a reduced height may still block views. She clarified that plan districts and special districts were not the same. A plan district is a land use tool for development. A special district impacts taxing and legislation. These amendments are only about land use issues, so only plan districts are being considered.

Vice President Moore called for Commission discussion and deliberation.

Commissioner Henri said she believed, based on community input, that the height limit should be 28 feet in the BVO with exceptions for water dependent uses only and for affordable housing. Anything over 28 feet would be 100 percent affordable housing. There should be no time limit on that. She agreed that housing was not safe in a tsunami inundation zone. She believed much of the public is not educated on tsunami danger, evacuation protocols and emergency preparedness. It is not in the best interest of the public's health, safety, and welfare to have housing in a tsunami inundation zone. She understood that special districts were required to follow all basic zoning codes unless they obtain a master plan approved by the Community Development Department, Planning Commission, and City Council. Therefore, special districts are safe. She believed special districts were necessary for the Port and the Astoria Warehouse site. The Astoria Warehouse site presents a lot of challenges with building massing, so other creative solutions should be considered. A master plan would be required to work through the detailed problem solving. The Port is a unique site as well and worthy of a special district because it is such a large site. The entire property is water related and the master plan process allows enough public input and careful consideration of every component. She was unsure how to provide view corridors with the lots that were long and oriented east/west. Any exceptions could be requested through a conditional use or a variance.

Planner Johnson clarified that exceptions were variances, but in some sections the code states variances are not allowed. The Commission needs to determine whether variances will be allowed and if variances will be limited.

Commissioner Henri added that she did not want to overcomplicate things, but it is important to be specific. This process needs to move forward, but the City might regret it later if the process is rushed.

Commissioner Corcoran understood that two of the three areas in the zone were large enough to warrant some special planning. Therefore, it would be proper to clarify what needs to be clarified without any undue delay. The Port is a publicly owned parcel and he expected that to continue. The Astoria Warehouse site is a large parcel that could accommodate large buildings, but it could be split into smaller lots that are then sold. With regard to low income housing in tsunami inundation zones, research shows that low income people are the least prepared for hazards. Since this zone has not been adopted as a hazard zone by the Planning Commission or the City Council, the hazards cannot be used as considerations in these development decisions. He wanted to reconsider incentivizing low income housing in this zone. He asked if it was standard procedure to require 25 percent of the housing to be low income with a 25-year time limit.

Planner Johnson explained that Staff had seen other cities require 25 percent and 25 years is typical when restrictions are put on a property use.

Commissioner Corcoran stated the essential issues for him were views and relationship to the river. The public wants 28 feet but depending on the parcel size that might not get what people want. So, the City needs to think more creatively about how to make it work.

Commissioner Price confirmed with Staff that they did not have any recommendations about how to achieve the desired results of these code amendments. Planner Johnson explained that Staff was stumped about how to satisfy both the development goal and citizens' requests.

Commissioner Price said the Commission had two charges from the Council after the Fairfield debacle. One was to clean up the language in the BVO and other parts of the Code, which has been done well. The second one was to lower the height to 28 feet. Vice President Moore's 60/90 policy made sense but was complicated. She wanted to know if the Commission could do what the Council has asked by agreeing to the 28-foot height limit with variances to 35 feet for electrical equipment, elevator shafts, and water dependent uses; then, if the Council wants the Commission to go forward, allow them to say so. If Council directs the Commission to move forward, she believed a work session should be scheduled with the Council, Planning Commission, and Staff to discuss the issues. The City knows what Astorians want after hearing it for 10 years, limited development along the Riverwalk. However, the City does not know how to do this. Unless it creates other complexities, she recommended that the Commission agree on 28 feet. She believed the Commission needed to have a discussion with Council, Staff, and consultants because these amendments should be considered within the context of what is going on in Uniontown Reborn and ODOT changes to West Marine Drive. A lot of money, time, and resources are going into changing this area for decades. Doing this piecemeal will result in an okay project but the City can do better. This is an opportunity to recreate the west end of Astoria.

Commissioner Cameron-Latteck asked for Planner Johnson's opinion on 28 feet and 20,000 square feet. She wanted to know if that would get the City close to what it wants.

Planner Johnson explained that would be quite limiting and would not achieve the desired results. The full length of a 28-foot-tall building would block views. Also, a 28-foot-tall building no larger than 20,000 square feet would probably not be financially feasible. It is possible that the concept of north/south oriented buildings on the Astoria Warehouse site could work, but not on the Port site.

Commissioner Cameron-Lattek asked if 60 percent lot coverage would be any better. Planner Johnson said 60 percent lot coverage would result in buildings that were not lined up because of the way the lots are situated. There would be no view from West Marine Drive in the area between the Megler Bridge to the Port. Therefore, maybe the Commission should focus on views from the Rivertrail north and from the bridge east where lots go out to the river. At a work session, the Commission could play with concepts and ideas that right now will work in one area and not in another. She confirmed she had been comparing this with Uniontown Reborn to make sure things are cohesive and consistent.

Commissioner Cameron-Lattek appreciated Commissioner Price's suggestion for an immediate solution that allows the Commission to get direction from City Council on some of the issues. She was fine with 28 feet on land and over water, and variances to 35 feet for water dependent uses. She agreed the Commission should not incentivize affordable housing in this area but should look for other ways to support the housing goal. She supported a plan district for Astoria Warehousing, but not the Port. The Port should stay part of the BVO because it is such a large area. The only thing small business owners hear from the Port is to support tourism. As a downtown business owner, she did not believe the economic benefit of cruise ships offset the environmental disaster that cruise ships are.

Vice President Moore stated he support plan districts for Astoria Warehouse and the Port. The large parcels could pose a great opportunity for a development that is approved by the community. A plan district would need to be approved through multiple public hearings with the Planning Commission and City Council. Therefore, a plan district would not be a blank check for the Port or Astoria Warehouse to do whatever they wanted. He did not understand how the heights were a problem because when he drives by the 28-foot tall warehousing buildings he cannot see the river. Therefore, the heights have never been a concern because buildings block views of the river no matter how tall they are. The problem is long buildings that block the river. He respected that the Commission was interested in implementing a 28-foot height limit. The Commission has the option to limit uses and could recommend to Council that hotels and motels not be an allowed use in the BVO. The public seems to have been triggered by one hotel development and is focused on height because that is something material, but the real issue is being able to see the river. Long buildings block the river. The original goal for the 90/60 plan was to create corridors to see the river. The plan appears to work better in the large parcels on the east end of the BVO but falls apart in the smaller parcels. The large parcels could also be adjusted into smaller parcels at any time. The goal was to disincentivize buildings running parallel to the river, which is common for hotels. He asked if the Commission was willing to consider his ideas.

Commissioner Corcoran said he would consider a work session on use limitation. He also wanted an immediate moratorium or something to prevent the hotel going in while the Commission discusses other ways to address the issue. He did not want to approve 28 feet at this time. He believed use prohibitions would address the public's concerns while the Commissions decides on what to do. Rather than approving 28 feet, he wanted to prohibit uses.

Planner Johnson explained that the Commission it would not be legal to implement a moratorium as part of these code amendments. However, the Commission could change the code because the proposed amendments are still open to the public for discussion.

Commissioner Corcoran believed it seemed significant to discuss use prohibitions in the context of height and mass.

Commissioner Henri asked if hotels could be allowed as a conditional use. Planner Johnson said yes and reminded that as long as conditional use criteria are met, the permit must be approved. View corridors would not be a criterion.

Commissioner Price wanted the Commission to either prohibit hotels or approve a 28-foot height limit tonight. She saw on Facebook that the City Council would discuss the Commission's decision on this at their August meeting. She also wanted the Commission to have a work session with Council between now and the August City Council meeting.

Commissioner Cameron-Lattek said she would be happy to discuss uses, but at a later work session. She also wanted to do more research on a city that does not allow any chain company with more than eight locations could not have a location in their town. Something similar might address the concerns that Astoria has. She believed there was consensus among Commissioners about approving 28 feet and two plan districts. She asked if the 28-foot limit was in conjunction with a 90-foot wide building orientation. Planner Johnson stated she could look at drafting that as long as the Commission understood that the width would not do any good along the west side of the Megler Bridge.

Commissioner Price said she did not believe master plans were necessary for the Port and Astoria Warehouse sites. The City would end up with three overlays in some places and she believed the Commission was making assumptions. The Commission wants to create a vision for the west side of Astoria. If the Port wants a master plan based on the criteria they can do so. There are all kinds of stories about what Astoria Warehouse is or is not going to do. Creating plan districts eliminates 80 percent of the area. She believed it would be better for the Commission to settle on a vision for the area and leave it at that.

Vice President Moore reminded that special plan districts would not be excluded from the rest of the zoning requirements. Anything that the City implements would apply unless a special plan district was approved with differences.

Commissioner Henri added that the plan districts would not be able to vary from the code unless they get an approved master plan. The Astoria Warehouse site is just a wall between Marine Drive and the river, so redeveloping the property could be a big opportunity. However, it is not likely that developers would do anything on the property if redevelopment was constrained by the code. It would not be financially viable to redevelop such a large lot with small buildings.

Commissioner Price said the lot could be divided into smaller lots. Architects can do all kinds of good things within the bounds of all types of restrictions. The Commission should consider what other small water related cities around the country have done to keep development at a minimum while creating robust and beautiful towns.

Vice President Moore understood that the majority of the Commission would be interested in pursuing a 28-foot height limit. He confirmed that ~~the entire Commission was~~ **a majority of the Commissioners present were** in favor of a 28-foot base height in the BVO with variances for water dependent uses up to 35 feet on land and over water. He asked Staff for direction on how to make such a motion that would also allow the Commission to discuss the remainder of the application in a work session. Planner Johnson recommended adding Amendment Request A19-01C to discuss the plan districts and use restrictions in a work session. She asked if the Commission wanted to move forward with the recommended code amendments for building size.

Vice President Moore stated he was no longer interested in pursuing the 90/60 policy because it would be impractical.

Commissioner Price preferred to discuss plan districts in a work session, but wanted to move forward with the 90/60 plan for building massing.

Commissioner Corcoran said he wanted to discuss plan districts and massing in a work session.

Commissioner Cameron-Lattek said she preferred to make a decision on plan districts now, noting that she was in favor of plan districts.

Commissioner Henri stated she wanted to allow 28 feet on land but limit over water development to bank height. She suggested the Commission discuss over water development and the non-limitation areas. Special districts should be decided on now. She serves on the technical advisory board of the Uniontown Reborn master plan project. The planning process is lengthy and involved with a lot of public meetings. With consultants, the public, and staff weighing in, it is difficult to get an approved master plan. She felt it was very safe to put the Port and Astoria Warehouse properties in special districts because doing so will help the Commission make decisions now without having to solve weird massing and use problems now. The special districts help to simplify the code, so she was in favor of them. She believed it would be best to discuss massing and uses at a work session.

Vice President Moore said he was in favor of the plan districts as well.

Planner Johnson understood that the majority of the Commission had directed Staff to prepare a basic code amendment that limits height to 28 feet with variances to 35 feet for water dependent uses. She reminded that variances must meet certain criteria, including proof of a hardship which is difficult to prove.

All of the Commissioners confirmed that the code should allow exceptions, not variances, up to 35 feet for water dependent uses.

Planner Johnson stated she would also proceed with a basic plan district process for the Commission to review and schedule a work session to discuss massing and use limitations. She recommended the Commission make a decision on this amendment request with massing and use limitations excluded to be considered as part of Amendment Request A19-01C. She advised the Commission to leave the public hearing open, allow her to amend the draft of code amendments for review at the next Planning Commission meeting, and schedule a work session to discuss mass and use.

Commissioner Price stated the differentiation between on land and over water development was important.

Commissioner Henri wanted the Commission to discuss building heights for on land versus over water development. The parcels over water are large in the area and the percentage of non-limitation areas is small. Filling the parcels with two-story buildings would block views.

Planner Johnson reminded that currently, over water development is limited to a maximum of 150 feet if the development is 300 feet from the shore and a 40-foot view corridor.

Commissioner Price said in the very first Riverfront Vision Plan meeting, people indicated they loved the Cannery Pier Hotel. So, the idea was to get more development like the hotel.

Planner Johnson noted that the Cannery Pier Hotel was 400 feet from the shore. She suggested that the proposed height limits also apply to the non-limitation areas over water.

Commissioner Price wanted to limit over water development to bank height unless the use is water dependent. And water dependent uses over water could be up to 35 feet.

Commissioner Corcoran said the Cannery Pier Hotel would not be considered a water dependent use if it were proposed today. He agreed with Commissioner Price on the restrictions for non-limitation areas.

Commissioner Henri stated she agreed as well with the understanding that it would apply to new development. If the Cannery Pier burned down, it could be rebuilt.

Commissioner Cameron-Lattek believed the BVO was a special district because of the view out to sea. Buildings set farther out from the bank tend to block the view even more. She believed water dependent uses should be limited to 35 feet without exceptions and all other over water development should be limited to bank height.

Vice President Moore said he was not in favor. The limitation areas were part of the Bridge Vista plan, so he wanted to stick with the original Bridge Vista plan.

Planner Johnson believed she had enough direction from the Commission to move forward.

Commissioner Corcoran moved that the Astoria Planning Commission continue the hearing on Amendment Request A19-01B by Community Development Director to July 23, 2019 at 6:30 pm; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

Vice President Moore called for a recess at 8:42 pm. The meeting reconvened at 8:48 pm.

Planner Scholetzky was contacted via telephone at 8:48 pm and put on speaker phone for participation in the meeting.

ITEM 4(d):

CU17-06 Permit Extension Request for Conditional Use (CU17-06) by Astoria Warming Center to extend the permit to September 6, 2020 to operate the Astoria Warming Center at 1076 Franklin Avenue (Map T8N R9W Section 8CC, Tax Lot 2300, Lots 5 and 6, Block 45, McClures) in the R-3 (High Density Residential Development Zone).

Vice President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of

interest or ex parte contacts to declare. There were none. Vice President Moore asked Staff to present the Staff report.

Planner Scholetzky reviewed the written Staff report via PowerPoint. The City received five letters in support of this request, which were included in the agenda packet. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Price asked if there was any mechanism for extending the 120-day season and the 90-day limit on operating the warming center. She also wanted to know if the limit was state law, city code, Development Code, or fire marshal. Last year, it was very cold in March when the warming center had to close. Planner Scholetzky explained that the conditions of approval in the original conditional use permit approved in 2017 did not include the 90-day limit. She would need to do more research to find out where that came from. If the original conditions are changed substantially a new review would be necessary.

Vice President Moore believed the 90-day limit was required by the State Fire Marshal.

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

Annie Martin, 1024 Grand Avenue, Astoria, President of the Astoria Warming Center Board, said during their last season, the warming center provided vital services with minimal impact on the surrounding neighborhood. No changes were being proposed and the agenda packets included an alternative site analysis, which shows there are still no other affordable or feasible properties available at this time. The center continues to meet its neighborhood commitment, holding three meetings each season. The first and second meetings of the last season had less than a handful of attendees and no one attended the third meeting. Only one complaint was logged and it was addressed immediately. Last season, the warming center was open for 80 day and this season, they were open for 90 days. On 26 nights during this season the wind chill was less than 30 degrees. They served 185 unique individuals during the season, which was more than last year. The biggest increase was in the over 55 age group. Forty-six percent of the nights they were open they had more than 25 guests. For 31 nights, the center was at capacity. A total of 2,272 overnight stays and over 5,000 meals were provided. Community support has increased this season with a number of downtown businesses providing meals and donations of supplies and cash.

Vice President Moore called for any testimony in favor of the application.

Rick Bowers, 357 Commercial, Astoria, presented Staff with a copy of the Oregon Fire Marshal regulations. He said he hoped the Commission received a copy of the declaration of support with 210 signatures, which was delivered to Staff at 4:30 pm that day. About 60 of the names are people who use the warming center or are unsheltered.

Vice President Moore called for any testimony impartial or opposed to the application. Hearing none, he called for closing comments of Staff.

Planner Scholetzky stated the Oregon Fire Code limits the warming center's operation to 90 days.

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

Commissioner Cameron-Lattek said she was happy to see the concerns were down and were being addressed quickly.

Commissioner Price stated she appreciated that the organization continues to professionalize.

Commissioner Cameron-Lattek moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Permit Extension for Conditional Use CU17-06 by Astoria Warming Center; seconded by Commissioner Price. Motion passed unanimously.

Vice President Moore read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

There were none.

STAFF UPDATES/STATUS REPORTS:**Meeting Schedule**

- July 2, 2019 at 6:30 pm – APC Meeting (as needed)
- July 23, 2019 at 6:30 pm – APC and TSAC meeting

Vice President Moore noted that on Tuesday, August 6, 2019, the Planning Commission meeting will address some of the Uniontown Reborn issues that are time sensitive. He would not be able to attend that meeting.

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:08 pm.

APPROVED:

[at the 7/23/2019 APC meeting / with changes]

Community Development Director



DESIGN REVIEW COMMITTEE

Astoria City Hall

July 11, 2019

CALL TO ORDER:

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

ROLL CALL – ITEM 2:

Commissioners Present: President Jared Rickenbach, Vice President Ian Sisson, Bob Levine, and Hilarie Phelps.

Commissioners Excused: Sarah Jane Bardy.

Staff Present: Contract Planner Johnson and Secretary Taylor. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES – ITEM 3:

There were no minutes to review.

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):

DR19-02 Design Review DR19-02 by Walt Postlewait to construct four buildings of 66 mixed apartment/transient lodging units at 461 32nd Street in the Gateway Overlay Zone and Civic Greenway Overlay Zone in the C-3 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 early on in the project, Mr. Postlewait contacted Rickenbach Construction about the potential of working on the project. The company declined the opportunity. As a general contractor, he had a potential conflict of interest. He also declared ex parte contact when he saw preliminary documents early on. He asked if anyone objected to him participating in the hearing. There no objections.

Commissioner Levine declared that he visited the site, but he had not made any decisions based on what he saw.

President Rickenbach called for a presentation of the Staff report.

Planner Johnson reviewed the Findings and Conditions contained in the Staff report. She noted that references to Beehive Roofing would be corrected to Bee Line Roofing. Staff recommended approval with conditions.

Commissioner Levine said he was concerned about the impact on traffic, water, and wastewater. He asked if those issues would be addressed in the Environmental Impact Report. Planner Johnson explained that the report would review the contamination on the site and what is necessary to clean up the site. Stormwater runoff and traffic are addressed by the Planner because they are not part of the DRC's purview. The Planner works with the City Engineer on this and the Applicants will need to provide stormwater management. The Applicants have already submitted a traffic impact study.

Vice President Sisson noted a typographical error on Page 2 of the Staff report regarding the number of units in Building B. Planner Johnson confirmed that Building B would have 18, one-bedroom units and 3, two-bedroom units.

Vice President Sisson asked how many bicycle parking spaces were required and how many were being provided. Planner Johnson stated she did not remember the exact number, but the project met the minimum requirement. She added that bicycle parking was part of the Planner's review.

Vice President Sisson asked how the City would enforce the condition of approval requiring the lighting remain face down. Planner Johnson explained that the City would contact the property owner to request compliance. If the property remained non-compliant after the third letter, the City can cite up to \$1,000 a day. She confirmed the enforcement process was complaint driven.

Commissioner Phelps said the two-bedroom designs were missing a wall down the middle and they could easily be two separate units with separate decks. She asked if the Applicant wanted to turn the two-bedrooms into individual units by adding a wall and a kitchen. She assumed this would require a building and zoning permit and parking requirements. Planner Johnson confirmed that would require a building permit, which includes parking requirements.

President Rickenbach asked if the divider walls would match the siding. Planner Johnson explained the Staff report included an artist's rendering. The fiber cement material would match the wall.

President Rickenbach asked if the 52 feet to the Rivertrail was measured from the deck or the building. Planner Johnson stated it was measured from the edge of the deck.

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

Randy Stemper, P.O. Box 1417, Astoria, stated he was the project manager and part of the development team. He thanked Planner Johnson for the time she spent in the pre-application meeting and for her Staff report. The project was specifically designed to meet the old Codes, current Codes, and proposed Codes for the area. The owner is aware of the community's concerns and has spent a great deal of time and money getting the project to this point. He understood several of the Commissioner's questions were not related to the criteria. However, he noted that the traffic impact study had been prepared and he was waiting to find out what format the City would like it finalized in. A geotechnical report had been ordered for the stability of the property and the wastewater treatment. The current bike rack design provides 12 spaces outside, but only 11 spaces are required. Bike racks will also be available underneath the stairwells inside the building. He confirmed that a wall and kitchen were removed to create the two-bedroom units.

Commissioner Phelps asked if that was done for parking concerns.

Mr. Stemper said the two-bedroom units had nothing to do with parking and the Applicant exceeded the parking requirement. He added that all the requirements had been exceeded.

Commissioner Phelps asked if the wall would be kept at the deck.

Mr. Stemper said no and added that there was no intention to change the two-bedroom units to one-bedroom units. Doing so would require a formal process.

Commissioner Phelps asked if the wall would be kept at the deck as a design decision.

Mr. Stemper stated the wall would likely be removed. There is no reason for the wall to remain.

President Rickenbach confirmed with Mr. Stemper that the divider walls would match the siding. He asked how the steel rails around the decks would be detailed.

Mr. Stemper said the rails would be glass with stainless steel supports.

Commissioner Levine confirmed that the Applicant would be willing to install lighting that could not be articulated.

Mr. Stemper added that they had been asked to propose a light fixture and the fixture they decided on was not chosen because it articulated. The fixture simply met requirements in other jurisdictions they had worked in.

Walt Postlewait, 36468 River Point Dr, Astoria, said he was excited about the project, which had been in process for over a year. He was not a typical developer and he was not planning to flip the property in two or three years. This is a long-term investment in the community. His work is in and around community building and finding solutions. He was proud to be a good problem solver. For the last three or four years, there had been a lot of conversation about housing and his idea was to create housing for working citizens in the \$15 to \$18 an hour pay range. He first reached out to Planner Johnson in September to start talking about how to make this project fit with what the City wanted. He was thrilled with the designer who anticipated the upcoming Code changes. The project was designed to meet Codes and he was not asking for any variances. Parking requirements will be exceeded. He hoped the tenants would ride bikes to work. The building is right next door to Safeway and the new co-operative is six blocks away. He missed the goal a bit but believed his units would best accommodate people who make \$16.50 to \$18 an hour. Development is expensive and it is not possible to market the units to those in the \$12 to \$15 an hour pay range. Based on construction costs, he anticipated property taxes of \$180 per month per door. However, he tried to engineer the project to market the units in \$15 to \$18 an hour pay range. He had no intention of making the one-bedroom units into two-bedroom units. Two-bedroom units have already been developed on the south slope on the back side of the Yacht Club and in Warrenton. Astoria really needs one-bedroom units, which helps bring the price point down. He tried to make the project fit with what the City wanted and he was open to what the DRC wanted if he missed something. Everyone on his team was local and he did not want the Commission to view the project as a typical developer coming in to make money.

President Rickenbach called for testimony in favor of the application.

Gay Williams 396 31st Street, Astoria, said her house was to the north of this project and she was thrilled about it. She had been trying to sell her property off and on for over four years and have not been able to primarily because the property behind hers was such a disaster. The property on the other side of the Riverwalk should belong to the same person. The property is a cat haven called Needle Hill because people go there to do drugs and spend the night. The property is a mess all the time. She hoped the developer had plans to clean up that side of the Riverwalk so it does not remain a hangout for the homeless.

Mr. Postlewait stated he would not be purchasing that parcel. However, he wanted to share his ideas with Ms. Williams after the meeting. When he originally negotiated the purchase price for his property, he wanted that parcel included as well. However, he and the seller could not agree on a price.

President Rickenbach called for testimony impartial or opposed to the application. Hearing none, he called for closing remarks from Staff. There were none. President Rickenbach closed the public hearing and called for Committee discussion and deliberation.

Commissioner Phelps said she did not have issues with the request.

Vice President Sisson stated he believed the Staff report was on point. He thanked the Applicant and project manager for their presentations. The project met all applicable criteria.

Commissioner Levine said the Applicant had agreed to remove the articulated lighting as a condition, so he was fine with the request.

President Rickenbach noted he was not concerned about the lighting because he believed the Code covered lighting requirements. If the fixture fit the criteria, he was fine with that.

Commissioner Phelps moved the Astoria Design Review Committee adopt the Findings and Conclusions contained in the Staff report and approve Design Review DR19-02 by Walt Postlewait with conditions and with the following corrections to the Staff report:

- References to Beehive Roofing would be corrected to Bee Line Roofing throughout.
- Page 2 – Building B, 21 units (~~42~~ **18** one-bedroom, 3 two-bedroom)
- Page 5 – Add "Privacy walls will match the façade material of the building."

Seconded by Vice President Sisson. Motion passed unanimously. Ayes: President Rickenbach, Vice President Sisson, Commissioners Phelps and Levine. Nays: None.

President Rickenbach read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS – ITEM 5:

There were no reports.

STAFF UPDATES/STATUS REPORTS – ITEM 6:

Save the date – Next DRC meeting: Thursday, August 1, 2019 at 5:30 pm

Planner Johnson noted Commissioners would begin to hear about the proposed Grocery Outlet and reminded them to avoid ex parte contact. She also reported that recent Code updates expanded the DRC's authority to review all design reviews except historic and formally changed the DRC from a committee to a commission. She confirmed for Commissioner Phelps that the Urban Core Code amendments took a back seat when Staff had to deal with issues in the Bridge Vista Area. Miscellaneous transient lodging, and Riverfront Vision codes have been adopted except for the section concerning height and mass in the Bridge Vista Area. The Planning Commission will review height and mass at the end of July and City Council will review the Commission's recommendation at the end of August. Next, the Uniontown Reborn Standards for the area outside the Bridge Vista will be reviewed by the Planning Commission August 6th and their recommendation will be reviewed by the City Council in September or October. She hoped the Planning Commission could review the Urban Core in September or October.

President Rickenbach encouraged Commissioners to attend the public meetings. He noted he would speak to Planner Johnson after the meeting to ensure he could avoid ex parte contact with the developer of the Grocery Outlet project.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:12 p.m.

APPROVED:

Community Development Director

HISTORIC LANDMARKS COMMISSION MEETING

City Council Chambers
July 16, 2019

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: Victoria Sage, Jack Osterberg, Katie Rathmell, Mac Burns, Paul Caruana, and Ian Sisson. Michelle Dieffenbach arrived at approximately 5:20 pm.

Commissioners Excused: None.

Staff Present: Contract Planner Mike Morgan; Contract Planner Rosemary Johnson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES – ITEM 3:

Commissioner Caruana moved to approve the minutes of the May 21, 2019 meeting as presented, seconded by Commissioner Osterberg. Motion passed unanimously.

PUBLIC HEARINGS:

President Burns 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):

EX 19-02 Exterior Alteration Request (EX 19-02) by Harka Architecture, LLC, on behalf of Liberty Restoration, Inc. for construction of an enclosed, glass entry vestibule at the main entrance of the theater; create a new ticket window inside the vestibule; install poster display frames in the vestibule and to the exterior columns; and add new lighting on an historic building at 1203 Commercial Street within the Downtown Historic District in the C-4 Zone.

President Burns received no objections regarding the jurisdiction of the Historic Landmarks Commission to hear this matter at this time; received no notice of conflicts of interest or ex parte contacts from Commissioners.

Commissioner Dieffenbach arrived at approximately 5:20 pm.

President Burns requested a presentation of the Staff report and recommendations.

Planner Morgan presented the Staff report and recommended approval.

President Burns confirmed that the Commissioners did not have any questions for Staff. He opened public testimony for the hearing and asked for the Applicant's presentation.

Patrick Donaldson, Architect, Harka Architecture, said he had not prepared a presentation but wanted to add to what Planner Morgan had said. He stated the idea is for the glass to be as invisible as possible so the historic nature of the theater would not be touched. It will be a departure from the existing style with the intention of being obviously an addition to allow the space to be translucent and also operate in a more modern fashion in terms of the ticketing. He added that currently people go the ticket booth from the street and it is a real debacle trying to get tickets there, and this would allow people to file through and have three places for tickets, one from the existing kiosk outside the two ticket windows. Mr. Donaldson added that there would be movie posters inside the archways that would display what is happening so people could look through the glass and see those on display even if the doors were closed and the facility wasn't open.

- The proposal also included poster frames on the pilasters on the outside facing the street, which harkens back to the original design of the structure. They had large, lit signage and frames for posters so one could see what was showing at that time. He mentioned there was also some discreet lighting inside, soffit

lighting. And in the entry they are bringing back what they believe is the original chandelier in the central piece. What is there currently does not match the facility at all.

- He concluded, saying that overall the alterations would be a real uplift to the space, adding some color and light to it, and that the theater will be more of a beacon along that edge when driving by it in the evening.

President Burns asked if Commissioners had questions for the applicant.

Commissioner Caruana asked if the ceiling was arched where the glass is and if the glass would go all the way up to the ceiling or does it stop.

Mr. Donaldson replied that the archway was hung from the structure above and explained the floor above is a frame floor (the room above it is an event room). He said the archway does not have any structural integrity – it is a wire mesh with plaster attached to it. They will cut that back, take the glass up to the structure for rigidity and wind resistance, and then bring the arch back to it.

Commissioner Caruana asked if the glass would interrupt the wall along the detail or in one of the arches.

Mr. Donaldson replied that they found a location that was as minimal as possible. He indicated on the screen at a detail, the same detail that is out in the front, a small Corinthian sort of column that has a detail in it. They would cut an incision through the plaster and the glass would disappear into the wall. He stated it as being the most minimal touch they could give it and still be waterproof.

Commissioner (unknown) queried if there were brackets on the wall or if they would space it on the wall.

Mr. Donaldson replied that they want it to be somewhat conditioned, and also every time there is a hole there is more opportunity for noise. Additionally, the walls are plaster, and behind them are clay tile blocks. There is no real structural integrity with that either. Looking at the floor plan, all of the structure is accomplished with glass fins that go floor to ceiling, and that will be resistant to wind and (inaudible; 0:14:12). Figuratively, visually, and literally it is a very light touch to the structure.

Commissioner Osterberg asked about the finish of the glass, inquiring how the glass might be finished or treated, such as tinted, frosted, or non-glare.

Mr. Donaldson said the glass would be as clear as possible. They make different shadings, and because this is facing west, tinting was suggested because of the heat. But the applicant reiterated wanting the glass to be as clear as possible for the translucence. From a safety standpoint, they have talked about some minimal etchings on the glass so that people will not walk into it.

The Commissioners had no further questions for the applicant. President Burns asked for presentations in favor of, impartial to, or against the applicant. No other presentations were offered. President Burns called for closing remarks by Staff. There were none. He closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Commissioner Dieffenbach said she had no issue with the renovation. She believed it would be be great and was something the theater has needed for a long time, and she was excited to see it happening. And she felt they the Applicants were doing it in an appropriate way and that it met the criteria.

Commissioners Caruana, Sisson, and Rathmell agreed.

Commissioner Osterberg commented that the staff report had good findings and he agreed with the project.

Commissioner Sage also agreed and believed it would do nothing but enhance the overall experience at the theater.

President Burns agreed as well and called for a motion.

Commissioner Dieffenbach moved that the Historic Landmarks Commission (HLC) adopt the Findings and Conclusions contained in the Staff report for Exterior Alteration Request EX 19-02 by Harka Architecture, LLC, on behalf of Liberty Restoration, and approve the request with the conclusions and recommendations, seconded by Commissioner Caruana. Motion passed unanimously.

President Burns read the rules of appeal into the record.

ITEM 4(b):

EX19-03 Exterior Alteration Request (EX 19-03) by Jay Raskin, Architect, on behalf of Innovative Merwyn, LLC, to alter the exterior by removing the metal fire escape; reconfigure the west entrance; install new HardiPlank siding; replace windows on the west façade; enlarge the elevator shaft for ADA compliance; replace the main entry door; and install an electronic entry system on an historic building at 1067 Duane Street within the Downtown Historic District in the C-4 Zone.

President Burns asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. President Burns asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare.

Commissioner Sage declared a conflict of interest. She recently sold property to Innovative Housing Northwest, aka Innovative Merwyn. She recused herself from the hearing and stepped down from the dais.

Commissioner Rathmell declared ex parte contact and recused herself as she has been on some work for the Merwyns. Even though this did not include anything she would be working on, there was a potential of financial interest on the whole. She stepped down from the dais.

Commissioner Caruana said he toured the building when he had the building under contract eight or ten years ago but he was happy to see someone doing something with the property.

Commissioner Sisson said he drives by the site every day, but today he paid attention to what it looked like on 10th Street from in front of the library, and what he saw was that façade of the building was in really rough condition. He had to crane his neck to really get a look at it as he wanted to see how visible it was from that part of the street. He stated he feels no bias at all but wanted to declare the site visit.

President Burns requested a presentation of the Staff report and recommendations.

Planner Morgan presented the Staff report via Power Point. Staff received a request about whether or not the fire escape was a distinctive feature of the building when it was listed and was not able to find any mention of the fire escape in the designation. One aspect that was not mentioned in the Staff report, but is considered an appropriate activity, is the expansion of the elevator shaft on the top of building to accommodate the installation of a larger elevator. Based on the Findings of Fact, the request meets the applicable review criteria, Staff recommends approval with conditions.

Commissioner Osterberg asked about Condition of Approval No.1: the applicant shall confirm if the new door on the west entry will match the main entry door, saying that from his perspective it does not work well as a Condition of Approval because it asks a question and waits for the applicant to answer. What would be done if the door does not match? It might be best to have it addressed here, or reword the Condition of Approval to require that it match rather than asking the applicant whether or not it matches.

Staff responded that they could rephrase Condition of Approval No.1 to say "the applicant shall ensure the new door on the west entry will match the main entry door (staff said west entry door will match west entry door; corrected to main door). Staff did not have detailed drawings of that door which was why the Condition of Approval was originally phrased that way.

President Burns asked Commissioner Osterberg if he was comfortable if they discussed it during deliberations and make a recommendation with whoever makes the motion. Commissioner Osterberg agreed, saying he wanted to raise it at the beginning, leaving the answer open so they would all have a chance to think about it.

President Burns opened public testimony for the hearing and asked if the Applicant wished to make a presentation.

Jay Raskin, Architect for the project, stated he was pleased to be back in front of the Historic Landmarks Commission as it had been a while since he had made a presentation. He said it was a particular pleasure as he had started getting involved with this building in 2002 when the City asked him to do a feasibility study, and that

it is a real pleasure to see this building is finally moving forward. He noted that he would be talking about what they are saving, while Julie Garver from Innovative Housing will talk about the changes they will make.

- The Applicant will be keeping the west façade pretty much intact, the grit veneer will be cleaned and the wood windows restored. The main entry door to the lobby is being replaced because of requirements by the client to have an electronic opening door device (electronic entry system?). The current door is slightly warped and to have an electronic locking system the door needs to be true, and their experience at other historic properties is the system does not ever really work unless you have a new door panel.
- The wall under the storefront is marble that has been painted over; they will remove the paint and restore the marble. The transoms will be restored. On the interior of the building they are keeping the lobby in the original condition as much as possible, besides adding a larger elevator. The original stair will remain and the primary corridor system remains as well. The applicant finished by saying he was prepared to answer any questions the Commission might have.

Commissioner Sisson noticed in the photos of the façade of the building some subtle ornaments on the first level below the cornice, and on the top level above the top cornice, which do not show up in the applicant's elevation drawings. He asked if that meant they were going away or just were not drawn.

Mr. Raskin confirmed that the ornaments just were not drawn, adding that they have no original drawings and that it was hard to get up there to make [them \(inaudible; 0:32:46\)](#).

Commissioner Caruana asked about the original siding on the west facing the recessed wall wondering if it had been asphalt shingles or an old metal siding in the 1920's.

Mr. Raskin replied they had just recently found out that the original wall might actually have been plaster, as John Goodenberger had recently found a photo that shows it might have been that; in most people memories it is rather a diamond pattern asphalt. Mr. Raskin added that it was clear the west façade has had [water infiltration \(inaudible \(0:33:37\)\)](#) issues and that whole wall is almost all rotted now.

Julie Garver, Innovative Housing and Innovative Merwyn, LLC, 219 NW 2nd Avenue, Portland, addressed the changes they would be making. She said she would address the doors first since they had been questioned. She told about a building they had done in Portland, called the Erickson Saloon, where they had tried to retain the front door which they did not think was the original door, but it was old and it was big, and she could save some money by keeping it. So they kept it and had constant problems with the electronic entry system that provided the security, because the door was warped. It just did not fit correctly. They worked with Versatile Sash and Door ([there is a Versatile Sash and Woodwork, Inc., or Classic Sash and Door](#)) in Portland to exactly replicate the door, the look of the door with all of the molding and detailing, but it was a laminated process, which is what they use for most of their work now on exterior applications. The door is going to be very stable into the future. That is what they have planned for both of the front doors. And the west door will match the entry door; they will be made together.

- The other change on the front façade is the removal of the fire escape, which they have done with all of their historic buildings when they can, if they do not need them for egress. This one was a poor choice for egress because of its location on the building as they needed to create that back stairwell all the way down to the basement and then a corridor to the front to provide egress. She stated that as an organization they feel the fire escape obscures the character defining elements of the building, that they provide a security risk, they are difficult to maintain, and very expensive to maintain and inspect over time. So they would like to remove it and restore the brick that has been damaged underneath the fire escape.
- She referred to the little addition to the doghouse up on top of the roof, saying that it is nice that the addition is toward the center of the building because it is not going to be very visible as one looks up at it from the east, the west, or the front.
- She talked next about the west side alteration, which will basically be a reconstruction of the west wall as they will have to demolish it and rebuild it. She said their preference to put lap siding on is one mainly of durable materials. The wall has been leaking for a long time, and there were a lot of stopgap measures done to it, none of which really worked very effectively. Ms. Garver stated they are going to own this building for the long term and really want it to hold up, noting that it gets exposed to a lot of weather. The vinyl windows are for the same reason. They are looking at a one over one pattern to blend with the historic windows that are on the front of the building.
- She noted that her contractor, Don Silvey, was there to talk about their choices for materials.

Don Silvey, Silco Commercial Construction, said they had been looking at this building for many years for different clients and had an opportunity to work with Julie and Innovative Housing. This will be the fourth project they have done together. He said he would be talking specifically about the west wall and the problem of reinventing it for stucco in this particular climate. They have done EIFS (acronym for a synthetic stucco); and it exposes itself to weather and dry rot, which is the biggest problem with the building right now. The most economical solution is to put in a drainage system and put the HardiPlank siding on it. He thinks it will work very nicely as far as architecturally, and it will last a long time and it is low maintenance. That was his recommendation both from a cost standpoint and a long-term solution.

Commissioner Caruana asked if there was any consideration for any other window solutions besides vinyl, something with a dark finish or that could be painted, not necessarily advocating they should be wood, just wondering if there was something a step up from vinyl.

Ms. Garver believed they could certainly consider something different for the top two levels, the ones that are visible on the west side. She talked a little to SHPO (State Historic Preservation Office), Joy Sears, about this, regarding the wall being very vulnerable to weather and not wanting to put wood windows there. She related that Joy understood that. The building never had wood windows, so that was good. The metal window options are problematic because they are so expensive and the insulating value is not good at all. The first choice would be to get a vinyl window that had a color to it, not just white, so that they would better. A second choice might be fiberglass, which they are not crazy about due to a bad experience with it on a building once that was new construction and 300 windows leaked. The manufacturer did work with them and repaired the windows but it was a long, expensive process. So they are not too fond of fiberglass but it is a possibility that the National Park Service might say they need to do fiberglass. She had asked Joy Sears about differentiating the two floors of windows that are visible from the street, and she thought that might be a reasonable approach. Ms. Garver said they would be open to that approach as a solution if the Commission would like them to consider it.

Commissioner Caruana asked about the exposure on the lap siding and if there were casings around the windows.

Ms. Garver replied they have plans for casings, so it would be a traditional look. They were thinking about 6" but they are open if the Commission would like to see something different.

Commissioner Sisson wanted to know if the west entrance would match the front entrance.

Ms. Garver confirmed it would and explained the door was a slightly different size as the main lobby entrance is wider, but it will match in style with a full glass panel and it will be proportionate.

Commissioner Sisson asked if a finish had been selected for the HardiPlank, and followed up with a query about color choice.

Ms. Garver said they like the smooth finish because it is more representational of what an historic finish would have been like. She indicated they need to do some research on color.

President Burns interjected saying they could not consider color. She could answer if she wanted but color was not something the Commission could take into consideration whatsoever.

Ms. Garver said they were going to do some research on the building to find out what it was originally. They did so before on a building in Portland and had good results.

President Burns called for any presentations by persons in favor of, impartial to, or against the application. Seeing none, he called for closing remarks of Staff.

Staff referred to Ms. Garver's statement about using the smooth finish for the HardiPlank, saying that it would be a good addition to the conditions as they consistently try to encourage people to use smooth finish rather than wood textured. On Ms. Garver's comment regarding window casings, which would presumably give it something of an inset on the west side, so it would not be a flat appearance, though the location is obscured and is almost impossible to see, the casings would give it definition that will be acceptable.

President Burns closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Commissioner Caruana said he liked everything, though he wished they would get details such as the smooth finish and window casings. He kept noticing buildings with flat trim, flat windows, and flat siding and he thought they look terrible. He understood it was kind of a party wall and not very visible, but noted it could actually be seen from the hill a little bit, a distant view from a lot of vantage points. It was difficult for him to say yes given the lack of detail. He did not like white vinyl windows anywhere downtown. Otherwise, he was excited about the project, the fire escape coming off the elevator penthouse. The drawings show the entry doors looking a little different, but it sounded like they were going to match. And he understood about these automated doors. Some of the old doors are too heavy, whether they are warped or not. Even if they are straight, they are too heavy to operate with motors especially in windy corridors. If you are automating doors it is almost a given you have to modernize the doors as well.

Commissioner Sisson agreed that it would be nice to see more details on the west façade, around the windows, and agreed it was a good idea to require the smooth finish. The Applicants already said they were going with the smooth finish but he would support adding it as a condition. He said he was interested in what the other Commissioners thought about the windows and the material of the casings as he was undecided on that point and if they need to do anything additional.

Commission Osterberg said he supported the project and agreed with the findings in the Staff report. Staff had already described how Condition 1 would be changed to require the matching doors. He also agreed with the condition requiring the smooth finish of the HardiPlank. On the subject of the windows, he said he was unsure of his own opinion regarding the amount of detail on the window frames or even if the material itself should be changed from vinyl to something else. He had not heard any strong explanation of why something else would be better. So he would have to hear how something was going to be better in this particular case. The Applicants had given some analysis to alternatives but admittedly their analysis was not focused on historical context. He would be interested to hear from fellow Commissioners on that note.

Commissioner Dieffenbach said she supported the project and appreciated what they were trying to do. She agreed that adding smooth to the siding would be a good idea and that there were not a lot of details. However, she was fine with vinyl windows on that side as it was not a prominent façade and sat way back. There was a chance that someday the library might be torn down and it would become more prominent, but there was a good chance there would be another building in the location site. Looking at the details around the windows on the brick entry, she did not know if they have any molding around them and the sills looked to be concrete. She said it would be nice to see the trim around the windows versus having the siding come up to the windows because it would look more historic and more finished. (fragments + inaudible / traffic noise). The vinyl windows did not bother her because (inaudible; 0:49:50) are not up close looking at them, and with trim around them it would offset that so it is visibly a lot more correct from that direction. She would be comfortable with putting a condition in that would address that.

President Burns voiced his support and said as a person who likes fire escapes he was okay with removing this one. He also said he liked the elevator structure on the roof. He stated that in this instance, with this wall and vinyl windows, he agreed with everything that had been said but he could support the project with whatever conditions the Commissioners wanted to add in terms of more detail. (0:50:51) (cross talk conference somewhat off mic; did not capture but regarded conditions added below)

Commissioner Caruana recommended allowing up to a 6" inch exposure on the siding. He could not stand seeing staggered joints when stair steps are run up the siding because it looks cheap. The wall would not be completely invisible. He also wanted casing details, something that added depth, like 1 ½' casings.

The rest of the Commission indicated they supported those recommendations.

Commissioner Caruana moved that the Historic Landmarks Commission (HLC) adopt the Findings and Conclusions contained in the Staff report for Exterior Alteration Request EX19-03 by Jay Raskin, Architect, on behalf of Innovative Merwyn, and approve the request with the following conditions and changes:

Changes to previous conditions:

- Condition 1. Both entry doors on the north façade will match one another. (this differs from what staff said earlier @ 0:28:47)
- Adding the following conditions:

- Condition 4. The lap siding will be smooth with the exposure not to exceed six inches.
- Condition 5. The windows have a full casing, with the casing depth a minimum of an inch and a half deep.
- Condition 6. Vinyl windows are approved so long as they are not shiny white.

Commissioner Dieffenbach seconded the motion. Motion passed unanimously.

President Burns read the rules of appeal into the record.

President Burns noted that Commissioners Rathmell and Sage had returned to the dais.

ITEM 4(c):

NC19-04 New Construction Request (NC 19-04) by Walt Postlewait to construct four buildings of 66 mixed apartment / transient lodging units at 461 32nd Street within the gateway Overlay Zone and Civic Greenway Overlay Zone in the C-3 Zone. The structures will be adjacent to structure(s) designated as historic.

President Burns asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. President Burns asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare.

Commissioner Sisson declared that he reviewed the project last week with the Design Review Committee so he was familiar with some of the details.

Commissioner Caruana declared that he lives close by and walks by it frequently and is familiar with some of the people involved, Walt Postlewait, and stated none of that would affect his weighing in on it today.

Commissioner Dieffenbach declared that she was also familiar with the property and those involved.

Commissioner Osterberg declared that he had walked through the site the other day and walked all around it and viewed it from different angles and looked at the surrounding area.

President Burns declared that he knew Randy Stemper who was present, but did not know what his role was on the project. Mr. Stemper had been a member of the Clatsop County Historical Society for as long Mr. Burns has been here. He stated they had not discussed this project and that whatever his role might be it would not affect his judgment on this.

President Burns requested a presentation of the Staff report and recommendations.

Planner Johnson presented the Staff report via PowerPoint. She noted several corrections to the Staff report: Beehive Roofing should be Bee-Line Roofing; a correction on page three, the number of units for Building B should be 18 one bedroom units, not 12; another correction on page five: the walls will be of similar material to the building façade.

- She pointed out that the project is going to be a mixture of full-time residential housing and transient lodging. The applicant is not determining at this point how many of each. He is building everything to the fullest code requirements, so if it takes more parking for one use over another he is putting enough parking the highest use. For construction purposes, whatever the highest construction requirements are he is using that. So no matter which option he goes to, or how many rooms, he will meet all of the other standards. Those are zoning issues that the Commission does not review but she wanted to make it known so they were aware of the numbers (going on? /inaudible). Staff emphasized the buildings would be set back 52 ft from the River Trail not from the property line.
- There was one letter of correspondence sent to the Planning Commission which was included in the Staff report. One of the comments included in the letter was about the transient lodging and having people outside the area come in. The City has no regulations concerning developers, whether they are in town or out-of-town. This team is all in-town. Transient lodging was allowed as an outright use in that area meaning that zoning allows it, so there is not review of the idea of transient lodging versus housing. Both are allowed and the Applicants could do any number of those units without any additional review.
- Staff recommended approval with the standard conditions.

President Burns asked for questions for Staff; there were none. He opened public testimony for the hearing and asked if the Applicant wished to make a presentation.

Walt Postlewait, 36468 River Point Drive, Astoria, started by saying they have put a lot of thought into the design on this project, and they are all local. They live there, and want to be part of the solution, not the problem. He said they know what the City is trying to do and it is how they designed this. They tried to match the siding to look historic and frankly there was minor brilliance with Mark Mead coming up with the monitor roof style. He noted that it really paid homage to Big Red. As they all know, Big Red was badly damaged in the 2007 storm and did not really look the way it used to when it was truly historic. He stated the team really understood the area, understood Astoria and what they were trying to do. They sought guidance pretty early on this project and now they bring it to the Commission

Commissioner Osterberg asked about the wall-mounted lighting fixture, commenting it seemed to be excessively modern or contemporary in design. It did not seem to fit with the architectural style that maybe they were trying to achieve elsewhere on the building and in the surrounding area. He wondered if the applicant had an opinion about the lighting fixture design, and if he was open to considering something more historic or less modern.

Mr. Postlewait responded that the lighting fixture was the example they found of an LED light within a reasonable price point. Part of the project is to do it within a reasonable construction cost because personally he had some price point targets that he was trying to meet and unfortunately he had already slipped past that. He stated he was not completely open to changing it as he was trying to find a balance between what looks good, the LED aspect, from a longevity but also an energy efficiency standpoint.

Commissioner Rathmell said she appreciated the detailing on the casing for the windows, and asked if he had considered using divided lights, maybe just on the monitor roof windows, to give it a little more relief and definition like the ones shown in his examples.

Mr. Postlewait said that they had not crossed that bridge yet, but he would be more open to that idea on the monitor roof than on the lower windows because they were also trying to accentuate the view for the residents inside looking out. Those were not necessarily view windows

Commissioner Rathmell confirmed that was why she asked. She figured he was trying to get the biggest view out of the lower windows. It would give a nice detail and wondered if he would be interested in looking into that.

Commissioner Caruana had a construction question regarding the windows, referring to Rosemary Johnson's comment that the historic standard was a two-inch recessed window, and asked if one-inch deep trim how the windows are recessed two inches, he could not see it looking at the cross-section. Usually vinyl windows go up against the sheathing and then the 5/4", so it would only be recessed -

Randy Stemper, PO Box 1417, Astoria, said they had looked at multiple window manufacturers, the rule is the glass has to set the one inch back with the two inches over all. There is a manufacturer out there that does that, it is rare, most of the glass sits forward. There is a way of doing that.

Commissioner Caruana said he saw vinyl windows all over along the waterfront and usually saw siding, 5/4" trim, and then the vinyl and the glass was not even an inch back which creates a really one dimensional façade.

Mr. Stemper replied that staff was very specific about that.

Mr. Postlewait stated that if the Commission would allow it, they would consider something different.

Commissioner (unknown) said he liked the project over all but expressed concern about the windows, saying they were all up and down the Riverwalk. He wondered what was being done to be sure they get two inches, where it starts and stops.

President Burns called for any presentations by persons in favor of, impartial to, or against the application. Seeing none, he called for closing remarks of Staff.

Planner Johnson clarified that on historic sites the City wanted the glass two inches back from the façade, and then place the casing on the outside even beyond that. The two-inch depth for the windows prevents a façade with a flat wall.

President Burns closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Commissioner Sisson said he supported the project and believed it met all the criteria. He appreciated the effort that went in early on to know what the criteria were and to bake that into the design.

Commissioner Sage agreed.

Commissioner Osterberg said he agreed that the project met the criteria, and was a pretty good treatment of a new construction adjacent to historic structures. He repeated his concern that the exterior light fixture was not a good match to the more historic character of the proposed building, but he was willing to hear what other Commissioners thought about that.

Commissioner Rathmell said she believed it was pretty well designed and would like to see some kind of divided lights on the monitor roof. If they were turned into divided lights, they would have to be true divided light. Other than that the project matched what had been going on down at that end of town.

Commissioners Dieffenbach and Caruana also support the project.

President Burns said he supported the project and appreciated the attention to detail both from the Applicant and from Planner Johnson.

Commissioner Sage moved that the Historic Landmarks Commission (HLC) adopt the Findings and Conclusions contained in the Staff report for New Construction Request NC 19-04 by Walt Postlewait, and approve the request with the corrections to the Staff report: Beehive is Bee-Line, page three is 18 units, and Page 5, the wall is similar to façade siding material, seconded by Commissioner Sisson. Motion passed unanimously.

President Burns read the rules of appeal into the record.

REPORTS OF OFFICERS – ITEM 5:

Commissioner Sage said she was moving outside of the city limits of Astoria and as the Commission already has two members in the unincorporated areas she would not be able to continue to be on the Historic Landmarks Commission. She said it has been a real pleasure and thanked the Commission for having her, she had learned a lot, but this was her last meeting.

STAFF UPDATES – ITEM 6:

Save the Date:

- Tuesday, August 20, 2019 5:15 pm HLC Meeting

PUBLIC COMMENTS – ITEM 7:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:36 p.m.

APPROVED:

(at the HLC 8-20-2019 meeting / no changes)

Community Development Director

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
July 23, 2019

CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:35 pm.

ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Vice President Daryl Moore, Jennifer Cameron-Lattek, Patrick Corcoran, Cindy Price, Chris Womack, and Brookley Henri.

Staff Present: Contract Planner Rosemary Johnson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

President Fitzpatrick called for approval of the June 25, 2019 minutes.

Vice President Moore noted the following correction:

- Page 8, sixth paragraph – “Vice President Moore confirmed that ~~the entire Commission was~~ **a majority of the Commissioners present were** in favor of a 28-foot base height.”

Commissioner Henri moved to approve the June 25, 2019 minutes as corrected, seconded by Vice President Moore. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 4(a):

A19-01B *Continued from the June 25, 2019 meeting.* Amendment Request (A19-01B) by Community Development Director to amend Development Code Sections concerning issues relative to height and maximum gross square footage in the Bridge Vista Overlay Area (exempted sections from A19-01A), as well as continued discussions regarding potential sub-areas within the Bridge Vista Overlay Area.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. There were none. President Fitzpatrick asked Staff to present the Staff report.

Planner Johnson reviewed the written Staff report via PowerPoint.

Commissioner Price said she believed what generated these changes in the Bridge Vista Overlay (BVO) was the need for public access to the river. Currently, some large areas of the river can be seen while driving along Marine Drive and walking along the Riverwalk. She preferred development be limited to bank height unless the use is water dependent throughout the entire BVO. She believed 28 feet was appropriate and was fine with moderate development. However, implementing 28 feet without discussing mass and scale eliminates public access from 2nd Street to the Port because there is no public right-of-way in that area. She believed it was essential to build public access at the west end of town. This extends to uses, which have not been discussed. Ground floors should include public spaces. None of the iterations of these proposed amendments have addressed access to the river.

Planner Johnson stated Columbia Street is one of the few large view corridors. The area under the Megler Bridge, Bay Street, and Basin Street also provide views, but those views are much smaller. Views between the

buildings at Astoria Warehouse are limited because the buildings are built out to the highway. Creating public uses on ground floors has been done in many zones. However, tourist-oriented uses on ground floors have been problematic over the years. The City is now trying to get away from tourist-oriented uses and is moving towards general development for locals and/or tourists.

Councilor Price said the last proposal for Uniontown Reborn suggested eliminating seven to 12 parking spaces on Marine Drive, where people could park and walk to the Riverwalk. This is a real problem. Allowing development that takes away the majority of the wider views people currently enjoy as they drive along Marine Drive means the City must do something about rights-of-ways and public parking so that people can get on the Riverwalk between 2nd Street and the Port.

Planner Johnson clarified that Uniontown Reborn recommends public parking in the Uniontown area, which is the south side of West Marine Drive. Other parcels not addressed by Uniontown Reborn could be used for public parking.

Vice President Moore asked if the Commission could require public access components as a function of the plan districts. He understood this could be considered eminent domain.

Planner Johnson noted that public access is required for overwater development in the Bridge Vista. Public access was not required for on land development because the intent was to get from the river trail to the river. It might be possible to require public access through a property, but she would have to check with the City Attorney to be sure.

Vice President Moore asked if the City could purchase the property at the end of Bay Street and turn it into a parking lot.

Commissioner Henri said she wanted to discuss massing and square footage maximums during this meeting.

President Fitzpatrick opened the public hearing and called for public testimony.

Stuart Emmons, 107 Kensington Avenue, Astoria, made handouts available and noted he would be speaking as a private citizen. He gave a PowerPoint presentation with comments as follows:

- He displayed sections cuts of buildings at 28, 35, and 45-feet tall. There is encouragement to do flat roofs because developers could get higher floor to floor heights on the interior of the building.
- He displayed an example of tuck-under parking and said he had concerns about the economic viability of the heights.
- He had considered floor plans with 90-feet of frontage perpendicular to the river and believed that numbers and dimensions should be tested. An office or studio apartment complex or hotel could not get too many units.
- Land costs are high, which encourages medical, dental, high end hotels, and chain drive-ins, making it more difficult to get other uses.
- Access to the riverfront, views, hotels, building massing, contributions to the local economy, and a working waterfront are all important to Astorians. He displayed the four chain hotels along the riverfront and said one of them was over 300 feet long. All of the hotels have ground floors made up of rooms and conference spaces, which provide absolutely no interface with the waterfront or the Riverwalk. The hotels create blank walls.
- He compared Astoria to Everett, Port Townsend, and Kalama, saying it was possible to get a chain to do something other than their standard designs, provide popular public access at the street ends, and provide access to the waterfront in a variety of way, including ground floor public access in buildings. He displayed examples and explained how cities, ports, restaurants, and hotels worked together to provide amenities along the riverfront.
- He considered Pier 39, the brew pubs, and the trolley to be Astoria's riverfront success. He especially appreciated the outdoor seating at Astoria Brewing and Buoy Beer.
- Fish Hawk Fisheries is Astoria's only water dependent use between the Port and Tongue Point, other than the Coast Guard. He did not believe other water dependent uses were economically feasible because of land and development costs.
- Mo's has a very poor interface with the Riverwalk and Pier 11 is just a computer lab. The City should have worked with the owner of Pier 11 to get a restaurant and make the space more accessible to the

public. Additionally, the buildings that make up Pier 8, which were purchased by Buoy Beer, will have 40 hotel rooms. He did not believe this was the best use of that building, which is one of the best remaining historic structures on the riverfront. The City should be working more proactively with the owner to get more public access. Lastly, the Astoria Warehouse site has 512 feet of frontage. The City should allow enough leeway in the zoning code to make sure something else happens on that site, as opposed to just leaving the buildings and punching in a few windows.

- A lot of work is needed on the marina, Big Red, the former rail lines that are now slated for a park, and the East End Mooring Basin. The former Seafarer Restaurant building needs to be demolished. He was not comfortable just leaving the ruins. The City should find ways to come up with programs for redevelopment and to make areas more accessible to the public.
- He asked the Commission to coordinate goals, visions, and economics with building heights, lengths, and massing. He wanted a vision for the whole waterfront first and then work the building heights and lengths into that vision.
- Astorians deserve design excellence. Astoria has not seen great architecture since the mid-century. It is time more efficiency and more creativity.
- He suggested a master plan on top of the Riverfront Vision Plan now that the Riverwalk is in place and the community has seen some new projects. The master plan should especially focus on a ground floor program.

Vice President Moore noted that no right-of-way or easement for the Riverwalk existed in front of Mo's. Mo's built their parking lot so that people would not get run over and attempted to make room for the Riverwalk, which he believed was good. Mo's did not have to allow people to walk through their property.

Commissioner Henri said she had been on the river walk in Kalama and the park adjacent to the McMenemy's property was a wonderful public space. She asked Mr. Emmons if his presentation considered the integrity of the Astoria Riverwalk and waterfront, or if the presentation was specific to the Bridge Vista Overlay, and what was he particularly suggesting for the Bridge Vista.

Mr. Emmons said he wanted to stay neutral. He was speaking about the Bridge Vista because it set a precedent for the entire waterfront. Anytime the City thinks about a portion of the waterfront, the City should also think about how that will work for the totality. He suggested the City do a master plan in coordination with the Port and Astoria Warehouse. The master plan can say which ground floor use is allowed and have goals.

President Fitzpatrick stated a 28-foot height limit would limit a building to two floors. With a 30,000 square foot maximum, a building would need to be half as long or half as wide as the McMenemy's in Kalama, which was three floors. Allowing 30,000 square feet in three floors makes a real difference, as a two-story building at 30,000 square feet would be either 140 by 105 feet or 210 by 70 feet.

Mr. Emmons stated the McMenemy's building is very popular with residents and visitors. He confirmed for Commissioner Henri that the building was built brand new by the port for McMenemy's. The hotel was modeled after the first Hawaiian because Kalama was from Hawaii.

Commissioner Henri stated the Kalama waterfront was very different from Astoria's and they had a lot more space.

Mr. Emmons added that Kalama also had a completely different economy but used them as a comparable just to get the City talking. Astoria will not copy Port Townsend but could take away some good ideas and rework things for Astoria.

Commissioner Henri said she wanted to discuss massing and building sizes because unless those items are in the Code, the Commission has not really finished its work. The Commission has agreed on height limitations and their next responsibility is make sure the city does not end up with whales that block views because height restrictions encouraged long and wide buildings.

President Fitzpatrick clarified that the Commission had not yet agreed on any height limits. He called for any testimony in favor of the application.

Jan Mitchell, 362 Duane, Astoria, stated Astoria was not Kalama or Port Townsend. Astoria is in a different situation and must take its parking situation seriously because there is not a lot of land for expansion in the area.

What has been discussed would be considered substandard for most major construction. She agreed with the need for public access. The Port is not in the position to provide land or construction because they have major issues to deal with. So, for at least the next 10 years, the City could not do a plan that relied on a partnership with the Port in that way. Mo's was not the perfect solution, but the building would have been a four-story high-end condominium. The Buoy Beer housing with hotel has already been approved. If situations change, something would probably happen at the 6th Street docks. She understood the Commission was concerned about mass and height, which is a struggle. However, she urged the Commission to remember that there were three corporate hotels that wanted to build on the waterfront and Staff has worked very hard to try to update the Code to prevent another Fairfield. She encouraged the Commission to try to come to conclusions in a timely manner and forward their recommendations to City Council so that next time a developer walks through the door with a project, the City has something that expresses Astoria's values and context. She did not want to see another situation where an attorney is threatening City Council. This is an opportunity to set the stage for the next 10 or 20 years.

President Fitzpatrick called for any testimony impartial to the application.

Jan Faber 3015 Harrison Avenue, Astoria, said he had seen many proposals come before the Commissions by big developers who say anything less than what they proposed would not be economically feasible. He was not sure the developers really meant it would not be economically feasible but meant that their proposal would be most profitable for them. There is a brand new hotel on the waterfront in Ilwaco, which fits in with the architecture of the Ilwaco waterfront and has only 10 rooms. Somebody thought this hotel was economically feasible. The concept of economic feasibility must be weighed against what Astoria wants. The Commission is considering height and mass limitations because the City believes the only way a project can be economically feasible at 28-feet high is if a building stretches across the horizon. That is not actually true. He believed the Commission should say what Astoria wants and tell developers that if they cannot do it, somebody else will. He confirmed with Staff that the definition of water-dependent uses included passive recreation and said he could not imagine anything that would not comply with the exception allowing 35 feet. Water dependent means that if the use were located somewhere else, it could not happen, for example a boat delivery system. If the City is going to make an exception for water dependent uses, the use must really be water dependent and could not function anywhere else. He walks the Riverwalk at least three times a week and notices view of the river as well as the hills of Astoria. The Hampton Inn seems large, but it is set back so far that he can see the hills on one side and the river on the other side. This makes walking the Riverwalk very enjoyable. He encouraged the Commission to think about implementing enough of a setback so that people can see Astoria on both sides.

Vickie Baker 3015 Harrison Avenue, Astoria, commended the Commission on the height limitation, which she believed was an important thing to put in place to stop some of the things that developers have wanted. It is very important for the Commission to work with mass, scale, and corridors to the river. Restrictions need to be put in place quickly. Some of the places she had been require parking when a certain number of people will be using a building. She did not know if that had been addressed yet by the Commission. This is important because there is limited space in the area being discussed. The small hotel in Ilwaco had public spaces on the first floor, a pub and a restaurant. Astoria can look for more of those kinds of places. Astoria does not have to accept big hotels. The first step to implement height limitations was a good one.

President Fitzpatrick called for any testimony opposed to the application.

Frank Spence, 5169 Birch Street, Astoria, Port of Astoria Commissioner, stated that on reviewing the minutes and statements of the general public, most people do not realize what the Port really is. The Port has been discussed in generic terms with a piece of property along the river that is like any other. However, this is not the case. The warehouse and Port properties are two separate distinct properties which require special needs and special planning. Astoria Warehouse is privately owned and will be privately developed. The Port is a public entity governed by five elected commissioners who are responsible to all the citizens in Clatsop County. The proposal is not what the Port hoped for in getting a master plan. There are over a dozen nice pictures in the handouts, but there is not a single picture of property on the Port of Astoria. Earlier that day, he stood in front of the red building, looked south, and took pictures, which he planned to submit as part of the public record. Many of the restrictions and criteria being called for are not relevant to the Port property. He urged the Commissioners to stand in front of the red building and the vacant lot and look to the south, where they will see the back end of Motel 6, Tsunami Hall, and a couple of other halls. The Port is recessed and cannot see Marine Drive. So, 35-foot height limits are out of the question. The potential there is much higher. It is no secret that on the vacant land between the red building and the bridge, the Port is holding in reserve through a deposit from Mark

Hollander representing Marriott Hotels. Some people say no more hotels, but he believed the market would decide whether more hotels are needed. He had seen and been at McMenamin's and he liked that idea. The Port would control the design. Additionally, through the various public processes including coming before the Planning Commission, the City Council, and the Design Review Board, the design would be addressed. The Port's West Mooring Basin District criteria allows the Port to adopt a master plan if all of the proposed restrictions are followed. That is not developing a master plan. The Port cannot be constricted by the criteria imposed on other properties in the overlay. He supported and understood the restrictions for the rest of the BVO, but the City has already addressed future planning with various vision plans. The Port is an industrial economic engine with multiple purposes. The Port accommodates cruise ships, which generate millions of dollars for the county. They also export timber, host fish processing plants, a marina, and a boat repair yard. Therefore, the Port should be free to develop a master plan without foregone restrictions that will hamstring the Port.

Martin Beau 1368 South Main, Warrenton, said he was a native Astorian. He supported the creation of a plan district for the Astoria Warehouse property, which has been one of the economic hubs with family paying jobs and benefits. He would hate to see the Commission put too many limitations on what could be done on the property or limit the economic climate of the area. When he was growing up in Astoria there were numerous canneries along the waterfront that employed a lot of family wage earners who supported the retail shops and businesses throughout the city. Astoria Warehouse was created by two local Astorians who purchased the property from Bumble Bee Seafoods in 1983. They created a labeling and casing operation and in 1985 the owners sold their interests in Astoria Warehouse to two Seattle area seafood companies, Icicle Seafood and Peter Pan Seafood. This sale enabled the Astoria Warehouse operation to continue with canned salmon supplied by seven Alaska canneries. Astoria Warehouse employed 25 permanent personnel with family wage jobs, medical benefits, and retirement plans. The company also purchased supplies from local vendors. In April 2018, the operation ceased due to trucking costs and the owners merging with another seafood labeling company in Washington. When Astoria Warehouse was in operation, it labeled nearly three million cases of canned salmon yearly and shipped it throughout the U.S. and overseas. As the current site manager, he had the opportunity to let people tour the warehouses. Tours have been given to Business Oregon and local businesspeople. People have visions of what could happen with this property and they know the plight of keeping the waterfront visible. However, he did not believe these people want the City to place so many restrictions on the property and limit the economic environment. A plan district would give the new owner time to develop a master plan, which is very essential to the economic success of the property. At the last Planning Commission meeting, a man said his son had asked if he planned to voice support of the limitations. The son might not ever think about becoming a resident of Astoria if restrictions limit job opportunities, providing no other option but to live elsewhere. During one Planning Commission meeting, Commissioner Moore had asked about an easement allowing the public to go through private properties. Many people do not pay attention to private property signs and drive into the property anyway. Additionally, homeless people walk through now. What would happen if the property were opened up to Marine Drive? He was concerned about liabilities to the property owner. Upon the request of the Astoria Police Department, he has posted signs on the property giving the police the legal right to chase people off the property. The Commission should seriously consider a plan district for the Port of Astoria, which is supported by more than just the City's property tax base. He invited the Planning Commission and City Council to tour the Astoria Warehouse facility to see what the buildings are actually like. In the 19 years he has been with Astoria Warehouse, City Manager Estes and former Mayor Willis Van Dusen have only been to the site once. Otherwise, no City Councilor or Planning Commissioner had ever asked to tour the buildings.

President Fitzpatrick said the Commission would be happy to consider a tour.

Mr. Beau said the Commissioners could call him anytime at 325-4021 and leave a message if he did not answer.

Bill Garillo Astoria Warehouse, stated that from a land use planner perspective, the idea of public space is important. He encouraged the Commission to think about the notion of borrowed space. Public space does not necessarily have to be publicly owned land. It could also be things like restaurants, which can be done in a collaborative setting with goals and guidelines. He asked that the Commission take more time to figure out how to encourage the right kinds of incentives and regulations. This will take more work with architects, developers, and planners to help create the kind of regulatory environment the Commission wants in that area. There are things the Commission can do to allow more development activity in exchange for borrowed spaces that do not have to be publicly owned. Most of the other waterfronts nationally use that as a tool. He urged the Commission to take more time, work with the local development community, and do this right.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he appreciated the job the Commissioners were doing. He served on the Clatsop County Planning Commission and understood it was often difficult to listen to all the testimony and make a good decision. There were not as many people present at this meeting as there were at the last meeting, but it was clear at the last meeting that the public had a view about what kind of a city they wanted and what kind of development they believed was appropriate to preserve Astoria's qualities. Astoria is not Port Townsend or Kalama. Astoria is the oldest settlement west of the Rocky Mountains by European settlers. Astoria has roots in European origins and the people of the community have spoken, signed petitions, and attended meetings. Everyone is worn down by this relentless tendency to try to grow buildings, like farmers that want to see them grow bigger, wider, and taller. Astoria does not need that. A small building can be successful and that is more appropriate for a small town. Astoria does not need four-story and larger buildings. There are plenty of opportunities for development of reasonably sized buildings. Developers will find a way. The City needs to set standards that do not allow another Hollander-sized hotel. He disagreed that the market would decide whether Astoria needed more hotels. Traffic will determine that. Astoria does not need more hotels bringing transients into a town with a real issue with flow through and integration of traffic patterns. Businesses will lose money as traffic concentrates. People lose patience and just want to get through the city. This is a chance to make a change, stand our ground, and make sure that rampant development is not allowed. The City will need to control all of the people who come to Astoria for a good time. He was in favor of the 28-foot height limit across the board, including the Port property and the warehouse property. Many have reached the decision that water dependent uses need a structure that goes higher or wider. He supported that as well. The gentleman who spoke about the warehouse property was not talking about hotels. He was talking about what the waterfront should be used for. He agreed with Port Commissioner Spence that the Port properties belong to the citizens of Clatsop County and the Port should do what the citizens of the county want. A Port does not invoke an image of a big hotel. He pictured docks and cranes loading ships and fish being dumped in big bins. The Port should not be involved in tourist activities. The Port should start holding meetings and asking the public to give input about what they want to see on the land. He was opposed to offering special permissions on the Port or warehouse properties. Only about 15 percent of the entire BVO is outside of those two properties. It is not a good idea to allow 85 percent of the land to come up with their own rules. It was clear at the last meeting that people do not want tall buildings in the area. Developers can get over that and figure out a way to make reasonable developments that fit the town.

President Fitzpatrick called for a recess at 7:56 pm. He reconvened the meeting at 8:02 pm and called for rebuttal testimony and closing comments of Staff.

Planner Johnson reminded that the Riverfront Vision Plan is the current plan the City is working on and this is the process by which the plan is implemented. The goal has always been to closely coordinate with the Port, Astoria Warehouse, the City and the public. Recreational use in the water dependent area refers to truly water dependent recreational uses, not viewing or walking from another use. The Code refers to walking and viewing from the river trail, not from a deck of a hotel. Swimming and boating are tied to the water, as well as walking along the river front. She also reminded that when the Port considers a master plan, only a very small section of the Port is include in the BVO, which includes the Thunderbird, Red Lion, the parking lot, the mooring basin, the Cannery Pier Hotel, and the section by Maritime Memorial. The BVO does not include the rest of the Port. She noted a typographical error on Page 2 of the Port Plan District document. The sunset clause should state, "Application to establish the ~~Astoria Warehousing~~ **Port of Astoria** Plan District." If the Commission is going to discuss other options, the public hearing can be closed now or kept open for additional public testimony.

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

Vice President Moore stated he remained steadfast against the 28-foot height limit. Reducing the height would not create or preserve views in any way. Creating and preserving views of the river need to be done at street level. Views from Marine Drive are obstructed by a fence and going up to 35 feet would not have any additional affects over a 28-foot building when looking towards the river. He also agreed with Commissioner Price that a height moratorium would result in longer buildings because developers will maximize the square footage that can be created on a property. People find long buildings offensive. The majority of the Astoria Warehouse buildings are between 28 and 25 feet tall, and they are the largest obstructions of the river from Marine Drive. So, lowering the limit to 28 feet does nothing to preserve or create new views. He did not believe the building massing amendments were appropriate because the lot sized in the area vary so greatly. The proposed limit would result in a very small building and a lot of undevelopable land on several lots. He made handouts available at the dais, which documented a plan that addressed views heights, building massing, and building orientation, and

incorporates floor-to-area ratios (FARs) that may be more appropriate for the area. He was against the existing amendment and wanted to discuss the document he presented.

Commissioner Henri said she believed the Commission needed to discuss the balance between height and mass. Throughout the public hearings, very few of the public said they were concerned about preserving views from Marine Drive. Most people are concerned about the views from their homes and from the Riverwalk. Basing the view corridor on Marine Drive is misleading and limited.

Commissioner Womack stated he was also against the 28-foot height restriction because mass and scale are not being discussed simultaneously. He agreed with Vice President Moore that the City would still have blocked views and there is no appreciable difference between 28 and 35 feet from the perspective two blocks up the river. He challenged people who live many blocks up the hill to tell the Commission which buildings were 28 feet and which were 35 feet from two blocks up Marine Drive. He was against the 28-foot height limit unless an FAR allowed for higher buildings.

Commissioner Price said the City is not building only for people who live on a certain part of the north slope. She wanted to discuss the new handout. The properties are not aligned and Staff has shown how difficult it is to preserve views from Marine Drive. Astoria is not Kalama or Port Townsend, but Mr. Emmons presentation inspired good ideas. She hoped Port Commissioner Spence would have a tough conversation with Mr. Hollander because Mr. Hollander will eventually build a hotel. If the hotel looked more like McMennamin's in Kalama than the box he wants to build, the Commission will have a very different conversation. Architecture matters.

Planner Johnson noted she had four copies of the handout available for the public.

Commissioner Corcoran asked if the FAR would apply to both of the planned areas and the unplanned areas.

Vice President Moore explained that any sweeping changes to the BVO would apply to all of the properties in the BVO. The special districts could modify some things and the Commission can determine whether or not the FAR is allowed a variance or exception within the plan districts.

Commissioner Cameron-Lattek said she recognized the challenges of the 28-foot height limit, but felt okay about it because it would apply to such a small percentage of land and the plan districts would offer opportunities for bigger development. The BVO should have open spaces with nothing over the water. She noted that the docks at the 6th Street were not within the BVO, so overwater development could be allowed there.

Planner Johnson presented the proposal described in the handouts. Overwater development codes would remain unchanged. On land, rather than 288 feet with no massing, the height could be increased to 35 feet without any variances allowed. Stepbacks could be required above 24 feet to keep the mass of a three-story building smaller. Additionally, a gross floor area and FAR limit could be implemented. The original draft recommended a gross floor area for all buildings on a site. This proposal would limit each building on a site to 30,000 square feet. The only two properties that could have more than one 30,000 square foot building are the Port and the Astoria Warehouse properties. She recommended a 0.75 FAR, which means only three-quarters of a lot could be covered with a one-story building. About two-thirds of a lot could be covered with a two-story building. This will result in more views and open areas. Any buildings on one lot would have to be at least 60 feet apart. That 60-foot corridor would not have to provide physical access, but it would still give visual public access through the buildings.

Commissioner Corcoran asked what the implications would be on smaller lots.

Planner Johnson explained smaller lots would only be able to build one building. The FAR on a 50-foot wide lot would provide smaller corridors. She also recommended that the setbacks not apply to pedestrian areas and FARs not apply to pedestrian oriented areas. She displayed the boundaries of the pedestrian oriented area on the map and noted that pedestrian areas were intended to have more compact development. She also reminded that the Port and Astoria Warehouse plan districts were not yet in place, so the FAR would apply to those properties until a plan district was approved. Additionally, anytime a Code includes a numeric value, variances are allowed unless the Code specifically states otherwise.

Councilor Price said it seemed as if most of the area would be exempt from the FAR by not applying it to the pedestrian zone.

Planner Johnson responded that the Commission could apply a higher FAR to the pedestrian area. The intent of the pedestrian area is to have tighter development, which is more pedestrian friendly. She confirmed for Vice President Moore that the Gateway Overlay Zone had a minimum FAR of 1.0 because more massing is preferred in that zone.

Vice President Moore stated the Riverfront Vision Plan called for density in the pedestrian area of the BVO and it is the Commission's job to implement that plan.

Commissioner Womack asked if parking would be excluded from the FAR.

Planner Johnson explained that if parking is required, it would not be part of the gross floor area or the FAR, even if the parking was ground floor parking under a building. This would discourage open parking lots and if parking were inside the building, the lot could have more green space.

Commissioner Cameron-Latteck asked if ground floor parking would be included in the building height.

Planner Johnson said no, the entire building envelope would not be allowed to exceed the height limit, regardless of what is in the building.

Commissioner Henri believed the Commission had agreed on 28-feet at the last meeting.

Planner Johnson reminded that at the last meeting, the majority of the Commission present indicated they preferred 28-feet. However, two Commissioners were not present. Discussion about 35-feet relative to the mass of the building began during this meeting when it appeared as if less than a majority preferred 28-feet.

Commissioner Henri stated she was mainly concerned that the public who attended the last meeting or who read the minutes of the last meeting might not know that 35 feet was being discussed.

Planner Johnson said the Commission was only making a recommendation to City Council and there is still one more public hearing before the City Council. However, the Commission could also re-open this public hearing to take comments before making a decision.

Commissioner Henri said many people have urged the Commission to hurry towards a decision. Design processes are iterative and lengthy. The Commission has such big design decisions to make and she was nervous about feeling rushed. It is important to make sure the Commission is making careful decisions even if that takes more time.

President Fitzpatrick confirmed that the majority of Commissioners wanted to take public comments on the newest recommendations for height and mass. He called for a recess at 8:39 pm to give the public time to review the handout and consider the Commissioner's comments.

The meeting reconvened at 8:46 pm.

Commissioners Price and Cameron-Latteck stated they wanted the FAR to apply to the entire area without excluding the pedestrian area because omitting the FAR from the pedestrian area would block views of the bridge.

President Fitzpatrick reopened the public hearing at 8:49 pm and called for public testimony.

Vicky Baker 3015 Harrison Avenue, Astoria, said she believed the pedestrian area should be included in whatever the Commission wanted to do. A lot of people have spoken about the 20-foot [28-foot 2:19:34] restriction. This Commission could go ahead with that and implement the FAR so that the amendment process can go to the next level.

Elizabeth Menetrey, 3849 Grand Avenue, Astoria, stated this meeting was very different from the last meeting. At the last meeting, she submitted over 100 petitions calling for 28-feet. Now, a different outcome was being discussed. She was very disappointed.

Stuart Emmons 107 Kensington, Astoria, suggested that meaningful incentives be included for ground floor public uses, like restaurants, bars, libraries, markets, retail, and conference centers. This would enliven the environment on the Riverwalk.

Phil Garillo Astoria Warehouse, asked that the Commission give the public more time to run some numbers and see how the FAR would actually apply to existing buildings. He suggested the Commission leave the written record open for seven to ten days and continue the hearing for deliberation purposes only.

Jan Faber, 3015 Harrison Avenue, Astoria, said he was concerned about the definition of water-dependent use. During review of the Fairfield Inn, debate about the definition and use of the word “retain” carried the decision up to City Council. The interpretation was ridiculous. Developers will try anything and focus on any part of the language to wiggle through. The definition of water-dependent will allow tons of wiggle room, so why not make the language tight. He also worried about use of the word “floor” as it related to how many floors a building would have. The height limit should be regardless of how the floors were divided.

President Fitzpatrick closed the public hearing at 8:54 pm and called for rebuttal from the Applicant.

Planner Johnson said a statement could be added as part of the amendment to clarify that passive recreation such as viewing and walking were not associated with a non-water-dependent use. If passive recreation were eliminated completely, the river trail would not be allowed.

President Fitzpatrick recommended the Commission keep the public comment period open and continue the hearing for deliberation.

Planner Johnson noted that the comment period was usually seven days, which would be enough time for the Commission to review comments and for Staff to propose revised draft amendments at the August 6th meeting.

Vice President Moore and Commissioner Womack stated they would not be present for the August 6th meeting. After some discussion about Commissioner availabilities and the amendment process timeline, the Commissioners agreed it would be most appropriate to continue the hearing to the August 27th meeting.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Amendment Request A19-01B by the Community Development Director and recommend approval by the Astoria City Council with the following changes as annotated by Staff:

- Limit building height to 28-feet
- Implement the floor-to-area ratio across the entire zone

Motion seconded by Commissioner Henri.

President Fitzpatrick called for discussion of the motion on the table.

Commissioner Price stated she made the motion because she believed there was not that much difference between 28 and 35 feet. Additionally, the Commission has taken numerous public comments. The majority of the public and the Commission have agreed on 28 feet and that should not be overridden now. The FAR was a good idea, but it should be extended to the pedestrian oriented overlay area because that area is the bulk of the BVO. It is time for the Commission to make a decision because the Commission has enough information to make a decision and allow the Council to review the Commission's recommendation.

Commissioner Womack said he was in favor of a 35-foot height limit with an FAR. He planned to vote against the motion.

President Fitzpatrick stated he would vote in favor of the motion if the height limit were 35 feet.

Commissioner Corcoran said he was present at the last meeting, which had a quorum. He understood that the Commission had made a decision and was surprised to hear that was not the case. He would vote in favor of 28 feet with the FAR.

President Fitzpatrick responded that a full Commission will always have a different discussion than a partial Commission because more opinions and different understandings will be expressed when all of the Commissioners are present, which could change the vote.

Commissioner Cameron-Lattek said she believed the FAR made more sense with a 35-foot height limit. Taller but narrower buildings will provide more views.

Commissioner Henri said she was attached to the 28-foot height limit because of the public testimony. However, she agreed that taller and narrower buildings would preserve views. She believed the public would appreciate the view corridors between buildings. It would be great to make a recommendation to City Council tonight, but it is also important for the Commission to take time to process the public comments and give Staff time to amend the proposal based on those comments. She wanted to receive public testimony before voting. It would be unfair to sneak in 35 feet even with the FAR without due process.

Vice President Moore stated the Commission was not violating any due process and he was ready to vote.

Commissioner Womack stated he was not present at the last meeting, but he had read the minutes. No vote in favor of 28-feet was documented in the minutes. However, the minutes did reflect that there was a consensus among the Commissioners who were present and that the conversation would be continued to this meeting. New public input will not change the math involved in the FAR, building heights, and view corridors.

President Fitzpatrick restated the motion and called for a vote.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Amendment Request A19-01B by the Community Development Director and recommend approval by the Astoria City Council with the following changes as annotated by Staff:

- Limit building height to 28-feet
- Implement the floor-to-area ratio across the entire zone

Motion seconded by Commissioner Henri. Ayes: Commissioners Price, Corcoran, and Henri. Nays: President Fitzpatrick, Vice President Moore, Commissioners Womack and Cameron-Lattek. Motion failed 3 to 4.

Vice President Moore asked if the Commission was legally obligated to honor the request for a continuance.

Planner Johnson understood that the Commission only had to honor the first request for a continuance, which had already been done for this hearing. However, she advised that the Commission confirm that with the City Attorney.

Mr. Garillo stated his opinion as an attorney was that the Commission was not required to honor the request made at this meeting. He agreed with Planner Johnson's understanding of the requirement and said subsequent requests were discretionary.

Vice President Moore said if the public record were left open and the hearing continued for deliberation, he wanted it continued to the August 27th meeting. Otherwise, he would be willing to make a motion now.

Commissioner Cameron-Lattek and President Fitzpatrick stated they were ready to vote.

Vice President Moore moved that the Astoria Planning Commission adopt the revised Findings and Conclusions contained in the Staff report, approve Amendment Request A19-01B by the Community Development Director, and recommend approval by the Astoria City Council with the following changes:

- Extend the floor area ratio to the pedestrian tourist zone
- Note the differences between 28 feet and 35 feet throughout the document
- Add a clarifying statement about the definition and use of the phrase "water-dependent use"

Motion seconded by Commissioner Womack. Motion passed 6 to 1. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Womack, Corcoran, Henri and Cameron-Lattek. Nays: Commissioner Price.

Commissioner Price stated she voted no to honor the hundreds of people who asked for 28 feet.

Planner Johnson noted that because this decision was a recommendation to City Council, it was not appealable yet. City Council would likely review the Planning Commission's recommendation on August 19, 2019.

REPORTS OF OFFICERS/COMMISSIONERS:

Commissioner Cameron-Lattek reported that she attended the commercial fisheries industry tour hosted by Sea Grant and the Oregon State University Extension Office. She learned more about the industry in the area and met people she did not normally come in contact with. The tour was relevant to considering the types of structures needed to do that type of work. She recognized the need for 35-foot high buildings for water-dependent uses. She also learned the importance of ice houses.

Commissioner Henri reported that served on the Uniontown Reborn technical advisory committee as a representative of the Planning Commission. She did not believe there would be any conflict of interest or ex parte contact during the Commission's review of the master plan proposal.

Planner Johnson reminded that Uniontown Reborn was a legislative matter, not a quasi-judicial hearing. Representation allowed participation in the planning process.

STAFF UPDATES/STATUS REPORTS:

Meeting Schedule

- August 6, 2019 at 6:30 pm – APC Meeting (A19-05 Uniontown Reborn Master Plan)
- August 27, 2019 at 6:30 pm – APC Meeting

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:26 pm.

APPROVED:

Community Development Director

ASTORIA TRAFFIC SAFETY ADVISORY COMMITTEE

Astoria City Hall

July 23, 2019

CALL TO ORDER:

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

ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Vice President Daryl Moore, Jennifer Cameron-Lattek, Patrick Corcoran, Cindy Price, Chris Womack, and Brookley Henri.

Staff Present: Contract Planner Rosemary Johnson, Police Sergeant Brian Aydt and City Engineer Cindy Moore. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

Commissioner Price moved that the Traffic Safety Committee approve the minutes of May 28, 2019 as presented, seconded by Commissioner Womack. Motion passed unanimously.

PROJECT UPDATES:

No project updates.

NEW BUSINESS:

No new business.

REPORTS OF OFFICERS/COMMISSIONERS:

No reports.

PUBLIC COMMENT:

No public comments.

STAFF STATUS REPORTS:

Save the Date

Tuesday, October 22, 2019 at 6:30 pm – next TSAC meeting

ADJOURNMENT:

There being no further business, the meeting was adjourned to convene the Planning Commission meeting at 6:34 pm.

ATTEST:

Secretary

APPROVED:

City Manager



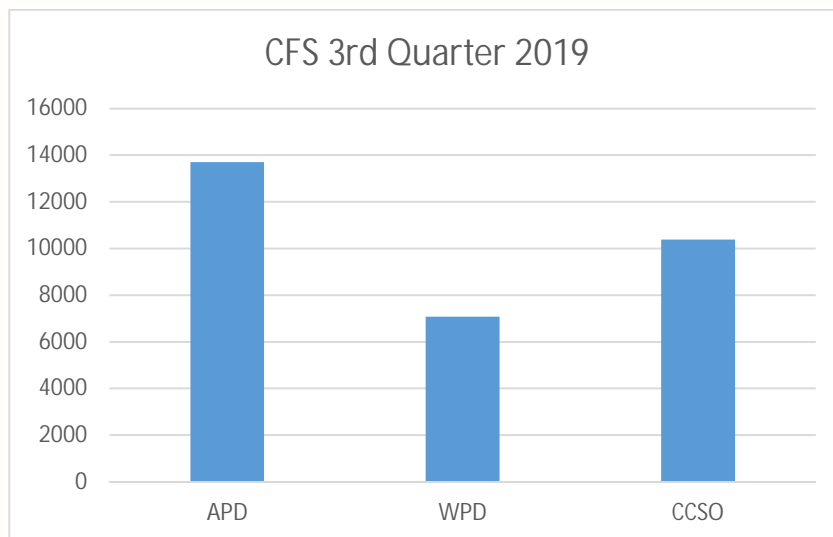
CITY OF ASTORIA

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MEMORANDUM • POLICE DEPARTMENT

DATE: OCTOBER 14, 2019
TO: MAYOR AND CITY COUNCIL
FROM: GEOFF SPALDING, CHIEF OF POLICE
SUBJECT: ASTORIA POLICE DEPARTMENT – STATUS REPORT

The 3RD quarter of calendar year 2019 has been very busy for the Astoria Police Department. During this period, we handled 13710 calls for service (includes citizen-based calls and officer-initiated calls). This equates to a 10.6% increase over the same time period last year. I've been very impressed with the way the Department staff has handled the increased summer activity and survived the summer with no major events. Summer is winding down and we're looking forward to an opportunity to do more proactive police work.



*Comparison of
calls for service
with Warrenton PD,
Clatsop County
Sheriff's Office for
the period January
through September
2019*

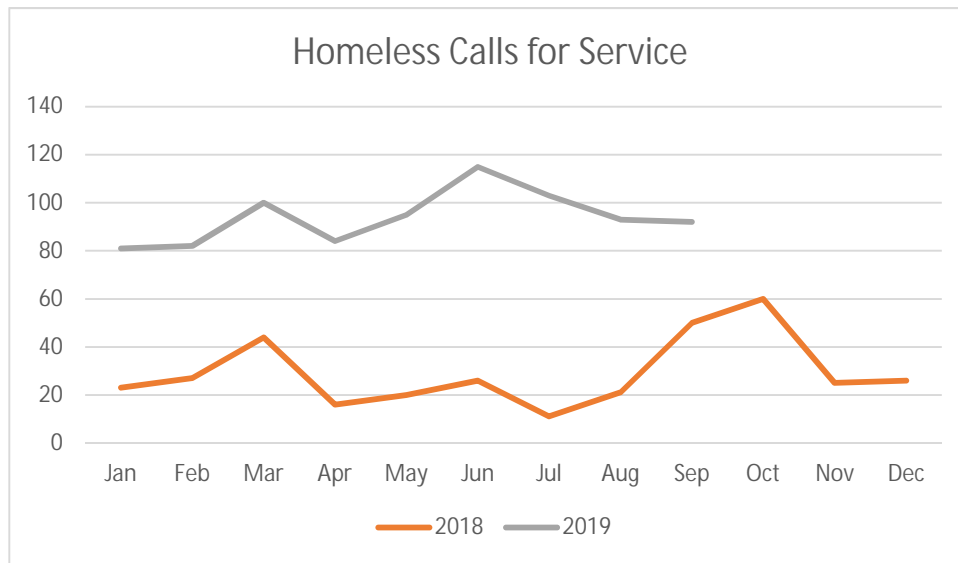
Astoria continues to remain a very safe community. The vast majority of crimes we see are low-level offenses such as thefts from vehicles, alcohol offenses, traffic complaints, trespass and disorderly conduct.

Officer Sergio Carrera completed his Field Training Officer program and is now performing his duties solo. We're excited to have that additional resource serving our community. Our current sworn staffing is 16 out of an authorized 17. We conducted a recruitment process and ended up with some quality potential candidates. One candidate is now in the background process. If that candidate is successful, we will complete the medical portion of the process and have that candidate in the academy by end of the year.

The Astoria 9-1-1 dispatch center's staffing level is seven and a half full time equivalent positions for 24-hour coverage. Our most recent hire, Sarah Phillips is in the training phase in Dispatch

and is moving along well. We have two very promising candidates in the final phases of the hiring process and if both are successful, we will be at full staffing. We are currently processing applicants for open positions. We have a strong list of applicants and hope to move two or three forward in the background process. Our Dispatchers have been stepping up to the plate and working a lot of overtime to fill the gaps and ensure there are no disruptions to service.

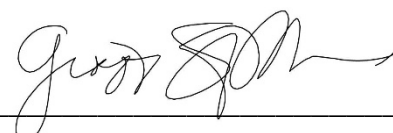
Homeless-related calls continue to tax the resources of the Police Department, and many other City departments. Although, I hear from many in the community that there's a feeling the homeless problem has lessened, the homeless-related calls do not support that observation. Calls have increased approximately 349% over last year's numbers. Since January 1st, we have logged 845 calls related to homelessness. Forty of those involve aggressive behavior.



*Comparison of
Homeless calls for
service between
2018 and 2019
YTD*

The Homelessness Solutions Task Force just held its 13th meeting and we are coming up on our two-year anniversary in November. HOST is working on an update for Council that will include the work that has been accomplished along with several recommendations.

One of Council's goals over the last two years is the consideration of relocating public safety facilities out of the inundation zone. The police department requested funds to conduct the appropriate studies for Council's consideration and those funds were approved and included in the F/Y 2019-2020 budget. We have contracted with an architectural firm out of Portland to conduct a space needs study and site selection study. Chief Crutchfield contracted with a vendor to provide an emergency response time study for the Fire Department. Police and Fire employees had several meetings with the architects and we are making good progress on these studies. The results of these studies should give Council the information it needs to consider the appropriate next steps. Staff will provide a report to City Council once the analysis is complete.

By: 
Geoff Spalding, Chief of Police



CITY OF ASTORIA

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MEMORANDUM

DATE: OCTOBER 21, 2019
TO: MAYOR AND ASTORIA CITY COUNCIL
FROM: BRETT ESTES, CITY MANAGER
SUBJECT: SECOND READING AND ADOPTION - AMENDMENT REQUEST
(A19-01B) BRIDGE VISTA OVERLAY ZONE CODES

DISCUSSION / ANALYSIS:

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Lief Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City is currently conducting work sessions with the Astoria Planning Commission (APC) and City Council on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone. A work session was held at the September 24, 2019 APC meeting.

In 2018, the first large project within the Bridge Vista Overlay area was reviewed by the Historic Landmarks Commission and Design Review Committee. Both bodies denied the requests which were appealed to the City Council. The City Council approved the appeals but noted that the Code was not clear on what was intended for various design aspects. The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. Some of the issues included: statement that certain sections of the code control over other sections when there is a conflict between requirements; clarify which design standards apply to new construction and which apply to alterations to existing structures; clarify how the setbacks are applied to the structure; clarify that mass and scale review applies to the entire structure and not just the street facade; and identify what structures and/or area is included when reviewing compatibility with the proposed structure. In addition, staff identified other areas in the Code for the Riverfront Vision area that needed to be updated including adding clear and objective design standards for residential development in BVO; clarifying which codes apply to the Mill Pond area; allowed exceptions to window percentage for building elevation with an elevator shaft; clarified limitations on building height exceptions for elevators, etc.; added reference to the overlay zones in each of the applicable base zones; and some other minor clarifications.

At a work session on February 19, 2019, the City Council reviewed the initial draft ordinance

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

The Planning Commission held a public hearing on June 25, 2019 and July 23, 2019. The APC recommended that the City Council adopt the proposed amendments on the second part of the request (A19-01B).

The City Council held a public hearing at their August 19, 2019 meeting and continued the deliberation to the September 3, 2019 meeting. At that meeting, Council members expressed concern that the proposed standards did not meet their desired outcome. There was discussion concerning the maximum building height and square footage and whether a Floor to Area (FAR) ratio was sufficient to achieve the Council and citizen desires for this area. It was suggested that buildings be limited to 28' high with an exception to 35' only if they provided a 60' wide view and public access corridor. The intent was not only the view, but to allow public to physically access the Riverfront through the project since there are very few north-south rights-of-way in this area. It was also suggested that a maximum lot coverage of 50% with a north-south building orientation requirement would result in smaller buildings with open areas to the Riverfront. The Council also discussed the proposed Plan Districts and it was suggested that the two districts allow potential changes to the same standards such as allowable uses. The Council came to a consensus and instructed staff to draft an ordinance to reflect these changes.

Due to the number of changes to the draft from what was presented during the public hearing on August 19, 2019, the City Attorney advised that new public notice would be required and as well as a new public hearing on the draft amendment. Public notice in accordance with Development Code requirements was provided.

At its September 30, 2019 meeting, the City Council held a public hearing and deliberated on the proposed amendments. The issue of the existing two view corridors at Basin and Bay Street was discussed as those views could be lost with future development. The City Council suggested additional code language that would protect those view corridors while allowing for some possible exceptions if the Port West Mooring Basin Plan District is approved in the future. Due to this change, the public hearing was reopened for this issue only for public input at the October 7, 2019 City Council meeting. The City Council conducted a first reading of the Ordinance including this proposed change at the September 30, 2019 meeting. At the October 7, 2019 meeting, the proposed amended view corridor language was read in full, the Council held a public hearing on the view corridor issue and closed the public hearing.

The draft ordinance and Findings of Fact are attached for Council consideration.

RECOMMENDATION:

If the draft code meets Council's expectations, it would be in order for Council to conduct a second reading and adoption of the ordinance as amended for Bridge Vista Overlay Zone Code amendments.

BY: ROSEMARY JOHNSON, PLANNER

ATTACHMENTS:

[A19-01B.BVO findings for 10-21-19 CC.doc](#)

[A19-01B. Riverfront. 10-21-19.docx](#)



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

October 2, 2019

TO: MAYOR AND ASTORIA CITY COUNCIL

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

SUBJECT: AMENDMENT REQUEST (A19-01B) FOR BRIDGE VISTA OVERLAY

I. BACKGROUND SUMMARY

- A. Applicant: Community Development Department
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Development Code concerning waterfront development in the Bridge Vista Overlay Area concerning height, mass, location of buildings; and establish a process for potential future planning districts for Astoria Warehouse and Port of Astoria West Mooring Basin.
- C. Location: Bridge Vista Overlay Area (BVO - Portway to 2nd Streets, West Marine / Marine Drive to the Columbia River Pierhead Line)

II. BACKGROUND

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. Significant public involvement opportunities were designed to gain public input. This process was initiated to plan for these issues in a comprehensive manner and to set a framework for the future of the study area. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Lief Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City is currently conducting work sessions with the APC and City Council on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone.

Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council

consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street.

On July 10, 2018 the Historic Landmarks Commission (HLC) and the Design Review Committee (DRC) denied the requests (NC18-01 and DR18-01) which were subsequently appealed by the applicant. A combined public hearing on the HLC Appeal (AP18-04) and DRC Appeal (AP18-03) was held at the August 23, 2018 City Council meeting. At that Council public hearing, the applicants submitted revised proposed plans. The Council tentatively approved the HLC Appeal and reversed the HLC denial, thereby tentatively approving the New Construction Request (NC18-01) pending adoption of Findings of Fact. The Council remanded the Design Review Request (DR18-01) back to the Design Review Committee for additional consideration.

The applicants submitted revised plans (DR18-01R) for consideration on remand and the Design Review Committee held a public hearing on October 9, 2018. At that meeting, the DRC found that the revised application met all design guidelines except for two and denied the request with a split 2 to 2 vote. The two guidelines in question were *Design Guideline* ADC 14.115(B)(2)(a) which provides: "Buildings should retain significant original characteristics of scale, massing, and building material along street facades" and *Design Guideline* ADC 14.115(B)(2)(f) which provides: "Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular." The decision was appealed by Hollander Hospitality (AP18-05) on November 13, 2018. The City Council elected to hear the appeal on the record and restricted its consideration of the application of design guidelines ADC 14.115(B)(2)(a) and ADC 14.115(B)(2)(f). At the December 20, 2018 meeting, the City Council considered the appeal. This was the first major project reviewed under the newly adopted BVO codes. During the public hearing, the Council noted concerns with specific language in the BVO codes that were not clear and did not reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. During the development meetings with the hotel applicant, there were differences in interpretation of other sections of the BVO that staff resolved with the applicant. Staff identified minor language amendments that would make the code clearer and/or consistent with other sections of the code. At a work session on February 19, 2019 with the City Council concerning the proposed amendments, the Council recommended that the building height on both the land and over-water areas be limited to a maximum height of 28' (two stories) to keep development at a pedestrian scale. They noted that the mass of even a two-story building could be a concern, and that the 30,000 square foot maximum for buildings may still be a concern. At that time, it was unclear if a solution was feasible to consider with the City Council intent to adopt the proposed amendments in a timely manner.

At its April 23, 2019 meeting, these two issues became the focus of public input and APC discussion. Therefore, in an attempt to proceed with the majority of the amendments that were not controversial, the APC split the amendment draft into two sections. One section would be just the height and gross square footage issue (A19-01B) allowing the rest of

the amendment to proceed. A19-01B portion of the request was continued to the May 28, 2019 APC meeting for further discussion. The APC recommended that the City Council adopt the proposed amendments on the first part of the request (A19-01A).

At the May 28, 2019 meeting, the APC took public comments and discussed the issues of height, mass, and the proposed Plan Districts. The APC provided staff with direction on how to draft proposed code amendments that would address these issues. While there was not a unanimous direction, some consensus direction was provided. While the City Council had suggested a 28' maximum height, their concern with building massing was not directly addressed. The APC has suggested an alternative that would allow buildings to 35' but with a north/ south orientation, maximum width of 60% of the lot, maximum individual building width of 90', and a required 60' view corridor between buildings. The APC considered this alternative to address building mass as a 28' high building the full width of the lot would virtually block all view of the River except at the street ends. When applying this concept to actual properties, it was determined that it would not give the results intended due to the existing lot configuration and development.

At the 6-24-19 APC meeting, the APC agreed that further delay in adoption of a code to address building height could result in unwanted development. The APC directed staff to draft a code to limit height on the land to 28' with no variances, and to limit height over water to top of bank except for water-dependent uses (not including water-related uses) which would be limited to 35'. During the APC public hearing on July 23, 2019, the APC determined that the 28' height with no setbacks between buildings would not achieve the view protection intended. A list of Development Code and Comprehensive Plan definitions of "water-dependent" and other use classifications is attached. Any proposed use within the BVO would need to comply with the allowed outright or conditional uses, and with the prohibited uses of the BVO. In addition, the use would need to meet the requirements of the Code to be considered as "water-dependent" use for the allowed extra height. Issues concerning mass, view corridors, and additional limitations or change in allowable uses would be considered under a new amendment request after additional work sessions could be held, possibly with the City Council. However, with the proposed height of 35' the APC determined that a Floor to Area Ratio (FAR) and 60' wide view corridor between buildings on the same lot would be included in this amendment.

The APC agreed to proceed with the codes for the Plan Districts as they were large areas and any changes based on a Plan District would require additional public review before being adopted and applied.

The Planning Commission held a public hearing on June 25, 2019 and July 23, 2019. The APC recommends that the City Council adopt the proposed amendments on the second part of the request (A19-01B).

The City Council held a public hearing at their August 19, 2019 meeting and continued the deliberation to the September 3, 2019 meeting. At that meeting, Council members expressed concern that the proposed standards did not meet their desired outcome. There was discussion concerning the maximum building height and square footage and whether a Floor to Area (FAR) ratio was sufficient to achieve the Council and citizen desires for this area. It was suggested that buildings be limited to 28' high with an exception to 35' only if they provided a 60' wide view and public access corridor. The

intent was not only the view, but to allow public to physically access the Riverfront through the project since there are very few north-south rights-of-way in this area. It was also suggested that a maximum lot coverage of 50% with a north-south building orientation requirement would result in smaller buildings with open areas to the Riverfront. The Council also discussed the proposed Plan Districts and it was suggested that the two districts allow potential changes to the same standards such as allowable uses. The Council came to a consensus for the following proposed standards and instructed staff to draft an ordinance to reflect these changes.

The following chart shows the proposed standards for development.

	Basic	Exception
Building height maximum	28' No Variance	35' with 60' public access/ view corridor
Stepback for above 15'	yes	yes
Maximum square footage	30,000 / bldg	30,000 / bldg
Maximum Lot Coverage	50%	50%
FAR	None	None
Setback - side yard	10' on one side	10' on one side
View Corridor	60' between bldgs on same site	60' between bldgs on same site

At its September 30, 2019 meeting, the City Council reopened the public hearing and deliberated on the proposed amendments. The issue of existing view corridors at Basin and Bay Street was discussed and concerns were voiced by the public as well as Council members that those views could be lost to future development of areas north of the street rights-of-way. A consensus was reached that these are two of only three right-of-way view corridors in the Bridge Vista Overlay Area and are worthy of protection. The City Council suggested a possible amendment to the proposed ordinance in order to protect those view corridors while allowing for possible exceptions if the Port West Mooring Basin Plan District is approved in the future. Staff was directed to prepare an amendment to address these concerns. The City Council conducted a first reading of the Ordinance as proposed at its September 30, 2019 meeting. The Council voted to continue its deliberations and reopen the public hearing on the suggested amendment to Ordinance (A19-01B) at its October 7, 2019 meeting.

At its October 7, 2019 meeting, the Council held a public hearing only concerning the proposed Basin and Bay Street view corridors. The proposed amendment creates a 70' view easement at the north ends of Bay and Basin Streets. The draft amendment also includes a definition of "view corridor" as *"The unobstructed line of site of an observer looking toward an object of significance to the community such as the River, historic site, ridgeline, etc. A view corridor shall be free of structural encroachments. Parking within a view corridor is allowed unless otherwise specified."* With this definition, use of the property affected by the view corridor is still allowed and the view corridor area could be

used for the required parking and/or landscaping areas. It should not prevent development of the site. The Council determined that since the view corridor was for the provision of a “view” from the Basin and Bay Street rights-of-way, that there should not be an exception allowed to the view corridor in the future Port West Mooring Basin Plan District.

Since the Astoria City Charter provides that an ordinance read by short title only has no legal effect if it “differs substantially” from its form as originally filed unless the new section is read “fully and distinctly” in open Council at least 12 days prior to the adoption of the ordinance (Charter Chapter VIII Section 8.2(4)), the proposed amended language to the draft Ordinance was read in full and the Council held the public hearing and closed the public hearing at the October 7, 2019 meeting.

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to all property owners with the Bridge Vista Overlay Area, Neighborhood Associations, various agencies, and interested parties on March 5, 2019. In accordance with Section 9.020, a notice of public hearing was published in the Astorian on March 19, 2019. State required Measure 56 mailing was mailed to all property owners within the Bridge Vista Overlay Area on March 28, 2019. The proposed amendment is legislative as it applies City-wide in the specific zones. As required per Article 9, on site notice was posted on March 12, 2019 in the affected overlay areas as follows: one near 2nd street at the previous appeal site (BVO); one on the corner of 30th and Marine Drive (CGO); and one near 43rd and Lief Erikson Drive (CGO).

The Astoria Planning Commission opened the public hearing at the March 26, 2019 meeting and continued the public hearing to the April 23, 2019 meeting. While additional public notice was not required, additional public notice was provided. Amendment Request (A19-01A) proceeded to City Council on June 3, 2019 and Amendment Request (A19-01B) was continued to the May 28, 2019 APC meeting and subsequently continued to the June 25, 2019 APC meeting. No additional public notice is required for the APC meetings.

B. State Agencies

Although concurrence or approval by State agencies is not required for adoption of the proposed amendments, the City has provided a copy of the draft amendments to representatives of the Oregon Departments of Transportation (ODOT) and Land Conservation and Development (DLCD) as part of the planning process.

C. City Council

A public notice was mailed to all property owners with the Bridge Vista Overlay Area, Neighborhood Associations, various agencies, and interested parties on July 26, 2019. In accordance with Section 9.020, a notice of public hearing was published in the Astorian on August 10, 2019. The proposed amendment is legislative as it applies City-wide in the specific zones.

Due to the number of changes to the draft from what was presented during the public hearing on August 19, 2019, the City Attorney advised that new public notice would be required and a new public hearing on the draft amendment. A public notice was mailed to all property owners with the Bridge Vista Overlay Area, Neighborhood Associations, various agencies, and interested parties on September 6, 2019. In accordance with Section 9.020, a notice of public hearing was published in the Astorian on September 21, 2019.

IV. FINDINGS OF FACT

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

Finding: The proposed amendments to the Development Code is being initiated by the Community Development Director on behalf of the City Council.

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

1. *An amendment to the text of the Development Code or Comprehensive Plan.”*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 14 concerning Riverfront Overlay Zones. The amendment would amend existing and create new overlay zone standards.

The proposed amendments are applicable to a large area of the City. Processing as a legislative action is appropriate.

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

1. CP.005(5), General Plan Philosophy and Policy Statement states that local comprehensive plans *“Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.”*

Finding: The City accepted the Riverfront Vision Plan in 2009 as a long-range planning framework to address the changing needs and desires of the citizens concerning Riverfront development and the need to protect the environment. Codes to implement the Vision Plan concepts were adopted by the Council. The City Council directed staff to initiate Development Code amendments to reduce the maximum building height in the BVO and add additional standards to address the concerns with clarity of the code and the desires of the public.

2. CP.010(2), Natural Features states that *“The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged.”*

Finding: The proposed amendments will amend the BVO codes that implemented the Riverfront Vision Plan. The amendments include changes to existing design standards for development, protection of scenic views and vistas such as with the lower maximum height of buildings.

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

CP.015(1), General Land & Water Goals states that *“Because of the City's strong water orientation, the Plan supports continuing regional efforts to manage the Columbia River estuary and shorelands. The City's land use controls, within this regional context, will be aimed at protecting the estuary environment and at promoting the best use of the City's shorelands.”*

Finding: The proposed amendments will strengthen the existing Riverfront Vision Plan area overlay zones development standards. The design concerning building height protects the historic character of the City and waterfront areas. The reduction in allowable height and development along the shoreland in this area and on parcels extending over the water will help protect the estuary environment. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.020(2), Community Growth, Plan Strategy, states that *“The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section.”*

CP.203, Economic Development Goal 4 and Goal 4 Policies, goal states *“Continue to encourage water-dependent industries to locate where there is deep water, adequate back-up space, and adequate public facilities.”* Policies states *“1. Maintain areas of the City in order to provide sufficient land for water dependent as well as non-water dependent industries.”*

Finding: While the proposed amendments amend existing criteria and limit development height within the Bridge Vista Area, it does not prohibit development and continues to support development of water-related and water-dependent uses in the shoreland and aquatic zones in the Bridge Vista area. It would allow flexibility for some limited other development with

the creation of a process for potential future adoption of the Astoria Warehousing Plan District and the Port of Astoria West Mooring Basin Plan District. These two areas are larger land areas and redevelopment could be restricted with the proposed development standards. Allowing for future Plan District adoption with some code flexibility would allow for a process to review site specific needs in these two areas in the future. Specific standards and limitations are addressed in the proposed amendments include periodic review of the need for potential plan districts. The ability for water-dependent uses to have a height limitation of 35' supports water-dependent industries.

Structure height, width, and size would be regulated so there would not be large amounts of over water development near the Maritime Memorial / Astoria Megler Bridge and near the former cannery site near 2nd Street which is limited to uses such as moorage, and other piers and dock activities. These areas would remain as protected areas even with the proposed Plan Districts. The orientation standards and reduction in building height would allow some development in this area where some over-water and in-water activity has occurred in the past while preserving the broad vistas as viewed from the River Trail, adjacent, and hillside properties.

The APC determined that only water-dependent uses should be allowed over water to a height greater than top of bank. No change to allowable uses is proposed with this amendment. The existing uses would continue to be allowed within these zones and in other portions of the City.

The requirements for shoreland and estuary development in Development Codes Articles 4 and 5 would remain applicable to any development in this area.

5. CP.020.2 states that *"The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section."*

Finding: The Riverfront Vision Plan recognizes the need for development but balances that with the need to protect the vistas and views of the Columbia River, the Astoria-Megler Bridge, and the surrounding landscape. By establishing four Plan areas with different focus for development, the various sections of the Riverfront could be developed in a flexible manner. Bridge Vista Area is envisioned as more of a marine related area for overwater and shoreland development while allowing flexibility of development south of the River Trail. However, the City Council has found that the BVO code as written provided for too much flexibility and was not clear on some of the requirements such as how to review mass and scale of new buildings. The proposed amendments would still allow for some flexibility but would reduce the height and scale of buildings both on land and over water. Overall, the objectives for this area are met with the proposed allowable type and level of development on land and elsewhere along the Riverfront.

The proposed amendment would allow flexibility for some limited other development with the creation of a process for potential future adoption of the Astoria Warehousing Plan District and the Port of Astoria West Mooring Basin Plan District. These two areas are larger land areas and redevelopment could be restricted with the proposed development standards. Allowing for future Plan District adoption with some code flexibility would allow for a process to review site specific needs in these two areas in the future. Specific standards and limitations are addressed in the proposed amendments.

6. CP.210(1), Economic Element, Economic Development Recommendations, states that *"In the City's waterfront areas, the City will continue to promote a combination of tourist-oriented development, industrial development associated with the City's working waterfront, and water-related and dependent industries, and distribution and sales of goods and services for Astoria residents and businesses. These efforts will be guided by and consistent with the Astoria Riverfront Vision Plan."*

Finding: The proposed amendments would not change the allowable uses in the Bridge Vista Overlay zone. It would reduce the height from potential 45' in some areas to 28' maximum on land with the possibility of up to 35' for water-dependent uses over-water and up to 35' for on-land uses that provide a 60' wide public access corridor. A two-story and possible three-story water-dependent building would continue to allow some development along the waterfront while reducing the mass and scale of the buildings.

7. CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

Finding: The proposed amendments create increased visual and physical linkages along the Columbia River with limitation on development and special siting standards for buildings and landscaping. The proposed amendments include building height limitations that are consistent and reflective of the Uniontown historic area. The proposed amendments are intended to protect the views of the River which is one of the main tourist attractions to Astoria. Major loss of these views would be a detrimental impact to Astoria's economy and livability. Protection of some views would be achieved by creating a maximum lot coverage of 50% with a required north-south building orientation to keep open space on lots which could increase as the building gets taller. In addition, if more than one building is constructed on a lot, there would be a required 60' public access / view corridor between buildings. This would generally be for the larger lots as smaller lots would not have the area to build more than one structure.

8. CP.038.1, Port-Uniontown Overlay Area Policies, states that *"The City will use the vision established in the Port/Uniontown Transportation Refinement Plan (2007) to direct future development in the Port- Uniontown Overlay Area. The overall Comprehensive Plan Policies are to:*

- a. *Promote development that complements the surrounding areas of Downtown and the West End.*
- b. *Enhance existing primary uses, such as Port of Astoria facilities, the marina, visitor services, open space, trails, and small businesses and neighborhoods.*
- c. *Support redevelopment of former industrial sites and vacant and underutilized lots*
- d. *Stimulate development interest by establishing complementary surrounding land uses and quality development and design, and by improving transportation conditions through road construction and connections, circulation plans, and access management plans.*
- e. *Establish visual and physical linkages within and around the Port-Uniontown Overlay Area, with emphasis on the Columbia River waterfront.*
- f. *Create a pedestrian-friendly environment through the District by increasing connectivity throughout the Port-Uniontown Overlay Area, orienting buildings toward adjacent streets and pathways, extending the River Trail, adding and improving sidewalks, and enhancing the streetscape with landscaping, human-scale lighting, seating, and other amenities.*

Finding: The proposed amendments would retain the existing zoning which allows a range of allowed land uses in these areas. The revisions and/or clarifications of the building size and siting standards would preserve and/or create view corridors and preserve portions of the waterfront for vistas and views. The proposal balances the need for development and the need for public access to the waterfront by recognizing the visual connection to the river from the hillsides, the River, the River Trail, and from the highway by allowing the mixed uses but at a smaller, pedestrian scale.

At its September 30, 2019 meeting, the City Council considered the issue of view access at north-south rights-of-way and the fact that there are only three north-south right-of-way within the Bridge Vista Overlay Area at Columbia Avenue, Basin, and Bay Streets. Only Columbia Avenue extends from West Marine Drive to the River. Basin and Bay Streets end at Port-owned properties. The City Council suggested additional code language that would protect those view corridors. The proposed view corridors would not prevent development of these parcels but would limit the view corridor area to use as parking and/or landscaping. The remaining portion of the site could be developed; therefore, only the development site layout configuration would be affected by the proposed view corridor.

The majority of the Port-owned property (Piers 1, 2, 3) are not within the BVO and not subject to the Riverfront Vision requirements. The east area of Port property including the existing former Astoria Riverwalk Inn and the area between the Inn and the Maritime Memorial are included in the BVO area. These areas are intended to be pedestrian-friendly and are partially within the Pedestrian-Oriented District. Even with the proposed potential for the Astoria Warehousing Plan District and Port of Astoria West Mooring Basin Plan District, it is proposed that Limitation Areas and Pedestrian-

Oriented District standards would still apply and would not be subject to change with a Plan District. However, the boundaries of the Pedestrian-Oriented District could be amended through the Plan District process.

9. CP.038, Port-Uniontown Overlay Area Policies, state that

- “2. The City will implement the Port-Uniontown Overlay Area element of the Comprehensive Plan through its Design Review process and amendments to the Development Code that provide design and development standards.*
- 3. The City, through the Development Code, will develop a set of design standards for the Port-Uniontown Overlay Area that address building massing and orientation, architecture, access and parking, streetscape, landscaping, and other elements. These standards will apply to development projects in the District as defined in the Development Code.*
- 4. To the extent possible, the design and development standards are intended to be clear and objective so that most proposed development can be evaluated administratively. The Design Review Committee, created and enabled by the Development Code, will review appeals of administrative decisions and proposals that vary from the standards and yet may still embody the spirit of the Port-Uniontown Overlay Area.”*

Finding: The proposed amendments would revise building height based on the existing historic and waterfront development design of the Uniontown and Port area other than the former larger cannery buildings. On October 7, 2019, the City Council adopted the Uniontown Reborn Master Plan and Uniontown Overlay Zone along with revised Port Overlay Area to replace the Port-Uniontown Overlay Area. Those amendments would become effective on November 7, 2019. The potential second reading and adoption of the proposed Bridge Vista Overlay amendments is scheduled for October 21, 2019 prior to the enactment of the Uniontown Reborn Master Plan amendments. Therefore, the existing codes are included and discussed in these Findings of Fact.

10. CP.068, Astoria Riverfront Vision Overlay Area Policies, states that

- “1. Promote physical and visual access to the river. The overall Comprehensive Plan objectives are to:*
 - a. Maintain current areas of open space and create new open space areas.*
 - b. Provide for public access to the river within private developments.*
 - c. Retain public ownership of key sites along the riverfront.*
 - d. Protect view sheds along the river, including corridors and panoramas from key viewpoints.*

- e. *Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views."*

Finding: The proposed amendments would further preserve visual access to the Riverfront with the reduced height, mass, scale, maximum lot coverage, setbacks, stepbacks, and required 60' view corridor between multiple buildings on the same lot. They also create siting standards to limit the size and height of buildings to reduce the mass and scale on the entire development site.

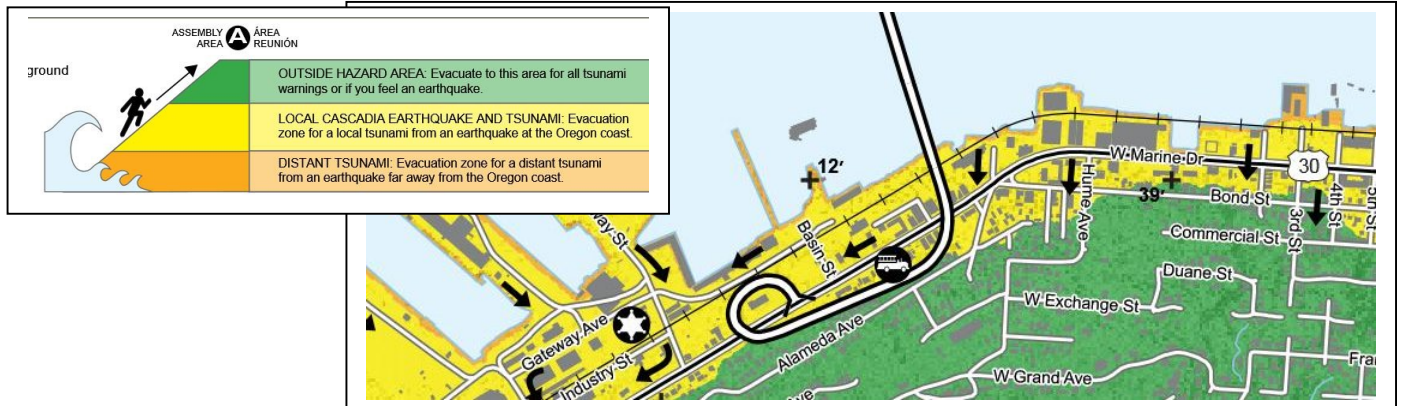
The reduction in height limits the use of alternative development forms relative to narrower/taller profiles, however, with a height exception for water-dependent uses, additional height can be designed for these needed uses.

- "2. *Encourage a mix of uses that supports Astoria's "working waterfront" and the City's economy. The overall Comprehensive Plan objectives are to:*
 - a. *Maintain the authentic feel of the riverfront.*
 - b. *Prioritize siting of water-related businesses along the river.*
 - c. *Allow for some residential development along the riverfront, emphasizing smaller-scale work force (moderate income) housing.*
 - d. *Allow for development that supports downtown and other commercial areas.*
 - e. *Limit development in areas with most significant impacts on open space, view, or other resources.*
 - f. *Promote uses that provide jobs and support the local economy."*

Finding: The proposed amendments would not change the allowable uses but would reduce the height to help preserve views and allow for development that is more in scale with the existing riverfront. A proposed height exception to 35' for water-dependent uses would allow additional height without a variance to encourage this use. The exception to 35' for on-land development with the condition that the developer provide a 60' wide public access / view corridor with public amenities would allow for taller buildings but only with the public access to reduce the impact on views and open spaces.

Special exceptions for affordable housing were considered but are not included with this proposal due to the APC's concern with location of housing in a tsunami zone in this area. The entire BVO area is within the "Local Cascadia Earthquake and Tsunami" Area. This is a required evacuation zone. The City of Astoria addendum to the Clatsop County Multi-jurisdictional Natural Hazards Mitigation Plan, dated 6-17-2013, on Page 1-36 states "*Astoria's location along the Oregon Coast makes it susceptible to tsunamis from both near shore (following a Cascadia Subduction Zone earthquake) and*

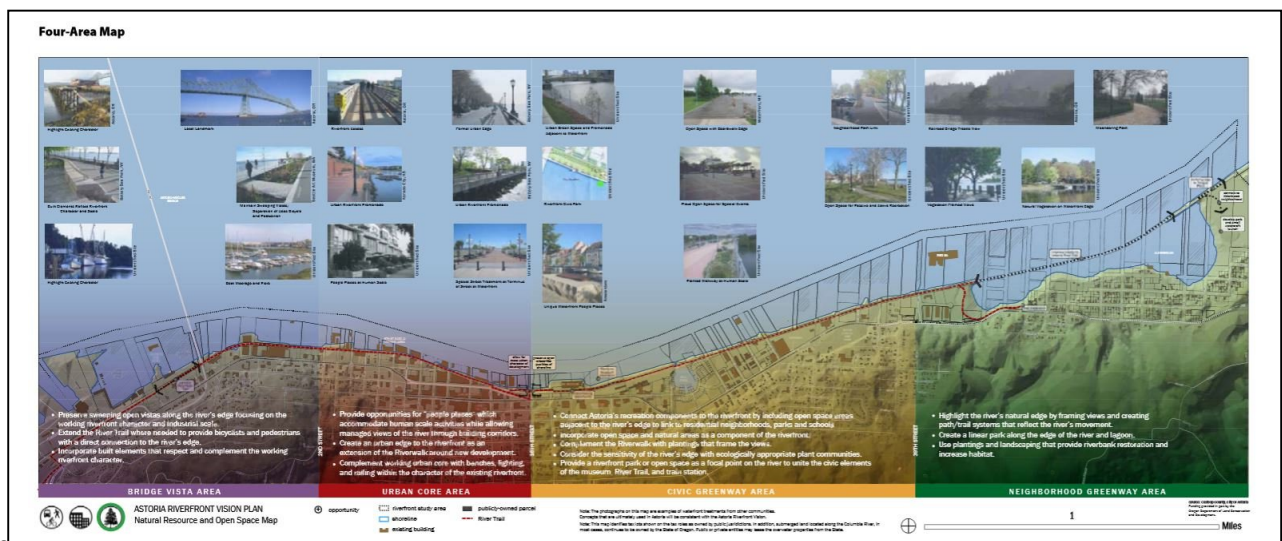
distant tsunamis. The extent of the tsunami hazard is limited to those areas adjacent to either the Columbia River or Young's Bay." Page 1-38 states "The City's tourist-based economy and population density are significant issues related to the tsunami hazard."



- “3. Support new development that respects Astoria's historic character. The overall Comprehensive Plan objectives are to:
- Enhance or refine Development Code to achieve vision principles.
 - Implement design review, design standards, or other tools to guide the appearance of new development.
 - Devote resources to rehabilitating old structures.”

Finding: The proposed amendments would create new and amend existing height and building orientation standards that reflect the historic character of the Uniontown area for both commercial and industrial waterfront buildings and uses. The proposal would still allow for repair, restoration, and reconstruction of existing historic buildings.

Findings: The Astoria Riverfront Vision Plan was accepted by the City Council on December 7, 2009. The Astoria Riverfront Vision Plan was developed to address a series of land use, transportation, and scenic, natural, and historic resource issues along the Columbia riverfront in the City. The area spans from Pier 3 in the west to Tongue Point in the east along the Columbia River, and is divided into four sub-areas.



The subsequent Comprehensive Plan amendments were adopted on April 21, 2014. The subarea Development Code implementation sections were adopted as follows: Bridge Vista Overlay Zone (BVO) was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street. During the public hearing on an appeal of that issue as noted in the Background information in this document, the Council noted concerns with specific language in the BVO codes that were not clear and did not reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. There were several other issues that staff identified as needing clarification. These issues were addressed in Amendment Request (A19-01A) by the APC with the building height and mass separated out as Amendment Request (A19-01B).

Based on public input, the City Council requested that the BVO area height be reduced to 28' from the current 35' height allowance. The current code would allow a variance up to 45' high. The APC addressed the City Council desire for a 28' height but also looked at their concern with the mass of buildings. The APC proposed amendments that would allow a 35' building with a north/south orientation for a maximum of 60% of the lot width, maximum building width of 90', and a required view corridor of 60'. The APC considered this alternative to address building mass as a 28' high building the full width of the lot would virtually block all view of the River except at the street ends. When applying this concept to actual properties, it was determined that it would not give the results intended due to the existing lot configuration and development.



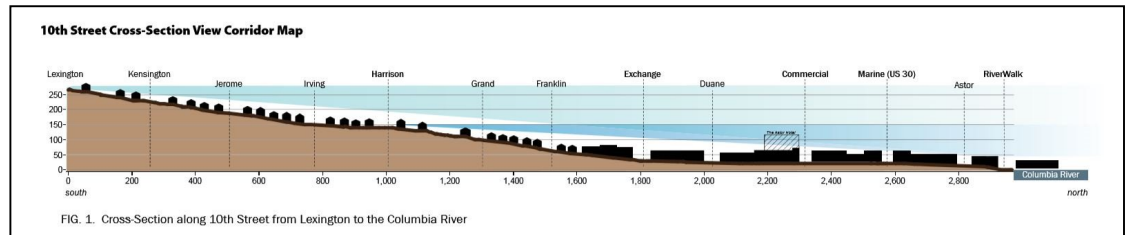
An exception without the need for a variance for water-dependent uses over water or on land would be allowed up to 35'; no other variances would be allowed. The Riverfront Vision Plan for BVO on Page 37 states *"Trading building height for width (mass) may be desirable in some instances, but a maximum height should be established and enforced. That maximum height likely would be on the order of one story above the base height."* The base height is not specified in the Plan. A desire for a 28' height has been expressed by the public and City Council. However, without other massing restrictions, a 28' height would not protect views. With a "base height" of 28'; an allowance to 35' if a 60' wide public access / view corridor is provided; a required view corridor of 60' between buildings on the same lot; and the maximum 50% lot coverage, the proposed amendment would be consistent with the Plan.

Comprehensive Plan Section CP.068.1.e states *"Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views."* The Comprehensive Plan does not specify a height but notes that a narrower/taller profile is an alternative. The APC recommended addressing the view with the narrower building orientation while allowing the 35' height. However, in the BVO area, the orientation of the lots and the existing development prevent this concept from being successfully applied. At the June 25, 2019 meeting, the APC determined that a 28' height would help preserve views while additional work could be completed to address the mass of buildings. However, after additional review, the APC agreed that to increase the height to 35' with no variances and the addition of a 60' view corridor setback between buildings on the same lot, views would be protected more than full width 28' tall buildings. The Pedestrian-Oriented Overlay Zone is intended to be more compact, so the setback would not apply in that area. A 50% lot cover with at least a 10' setback on one side of the development was added to require some open space on all development. The proposed amendment does allow for the additional height exception for water-dependent uses and therefore is consistent with the Comprehensive Plan.

At its September 3, 2019 meeting, the City Council discussed the various options for how to regulate the size of the buildings and provide public access to the Riverfront. The general consensus was to limit the height to 28' with an exception to 35' if a 60' wide public access / view corridor was provided. It also noted that the FAR of 0.5 to 0.75 may not provide the

desired view corridors, so the requirement for a north-south oriented building with a 50% lot cover was suggested along with the maximum 30,000 square foot building to provide the desired view areas.

The Riverfront Vision Plan (Page 21) addresses the view from the “hillside” and the impact of buildings up to 45’ high. The Plan states *“The photographs to the right and left were taken from the top of the 11th Street stairs at Jerome Avenue. These photos help illustrate that if new or existing development was built to the maximum height allowable in the downtown district (45’), the resulting development would not substantially impact the region-wide views from the hillside.”*



This section is background information for all four of the Riverfront Plan areas. During the visioning process, there was public concern not only for the height of the building as viewed at grade level but also how it would be viewed from the hillsides. This illustration was intended to address that concern and does not state that 45’ height should be permitted in all areas. The specific height for each Plan area would be determined during the code “implementation” process. When the BVO codes were adopted, the 35’ height with allowance to 45’ high was considered as appropriate for this area. However, when applied to the first new development proposed for this area, the public and City Council determined that the 45’ height did not meet the intent of the Riverfront Vision Plan for development that was compatible with the existing development of the area. The Plan (Page 37) for BVO states *“The Bridge Vista area is adjacent to the Uniontown Neighborhood and design should be consistent with the character of the Uniontown-Alameda Historic District.”* The character of this area is generally two or three stories high and 45’ is the exception. Therefore, a reduction to 28’ on land and to top of bank over water with allowance to 35’ only for water-dependent uses would be consistent with the Uniontown area and would be consistent with the Riverfront Vision Plan. The City has followed a land use process that identified a vision for the area, implemented code language, and then through the application of the code found that the “interpretation” of how to apply the codes was problematic and did not follow the intent of the Vision Plan. The proposed amendments are being considered through the public review process and are intended as refinement and clarification of the interpretation of the Vision Plan relative to height.

The adopted Vision Plan and Comprehensive Plan do not address specific issues such as height, setbacks, uses, etc. They give guidelines for how to implement the goals of the Vision Plan such as *Promote physical and visual access to the river, Encourage a mix of uses that supports Astoria's*

"working waterfront" and the City's economy; Support new development that respects Astoria's historic character; Protect the health of the river and adjacent natural areas; and Enhance the River Trail. These goals can conflict at times and the implementation of the Plan has been controversial in interpretation. The proposed amendments would not change the allowable uses within the Overlay Zone areas but would address the mass and scale of buildings and their compatibility with the character of Astoria. The working waterfront once had multiple buildings that were between one and three stories tall. Most of the existing buildings in Astoria are one and two stories tall with a few taller buildings along the waterfront and in other areas. There has been a lot of discussion on what a "working waterfront" should be and whether large hotels are what was envisioned. Section CP.068.2 refers to encouraging water-related business and maintaining an authentic feel of the riverfront. The proposed amendments would reduce the height of buildings keeping them in scale with most other buildings in the area and would allow for the protection of the River Trail environment.

While possibly limiting the feasibility of some new development due to the economics of construction, the proposed amendments do not prohibit development or uses beyond what the Code allows now. The amendments are in direct response to citizen concerns and the City Council desire to clarify how to interpret the existing Code based on how they interpret the Riverfront Vision Plan and the intended results of the Code as originally adopted. The proposed amendments would be consistent with the goals of this Comprehensive Plan section.

11. CP.140.C, Columbia River Estuary Aquatic and Shoreland Designations, Development Aquatic, states *"Development Aquatic areas are designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses. The objective of the Development Aquatic designation is to ensure optimum utilization of appropriate aquatic areas by providing for intensive development. Such areas include deepwater adjacent to or near the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material, areas of minimal biological significance needed for uses requiring alteration of the estuary, and areas that are not in Conservation or Natural designation. These areas are in the Aquatic One Development Zone (A-1), the Aquatic Two Development Zone (A-2), the Aquatic Two-A Development Zone (A-2A)."*

CP.140.E, Columbia River Estuary Aquatic and Shoreland Designations, Development Shoreland, states *"Development Shoreland areas are designated to provide for water-related and water-dependent development along the estuary's shoreline. These areas may present opportunities to develop uses that complement uses in Downtown Astoria, consistent with the City's Riverfront Vision Plan. Development Shoreland areas include urban or developed shorelands with little or no natural resource value, and shorelands with existing water-dependent or water-related uses. Development Shoreland areas may include scenic vistas of the Columbia River that may be an important planning objective to protect, consistent with the City's Riverfront Vision Plan. These areas are in the General*

Development Shorelands Zone (S-2), or the Tourist-Oriented Shorelands Zone (S-2A). Some of these areas are in residential or commercial zones with a Shorelands Overlay Zone.”

Finding: The Aquatic and Shoreland designations are not proposed to be changed, but the height in the Bridge Vista Area is proposed to be reduced from 45’ to 28’ on land with an exception to 35’ with the inclusion of a 60’ wide public access / view corridor, and to top of bank over water with an exception to 35’ for water-dependent uses. The height limitations would be for all uses and activities. The objective of the Riverfront Vision Plan is to protect some vistas of the Columbia River which is the intent of the proposed height reduction and 50% lot coverage.

The issue of what is “water-dependent” use was discussed and the description in Development Code Section 4.220.A.2, Water-Dependent and Water-Related Use Criteria, Water-Dependent Use, is proposed to be amended to clarify that a use does not become “water-dependent” or “water-related” just because it takes advantage of the waterfront location such as a hotel that benefits from this location. It also clarifies that just because a hotel provide a marina, the entire project does not meet the “water-dependent” criteria and only the marina is classified as water-dependent, not the hotel.

The proposed amendments are consistent with the intent of this CP section.

12. CP.186.C, Cumulative Impacts, Cumulative Impact Analysis, states that

1. *Public Access.*

Activities generating cumulative impacts on public access can both enhance and reduce opportunities for public access to the waters and shorelines of the Columbia River Estuary. Public access is treated broadly here to include both physical and visual access. . .

Boat ramps and marinas have a strongly beneficial cumulative impact on public access for the boating public. Private individual moorages on the other hand can have negative cumulative impacts with respect to public access if allowed to overcrowd particular waterways. Continuous development of individual moorages along a reach of the Columbia River Estuary or a tributary can block public shoreline access and inhibit small boat navigation, having a strongly negative cumulative impact. The regional estuarine construction policies and standards encourage community docks and piers and discourage individual moorages. . .

Port development is often not fully compatible with public access; however, the cumulative impact of port development on public access is expected to be minor. Port development is limited to only a few sites in the estuary. Full development of all existing designated Development and Water Dependent Development

shorelands would not significantly reduce public access opportunities in the Columbia River Estuary, but may have locally significant effects. . .

5. Recreation/Tourism.

Discussion of cumulative impacts on recreation and tourism includes estuary-oriented recreation undertaken by both local residents and by visitors from outside the region. Many impacts may be largely aesthetic in nature. . .

Boat ramps, marinas, and moorages have a generally positive impact on recreation and tourism, though there may also be a negative aesthetic component. The net cumulative impact is probably positive, however, because the estuary is large relative to the extent of existing recreational boat facilities. . .

Port development may generate both positive and negative impacts with respect to tourism and recreation. The passage of deep draft vessels up and down the Columbia River Estuary, together with associated tug, barge, and wharf activities, are significant elements of the Columbia River Estuary's attractiveness for visitors. Port development may also, however, generate negative impacts on recreational fishing and public access (see "Columbia River Estuary Regional Management Plan" Subsections 5.3.3. and 5.3.1.). Net cumulative impacts are believed to be positive. . .

Finding: The existing code limits some Riverfront areas to water-related and water-dependent uses consistent with the fishing industry and Port activities. It also limits some important public view areas to development at shoreland height maximum. This supports boat ramps, marinas, moorages, etc. that are considered to be a positive impact on recreation and tourism. The proposed amendments are intended to minimize the cumulative negative impacts along the Riverfront by preserving some areas for marine development and protecting some vistas and views. The proposed amendments would reduce any future over-water development to top of bank, or on-land development to 28', where allowed, with a 35' high exception for water-dependent uses over water and 35' over land with a 60' wide public access / view corridor. The intent is to provide more visual and physical access to the river from the River Trail and from the River and lessen the cumulative negative impacts of larger developments.

The proposed Basin and Bay Street view corridors create a 70' view easement at the north ends of Bay and Basin Streets. The draft amendment also includes a definition of "view corridor" as "*The unobstructed line of site of an observer looking toward an object of significance to the community such as the River, historic site, ridgeline, etc. A view corridor shall be free of structural encroachments. Parking within a view corridor is allowed unless otherwise specified.*" With this definition, use of the property affected by the Basin and Bay Street view corridor is still

allowed and the view corridor area could be used for the required parking and/or landscaping areas. It should not prevent development of the site. The Council determined that since the view corridor was for the provision of a "view" from the Basin and Bay Street rights-of-way, that there should not be an exception allowed to the view corridor in the future Port West Mooring Basin Plan District.

13. CP.185(M), Regional Estuary and Shoreland Policies, Public Access Policies, states that *"Public access" is used broadly here to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to Columbia River Estuary shorelands and aquatic areas."*

CP.185(M.2 to 5), Regional Estuary and Shoreland Policies, Public Access Policies, states that

2. *Public access in urban areas shall be preserved and enhanced through waterfront restoration and public facilities construction, and other actions consistent with Astoria's public access plan.*
3. *Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreline access to areas traditionally used for fishing, hunting or other shoreline activities. . .*
5. *Astoria will develop and implement programs for increasing public access."*

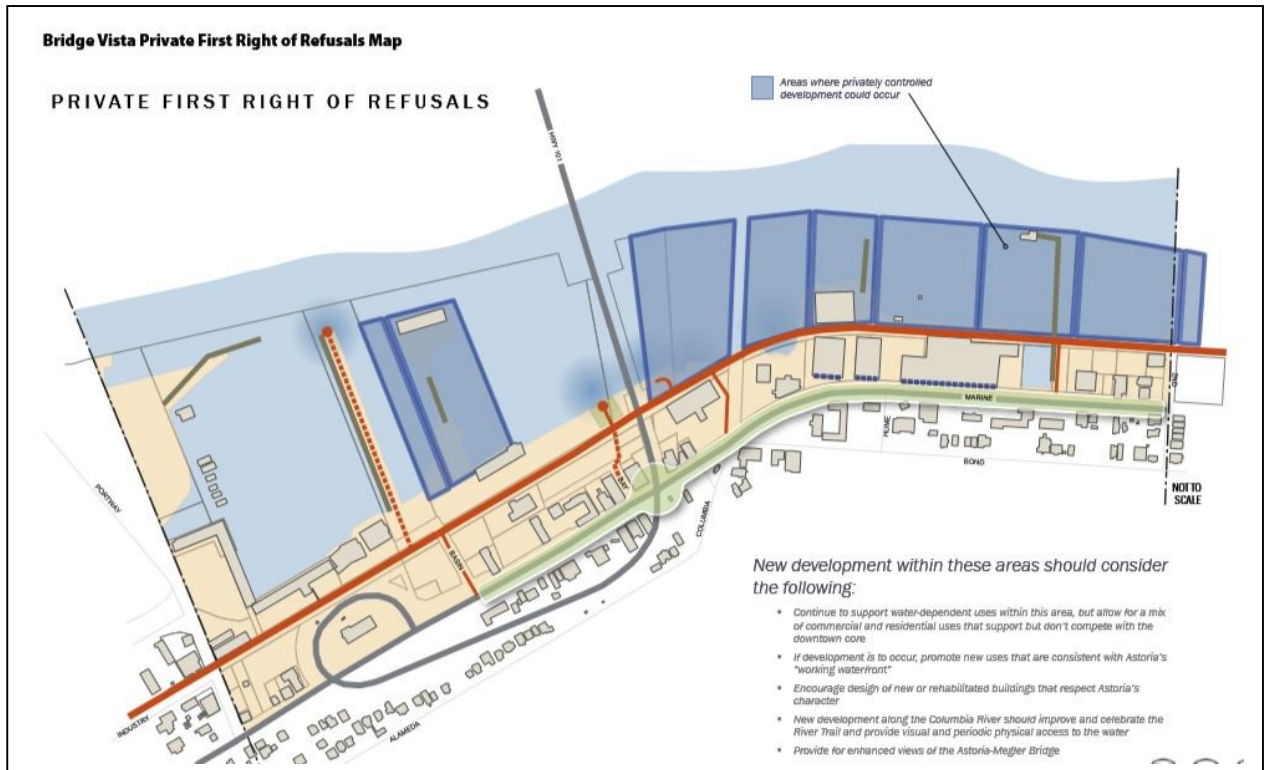
CP.185(N.2), Regional Estuary and Shoreland Policies, Recreation and Tourism Policies, states that *"Recreation uses in waterfront areas shall take maximum advantage of their proximity to the water by: providing water access points or waterfront viewing areas; and building designs that are visually u {typo from original ordinance} with the waterfront."*

CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policy 1 states *"Provide public access to the waterfront wherever feasible and protect existing access. The importance of the downtown waterfront in terms of aesthetics, public access and business improvement cannot be overemphasized. The City supports the concept of the "People Places Plan," and encourages local organizations in the construction and maintenance of waterfront parks and viewing areas."*

Finding: One of the reasons the Riverfront Vision Plan was developed was to enhance public access to the estuary and allow for preservation of public open space and park areas along the Columbia River. Public access includes both physical and visual access. The River Trail along the Columbia River is used by locals as well as visitors and is maintained for its aesthetic values as well as for its transportation values. The Bridge Vista Area was identified as an area to allow some development while preserving

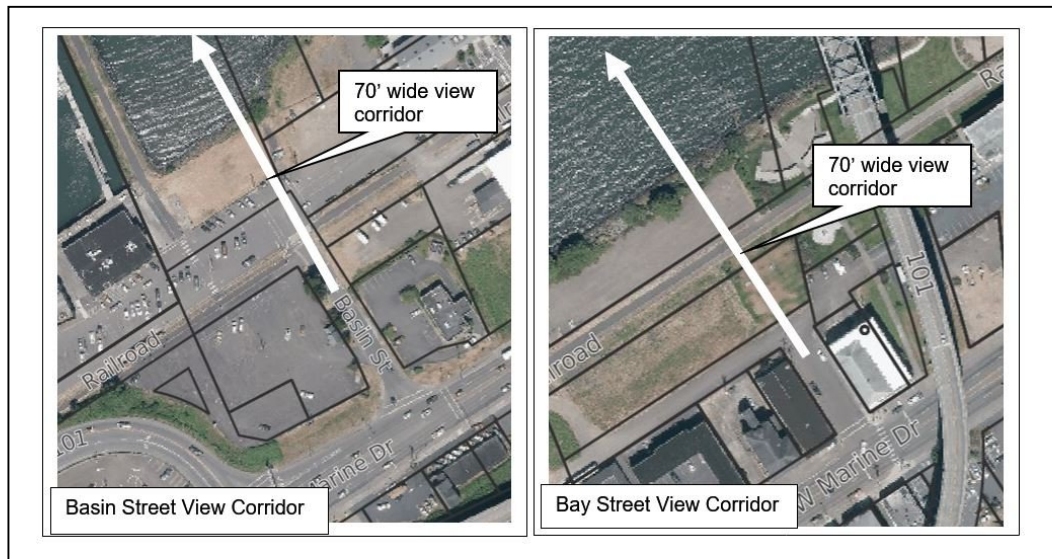
visual and public access. The Urban Core Area was identified for more intense development and the Civic Greenway Area was identified for more open space. The existing on-land building and landscaping setback and stepback requirements create wider view corridors from West Marine / Marine Drive. However, the design, mass, and scale of the proposed new development of the hotel at 2nd Street did not achieve the expectations of the adopted guidelines and standards. The City Council found them to be too flexible in their interpretation, and somewhat confusing as to how to apply mass and scale review to the proposal. It also found that 45' high buildings were not in character with the area. Therefore, the Council has requested a height reduction for the BVO.

The submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands (DSL). Much of the waterfront area is not currently leased and therefore still in public use. The upland property owner has the first right of refusal for use of the submerged land area. However, anyone can lease from DSL. While there are tax lots platted out into the River, the tax lot owner does not pay taxes on the lot other than for improvements that are located on the lot. By State law, the public has rights to both physical and visual access to the water.



The proposed amendments would protect public visual and physical access to the River. The existing code limits the size and height of buildings on land, and height and orientation of development over the water to minimize the impact on public access. The original standards were based on the visual impacts of the dimensions and site location of the existing Cannery Pier Hotel (10 Basin Street) located on the west end of the River Trail, and two other over-water structures at 100 31st Street (Big Red) and 100 39th Street (Pier 39). The proposed height reduction is based on the visual impact of the proposed 45' hotel with an east/west orientation which was approved with the existing guidelines and standards and the public concern that the size of the structure is not compatible with the desired development of the BVO area and Riverfront.

At its September 30, 2019 meeting, the City Council considered the issue of view access at north-south rights-of-way and the fact that there are only three north-south right-of-way within the Bridge Vista Overlay Area at Columbia Avenue, Basin, and Bay Streets. Only Columbia Avenue extends from West Marine Drive to the River. Basin and Bay Streets end at Port-owned properties. The City Council suggested additional code language that would protect those view corridors. The proposed view corridors would not prevent development of these parcels but would limit the view corridor area to use as parking and/or landscaping. The remaining portion of the site could be developed; therefore, only the development site layout configuration would be affected by the proposed view corridor.



14. CP.460(3), Natural Resource Policies states that *"The City recognizes the importance of "trade offs" that must occur in the planning process. Although certain estuary areas have been designated for intensive development, other areas will be left in their natural condition in order to balance environmental and economic concerns."*

Finding: The proposed amendment allows for some over-water development while reducing the height. The standards maintain open areas for protection of the estuary habitat and to maintain vistas and views. The APC and City Council did not believe non-water-dependent uses needed to be constructed over the water to a height greater than top of bank.

15. CP.204(3 & 4), Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policies state
 3. *Encourage the growth of tourism as a part of the economy.*
 - a. *Consider zoning standards that improve the attractiveness of the City, including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.*
 4. *Protect historic resources such as downtown buildings to maintain local character and attract visitors."*

CP.250(1), Historic Preservation Goals states that *"The City will Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

CP.250(3), Historic Preservation Goals states that *“The City will Encourage the application of historical considerations in the beautification of Astoria's Columbia River waterfront.*

CP.200(6), Economic Development Goals states that the City will *“Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry.”*

CP.205(5), Economic Development Policies states that *“The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.”*

Finding: The existing code includes height and building orientation standards to allow for development that is consistent with the development of the historic Uniontown area and that is compatible with the existing development within the entire area. However, with the recent hotel proposal and appeal, it was determined that the existing code may not be as consistent and compatible with the area as originally intended.

The River and River Trail are important tourism/economic assets for the City and would be protected from incompatible development with the proposed amendments. The proposed amendments clarify some height exemptions and reduce the height of structures in the BVO. The proposed code amendments would also protect more of the scenic views of the Columbia River waterfront with other standards for height and mass/scale of development. The area west of 2nd Street was the site of a former fish processing facility. This site contains a good example of the former pile field, a portion of the facility (a boiler), and historic ballast rock piles. The site and remaining structures / features are designated historic. The City Council found it difficult to review a 45' tall hotel for compatibility with a non-habitable boiler and ballast rock piles. Amendment A19-01A addressed the issue of how to compare proposed projects to existing development. The proposed amendment in A19-10B would reduce the building height to protect views and historic sites.

16. CP.270, Parks, Recreation, and Open Space Element, Goals states that *“The City of Astoria will work:*
 1. *To develop a balanced park system.*
 2. *To reflect Astoria's special qualities and characteristics. . .*
 5. *To provide or encourage waterfront parks. . .*
 7. *To promote general beautification. . .*
 12. *The City will continue its efforts to improve public access to the shoreline through:*
 - a. *The construction of public access points, pathways, and street ends;*

- b. *The encouragement of public access projects in conjunction with private waterfront development actions, possibly through the use of local improvement districts and/or grant funds; and*
- c. *The protection of street ends and other public lands from vacation or sale where there is the potential for public access to the water. The City will work with the Division of State Lands (DSL) to determine the status of submerged and submersible lands adjacent to the City street ends.”*

Finding: The City has established a River Trail along the Columbia River as a City park. The Riverfront Vision Plan (RVP) identifies this as a public area and encourages protection of a portion of the public views and vistas in the Bridge Vista Area. The RVP for the Bridge Vista Planning Area identified Land Use Assumptions and Objectives which state that *“This area is an appropriate location for new overwater development, should it occur. However, specific areas should remain open to preserve broad view of the river...”*

As noted above, the submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands. Much of the waterfront area is not currently leased. By State law, the public has rights to both physical and visual access to the water.

The proposed amendments address the building size and height for development on both the water and land side of the River Trail with the reduction in height for BVO from 45' to 28' with an exception to 35' with the condition of a 60' wide public access / view corridor, and with reduction over water to top of bank except for water-dependent uses which could be 35'. The proposed amendments would protect the waterfront park from incompatible intrusions.

17. CP.470(1), Citizen Involvement states that *“Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.”*

Finding: Throughout the process of drafting the original Riverfront overlay areas ordinances, the City provided extensive public outreach. With the review of the recent HLC and DRC permits for the hotel and the subsequent appeal hearing, the public were provided many opportunities to be involved in the process. Invitations and notices were sent to interested parties, neighborhood associations, property owners, stakeholders, email lists, web site, notices in the *Astorian*, etc. to advise them of the opportunity to provide suggestions and comments. The Council considered the public input but recognized that the hotel proposal at 2nd Street would need to be evaluated against the existing code, and that the code was unclear on several issues. Due to the lack of clarity and the extensive public comments, the City Council initiated the process to amend the code to better address the needs of the reviewing bodies and the desires of the general public. A work session with public input was held by the City Council at their February 19,

2019 meeting. A code amendment was processed through additional public hearings before the Planning Commission on March 26, 2019 and April 23, 2019, and before the City Council on June 3, 2019 to address these concerns. Due to the complexity of the height and mass of buildings, those two issues were separated from the original application and are being processed through separate additional public hearings before the Planning Commission on May 28, 2019, June 25, 2019, and July 23, 2019. The City Council address these concerns at a public hearing on August 19, 2019. The deliberation was continued to the September 3, 2019 Council meeting and after much discussion, the Council suggested revisions to the proposed amendments and additional public notice and a new public hearing was scheduled for the September 30, 2019 Council meeting. In addition to formal public notices, there were numerous articles in the *Astorian* and many "Letters to the Editor" concerning the proposed amendments.

The City was very conscious of the interest in protection of the Riverfront and the need to have an ordinance that would meet the needs of the citizens, property owners, protect the environment and historic resources, be in compliance with State regulations, and would be a permit process that was easy for both citizens and staff.

18. CP.185.N, Regional Estuary and Shoreland Policies, Recreation and Tourism Policies, states *"Policies in this subsection are applicable to recreational and tourist-oriented facilities in Columbia River estuary shoreland and aquatic areas."*

1. *New non-water-dependent uses in aquatic areas or in areas zoned Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity."*

CP.185.O, Regional Estuary and Shoreland Policies; Residential, Commercial and Industrial Development Policies, states *"Policies in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas. Within the context of this subsection, residential uses include single and multifamily structures, mobile homes, and floating residences (subject to an exception to Oregon Statewide Planning Goal 16). Duck shacks, recreational vehicles, hotels, motels and bed-and-breakfast facilities are not considered residential structures for purposes of this subsection. Commercial structures and uses include all retail or wholesale storage, service or sales facilities and uses, whether water-dependent, water-related, or non-dependent, non-related. Industrial uses and activities include facilities for fabrication, assembly, and processing, whether water-dependent, water-related or non-dependent, non-related."*

1. *New non-water-dependent uses in aquatic areas and in Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity."*

2. *Residential, commercial or industrial development requiring new dredging or filling of aquatic areas may be permitted only if all of the following criteria are met:*
 - a. *The proposed use is required for navigation or other water-dependent use requiring an estuarine location, or if specifically allowed in the applicable aquatic designation; and*
 - b. *A substantial public benefit is demonstrated; and*
 - c. *The proposed use does not unreasonably interfere with public trust rights; and*
 - d. *Feasible alternative upland locations do not exist; and*
 - e. *Potential adverse impacts are minimized.”*

Finding: The APC expressed a desire to limit over-water development to top of bank except for water-dependent uses which could be constructed to a height of 35'. This would support water-dependent development which is the primary purpose of the aquatic and shoreland zones. Development of non-water-dependent uses would preclude future use of these areas by the more appropriate water-dependent uses. The proposed height limitation would be consistent with this section of the Comprehensive Plan.

The APC expressed concern that Development Code Section 4.220, Water-Dependent and Water-Related Use Criteria, that identifies how to determine if a use is “water-dependent” could be misinterpreted. Section 4.220 includes “Recreation” as a water-dependent use and states “*Recreation (active recreation such as swimming, boating and fishing, or passive recreation such as viewing and walking;*”. The concern was that a hotel could state that view of the River by its guests is “recreation” and therefore a water-dependent use. The APC requested that this Section be amended to clarify that “*viewing and walking*” are intended as uses separate from a primary associated use such as a hotel and actually mean facilities such as the public River Trail. The association of a hotel to a boat dock should not change the classification of the hotel to water-dependent. Only that portion of the use that is truly water-dependent would be classified as water-dependent.

Finding: The request is consistent with the Comprehensive Plan.

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

Finding: The proposed amendment will satisfy land use needs in that it will allow for the development of private properties while protecting the vistas and views along the Bridge Vista Area of the River Trail. The proposed amendment further limits the allowable development height in this area thereby reducing some of the impacts associated with a more intensive development.

Change in allowable uses is not being proposed and will not change the Buildable Lands Inventory statistics. The reduction in allowable building height may reduce

the financial feasibility of some forms of development in this area. However, the proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

E. Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) states that:

- “(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) Change standards implementing a functional classification system; or*
 - (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”*

Finding: No map amendment is proposed. No change in use is proposed. The proposed amendments would impact the height, scale, and location of buildings. The proposed amendments will not impact transportation facilities. The proposed amendments comply with the Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) requirements. At the time of adoption of either the Astoria Warehousing Plan District or the Port of Astoria West Mooring Basin Plan District, and application of any map amendment designating these areas, the OAR should be addressed.

- F. ORS 197.303 and ORS 197.307 relate to State required standards for certain housing in urban growth areas. The ORS state the following:

“ORS 197.303, Needed Housing Defined.

- (1) *As used in ORS 197.307 (Effect of need for certain housing in urban growth areas), “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:*
- (a) *Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;*
 - (b) *Government assisted housing;*
 - (c) *Mobile home or manufactured dwelling parks as provided in ORS 197.475 (Policy) to 197.490 (Restriction on establishment of park);*
 - (d) *Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and*
 - (e) *Housing for farmworkers.”*

“ORS 197.307, Effect of need for certain housing in urban growth areas

- *approval standards for residential development*
 - *placement standards for approval of manufactured dwellings*
- (1) *The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.*
- (2) *Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.*
- (3) *When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.*
- (4) *Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:*
- (a) *May include, but are not limited to, one or more provisions regulating the density or height of a development.*
 - (b) *May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.*
- (5) *The provisions of subsection (4) of this section do not apply to:*

- (a) *An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.*
 - (b) *An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.*
- (6) *In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:*
 - (a) *The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;*
 - (b) *The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and*
 - (c) *The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.*
- (7) *Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:*
 - (a) *Set approval standards under which a particular housing type is permitted outright;*
 - (b) *Impose special conditions upon approval of a specific development proposal; or*
 - (c) *Establish approval procedures."*

Finding: State regulations require cities and counties to zone for all types of housing. The ORS defines "needed housing" to include affordable, low income, and very low-income housing types. ORS 197.307 addresses the determination of needed housing, allowable standards, and a clear process for design review. The City of Astoria conducted a Buildable Lands Inventory which was adopted in 2011. The report noted that there was surplus land zoned for medium and high-density residential development but a deficit of low-density residential land for an overall deficit of land zoned for residential use. There have been minor zone amendments since 2011 but the overall surplus and deficit is about the same. Multi-family residential use is also allowed in some non-residential zones allowing for more high-density residential development. The proposed amendments would still allow for multi-family dwellings in the commercial zone and would not reduce the "residentially zoned" land supply.

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027

Type of Use	R1	R2	R3	AH-MP	Total
Land Need	115.4	51.2	67.0	2.7	236.3*
Land Supply	25.20	74.99	119.18	1.49	220.86
Surplus/(Deficit)	(90.20)	23.79	52.18	(1.21)	(15.44)*

Source: Wingard Planning & Development Services

* Note: Scrivener's Error in actual figure. BLI shows 236.4 and (15.54) but should be 236.3 and (15.44).

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027				
Growth Scenario	Type of Use	Commercial (Office/Retail)	Industrial/Other	Total
Medium	Land Need	38.2	11.5	49.7
	Land Supply	17.1	39.3	56.4
Surplus/(Deficit)	Surplus/(Deficit)	(21.1)	27.8	6.7

Source: Cogán Owens Cogán

The APC originally considered a proposed amendment that would allow a height exception to 45' for affordable housing with specified number of units, income level, and length of time the housing must be available as affordable housing. However, the APC had concerns with locating this type of housing, or any residential development, in a Tsunami Zone. The entire BVO area is within the "Local Cascadia Earthquake and Tsunami" Area. This is a required evacuation zone. The City of Astoria addendum to the Clatsop County Multi-jurisdictional Natural Hazards Mitigation Plan, dated 6-17-2013, on Page 1-36 states "*Astoria's location along the Oregon Coast makes it susceptible to tsunamis from both near shore (following a Cascadia Subduction Zone earthquake) and distant tsunamis. The extent of the tsunami hazard is limited to those areas adjacent to either the Columbia River or Young's Bay.*" Page 1-38 states "*The City's tourist-based economy and population density are significant issues related to the tsunami hazard.*" Therefore, the APC agreed that while housing was an allowable use in the area, that they would not encourage location in a tsunami zone by allowing an exception to the building height.

The proposed amendments would be in compliance with the above noted ORS requirements relative to housing.

- G. The Clatsop County Housing Strategies Report (January 2019) addresses housing issues in the County and the five jurisdictions within the County including Astoria.

- The Draft (Page 3, Introduction and Overview) states that "*The strategies presented in this report reflect the following overarching findings that have come to light during this process. These findings apply on a county-wide basis, and apply to the individual cities to different degrees:*

1) Sufficient Supply, but Not the Right Types of Housing

- Technically, there seems to be a sufficient supply of land and number of housing units to meet both current and future needs. However, much of this supply serves the second home and short-*

term rental market, leaving insufficient supply for year-round residents to both purchase or rent. In addition, some of the supply of future residential land suffers from a variety of constraints related to natural features and hazards, infrastructure challenges, or other issues.

2) Add the Right Types of Supply

- Strategies should focus on adding the right type of supply, meaning home-buying opportunities at affordable price points, and more multi-family rental housing.*
- Adding “missing middle” housing types such as townhomes, cottage clusters, and medium density housing can help to meeting the needs of first-time homebuyers. This housing, if not located in the most sought- after beach locations, should be less attractive to second home buyers.*
- Increased multi-family rental housing development should be encouraged to serve the local service, tourism, and other working-class sectors.”*

Finding: Astoria has addressed part of the first issue “Sufficient Supply, but Not the Right Types of Housing” as described in this section by regulating transient lodging that could otherwise be utilized for year-round residents. Vacation homes and other short-term rentals that are not occupied by owners at the same time as guests are prohibited in residential zones in Astoria. There is a large portion of the available “residential” property in Astoria that has constraints such as natural features and infrastructure challenges. These properties are available for development but are more challenging. The second issue of “Add the Right Types of Supply” addresses the need for affordable housing not just high-end housing and even suggests that it not be located “. . . in the most sought-after beach locations. . .” which for Astoria is the Riverfront locations. The City has adopted standards for a Compact Residential Zone to allow for cottage clusters and more affordable housing development. These standards could be applied to any area with a zone change to implement it. The City also has a Planned Development Overlay Zone that allows for development flexibility which could accommodate more affordable housing and could be applied to any area with a zone change to implement it. The Riverfront area is generally not the area that would be developed for affordable housing as it would be considered more financially feasible for high-end housing especially due to the higher costs to develop along the waterfront. The proposed amendments to the Bridge Vista area would reduce the height of buildings to 28’ which would still allow housing above the first floor. The proposed amendments would not allow a height exception for affordable housing due to the concerns with encouraging housing in a tsunami zone.

2. The Housing Study (Page 5, Section 2, Housing Trends, Key Findings) states *“The overall findings of our technical analysis of current housing conditions (Appendix A) include: . . .*
- *Newly-built housing supply will tend to be more expensive housing, as it is up-to-date and in better condition than older housing. However, adding new supply for higher-income households is necessary to allow the older housing supply to “filter” to those with more modest income.*
 - *Denser forms of housing, such as townhomes and condos rather than single family homes, may help create some smaller and lower-priced housing stock that can serve first-time and lower-income buyers. In addition, housing in areas less attractive to tourists (for instance, further from the beach or the town center) may be less likely to be consumed by second home seekers or investors. . .”*

Finding: Housing for first-time and lower-income buyers could be provided through the Compact Residential Zone, Planned Development Overlay Zone, and in existing medium and high-density zoned areas which are currently noted as being in surplus in the Buildable Lands Inventory. As noted above, some of these areas may be more challenging to develop. However, the proposed amendments would allow for housing to be developed along the Riverfront but as noted in the Study, these may not likely be developed as affordable housing.

3. The Housing Study, Land Supply Strategy 3 (Page 8, Refine BLI Data and Results - for Warrenton and Astoria) states *“The City of Astoria noted major constraints associated with federally owned land within the UGB. This land is shown as potentially buildable in the current BLI results but may not in fact be available for development during the planning period, based on constraints associated with federal ownership and management of this area. The City should work with other government agencies to clarify the status of this land and remove it from the BLI as appropriate. . .”*

Finding: As noted in the Report, the City has other strategies available for addressing the availability of land for residential development. The reduction in height for the small area along the Riverfront in Bridge Vista would reduce the number of floors for potential housing (45' to 28' reduction) in a more high-end development area and would not eliminate the possibility of some housing in this area.

4. The Housing Study, Policy and Development Code Strategy 4 (Page 14, Support High Density Housing in Commercial Zones) identifies the following as possible code amendment strategies:
- “Allow multi-family housing outright.*
 - Consider allowing single-family attached housing.*
 - Allow vertical mixed-use development outright.*
 - Adopt a minimum density standard.*
 - Tailor development and density standards.”*

Finding: The proposed code amendments would not change the allowable uses in the Bridge Vista area. Multi-family residential development in the C-3 General Commercial Zone in this area would be allowed outright. As noted above the Compact Residential Zone is a possibility for potential rezoning. The proposed amendments would continue to allow housing above commercial uses in mixed-use development projects.

Finding: While not an adopted Report, this Report was referenced by the attorney for Astoria Warehousing in a letter dated April 9, 2019 which was provided to the APC at an earlier meeting. The above Findings address some of the issues raised in this letter and other issues in the Draft Report. Overall, the proposed amendments would not be in conflict with the strategies identified in the Report as there are multiple suggested strategies and the proposed amendments would not prohibit residential development in some areas of the Bridge Vista Overlay area.

- H. City Council Goals for 2019-2021 as adopted on April 15, 2019 state the Astoria City Council Vision as *“The Astoria City Council’s actions and decisions value: • Preservation of Astoria’s unique character; • Livability and quality of life for residents; • A thriving local economy; • Resilience as a community. City government will provide high quality service, be responsive, and be transparent.”* One of the Goals states *“Maintain Astoria’s unique character in Council decisions, including those involving zoning, growth and economic development.”*

Finding: The City Council has identified preservation of Astoria’s unique character and the quality of life for residents as a vision and goal for the Council. The proposed amendments are aimed at regulating development to be in scale with the existing character of the City and to provide residents with both visual and physical connection to the Columbia River. The proposed amendments would limit the size and height of buildings and would require view corridors to the River. Exceptions to building height would only be allowed if the project provides public access to the River. The proposed Plan Districts would allow additional exceptions to the adopted code standards only after the City has adopted master plans for the two district areas and found that the exceptions are in the best interest to the City.

V. CONCLUSION AND RECOMMENDATION

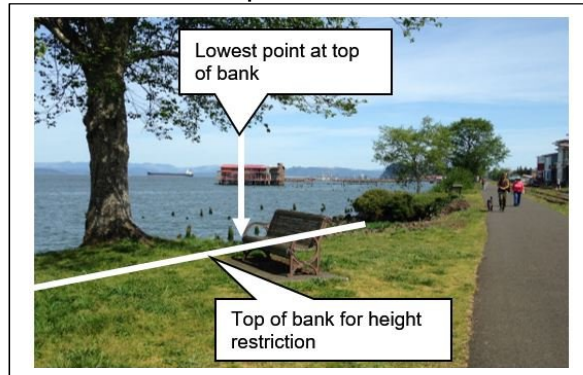
The request is consistent with the Comprehensive Plan and Development Code. The City Council adopts the proposed amendments.

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE PERTAINING TO BRIDGE VISTA OVERLAY ZONE STANDARDS

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code Section 14.001, Definitions, is added to read as follows:

“HEIGHT, TOP OF BANK: For over-water / shoreline construction, top of bank shall be measured from the existing lowest point along the top of the shoreline adjacent to the subject property prior to any grading and/or fill. Features such as railings, balustrades, dolphins, bumper pilings, mooring pilings, and water navigational fixtures are exempt from the maximum “top of bank” height restriction as “water-dependent” features.”

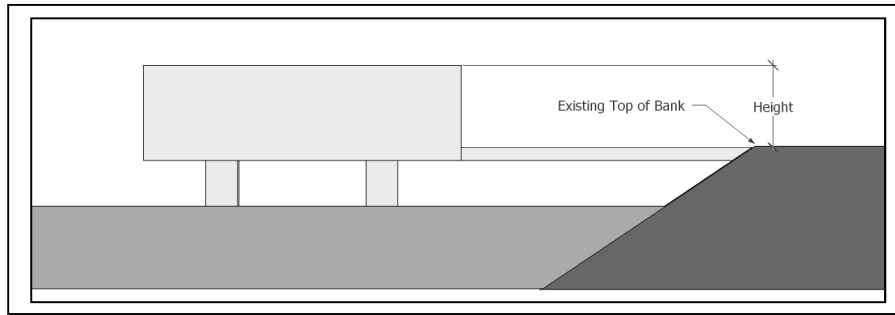


“VIEW CORRIDOR: The unobstructed line of site of an observer looking toward an object of significance to the community such as the River, historic site, ridgeline, etc. A view corridor shall be free of structural encroachments. Parking within a view corridor is allowed unless otherwise specified.”

Section 2. Astoria Development Code Section 14.100.C.2, Standards for Overwater Development, Distance from Shore and Height for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

- “2. Structures Within Overwater Development Non-Limitation Areas (Figure -14.090-1). The maximum height shall be the top of the existing adjacent riverbank. No variance may be granted for an exception to this height limitation except as follows:
 - a. Water-dependent uses over water may construct water-dependent facilities up to 35' without a variance. The added feature is subject to all other design and/or location standards of the Code.”

Figure 14.100-2: Maximum Building Height Within Overwater Development Non-Limitation Areas



Section 3. Astoria Development Code Section 14.100.D.2, Standards for Overwater Development, Building Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

- “2. Structures within the overwater development Non-Limitation Areas (Figure 14.090-1). There shall be no maximum gross floor area for buildings located in these areas.”

Section 4. Astoria Development Code Section 14.113.A, Standards for On-Land Development, Height, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

“14.113. STANDARDS FOR ON-LAND DEVELOPMENT.

The following development standards apply to on-land development in the Bridge Vista Overlay Zone south of the River Trail. The Overwater Development standards shall apply to on-land development north of the River Trail.

A. Height.

1. Maximum building height is 28 feet except as noted in subsection A.2 of this section. No variance may be granted for an exception to this height limitation.
2. Building height up to 35 feet, is permitted in accordance with all of the following:
 - a. Public Access.
 - 1) buildings shall be located to provide a 60' wide unobstructed view corridor with physical public access area from West Marine Drive that connects to the Riverfront via a public right-of-way and/or a recorded easement across another private property; and
 - 2) the public access area and view corridor shall be provided in a public access easement provided through the development site; and
 - 3) the access area shall be open to the public but may be restricted during hours specified in City Code Section 5.926 to 5.928; and

- 4) walkways shall be installed and shall be at least 14 feet in width; and
- 5) provide some public amenities such as benches, interpretive signage, or other features approved by the Community Development Director; and
- 6) responsibility for maintenance of the public access / view corridor, walkway, and/or other public amenities shall be the responsibility of the property owner. If any portion of the public access is on City-owned property and/or public right-of-way, private responsibility shall be established through a recorded maintenance agreement acceptable to the City.

b. Stepback.

Stories above 15 feet or one story shall be stepped back at least 10 feet for the facade facing a right-of-way or the River Trail in accordance with Section 14.113.C.”

Section 5. Astoria Development Code Section 14.113.C, Standards for On-Land Development, Stepbacks, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

“C. Stepbacks.

1. Purpose.

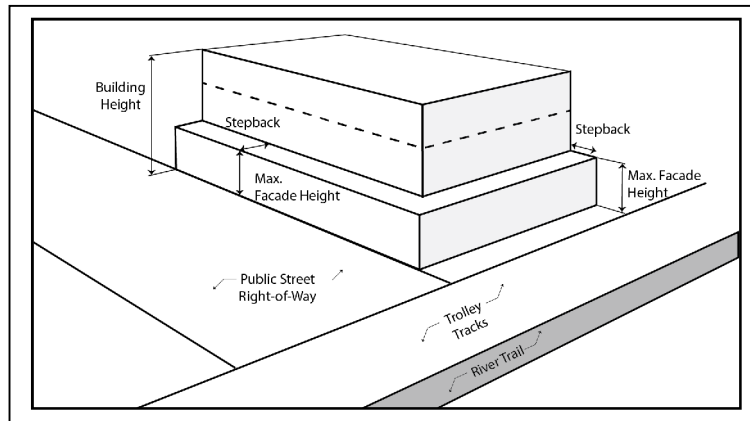
The purpose of a stepback is to allow for less obstructed views from above the building and to create a less imposing building scale as viewed from the street or parallel/adjacent trail. A stepback is also designed to allow more light down to the adjacent or fronting right-of-way, sidewalk, or trail.

2. Additional Building Height.

Where the height of a building or building addition is proposed to exceed 15 feet, at least that portion of the building exceeding 15 feet or one story, whichever is less, shall provide a stepback of at least 10 feet from the front plane of the proposed building or building addition that faces the right-of-way and/or the River Trail.

- a. Balconies and fixed awnings shall not encroach into the required 10-foot stepback area; buildings must be stepped back further in order to accommodate balconies and/or fixed awnings.
- b. Balcony railings constructed to a maximum height of 15’ are not encroachments when the building facade above the top of rail is stepbacked 10’.

Figure 14.113-1: Building Stepbacks



Section 6. Astoria Development Code Section 14.113.D, Standards for On-Land Development, Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

D. Size.

1. Gross Floor Area

The gross floor area of on-land development uses in the Bridge Vista Overlay Zone shall be a maximum of 30,000 square feet for each building (See definition of "Gross Floor Area") except as noted below:

- a. See Astoria Warehousing Plan District Section 14.127 to 14.129.
- b. See Port of Astoria West Mooring Basing Plan District Section 14.124 to 14.126."

Section 7. Astoria Development Code Section 14.113.E, Standards for On-Land Development, Building Orientation, for the Bridge Vista Overlay Area, is added to read as follows:

14.113.E. Building Orientation.

Buildings shall have a north-south orientation (i.e. the width of the building parallel to West Marine Drive shall be narrower than the depth of the building) to allow for more unobstructed view corridors between buildings to the River."

Section 8. Astoria Development Code Section 14.113.E, Standards for On-Land Development, Lot Coverage, for the Bridge Vista Overlay Area, is added to read as follows:

E. Lot Coverage.

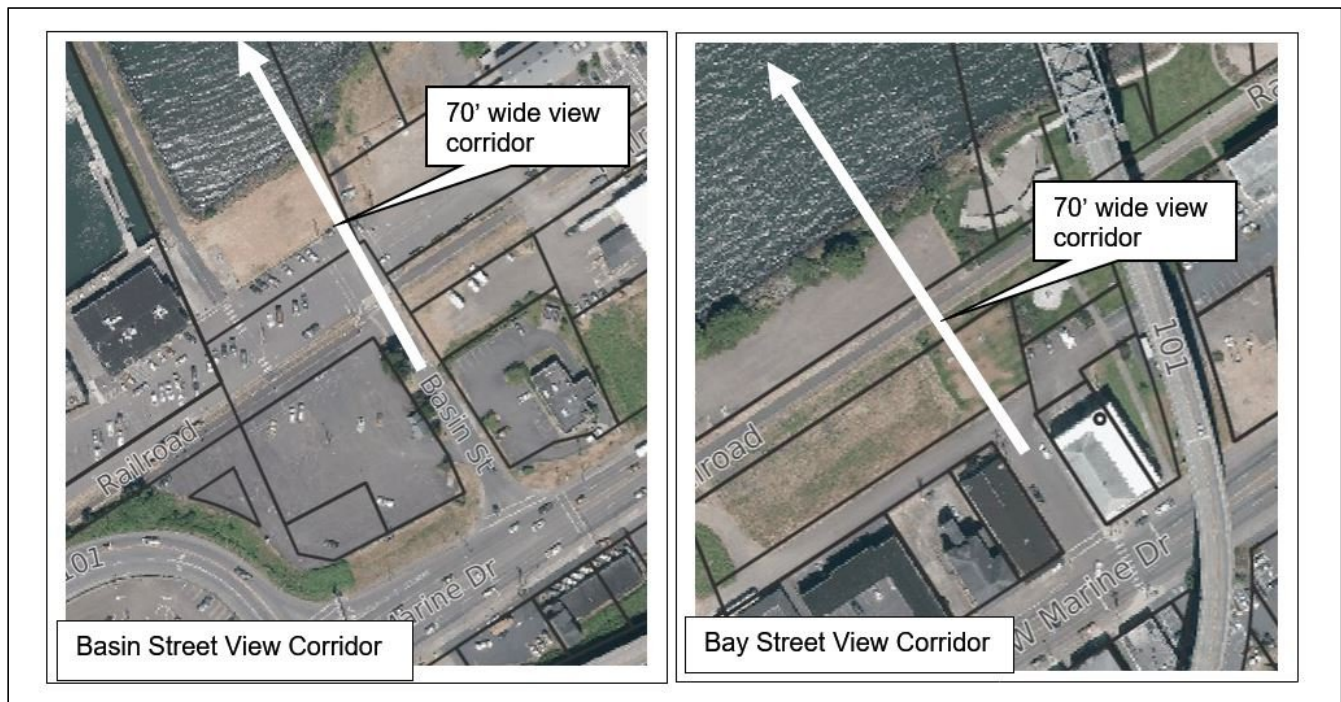
Buildings shall not cover more than 50 percent of the lot area of the "buildable lot" or combined lots of a single development."

Section 9. Astoria Development Code Section 14.113.B.1.d, Standards for On-land Development, Setbacks, Minimum Setbacks, is added to read as follows:

“d. Basin and Bay Street View Corridors.

A minimum view corridor width of 70 feet, centered on the right-of-way centerlines of Basin and Bay Streets and extending through property from West Marine Drive and the north end of the rights-of-way north to the Columbia River pierhead line, shall be provided on these north-south rights-of-way and property between West Marine Drive and the Columbia River pierhead line (Figure 14.113-2). Buildings shall be set back in order to achieve the 70-foot view corridor. If existing development on one side of the right-of-way and/or property does not meet the setback, the new development on the other side of the right-of-way and/or property is only required to provide its half of the view corridor width (Figure 14.113.1).

Figure 14.113.2: Basin and Bay Street View Corridors”



Section 10. Astoria Development Code Section 14.113.B.3, Standards for On-land Development, Setbacks, is added to read as follows:

“3. Setback Between Buildings on Same Lot.

There shall be a minimum 60-foot-wide, north-south orientation, unobstructed view corridor separation between individual buildings on the same lot / building site, except within the Pedestrian-Oriented Overlay Zone. No structures or portions of structures shall encroach into the view corridor. Vehicle parking may be allowed in a view corridor area.

4. Side Yard Setback.

A minimum 10' wide side yard setback shall be provided on one side of a development except as provided in Section 14.113.B.3."

Section 11. Astoria Development Code Section 4.220.A.2, Water-Dependent and Water-Related Use Criteria, Water-Dependent Use, is deleted in its entirety and replaced to read as follows:

"Recreation (active recreation such as swimming, boating and fishing, or passive recreation such as viewing and walking. Passive recreation associated with another use such as a hotel, is classified the same as the associated use, and not classified as a water-dependent use. Active recreation associated with another use such as a hotel may be separately classified as water-dependent but is separate from the primary use and does not change the classification of the primary use.); or"

Section 12. Section 14.125, "Parking" is renumbered as 14.122.

Section 13. Sections 14.124 to 14.126, Port of Astoria West Mooring Basin Plan District, are added to read as follows:

"14.124. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT.

The property situated approximately between Portway Avenue to the west, Bay Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.124.A the Plan District shall be known as the Port of Astoria West Mooring Basin Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;
2. Existing base and overlay zone provisions limited to those identified in Section 14.124.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and

4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

B. Review.

1. Sunset Clause.

Application to establish the Port of Astoria West Mooring Basin Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Section 14.124. Any changes and/or the elimination of this section shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

2. After Adoption of District.

After adoption of Port of Astoria West Mooring Basin Plan District regulations, the Planning Commission shall review the Port of Astoria West Mooring Basin Plan District and its regulations every five years to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

C. Mapping.

The boundaries of the Port of Astoria West Mooring Basin Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Portway Avenue and Bay Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.

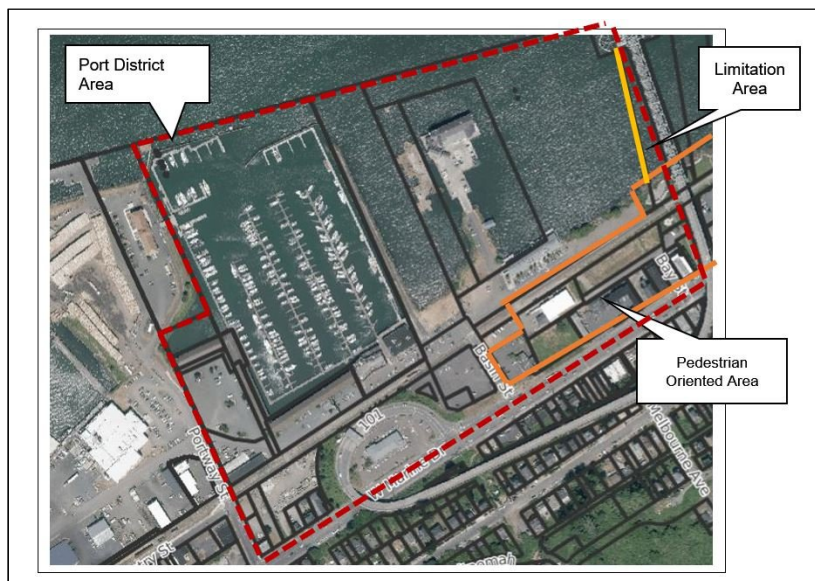


Figure 14.090-2, Pedestrian-Oriented District

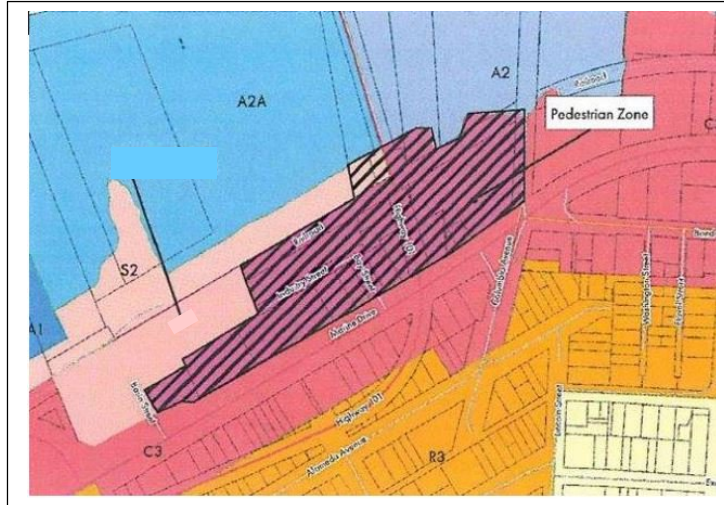
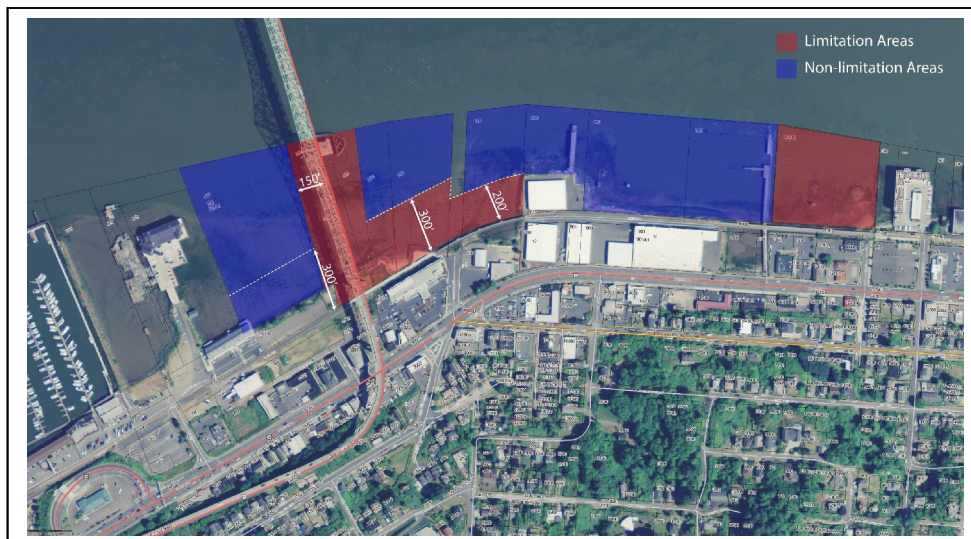


Figure 14.090-1: Limitation Area



D. Standards.

The standards for the on-land area within the Port of Astoria West Mooring Basin Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. Adding or deleting uses;
2. Changes to building height limits / setbacks up to a maximum of 35' high;
3. Setback modifications. No reduction in view corridors shall be allowed.
4. Building size and permissible footprint.

5. "Limitation Areas" shall remain as "Limitation Areas" with the existing standards.
6. "Pedestrian Oriented Area" shall remain as "Pedestrian Oriented Area" with the existing standards. Amendment to the boundaries of the Pedestrian Oriented Area may be allowed.

E. Application Procedure.

1. An application to establish the Port of Astoria West Mooring Basin Plan District shall be processed through the following procedures:
 - a. The City or Port of Astoria may apply to establish development regulations that affect one or more properties within the Port of Astoria West Mooring Basin Plan District.
 - b. An application to establish regulations that would govern development within the Port of Astoria West Mooring Basin Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10.
 - c. An application to establish the boundaries of the Port of Astoria West Mooring Basin Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
 - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.
2. An application to apply the Port of Astoria West Mooring Basin Plan District regulations to a specific project shall be processed through the following procedures:
 - a. The Port of Astoria shall be the applicant or co-applicant on all applications.
 - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.125 to 14.126. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)"

Section 14. Sections 14.127 to 14.129, Astoria Warehousing Plan District, are added to read as follows:

“14.127. ASTORIA WAREHOUSING PLAN DISTRICT.

The property situated approximately between Columbia Avenue to the west, 1st Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.127.A the Plan District shall be known as the Astoria Warehouse Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;
2. Existing base and overlay zone provisions limited to those identified in Section 14.127.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

B. Review.

1. Sunset Clause.

Application to establish the Astoria Warehousing Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Sections 14.127. Any changes and/or the elimination of this section shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

2. After Adoption of District.

After adoption of Astoria Warehousing Plan District regulations, the Planning Commission shall review the Astoria Warehousing Plan District and its regulations every five years to determine the impacts on development, the usefulness and

usability of the regulations, and the public need for any amendments to the regulations.

C. Mapping.

The boundaries of the Astoria Warehousing Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Columbia Avenue and 1st Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.

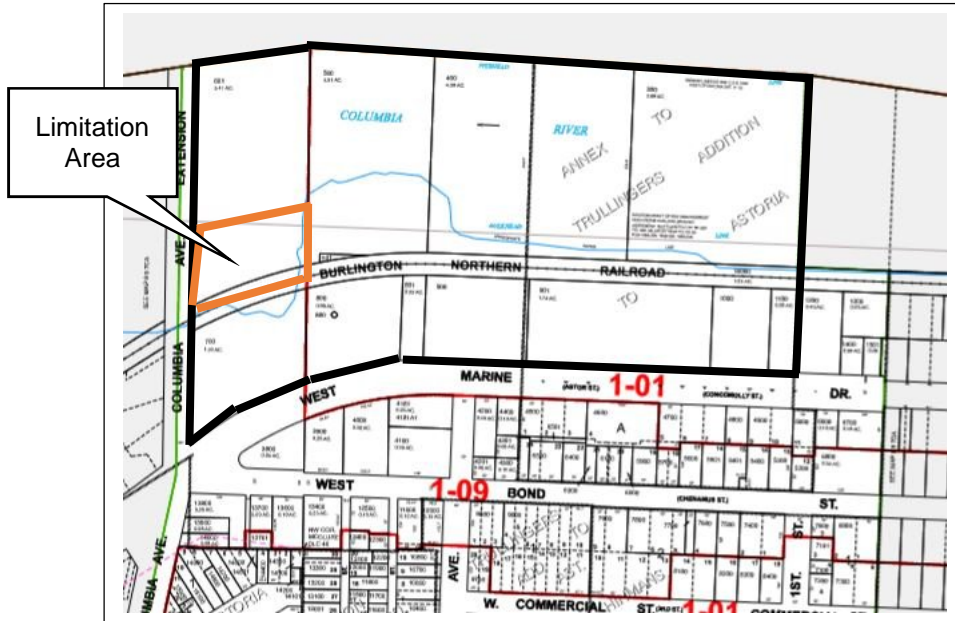
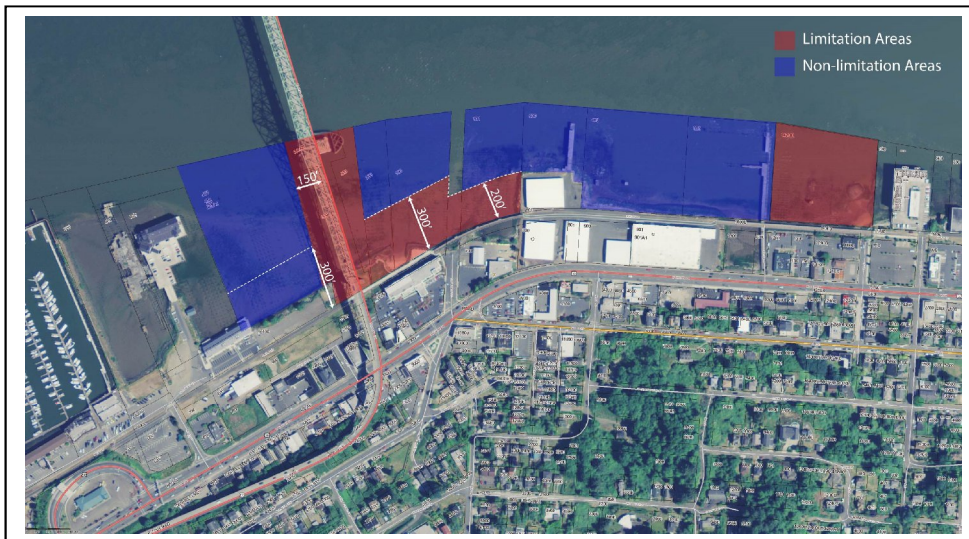


Figure 14.090-1: Limitation Area



D. Standards.

The standards for the on-land area within the Astoria Warehousing Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. Adding or deleting uses;
2. Changes to building height limits / setbacks up to a maximum of 35' high;
3. Setback modifications. No reduction in view corridors shall be allowed;
4. Building size and permissible footprint.
5. "Limitation Areas" shall remain as "Limitation Areas" with the existing standards.

E. Application Procedure.

1. An application to establish the Astoria Warehousing Plan District shall be processed through the following procedures:
 - a. The City or property owner/owners within the Plan District may apply to establish development regulations that affect one or more properties within the Astoria Warehousing Plan District.
 - b. An application to establish regulations that would govern development within the Astoria Warehousing Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10.
 - c. An application to establish the boundaries of the Astoria Warehousing Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
 - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.
2. An application to apply the Astoria Warehousing Plan District regulations to a specific project shall be processed through the following procedures:
 - a. The property owner shall be the applicant or co-applicant on all applications.

- b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.128 to 14.129. ASTORIA WAREHOUSING PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)”

Section 15. 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 _____, 2019.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2019.

ATTEST:

Mayor

Brett Estes, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner Rocka
 Brownson
 Herman
 West

Mayor Jones



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM

DATE: OCTOBER 21, 2019
TO: MAYOR AND ASTORIA CITY COUNCIL
FROM: BRETT ESTES, CITY MANAGER
SUBJECT: LEASE AGREEMENT FOR 17TH STREET DOCK EAST END

DISCUSSION / ANALYSIS:

At the September 3rd City Council Meeting Public Works staff presented a lease with the American Cruise Lines (ACL) for the east end of the 17th Street Dock for consideration. After hearing from staff, ACL and the American Queen Steamboat Company (AQSC), Council had some questions and concerns that they asked be addressed and brought back to a future meeting. The AQSC teleconferenced into the meeting. The concerns raised were primarily about how scheduling would take place amongst the two primary users and how future rates would be established by ACL. The AQSC had also requested in the meeting that they be allowed to submit a proposal for a lease in their name.

At the October 7th City Council Meeting staff presented a comparison of the lease proposals including criteria to compare the proposals. The criteria were as follows: 1) Does the proposal protect the City's financial security for the dock; 2) Does the proposal address the City's needs; 3) Does the proposal create added economic benefit to the City as a whole; and 4) Does the proposal reduce staff time managing the east end of the dock. In summary it was staff's determination that the ACL lease addressed the City's objectives the best. Representatives from both ACL and AQSC were present at the meeting and had an opportunity to answer questions from Council, express their concerns and had a dialog on most of the topics of concern.

Staff was given direction to finalize negotiations of the lease agreement with ACL, incorporating the items discussed at the meeting, and bring it back to the October 21st Council meeting for review. The modifications discussed at the meeting and negotiated after the meeting include the following:

From Council Meeting

- Remove the second option for renewal from the term of the lease. The lease would therefore be for 11 years with only one 15-year renewal option
- ACL agreed to schedule ships two years out instead of one year
- ACL will ensure that no ACL ships moor at the dock for more than 24 hours at a time
- ACL agreed to expand the dock to accommodate two ships by the time ACL has five ships operating in the Columbia

After Council Meeting

- Negotiated an increase for the additional visits beyond the 110 visits from \$400/day to \$500/day after evaluation of fees at the Port
- Verified that the escalation clause applied to both the base rent and the fee for additional visits beyond 110

Attached is a copy of the most recent lease. The lease has been reviewed and approved by City Attorney Blair Henningsgaard as to form.

RECOMMENDATION:

It is recommended that City Council approve the attached lease with American Cruise Lines.

BY: JEFF HARRINGTON

ATTACHMENTS:

[ACL Lease_\(Final\).pdf](#)

Lease Agreement

This Lease Agreement (“**Lease**”) is made between the Landlord and Tenant hereinafter identified and constitutes a Lease of the Demised Premises on the terms and subject to the agreements set forth.

1 Certain Basic Lease Provisions, Exhibits.

1.1 Certain Basic Lease Provisions

- (a) Date of this Lease: _____, 2019
- (b) Landlord: City of Astoria, Oregon
- (c) Address of the Landlord: 1095 Duane Street, Astoria, Oregon 97103
- (d) Tenant: American Cruise Lines, Inc
- (e) Address of Tenant: 741 Boston Post Road, Suite 200, Guilford CT 06437
- (f) Commencement Date: _____, 2019
- (g) Lease Term: 11 years, _____ months, with the option to extend for one term of 15 years.
- (h) Lease Year: The period beginning January 1 and ending December 31 each year.
- (i) Demised Premises: includes (i) the full time exclusive lease of Parcel 1 shown on Exhibit A (attached hereto and made a part hereof) which is leased by Landlord from the Oregon Department of State Lands and (ii) the full time exclusive lease of Parcel 2 shown on Exhibit A which is owned by the Landlord.
- (j) Rent: \$80,000.00 per year adjusted as provided in Section 5 below (the "Rent").
- (k) Permitted Use: Mooring and docking Tenant’s vessels and third-party vessels for loading and unloading passengers and vessel supply and maintenance activities, and related activities for the operation of a river cruise business.

1.2 Exhibits to Lease

The following Exhibit is attached to this Lease and incorporated herein by this reference: Exhibit A delineating Parcel 1 and Parcel 2 of the Demised Premises, together with the trash disposal area. In the event of any inconsistency between such Exhibit and the terms and provisions of this Lease, the terms and provisions of the Exhibit shall control.

2 Demise, Term and Landlord's Services.

2.1 Demised Premises

Subject to the provisions, covenants and agreements herein contained, and in consideration of the keeping, observance and performance by Tenant of such provisions, covenants and agreements and the payment by Tenant of the Rent herein reserved, Landlord does hereby demise and lease the Demised Premises to Tenant, and Tenant does hereby accept such demise and lease, to have and to hold for the Lease Term. The Landlord represents and warrants that the Landlord owns fee title to Parcel 2 of the Demised Premises and that Landlord did not acquire such title by eminent domain or condemnation; and that Landlord is the Lessee of Parcel 1 of the Demised Premises

under that certain lease between the State of Oregon Department of State Lands as lessor and referred to in said lease as "State", and Landlord as Lessee, effective December 1, 2015 and bearing reference number 20713-ML (the "DSL Lease") and that Landlord has the right under the DSL Lease to lease Parcel 1 to Tenant. Landlord further represents and warrants that Tenant, its agents, employees, and invitees shall at all times have access to the Demised Premises over the 17th Street Dock, Landlord's property, and the public right of way of 17th Street, and that the 17th Street public right of way may be used for the loading and unloading of busses carrying Tenant's passengers. Tenant acknowledges that the Lightship Columbia is docked on the shoreside of the 17th Street Dock, and is hauled out for maintenance approximately once each year. Tenant agrees to cooperate with the Museum in Tenant's use of Parcel 2 to accommodate the Museum's needs to move the Lightship Columbia in connection with such maintenance.

2.2 Purpose

This lease of the Demised Premises provides Tenant with exclusive docking rights for its vessels at the Demised Premises in the areas described on Parcel 1 and Parcel 2. Subject to its obligation to make the area available to other vessels as provided in Section 4.1, Tenant shall have sole right to manage all uses of the areas described on Parcel 1 and Parcel 2 of the Demised Premises including, without limitation, docking reservations. Tenant's right to use the 17th Street Dock for ingress and egress for its passengers and crew shall at all times be subject to the needs and regulations of the United States Coast Guard to temporarily limit access from time to time.

3 Term

The initial term of this Lease shall commence on the date approved and signed by both parties, and shall expire eleven years and _____ months from that date, unless sooner terminated as provided in this Lease, provided that Tenant shall have, contingent upon Landlord's successful renewal of its DSL lease, the option, exercised by written notice given to Landlord (or Landlord's assignee or designee) no sooner than two (2) years prior to the end of the initial term and no later than 90 days prior to the end of initial or immediately preceding term, to extend the term of this Lease for up to one additional terms of fifteen (15) years, on the terms and conditions contained herein, except for Rent which shall be determined as provided in Section 5 below. The initial term of this Lease and any additional term are together the "**Term**" of this Lease. Landlord covenants and agrees that Landlord will continuously and consistently apply to renew the DSL Lease so long as this Lease is in effect.

4 Permitted Use.

During the Term of this Lease, Tenant shall have the right to use the areas described on Parcel 1 and Parcel 2 of the Demised Premises for the purpose of mooring and docking for loading and unloading passengers, vessel supply and maintenance activities, and related activities for the operation of a river cruise business. Tenant assumes responsibility, and releases Landlord from the acts and conduct of Tenant, and its officers, directors, employees, agents, guests and invitees in, on, and around the Demised Premises. Tenant shall be responsible for its activities in, on, and around, including but not limited to, the orderly boarding and unboarding of passengers and baggage. Tenant may temporarily cordon off the boarding area, place signs and decorations in the loading area, and otherwise use the boarding area so as to provide safe and efficient loading and unloading of passengers and baggage so long as the area is returned to its prior condition after boarding and unboarding is completed. Tenant may also use at all times the areas

described on Parcel 1 and Parcel 2 of the Demised Premises, for storage, staging, installation of signage and any lawful use related to the Tenant's permitted use.

4.1 Docking Rights

(a) Tenant shall have the exclusive right to manage all uses of the areas described on Parcel 1 and Parcel 2 of the Demised Premises including, without limitation, docking reservations. Tenant shall provide its own vessels priority, then reasonably accommodate vessels of other river cruise operators desiring to use the areas described on Parcel 1 and Parcel 2 of the Demised Premises for mooring and docking, for loading and unloading passengers, vessel supply and maintenance activities, and related activities for the operation of a river cruise business, and may charge such other river cruise operators a fair market docking fee as determined in cooperation with the Landlord and subject to its approval, which approval will not be unreasonably withheld. The fair market docking fee shall take into account any improvements Tenant makes to the Demised Premises.. Tenant shall not withhold any dock reservation from another river cruise operator unless one of Tenant's vessels or another cruise operator's vessel are scheduled to be at the dock.. Tenant will confirm docking reservations for other cruise operators up to two years before the requested arrival date (provided that such docking reservation request is received timely and the requested date and time is available).

(b) Tenant may not allow more than four of Tenant's vessels to use the Demised Premises unless Tenant has improved or configured the Demised Premises in a manner that enables at least two vessels of not less than 230 feet each to use the Demised Premises simultaneously. Notwithstanding the foregoing, up to five times in any Lease Year, Tenant shall have the right to modify scheduled dockings in the event of an unforeseen event beyond Tenant's reasonable control, to prioritize Tenant's vessels. Unforeseen events shall include acts of God, civil unrest, weather, equipment failure, river flooding, drought, and other events that may make it impossible or unsafe to maintain scheduled dockings.

(c) Special consideration for American Empress: The American Empress paddlewheeler shall have 35 docking events of up to 24 hours each available to it in each Lease Year. Tenant will assist in identifying available dates and, if accepted by American Empress, will confirm those dock reservations in accordance with subsection (a) above. Tenant does not guarantee that the available dates will be accepted by American Empress. Further, in the event both Tenant and the American Empress cruise ship have conflicted docking requests for the same day and only one docking space is available, Tenant's vessels shall not remain at the Demised Premises for a period in excess of 24 hours each.

5 Rent for Demised Premises.

The Tenant shall pay fixed Rent for the Demised Premises in arrears on or before the tenth (10th) day of each month; such Rent to be in the amount of \$6,666.66 per month. On each annual anniversary date of the Commencement Date (each, an "Adjustment Date"), Landlord will increase Rent by the lesser of two percent (2%) or the percentage increase, if any, in the Consumer Price Index (the "Index") published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled "U.S. City Average, All Items, All Urban Consumers, 1982-84=100" for the latest available month preceding the month in which the Commencement Date or the previous Adjustment Date occurred, as applicable, and the month preceding the current Adjustment Date. All comparisons

will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it will be used. In addition, Rent will increase with increased use of the facility as follows: The Rent shall allow a maximum total of 110 passenger vessel dockings per year in connection with the Permitted use. For each docking in excess of 110 total annual dockings, Tenant shall pay an additional \$500 per docking. Such additional payments shall be made in arrears annually on January 10th of each year. For clarity, a "docking" means a vessel that is scheduled to use, and actually uses, the docking area. Unauthorized use and scheduled vessels that do not actually use the docking area do not constitute a "docking". This additional per docking fee shall be subject to the same annual percentage increase as the Rent described above.

- 6 Taxes and Liens.** As municipal property the Demised Premises is not currently subject to *ad valorem* real property tax. In the event that Clatsop County determines that the premises have become subject to such tax as a result of this lease, Tenant shall pay when due any *ad valorem* real property taxes assessed by Clatsop County as well as all personal property taxes and assessments levied against the premises but the Tenant may elect to pay taxes and assessments in accordance with any available installment method. Such taxes shall be considered as additional rent but are not subject to rent abatement describe elsewhere in this lease. If Tenant objects in good faith to the validity or amount of any tax, assessment, or lien, Tenant, at Tenant's sole expense, may contest the validity or amount of the tax or assessment or lien, provided that Landlord's interest in the Demised Premises is not jeopardized.

7 Condition of Demised Premises, Improvements.

By entering into this Lease, Landlord and Tenant agree to certain terms and conditions for current and future repairs and improvements to the Demised Premises and maintenance of the Demised Premises for future normal wear and tear for the Term of this Lease as follows:

7.1 Maintenance and Repairs by Tenant. Tenant shall maintain the condition and make all necessary repairs and improvements to the areas described on Parcel 1 and Parcel 2 of the Demised Premises, including the dolphins, provided that if repairs are necessary by reason of Landlord's negligence or breach of this Lease, Landlord shall make any necessary repairs at Landlord's expense. Any such repairs and additions shall be made in compliance with all applicable laws, city ordinances and safety standards.

(a) Notwithstanding the foregoing, if it becomes necessary to repair or replace any of the dolphins (other than due to damage directly caused by Tenant), Tenant shall have the right to repair or replace any damaged dolphin and to offset the cost of such repair or replacement against Tenant's Rent and other charges due and to become due under this Lease as provided in subparagraph (b). Landlord will assist Tenant to obtain all necessary permits and related authorizations for the completion of the repair or replacement of any damaged dolphin. The dolphins shall be the property of Landlord at the termination of this Lease. During any period Tenant is prevented from docking one of its vessels or another cruise operator's vessel according to its then existing schedule, due to a dolphin needing to be repaired or replaced, then Tenant's Rent and all other charges due hereunder shall abate on a pro-rated basis of one (1) day for each day Tenant is prevented from such docking.

(b) If it becomes necessary to repair or replace a dolphin during the first 24 months of

the Term as a direct result of increased wear and tear on such dolphin(s) from Tenant's docking ships larger than the American Empress (currently operated by American Queen Steamboat Company), Tenant shall have the right to repair or replace any damaged dolphin and to offset 50% of the cost of such replacement against Tenant's Rent and other charges due and to become due under this Lease. Except as provided in the preceding sentence, if it becomes necessary to replace any of the dolphins (other than due to damage to improvements constructed by Tenant or damage directly caused by Tenant), Tenant shall have the right to repair or replace any damaged dolphin and to offset 100% of the cost of such repair or replacement against Tenant's Rent and other charges due and to become due under this Lease other than taxes described in section 6 of this lease. The amount of such abatement shall only include Tenant's actual cost of repair or replacement. In all events, Landlord will assist Tenant to obtain all necessary permits and related authorizations for the completion of the repair or replacement of any damaged dolphin. The dolphins shall be the property of Landlord at the termination of this Lease.

(c) If Tenant determines, in its discretion, that the cost of repairing or replacing any dolphin is uneconomical, (other than for damages directly caused by Tenant or repair or replacement of improvements made by Tenant), it may instead terminate this Lease by notice to Landlord.

7.2 Maintenance and Repairs by Landlord. Landlord shall maintain the condition and make all necessary repairs and improvements to the 17th Street Dock and the 17th Street public right of way such that access to the Demised Premises over and across the 17th Street Dock and the 17th Street public right of way is not obstructed, diminished, or restricted. Landlord shall also dredge and take all other necessary and appropriate action to maintain the water depth within Parcel 1 at not less than twelve (12) feet at mean low water.

7.3 Improvements. Landlord agrees that Tenant may make capital and non-capital improvements (including alterations, furnishings, and fixtures) to the areas described on Parcel 1 (subject to the approval, if required, of the Department of State Lands pursuant to the DSL Lease and the approval, if required, of the City of Astoria pursuant to any applicable ordinances) and Parcel 2 of the Demised Premises necessary and appropriate for it to operate its business on the Demised Premises and otherwise for purposes of the Permitted Use, provided however that Tenant shall make no such improvements to the Demised Premises without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Landlord specifically agrees that it will not unreasonably withhold, condition, or delay its consent to Tenant's request to modify or replace the dolphins, or to connect additional docking apparatus to the east face of the 17th Street Dock. Any such improvements installed by Tenant shall be made in accordance with all applicable laws, city ordinances and safety standards. All such improvements to the Demised Premises shall be the property of Landlord at the termination of this Lease except trade fixtures Tenant elects to remove. Landlord will make good faith efforts to enter into a lease with the Department of State Lands for Parcel 2, and will assist Tenant to obtain all necessary permits and related authorizations for the completion of the improvements installed by Tenant in or on the Demised Premises.

7.4 Water and Utility Service. Landlord, at no additional cost to Tenant, shall provide and maintain freshwater services in good working order for Tenant's use at the areas described on Parcel 1 and Parcel 2 of the Demised Premises. Landlord may charge Tenant for Tenant's actual water use at a commercially reasonable rate. Landlord shall provide the area described on Exhibit A for use by Tenant to keep a garbage dumpster.

8 Right of First Refusal

Landlord may not sell or transfer all or any part of the Demised Premises without first granting Tenant the right of first refusal to purchase the Demised Premises. Landlord shall, if Landlord wishes to sell or transfer all or any part of the Demised Premises, negotiate a bona fide arm's length sale contract fully with the intended purchaser/transferee, and prior to full execution thereof, deliver a copy of such sale contract to Tenant in writing and Tenant shall have 30 days to elect to exercise its right of first refusal in which event Landlord and Tenant shall execute a sale contract substantially in the form of, and with the economic and business terms of the proposed sale contract, and proceed to close thereunder. If Tenant waives this right of first refusal, Landlord shall be free to enter into the proposed sale contract with the proposed transferee (and complete the sale/transfer of the Demised Premises, subject to this Lease). Landlord may not alter the proposed deal or change any terms of the proposed transaction in any way from those in the sale contract delivered to Tenant and proceed to sell or transfer the Demised Premises without again offering such revised deal to Tenant in accordance with the foregoing and repeating the same process.

9 Further Tenant Obligations.

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subject to unlawful discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity/expression. Tenant shall comply with this policy.

10 Limitation of Liabilities.

10.1 Limitation of Landlord's Liabilities.

Landlord shall not be liable, responsible, or accountable in any manner whatsoever to Tenant for any damages or business loss, to Tenant's vessels, goods, wares, merchandise, equipment, property, or effects in or upon the Demised Premises or any part thereof occasioned directly or indirectly by water, gas fluid, steam, electricity or the elements, or by burglary, robbery theft, vandals, or from any source or cause whatsoever of the same or different nature. Such damage or loss shall exclusively be at the risk and expense of Tenant.

10.2 Limitation of Tenant's Liabilities.

Except as provided in Section 6 with respect to maintenance and repair of damages directly caused by Tenant, Tenant shall not be liable, responsible, or accountable in any manner whatsoever to Landlord for any damages, injury, death, loss, or business loss, to Landlord, the Demised Premises, or the fixtures, furniture, goods, wares, merchandise, equipment, property, or any part thereof occasioned directly or indirectly by or from any source or cause whatsoever, except such caused directly by Tenant's gross negligence or willful misconduct.

11 Force Majeure/Casualty.

If either party hereto is prevented in the performance of any act required hereunder by reason of act of God, fire, flood, or other natural disaster, casualty, malicious injury, strikes, lock-outs, or other labor troubles, riots, insurrection, war or other reason of like nature not the fault of the party in performing under this Lease, then performance of such act shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay except that if any Force Majeure, casualty, or any governmental action, including any exercise of rights to the 17th Street Dock by the United States Coast Guard, prevents Tenant from using the Demised Premises as referenced hereunder for a period of time which exceeds six (6) months, Tenant shall have the option to terminate this Lease upon written notice to Landlord.

12 Business Operation.

12.1 Use of the Landlord Name.

Tenant agrees that it is not an agent for Landlord and will at no time represent itself to own the Demised Premises or any part thereof.

12.2 Advertising.

Tenant may install temporary signage during its dockings, and may display other signs, placards, or printed material in and about the Demised Premises, provided that such signs, placards or printed materials are displayed in compliance with City ordinances and that no signs, placards, or other advertising matter of any kind shall be displayed in or about the Demised Premises that shall be inconsistent with Tenant's permitted use hereunder and detrimental to Landlord's interests. Any Tenant signage not located on the areas described on Parcel 1 and Parcel 2 of the Demised Premises must be removed at the conclusion of the scheduled docking. All signage of any other commercial businesses using the Demised Premises must be removed at the conclusion of its scheduled docking.

12.3 Compliance with Laws and Ordinances.

Tenant agrees to fully and faithfully observe and comply with all present and future applicable laws and ordinances of the United States, and the state, county and city in which the Demised Premises is located (including the DSL Lease) as they pertain to Tenant's use of the Demised Premises permitted under this Lease (but not the condition of the Demised Premises), including applicable environmental and safety laws (collectively, the "**Laws**"); provided that Landlord shall cause the condition of the Demised Premises and Facility itself to comply with all applicable laws. Tenant agrees to pay all fees and costs associated with Tenant's compliance with the Laws and to indemnify Landlord against and hold Landlord harmless from all claims, fines, penalties, damages, costs and expenses arising out of or resulting from violations or claims, fines, penalties, damages, costs, and expenses arising out of or resulting from violations or claims of violations of the Laws by Tenant or any person for which Tenant is responsible.

12.4 "AS-IS. Tenant acknowledges that it has accepted and executed this agreement on the basis of Tenant's own examination and knowledge of the Demised Premises; that Landlord and Landlord's agents have made no representations, warranties, or other agreements concerning to matters relating to the Demised Premises, except as provided herein; that Landlord and

Landlord's agents have made no agreement or promise to alter, repair, or improve the Demised Premises, except as provided herein; and that Tenant takes the Demised Premises in its present condition "AS-IS." Notwithstanding the foregoing, to the extent of municipal tort liability described in ORS 30.260 et. seq. and as limited by the provisions of the Oregon Constitution, Landlord shall indemnify and hold harmless Tenant from and against any and all damages, liabilities, claims and costs, including reasonable attorneys' fees, sustained or incurred by Tenant arising out of, or in connection with, the presence of any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, or as otherwise amended from time to time, or any regulations promulgated thereunder, and/or any hazardous substance as defined by the Comprehensive Environmental Resource, Conservation and Liability Act of 1980, as amended from time to time, or any regulations promulgated thereunder, present in, on, or under the Demised Premises, unless such hazardous waste or hazardous substance was placed in, on, or under the Demised Premises by Tenant or any person using the Demised Premises pursuant to Tenant's rights under this Lease. Further, in the event that any hazardous waste or hazardous substances are found or exist in, on, or under the Demised Premises not caused by Tenant (including without limitation hazardous waste or hazardous substances discovered by Tenant in the course of making improvements to the Demised Premises, and, as a result thereof, Tenant is prevented from operating its business from the Demised Premise as a result thereof, then, Tenant's Rent and all other charges due hereunder, except taxes described in section 6 of this lease, shall abate one (1) day for each day Tenant is prevented from operating its business from the Demised Premises and shall continue until the date Tenant is able to resume the operation of its business from the Demised Premises. If Rent and other charges are so abated for six (6) months (the "Maximum Abatement Period"), then, at any time within ten (10) days thereafter until such delay or abatement, as the case may be, shall cease, Tenant may terminate this Lease upon fifteen (15) days' prior notice to Landlord, provided such notice shall be null and void and of no force or effect if Landlord shall complete remediation of the hazardous waste or hazardous substances during said fifteen (15) day period. If, after the expiration of the Maximum Abatement Period, Tenant fails to timely give notice terminating this Lease, then the Tenant shall resume paying Rent. Provided, however, that in the event such hazardous waste and/or such hazardous substance as defined above was not present as of the date of this Lease, and the release or other event resulting in the presence of such hazardous waste and/or such hazardous substance was not the fault of Landlord, then Landlord shall have no indemnification obligation under this Section 12.4.

13 Insurance.

13.1 Casualty Insurance. Tenant shall at its expense maintain the standard Marine Hull and Machinery Insurance along with Protection and Indemnity coverage described below to insure the Demised Premises against any damage to the Demised Premises by any Vessel and agree to name Landlord as additional insured. At Tenant's expense, Tenant's marine coverage also may insure Tenant's personal property and trade fixtures located at or around the Demised Premises.

13.2 Worker's Compensation. Tenant is either a subject employer under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires it to provide workers' compensation coverage for all its subject workers or is an employer that is exempt under ORS 656.126.

13.3 Other Insurance. Tenant shall maintain at Tenant's expense standard Marine Protection and Indemnity (P&I) liability insurance with respect to Tenant's business and use of Demised Premises by its passengers and crew in the amount of no less than five million dollars (\$5,000,000.00). Such insurance will cover all claims for property damage or injury to persons including death arising out of or related to Tenant's, or its agents', employees', guests' and invitees' use and occupancy of the Demised Premises and any other obligation arising under this Lease. Such Protection and Indemnity Insurance shall provide coverage at least as broad as Form SP-23 or equivalent. Tenant shall endorse such policy with a so-called "misdirected arrow clause" to afford protection to Landlord as additional insured.

13.4 Form. All policies of insurance maintained by Tenant shall be issued by an insurer having a rating of at least "A-: VII" or better as set forth in the most current issue of Best's Insurance Reports and licensed to do business in the State of Oregon. Tenant shall notify Landlord of any termination or material alteration of such policies. Prior to the use of the Demised Premises, Tenant must provide a Certificate of Insurance, naming Landlord as additional insured, and evidencing the coverage required hereunder.

13.5 Failure to Obtain. If Tenant fails to secure or maintain any insurance coverage required hereunder or should the insurance secured fail to be approved by Landlord, acting reasonably, and such failure or approval not be corrected within forty-eight (48) hours after written notice from Landlord, Landlord may, at its sole discretion, purchase such insurance coverage required at Tenant's reasonable expense. Tenant shall reimburse Landlord on demand for any reasonable monies expended to secure such coverage plus interest at the rate of 6% per year from the date of the expenditure.

13.6 Injury, Loss, Indemnity by Tenant. Tenant assumes all risk of injury, loss, or damage to Tenant and to Tenant's employees, customers, goods, materials, or other property occurring in or around the Demised Premises including improvements, caused by negligence or willful misconduct of Tenant, excluding those claims arising out of Landlord's gross negligence or willful misconduct. Tenant shall indemnify, defend, and hold harmless Landlord, Landlord's, agents, employees, members, and officials from all loss, claim, demand, damage, liability, or expense, including attorney's fees (collectively "**Claims**"), arising out of or in any way related to Tenant's negligence or willful misconduct in connection with Tenant's use of the Demised Premises excluding those Claims arising solely out of Landlord's gross negligence or willful misconduct. Tenant's agreement to indemnify and hold harmless Landlord shall extend to all Claims by reason of improper or negligent erection or construction of facilities, trade fixtures, or equipment installed on or in the Demised Premises by Tenant.

13.7 Injury, Loss, Indemnity by Landlord. Landlord assumes all risk of injury, loss, or damage to Landlord and to any persons, goods, materials, or other property, occurring in or around the Demised Premises in connection with Tenant's use of the Demised Premises, or occurring in or on any Landlord property other than the Demised Premises, excluding those claims arising out of Tenant's negligence or willful misconduct. To the extent of municipal tort liability described in ORS 30.260 *et. seq.* and as limited by the provisions of the Oregon Constitution, Landlord shall indemnify, defend, and hold harmless Tenant, its officers, directors,

captains, vessels, parents, subsidiaries, affiliates, agents, employees, and shareholders from all Claims arising out of or in any way related to any acts or omissions of Landlord, its employees or agents, occurring in or around the Demised Premises, or occurring in or on all Landlord property excluding the Demised Premises, excluding any Claims arising out of the gross negligence or willful misconduct of Tenant. Landlord's agreement to indemnify and hold harmless

13.8 Landlord's Insurance. Landlord shall maintain (i) general liability insurance in its usual and customary amounts to protect against personal injuries, property damage, or death arising out of use of the property by the public and others besides Tenant's passengers, or Tenant's sublessees or assignees. and (ii) property insurance insuring all improvements and fixtures located adjacent to the Demised Premises, including the 17th Street Dock, for full replacement value thereof (such policy to cover all risks covered under an All Risk or Special Causes of Loss policy) and Landlord releases Tenant (notwithstanding anything herein to the contrary) from all liability for loss or damage to such improvements and fixtures, except to the extent of Tenant's negligence for damage to such property.

14 Assignment and Sublease.

Tenant may assign, transfer its rights hereunder or sublet the premises only with consent of Landlord which consent will not be unreasonable refused, conditioned or delayed. Any such assignment, transfer or sublease shall not relieve Tenant from its obligations under this lease. Tenant has the right to permit third parties to use the Demised Premises pursuant to paragraph 4.1 of this agreement without the need for obtaining Landlords permission or consent.

15 Termination

15.1 Termination for Breach. In the event either party breaches any of the covenants and conditions of this Lease, and such breach continues for or is not cured within thirty (30) days after the non-breaching party has notified the breaching party in writing of such breach (provided, however, that if the breach is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if the breaching party begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 120 days after the non-breaching party's notice is given to Tenant), the non-breaching party may, without further notice or demand, declare this Lease terminated and revoked, without prejudice to or waiver of any other rights the non-breaching party may have under this Lease or applicable law.

15.2 Permitted Termination. This Lease may not be terminated by either party except as expressly allowed herein.

15.3 Regulations. Landlord shall not impose new regulations that would materially interfere with the Permitted Use or Tenant's use and enjoyment of the Demised Premises.

16 Surrender at Expiration

16.1 Condition of Property. Upon expiration of this Lease or earlier termination, Tenant shall surrender the Demised Premises in its then current condition free of damage caused by Tenant and, subject to the terms and conditions of this Lease as to improvements installed by Tenant. Any repairs for which Tenant is responsible shall be complete to the latest practical date prior to such surrender.

16.2 Fixtures. Upon expiration of this Lease or earlier termination, Tenant shall remove all of its furnishings, furniture, and trade fixtures that remain the property of Tenant and restore all damage caused by such removal. If Tenant fails to do so for more than 20 days after written notice thereof, this shall be an abandonment of the property and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 20 days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove and Tenant fails to do so within twenty (20) days after receiving notice from Landlord, then, Landlord may effect a removal and dispose of such property in Landlord's sole discretion. Tenant shall be liable to Landlord for the reasonable cost of removal, restoration, transportation to storage, and storage, with interest on all such expenses. Any dolphins or docking apparatus fixed directly to the earth shall not be removed by Tenant and shall become the property of Landlord at the termination of this lease.

16.3 Docking Equipment. Upon expiration or termination of this Lease, Tenant will have the right to remove the docking equipment not fixed directly to the earth and installed by Tenant. In the event Tenant elects not to remove such equipment within thirty (30) days of written notice from Landlord after the expiration or termination of this Lease, then it shall remain at the Demised Premises and become the property of the Landlord. Any and all expense of removal shall be borne by Tenant.

17 General Provisions.

17.1 Time of Essence. Time is of the essence of the performance of each of the parties' obligations under this Lease.

17.2 Estoppel Certificates. Within 30 days after Landlord's written request, Tenant shall deliver a written statement stating the date to which the Rent and other charges have been paid, whether this Lease is unmodified and in full force and effect, and any other matter that may be reasonably requested by Landlord.

17.3 Notices. Any notices or communication required or permitted hereunder shall be deemed given and made, if in writing, on the date of actual delivery in person or on the date of mailing if deposited in the United States mail, postage prepaid, certified or registered mail return receipt requested, addressed as follows:

If to Tenant:	American Cruise Lines, Inc. Vice President 741 Boston Post Road, Suite 200 Guilford, CT 06437
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If to Landlord:	Astoria City Manager 1095 Duane Street Astoria, OR 97103
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Or at such other address as either party may from time to time designate in writing in the manner set forth herein for the giving of notice.

17.4 Attorney's Fees. In the event suit or action is instituted to enforce any of the terms of this Lease, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.5 Subordination. Landlord represents and warrants that no deed of trust, mortgage financing or other lien of any sort encumbers the Demised Premises. Upon the request of Landlord, Tenant shall subordinate its rights hereunder to the lien of any deed or deeds of trust or mortgage or mortgages to any bank, insurance company or other lending institution now or hereafter in force against the land and building of which the Demised Premises is a part, and to all advances made or hereafter to be made upon the security thereof, provided the trustee or trustees or the mortgagee or mortgagees named in said deed of trust or mortgage shall agree in writing to recognize this Lease and Tenant's rights hereunder in the event of foreclosure by judicial proceeding or otherwise, if Tenant is not then in default. Tenant, upon the request of any party in interest shall execute such instrument or instruments to carry out the intent of this section as shall be required by Landlord.

17.6 Liens. Tenant shall not suffer or permit any mechanics' lien to be filed against the building or land or portions of the Demised Premises by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant. Landlord does not consent to any contractor, subcontractor, laborer or materialman for any specific improvement, alteration, or repair of or to the Demised Premises of any part thereof, nor as giving Tenant any right, power, or authority to contract for or permit the filing of any mechanics' lien against the Demised Premises. If any such mechanic's lien caused by Tenant shall at any time be filed against the Demised Premises or Landlord, then Landlord shall give Tenant written notice of the same and, Tenant shall cause the same to be discharged of record within thirty (30) days after the date of notice of the filing of the same.

17.7 Applicable Law. This agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

17.8 Entire Lease. This Lease, together with the Exhibits and other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Lease, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and may be changed only by a writing signed by the parties hereto.

17.9 Severability. If any provision of this Lease or the application thereof to any persons or circumstances is invalid or unenforceable in any respect for any reason, the validity and enforceability of the other provisions of this Lease as a whole shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the parties agree upon request of either party, to reasonably amend this Lease as necessary to make it enforceable to the fullest extent possible.

17.10 Waiver. The parties agree that any failure by either party at any time to require performance by the other party of any provision of this Lease shall in no way affect such party's right hereunder to enforce the same, nor shall any waiver by either party of any breach by the other party of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

17.11 Joint and Several Liability. In the event Tenant now or hereafter consists of more than one person, firm, or corporation, then all such persons, firms or corporations shall be jointly and severally liable under this Lease.

17.12 Memorandum of Lease. Upon Tenant's request, Landlord shall sign and cause to be notarized a memorandum of this Lease requested by Tenant in recordable form which Tenant may record in the public records.

17.13 Authority. Landlord represents and warrants that Landlord has full right and authority to enter into this Lease, perform all obligations hereunder and grant Tenant all rights hereunder and that this Lease and such rights are not in conflict with any applicable law.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Lease, in duplicate, as of the day and year first written above, under Seal and intending it to be a specialty, each party by its officer thereunto duly authorized.

LANDLORD

ATTEST:

City of Astoria, Oregon

By: _____
Brett Estes , City Manager

By: _____
Bruce Jones, Mayor

Approved as to form:

City Attorney

TENANT

ATTEST:

AMERICAN CRUISE LINES, INC.

Print Name: _____

By: _____(SEAL)

Its: _____

Astoria - 17th Street Dock

PROPOSED LEASE PARCELS





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM

DATE: OCTOBER 21, 2019
TO: MAYOR AND ASTORIA CITY COUNCIL
FROM: BRETT ESTES, CITY MANAGER
SUBJECT: 3RD STREET & LEXINGTON AVE. SANITARY SEWER
REPLACEMENT - CHANGE ORDER NUMBER 1

DISCUSSION / ANALYSIS:

Recently, the Public Works Department discovered a portion of seriously deteriorated sanitary sewer pipe between 3rd Street and 4th Street on Lexington Ave. The pipe was partially collapsed, impeding flow, and in need of immediate replacement. City Council approved advanced authorization of a construction contract to complete the needed work at the September 10, 2019 City Council meeting. The advance authorization was for a not to exceed amount of \$125,000.

Upon completion of project procurement, City staff executed a contract for \$72,370 with Advanced Excavation to complete the sanitary sewer replacement. This is well under the construction estimate for the project. Advanced Excavation has completed a majority of the contract work to date. Additionally, Public Works Operations staff are in the process of re-establishing permanent water service in this area due to a needed water main relocation associated with utility proximity.

City staff had planned to solicit a separate contract for water main relocation and surface restoration. Our Public Works Operations staff was able to schedule and complete the water main work, so at this time only the surface restoration remains. Advanced Excavation provided an estimate to complete this additional scope of work in the amount of \$66,718. Change Order #1 is attached to this memo and contains additional details. The overall cost of this change order is consistent with pricing received for similar past work.

Funding for this change order is available in the Public Works Improvement Fund for Sanitary Sewer Main Rehabilitation.

RECOMMENDATION:

It is recommended that City Council authorize the City Manager to sign Change Order #1 for surface restoration work associated with the 3rd St. and Lexington Ave. Sanitary Sewer Replacement Project.

BY: NATHAN CRATER

ATTACHMENTS:

[Change Order 1.pdf](#)



Astoria
ENGINEERING
DIVISION

CHANGE ORDER #1

DATE: October 15, 2019
PROJECT: 3rd St. & Lexington Ave. Sanitary Sewer Replacement Project
CONTRACTOR: Advanced Excavation, Inc.

The purpose of this change order is to account for work not covered in the bid items or significant bid item modifications. This change order amount constitutes total compensation for the changes indicated below.

Item	Description	Quantity	Unit Cost	Total Cost
1	Mobilization	1 LS	\$8,110	\$8,110
2	Traffic Control	1 LS	\$1,680	\$1,680
3	Erosion Control	1 LS	\$800	\$800
4	Roadway Reconstruction/Paving	110 Ton	\$238	\$26,180
5	Concrete Sidewalk Reconstruction	850 SF	\$15.50	\$13,175
6	Concrete Curb	170 LF	\$63	\$10,710
7	Concrete Driveway Apron Reconstruction	1 EA	\$2,463	\$2,463
8	ADA Accessible Ramp	3 EA	\$1,200	\$3,600
		Change Order Total =		\$66,718
		Previous Contract Amount =		\$72,370
		Revised Contract Amount =		\$139,088

This Change Order becomes part of and in conformance with the existing contract. The above changes warrant a 20 day contract extension.

EXPLANATION:

This change order accounts for expanded scope of work that includes new curb, sidewalk, ADA ramps and asphalt pavement restoration. A detailed description of the items listed above is attached.

CHANGE ORDER ACCEPTED BY:

City Engineer Date

Public Works Director Date

City Manager Date

Contractor Date

From: [Ryan Vandecoeving](#)
To: [Nathan Crater](#)
Cc: [John Edwards](#)
Subject: Re: 3rd and Lexington Ave
Date: Monday, October 14, 2019 8:31:00 PM

*****EXTERNAL SENDER*****

Hi Nathan,

I wasn't able to download and print the revised scope of work so I copied and pasted it below and typed in my prices. Let me know if you have any questions.

#	Item Description	Quantity	Unit	Unit Price	Total
1	Mobilization	1	LS		\$8,110.00
2	Traffic Control	1	LS		\$1,680.00
3	Erosion Control	1	LS		\$800.00
4	Roadway Reconstruction/Paving	110	TN	\$238.00	\$26,180.00
5	Concrete Sidewalk Reconstruction	850	SF	\$15.50	\$13,175.00
6	Concrete Curb	170	LF	\$63.00	\$10,710.00
7	Concrete Driveway Apron Reconstruction	1	EA	\$2,463.00	\$2,463.00
8	ADA Accessible Curb Ramps	3	EA	\$1,200.00	\$3,600.00
Total Change Order					\$66,718.00

Thank you,

Ryan Vandecoeving
Advanced Excavation Inc.

P.O. Box 868
Garibaldi, Oregon 97118

Cell:(503)812-6208
Fax: (503)322-4309
ryan@advanced-excavation.com

From: Nathan Crater <ncrater@astoria.or.us>
Sent: Thursday, October 10, 2019 9:06 AM
To: Ryan Vandecoeving <ryan@advanced-excavation.com>
Cc: John Edwards <jedwards@astoria.or.us>

Subject: RE: 3rd and Lexington Ave

Hi Ryan,

I attached a revised scope to reflect the anticipated restoration work and associated payment descriptions. This has been updated to reflect current conditions at the site.

#	Item Description	Quantity	Unit	Unit Price	Total
1	Mobilization	1	LS		\$
2	Traffic Control	1	LS		\$
3	Erosion Control	1	LS		\$
4	Roadway Reconstruction/Paving	110	TN	\$	\$
5	Concrete Sidewalk Reconstruction	850	SF	\$	\$
6	Concrete Curb	170	LF	\$	\$
7	Concrete Driveway Apron Reconstruction	1	EA	\$	\$
8	ADA Accessible Curb Ramps	3	EA	\$	\$
Total Change Order					\$

Item Description:

- **Mobilization** (Lump Sum Payment): The lump sum payment for Mobilization shall include: obtaining permits, insurance, bonds and licenses; moving equipment and materials onto the site; furnishing construction facilities; preparing the site for Work under Contract; marshalling workers, materials and equipment, and those of subcontractors to accomplish Work under Contract; preparation, submittal and modifications as appropriate to address review comments for material submittals and shop drawings, as-built drawings showing field changes to the original design and other submittals; removing equipment and extra materials from site upon completion of Work; and all other Work not identified in a separate bid item. Payment for mobilization will be made at the Contract lump sum amount in accordance to Section 00210 – Mobilization.
- **Traffic Control** (Lump Sum Payment): The lump sum payment for Traffic Control shall include: providing temporary traffic control measures and furnishing, installing, moving, operating, maintaining, inspecting, and removing traffic control devices throughout the Project area. The Contractor will be responsible for submitting a traffic control plan and obtaining a Road Closure Permit from the Public Works Administration office. There is no fee for this permit. Lexington Ave. can be closed during the work, but the 3rd Street intersection shall remain open for traffic detours around the closure to the extent feasible.
- **Erosion Control** (Lump Sum Payment): The lump sum payment for Erosion Control shall include: furnishing all necessary materials, equipment, labor and incidental and performing all Work required to implement erosion control prevention at the project site. The minimum erosion control requirements include sediment protection at the catch basins adjacent to the project area, and sweeping the roadway to eliminate construction debris from tracking off of

the project site.

- **Roadway Reconstruction/Paving** (Payment per Ton): The unit price payment for Roadway Reconstruction/Paving shall include: furnishing all necessary materials, equipment, labor and incidentals and performing all Work as specified including final grading and compaction, haul and disposal of excess surface material, placement of 3" of Level 2, ½" Dense HMAC asphalt placed in one lift. Adjustment of appurtenances in the paved area is considered incidental to the paving. Payment will be made on tons placed within the project area per specifications.
- **Concrete Sidewalk Reconstruction** (Payment per square foot): The unit price payment for the Concrete Sidewalk Reconstruction shall include: furnishing all necessary materials, equipment, labor, staking, demolition, disposal, Landscape restoration, cleanout maintenance ring and incidentals to construct the City Standard sidewalk. Adjustment of meter boxes and appurtenances in the sidewalk is considered incidental to the sidewalk reconstruction.
- **Concrete Curb** (Payment per Linear Foot): The unit price payment for Concrete Curb shall include: furnishing all necessary materials, equipment, labor, staking, demolition, disposal and incidentals and performing all Work to install the City Standard curb.
- **Concrete Driveway Apron Reconstruction** (Payment per Each): The unit price payment for Concrete Driveway Apron Reconstruction shall include: furnishing all necessary materials, equipment, labor, demolition and incidentals and performing all Work necessary to construct a 15-foot wide City Standard residential driveway apron. Adjustment of meter boxes and appurtenances in the sidewalk is considered incidental to the sidewalk reconstruction.
- **ADA Accessible Curb Ramps** (Payment per each). The unit price payment for ADA Accessible Curb Ramps shall include: furnishing all labor, equipment and materials to demolish the existing concrete sidewalk, curb etc. and construct a new ADA compliant curb ramp with brick red truncated domes. The ramp design shall be that which most appropriately suits the location of the proposed ramps. Adjustment of meter boxes and appurtenances in the ADA ramp area is considered incidental to the ADA ramp construction. Restoration of areas disturbed in the construction of the ramps shall be made in kind and considered incidental to the ramp.

Can you provide an updated estimate for the added restoration work based on the above information?

Thank you,

Nathan Crater, PE
City Engineer
503-338-5173
