



AGENDA

ASTORIA CITY COUNCIL

February 1, 2016
7:00 p.m. Following the ADC Meeting
2nd Floor Council Chambers
1095 Duane Street · Astoria OR 97103

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **REPORTS OF COUNCILORS**

4. **CHANGES TO AGENDA**

5. **PRESENTATIONS**

- (a) Shirley Krepy 25 Year Service (Police)

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.

- (a) City Council Minutes of 1/4/16
- (b) Boards and Commissions Minutes
 - (1) Library Board Minutes of 12/8/15
- (c) 2016 Trestle and Track Inspection – Personal Services Contract (Public Works)
- (d) 2016 Trolley Trestle Repair Project – Authorization to Award Construction Contract (Public Works)
- (e) Salary Resolution Establishing Basic Compensation Plan Cost Of Living Wage Adjustments for the Astoria Public Safety Association and Police Sworn Management (Finance)
- (f) Oregon Library Association Resource Sharing Committee Passport Program Agreement (Library)

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.

- (a) Revised Findings of Fact for Appeals by Ron Zilli (Community Development)
 - (1) AP15-01 – New Construction Permit NC15-03 for Verizon Wireless
 - (2) AP15-02 – Variance V15-03 for Verizon Wireless
 - (3) AP15-03 – Wireless Communications Facility Permit WCF15-03 for Verizon Wireless
- (b) Local Option Tax – Marijuana Retailers (Police)

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 JULIE YUILL, CITY MANAGER'S OFFICE, 503-325-5824.



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 28, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF FEBRUARY 1, 2016

PRESENTATIONS

Item 5(a): Shirley Krepy 25 Year Service (Police)

Police Department Communications Operator Shirley Krepy will be presented with her 25 year service pin.

CONSENT CALENDAR

Item 6(a): City Council Minutes

The minutes of the City Council meeting of January 4, 2016 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 6(b): Boards and Commissions Minutes

The minutes of the (1) Library Board meeting of 12/8/15 are enclosed. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

Item 6(c): 2016 Trestle and Track Inspection – Personal Services Contract (Public Works)

The City of Astoria has approximately 4.7 miles of railroad track and eight timber trestles formerly owned and operated by Burlington Northern Railroad from the Port of Astoria to Tongue Point. The Astoria Riverfront Trolley currently operates on approximately three miles of this track, and over four of the trestles. The Trolley provides passenger service from Portway Street to 39th Street. Due to the age of the railroad infrastructure, the effort required to maintain the track and structures has been increasing rapidly. The City has the

timber trestles inspected each year to ensure they are safe to accommodate River Trail use and operation of the Trolley. After the annual inspection is completed and the inspector has provided repair recommendations, staff solicits bids for the repair work.

The City's previous rail inspection consultant, Andy Cyrus, has retired and is no longer available to assist with the work. Last year, staff performed an interim inspection and provided repair recommendations while looking for a permanent inspection solution. After evaluating several options, staff selected OBEC Consulting Engineers to assist with track and trestle inspection services. Upon request, OBEC provided a proposal for comprehensive inspection of the eight timber trestles and railroad track from the Trolley Barn to 39th Street. This will provide critical information on existing conditions, a maintenance summary identifying repair priorities, and budget estimates to assist with future maintenance funding. This scope is more significant than that of previous inspections, but will be necessary to effectively manage and maintain proper Trolley operation as well as plan for future funding allocations needed for repairs in the upcoming years. OBEC estimated the cost of this work to be \$37,067. This does not include a contingency task to provide Computer Aided Design (CAD) drawings. This task may be considered at a later date if funding allows in the next fiscal year. OBEC is listed on the Oregon Department of Transportation Consultant List for Local Public Agencies so staff recommends executing a personal services contract for the trestle and track inspection services per Astoria Code Section 1.967C(3) "Award from a Qualified Pool". Funding for this project will come from the Promote Astoria Fund. The City Attorney has reviewed the contract and approved it as to form. It is recommended that Council approve the Personal Services Contract with OBEC Consulting Engineers for the 2016 Trestle and Track Inspection Services in the amount of \$37,076.

Item 6(d): 2016 Trolley Trestle Repair Project – Authorization to Award Construction Contract (Public Works)

The City of Astoria has approximately 4.7 miles of railroad track and eight timber trestles formerly owned and operated by Burlington Northern Railroad from the Port of Astoria to Tongue Point. The Astoria Riverfront Trolley currently operates on approximately three miles of this track, and over four of the trestles. The Trolley provides passenger service from Portway Street to 39th Street. Each year, the City performs an inspection of the timber trestles to ensure safe operation of the Trolley over the structures. Recommended repairs are identified and completed during a period when the Trolley is not in use. Maintenance of the trestles has been deferred over the last two years while the City worked with the Division of State Lands and the Army Corps of Engineers to obtain permits for the planned maintenance work. The City has obtained a permit to complete maintenance work for the next five years and will be completing recommended repairs identified over the past two years.

City Staff will utilize the informal request for quotes (RFQ) process to obtain competitive quotes for the repair work. The RFQ document sent to Contractors

is attached to this memo. The estimate for the work is approximately \$50,000. The RFQ results will be available Friday, January 29th and will be provided as a supplement to this memo prior to the Council meeting. Funding for the repairs was budgeted and will be provided by the Promote Astoria Fund. It is likely that the repair work combined with this year's inspection effort will exceed the amount budgeted for trestle repair in the Promote Astoria Fund. Additional funding is available in the Promote Astoria Fund Contingency to cover the cost in excess of the funded amount. Staff is requesting approval in this fashion in an effort to complete the trestle maintenance work prior to the start of Trolley operation in early March. Since both inspection and maintenance work will be occurring simultaneously, critical maintenance items identified in this year's inspection will be added to the trestle repair scope if possible. It is recommended that Council authorize staff to execute a construction contract with the Contractor that provides the lowest responsible quote for an amount up to \$50,000.

Item 6(e): Salary Resolution Establishing Basic Compensation Plan Cost of Living Wage Adjustments for the Astoria Public Safety Association and Police Sworn Management (Finance)

Staff positions and associated compensation are detailed in the "Resolution Establishing a Basic Compensation Plan for the Employees of the City of Astoria and Establishing Regulations for the Placement of Present Employees within the Wage and Salary Schedules Provided". Whenever there are changes in positions, whether a position is begin deleted, added or redefined; or whether a change in compensation is proposed; such changes are adopted by resolution. This proposed resolution implements a 1.5% cost of living wage adjustment for both the Astoria Public Safety Association and Police Sworn Management effective January 1, 2016. It is recommended that Council adopt the Salary Resolution as presented.

Item 6(f): Oregon Library Association Resource Sharing Committee Passport Program Agreement (Library)

In September 2011, the Oregon Library Association (OLA) created the Resource Sharing Committee (RSC) to explore and recommend a statewide resource sharing option. On June 8, 2012, the Oregon Library Association Board voted to accept Oregon Library Passport, assigning the RSC as a standing committee of OLA to steward the program. A three year pilot project began in January, 2013 and that data was collected to evaluate the program. At the direction of the Astoria City Council on December 3, 2012, the Astoria Public Library joined Passport, offering a limited use Passport card. On December 4, 2015, the Oregon Library Association declared the pilot program a success, and transferred Oregon Library Passport program (OLP) to ongoing status. With more than 150 libraries participating statewide, OLP libraries reported 2,216 registered patrons who borrowed 92,326 items. In Astoria, 64 Passport cardholders have checked out 926 items. Attached is an agreement which would continue Passport services. It has been reviewed and approved as to form by the City Attorney. It is recommended that Council update the pilot

program agreement by approving the Oregon Library Passport Program Statement of Shared Understanding Agreement.

REGULAR AGENDA ITEMS

Item 7(a): Revised Findings of Fact for Appeals by Ron Zilli (Community Development)

- (1) AP15-01 – New Construction Permit NC15-03 for Verizon Wireless**
- (2) AP15-02 – Variance V15-03 for Verizon Wireless**
- (3) AP15-03 – Wireless Communications Facility Permit WCF15-03 for Verizon Wireless**

Verizon Wireless LLC applied for a New Construction permit (NC15-03) to the Historic Landmarks Commission (HLC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park as well as a Variance permit (V15-03) to the Astoria Planning Commission (APC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park with a height of 150' which exceeds the 45' maximum height, and a Wireless Communications Facility permit (WCF15-03) to the Astoria Planning Commission (APC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park. On September 15, 2015, the HLC held a public hearing and approved the New Construction request with conditions and on September 16, 2015, the APC held public hearings and approved the Variance V15-03 and Wireless Communications Facility WCF15-03 requests with conditions. Notices of Appeal on the HLC and APC decisions were submitted by Ron Zilli on September 30, 2015.

A complete record of each of the requests has been compiled and was provided for Council at the January 19, 2016 meeting. A public hearing on the Appeals were advertised and held November 16, 2015. At the request of Verizon, City Council continued the public hearing to December 7, 2015. At its December 7, 2015 meeting, Council continued the public hearing to January 4, 2016 due to the holidays to allow for greater public participation in the hearing. At its December 17, 2015 meeting, the City Council continued the public hearing to the January 19, 2016 meeting at the request of Verizon.

The appellant asserts that the NC15-01, V15-02, and WCF15-03 permits for the proposed 150' tall, metal wireless communications facility tower should be denied. The specific issues for denial on each of the permits appealed by Mr. Zilli were summarized and submitted to the Council for the public hearing. On January 19, 2016, the City Council held the public hearings and closed the public portion of the hearings. At that meeting, the Council voted 3 to 2 to tentatively deny the three requests and uphold the appeals pending adoption of revised Findings of Fact for denial. The Council decision on each appeal will need to be done with separate motions. Suggested Forms of Motion will be available for Council consideration at the Council meeting on February 1, 2016. It would be in order for the Council to adopt the revised Findings of Fact for the following three appeals: Appeal AP15-01 on New Construction Permit NC15-03,

Appeal AP15-02 on Variance Permit V15-03 and Appeal AP15-03 on Wireless Communication Facility Permit WCF15-03.

Item 7(b): Local Option Tax – Marijuana Retailers (Police)

Under House Bill 3400, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses. This tax must be imposed by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year. There is no provision in law for taxing medical sales.

As with any revenue raising measure, it's important that the budget committee approve any proposed taxes as part of its approval of the budget. See the Department of Revenue "Tax Election Ballot Measures" manual for more information.

In anticipation of this matter being brought to City Council to consider referring the matter to the voters, Police Chief Johnston visited with the four existing medical marijuana retailers who have all "opted in" for recreational sales. All of the retailers were very open to the conversation. Some relevant points to the conversation included:

- Three of the four existing businesses plan on converting to recreational outlets. The fourth has plans to remain a medical outlet but will be opening an additional outlet that is a recreational outlet.
- Three of the four existing businesses were very supportive of the City pursuing the tax. The fourth was supportive after a discussion on the state tax plan. They initially believed that this three percent would be on top of the existing 25 percent being levied by the state. Once they learned that the tax would be imposed only on the licensed recreational facility that will have a state tax rate of seventeen percent and not in addition to the higher "opt in" tax of twenty five percent they were supportive.
- Based on verbal estimates of what the businesses have seen for recreational sales since the October "opt in" sales began revenue is estimated to be in the neighborhood of \$100,000 annually.

Revenue estimates are very rough. Given the early sales this is a conservative number; however, what the sales will look like over time is difficult to gauge. The opt in law only allowed sales of flower and not extracts or other marijuana related products. The retail price of edibles and other extracts is more expensive than that of flowers. How the availability of these products in the market shapes the sales is unknown. Additionally, it is unknown what tourism opportunities are available to this market. Several of the current owners have plans to market toward the tourist economy. They also see several other markets available that will require legislative change.

One concern that we tried to address is a concern that high tax will move people back to the black market. All four of the current retailers in Astoria do not

believe they are competing on price with the black market. They instead are offering a variety, safety, and surety that the black market cannot. None thought that the tax would move people back to the black market.

To refer the matter to the voters, Council would hold a first reading and second reading of the ordinance at separate meetings then adopt the ordinance by a roll call. After adopting the ordinance Council would adopt the resolution. This adoption will set the ballot title. The ballot title will be published in the "newspaper of general circulation in the city." After a period of review, if no objection to the ballot title is filed the matter will be filed with the County Elections Official. It is recommended that Council consider holding a first reading of the proposed ordinance to refer a 3 percent local option tax to the November 8, 2016 ballot.

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

Councilors Present: Nemlowill, Herzig, Warr, Price, Mayor LaMear

Councilors Excused: None

Staff Present: Assistant City Manager/Police Chief Johnston, Community Development Director Cronin, Planner Ferber, Parks and Recreation Director Cosby, Finance Director Brooks, Fire Chief Ames, Library Director Tucker, Public Works Director Cook, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

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

Item 3(b): Councilor Herzig reported that a candlelight walk and soup dinner would be held on Monday January 18, 2016 in honor of Martin Luther King Day. The walk would begin at the corner of 12th and Commercial in front of the Liberty Theater at 5:30 pm and end at Peace Lutheran Fellowship Hall, where North Coast Food Web would provide the soup dinner. He has spent a lot of time at the Astoria Warming Center, which has been open 37 nights since it opened for the season. The center has been open more nights than it has been closed, serving 53 men, and 14 women. About 1,000 hours of volunteer time have accumulated. The center never expected to be open so often, but the weather has been such that the center needed to be available. He noted that Councilor Price, Mayor LaMear, and Cliff LaMear have served as volunteers. One night, Mr. LaMear had gone home to get a pair of shoes that he gave to one of the guests. The amount of support for the warming center has been incredible. All of the support has come from private donors and volunteers. The warming center will continue for as long as possible to keep Astoria's citizens alive through the winter.

Item 3(c): Councilor Price reported that on Saturday, January 2nd, she received a third call in about two months from a citizen who wanted to know what to do with a dead deer in their yard. She called the Astoria Police Department, Astoria Public Works, and the Oregon Department of Fish and Wildlife (ODFW) and learned it was not their responsibility to remove dead animals from private property. She believed this was an important issue and would provide an update at the next City Council meeting. Earlier in the day, she met Ray Merritt at the site of the Safeway hole, where dirt will be removed starting on Wednesday, January 6th.

Item 3(d): Councilor Warr reported that he attended the Historical Society's New Year's Eve party. Attendance was lower than expected, but the event was wonderful. While not a fundraiser, everyone had a good time and he hoped the event would continue for several more years. Herb Olson, a former long-time employee of his who had recently retired, was admitted to the hospital earlier that day. He asked for good thoughts and prayers for Mr. Olson.

Item 3(e): Mayor LaMear reported that City Manager Estes had fallen on his deck and broken a toe. He was absent from the meeting because he was still recuperating. Patsy Oser was also recuperating after falling and breaking her wrist.

CHANGES TO AGENDA: No changes.

PRESENTATIONS

Item 5(a): Parks Department CHIP-in Program

In 2015, Citizens Helping Improve Parks (CHIP-in), a Parks and Recreation program entering its second year with a focus on inspiring community based stewardship by reconnecting citizens with their parks, cleaned up 11 of Astoria's 63 parks. Two hundred twenty-seven volunteers dedicated over 680 hours of their time resulting in the beautification of our parks and countless community connections, both to other citizens and our environment.

Melissa Keyser, the CHIP-in Volunteer Coordinator, will update the Council with statistics and results from the past year of CHIP-in events as well as provide goals for 2016. As the second year of the program ends, the necessity and success of the CHIP-in program is evident. The strength and vast potential of community-based stewardship is clearly exemplified in this past years work.

Director Cosby introduced Melissa Keyser, who started working for the Parks Department over the summer as the part-time volunteer coordinator. Ms. Keyser's position with the City is her second job and she does a great job managing the CHIP-in program.

Melissa Keyser gave the annual update on the CHIP-in program via PowerPoint. The mission statement she developed for the program was, "To inspire community-based stewardship by reconnecting citizens with their parks." In 2015, the program's second year, there were three main goals; 1) Beautify Astoria's 63 parks, 2) Reconnect citizens with their parks and over 200 acres of park land, and 3) Focus on environmental stewardship through community volunteerism. CHIP-in hosted at least one event each month beginning in March 2015. She created a monthly volunteer email, which now has more than 100 recipients. Events are consistently promoted on social media and she participated in the AHS Community Fair. The program had about 250 volunteers in 2014 and 227 volunteers in 2015. In 2015, 50 of the volunteers were students from Tongue Point Job Corps. The students have been fantastic at all of the CHIP-in events. Volunteer turnouts were consistent with about an average of 20 volunteers for each event. Volunteer hours in 2015 totaled 681 hours, which is valued at over \$15,000 for the year. In 2014, volunteers contributed 750 hours of labor. She hoped the number of volunteers and hours worked would increase in 2016. Of the 12 events scheduled for 2015, one was cancelled due to weather and two were scheduled through outside organizations, the Kennewick Coast Guard and the Clatsop Community College Talent Search. CHIP-in partnered with five organizations and cleaned up 11 of the 63 parks. She reviewed each CHIP-in event as follows:

- Evergreen Field, March 22nd – There were only five volunteers due to extremely wet weather. Volunteers replaced backstops, laid new tarp under the bleachers, rehung the volleyball net, and removed weeds.
- Tapiola Park, April 19th – There were 63 volunteers, 15 from Tongue Point, who put in over 100 yards of cedar chips and eight yards of sand, painted the Liberty Theater, and weeded around the play area.
- Fred Lindstrom Park, May 8th – This even was coordinated with Clatsop Community College Talent Search. Twenty volunteers picked up trash and pulled weeds.
- Ocean View Cemetery, May 17th – This was the last event with Janice O'Malley Galizio as volunteer coordinator. There were 24 volunteers, 20 from Tongue Point, who cleaned headstones, cleared grave marker, and removed weeds.
- Fort Astoria Park, June 21st – There were 8 volunteers led by Jonah Dart-McLean, Parks Maintenance Supervisor, who put in 20 yards of mulch donated by Trails End Recovery. Fort George donated 30 \$5 gift cards for the volunteers.
- Cathedral Tree Trail, July 19th – This event was also led by Mr. Dart-McLean. There were 30 volunteers, 6 were Lewis and Clark National Park staff, and 10 were Tongue Point students. Volunteers cleared brush from a fourth of the trail, built a 45-foot boardwalk and three new water bars, removed and replaced four steps, and trimmed trees.
- Riverwalk, August 22nd – This was Ms. Keyser's first event. There were 28 volunteers, 5 from Portland, who picked up over 10 bags of trash, weeded, removed invasive plants, and cleared overgrown brush. Volunteers received special commemorative t-shirts for the event.
- Aquatic Center, September 13th – There were 19 volunteers, 10 from Tongue Point, led by Pam Pearce, Recreation Coordinator. Volunteers cleaned up the exterior of the facility while the inside was being repaired, repainted the caution paint, weeded, trimmed, mowed, and put down about 5 yards of bark mulch.
- Maritime Memorial Park, October 16th – This event was hosted by Kennewick Coast Guard, who hosted the event to celebrate the promotion of one of their members. There were 9 volunteers, 7 from the Coast Guard, who cut back overgrown shrubs, trimmed trees, picked up trash, pulled weeds, and put in bark mulch.
- Recreation Center, November 15th – This event was led by Terra Patterson, Recreation Coordinator. There were 10 volunteers who painted the kid zone, mopped and cleaned the inside of the facility, picked up trash outside the facility, pulled weeds, and put in bark mulch.
- Li'l Sprouts/Port of Play, December 20th - There were 11 volunteers who painted the Port of Play grocery store and an outdoor mural and wiped down surfaces. She and Erin Reilly, Volunteer Coordinator, designed and executed the mural, which included a road that led into the door. Unfortunately, the road was very slick and had to be washed off. The road will be painted back on with sanded paint. The logo

for the grocery store resembled the Astoria Co-op Grocery. She asked for donations of empty boxes and cans for the grocery store, which did not have much play food items.

- She is currently working on the 2016 calendar of events and planning a volunteer appreciation event for the end of the year. She will focus on fundraising, increasing park adoptions, and increasing the “Friends of” groups. She plans to speak with regular park users to find out who would be interested in facilitating a group to plan events with the help of the City. Community partnerships are another important goal. In the past, CHIP-in has worked with Lewis and Clark National Park, but she would like to partner with the North Coast Watershed Association, the Columbia River Estuary Study Taskforce (CREST), and the North Coast Land Conservancy because their goals are similar to Astoria’s. She is currently planning an event for March with the North Coast Watershed Association, who usually provides all of the plants to be planted. She also plans to focus on providing historical contexts and environmental information at CHIP-in events. This could include a brief presentation or providing historic maps or pictures. She believed citizens were inspired by the past and how parks have changed over the years.
- The value of community participation and stewardship in 2015 is evident and the resulting improvements provide true benefits to the Parks and Recreation Department. The next CHIP-in event is scheduled for Sunday, January 17th, from 1:00 pm to 4:00 pm at Shively Hall.

Mayor LaMear thanked Ms. Keyser and Ms. Galizio for all of their work with the CHIP-in program. Tongue Point has done remarkable things for the City, so she had previously sent a letter of appreciation for their participation.

Councilor Herzig believed 2015 was a break-through year for the Parks and Recreation Department. He believed that Ms. Keyser and Ian Sisson, who was working on the master plan, would make 2016 even better. He thanked Director Cosby and Mr. Dart-McLean for their leadership in the department.

Item 5(b): Marc Warren, Oregon Liquor Control Commission Licensing Process Inspector

Marc Warren from the Oregon Liquor Control Commission (OLCC) will be presenting the process for local government review of both liquor license applications and recreational marijuana applications.

Marc Warren, 65 North Highway 101, Warrenton, explained that he had been working as District Inspector for the OLCC for about 2½ years, since retiring from the Coast Guard in 2013. His district includes the north half of Tillamook County, all of Clatsop County, and all of Columbia County. He currently inspects about 400 licensed practices. With the legalization of marijuana, OLCC has made some changes because they will be regulating the licensing and the retail outlets. He gave a presentation, which included a brief on the liquor licensing process and a compare and contrast between the liquor and marijuana licensing processes. His presentation was as follows:

- Measure 91 gives OLCC the authority to tax, license, and regulate the recreational marijuana commercial program, which includes all products grown, sold, and processed for commercial purposes. The OLCC places emphasis on bringing Oregon’s commercial marijuana industry into a mainstream regulated marketplace.
 - The OLCC has no authority to regulate or enforce the homegrown, personal use, or personal possession laws. Enforcement of these laws is left to local law enforcement. It will be up to local jurisdictions and the State Police to decide how to deal with unlicensed premises and personal possession limits.
 - The Oregon Health Authority currently regulates the medical marijuana dispensaries, which are only allowed to sell less than an ounce of buds and flowers. The OLCC has no authority over the medical marijuana dispensaries. The health authority’s jurisdiction over these facilities will sunset in December 2016, at which time each facility must decide how to proceed because a dispensary cannot be both a medical and recreational dispensary.
- OLCC will focus on preventing sales to minors, protecting consumers by establishing standards through regulatory enforcement, and supporting local law enforcement efforts to regulate and enforce unlicensed sales and production.
- OLCC is responsible for regulatory enforcement actions against businesses, not individuals, and only those businesses that are licensed by the OLCC to grow, produce, wholesale, or sell directly to the public recreational marijuana.
- Even though the OLCC began accepting license applications today, they are currently in the process of drafting rules that will likely become final in March or April.

- Marijuana licensing is done online and no paper applications are available, like liquor licensing. The licensing fee is non-refundable. Once an application is submitted, the online license system verifies the application is complete before accepting it.
- The only local government input for marijuana licensing is the Land Use Compatibility Statement, unlike alcohol licensing, which includes the local governing body recommendation process.
 - The City must decide which local governing body must review the Land Use Compatibility Statement, which will be used to address zoning, use of the land, the building, ownership of the property with respect to the type of license being requested, and large scale city planning.
 - Police Chief Johnston noted the Community Development Department had already received and processed a Land Use Compatibility Statement from a grow operation. The City has 21 days to process the statements, which are reviewed administratively unless there is an issue that needs to be reviewed by the Planning Commission.
 - The OLCC does not require a recommendation from the city on a marijuana license, like it does with a liquor license.
 - He confirmed for Councilor Herzig that if the City's' planning process determines a marijuana use is not compatible, the license will be denied. The OLCC cannot grant a license that is not compatible with the land use. This is different from the liquor licensing process, which has denial criteria.
 - Licenses will be denied if the facility is proposed to be located in a prohibited zone, on federal land, at the same physical address or location as a medical dispensary or an OLCC licensed premises, and if the proposed location is within 500 feet of a protected facility like a school, place of worship, or childcare facility.
 - No public notices will be published for proposed marijuana facility licenses.
- An inspection will be done on premises prior to granting a license. This is not done with liquor licenses. All marijuana facilities must pass strict security codes and other requirements. This means the facility must be ready to operate before the license is granted.
- Applicant denial criteria does not allow for a recommendation by the local government. The OLCC will deny applicants who have a record of excessive use of alcohol, marijuana, or any other controlled substance, have made false statements to the OLCC, are incompetent or physically unable to carry on the management of the facility, or are not of good repute or moral character. Most applicants are denied because they have made false statements, had a habit of use, or did not have good moral character.
 - A person who owed a large sum of money to the City or County would not be considered to have good moral character and would have their application denied.
 - Applicants can overcome denial of an application over time by participating in a rehabilitation program, following probation, or taking other appropriate measures to resolve their issues. However, the reason for denial and appropriate measures to overcome the denial must be specifically stated.
 - Previously licensed individuals who have had a poor record of compliance will also be denied.
- He reviewed the liquor license actions that require a recommendation from the City.
- State statutes do not require public notices when a marijuana facility opens. Marijuana was legalized through a vote by the people, so there is not as much government oversight as there would be if marijuana was legalized by the legislature. Public input is not necessary because people have already indicated through the voting process that they want marijuana. Public notices and the local government process are required for liquor licenses because the alcohol laws were passed by the legislature.
- Public consumption of marijuana is not allowed. He showed photographs of signs that the OLCC is giving to local bars to be placed in their smoking areas. The OLCC has no jurisdiction over public marijuana smoking, but bars can call the police.

Mayor LaMear asked how many and what types of facilities were currently in Astoria. Chief Johnston said he was only aware of the dispensaries because they are visible. The Police Department does not have the opportunity to review license applications. There are four medical marijuana dispensaries and all four have opted in to doing retail sales. One medical grow facility has submitted a land use compatibility statement and plans to apply for a recreational license. Through December, the medical facilities can sell marijuana for recreational use. By the end of 2016, the facilities must decide which type of license to have. Medical facilities that want to sell for recreational use must apply for a recreational license and completely convert to retail sales. Facilities will not be able to hold both a medical and recreational license at the same time.

Mr. Warren added that medical facilities choosing to remain medical facilities would have an opportunity to sell their excess recreational products to retail outlets.

Councilor Warr confirmed the grow facility would be located on Portway Street next to Marine Drive. Chief Johnston said the facility was a medical facility that planned to convert to a recreational facility.

Councilor Herzig confirmed that by 2017, all facilities would be either medical or recreational.

Item 5(c): Coalition to Develop Partnerships for Dealing with Homeless/Community Interactions Report

Chief Johnston will present a report to Council on the work of the Coalition to Develop Partnerships for Dealing with Homeless/Community Interactions.

Chief Johnston gave a report on the Coalition to Develop Partnerships for Dealing with Homeless/Community Interactions, which was included in the agenda packet. The report included six recommended community engagement activities Staff would use to guide possible future actions. Future action items would be presented through the budget process. He believed building capacity in the non-profit sector would make the biggest impact. However, this is not the City's responsibility. He thanked the coalition members and the community for their work.

Mayor LaMear thanked Chief Johnston for leading the coalition and doing exactly what City Council hoped he would. Her goal was to see various organizations come together to talk. The recommendations are very important. The City cannot take responsibility for the recommendations, but they do provide a framework to work from.

Councilor Price thanked Chief Johnston, Councilor Herzig, and Mayor LaMear for their advocacy of communities that are disadvantaged. This is the first time City Council has taken an interest in the homeless population and encourage community groups to work together to create solutions.

Councilor Herzig said that while the City does not have the primary responsibility over these issues, the City does suffer from the issues. When the warming center is open, the emergency room at Columbia Memorial Hospital (CMH) receives much less traffic from homeless people. The City pays a heavy price for failing to address the issues. Many people believed the coalition was going to be a permanent group, but he kept telling people it was just an ad-hoc group to deal with the influx of homeless people and contention with the downtown merchants. He has been speaking with the National Alliance on Mental Illness and CMH about forming a new task force to carry forward these recommendations because the issues must be addressed. The City and the citizens are paying too high a price. The analysis is great, but the City must include community partners who have not been communicating. He hoped the new crisis center at Coryell's Crossing would be the nucleus for expanding services through the county. Even though homelessness is not the City's responsibility, everyone pays a price and the City is suffering in many ways. Everyone will benefit from moving to address the issues. The coalition was a very fluid group and Lisa Reid had the difficult task of speaking on behalf of the downtown merchants, who were angry about public defecation. Arriving at an agreed solution from that perspective was incredible.

Celia Davis, 1354 Miller, Astoria, asked if CMH was asked to participate in the coalition.

Chief Johnston said the City wanted a CMH representative on the coalition, but Staff had issues getting someone to engage. Once the meetings began, he stopped trying to get someone from the hospital to participate.

Ms. Davis said this was astonishing. She volunteers at the hospital and warming center. She has heard the nurses talk about the impacts of the warming center when it is open. She was at the warming center at 3:00 am when a person came in after being discharged from the hospital. Councilor Herzig and people in the community have been trying to make a connection with the hospital. She was hopeful about the task force and hoped it would allow the hospital to be engaged. She understood Councilor Herzig had made a successful contact with someone at the hospital.

Councilor Herzig said Erik Thorsen had clearly stated that using the emergency room as a warming shelter is an incredible waste of the facility and resources. He had agreed and said the warming center could not provide

nursing to people who had been discharged from the hospital but still needed care. Some of these people have been unable to walk.

Ms. Davis agreed and said this is a cost to the community.

Councilor Herzig added that the hospital, the warming center, and the City are not at fault. However, until this gap is addressed, money, health, and the community's well-being will be lost.

George McCartin, 490 Franklin Avenue, Astoria, said it was wonderful that the coalition was able to make the recommendations, but this is the end of the line for the coalition. He believed the community needed to move beyond making recommendations. It is easy to say this is a national problem, a county problem, or a state problem, not Astoria's problem; however, anyone who has been to the warming center realizes that this is Astoria's problem. The City Council needs to recognize that they are the leaders of the City and they must do something concrete about the issues. He hoped the strategic planning would include issues related to homelessness.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

6(a) City Council Minutes of 12/7/15

6(b) Managing Oregon Resources Efficiently (More) IGA (Public Works)

6(c) Rural Gateways Grant Application (Library)

6(d) Astoria Senior Center Renovation Project Architectural Services Contract Amendment No. 3 (Public Works)

Councilor Herzig requested Item 6(b) be removed for further discussion.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Price, to approve Items 6(a), (c), and (d) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill, and Mayor LaMear; Nays: None.

Item 6(b): Managing Oregon Resources Efficiently (More) IGA (Public Works)

Councilor Herzig explained that a number of cities and counties throughout Oregon have agreed to share resources, which sounds like a good idea. The contract allows Astoria to borrow something it needs from another city; however, Astoria is not obligated to provide anything to other jurisdictions. He asked how the contracts would be reviewed. Chief Johnston said anything under \$10,000 could be authorized by the City Manager and City Council would review requests that exceed the City Manager's authority.

Councilor Herzig said the agreement looked great and he believed it would benefit Astoria. Instead of going through independent contracting each time, the City can just go through this centrally managed resource to apply for resources.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor Price, to approve Item 6(b) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill, and Mayor LaMear; Nays: None.

REGULAR AGENDA ITEMS

Item 7(a): Ordinance Readopting Oregon Revised Statutes (Code Section 1.047) (1st Reading) (City Attorney)

The 2015 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2016. Many of our City ordinances refer to or incorporate state statutes. Every year, the City routinely re-adopts all referenced ORS sections to pick up any changes made by the legislature. This is done by a "global readoption," which was the technique recommended by the League of Oregon Cities. The City is legally unable to prospectively adopt Oregon legislative changes, that is, we cannot adopt a state statute "as it now exists and is

from time to time amended." The proposed ordinance has been reviewed and approved by the City Attorney. It is recommended that Council conduct the first reading of the proposed ordinance.

Mayor LaMear explained this was a bookkeeping item. Astoria just needs to make sure its ordinances comply with State laws.

City Council Action: Motion made by Councilor Price, seconded by Councilor Warr to conduct the first reading of the ordinance readopting Oregon Revised Statutes Code Section 1.047. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

Director Brooks conducted the first reading of the ordinance.

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

Item 8(a): Election of City Council President

City Council Action: Motion made by Councilor Warr, seconded by Councilor Price to elect Councilor Nemlowill as City Council President for 2016. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

Mayor LaMear confirmed there were no public comments.

City Council recessed to Executive Session at 8:07 pm.

EXECUTIVE SESSION

Item 9(a): ORS192.660 (2) (h) – Legal Counsel

The City Council will recess to Executive Session to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:08 pm.

ATTEST:

APPROVED:

Finance Director

City Manager

Astoria Library Board Meeting

Astoria Public Library

December 8, 2015

5:30 pm.

The recorder did not work properly. This document has been prepared from handwritten notes.

Present: Library Board members Kate Summers, Susan Stein, Kimberley Chaput, and Chris Womack.
Staff Library Director Jane Tucker.

Excused: David Oser

Call to Order: Chair Kate Summers called the meeting to order at 5:35 pm.

Approval of Agenda: Approved.

Approval of Minutes: Minutes of November 24, 2015 were approved as presented.

Renovation Update:

Item 4(a): Community Development Report on Heritage Square Study

Board Reports:

Library Director's Report: Director Tucker reported that Patty Skinner set up a new Read to Me Mini Library in the laundry room of the Bayshore Apartments. This is a library of English/Spanish bilingual books for parents and older siblings to read to children ages birth-5. Funded by the Ready to Read grant, these mini libraries are one more way to provide books to children who may not be able to visit the Library. There are mini libraries in the Emerald Heights office, the Astoria Dry Cleaners and Laundromat next to Dairy Queen, and the Lower Columbia Hispanic Council office. Lower Columbia Hispanic Council staff also use the mini library in the office for home visits.

Director Tucker will meet with Interim County Manager Rich Mays in December regarding Libraries ROCC.

A question was asked as to whether Emerald Heights is within the city limits of Astoria. Director Tucker will confirm whether it is or is not.

Update on ALFA activities: No report.

New Business: Report on Heritage Square presentation to Council

A brief review of the December 7, 2015 report on Heritage Square presentation to Council was reviewed. Community Development Director Cronin proposed a decision tree that the council was working with at the meeting. The Council tabled the question:

Old Business: No report.

Public Comments: There were none.

Items for Next Meeting's Agenda: The Board will return to its regular meeting schedule on the fourth Tuesday of the month.

Adjournment: There being no further business, the meeting was adjourned at 6:15 pm.

Meeting notes respectfully submitted,

Jane Tucker, Director, Astoria Public Library



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

January 21, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **2016 TRESTLE AND TRACK INSPECTION – PERSONAL SERVICES CONTRACT**

DISCUSSION/ANALYSIS

The City of Astoria has approximately 4.7 miles of railroad track and 8 timber trestles formerly owned and operated by Burlington Northern Railroad from the Port of Astoria to Tongue Point. The Astoria Riverfront Trolley currently operates on approximately 3 miles of this track, and over 4 of the trestles. The Trolley provides passenger service from Portway St. to 39th St.

Due to the age of the railroad infrastructure, the effort required to maintain the track and structures has been increasing rapidly. The City has the timber trestles inspected each year to ensure they are safe to accommodate River Trail use and operation of the Trolley. After the annual inspection is completed and the inspector has provided repair recommendations, staff solicits bids for the repair work.

The City's previous rail inspection consultant, Andy Cyrus, has retired and is no longer available to assist with the work. Last year, staff performed an interim inspection and provided repair recommendations while looking for a permanent inspection solution. After evaluating several options, staff selected OBEC Consulting Engineers to assist with track and trestle inspection services. They were selected for the following reasons.

1. OBEC is familiar with the City's timber trestles as a result of previous inspection work on the Waterfront Bridges.
2. OBEC has provided almost identical services for the Willamette Shore Trolley, and understands the unique operating characteristics of a tourist based trolley system.
3. OBEC is the design firm currently working on the Waterfront Bridges Project and has a significant amount of existing data associated with the structures in those areas.
4. On past projects, OBEC has demonstrated the ability to provide concise and realistic repair recommendations that allowed the City to cost effectively repair several aging timber structures.

Upon request, OBEC provided a proposal for comprehensive inspection of the 8 timber trestles and railroad track from the Trolley Barn to 39th Street. This will provide critical information on existing conditions, a maintenance summary identifying repair priorities, and

budget estimates to assist with future maintenance funding. This scope is more significant than that of previous inspections, but will be necessary to effectively manage and maintain proper Trolley operation as well as plan for future funding allocations needed for repairs in the upcoming years. OBEC estimated the cost of this work to be \$37,067. This does not include a contingency task to provide Computer Aided Design (CAD) drawings. This task may be considered at a later date if funding allows in the next fiscal year.

OBEC is listed on the ODOT Consultant List for Local Public Agencies so staff recommends executing a personal services contract for the trestle and track inspection services per Astoria Code Section 1.967C(3), Award from a Qualified Pool. Funding for this project will come from the Promote Astoria Fund.

The City Attorney has reviewed the contract and approved it as to form.

RECOMMENDATION

It is recommended that City Council approved the Personal Services Contract with OBEC Consulting Engineers for the 2016 Trestle and Track Inspection Services in the amount of \$37,067.

Submitted By



Ken P. Cook, Public Works Director

Prepared By



Nathan Crater, Assistant City Engineer

<p style="text-align: center;">CITY OF ASTORIA CONTRACT FOR PERSONAL SERVICES</p>

CONTRACT:

This Contract, made and entered into this ____ day of _____, 2016 by and between the City of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and OBEC Consulting Engineers, 5000 Meadows Rd., Ste. 420, Lake Oswego, OR 97035 hereinafter called "CONSULTANT", duly authorized to perform such services in Oregon.

W I T N E S S E T H

WHEREAS, the CITY requires services which CONSULTANT is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONSULTANT is able and prepared to provide such services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONSULTANT SERVICES

- A. CONSULTANT shall perform professional services, as outlined in the Attachment A, to the City of Astoria regarding the inspection of Trolley Trestle and Track.
- B. Consultant's services are defined solely by this Contract and its attachment and not by any other contract or agreement that may be associated with this project.
- C. The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and the orderly progress of work. All work shall be completed no later than =completion date.

2. COMPENSATION

- A. The CITY agrees to pay CONSULTANT a total not to exceed \$37,067.00 for performance of those services provided herein;
- B. The CONSULTANT will submit monthly billings for payment which will be based upon the percentage of work completed in each of the categories listed in the scope of work. Said progress billings shall be payable within 30 days of receipt by City.
- C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

CONSULTANT shall furnish to the CITY the CONSULTANT'S employer identification number, as designated by the Internal Revenue Service, or CONSULTANT'S Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Nathan Crater, PE, City of Astoria, 1095 Duane Street, Astoria, Oregon, 97103, (503) 338-5173.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT'S authorized representative will be Jason Kelly, PE.

6. CITY'S OBLIGATIONS

In order to facilitate the work of the CONSULTANT as above outlined, the CITY shall furnish to the CONSULTANT access to all relevant maps, aerial photographs, reports and site information which is in the City's possession concerning the project area. In addition, the CITY shall act as liaison for the CONSULTANT, assisting the CONSULTANT with making contacts and facilitating meetings, as necessary.

7. CONSULTANT IS INDEPENDENT CONSULTANT

A. CONSULTANT'S services shall be provided under the general supervision of City's project director or his designee, but CONSULTANT shall be an independent consultant for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,

B. CONSULTANT acknowledges that for all purposes related to this Contract, CONSULTANT is and shall be deemed to be an independent CONSULTANT and not an employee of the City, shall not be entitled to benefits of any kind to which an employee of the City is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONSULTANT is found by a court of law or an administrative agency to be an employee of the City for any purpose, City shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONSULTANT under the terms of the Contract, to the full extent of any benefits or other remuneration CONSULTANT receives (from City or third party) as result of said finding and to the full extent of any payments that City is required to make (to CONSULTANT or a third party) as a result of said finding.

C. The undersigned CONSULTANT hereby represents that no employee of the City of Astoria, or any partnership or corporation in which a City of Astoria employee has an interest, has or will receive any remuneration of any description from the CONSULTANT, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

8. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONSULTANT breaches any of the terms herein and fails to cure such breach within 10 days after receiving notice thereof, or in the event of any of the following: Insolvency of CONSULTANT; voluntary or involuntary petition in bankruptcy by or against CONSULTANT; appointment of a receiver or trustee for CONSULTANT, or any assignment for benefit of creditors of CONSULTANT. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

9. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of contract as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

10. FORCE MAJEURE

Neither CITY nor CONSULTANT shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disenabled provided the party so disenabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

11. NONWAIVER

The failure of the CITY to insist upon or enforce strict performance by CONSULTANT of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

12. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, 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 on appeal of such suit or action, in addition to all other sums provided by law.

13. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

14. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONSULTANT, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

15. INDEMNIFICATION

With regard to Comprehensive General Liability, CONSULTANT agrees to indemnify and hold harmless the City of Astoria, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to city, consultant, or others resulting from or arising out of CONSULTANT'S negligent acts, errors or omissions in services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and The City of Astoria this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONSULTANT.

With regard to Professional Liability, CONSULTANT agrees to indemnify and hold harmless the City of Astoria, its Officers and Employees from any and all liability, settlements, loss, reasonable defense costs, attorney fees and expenses to the extent it arises out of CONSULTANT'S negligent acts, errors or omissions in service provided pursuant to this Agreement; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and the Client, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONSULTANT.

With respect to Commercial Liability and Professional Liability, CONSULTANT reserves the right to approve the choice of counsel.

16. INSURANCE

Prior to starting work hereunder, CONSULTANT, at CONSULTANT'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance, written on an occurrence basis, in amounts not less than the limitations on liability for local public bodies provided in ORS 30.272 and ORS 30.273:

A. Commercial General Liability. CONSULTANT shall obtain, at CONSULTANT'S expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage. Coverage shall include consultants, subconsultants and anyone directly or indirectly employed by either.

B. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT'S expense and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits).

C. Additional Insured. The liability insurance coverage shall include CITY and its officers and employees as Additional Insured but only with respect to CONSULTANT'S activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to CITY from each insurance company providing insurance showing that the CITY is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

D. Professional Liability Insurance. The CONSULTANT shall have in force a policy of Professional Liability Insurance. The CONSULTANT shall keep such policy in force and current during the term of this contract.

E. Notice of Cancellation or Change. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONSULTANT or its insurer(s) to CITY. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

17. CITY'S BUSINESS LICENSE

Prior to beginning work, the CONSULTANT shall have a current City of Astoria business license (occupational tax). Before permitting a sub-consultant to begin work, CONSULTANT shall verify that sub-consultant has a current City of Astoria business license.

18. WORKMEN'S COMPENSATION

The CONSULTANT, its subconsultants, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

19. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

CONSULTANT shall make payment promptly, as due, to all persons supplying CONSULTANT labor or material for the prosecution of the work provided for this contract.

CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT or any subconsultants incurred in the performance of the contract.

CONSULTANT shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

CONSULTANT shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

20. NONDISCRIMINATION

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. Contractor, its employees, agents and subcontractors shall comply with this policy.

21. PAYMENT OF MEDICAL CARE

CONSULTANT shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

22. OVERTIME

Employees shall be paid for overtime work performed under this contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. Sections 201 to 209).

23. USE OF ENGINEER'S DRAWINGS AND OTHER DOCUMENTS

The CITY retains all drawings and other documents prepared by the CONSULTANT for the project after payment to CONSULTANT.

CONSULTANT will not be held liable for reuse of documents or modifications thereof for any purpose other than those authorized under this Agreement.

24. STANDARD OF CARE

The standard of care applicable to consultant's services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time CONSULTANT'S services are performed. CONSULTANT will re-perform any services not meeting this standard without additional compensation.

25. NO THIRD PARTY BENEFICIARIES

This contract gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries.

26. ASSIGNMENT

This contract is personal to Consultant and may not be assigned or any work subcontracted without consent from the CITY.

27. SEVERABILITY AND SURVIVAL

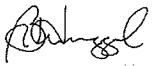
If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

28. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONSULTANT and supersedes all prior written or oral discussions or agreements. CONSULTANT services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Approved as to form:



Attorney

Digitally signed by
com.apple.xmss.appleid.aid.49317566476d4a38
8775d1ad46d5932ae746d35e7736dd
One
com.apple.xmss.appleid.aid.49317566476d4a38
8775d1ad46d5932ae746d35e7736dd
Date: 2016.01.21 13:49:14 -0800

CITY OF ASTORIA, a municipal
corporation of the State of Oregon

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Consultant Date



Attachment A

EUGENE, OR
Corporate Office
541.683.6090

LAKE OSWEGO, OR
503.620.6103

SALEM, OR
503.589.4100

MEDFORD, OR
541.774.5590

VANCOUVER, WA
360.314.2391

www.obec.com

December 17, 2015

Jeff Harrington, PE
City Engineer
City of Astoria
1095 Duane Street
Astoria, OR 97103

RE: City of Astoria Trolley Line Inspection
OBEC Proposal No. P999-0444

Dear Jeff:

As requested, OBEC Consulting Engineers (OBEC) is pleased to present the following proposal for engineering services related to the Inspection of the City of Astoria Trolley Line.

Project Background

The City of Astoria owns approximately 4.7 miles of rail line formerly owned by Burlington Northern Railroad. The rail line running along the south bank of the Columbia River contains eight (8) timber trestles totaling approximately 0.78 miles. The timber trestles were originally constructed in the late 1940s and early 1950s. Currently, the City of Astoria Trolley operates on this rail line annually from March to December.

The intent of this Scope of Work (SOW) is to provide engineering and inspection services so operations can continue from the Port of Astoria to 39th Street. This SOW specifically provides for the in-depth timber evaluation of the eight (8) trestles and a visual inspection of the rail, tie, and ballast from the Trolley Barn at roughly Hamburg Ave. to 39th Street.

Scope of Work

OBEC proposes the following SOW to provide these engineering services.

Task 1 Project Management, Coordination and Project Progress Meetings

The major objectives of this task are to establish the lines of communication and set forth the priorities between Consultant and the City, coordinate and attend meetings between Consultant and the City as needed, and ensure all contract document preparation is submitted and approved in a timely manner.

Consultant shall provide the following Project management and coordination services:

- Schedule, coordinate, and supervise Project work
- Maintain liaison and coordination with the City
- Conduct monthly progress reviews
- Prepare invoices, progress reports, and supporting data
- Monitor Project budget



- Prepare, maintain, and update Project activity schedule

Deliverables:

- Monthly Project Status Reports (with Project schedule updates as necessary). A copy of the Monthly Project Status Report must be submitted with the monthly invoice.

Assumptions:

- Assume the Project Manager will attend two (2) progress meetings, four hours each.

Task 2 Field Inspection

Under this task, OBEC will perform an inspection of the bridges to ascertain the condition of the individual bridge elements. Should you choose to accompany us to the site, we will make those arrangements in advance. Once on site, a FHWA-certified Bridge Inspection Team Leader and assistant will perform a thorough condition inspection of the main structural members in accordance with the current Manual for the Condition Evaluation of Bridges as published by the American Association of State Highway and Transportation Officials (AASHTO) as well as the Federal Highway Administration (FHWA) Bridge Inspector's Reference Manual.

The individual timber elements will be sounded for decay and bored to quantify any section loss.

The following timber trestle bridges will be inspected:

- 230-foot timber trestle at MP 97.3
- 580-foot timber trestle at MP 97.8
- 493-foot timber trestle at MP 98.1
- 225-foot timber trestle at MP 98.4
- 78-foot timber trestle at MP 99.5
- 1,397-foot timber trestle at MP 100.4
- 686-foot timber trestle at MP 100.9
- 420-foot timber trestle at MP 101.1

Furthermore, all rail, ties, and ballast will be visually inspected for signs of distress and decay. The inspection will be performed per the American Railway Engineering and Maintenance-of-Way Association (AREMA) best management practices per the Manual for Railway Engineering.

Assumptions:

- Inspection team will consist of one (1) Team Lead and one (1) Field Technician 3.
- Assume 200 hours for completion of inspections including travel time to and from the project site (100 hours for each member of the inspection team).
- The bridge inspections are to be completed over a two (2) week period including eight (8) nights of lodging and meal expenses. The railway inspection will take an additional two (2) days.
- The bridge inspection will take place from land and by boat as tides permit.
- Assume 20 hours of report writing for one (1) Inspection Project Manager.
- Assume 30 hours of report writing for one (1) Field Technician 3.
- Assume eight (8) hours of Administrative Assistant time for formatting the report.



- The inspection of the Trestle at MP 99.5 will focus on the rail supporting the active trolley and pedestrian walkway. If time allows, the remaining supports for the 2 inactive rail lines will also be inspected.

Deliverables:

- Inspection report, including:
 - Element Level Condition Evaluation
 - Maintenance Summary
 - Photos of the railway and channel, and any element identified to be in "Poor" or worse condition
 - Timber Boring Log
- Narrative summary of the inventory, specifically focusing on bridges with condition issues.
- Maintenance recommendations and cost estimates for repairs required, divided into three categories: Critical, Urgent, and Routine. Also annual maintenance budget projections for the next ten years required to keep the trestles in operation.

Task 3 Prepare CAD Drawings (CONTINGENCY TASK)

This task includes engineering services to prepare CAD drawings showing approximate span lengths, bent configurations, and condition state of timber members. The CAD drawings will serve as basis of future repair contract drawings.

Task 3 Assumptions:

- One (1) cover sheet will be created showing the general proximity of all trestles and general notes. Sixteen (16) plan sheets showing approximate span lengths, bent configurations, and condition state of timber members for each trestle. Three (3) plan sheets showing typical substructure configuration and miscellaneous details.
- One (1) CAD Technician will spend 160 hours drafting the CAD drawings.
- One (1) Field Technician will spend 20 hours providing the CAD technician with information to build the CAD drawings and reviewing the CAD drawings for accuracy.
- Assume the Project Manager will spend eight (8) hours reviewing the CAD drawings.

Deliverables:

- Final 11"x17" paper copy of CAD drawings
- Final PDF copy of CAD drawings
- Electronic ACAD files of drawings

Services Not Included

The following services have not been included in this proposal. OBEC will be happy to provide a proposal for any of these services at your request.

- Detailed engineering of any repairs/upgrades recommended
- Load rating of bridge capacity



Schedule and Fees

OBEC is prepared to complete the field work portion of Task 2 of this scope with 60 calendar days of Notice to Proceed (NTP) followed by delivery of inspection reports and CAD drawings within 90 days of NTP.

The estimated fee for this work is detailed in the attached spreadsheet. Labor rates are based on OBEC's 2015 standard rate table, attached for your reference. We propose to complete the services outlined in our scope of work on a time-and-materials basis for an estimated fee not to exceed (NTE) \$37,067.

Contingency Tasks

We also propose to complete Contingency Task No. 3, at the City's discretion and authorization. The NTE amount for the contingency task is \$17,778.

We trust this proposal provides you with the information required for this condition assessment work and hope that it meets with your approval. Please do not hesitate to contact me at our Lake Oswego office (971.634.2002) if you have any questions.

Sincerely,

Jason Kelly, PE
Project Manager

ATTACHMENT 1

Astoria Trolley Line Inspection
City of Astoria
OBEC Consulting Engineers

December 17, 2015

OBEC Proposal No. P999-0444

[illegible]



2015 Salary Grade & Hourly Rates

Personnel Classification

Principal/Chief Engineer \$215

Design

Division Manager/Sr. Project Manager	\$178
Sr. Project Engineer	\$154
Project Manager	\$151
Project Engineer 4	\$138
Project Engineer 3	\$122
Sr. Roadway/Bridge Designer	\$118
Utility Coordinator	\$122
CAD Manager	\$122
Environmental Team Lead	\$114
Bridge/Roadway Designer	\$92
Environmental Specialist	\$76
Sr. CAD Technician	\$92
CAD Technician 2	\$73
CAD Technician 1	\$60
Engineering Intern	\$55

Surveying

Division Manager/Project Manager	\$151
Sr. Project Surveyor	\$124
Project Surveyor	\$110
Survey Technician 3	\$92
Survey Technician 2	\$73
Survey Technician 1	\$60
Survey/Field Intern	\$55

Personnel Classification

Construction

Division Manager/Project Manager	\$151
Construction Group Manager	\$134
Assistant Project Manager	\$131
Sr. Engineering Technician	\$131
Field Engineer 3	\$122
Engineering Technician 3	\$92
Field Engineer 2	\$92
Engineering Technician 2	\$82
Engineering Technician 1	\$73

Administration

Director Financial Operations	\$199
Project Coordinator	\$122
Contract Administrator	\$122
IT Manager	\$99
Project Controller	\$99
Sr. IT Specialist 3	\$99
Staff Accountant/Project Accountant	\$99
Administrative Assistant 3	\$73
Branch Office Administrator	\$73
IT Specialist 2	\$73
Accounting Specialist 3	\$73
Accounting Specialist 2	\$60
Secretary 2	\$60

Travel/Reimbursable Expenses:

Mileage: ODOT Current Rate
Reimbursable job costs will be invoiced at cost.

Equipment Charges:

Special equipment @ direct rental cost

EUGENE, OR - Corporate Office - 541.683.6090 FAX: 541.683.6576
920 Country Club Road, Suite 100B, Eugene, Oregon 97401-6089

PORTLAND, OR AREA - 503.620.6103 FAX: 503.620.8416
5000 Meadows Road, Suite 420, Lake Oswego, Oregon 97035-2224

SALEM, OR - 503.589.4100 FAX: 503.589.4141
3990 Fairview Industrial Drive SE, Suite 200, Salem, Oregon 97302-1166

MEDFORD, OR - 541.774.5590 FAX: 541.774.5591
831 O'Hare Parkway, Medford, Oregon, 97504-4005

VANCOUVER, WA - 360.314.2391 FAX: 360.433.9705
1111 Main Street, Suite 401, Vancouver, Washington 98660-2987



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

January 22, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **2016 TROLLEY TRESTLE REPAIR PROJECT – AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT**

DISCUSSION/ANALYSIS

The City of Astoria has approximately 4.7 miles of railroad track and 8 timber trestles formerly owned and operated by Burlington Northern Railroad from the Port of Astoria to Tongue Point. The Astoria Riverfront Trolley currently operates on approximately 3 miles of this track, and over 4 of the trestles. The Trolley provides passenger service from Portway St. to 39th St.

Each year, the City performs an inspection of the timber trestles to ensure safe operation of the Trolley over the structures. Recommended repairs are identified and completed during a period when the Trolley is not in use. Maintenance of the trestles has been deferred over the last 2 years while the City worked with the Division of State Lands and the Army Corp. of Engineers to obtain permits for the planned maintenance work. We now have a permit to complete maintenance work for the next 5 years, and will be completing recommended repairs identified over the past 2 years.

City Staff will utilize the informal request for quotes (RFQ) process to obtain competitive quotes for the repair work. The RFQ document sent to Contractors is attached to this memo. The estimate for the work is approximately \$50,000. The RFQ results will be available Friday, January 29th and will be provided as a supplement to this memo prior to the Council meeting. Funding for the repairs was budgeted and will be provided by the Promote Astoria Fund. It is likely that the repair work combined with this year's inspection effort will exceed the amount budgeted for trestle repair in the Promote Astoria Fund. Additional funding is available in the Promote Astoria Fund Contingency to cover the cost in excess of the funded amount.

Staff is requesting approval in this fashion in an effort to complete the trestle maintenance work prior to the start of Trolley operation in early March. Since both inspection and maintenance work will be occurring simultaneously, critical maintenance items identified in this year's inspection will be added to the trestle repair scope if possible.

RECOMMENDATION

It is recommended that City Council authorize Staff to execute a construction contract with the Contractor that provides the lowest responsible quote for an amount up to \$50,000.

Submitted By *Nathan Crater* FOR
Ken P. Cook, Public Works Director

Prepared By *Nathan Crater*
Nathan Crater, Assistant City Engineer



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

2016 TROLLEY TRESTLE REPAIR PROJECT REQUEST FOR QUOTES

General:

The Astoria Riverfront Trolley operates on the main track of the Astoria District between railroad milepost (MP) 98.9 (39th Street) and MP 101.8 (Port of Astoria). No work will be completed on trestles east of railroad MP 98.9 at this time. The City of Astoria is soliciting quotes for railroad trestle repair work on 4 trestles on this line segment; MP 99.5, MP 100.4, MP 100.9, and MP 101.1.

Scope:

The repairs consist of replacing/re-splicing and shimming piles at several locations, all bents will be marked with a florescent orange paint as identified below. The contractor shall supply the bridge material as well as personnel to perform the repairs as per current Federal, State, and other regulations. All workmanship and materials shall conform to the most current AREMA standards and railroad standards for the project. The majority of the work will need to be performed during low tide periods in order to alleviate the need for a boat or work barge. The repair project will be coordinated by City of Astoria staff.

Location of repairs:

The Astoria Riverfront Trolley bridges are numbered railroad mileposts West to East (Portland to Astoria). Bents are numbered consecutively beginning at the east end of the bridges, piling and stringers are numbered left to right when looking to the West. A vicinity map of the trestle locations is attached in Figure 1.

Repair List:

Bridge MP 99.5

West Abutment – South stringers on the active track need to be shimmed at the pile cap.
Bent 2 from west - Shim Pile 5 at repair connection.

Bridge MP 100.4

Bent 17 – Shim Pile 5 at repair connection
Bent 18 – Repair or replace splice Pile 2
Bent 52 – Shim Pile 1,2,3 at mudcap and replace strapping
Bent 53 – Shim Pile 1,2,3 at mudcap and replace strapping
Bent 54 – Shim Pile 2 & 3 at mudcap Bent 55 – Shim Pile 1,2,3 & 4 at mudcap
Bent 56 – Shim Pile 5 at pile cap
Bent 58 – Splice Pile 3
Bent 61 – Replace Pile 4
Bent 62 – Replace Pile 4
Bent 68 – Replace Pile 4
Bent 72 – Shim Pile 3 at Pile cap

Bent 76 – Remove Steel Cables Pile 5
Bent 90 – Shim Pile 1 at Pile cap
Bent 92 – Replace Pile 2

Bridge MP 100.9

Bent 12 – Replace Pile 1 and replace cross bracing on west side
Bent 16 – Replace Pile 5 and replace cross bracing on west side
Bent 17 – Replace Pile 4
Bent 30 – Shim Pile 1 & 2 at mud cap and connect cross bracing
Bent 34 – Shim Pile 1 & 2 at mud cap
Bent 36 – Replace Pile 5
Bent 40 – Replace Pile 2
Bent 42 – Replace Pile 5
Bent 43 – Replace Pile 4
Bent 47 – Splice Pile 3
Bent 48 – Splice Pile 4
Bent 51 – Replace Pile 4
Bent 52 – Shim Pile 4 at repair connection
Bent 53 – Shim Pile 1 & 2 at pile cap

Bridge MP 101.1

Bent 2 (from west end) – Pile 3 shim at pile cap
Bent 15 (from west end) – Pile 1 shim at pile cap
Bent 2 (from east end) - Pile 2 & 5 shim at pile cap

Material:

Pile replacement and repair shall consist of cutting off the defective piling where it is free of defect and splicing on a new pile section. Pile to cap shims shall be utilized to fill any voids left between the new pile and existing pile cap. The shims placed at the joint between the old pile and the new pile repair shall be made out of oak hardwood. All shims shall fit tight and fill the entire void between cap and pile in the event under height material is used shims will be placed between the cap and stringer to provide proper fit. All shims used for this purpose will be treated wood shims and will be secured to the caps with nails.

New pilings shall be new or acceptable second hand material of the proper dimension and quality. Pile material shall be treated with Timber Pro UV Internal Wood Stabilizer or equivalent. Provide appropriate environmental protection to prevent construction debris, including sawdust from entering the water below the trestle. All work to be done with rails and walkway left in place.

Please review the attached sample City contract. The City will execute this contract with the selected Contractor. Insurance and Performance Bond will be required as per section 00130.40 of the general provisions.

Contact: City of Astoria
Attn: Steven Ruggles
Engineering Tech
1095 Duane Street
Astoria, OR 97103
Office: 503-338-5173

Quotes must be submitted no later than 10:00 AM on January 29, 2016. The City will consider price and completion date in awarding work.

Lump Sum Quote: \$_____ Work can be completed by _____, 2016

OFFEROR

DATE

SIGNED (NAME AND TITLE)

MAILING ADDRESS

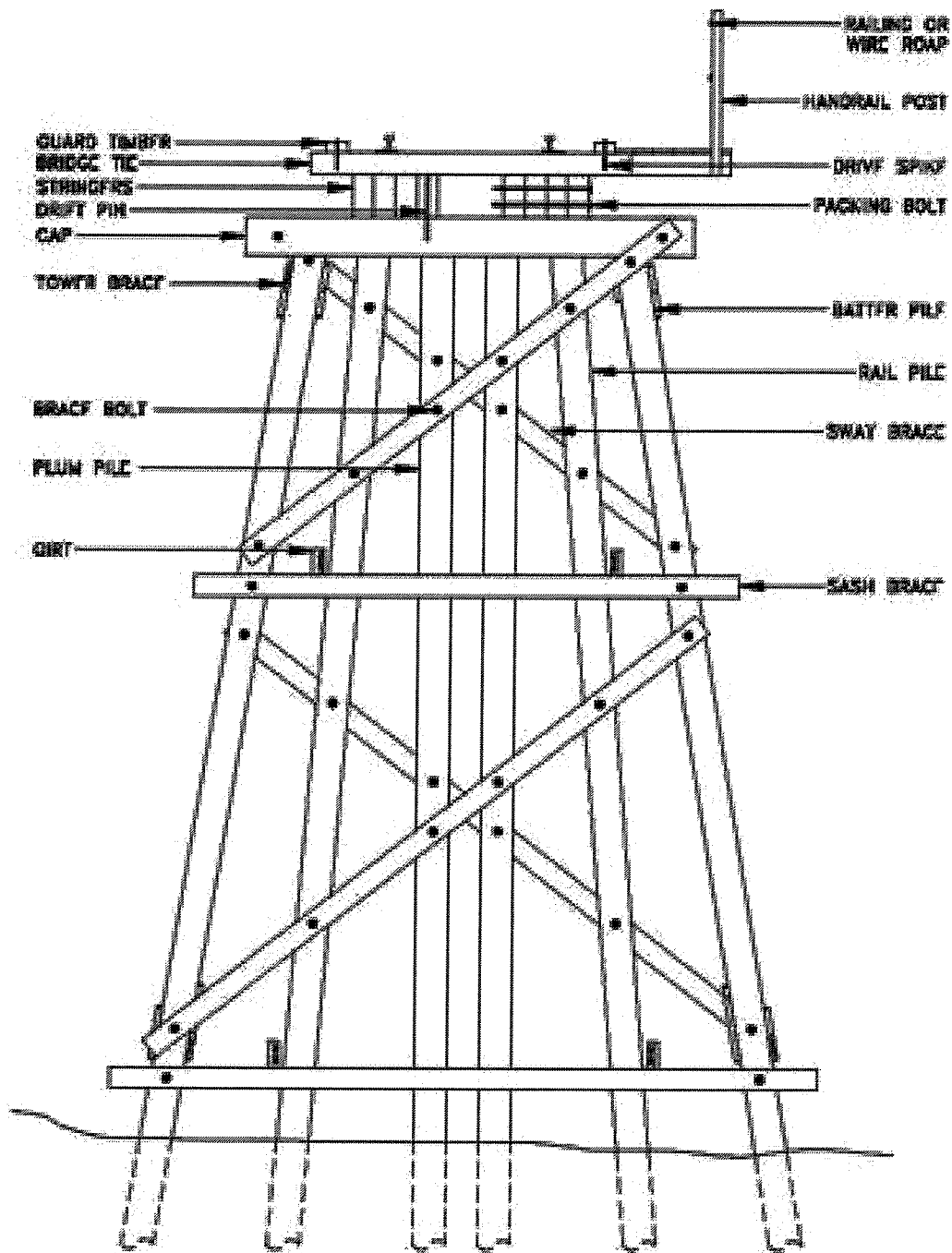
CITY, STATE, AND ZIP CODE

PHONE NUMBER: _____

CORPORATION: _____ YES _____ NO

IF NO, TAX ID NUMBER OR SOCIAL
SECURITY NUMBER: _____

CONTRACTOR BOARD NO. _____



TYPICAL PILE BENT

AGREEMENT

1.00 - GENERAL

THIS AGREEMENT, made and entered into this ____ day of _____, 2016, by and between _____, hereinafter called "**CONTRACTOR**" and the **City** of Astoria, a municipal corporation, hereinafter called "**CITY**."

WITNESSETH:

That the said **CONTRACTOR** and the said **CITY**, for the consideration hereinafter named agree as follows:

2.00 - DESCRIPTION OF WORK

The **CONTRACTOR** agrees to perform the work of:

2016 Trolley Trestle Repair Project

and do all things required of it as per his Bid, all in accordance with the described Bid, a copy of which is hereto attached and made a part of this Contract.

3.00 - COMPLETION OF CONTRACT

The **CONTRACTOR** agrees that the Work under this Contract shall be completed by the following dates:

- Substantial Completion – 30 days from notice to proceed
- Final Completion – 45 days from notice to proceed

If said **CONTRACTOR** has not fully completed this Contract within the time set or any extension thereof, it shall pay liquidated damages in accordance with Section 00180.85 of the General Conditions.

4.00 - CONTRACT PRICE

The Contract Price for this project is _____. Payment will be made in accordance with ORS 279C.560 including progress payments at the end of each month. Retainage will be withheld in accordance with ORS 279C.550 - .565.

5.00 - CONTRACT DOCUMENTS

The **CONTRACTOR** and the **CITY** agree that the plans, specifications (including the ODOT/APWA 2015 Oregon Standard Specifications for Construction and Contract Documents defined in Section 00110.20 of the Contract Documents General Conditions and all modifications thereto) and bid are, by this reference, incorporated into this Contract and are fully a part of this contract.

6.00 - NONDISCRIMINATION

It is the policy of the **CITY** 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, or gender identity/expression. **CONTRACTOR**, its employees, agents and subcontractors shall comply with this policy.

7.00 - CONTRACTOR IS INDEPENDENT CONTRACTOR

A. CONTRACTOR acknowledges that for all purposes related to this Contract, **CONTRACTOR** is and shall be deemed to be an independent **CONTRACTOR** and not an employee of **CITY**, shall not be entitled to benefits of any kind to which an employee of the **CITY** is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that **CONTRACTOR** is found by a court of law or an administrative agency to be an employee of the **CITY** for any purpose, **CITY** shall be entitled to repayment of any amounts from **CONTRACTOR** under the terms of the Contract; to the full extent of any benefits or other remuneration **CONTRACTOR** receives (from **CITY** or third party) as result of said finding and to the full extent of any payments that **CITY** is required to make (to **CONTRACTOR** or to a third party) as a result of said finding.

B. The undersigned **CONTRACTOR** hereby represents that no employee of the **CITY** of Astoria, or any partnership or corporation in which a **CITY** employee has an interest, has or will receive any remuneration of any description from the **CONTRACTOR**, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

8.00 - SUBCONTRACTS - RELATIONS WITH SUBCONTRACTORS, ASSIGNMENTS AND DELEGATION

A. Assignment or Transfer Restricted. The **CONTRACTOR** shall not assign, sell, dispose of, or transfer rights nor delegate duties under the contract, either in whole or in part, without the **CITY's** prior written consent. Unless otherwise agreed by the **CITY** in writing, such consent shall not relieve the **CONTRACTOR** of any obligations under the contract. Any assignee or transferee shall be considered the agent of the **CONTRACTOR** and be bound to abide by all provisions of the contract. If the **CITY** consents in writing to an assignment, sale, disposal or transfer of the **CONTRACTOR's** rights or delegation of the **CONTRACTOR's** duties, the **CONTRACTOR** and its surety, if any, shall remain liable to the **CITY** for complete performance of the contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the **CITY** otherwise agrees in writing.

B. **CONTRACTOR** may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225. If **CONTRACTOR** violates this prohibition, the **CITY** will regard the violation as a breach of contract and may either terminate the contract or exercise any other remedy for breach of contract.

9.00 - NONWAIVER

The failure of the **CITY** to insist upon or enforce strict performance by **CONTRACTOR** of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

10.00 - LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

CONTRACTOR shall make payment promptly, as due, to all persons supplying **CONTRACTOR** labor or material for the prosecution of the work provided for this contract.

CONTRACTOR shall pay all contributions or amounts due the Industrial Accident Fund from **CONTRACTOR** or any subcontractor incurred in the performance of the contract.

CONTRACTOR shall not permit any lien or claim to be filed or prosecuted against the **CITY** on account of any labor or material furnished.

CONTRACTOR shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

11.00 - CERTIFICATION OF COMPLIANCE WITH TAX LAWS

As required by ORS 305.385(6), **CONTRACTOR** certifies under penalty of perjury that the **CONTRACTOR**, to the best of **CONTRACTOR's** knowledge, is not in violation of any of the tax laws described in ORS 305.380(4).

12.00 - CITY OCCUPATION TAX

Prior to starting work, **CONTRACTOR** shall pay the **CITY** occupation tax and provide the Public Works Department with a copy of occupation tax receipt. **CONTRACTOR** shall, likewise, require all subcontractors to pay the **CITY** occupation tax and provide a copy of the receipt to the Public Works Department prior to commencement of work.

APPROVED AS TO FORM:

City Attorney

Contractor

Date

CITY OF ASTORIA, a municipal of the
State of Oregon

BY: _____

Mayor

Date

ATTEST:

City Manager

Date

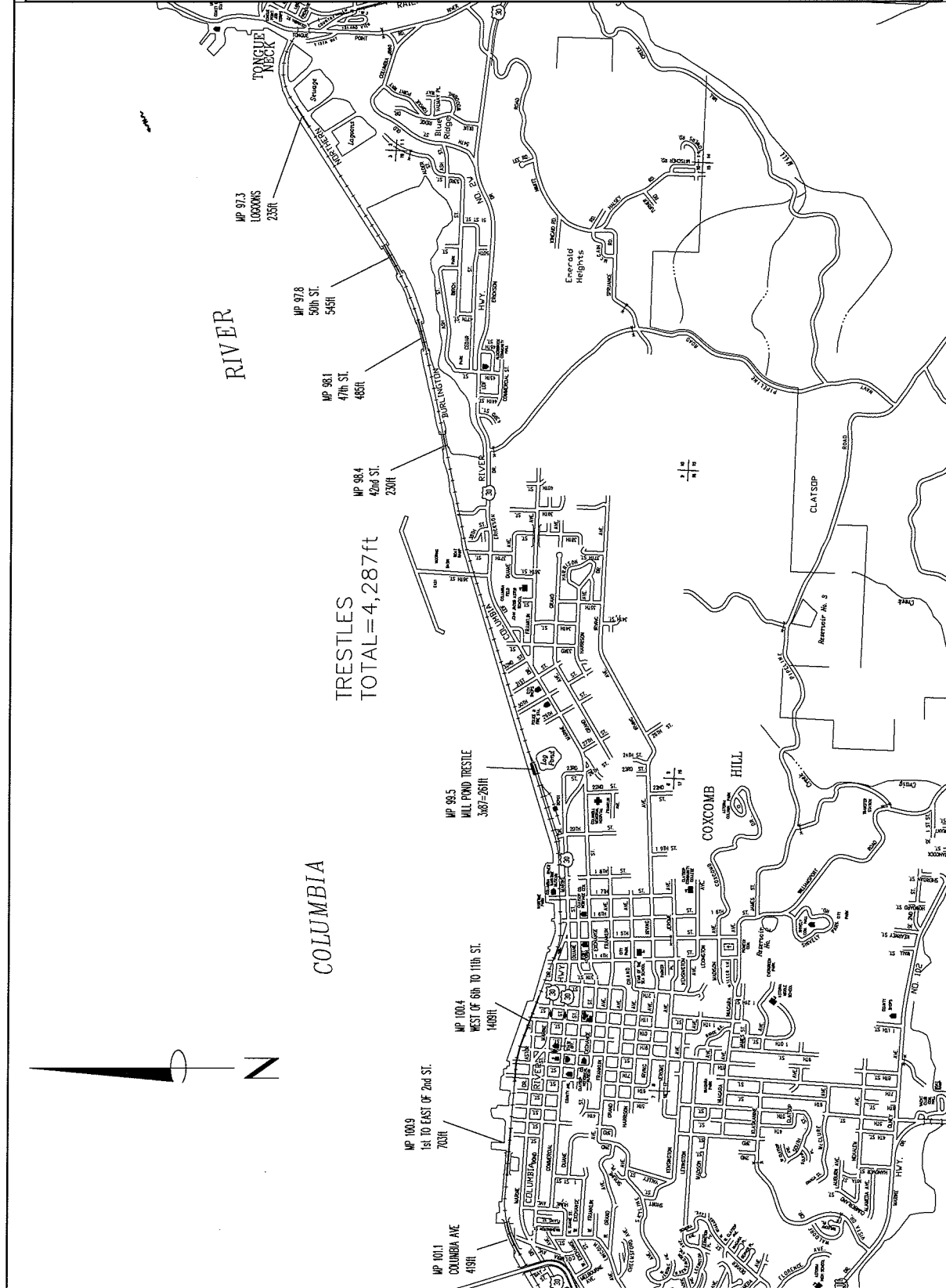


TRESTLE LOCATION VICINITY MAP figure 1

DESIGNED BY	TEAM
DRAWN BY	TEAM
NO.	Revision/Issue
DATE	2010

CITY OF ASTORIA
1095 DUANE ST.
ASTORIA, OREGON 97103
PHONE: (503) 338-0773
FAX: (503) 338-0536

Sheet	1
Transit area	
Date	3-7-11
Scale	N.T.S.





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 22, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: SALARY RESOLUTION ESTABLISHING BASIC COMPENSATION PLAN COST OF LIVING WAGE ADJUSTMENTS FOR THE ASTORIA PUBLIC SAFETY ASSOCIATION AND POLICE SWORN MANAGEMENT

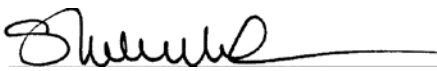
COST OF LIVING ADJUSTMENT DISCUSSION/ANALYSIS

Staff positions and associated compensation are detailed in the "Resolution Establishing a Basic Compensation Plan for the Employees of the City of Astoria and Establishing Regulations for the Placement of Present Employees within the Wage and Salary Schedules Provided". Whenever there are changes in positions, whether a position is begin deleted, added or redefined; or whether a change in compensation is proposed; such changes are adopted by resolution. This proposed resolution implements the following changes effective January 1, 2016:

- Astoria Public Safety Association 1.5% cost of living wage adjustment as specified in their contract expiring June 30, 2016
- Police Sworn Management 1.5% cost of living wage adjustment per Resolution No. 14-28 adopted October 6, 2014

RECOMMENDATION

It is recommended that Council adopt the Salary Resolution as presented.

By: 
Susan Brooks, Director of Finance
and Administrative Services

RESOLUTION NO. 16-_____

A RESOLUTION ESTABLISHING A BASIC COMPENSATION PLAN FOR THE EMPLOYEES OF THE CITY OF ASTORIA AND ESTABLISHING REGULATIONS FOR THE PLACEMENT OF PRESENT EMPLOYEES WITHIN THE WAGE AND SALARY SCHEDULES PROVIDED

WHEREAS, the establishment of the principles of equal pay for equal work and compensation incentives for continued improvement in service by City employees should result in more efficient and more economical municipal government; now, therefore,

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

SECTION 1. ESTABLISHING PAY PLAN

That there is hereby established a basic compensation plan for employees of the City of Astoria who are now employed, or will in the future be employed, in any of the classifications of employment listed in Sections 4, 5, 6, and 7, which are arranged in collective bargaining units, and Sections 8 and 9, which include employees not in a bargaining unit.

SECTION 2. SALARY AND WAGE SCHEDULES

That the following salary and wage schedules shall constitute the basic compensation plan, consisting of a base or entry rate (A) and four merit steps in the corresponding range on the schedule. Stability Pay shall be part of the basic compensation plan. (See Section 3.12 of the Personnel Policies and Procedures).

SECTION 3. CLASSIFIED POSITION ALLOCATION

That the following is a computed salary schedule and position allocation. All increases above the base rate for each range are called merit steps. Step increases are merit increases and are not automatic but must be earned by the employee. (See Section 3.11 of the Personnel Policies and Procedures). Each range is identified by a number. Each step within the range is identified by a letter; A is the entry rate, with Steps B, C, D, and E. The following salary schedules are listed by employee groups:

SECTION 4. GENERAL/PARKS EMPLOYEES

The following positions and ranges comprise the General/Parks Employees Unit. See "Schedule A" for salaries.

SCHEDULE A

POSITION	RANGE
LIBRARY ASSISTANT	12
ACCOUNTING SUPPORT CLERK	14
ACCOUNTING CLERK ENGINEERING SECRETARY PERMIT TECHNICIAN	18

SCHEDULE A

POSITION	RANGE
SENIOR LIBRARY ASSISTANT	20
RECREATION COORDINATOR	23
COMPUTER ASSISTED DRAFTING (CAD) TECHNICIAN ENGINEERING TECHNICIAN FACILITY COORDINATOR GROUNDS COORDINATOR	26
SENIOR ENGINEERING TECHNICIAN	30

SECTION 5. FIRE DEPARTMENT

The following Positions and Ranges comprise the Fire Department Unit. See "Schedule B" for salaries.

SCHEDULE B

POSITION	RANGE
FIREFIGHTER*	22
DRIVER/ENGINEER*	24
FIRE LIEUTENANT*	28
DEPUTY FIRE CHIEF/TRAINING OFFICER	42
FIRE CHIEF	48

*The salary shown for these positions is for a 56-hour duty week. The conditions set forth below shall be adhered to by the Fire Department personnel:

1. Employees on the off-duty shifts shall be available for emergency service.
2. A shift must be short more than one employee before a replacement is called in. Replacements called in to duty in such a case would receive time and one-half (1/2); every effort must be made by the department to keep overtime pay to a minimum.
3. The duty cycle of the department shall be determined by the Fire Chief with the approval of the City Manager.

SECTION 6. POLICE DEPARTMENT

The following Positions and Ranges comprise the Police Department Unit. See "Schedule C" for salaries.

SCHEDULE C

POSITION	RANGE
RECORDS SPECIALIST	12
SENIOR RECORDS SPECIALIST	14
COMMUNICATIONS OPERATOR	22
POLICE OFFICER	29
COMMUNITY POLICING OFFICER (ROTATING) DETECTIVE (ROTATING ASSIGNMENT)	33
SERGEANT	36
DEPUTY CHIEF OF POLICE	42
POLICE CHIEF/ASSISTANT CITY MANAGER	48

SECTION 7. PUBLIC WORKS

The following positions and Ranges comprise the Public Works Unit. See "Schedule D" for salaries.

SCHEDULE D

POSITION	RANGE
EQUIPMENT SERVICER	14
UTILITY WORKER	18
EQUIPMENT MECHANIC I SWEEPER OPERATOR UTILITY TECHNICIAN	20
UTILITY WORKER II	22
WASTEWATER TREATMENT PLANT OPERATOR WATER QUALITY TECHNICIAN	24
EQUIPMENT MECHANIC II SENIOR BUILDING FACILITIES TECHNICIAN SENIOR UTILITY TECHNICIAN SENIOR UTILITY WORKER STORES SUPERVISOR WATER SOURCE OPERATOR	26

SCHEDULE D

POSITION	RANGE
LEAD UTILITY WORKER WASTEWATER TREATMENT PLANT SUPERVISOR WATER QUALITY SUPERVISOR	28

SECTION 8. MANAGEMENT AND CONFIDENTIAL

The following Positions and Ranges comprise the Management and Confidential Unit. See "Schedule E" for salaries.

SCHEDULE E

POSITION	RANGE
ADMINISTRATIVE ASSISTANT	18
EXECUTIVE SECRETARY	20
ADMINISTRATIVE SERVICES MANAGER FINANCIAL ANALYST	28
FINANCE OPERATIONS SUPERVISOR	30
EQUIPMENT MAINTENANCE SUPERVISOR	32
ASSISTANT PUBLIC WORKS SUPERINTENDENT FINANCIAL REPORT MANAGER PROJECT MANAGER/CITY PLANNER	34
AQUATIC PROGRAM MANAGER	35
PARKS MAINTENANCE SUPERVISOR	36
BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER PUBLIC WORKS SUPERINTENDENT	38
EMERGENCY COMMUNICATIONS MANAGER LIBRARY DIRECTOR	40
ASSISTANT CITY ENGINEER	45
CITY ENGINEER	47
DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES PARKS AND RECREATION DIRECTOR PUBLIC WORKS DIRECTOR	49
COMMUNITY DEVELOPMENT DIRECTOR	51

SECTION 9. TEMPORARY PERSONNEL

Police Reserve: \$11.00 (Schedule F, Range 1A 9) per training session, \$11.00 per hour assigned duty. Police Reserve rate of pay for dances, festivals, and similar duties shall be 1-1/2 times Range 29A.

All drills and training sessions must be officially approved.

CONTINGENT SEASONAL WORK

The following are positions for which temporary or seasonal employees may be hired. See "Schedule F-1" and "Schedule F-2" for salaries.

SCHEDULE F-1

DEPARTMENT	JOB TITLES
LIBRARY	LIBRARY ASSISTANT
PARKS & RECREATION	LIFEGUARD SWIM INSTRUCTOR RECREATION LEADER I RECREATION LEADER II PARKS LABORER
POLICE	TEMPORARY COMMUNITY SERVICE OFFICER
DEPARTMENT	JOB TITLES
PUBLIC WORKS	PUBLIC WORKS LABORER WEEKEND WATER OPERATOR

SCHEDULE F-2

DEPARTMENT	JOB TITLES	STEP
ALL DEPARTMENTS	CLERICAL AIDE	14
FINANCE	ACCOUNTING SUPPORT CLERK PARKING CONTROL OFFICER	19 24
LIBRARY	LIBRARY PAGE I LIBRARY PAGE II LIBRARY ASSISTANT SENIOR LIBRARY ASSISTANT	14 16 19 31
PARKS & RECREATION	CASHIER HEAD CASHIER	14 16

SECTION 10. ADVANCEMENT WITHIN RANGE

As authorized in the City of Astoria's Personnel Policies and Procedures, Compensation Plan, Section 3.

SECTION 11. EXCEPTIONAL AND ADDITIONAL INCREASES

As authorized in the City of Astoria's Personnel Policies and Procedures, Compensation Plan, Section 3.

SECTION 12. STABILITY PAY

As authorized in the City of Astoria's Personnel Policies and Procedures, Compensation Plan, Section 3.12. The table below lists the stability pay for the different employee groups:

General/Parks Union Employees	Step E of pay range	Schedule A
Fire IAFF Union	Step A of pay range	Schedule B
Fire Management	Step A of pay range	Schedule B
Police Union (sworn)	Step E of pay range	Schedule C
Police Union (nonsworn)	Step A of pay range	Schedule C
Police Management	Step E of pay range	Schedule C
Public Works Union	Step E of pay range	Schedule D
Management and Confidential	Step E of pay range	Schedule E

SECTION 13. RESPONSIBILITY PAY

As authorized in the City of Astoria's Personnel Policies and Procedures, Compensation Plan, Sections 3.13.

SECTION 14. REPEAL OF RESOLUTIONS

Resolution No. 15-26 adopted by the City Council on August 3, 2015, is hereby repealed and superseded by this resolution.

SECTION 15. EFFECTIVE DATE

The provisions of this resolution shall become effective immediately upon passage.

ADOPTED BY THE CITY COUNCIL THIS 1ST DAY OF FEBRUARY, 2016.

APPROVED BY THE MAYOR THIS 1ST DAY OF FEBRUARY, 2016.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION:

YEA

NAY

ABSENT

Councilor Nemlowill

Herzig

Price

Warr

Mayor LaMear

MANAGER\RES\SALARY RES 2-1-2016 CURRENT.DOC

SALARY SCHEDULES

PAGE

SCHEDULE A – GENERAL EMPLOYEES/PARKS-----2

SCHEDULE B – FIRE EMPLOYEES-----3

SCHEDULE C – POLICE EMPLOYEES (SWORN & NONSWORN) -----5

SCHEDULE D – PUBLIC WORKS EMPLOYEES -----6

SCHEDULE E – MANAGEMENT AND CONFIDENTIAL -----7

SCHEDULE F-1 – TEMPORARY EMPLOYEES -----9

SCHEDULE F-2 – GENERAL TEMPORARY EMPLOYEES----- 10

**GENERAL/PARKS UNION EMPLOYEES
SCHEDULE A
EFFECTIVE JULY 1, 2015**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Library Assistant	12	A	2,513.75	30,165	14.50
		B	2,639.44	31,673	15.23
		C	2,771.41	33,257	15.99
		D	2,909.98	34,920	16.79
		E	3,055.48	36,666	17.63
Accounting Support Clerk	14	A	2,629.43	31,553	15.17
		B	2,760.90	33,131	15.93
		C	2,898.94	34,787	16.72
		D	3,043.89	36,527	17.56
		E	3,196.08	38,353	18.44
Accounting Clerk Engineering Secretary Permit Technician	18	A	2,903.50	34,842	16.75
		B	3,048.67	36,584	17.59
		C	3,201.11	38,413	18.47
		D	3,361.16	40,334	19.39
		E	3,529.22	42,351	20.36
Senior Library Assistant	20	A	3,054.19	36,650	17.62
		B	3,206.90	38,483	18.50
		C	3,367.24	40,407	19.43
		D	3,535.61	42,427	20.40
		E	3,712.39	44,549	21.42
Recreation Coordinator	23	A	3,290.84	39,490	18.99
		B	3,455.38	41,465	19.93
		C	3,628.15	43,538	20.93
		D	3,809.56	45,715	21.98
		E	4,000.03	48,000	23.08
CAD Technician Engineering Technician Facility Coordinator Grounds Coordinator	26	A	3,542.64	42,512	20.44
		B	3,719.77	44,637	21.46
		C	3,905.76	46,869	22.53
		D	4,101.05	49,213	23.66
		E	4,306.10	51,673	24.84
Senior Engineering Technician	30	A	3,905.08	46,861	22.53
		B	4,100.33	49,204	23.66
		C	4,305.35	51,664	24.84
		D	4,520.62	54,247	26.08
		E	4,746.65	56,960	27.38

**FIRE UNION EMPLOYEES
SCHEDULE B
EFFECTIVE JANUARY 1, 2015**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY	OVERTIME
Firefighter	22	A	4,260.19	51,122	17.5076	26.2614
		B	4,473.20	53,678	18.3830	27.5745
		C	4,696.86	56,362	19.3022	28.9532
		D	4,931.70	59,180	20.2673	30.4009
		E	5,178.29	62,139	21.2806	31.9209
Includes 2.0% Stability		C	4,782.06	57,385	19.6523	29.4785
		D	5,016.90	60,203	20.6174	30.9261
		E	5,263.49	63,162	21.6308	32.4462
Includes 3.5% Stability		C	4,845.96	58,152	19.9149	29.8724
		D	5,080.81	60,970	20.8800	31.3201
		E	5,327.39	63,929	21.8934	32.8401
Includes 4.5% Stability		C	4,888.65	58,664	20.0903	30.1355
		D	5,123.49	61,482	21.0555	31.5832
		E	5,370.08	64,441	22.0688	33.1032
Includes 6.0% Stability		C	4,952.55	59,431	20.3530	30.5294
		D	5,187.40	62,249	21.3181	31.9771
		E	5,433.98	65,208	22.3314	33.4971
Driver/Engineer	24	A	4,478.39	53,741	18.4044	27.6065
		B	4,702.31	56,428	19.3246	28.9869
		C	4,937.43	59,249	20.2908	30.4362
		D	5,184.21	62,211	21.3050	31.9575
		E	5,443.42	65,321	22.3702	33.5554
Includes 2.0% Stability		C	5,027.00	60,324	20.6589	30.9883
		D	5,273.78	63,285	21.6731	32.5096
		E	5,532.99	66,396	22.7383	34.1075
Includes 3.5% Stability		C	5,094.17	61,130	20.9350	31.4024
		D	5,340.96	64,091	21.9491	32.9237
		E	5,600.17	67,202	23.0144	34.5216
Includes 4.5% Stability		C	5,138.96	61,667	21.1190	31.6785
		D	5,385.74	64,629	22.1332	33.1998
		E	5,644.95	67,739	23.1984	34.7976
Includes 6.0% Stability		C	5,206.13	62,474	21.3951	32.0926
		D	5,452.92	65,435	22.4092	33.6139
		E	5,712.13	68,546	23.4745	35.2117
Fire Lieutenant	28	A	4,934.58	59,215	20.2791	30.4186
		B	5,181.30	62,176	21.2930	31.9396
		C	5,440.37	65,284	22.3577	33.5365
		D	5,712.39	68,549	23.4756	35.2134
		E	5,998.01	71,976	24.6493	36.9740
Includes 2.0% Stability		C	5,538.89	66,467	22.7626	34.1439
		D	5,810.91	69,731	23.8805	35.8207
		E	6,096.70	73,160	25.0549	37.5824
Includes 3.5% Stability		C	5,612.91	67,355	23.0668	34.6002
		D	5,885.10	70,621	24.1853	36.2780
		E	6,170.72	74,049	25.3591	38.0387
Includes 4.5% Stability		C	5,662.26	67,947	23.2696	34.9043
		D	5,934.44	71,213	24.3881	36.5822
		E	6,220.06	74,641	25.5619	38.3429
Includes 6.0% Stability		C	5,736.28	68,835	23.5737	35.3606
		D	6,008.46	72,102	24.6923	37.0385
		E	6,294.08	75,529	25.8661	38.7991

**FIRE MANAGEMENT
SCHEDULE B
EFFECTIVE FEBRUARY 2, 2015**

POSITION	MONTHLY	YEARLY	HOURLY
Deputy Fire Chief	7,478.29	92,456	43.1440
Fire Chief	8,244.01	98,928	47.5616

POLICE UNION EMPLOYEES SCHEDULE C EFFECTIVE JANUARY 1, 2016					
POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Records Specialist	12	A	2,702.32	32,428	15.59
		B	2,837.43	34,049	16.37
		C	2,979.30	35,752	17.19
		D	3,128.27	37,539	18.05
		E	3,284.68	39,416	18.95
Senior Records Specialist	14	A	2,837.61	34,051	16.37
		B	2,979.49	35,754	17.19
		C	3,128.47	37,542	18.05
		D	3,284.89	39,419	18.95
		E	3,449.13	41,390	19.90
Communications Operator	22	A	3,465.46	41,585	19.99
		B	3,638.73	43,665	20.99
		C	3,820.67	45,848	22.04
		D	4,011.70	48,140	23.14
		E	4,212.29	50,547	24.30
Police Officer	29	A	4,117.77	49,413	23.76
		B	4,323.66	51,884	24.94
		C	4,539.84	54,478	26.19
		D	4,766.83	57,202	27.50
		E	5,005.17	60,062	28.88
Community Policing Officer Detective	33	A	4,538.65	54,464	26.18
		B	4,765.58	57,187	27.49
		C	5,003.86	60,046	28.87
		D	5,254.05	63,049	30.31
		E	5,516.76	66,201	31.83

POLICE SWORN MANAGEMENT SCHEDULE C EFFECTIVE JANUARY 1, 2016					
Sergeant	36	A	4,867.52	58,410	28.08
		B	5,110.89	61,331	29.49
		C	5,366.44	64,397	30.96
		D	5,634.76	67,617	32.51
		E	5,916.50	70,998	34.13
Deputy Chief of Police	42	A	5,580.98	66,972	32.20
		B	5,860.03	70,320	33.81
		C	6,153.03	73,836	35.50
		D	6,460.68	77,528	37.27
		E	6,783.71	81,405	39.14
Chief of Police/Assistant City Manager	48	A	6,214.68	74,576	35.85
		B	6,525.41	78,305	37.65
		C	6,851.68	82,220	39.53
		D	7,194.26	86,331	41.51
		E	7,553.98	90,648	43.58

**PUBLIC WORKS UNION EMPLOYEES
SCHEDULE D
EFFECTIVE JULY 1, 2015**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Equipment Servicer	14	A	2,828.44	33,941	16.32
		B	2,969.86	35,638	17.13
		C	3,118.35	37,420	17.99
		D	3,274.27	39,291	18.89
		E	3,437.98	41,256	19.83
Utility Worker	18	A	3,118.12	37,417	17.99
		B	3,274.02	39,288	18.89
		C	3,437.72	41,253	19.83
		D	3,609.61	43,315	20.82
		E	3,790.09	45,481	21.87
Equipment Mechanic I Sweeper Operator Utility Technician	20	A	3,279.12	39,349	18.92
		B	3,443.07	41,317	19.86
		C	3,615.23	43,383	20.86
		D	3,795.99	45,552	21.90
		E	3,985.79	47,829	22.99
Utility Worker II	22	A	3,454.72	41,457	19.93
		B	3,627.45	43,529	20.93
		C	3,808.83	45,706	21.97
		D	3,999.27	47,991	23.07
		E	4,199.23	50,391	24.23
Wastewater Treatment Plant Operator Water Quality Technician	24	A	3,623.57	43,483	20.91
		B	3,804.75	45,657	21.95
		C	3,994.99	47,940	23.05
		D	4,194.74	50,337	24.20
		E	4,404.48	52,854	25.41
Equipment Mechanic II Senior Building Facilities Technician Senior Utility Technician Senior Utility Worker Stores Supervisor Water Source Operator	26	A	3,808.84	45,706	21.97
		B	3,999.28	47,991	23.07
		C	4,199.25	50,391	24.23
		D	4,409.21	52,911	25.44
		E	4,629.67	55,556	26.71
Lead Utility Worker Wastewater Treatment Plant Supervisor Water Quality Supervisor	28	A	3,991.09	47,893	23.03
		B	4,190.64	50,288	24.18
		C	4,400.17	52,802	25.39
		D	4,620.18	55,442	26.65
		E	4,851.19	58,214	27.99

**MANAGEMENT AND CONFIDENTIAL EMPLOYEES
SCHEDULE E
EFFECTIVE JULY 1, 2015**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Administrative Assistant	18	A	2,932.59	35,191	16.92
		B	3,079.22	36,951	17.76
		C	3,233.18	38,798	18.65
		D	3,394.84	40,738	19.59
		E	3,564.59	42,775	20.56
Executive Secretary	20	A	3,077.03	36,924	17.75
		B	3,230.88	38,771	18.64
		C	3,392.42	40,709	19.57
		D	3,562.04	42,744	20.55
		E	3,740.14	44,882	21.58
Administrative Services Manager Financial Analyst	28	A	3,749.90	44,999	21.63
		B	3,937.39	47,249	22.72
		C	4,134.26	49,611	23.85
		D	4,340.98	52,092	25.04
		E	4,558.03	54,696	26.30
Finance Operations Supervisor	30	A	3,937.53	47,250	22.72
		B	4,134.40	49,613	23.85
		C	4,341.12	52,093	25.04
		D	4,558.18	54,698	26.30
		E	4,786.09	57,433	27.61
Equipment Maintenance Supervisor	32	A	4,139.05	49,669	23.88
		B	4,346.00	52,152	25.07
		C	4,563.30	54,760	26.33
		D	4,791.46	57,498	27.64
		E	5,031.04	60,372	29.03
Assistant Public Works Superintendent Financial Report Manager Project Manager/City Planner (as of 8-3-15)	34	A	4,346.85	52,162	25.08
		B	4,564.19	54,770	26.33
		C	4,792.40	57,509	27.65
		D	5,032.02	60,384	29.03
		E	5,283.62	63,403	30.48
Aquatic Program Manager	35	A	4,459.64	53,516	25.73
		B	4,682.62	56,191	27.02
		C	4,916.75	59,001	28.37
		D	5,162.59	61,951	29.78
		E	5,420.71	65,049	31.27
Parks Maintenance Supervisor	36	A	4,566.06	54,793	26.34
		B	4,794.37	57,532	27.66
		C	5,034.08	60,409	29.04
		D	5,285.79	63,429	30.49
		E	5,550.08	66,601	32.02
Bldg Official/Code Enforcement Officer Public Works Superintendent	38	A	4,806.78	57,681	27.73
		B	5,047.12	60,565	29.12
		C	5,299.48	63,594	30.57
		D	5,564.45	66,773	32.10
		E	5,842.67	70,112	33.71

**MANAGEMENT AND CONFIDENTIAL EMPLOYEES
SCHEDULE E
EFFECTIVE JULY 1, 2015**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Emergency Communications Manager Library Director	40	A	5,055.30	60,664	29.17
		B	5,308.07	63,697	30.62
		C	5,573.47	66,882	32.15
		D	5,852.15	70,226	33.76
		E	6,144.75	73,737	35.45
Assistant City Engineer	45	A	5,716.76	68,601	32.98
		B	6,002.60	72,031	34.63
		C	6,302.73	75,633	36.36
		D	6,617.86	79,414	38.18
		E	6,948.76	83,385	40.09
City Engineer	47	A	6,004.51	72,054	34.64
		B	6,304.73	75,657	36.37
		C	6,619.97	79,440	38.19
		D	6,950.97	83,412	40.10
		E	7,298.52	87,582	42.11
Finance Director Parks And Recreation Director Public Works Director	49	A	6,308.57	75,703	36.40
		B	6,624.00	79,488	38.22
		C	6,955.20	83,462	40.13
		D	7,302.96	87,635	42.13
		E	7,668.10	92,017	44.24
Community Development Director	51	A	6,624.19	79,490	38.22
		B	6,955.40	83,465	40.13
		C	7,303.17	87,638	42.13
		D	7,668.33	92,020	44.24
		E	8,051.74	96,621	46.45

**TEMPORARY EMPLOYEES
SCHEDULE F-1
EFFECTIVE JANUARY 1, 2014**

RANGE	STEP	HOURLY	RANGE	STEP	HOURLY
1A	1	9.10	2	1	21.00
	2	9.25		2	22.00
	3	9.50		3	23.00
	4	9.75		4	24.00
	5	10.00		5	25.00
	6	10.25		6	26.00
	7	10.50		7	27.00
	8	10.75		8	28.00
	9	11.00		9	29.00
	10	11.25		10	30.00
	11	11.50		11	31.00
	12	11.75		12	32.00
	13	12.00		13	33.00
	14	12.25		14	34.00
	15	12.50		15	35.00
RANGE	STEP	HOURLY	RANGE	STEP	HOURLY
1B	1	12.75	3	1	37.50
	2	13.00		2	40.00
	3	13.25		3	42.50
	4	13.50		4	45.00
	5	13.75		5	47.50
	6	14.00		6	50.00
	7	14.25		7	52.50
	8	14.50		8	55.00
	9	14.75		9	57.50
	10	15.00		10	60.00
	11	15.25		11	62.50
	12	15.50		12	65.00
	13	15.75		13	67.50
	14	16.00		14	70.00
	15	16.25		15	72.50
RANGE	STEP	HOURLY	RANGE	STEP	HOURLY
1C	1	16.50	4	1	80.00
	2	16.75		2	85.00
	3	17.00		3	90.00
	4	17.25		4	95.00
	5	17.50		5	100.00
	6	17.75		6	105.00
	7	18.00		7	110.00
	8	18.25		8	115.00
	9	18.50		9	120.00
	10	18.75		10	125.00
	11	19.00	RANGE	STEP	HOURLY
	12	19.25	5	1	130.00
	13	19.50		2	140.00
	14	19.75		3	150.00
	15	20.00		4	160.00
				5	170.00
				6	180.00
				7	190.00
				8	200.00

**GENERAL TEMPORARY EMPLOYEES
SCHEDULE F-2
EFFECTIVE JULY 1, 2013**

POSITION	RANGE	STEP	MONTHLY	YEARLY	HOURLY
Clerical Aide (all depts.) Library Page I Parks Cashier	14	A	1,585.94	19,031	9.1496
		B	1,665.23	19,983	9.6071
		C	1,748.50	20,982	10.0870
		D	1,835.92	22,031	10.5920
		E	1,927.72	23,133	11.1210
Library Page II Parks Head Cashier	16	A	1,666.40	19,997	9.6139
		B	1,749.72	20,997	10.0950
		C	1,837.21	22,047	10.5990
		D	1,929.07	23,149	11.1290
		E	2,025.52	24,306	11.6860
Finance Accounting Support Clerk Library Assistant	19	A	1,792.86	21,514	10.3430
		B	1,882.50	22,590	10.8610
		C	1,976.63	23,720	11.4040
		D	2,075.46	24,906	11.9740
		E	2,179.23	26,151	12.5730
Parking Control Officer	24	A	2,029.61	24,355	11.7090
		B	2,131.09	25,573	12.2950
		C	2,237.65	26,852	12.9100
		D	2,349.53	28,194	13.5550
		E	2,467.01	29,604	14.233
Senior Library Assistant	31	A	2,380.73	28,569	13.7350
		B	2,499.77	29,997	14.4220
		C	2,624.75	31,497	15.1430
		D	2,755.99	33,072	15.9000
		E	2,893.79	34,726	16.6950



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 21, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: OREGON LIBRARY ASSOCIATION RESOURCE SHARING COMMITTEE
PASSPORT PROGRAM AGREEMENT

DISCUSSION/ANALYSIS

In September 2011, the Oregon Library Association (OLA) created the Resource Sharing Committee (RSC) to explore and recommend a statewide resource sharing option. The RSC proposed the Oregon Library Passport program. The Oregon State Library Board accepted the recommendation, with the direction to present the findings to the OLA membership for comment.

Passport participants qualify for library cards from participating libraries by having a library card in good standing at their home library. Participants are responsible for visiting the participating library, following that library's policies and procedures, and returning materials directly to that library. Courier service is not provided. Public, academic and special libraries are allowed to join Passport.

In April, 2012, the OLA membership received the recommendations with enthusiasm and on June 8, 2012, the Oregon Library Association Board voted to accept Oregon Library Passport, assigning the RSC as a standing committee of OLA to steward the program. A three year pilot project began in January, 2013 and that data was collected to evaluate the program. At the direction of the Astoria City Council on December 3, 2012, the Astoria Public Library joined Passport, offering a limited use Passport card. Participating libraries are listed on the Passport website <http://librariesoforegon.org/passport>.

On December 4, 2015, the Oregon Library Association declared the pilot program a success, and transferred Oregon Library Passport program (OLP) to ongoing status. With more than 150 libraries participating statewide, OLP libraries reported 2,216 registered patrons who borrowed 92,326 items. In Astoria, 64 Passport cardholders have checked out 926 items. Attached is an agreement which would continue Passport services. It has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that Council update the pilot program agreement by approving the Oregon Library Passport Program Statement of Shared Understanding Agreement.

By: Jane Tucker
Jane Tucker, Library Director

Oregon Library Passport Program Statement of Shared Understanding

The Oregon Library Passport (OLP) Program is an ongoing initiative of the Oregon Library Association intended to expand access to library collections throughout the state for folks who already have a library card. Libraries may join the OLP program at any time by completing and submitting this Statement of Shared Understanding.

In exchange for allowing its registered patrons to have expanded access to the resources of other participating libraries in the OLP Program, Participating Library agrees to:

- Establish a unique patron registration code for OLP participating patrons with library use parameters determined by the Participating Library (check out limits, holds placed, services provided, etc.)
- Issue local library cards to OLP Patrons who present their home library cards as program passports
- Participating Library will not charge OLP Patrons for registration beyond any previously established registration fee levied on other patrons as well
- Provide access to library materials as determined by the locally-set parameters
- Provide information to OLP Patrons on requirements and limits of use
- Compile and report statistics as requested by OLP
- Survey OLP Patrons as requested by OLP
- Provide information and feedback to continually improve the OLP Program
- Join and participate in the OLP email discussion list
- If a library wishes to withdraw from the OLP Program it will give 60 days' notice to OLP and other Participating Libraries

OLP Patrons agree to:

- Obtain a "Home" library card to present at other Participating Libraries as his/her passport to the OLP Program
- Oregon residents who live outside a public library service area may purchase a card at a neighboring library (this becomes patron's Home Library) as passport to other Participating Libraries
- Comply with registration, circulation and other use policies determined by each Participating Library
- Be responsible for any fines and fees associated with his/her use of any Participating Library
- Promptly notify Home Library and any OLP Program libraries of changes in address, phone, email, etc.

OLP Participating Library Agreement:

Please mail or FAX signed agreement to OLP Program Participating Library Agreement Coordinator:

Ed Gallagher, Director
Albany Public Library
2450 14th Avenue SE
Albany, OR 97322
503-917-7589
503-917-7586

Astoria Public Library

Participating Library Name

Jane Tucker

Library Director Name



Signature

Jane Tucker

Designated OLP Program Liaison

450 10th Street, Astoria, OR 97103

Mailing Address

503-325-7323

Telephone Number

503-325-2017

FAX

jtucker@astoria.or.us

Email Address

If applicable, list names of Participating Library branches or members included with this Agreement:



Digitally signed by
com.apple.idms.appleid.prd.49317566476d4a3
867754144546f59324e744d354e773d3d
DN:
cn=com.apple.idms.appleid.prd.49317566476
d4a3867754144546f59324e744d354e773d3d
Date: 2016.01.22 13:54:41 -08'00'



January 23, 2016

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: APPEAL (AP15-01) BY RON ZILLI OF NEW CONSTRUCTION PERMIT (NC15-03)
AT 1580 SHIVELY PARK ROAD
APPEAL (AP15-02) BY RON ZILLI OF VARIANCE PERMIT (V15-03) AT 1580 SHIVELY
PARK ROAD
APPEAL (AP15-02) BY RON ZILLI OF WIRELESS COMMUNICATIONS FACILITY
PERMIT (WCF15-03) AT 1580 SHIVELY PARK ROAD

BACKGROUND

On August 3, 2015, Verizon Wireless LLC applied for a New Construction permit (NC15-03) to the Historic Landmarks Commission (HLC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park. On September 15, 2015, the HLC held a public hearing and approved the request with conditions. A Notice of Appeal on the HLC decision was submitted by Ron Zilli on September 30, 2015.

On August 3, 2015, Verizon Wireless LLC applied for a Variance permit (V15-03) to the Astoria Planning Commission (APC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park with a height of 150' which exceeds the 45' maximum height. On September 16, 2015, the APC held a public hearing and approved the request with conditions. A Notice of Appeal on the HLC decision was submitted by Ron Zilli on September 30, 2015.

On August 3, 2015, Verizon Wireless LLC applied for a Wireless Communications Facility permit (WCF15-03) to the Astoria Planning Commission (APC) to construct a new wireless communication facility at 1580 Shively Park Road within Shively Park. On September 16, 2015, the APC held a public hearing and approved the request with conditions. A Notice of Appeal on the HLC decision was submitted by Ron Zilli on September 30, 2015.

The Notice of Appeal which details the appellant's concerns can be found on Page 1 of the Record on each of the permits presented to the Council for the January 19, 2016 meeting. A complete record of each of the requests has been compiled and was also provided for your information at that meeting. A public hearing on the Appeal was advertised and scheduled for the November 16, 2015 City Council meeting. At the November 16, 2015 meeting, the Council continued the public hearing to December 7, 2015 at the request of Verizon. At its December 7, 2015 meeting, the Council continued the public hearing to the January 4, 2016 meeting due to the holidays to allow for greater public participation in the hearing. At its December 17, 2015 meeting, the City Council continued the public hearing to the January 19, 2016 meeting at the request of Verizon.

The appellant asserts that the NC15-01, V15-02, and WCF15-03 permits for the proposed 150' tall, metal wireless communications facility tower should be denied. The specific issues for denial on each of the permits appealed by Mr. Zilli were summarized and submitted to the Council for the public hearing.

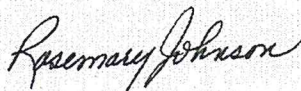
On January 19, 2016, the City Council held the public hearings and closed the public portion of the hearings. At that meeting, the Council voted 3 to 2 to tentatively deny the three requests and uphold the appeals pending adoption of revised Findings of Fact for denial. The Council decision on each appeal will need to be done with separate motions. Suggested Forms of Motion will be available for Council consideration at the Council meeting on February 1, 2016.

RECOMMENDATION

It would be in order for the Council to adopt the revised Findings of Fact for the following three appeals:

1. Appeal AP15-01 on New Construction Permit NC15-03.
2. Appeal AP15-02 on Variance Permit V15-03.
3. Appeal AP15-03 on Wireless Communication Facility Permit WCF15-03.

By:



Rosemary Johnson, Special Projects Planner

Through:



Kevin Cronin, Community Development Director

Attachments:

Revised Findings of Fact for Appeal (AP15-01) on New Construction Permit (NC15-03)
Revised Findings of Fact for Appeal (AP15-02) on Variance Permit (V15-03)
Revised Findings of Fact for Appeal (AP15-03) on Wireless Communication Facility Permit (WCF15-03)

Attachments to the January 19, 2015 City Council meeting packet:

Staff summary of Appellant's reasons for permit denial as noted in the appeals
Index and Documents submitted by Applicant for appeal hearing
Staff Report for Appeal (AP15-01) on New Construction Permit (NC15-03)
Staff Report for Appeal (AP15-02) on Variance Permit (V15-03)
Staff Report for Appeal (AP15-03) on Wireless Communication Facility Permit (WCF15-03)
Record on New Construction Permit (NC15-03)
Record on Variance Permit (V15-03)
Record on Wireless Communication Facility Permit (WCF15-03)



**CITY OF ASTORIA
COMMUNITY DEVELOPMENT
DEPARTMENT**

January 26, 2016

TO: MAYOR AND ASTORIA CITY COUNCIL

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

FROM: ROSEMARY JOHNSON, SPECIAL PROJECTS PLANNER

SUBJECT: FINDINGS OF FACT FOR APPEAL (AP15-01) ON NEW CONSTRUCTION
PERMIT (NC15-03)

I. BACKGROUND SUMMARY

- A. Applicant: Verizon Wireless (VAW), LLC dba, Verizon Wireless
5430 NE 122nd Avenue
Portland OR 97230
- Lexcom Development
Sharon Gretch
31649 Sexton Road
Philomath OR 97370
- B. Appellant: Ron Zilli
1444 16th Street
Astoria OR 97103
- C. Owner: City of Astoria
1095 Duane Street
Astoria OR 97103
- D. Location: 1580 Shively Park Road; Map T8N R9W Section 17, Tax Lot 1200
and Section 17CA, Tax Lot 600; Lots 1 to 8, Block 18, Central
Astoria, and vacated portion of Nile Street

II. PUBLIC REVIEW AND COMMENT

This matter came before the Astoria City Council on January 19, 2016 on appeal of the Astoria Historic Landmarks Commission (HLC) decision of September 15, 2015.

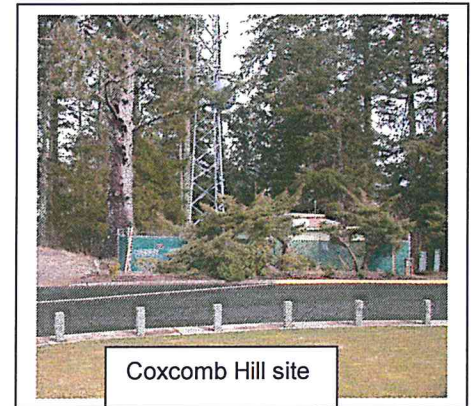
A public notice was mailed to all parties to the record pursuant to Section 9.020 on October 23, 2015. A notice of public hearing was published in the Daily Astorian on November 9, 2015. Any comments received will be made available at the City Council meeting.

At the November 16, 2015 meeting, the Council continued the public hearing to December 7, 2015 at the request of Verizon. At its December 7, 2015 meeting, the Council continued the public hearing to the January 4, 2016 meeting due to the holidays to allow for greater public participation in the hearing. At its December 17, 2015 meeting, the City Council continued the public hearing to the January 19, 2016 meeting at the request of Verizon.

III. BACKGROUND INFORMATION

A. Project History

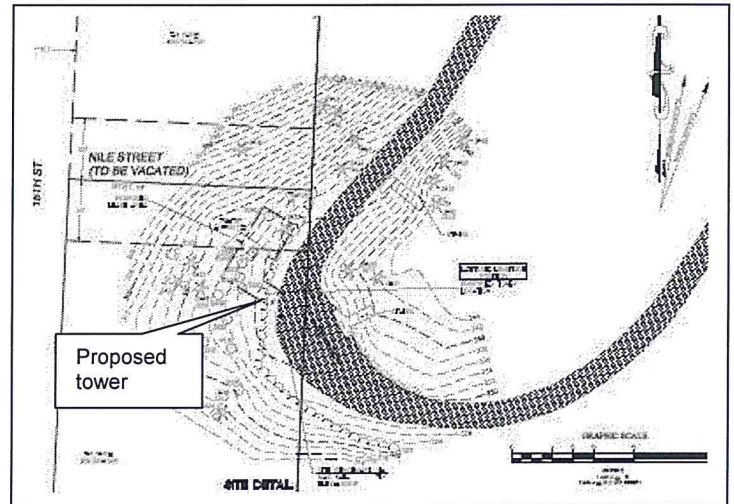
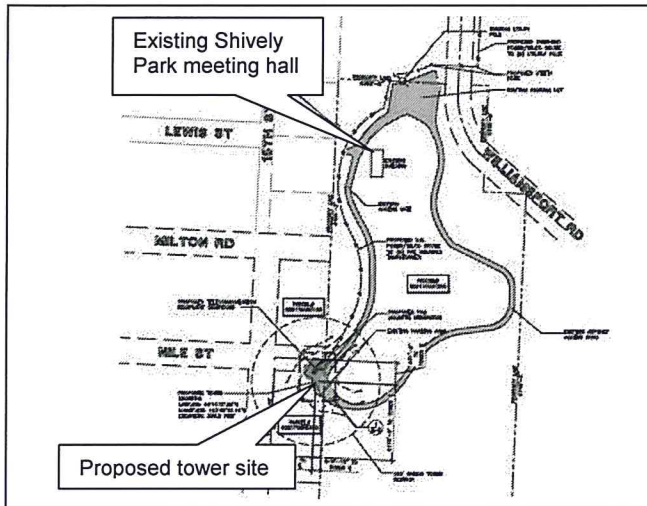
Verizon Wireless currently operates a wireless communication facility on an existing lattice tower on the north side of Coxcomb Hill Drive (Criege Circle) within the Astor Park/Astoria Column area owned by the City. The City shares use of the facility for its emergency services communications. The facility includes a lattice tower, wood pole, and utility building.



The existing lattice tower cannot structurally accommodate new communication facilities necessary for Verizon Wireless and City emergency services communications to provide full service. Currently, the central portion of Astoria has “poor to non-existent” coverage by the existing Verizon facility. The applicant is proposing to increase cell coverage for Astoria with the new facility. The lattice tower at Coxcomb Hill has existed since 1991 prior to adoption of the Wireless Communications Facility Ordinance, and does not conform to the existing code standards. Therefore, it is classified as an existing, non-conforming facility. The tower was originally constructed by GTE Mobile Net which is now part of Verizon Wireless. The existing tower was evaluated to determine if it could structurally and technically accommodate the increase in wireless communication services and the needed upgrade of the City’s emergency communication service. It was determined that the existing tower would not meet structural requirements and a new tower would need to be constructed. It was therefore determined that the facility should be relocated to another site to accommodate the WCF and improve the aesthetics of the Astoria Column Park which is designated on the National Register of Historic Places. The Friends of the Column, City, and Verizon identified alternate locations that would provide emergency communications as well as cell service to replace what is currently provided by the tower at the Column. Staff has been working with the consultant hired by the Friends of the Column and Verizon representatives on the various aspects of this project for several years. Investigation of the viability of several other sites was completed. Due to the need for a high elevation location with limited obstructions, and the City’s desire for minimal visual impact of the tower, two sites on City-owned properties were selected. One site is located in the Land Reserve urban forest near Reservoir 3 (east of the Column) and would include both private and public facilities. The other site is within the forested area in Shively Park and would include private facilities only.

At its August 3, 2015 meeting, the City Council approved the negotiated lease for the proposed sites on City-owned property and for the City Manager to sign the land use permit applications to begin the public review process.

All references in the Findings of Fact to the proposed wireless communication “facility” includes the installation of the associated equipment building, enclosure, and buried cable without specific notation.

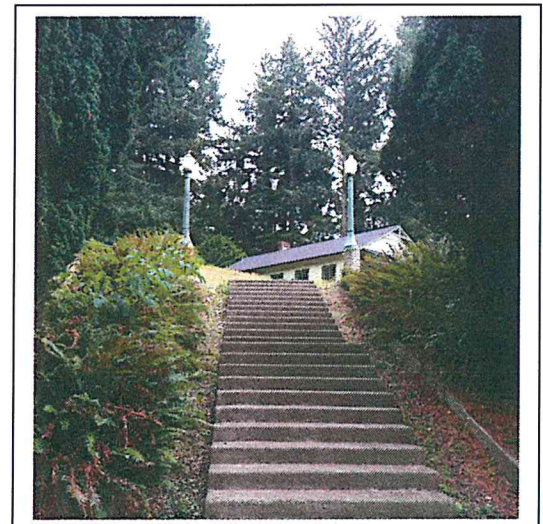


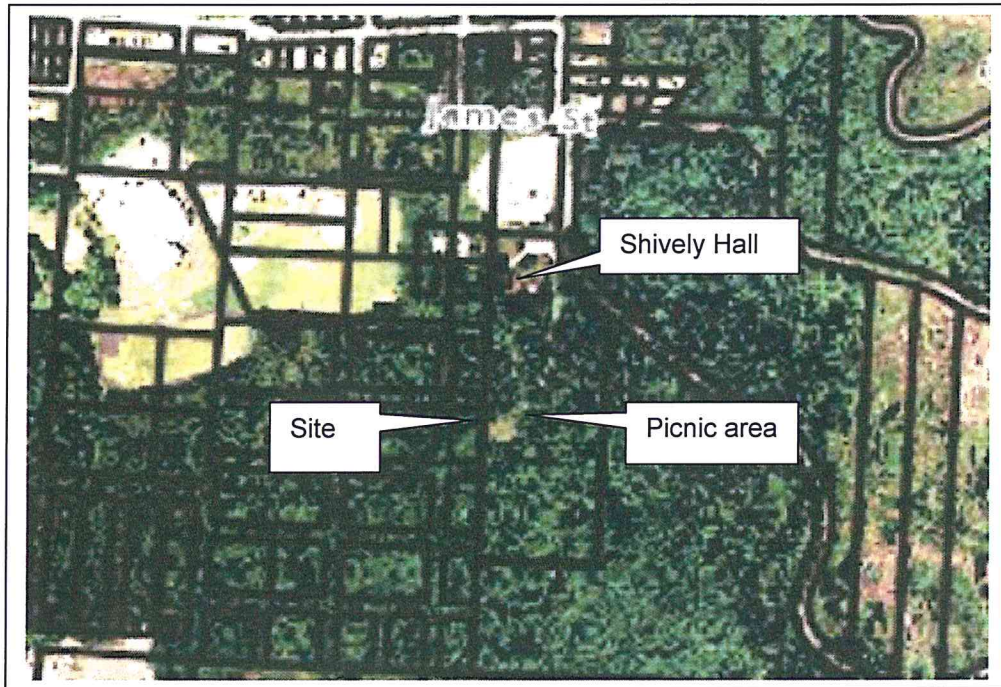
B. Subject Property

The subject property is located on the west side of Williamsport Road within Shively Park. The site is approximately 12.4 acres of forested park with trails, a paved and gated looped roadway, a community hall with playground equipment, the Weinhard Hotel entrance architectural feature, a picnic area with two shelters, and the remains of several concrete stairs from the Astoria Centennial Park in 1911.

C. Adjacent Neighborhood and Historic Property

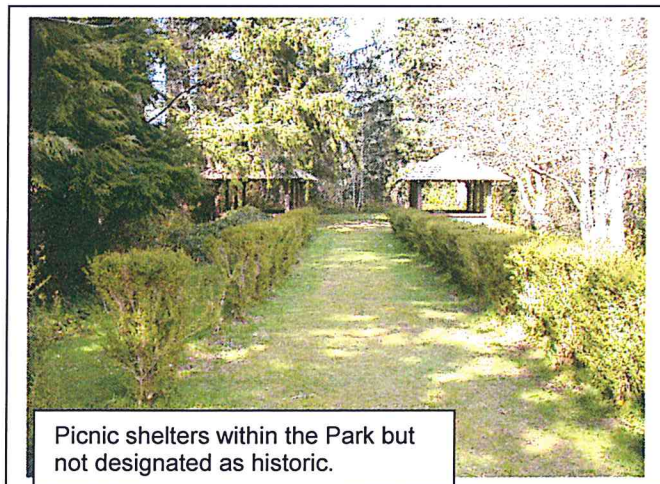
The site is located on the central ridge of Astoria accessed from Niagara Avenue and Williamsport Road. To the north is the City’s water reservoir and a residential neighborhood along Niagara Avenue; to the south is forested land owned by the City and County; to the west is forested land owned by City, County, and Astoria School District as part of Astoria Middle School site (1100 Klaskanine); and to the east is forested land owned by the City and County. Shively Park is designated as historic. There are no other designated historic buildings in the general neighborhood.





Review of new construction at this site is triggered by the following property:

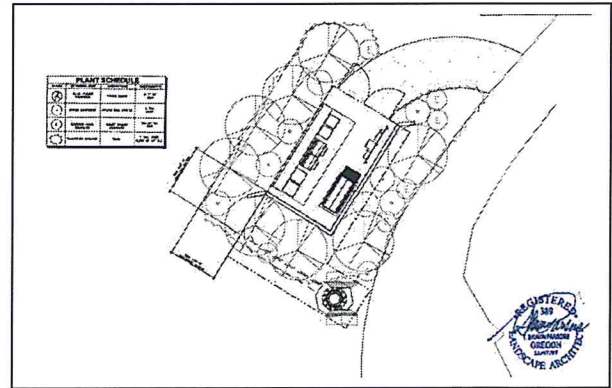
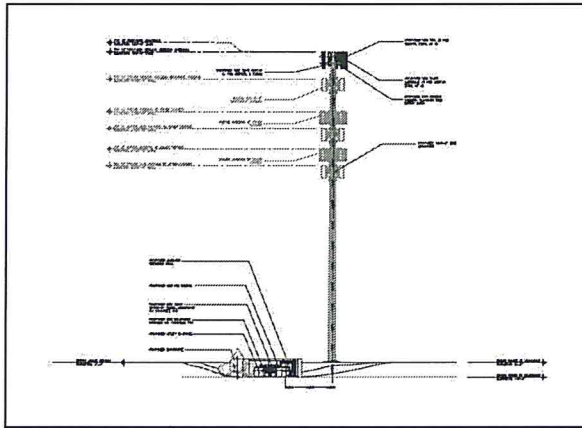
- 1) 1530 Shively Park Road
Local Landmark
City Park
1911



Shively Park was donated to the City by John Shively in 1905. In 1911 the Astoria Centennial facilities were located in the Park with grandstand, concrete stairs, fountain, and reconstruction of Fort Astoria. The community hall was constructed later and the portal architectural feature of the Weinhard Hotel was

The proposed project is to construct a 150' wireless communication facility with associated equipment building and enclosure in the forested area on the western edge rear portion of the Park.

Material: metal monopole powder coated dark brown on the bottom and grey on the top to blend with the background trees and sky; and 6' high chain link fence with green slats to blend with the vegetation



A. Development Code Section 6.070(A) states that *“No person, corporation, or other entity shall construct a new structure adjacent to or across a public right-of-way from a Historic Landmark as described in Section 6.040, without first obtaining a Certificate of Appropriateness from the Historic Landmarks Commission.”*

Finding: The structure is proposed to be located adjacent to structure(s) designated as historic within a designated site. "Historic Landmark" is defined to include *"building, site, or object worthy of official recognition"*, not just structures. The proposed structure shall be reviewed by the Historic Landmarks Commission (HLC). The HLC reviewed the request and approved the permit at their September 15, 2015 meeting. That decision was appealed to

the City Council on September 30, 2015. The Astoria City Council held a public hearing reviewed the appeal on January 19, 2016.

- B. Development Code Section 6.070.B, New Construction, Historic Landmarks Commission Historic Design Review Criteria, states that *"A request to construct a new structure shall be reviewed by the Historic Landmarks Commission following receipt of the request. In reviewing the request, the Historic Landmarks Commission **shall consider and weigh** the following criteria"*

- "1. The design of the proposed structure is compatible with the design of adjacent historic structures considering scale, style, height, architectural detail and materials."

Finding: The adjacent historic site is Shively Park with community hall. The Park is a mostly forested area with trails and paved road/path and picnic area. The community hall is approximately 550' away and the tower would not be visible from the community hall. The tower would be approximately 175' from the picnic area and would not be in the direct line of sight of the landscaped area but would be visible.

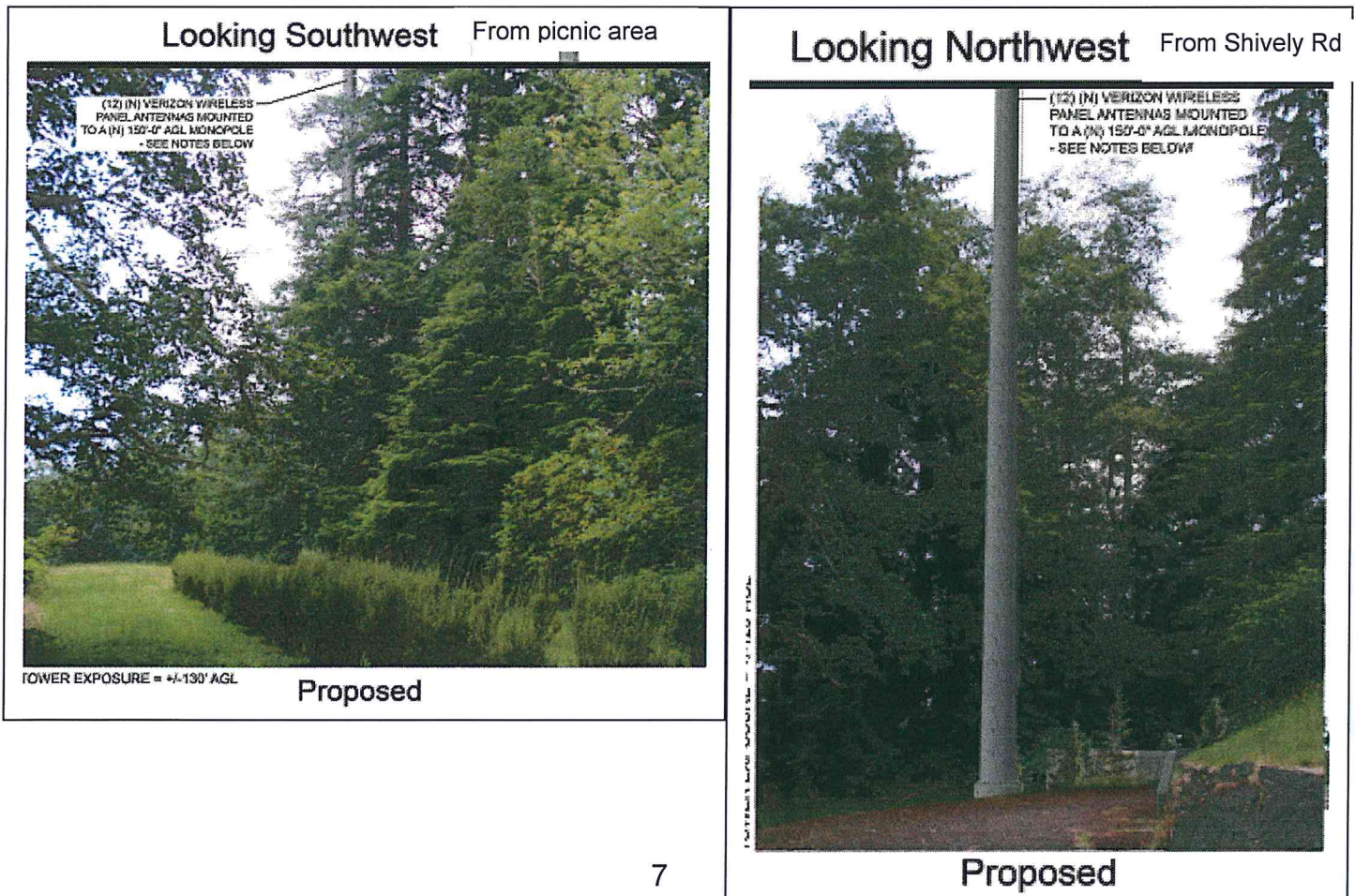
The HLC reviewed the application which included photo simulations of the proposed tower. It was noted at the HLC meeting that the proposed facility would be visible but would not be in direct line with the picnic area pathway. The photo simulations from other areas indicated that the facility would not be highly visible from other than the immediate area near the picnic site within Shively Park. The HLC based their decisions on the photo simulations presented by the applicant at that time. In addition, the Parks and Recreation Board also reviewed the original photo simulations that did not accurately depict the visual impact of the tower. On Page 3, Item 3 Clutter, Section III Site Selection and Design, the applicant states that *the ". . . antennas must clear the clutter in the area. . . Therefore, antennas must be installed above or close to the clutter in order to provide high quality communications services. . ."* When the HLC decision was appealed, it was discovered that the photo simulations were not accurate and gave the impression of a tower much lower and not visible from sites around the City. Therefore, the City Council found that the HLC decision was flawed due to incorrect information.

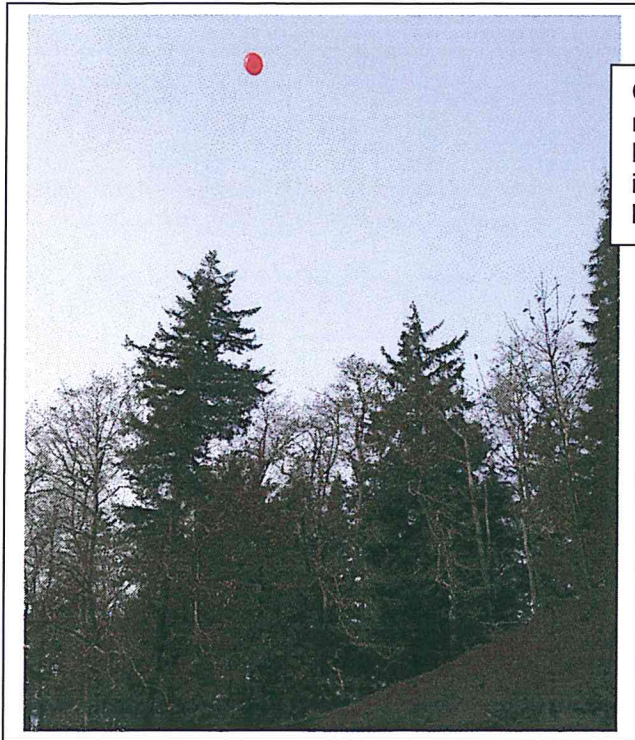


Original photo simulation as viewed by the HLC

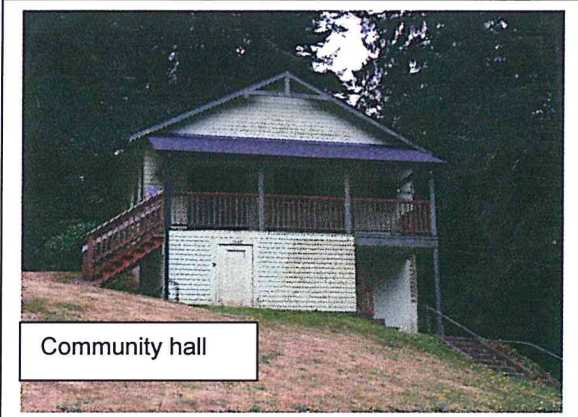
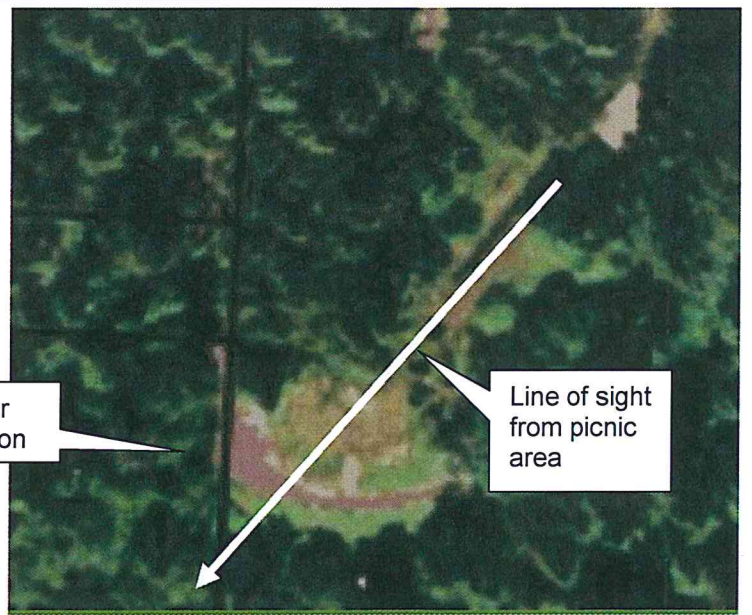
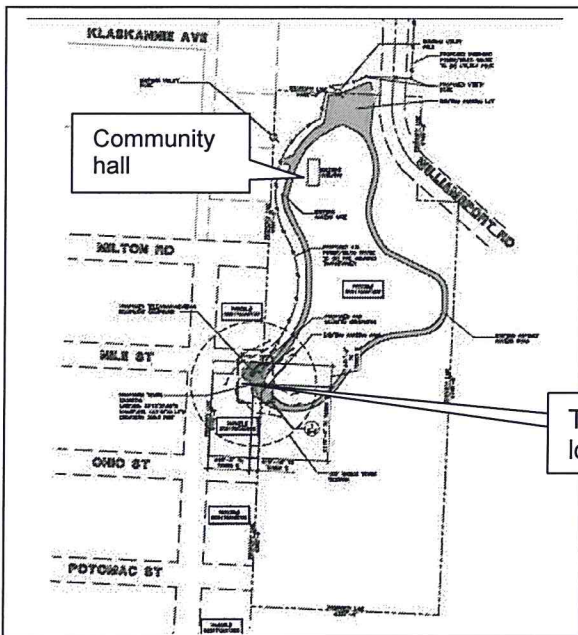
Centerline Solutions was hired by Verizon to produce new photo simulations. In a letter dated December 213, 2015, Camp+Associates, has indicated that Verizon was unable to provide close up photo simulations due to the close proximity and the height of the trees. City staff identified various locations for these simulations which are attached showing how much of the tower would be visible from various sites in Astoria. Visibility of the tower from these other locations is more relevant to the Variance and Wireless Communication Facility permits than to the New Construction permit. However, the simulations of the views within and at the general area bordering around the Park would be part of the historic review.

The City Council found that the visual impact of the 150' tower was not compatible with the scale and height of the adjacent Park area. The tower would extend high above the existing adjacent trees which the tallest trees are approximately 100' tall. The applicant reported that the base of the tower would be approximately 6' wide while the adjacent trees are only approximately 2.5' wide maximum. The tower would not reflect the scale of the surrounding trees. The historic Shively Hall, while 550' feet away is also only one story with a daylight basement and the tower would not be in scale with that building within the Park.

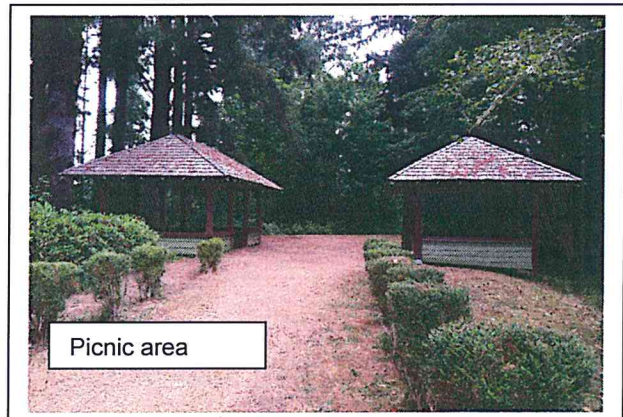




City photo of balloon test looking northwest from Shively Park Road below picnic area. Balloon indicates approximate tower height



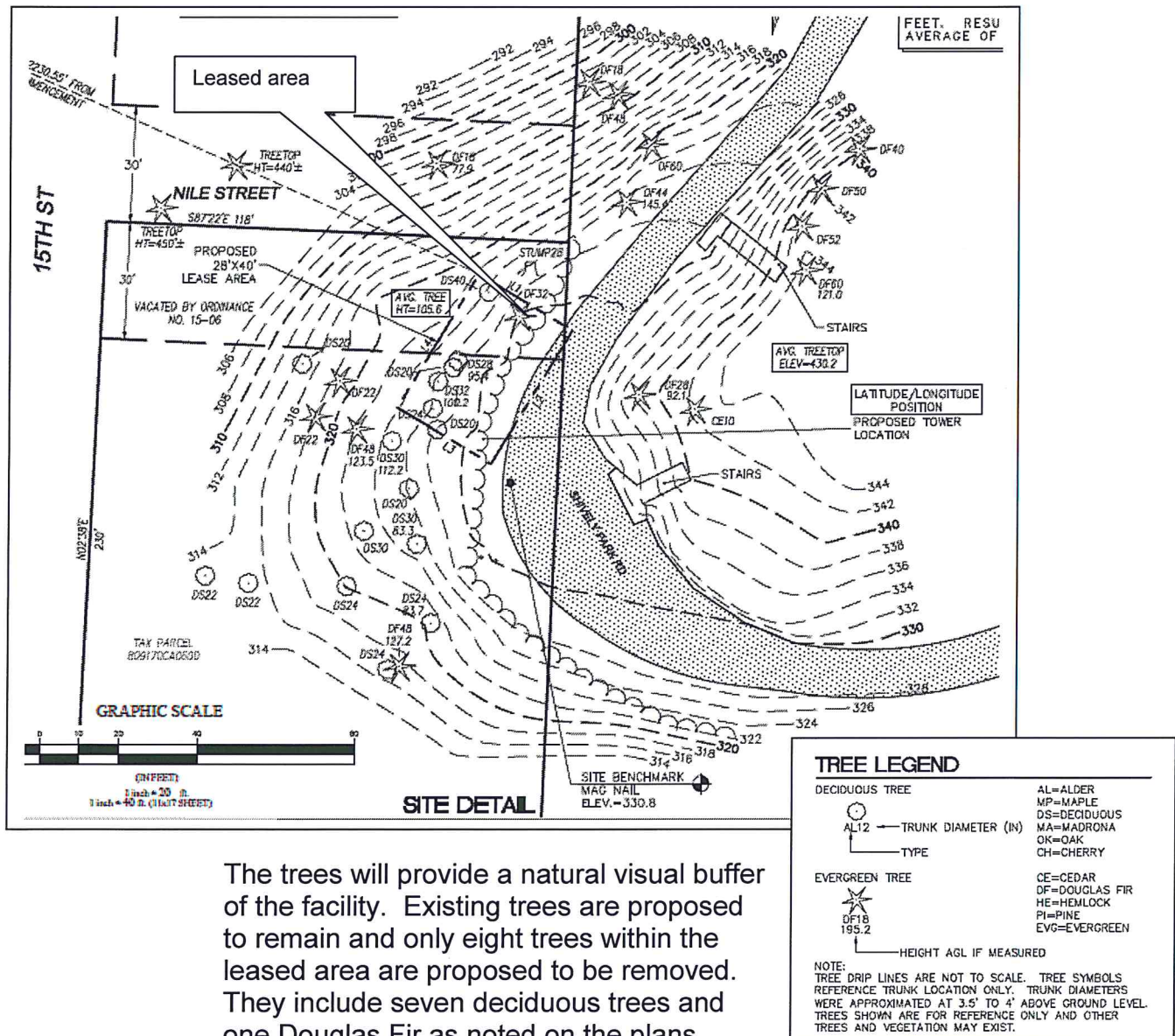
Community hall



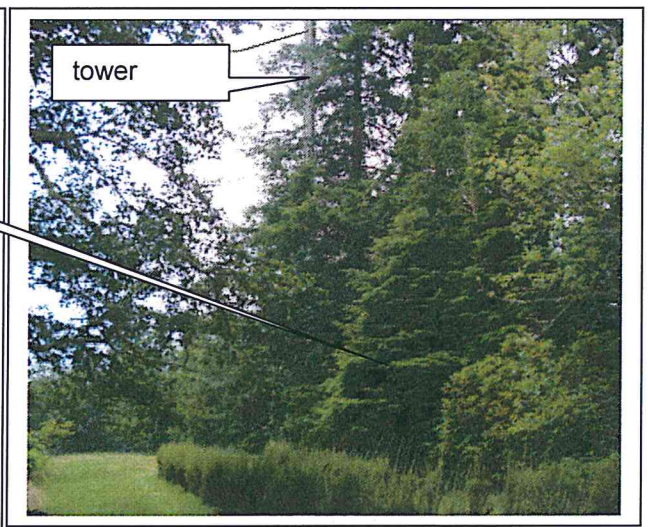
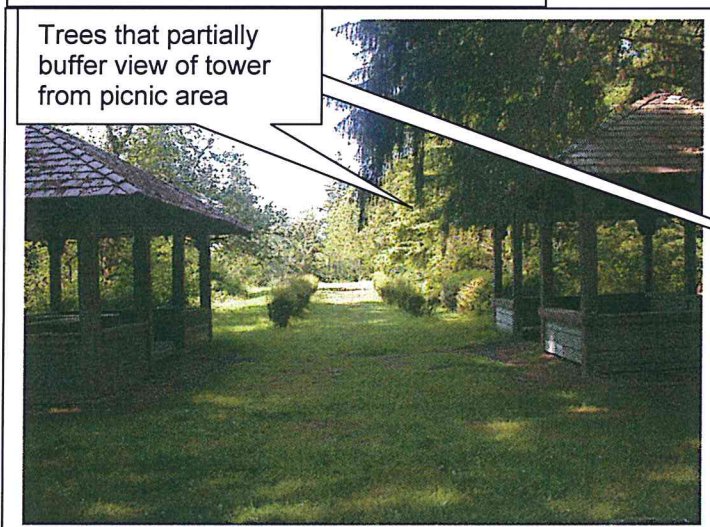
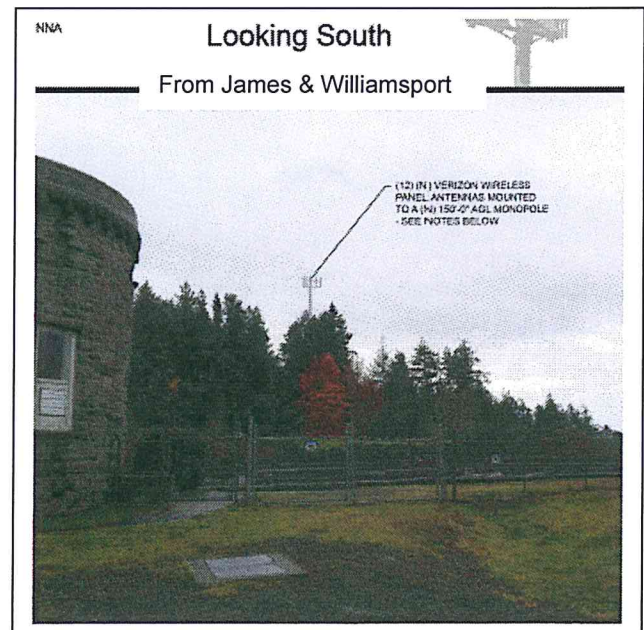
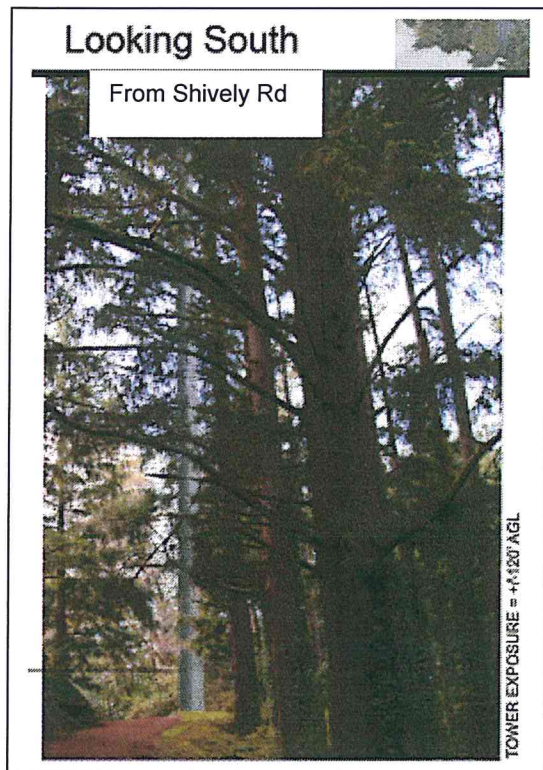
Picnic area

The facility would be located within the existing forested area with 20' to 120' tall deciduous trees and approximately 18' to 145" tall fir trees. The height of the trees was surveyed by the applicant as noted in the diagram submitted by the applicant. They were resurveyed to verify the height as noted in the letter from Duncanson Company Inc. dated December 28, 2015. The revised survey is dated December 10, 2015.

In order to provide service to the South Slope area of Astoria, the WCF antenna must have an unobstructed line of sight. Therefore, the tower equipment must be above the tree canopy. The applicant has indicated which trees would be used in calculating a needed clearance. The tower is proposed to be 150', the minimum needed to be unobstructed.

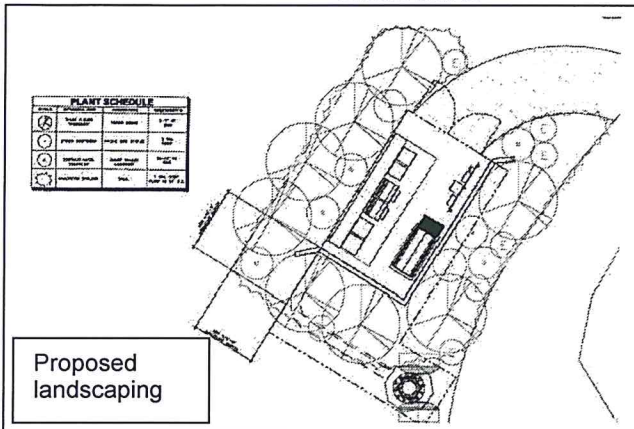


The trees will provide a natural visual buffer of the facility. Existing trees are proposed to remain and only eight trees within the leased area are proposed to be removed. They include seven deciduous trees and one Douglas Fir as noted on the plans.

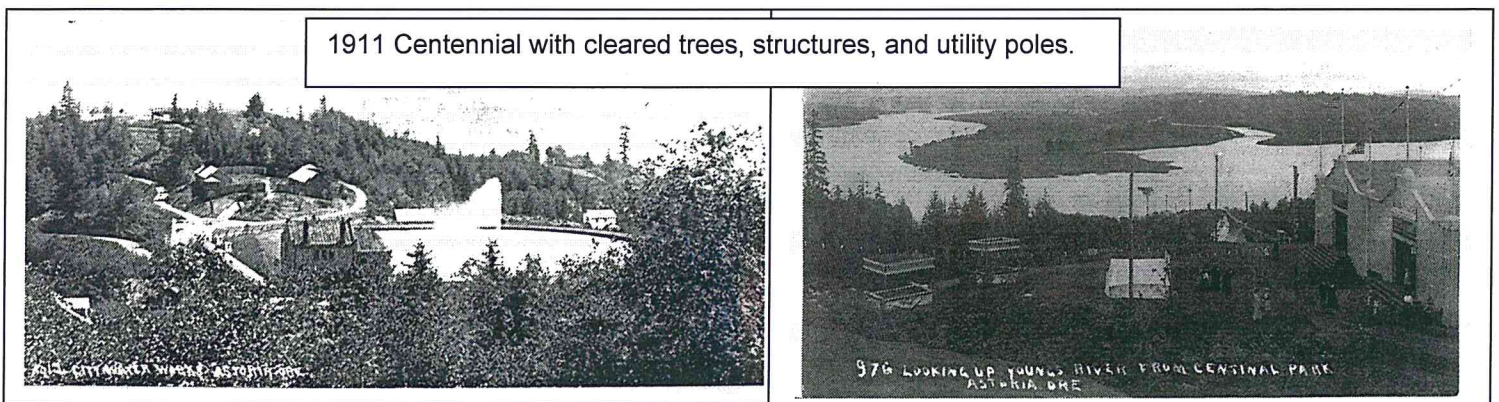


The proposed facility would be a 150' tall metal, monopole powder coated with colors to blend with the sky and forested surroundings. Due to the visibility of the lower portion of the monopole against the tree background, the lower portion of the tower is proposed to be powder coated in a natural dark brown color to blend in with the tree trunks and the upper portion to be grey to blend with the sky. For comparison, the applicant provided photo simulations of a tower in grey, dark green, and dark brown. However, the Council found that even with the proposed colors, that the architectural details and material of a 150' metal pole was not compatible with the adjacent trees in the natural park area. The color along was not sufficient to buffer the tower.

There would be an equipment enclosure located slightly below grade of the road with a 6' high slatted, chain link fence proposed to be powder coated forest green. There would be additional new landscaping around the facility. While the color and landscaping were intended to buffer the structure from view, the Council found that it was not compatible with the architectural detail and materials of the forested area and design of the otherwise natural Park setting. In addition, the "quiet" forest setting would be impacted by the noise generated by the equipment in the enclosure.



The Park was designated as a Local Landmark in 1983 noting under "... details which contribute to the unique or interesting history. . ." that it was constructed for the 1911 Centennial celebration. The nature of the Park has changed many times over the years. Currently, the historic Park is a natural setting with tall trees, but the history of the Park has included several structures over the years. At several times, the trees were cleared. In 1911, a replica of Fort Astoria and a grand stand area and arena were constructed along with a 220' tall flag pole. There were botanical gardens, stairways, and a zoo. These structures and many of the features no longer exist. The concrete stairways are still there but in various degrees of condition. After the downtown fire of 1923, the stone entryway to the Winehard Hotel was installed in the Park near the community hall.



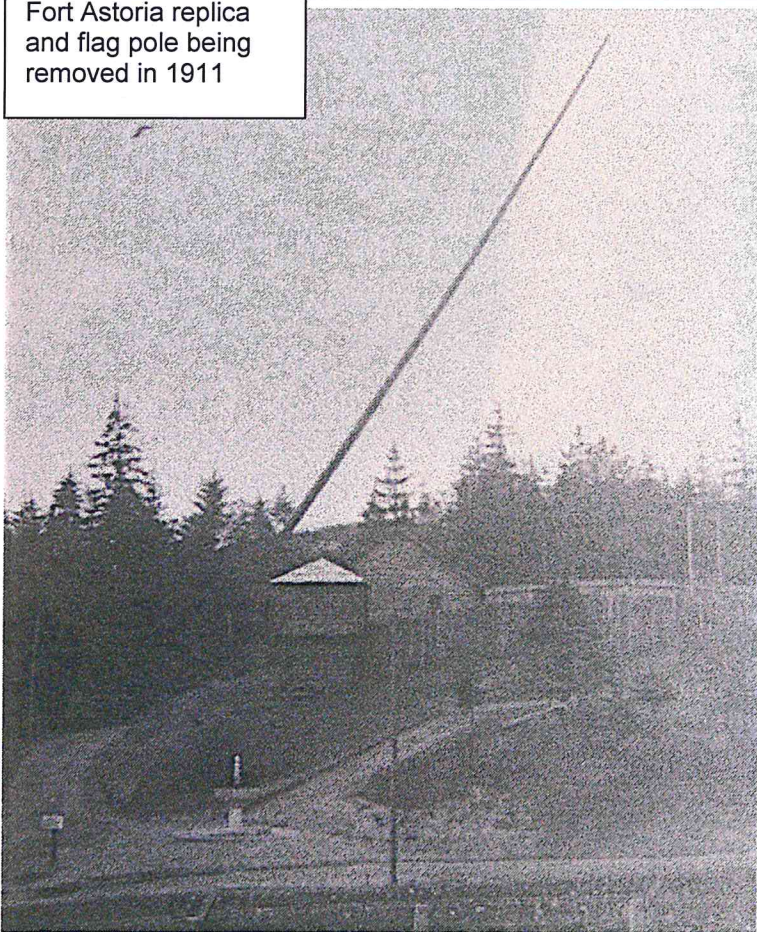


Concrete stairways



The wireless communication facility tower would be metal and the height is greater than the height of the trees in the immediate area. The location is a visible site within the Park in an area frequented by visitors on a regular basis for its quiet, secluded, natural beauty. The construction of a tower and equipment area in the natural setting is not compatible with the intended use of the historic Park.

Fort Astoria replica and flag pole being removed in 1911



Weinhard Hotel entry archway after 1923 fire and today within Shively Park

The proposed structure is not compatible in scale, style, height and architectural detail with the existing historic site.

- "2. *The location and orientation of the new structure on the site is consistent with the typical location and orientation of adjacent structures considering setbacks, distances between structures, location of entrances and similar siting considerations.*"

Finding: The proposed facility is to be situated on the rear, southwest boundary of the Park. Utility poles are generally located within the right-of-way and highly visible; however, the existing utilities in the Park are located in the parking lot area and are not as tall as the existing trees. The structures at the Park have large setbacks from the Park boundaries and are separated by large areas of forested land. The proposed facility will be approximately 100' from the north and west property lines. Since it is not a building with entrances, the orientation of the structure is not applicable. The only access to the site is from the paved, gated roadway/path within the Park. The tower is proposed to be constructed within a few feet of the roadway/path at the same grade level as the roadway. This is not consistent with the location of Shively Hall which is approximately 20' from the roadway and located at the top of a raised slope.

Relocation of the tower equipment from the Column site is not justification for the location in Shively Park. The proposed location at the rear portion of Shively Park was a consideration; however, the location is not consistent with the natural park setting given the location and low impact of the few existing structures.



Other sites were tested and were not viable for several reasons including potential cellular coverage area, engineering, and/or high visibility of the tower. Other sites suggested by the City and considered by Verizon included: Fred Lindstrom Park at 614 Niagara; LDS Church at 350 Niagara; City Reservoir 2 at 1597 James Street; Astoria Middle School at 1100 Klaskanine; south side of 1400 Block Niagara. The applicant has evaluated various sites against their criteria for a site that would provide the needed coverage to the south side of Astoria. This evaluation can be found in Section III of their application narrative on pages 2 to 6 and in the Verizon letter dated December 30, 2015.

Due to the limited number of structures within the Park with the location of Shively Hall at the parking lot entrance to the park and the one story picnic area shelters within a forested area, the proposed facility is not consistent with the typical location and orientation of adjacent structures considering setbacks, distances between structures, location of entrances and similar siting considerations as applicable.

Finding: The Development Code does not require that there be no adverse impact for New Construction. The Code identifies criteria that the HLC needs to review and “weigh” as to whether it is “significant” when making a decision. The HLC “considered and weighed” the Development Code criteria for New Construction and concluded that there would not be a “significant” adverse impact to the resources based on incorrect information submitted by the applicant, namely the photo simulations. However, with the revised photo simulations showing a greater height of the tower and the visual impact of the tower and equipment area in a highly visible portion of the Park, the Council finds that the facility is not compatible with the natural, quiet setting of the historic Park.

- C. Section 15.065.A.2, Environmental and Historic Resource Protection, states that *“All Wireless Communication Service Facilities shall be sited so as to minimize the effect on environmental and historic resources. To that end, the following measures shall be implemented for all Wireless Communication Service Facilities:*

- a. *The facility shall comply with all applicable local, State, and Federal regulations, including but not limited to: Columbia River Estuary Shoreland Overlay, Sensitive Bird Habitat Overlay, Astoria Historic Properties regulations, National Environmental Policy Act, National Historic Preservation Act, and Endangered Species Act;”*

Finding: This project requires compliance with Federal regulations under CFR Section 106 for National Environmental Protection Act (NEPA). That review was completed and in a letter from the State Historic Preservation Office (SHPO), dated February 24, 2015, SHPO states *“We also concur with the finding of no adverse effect for the proposed project.”* Due to the change in photo simulations, staff contacted SHPO to determine if additional review was required. SHPO has advised that they based their decision on documentation and did not view photo simulations. Therefore, additional SHPO review is not required.

Compliance with the “Astoria Historic Properties regulations” is addressed in Section B above of these Findings. Section 15.065.A.2 states that the *“... facilities shall be sited so as to minimize the effect on environmental and historic resources. . .”* It does not require “no impact”. The applicant has sited the tower within the existing trees to minimize the visual impact of the tower. As indicated in the photo simulations provided by the applicant, the tower will be

visible from various locations around the City and will be visible from some areas within the Park. The historic site is approximately 12 acres and includes a meeting hall, playground equipment, picnic area, and trails. The primary use of the Park is for passive recreation in quiet, natural surroundings. The proposed tower location and height would allow the facility to be visible from several view points and vistas of the Park and from a regularly used portion of the Park trail system, and would be out of character with the natural setting of the Park. Therefore, the facility would have a significant impact on the natural and historic qualities of the Park.

- D. Development Code Section 15.020.A, Applicability, states that *"All Wireless Communication Service Facilities located within the City of Astoria, whether upon private, public, or City-owned lands, shall comply with the requirements of Article 15."*

Development Code Section 15.045.A, Collocation and Use of Alternative Antenna Support Structures for Wireless Communication Service Facilities, Collocation Design Required, states that *"All antenna support structures shall be designed and constructed so as to not preclude collocation."*

Development Code Section 15.045.B, Collocation and Use of Alternative Antenna Support Structures for Wireless Communication Service Facilities, Collocation Required, states that *"Collocation or use of alternative antenna support structure shall be required unless demonstrated to be infeasible to the satisfaction of the Community Development Director or the Astoria Planning Commission."*

Finding: Co-location is a requirement of the Wireless Communication Facility Ordinance of the Development Code. Any additional equipment installed on the tower would be required to apply for a WCF permit for the Shively Park location. It would also be required to go through HLC review for compatibility with the historic code as an Amendment to the Existing New Construction Permit. No additional equipment can be installed without these permit reviews. The incremental impacts of any additional equipment would be reviewed at that time. No additional equipment is being proposed at this time and therefore, this issue is not relevant to the current application.

V. CONCLUSION

The City Council concludes that the decisions of the HLC and the Parks and Recreation Board relied largely upon incomplete and inaccurate information provided by the applicant.

Based on the Findings of Fact and conclusions noted above, the City of Astoria finds that the applicant has not satisfied its burden of proof for siting a WCF in an historic park, grants the appeal, and denies the application.

ATTACHMENTS

WIRELESS COMMUNICATIONS FACILITY 1580 SHIVELY PARK ROAD

**WCF15-03
V15-03
NC15-03**

Application, 8-4-15
Statement of Compliance for Proposed Wireless Facility, 7-20-15
FCC License
Non-Ionizing Electromagnetic (NEIR) Report, January 2015
Architectural Drawings
RF Propagation Maps
Location Map of All Sites
Photo Simulations
Federal Aviation Administration Determination, 1-15-15
Oregon Department of Aviation Determination, 3-4-15
Oregon Department of Aviation Letter, 8-26-15
State Historic Preservation Office Section 106 NEPA Review Determination, 2-24-15
Email from Lexcom on site selection, 7-13-15

ATTACHMENTS SUBMITTED FOR APPEAL HEARING ON 1-19-16

Hathaway Kobak Connors Letter 12-30-15
Hathaway Kobak Connors Letter 11-9-15
Duncanson Company Inc. letter 12-28-15
Survey 12-31-15
Verizon Wireless Letter 12-30-15
Verizon Wireless RF Propagation Maps 12-31-15
Camp+ Associates Letter 12-23-15
Centerline Solutions Letter 12-31-15
Photo Simulations 12-23-15



**CITY OF ASTORIA
COMMUNITY DEVELOPMENT
DEPARTMENT**

January 26, 2016

TO: MAYOR AND ASTORIA CITY COUNCIL

FROM: ROSEMARY JOHNSON, SPECIAL PROJECTS PLANNER

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

SUBJECT: FINDINGS OF FACT FOR APPEAL (AP15-02) ON VARIANCE PERMIT (V15-03)

I. BACKGROUND SUMMARY

- A. Applicant: Verizon Wireless (VAW), LLC dba, Verizon Wireless
5430 NE 122nd Avenue
Portland OR 97230
- Lexcom Development
Sharon Gretch
31649 Sexton Road
Philomath OR 97370
- B. Appellant: Ron Zilli
1444 16th Street
Astoria OR 97103
- C. Owner: City of Astoria
1095 Duane Street
Astoria OR 97103
- D. Location: 1580 Shively Park Road; Map T8N R9W Section 17, Tax Lot 1200
and Section 17CA, Tax Lot 600; Lots 1 to 8, Block 18, Central
Astoria, and vacated portion of Nile Street

II. BACKGROUND INFORMATION

A. Project History

Verizon Wireless operates a wireless communication facility (WCF) on a lattice tower on the north side of Coxcomb Hill Drive within the Astor Park/Astoria Column, an area owned by the City. The City shares use of the facility for its emergency services communications. This facility includes a lattice tower, wood pole, and utility building.



The applicant would like to increase cell coverage for Astoria which requires installation of additional equipment. The lattice tower at Coxcomb Hill has existed since 1991 prior to adoption of the Wireless Communications Facility Ordinance; it does not conform to the existing code standards and is classified as an existing, non-conforming facility. It has been determined that the existing tower does not meet structural requirements for additional equipment and a new tower will need to be constructed. It was determined that the facility should be relocated to accommodate the Verizon's desire for new equipment and to improve the aesthetics of the Astoria Column Park which is designated on the National Register of Historic Places. The Friends of the Column, a committee of volunteers, the City, and Verizon determined that several new towers would be required to provide the level of service desired by Verizon and the City's emergency communications needs and investigated several potential sites within Astoria. One site proposed for construction of a new WCF is located within a forested area in Shively Park and would include facilities only for Verizon and other private carriers.

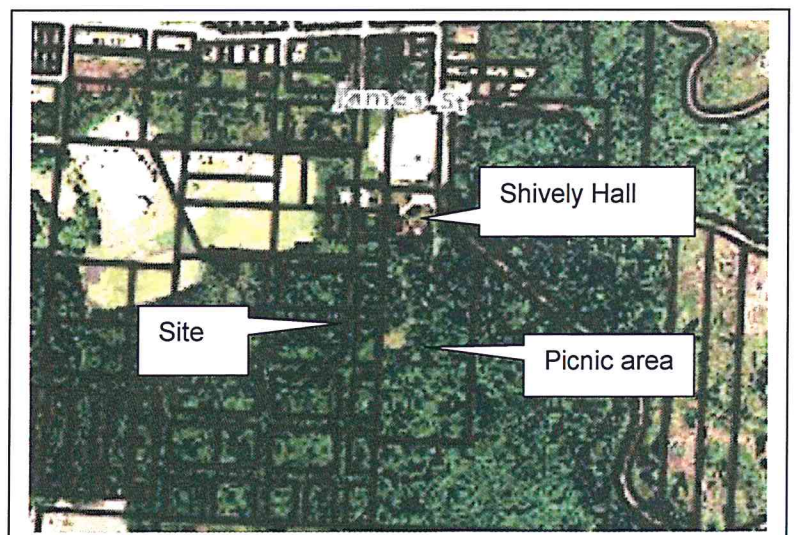
References in the Findings of Fact to the proposed wireless communication "facility" proposed for Shively Park include the installation of the associated equipment building, enclosure, and buried cable without specific notation.

B. Subject Property

The site is in Shively Park, a City park that has been designated as historic and that contains approximately 12.4 acres of forest with trails, a paved and gated looped roadway, a community hall with playground equipment, the Weinhard Hotel entrance architectural feature, a picnic area with two shelters, and the remains of several concrete stairs from the Astoria Centennial Park in 1911. The Park is zoned Institutional (IN), a zone intended to facilitate uses such as parks, public works, schools, museums, open space, and similar activities (Section 2.835¹). It is located on the central ridge of Astoria and accessed from Niagara Avenue and Williamsport Road.

C. Adjacent Neighborhood

To the north of Shively Park is a City water reservoir that dates from 1895 which is also designated historic and a residential neighborhood along Niagara Avenue; publicly owned forests lie south and east of the site. Forests and the Astoria Middle School lie to the west.



¹ References to "Section" within these findings refer to the Astoria Development Code.

III. PUBLIC REVIEW AND COMMENT

This matter came before the Astoria City Council on January 19, 2016 on appeals from the Astoria Historic Landmarks Commission (HLC), the Astoria Parks and Recreation Board, and the Astoria Planning Commission (APC).

Public notice was mailed to all parties to the record pursuant to Section 9.020 on October 23, 2015. A notice of public hearing was published in the Daily Astorian on November 9, 2015.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

A. Section 15.065.B.6.a & b, Height, states that *"in addition to the maximum structure height requirements of each Zone, Wireless Communication Service Facilities shall comply with the following height requirements:*

- a. *WCF shall comply with the height limit of the underlying zone, unless a variance to the height limit of the underlying zone is approved.*
- b. *If there is not a height limit in the underlying zone, the maximum height of a ground-mounted facility, including a monopole, shall be 45'.*

Section 2.855, Height of Structures in the IN Zone, states that *"No structure will exceed a height of 45 feet above grade."*

Development Code Section 12.030(A) states *"the granting authority may grant a variance from the requirements of this Chapter, if on the basis of the application, investigation and the evidence submitted by the applicant, all four (4) of the following expressly written findings are made:*

1. *The request is necessary to prevent unnecessary hardship;*
and
2. *Development consistent with the request will not be substantially injurious to the neighborhood in which the property is located; and*
3. *The request is necessary to make reasonable use of the property; and*
4. *The request is not in conflict with the Comprehensive Plan."*

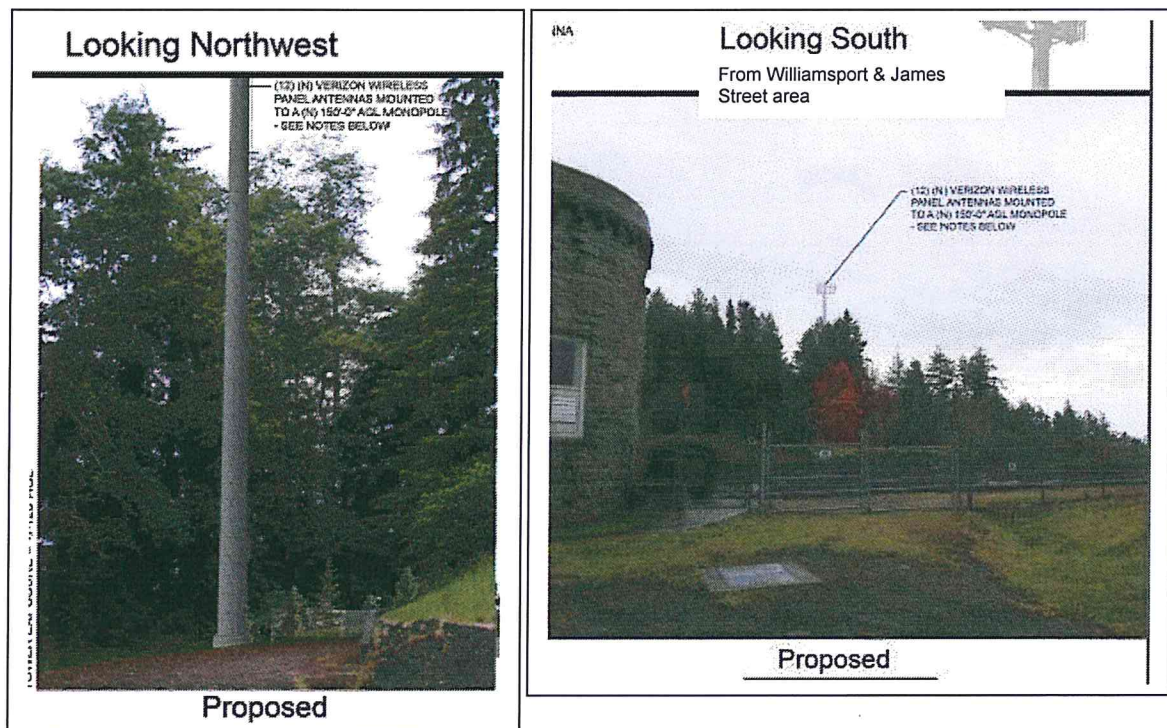
a. Section CP.010.1 & 2, Natural Features, states that

- "1. The physical capabilities and limitations of the land will be the basis for the type of development that is permitted.*
- 2. 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*

throughout the City. The existing facility at Coxcomb Hill is not able to accommodate the equipment needed for this upgrade and a new tower is required. The Friends of the Column and the City Council have determined that a new tower should not be constructed at Coxcomb Hill.

The proposed location for this new tower is within Shively Park. The natural forest in the Park provides some concealment but the tower would be visible from within the Park and in other locations. The Council was not provided information relative to whether this WCF is needed to prevent an “*unnecessary hardship*.” There is no evidence as to the expense, effectiveness, or cost of developing a WCF on any of the other sites considered by the applicant, or other sites within the County. Therefore the Council cannot find that siting this WCF within Shively Park is required to prevent an unnecessary hardship.

The 150-foot tower will have a base circumference of between 6 and 8 feet. It will be supported by auxiliary equipment secured behind a chain link fence and which will emit noise 24 hours a day. The proposal is to locate this facility on park property in an area used exclusively for passive recreation, a natural, quiet, forested area. Locating a tower of this size in the Park would substantially affect the use and enjoyment of the quiet, natural beauty of the Park and would represent a substantial injury to the neighborhood.



The applicant proposes to paint the tower dark brown at the bottom and grey at the top to blend in with the surrounding forest and sky backgrounds. They also propose to install some landscaping around an equipment enclosure surrounded by a chain link fence. However, the scale and location of the tower at the edge of the Shively Park roadway/pathway, and the use of color and landscaping does not prevent the tower from being easily detected by the

natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged.”

Section CP.015.1, General Land and Water Use Goals states that *“It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area.”*

Section 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.”*

- b. Section CP.200.5, Economic Development Goal 1 and Goal 1 Policies, states *“Goal: The City of Astoria will strengthen improve, and diversify the area's economy to increase local employment opportunities.*
Policy: Provide a supportive environment for new business.”

Section CP.205, Economic Development Goal 6, states *“Goal: Maintain a system of public facilities and services capable of supporting existing and future industry, and commercial development.”*

Finding: Section 15.065 sets forth requirements for all WCF facilities. Section 15.065.B.6 requires that a WCF comply with the height limit of the underlying zone, unless a variance to the height limit of the underlying zone is approved. Section 2.855 provides that no structure in the IN zone may exceed a height of 45 feet above grade.

Section 15.065.B.6.c requires consideration of the applicant's use of concealment technology before approving a height variance. Section 15.025 defines concealment technology to require that a WCF antenna be reasonably difficult for the naked eye to detect or observe, or made part of a feature enclosing it.

The facility proposes to include a 150-foot tower in order to meet the coverage desires of Verizon for the south area of Astoria. A variance is required and whether the antenna is reasonably difficult to see must be considered.

The applicant has proposed to upgrade its services in the south side of Astoria. Citizens rely on WCF and there is a growing trend for home industries and/or businesses that are computer based. In order to support these cottage industries and future economic growth in this field, WCF service is need

naked eye and therefore does not meet the requirements for “concealment technology.”

Based upon these findings the applicant has not met the requirements for a height variance above 45 feet.

B. Section 15.065.B.9.a & b, Setback, states:

- “a. Antenna support structures, . . . shall be located no closer to . . . the property line of the subject property, than a distance equal to the total height of the structure measured from finished grade . . .*
- b. All WCF equipment enclosures shall be set back from property lines according to the requirements of the Zone.”*

Section 2.845, Yards in the IN Zone states “The minimum yard requirements in an IN Zone will be as follows:

- 1. The minimum front yard will be 20 feet.*
- 2. The minimum side yard will be five (5) feet, except on corner lots, the side yard on the street side will be 15 feet.*
- 3. The minimum rear yard will be 20 feet, except on corner lots, the rear yard will be five (5) feet.”*

Finding: The facility as proposed will meet the required setbacks of the IN zone and Section 15.065.B.9.b. The 150 foot tall pole will be approximately 90 feet from the north property line adjacent to County owned parcel to the north, and approximately 100’ from the west property line adjacent to the Astoria School District property to the west. A variance is required from the 150-foot setback required by Section 15.065.B.9.a.

C. Section 15.065.B.9.c, Setback, states:

- “c. A setback requirement to a property line may be reduced, through Variance approval. A Variance to the setback requirement shall be in accordance with the requirements of Article 12, and the following additional criteria:*
 - 1) It shall be demonstrated that the location of the proposed facility will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.”*

Finding: The 150 foot tall pole will be approximately 90 feet from the north property line adjacent to County owned parcel to the north, and approximately 100 feet from the west property line adjacent to the Astoria Middle School. The general area is undeveloped, quite steep not improved and unlikely to be developed in the future due to the steep terrain. As noted above, the location within the forested Park area provides some concealment of the facility within the Park. A revised photo simulation provided by Verizon shows a greater visual impact of the tower from surrounding areas and views of the Park. The

site was chosen to take advantage of the high elevation for wireless signal coverage, but trees in the immediate area do not provide sufficient concealment and the proposed tower would be highly visible from areas surrounding Shively Park. Based upon these findings, the requirements for a reduction of setback requirements have not been met.

- D. Section 15.065.B.3, Standards and Review Criteria; Location, Siting and Design Requirements; Use of Concealment Technology, states:

"All Wireless Communication Service Facilities shall utilize concealment technology so as to blend in with the surrounding natural and human-made environment in such a manner so as to be either reasonably difficult for the naked eye to detect or observe, or made part of the feature enclosing it. To this end, Wireless Communication Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors, vegetative, structural or topographic screening."

Development Code Section 15.025, Defines "camouflage" as "A way of painting and mounting an antenna and antenna support structure, resulting in the antenna and antenna support structure being reasonably difficult for the naked eye to detect or observe." [Emphasis added].

Finding: The WCF is would be a 150 foot tall metal monopole with the lower portion to be powder coated in a natural dark brown to blend with tree trunks, the upper portion grey to blend with the sky and located within a forested area of Shively Park in order to camouflage the tower from view.

The Code requires that ". . . a tower utilize concealment technology into order to become "reasonably difficult for the naked eye to detect or observe." The proposed site attempts to utilize natural vegetation and color to comply with this requirement. The tower as proposed would be highly visible from the Park and from other locations around the City, including, the historic Shively Reservoir, residences in the area and key vistas of the Park.

Based upon these findings the requirements for the use of concealment technology have not been met.

- E. Section 6.070.A, New Construction, Certificate of Appropriateness, provides that "No person, corporation, or other entity shall construct a new structure adjacent to . . . a Historic Landmark . . . without first obtaining a Certificate of Appropriateness from the Historic Landmarks Commission." Section 6.070.B, New Construction, Historic Landmarks Commission Historic Design Review Criteria, provides that ". . . the Historic Landmarks Commission shall consider and weigh the following criteria:

1. *The design of the proposed structure is compatible with the design of adjacent historic structures considering scale, style, height, architectural detail and materials.*
2. *The location and orientation of the new structure on the site is consistent with the typical location and orientation of adjacent structures considering setbacks, distances between structures, location of entrances and similar siting considerations.”*

Finding: Shively Park is on property donated to the City as a park in 1905 and was the site of the City's centennial celebration in 1911. The Park been designated as a Historic Landmark by the City of Astoria. The Council finds that the purpose of Section 6.070 is to protect historic sites such as Shively Park and interprets its ordinances to require the application of section 6.070 to new construction within this historic park.

The Historic Landmarks Commission reviewed the impacts related to the historic designated site. The HLC approved the request on September 15, 2015.

Visitors seeking a quiet, forested park atmosphere primarily use this area of the Park for passive recreation. It is also a site used for weddings and other ceremonies. The “quiet” forest setting would be impacted by the noise generated by the equipment in the enclosure. The tower as proposed is not compatible with a natural forested setting or the design of other park structures. The location and orientation of the proposed tower is not consistent with any element of adjacent structures in the Park. Based upon these findings the requirements for siting new construction in historic Shively Park have not been met.

V. CONCLUSION

The City Council concludes that the decisions of the HLC, the Parks and Recreation Board, and the Astoria Planning Commission relied largely upon incomplete and inaccurate information provided by the applicant.

Based on the Findings of Fact and conclusions noted above, the City of Astoria finds that the applicant has not satisfied its burden of proof for siting a WCF in an historic park, grants the appeal and denies the application.

ATTACHMENTS

WIRELESS COMMUNICATIONS FACILITY 1580 SHIVELY PARK ROAD

**WCF15-03
V15-03
NC15-03**

Application, 8-4-15
Statement of Compliance for Proposed Wireless Facility, 7-20-15
FCC License
Non-Ionizing Electromagnetic (NEIR) Report, January 2015
Architectural Drawings
RF Propagation Maps
Location Map of All Sites
Photo Simulations (original submittal)
Federal Aviation Administration Determination, 1-15-15
Oregon Department of Aviation Determination, 3-4-15
Oregon Department of Aviation Letter, 8-26-15
State Historic Preservation Office Section 106 NEPA Review Determination, 2-24-15
Email from Lexcom on site selection, 7-13-15

ATTACHMENTS SUBMITTED FOR APPEAL HEARING ON 1-19-16

Hathaway Kobak Connors Letter 12-30-15
Hathaway Kobak Connors Letter 11-9-15
Duncanson Company Inc. letter 12-28-15
Survey 12-31-15
Verizon Wireless Letter 12-30-15
Verizon Wireless RF Propagation Maps 12-31-15
Camp+ Associates Letter 12-23-15
Centerline Solutions Letter 12-31-15
Photo Simulations 12-23-15



**CITY OF ASTORIA
COMMUNITY DEVELOPMENT
DEPARTMENT**

January 26, 2016

TO: MAYOR AND ASTORIA CITY COUNCIL

FROM: ROSEMARY JOHNSON, SPECIAL PROJECTS PLANNER

SUBJECT: FINDINGS OF FACT FOR APPEAL (AP15-03) ON WIRELESS
COMMUNICATION FACILITY PERMIT (WCF15-03)

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

I. BACKGROUND SUMMARY

- A. Applicant: Verizon Wireless (VAW), LLC dba, Verizon Wireless
5430 NE 122nd Avenue
Portland OR 97230
- Lexcom Development
Sharon Gretch
31649 Sexton Road
Philomath OR 97370
- B. Appellant: Ron Zilli
1444 16th Street
Astoria OR 97103
- C. Owner: City of Astoria
1095 Duane Street
Astoria OR 97103
- D. Location: 1580 Shively Park Road; Map T8N R9W Section 17, Tax Lot 1200
and Section 17CA, Tax Lot 600; Lots 1 to 8, Block 18, Central
Astoria, and vacated portion of Nile Street

II. BACKGROUND INFORMATION

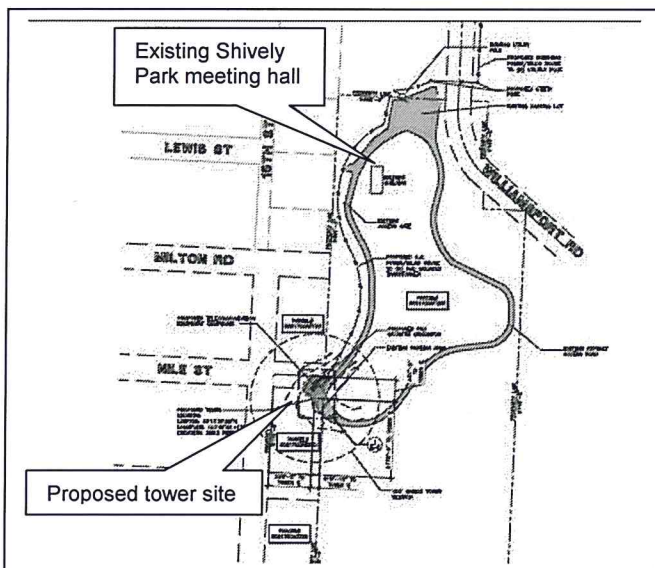
Verizon Wireless currently operates a wireless communication facility on an existing lattice tower on the north side of Coxcomb Hill Drive (Criege Circle) within the Astor Park/Astoria Column area owned by the City. The City shares use of the facility for its emergency services communications. The facility includes a lattice tower, wood pole, and utility building.



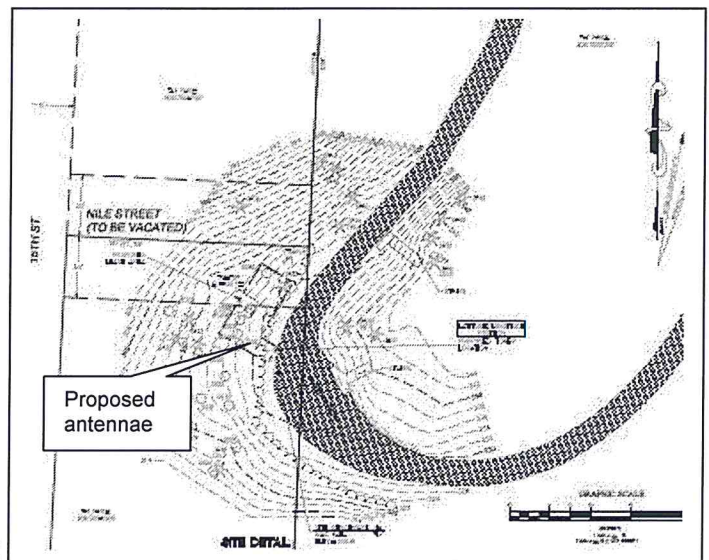
The existing lattice tower cannot structurally accommodate new communication facilities necessary for Verizon Wireless to provide full service. Currently, the central portion of Astoria has "poor to non-existent" coverage by the existing Verizon facility. The applicant is proposing to increase cell coverage for Astoria with the new facility. The lattice tower at Coxcomb Hill has existed since 1991 prior to adoption of the Wireless Communications Facility Ordinance, and does not conform to the existing code standards. Therefore, it is classified as an existing, non-conforming facility. The tower was originally constructed by GTE Mobile Net which is now part of Verizon Wireless. The existing tower was evaluated to determine if it could structurally and technically accommodate the increase in wireless communication services and the needed upgrade of the City's emergency communication service. It was determined that the existing tower would not meet structural requirements and a new tower would need to be constructed. It was therefore determined that the facility should be relocated to another site to accommodate the WCF and improve the aesthetics of the Astoria Column Park. The Friends of the Column, City, and Verizon identified alternate locations that would provide emergency communications as well as cell service to replace what is provided by the tower at the Column. Staff has been working with the consultant hired by the Friends of the Column and Verizon representatives on the various aspects of this project for several years. Investigation of the viability of several other sites was completed. Due to the need for a high elevation location with limited obstructions, and the City's desire for minimal visual impact of the tower, two sites on City-owned properties were selected. One site is located in the Land Reserve urban forest near Reservoir 3 (east of the Column) would include both private and public facilities. The other site is within the forested area in Shively Park.

At its August 3, 2015 meeting, the City Council approved the negotiated lease for the proposed sites on City-owned property and for the City Manager to sign the land use permit applications to begin the public review process.

All references in the Findings of Fact to the proposed wireless communication "facility" includes the installation of the associated equipment building, enclosure, and buried cable without specific notation.



2



III. PUBLIC REVIEW AND COMMENT

This matter came before the Astoria City Council on January 19, 2016 on appeal of the Astoria Planning Commission (APC) decision of September 16, 2015.

A public notice was mailed to all parties to the record pursuant to Section 9.020 on October 23, 2015. A notice of public hearing was published in the Daily Astorian on November 9, 2015. Any comments received will be made available at the City Council meeting.

At the November 16, 2015 meeting, the Council continued the public hearing to December 7, 2015 at the request of Verizon. At its December 7, 2015 meeting, the Council continued the public hearing to the January 4, 2016 meeting due to the holidays to allow for greater public participation in the hearing. At its December 17, 2015 meeting, the City Council continued the public hearing to the January 19, 2016 meeting at the request of Verizon.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 15.035.A.1, Permitted Locations of Wireless Communication Service Facilities, Permitted Zones, lists the permitted zones for a WCF.

Section 2.840.11, Uses Permitted Outright in the IN Zone, lists “*utilities*” as an outright use.

Finding: The proposed use is allowed within the IN Zone.

- B. Section 15.035.B.2.a, Preferred Location, Siting, and Designs in Priority Order, states that a Conditional Use Review is required for “*Location on New Antenna Support Structure*”

Finding: The proposal is to construct a new tower. The proposal shall be reviewed as a conditional use before the Planning Commission.

- C. 15.045.A, Collocation and Use of Alternative Antenna Support Structures for Wireless Communication Service Facilities, Collocation Design Required, states that “*All antenna support structures shall be designed and constructed so as to not preclude collocation.*”

Finding: The structure is designed to accommodate collocation in the future. Any facility added in the future would require separate WCF review and permits.

- D. 15.045.B, Collocation Required, states that “*Collocation or use of alternative antenna support structure shall be required unless demonstrated to be infeasible to the satisfaction of the Community Development Director or the Astoria Planning Commission.*”

If an applicant proposes to construct a new antenna support structure, evidence shall be submitted by the applicant to demonstrate the following:

- 1. That no existing antenna support structures or alternative antenna support structures are located within the geographic area which meet the service provider's engineering requirements to provide service; OR*
- 2. That existing antenna support structures and alternative antenna support structures are not of sufficient height to meet the service provider's engineering requirements to provide service; OR*
- 3. That existing support structures and alternative antenna support structures do not have sufficient structural strength to support the service provider's engineering requirements to provide service; OR*
- 4. That an applicant's proposed antennas or antenna arrays would cause detrimental electromagnetic interference, or NIER field interference with nearby antennas or antenna arrays, or vice-versa; OR*
- 5. That there are other limiting factors, such as inadequate space for an equipment shelter, that render existing antenna support structures or alternative antenna support structures unsuitable."*

Finding: Verizon and the City worked together to identify potential sites for the facility. No existing tower is available to service the south side of Astoria except the existing tower at Coxcomb Hill. There are no tall structures within the search ring for this service area. Utility poles in this area are only 20' to 35' tall. The Fred Lindstrom Park area with park lighting poles was too low in elevation to meet the coverage needs of Verizon. No acceptable collocation sites were identified on the Niagara hill top area. However, the Council questions whether there could be alternative sites within the County that would provide the service proposed by Verizon.

- E. *Section 15.065, Standards and Review Criteria, states that "all applications for Wireless Communication Service Facilities shall demonstrate compliance and conformity with the following requirements. The burden of proof is on the applicant to demonstrate such compliance and conformity. The Community Development Director may release an applicant from a requirement when it is determined that the requirement is not applicable to the request."*

Section 15.065.A.1, Owner and Applicant Responsibilities, states that the owner and applicant of the Wireless Communication Service Facility and his or her successors and assigns at all times shall have the following responsibilities:

- a. The owner shall respond in a reasonable and timely manner to a request for information from a potential collocation applicant. In responding to such a request, the owner and potential collocation applicant shall*

furnish to each other all non-proprietary information necessary to enable the potential collocation applicant and the owner to determine the feasibility of collocation.

- b. The owner and potential collocation applicant shall negotiate in good faith for shared use of the owner's Wireless Communication Service Facility."*

Finding: While shared use of the site is possible, the collocation requirement for other applicants does not apply since there are no applicants at this time. The site is owned by the City of Astoria. City Council approved signing the application as property owner on 8-3-15, and the City has entered into a lease agreement with Verizon for use of the site pending land use permit approvals.

- F. Section 15.065.A.2, Environmental and Historic Resource Protection, states that *all Wireless Communication Service Facilities shall be sited so as to minimize the effect on environmental and historic resources. To that end, the following measures shall be implemented for all Wireless Communication Service Facilities:*

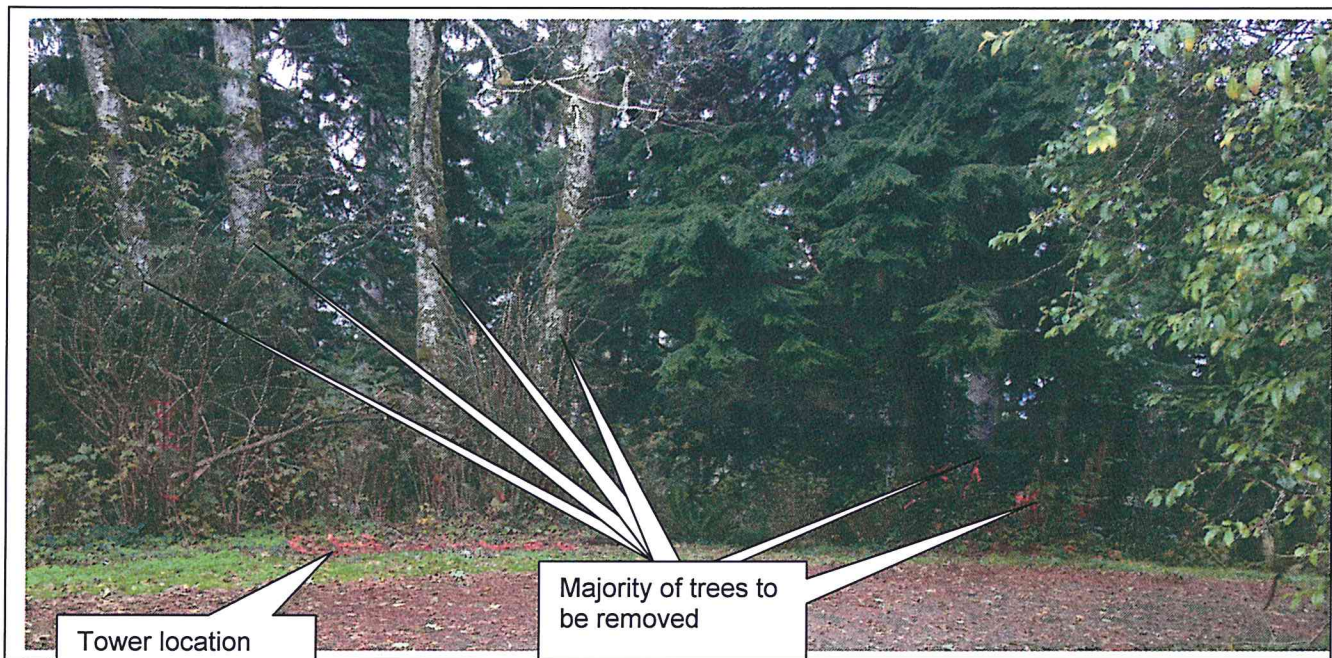
- a. The facility shall comply with all applicable local, State, and Federal regulations, including but not limited to: Columbia River Estuary Shoreland Overlay, Sensitive Bird Habitat Overlay, Astoria Historic Properties regulations, National Environmental Policy Act, National Historic Preservation Act, and Endangered Species Act;"*

Finding: The Astor Park and Astoria Column are designated on the National Register of Historic Places. The Friends of the Column have plans to improve the park and relocation of the existing non-conforming WCF tower is a goal and will bring that site into compliance with the Historic Properties regulations. The proposed site at Shively Park is also designated as historic and therefore subject to the requirements of Code of Federal Regulations Section 106. The applicant has submitted a letter from State Historic Preservation Office (SHPO) dated 2-24-15 with a NEPA finding of "no adverse impact." Due to the change in photo simulations, staff contacted SHPO to determine if additional review was required. SHPO has advised that they based their decision on documentation and did not view photo simulations. Therefore, additional SHPO review is not required.

The site is not within the Shoreland Overlay area or within the Sensitive Bird Habitat Overlay.

- "b. Alteration or disturbance of natural vegetation and topography shall be minimized;"*

Finding: Verizon Wireless engineers have worked with Parks and Recreation staff to identify the trees that would need to be removed for installation of the proposed facility. The identified trees are primarily smaller deciduous trees and only a minimal number of trees are proposed to be removed. The site would require the removal of seven deciduous trees and one Douglas Fir. Those trees would then be replaced by eight cedar trees, eight myrtle, and eight deciduous bushes commonly known as a burning bush. Verizon has tagged the trees to be removed on the site and the location of the driveway to be installed.



- G. Section 15.065.A.3, Noise, states that *"no testing of back-up power generators shall occur between the hours of 6:00 PM and 7:00 AM. Emergency operation of back-up power generators is permitted at any time."*

Finding: Back-up power generators are indicated on the plans and will be operated in accordance with the above standards.

- H. Section 15.065.A.4, Permits Required, requires the following permits:

- "a. *A Building Permit issued by the City is required for each Wireless Communication Service Facility. A building permit will not be issued until all land use approvals have been obtained; until any associated conditions have been met; and until all other applicable local, State, and Federal approvals have been secured and complied with, including but not limited to Astoria Development Code, Article 6 Historic Properties, and Section 106 requirements as set forth by the State Historic Preservation Office (SHPO)."*

Finding: The applicant has completed the Section 106 Review. The applicant has submitted a "New Construction" (NC) permit application for review by the City Historic Landmarks Commission (HLC). The HLC reviewed and approved the permit at their September 15, 2015 meeting. That decision was appealed and the City Council considered the appeal at its January 19, 2016 meeting. The Council tentatively denied the New Construction permit and upheld the appeal pending adoption of revised Findings of Fact. With the Council denial of the NC permit, this criteria is not met. A building permit application would be required to be submitted and would only be issued after all other permits have been obtained.

- "b. *No Wireless Communication Service Facility shall be constructed or operated within the City limits until all necessary City, State, and Federal approvals have been secured. Evidence of approvals shall be provided to the City."*

Finding: Verizon Wireless has submitted approvals from Federal Aviation Administration dated 1-15-15, and from Oregon Department of Aviation dated 3-4-15. The FCC license (FRN 0003800307, expires 6-26-2017) is attached. Construction shall not begin until all permits have been obtained.

- I. Section 15.065.A.5, Prohibited Structures, states that *"lattice and guyed wire towers and support structures and speculation ("spec") support structures are prohibited in all zones except as noted in Section 5.b.."*

Finding: The applicant is proposing to construct a monopole and there will be no guyed wires.

- J. Section 15.065.A.6.a, Radio Frequency Standards, states that *“the applicant shall provide evidence that the Wireless Communication Service Facility is in compliance with FCC standards and that the Wireless Communication Service Facility will not cause interference with the reception of area television, radio, or emergency communication broadcasts. If at any time, the City finds that the Wireless Communication Service Facilities interfere with such reception, the applicant shall mitigate the interference. If the applicant does not mitigate the interference to the City's satisfaction, the City may revoke or modify the permit.”*

Finding: The applicant has submitted a copy of the FCC license indicating compliance with FCC standards. No comments were received from City departments for this specific request. This criteria requires that the applicant “mitigate the interference to the City’s satisfaction”. It is the recommendation of the Astoria Police Chief for all wireless transmitters that the interference be mitigated within 24 hours of notification of an agency to Verizon Wireless that there is interference to emergency communications. The applicant has submitted the Non-Ionizing electromagnetic Exposure Analysis and Engineering Certification (NIER), dated January 2015, indicating compliance.

- K. Section 15.065.A.7, Security, states that *“the applicant shall insure that sufficient anti-climbing measures have been incorporated into the WCF, as needed, to reduce potential for trespass and injury.”*

Finding: The WCF will have a 6’ fence around the equipment facility and all climbing pegs used during construction will be removed upon completion.

The Fire Department will require a Knox Lock Box be secured to the fence with an access key provided in the event a fire or other type of emergency requires immediate access to Fire Department personnel. The final location of the secured Knox Box shall be determined by the Fire Chief upon a site visit and shall be installed prior to operation of the site. An application for a Knox Lock box may be obtained from the Fire Department during normal business hours.

- L. Section 15.065.A.8, Technical Expert Support, states that *“the Community Development Director may employ on behalf of the City an independent technical expert to review any technical materials submitted including, but not limited to, those required under this Section, and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required.”*

Finding: With the impending potential relocation, at their June 1, 2015 meeting, the City Council approved a contract with Converge Communications, a WCF consulting firm, as a professional consultant to assist the City in the negotiations, development of leases, and technical review of the proposed facility and associated documents.

- M. Section 15.065.B.1, Preferred Location, Siting, and Designs in Priority Order, states *"See Section 15.035.B of the Wireless Communication Facility Code."*

Section 15.035.B.1, Preferred Location, Siting, and Designs in Priority Order, Administrative Review states that

"a. Existing Structures

- 1) Location on Existing Support Structure or Existing Alternative Support Structure; and*
- 2) Camouflaged/Concealed Design"*

Section 15.035.B.2, Preferred Location, Siting, and Designs in Priority Order, Conditional Use Review states that

- "a. Location on New Antenna Support Structure*
b. Location within AVOIDANCE AREAS"

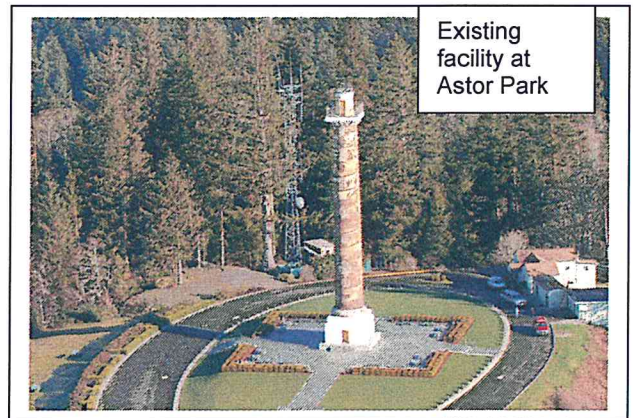
Finding: The proposal is to construct a new tower. The only existing support structure available is the one at the Astoria Column which would need to be replaced and therefore would be considered as a "new antenna support structure". Other sites along this hill top that were suggested by the City and considered by Verizon include: Fred Lindstrom Park at 614 Niagara; LDS Church at 350 Niagara; City Reservoir 2 at 1597 James Street; Astoria Middle School at 1100 Klaskanine; south side of 1400 Block Niagara. The applicant has evaluated various sites against their criteria for a site that would provide the needed coverage to the south side of Astoria. The applicant has evaluated various sites against their criteria for a site that would provide the needed coverage to the south side of Astoria. This evaluation can be found in Section III of their application narrative on pages 2 to 6 and in the Verizon letter dated December 30, 2015.

The location within the IN Zone is not listed as an "avoidance area" in Development Code Section 15.035.A.2. The proposal shall be reviewed as a WCF conditional use before the Planning Commission. The applicant submitted a WCF application which was approved by the Planning Commission at their September 16, 2015 meeting. That permit was appealed (AP15-03). At its January 19, 2016, the City Council tentatively denied the permit and upheld the appeal pending adoption of revised Findings of Fact.

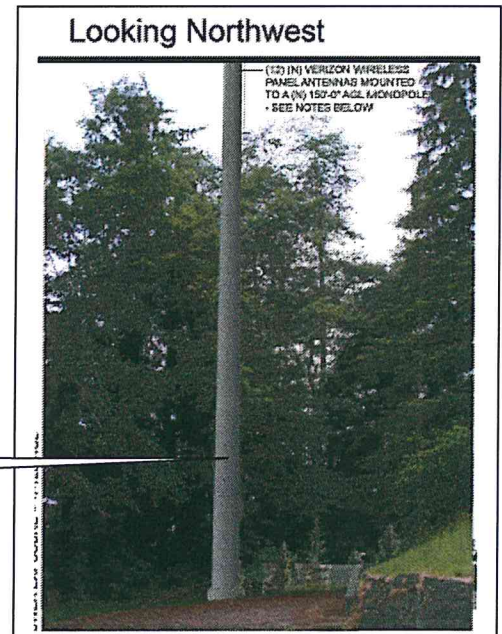
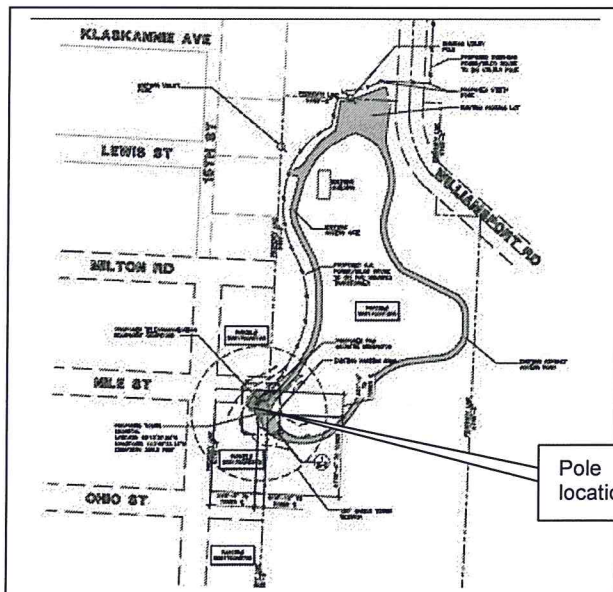
- N. Section 15.065.B.2, Adverse Impact, states that *WCF shall not create a substantial adverse impact on the view from any public park, natural scenic vista, historic property (locally designated or on National Register), major scenic and view corridor, or residential area. In determining the potential substantial adverse impact of the proposed facility upon scenic, natural, historic, and cultural resources or vicinity, the following points shall be considered:*

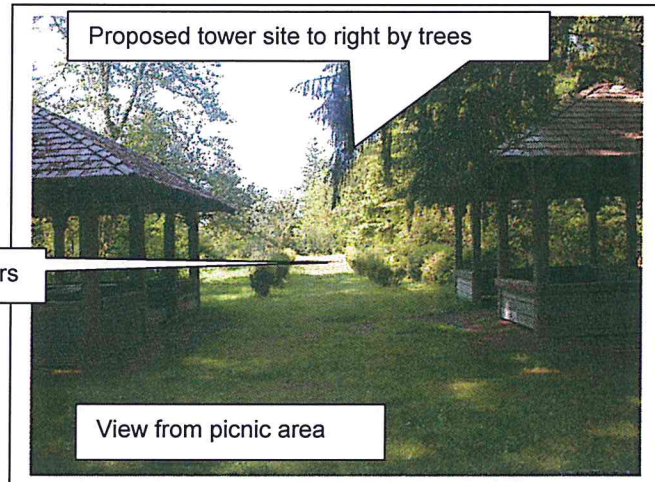
- The extent to which the proposed WCF is visible from the viewpoint(s) of the impacted resource or vicinity.*
- The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility.*
- The amount of vegetative screening.*
- The distance of the proposed facility from the impacted resource or vicinity.*
- The presence of reasonable alternatives that allow the facility to function consistently with its purpose.*

Finding: The existing facility is located adjacent to a historic landmark (Astoria Column) and is highly visible from this historic park. The proposal to relocate the tower for better coverage and less impact to a historic structure has resulted in the selection of a new site that is also designated as historic. As part of the agreement with the City, the facility at the Column will be removed.

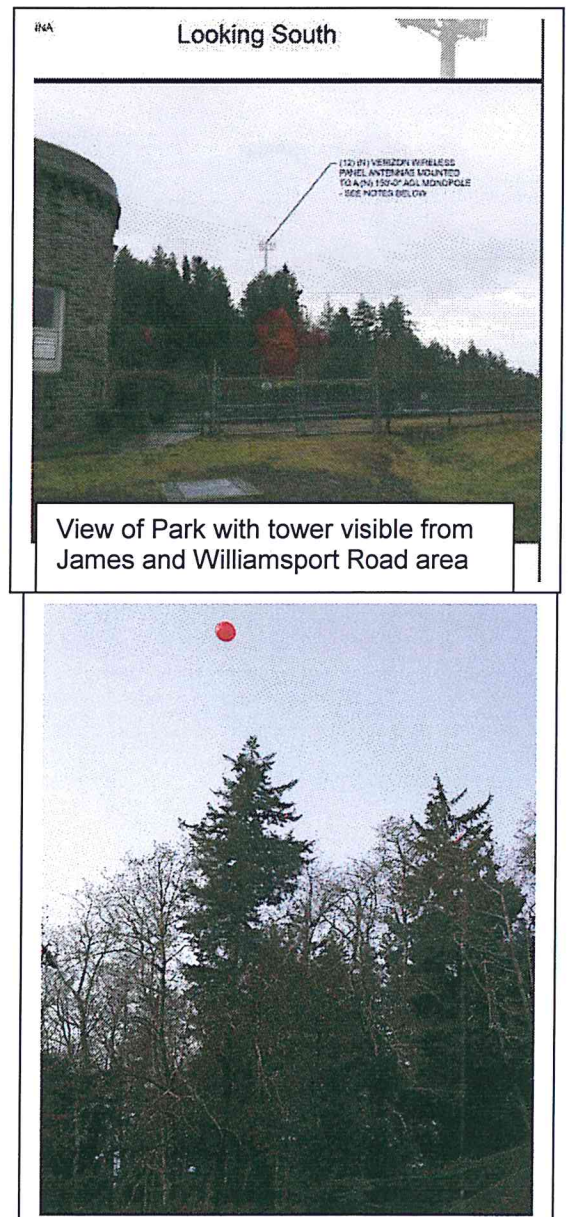


The location within Shively Park will be along the back road and not at the entrance to the Park. The facility was proposed to be screened from view by existing trees and the installation of new landscaping and fencing. It will sit below the level of the upper picnic area of the Park. Photo simulations were submitted and the APC based their decisions on the photo simulations presented by the applicant as being accurate.





The 150' high monopole would be located within the tree area on the western edge of the park and not in direct alignment of the picnic area view corridor. The location is within a designated historic and park area, approximately 500' from Shively Hall and approximately 175' from the picnic area. It would not be visible from Shively Hall, however, it would be visible from the road/pathway around the park and partially from the picnic area. Deciduous trees in this area range up to 120' tall and firs up to 145' tall. The dense vegetation of trees and its location on the back corner of the park was intended to reduce the visual impact to a minimum. The tower would be located on the edge of the roadway and there would be minimal vegetation in front of the tower. However, the revised photo simulations indicate that the tower will extend above the adjacent tree line. The Council found that the revised photo simulations did not fully show the visual impact of the tower height. A staff photo during the balloon test by the photo simulation firm indicates the height of the tower in the immediate area.



As indicated in the revised photo simulations provided by the applicant, the tower will be visible from various locations around the City and will be visible from some areas within the Park. The historic site is approximately 12 acres and includes a meeting hall, playground equipment, picnic area, and trails. The primary use of the Park is for passive recreation in quiet, natural surroundings. The proposed tower location and height would allow the facility to be visible from several view points and vistas of the Park and from a regularly used portion of the Park trail system, and would be out of character with the natural setting of the Park. Therefore, the facility would have a significant impact on the natural and historic qualities of the Park. The precious, protected environment of the Park would not be preserved with the intrusion of the tower, noise from the equipment building, and increased vehicular traffic caused by the maintenance of the tower equipment.

- O. Section 15.065.B.3, Use of Concealment Technology, states that *“all Wireless Communication Service Facilities shall utilize concealment technology so as to blend in with the surrounding natural and human-made environment in such a manner so as to be either reasonably difficult for the naked eye to detect or observe, or made part of the feature enclosing it. To this end, Wireless Communication Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors, vegetative, structural or topographic screening.”*

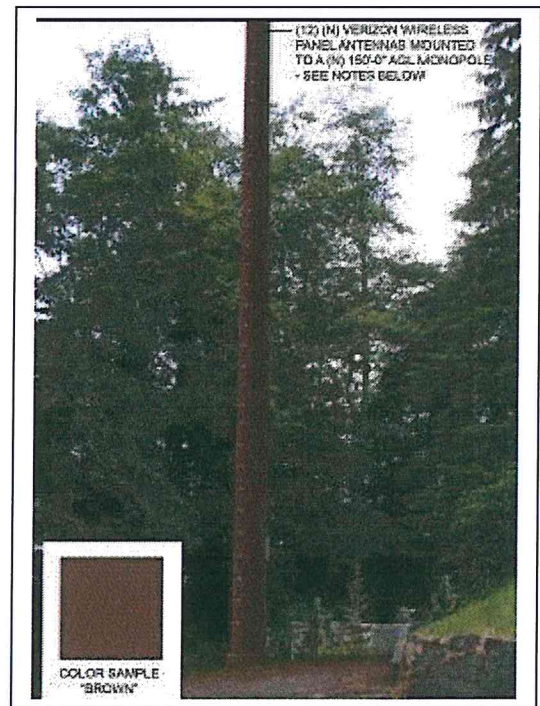
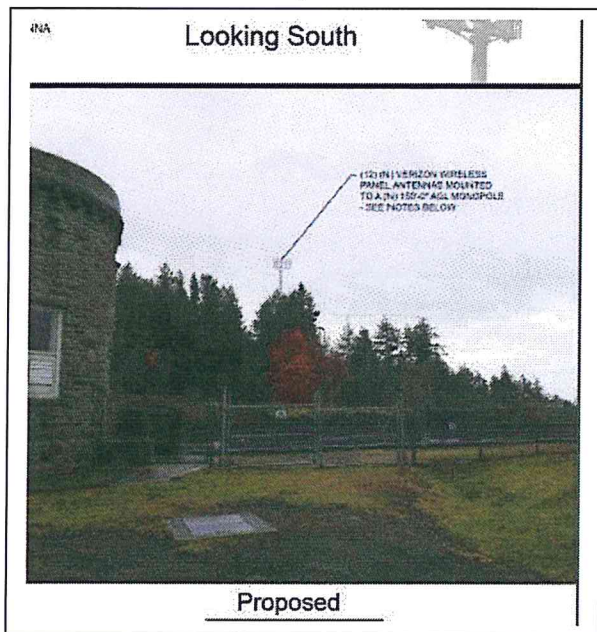
Development Code Section 15.025, Definitions, states *“CAMOUFLAGE: A way of painting and mounting an antenna and antenna support structure, resulting in the antenna and antenna support structure being reasonably difficult for the naked eye to detect or observe.”*

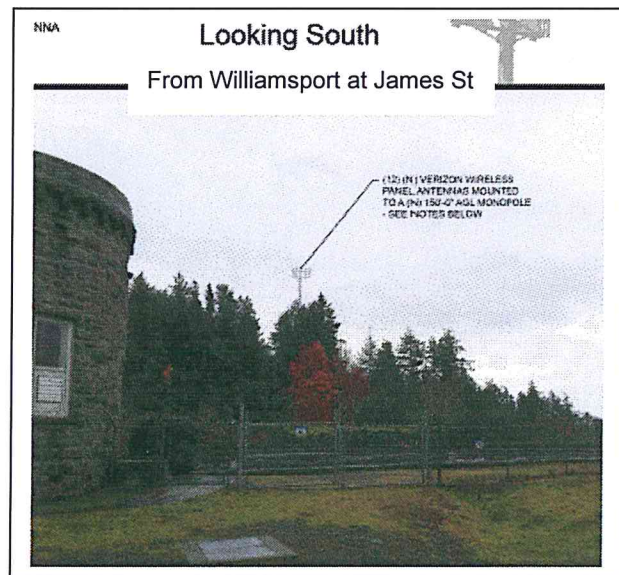
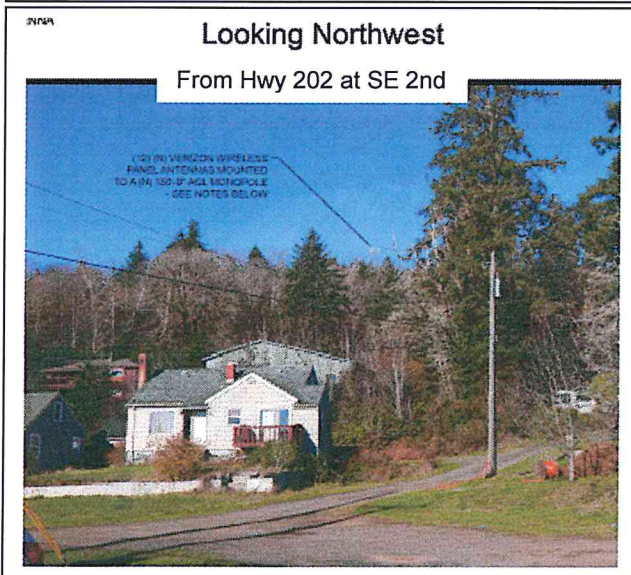
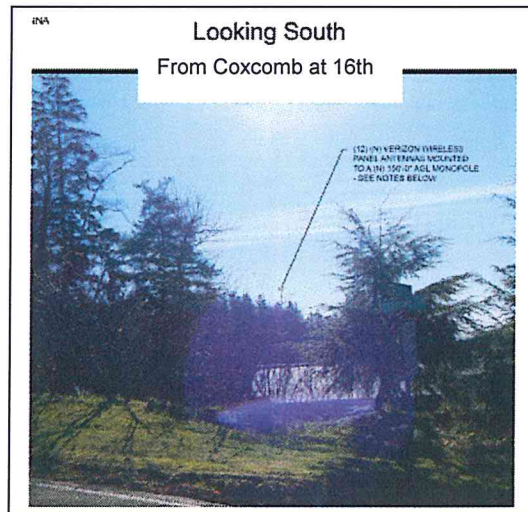
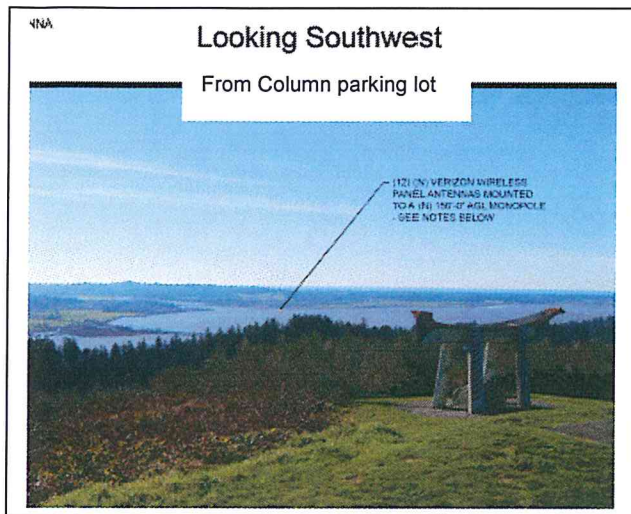
Finding: The method of concealment in this case is the use of the existing forest which would partially hide the facility. Additional landscaping was proposed to be installed around the equipment building which would have a slatted chain link fence proposed to be painted green. The pole is proposed to be painted dark brown on the lower portion and grey on the top portion to blend into the background vegetation and sky. However, the tower would still be visible to the naked eye in the immediate area of the tower and from several key vistas of the Park from around the City. The use of color and the limited vegetation immediately around the tower is not sufficient to conceal the tower from view in this natural Park setting.

It was noted at the APC meeting that the proposed facility would be visible but would not be in direct line with the picnic area pathway. The photo simulations from other areas indicated that the facility would not be highly visible from other than the immediate area near the picnic site within Shively Park. The APC based their decisions on the photo simulations presented by the applicant at that time. On Page 3, Item 3 Clutter, Section III Site Selection and Design, the applicant states that *the “. . . antennas must clear the clutter in the area. . .*

Therefore, antennas must be installed above or close to the clutter in order to provide high quality communications services. . .” However, while the height of the tower has not changed, the photo simulations viewed by the APC were incorrect due to an error on the part of the independent company hired to do the photo simulations. The applicant has supplied revised photo simulations that show a greater visual impact than the one approved by the APC.

In addition, the Parks and Recreation Board also reviewed the original photo simulations that did not accurately depict the visual impact of the tower. With the revised tree survey dated December 10, 2015, the applicant has indicated that there are trees up to 145’ tall that would impact the service and therefore the tower height is required to be 150’ tall. The applicant has verified the height indicated in the photo simulations dated January 27, 2015 and November 3, 2015, and has submitted revised simulations dated December 23, 2015 and elevation drawings dated October 12, 2015 that show the tower above the top of surrounding trees which are lower than the tower. The applicant has submitted photo simulations as viewed from other areas around the City. The tower would be visible from several other areas that provide views of the historic forested Park. The revised photo simulation of the tower at the immediate site still does not depict the full extent of the tower’s height and the visual impact of the tower.





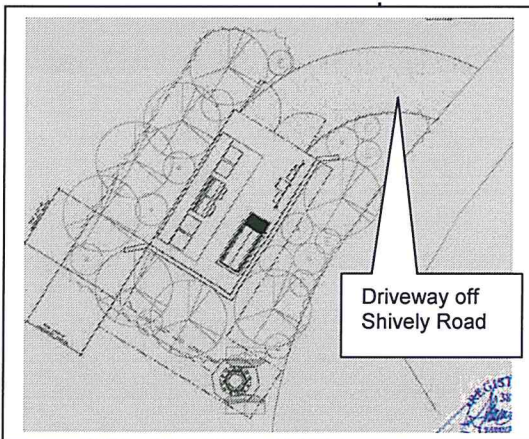
The Development Code does not require that there be no adverse impact. The Code identifies criteria that the APC needs to review when making a decision as to whether it is "substantially injurious to the neighborhood". The APC considered and weighed the Development Code standard criteria for a Variance and WCF variance criteria from height of a WCF. It concluded that there would not be a "substantial injury" to the neighborhood and that the tower would be generally concealed from view from most of the area. However, while the height of the tower has not changed, the photo simulations viewed by the APC were incorrect due to an error on the part of the independent company hired to do the photo simulations.

The impacts related to New Construction (NC15-03) adjacent to the historic designated site were reviewed separately by the Historic Landmarks Commission. The HLC approved the request on September 15, 2015. The New Construction permit was appealed and the City Council tentatively denied the permit and upheld the appeal pending adoption of revised Findings of Fact.

The tower has not been “. . . camouflaged to the greatest extent possible. . .” and is visible to the naked eye. This criteria is not met.

- P. Section 15.065.B.4, Access Driveways and Parking, states that *“all access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the Astoria Development Code and Astoria City Code.”*
- Existing driveways shall be used for access whenever possible.*
 - New parking areas shall, whenever feasible, be shared with subsequent Wireless Communication Service Facilities and/or other permitted uses.”*

Finding: A short driveway from Shively Road to the lower portion of the equipment enclosure would be constructed. No additional roads or parking



- Q. Section 15.065.B.5, Color and Material states:

- All buildings, poles, antenna support structures, antennas, antenna arrays, and other associated components of each Wireless Communication Facility site shall be initially coated and thereafter recoated as necessary with a non-reflective neutral color in muted tones.*
- The color selected shall be one that will minimize visibility of the WCF to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees, or grasslands shall be coated with colors matching those landscapes, while elements which rise above the horizon shall be coated a color that matches the typical overcast sky (i.e. white, light gray, etc.) or background color at that location.*
- The color and coating shall be reviewed and approved by the Community Development Director or Astoria Planning Commission.*
- Upon a clear showing by the applicant that compliance with the requirements of this section would void a manufacturer's warranty on any specific equipment, or that natural aging of the material would provide greater concealment, the Community Development Director or Astoria Planning Commission may waive the requirements of this section for such specifically identified equipment.”*

Finding: The facility is proposed to be non-reflective, earth tone color. The equipment enclosure will be behind a 6' tall chain link fence with dark green slats. The tower is proposed to be powder coated dark brown on the bottom and grey on the top to blend with the background vegetation and sky.

- R. Section 15.065.B.6, Height, states that *"in addition to the maximum structure height requirements of each Zone, Wireless Communication Service Facilities shall comply with the following height requirements:*
- a. *WCF shall comply with the height limit of the underlying zone, unless a variance to the height limit of the underlying zone is approved.*
 - b. *If there is not a height limit in the underlying zone, the maximum height of a ground-mounted facility, including a monopole, shall be 45'.*
 - c. *In reviewing Variance requests to the above described height limits, the following shall be considered:*
 - 1) *The proposed structure and facility uses concealment technology; and*
 - 2) *It is demonstrated that a greater height is required to provide the necessary service.*
 - d. *Building or other structure-mounted Wireless Communication Service Facilities shall not project more than ten (10) additional feet above the highest point on the existing building or structure and shall not project higher than the height requirements of the underlying zone, unless a variance to the height limit of the underlying zone is approved.*
 - e. *WCF shall not penetrate imaginary surfaces around the Astoria Airport as defined by the Oregon Department of Aviation, unless a waiver is granted pursuant to Oregon Revised Statutes."*

Section 2.855, Height of Structures in the IN Zone, states that *"No structure will exceed a height of 45 feet above grade."*

Finding: The facility is proposed to be 150' to meet the coverage needs of Verizon for the south area of Astoria. A Variance is required. The proposal has been reviewed and approved by FAA and OR Department of Aviation. The applicant has submitted a Variance application for the additional height which was approved by the APC at their September 16, 2015 meeting based on the inaccurate photo simulations submitted by the applicant. The Variance permit (V15-03) was appealed and the City Council tentatively denied the permit and upheld the appeal at their January 19, 2016 meeting pending adoption of new Findings of Fact.

- S. Section 15.065.B.7, Landscape and Screening, states that *"all Wireless Communication Service Facility sites shall be improved with existing native vegetation, suitable landscaping and/or fencing installed to screen the facility, where necessary. To this end, all of the following requirements shall be implemented for all Wireless Communication Service Facilities which are installed on antenna support structures:*

- a. *Landscape plan, meeting the requirements of Development Code Sections 3.105 to 3.120, shall be submitted as part of the application.*
- b. *Any proposed or required fenced area is to be surrounded, where feasible, by a landscaped strip of sufficient width and height to create a visual screen.*
- c. *Planted vegetation shall be of the evergreen variety.*
- d. *The landscape plan shall be subject to review and approval of the Community Development Director or Astoria Planning Commission.*
- e. *The fence shall be a maximum of six (6) feet in height.*
- f. *The fenced area is to be surrounded by evergreen shrubs (or similar type of evergreen landscaping). Required landscaping shall be located outside of the fenced area.*
- g. *The fence shall, where feasible, be installed and maintained around the entire perimeter of the site and surround the WCF and the equipment shelter.*
- h. *If the Community Development Director determines that a fence surrounding antenna support structures located in a public right-of-way or adjacent to existing structures is not feasible, such structures may be exempted from the fencing requirements of this Section.*
- i. *Chain link fences shall be painted or coated with a non-reflective color.*
- j. *Electric, barbed wire, and concertina wire fences are prohibited."*

Finding: The proposed location is within the Shively Park forested area with some mature natural screening. The applicant has submitted a landscape plan indicating additional landscaping to screen the site. A chain link fence will enclose the facility and will be a non-reflective dark green color.

landscaping between the tower and the road.

T. Section 15.065.B.8, Lighting, states:

- “a. A Wireless Communication Service Facility shall only be illuminated as necessary to comply with FAA or other applicable State and Federal requirements. Documentation from such State and Federal agencies describing required compliance measures is required.*
- b. Exterior lighting shall not glare onto adjacent properties.*
- c. Strobe lights are prohibited.*

Finding: FAA and ODA lighting requirements will need to be installed. The applicant shall keep tower lighting to the minimum required. No strobe lights are proposed and shall not be installed. The equipment building will have downcast maintenance lighting on a timer. Light shall not glare into the Park picnic area and shall be kept to a minimum.

U. Section 15.065.B.9, Setback, states:

- “a. Antenna support structures, excluding those utility poles and similar structures which are located within the right-of-way, and excluding equipment enclosures, shall be located no closer to a structure on the subject property, or from the property line of the subject property, than a distance equal to the total height of the structure measured from finished grade, or the distance of “worst-case scenarios”, as recommended in the FCC “A Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” Guidebook, dated June 2, 2000, whichever is greater. However, utility poles and similar structures which are located within the right-of-way, and equipment enclosures are subject to recommendations in the FCC “A Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” Guidebook, dated June 2, 2000.*
- b. All WCF equipment enclosures shall be set back from property lines according to the requirements of the Zone.*
- c. A setback requirement to a property line may be reduced, through Variance approval. A Variance to the setback requirement shall be in accordance with the requirements of Article 12, and the following additional criteria:*
 - 1) It shall be demonstrated that the location of the proposed facility will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.”*

Section 2.845, Yards in the IN Zone states *“The minimum yard requirements in an IN Zone will be as follows:*

- 1. The minimum front yard will be 20 feet.*

2. *The minimum side yard will be five (5) feet, except on corner lots, the side yard on the street side will be 15 feet.*
3. *The minimum rear yard will be 20 feet, except on corner lots, the rear yard will be five (5) feet.”*

Finding: The pole is not located adjacent to a right-of-way. Shively Park Road is a roadway within the Park and is not a dedicated right-of-way. The facility will be located within the larger Park boundary and will meet the required setbacks of the zone. The 150' tall pole will be approximately 90' from the north property line adjacent to County owned parcel to the north, and approximately 100' from the west property line adjacent to the Astoria School District property to the west. This property is undeveloped. A Variance is required from the 150' setback requirement. The applicant has submitted a Variance application for the additional height which was approved by the APC at their September 16, 2015 meeting based on the inaccurate photo simulations submitted by the applicant. The Variance permit (V15-03) was appealed and the City Council tentatively denied the permit and upheld the appeal at their January 19, 2016 meeting pending adoption of new Findings of Fact.

- V. Section 15.065.B.10, Signs, states that *“the use of any portion of a Wireless Communication Service Facility for signs other than warning or equipment information signs is prohibited. For emergency purposes, equipment information limited to the WCF provider(s) name and contact phone number shall appear at the facility in a discreet yet visible location, either on the equipment cabinet or supporting structure.”*

Finding: No new signs are proposed.

- W. Section 15.065.B.11, Storage, states:

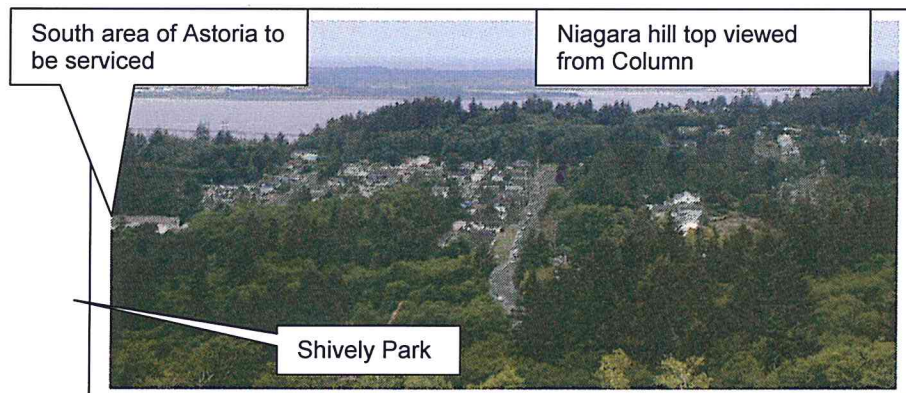
- a. *WCF storage facilities (i.e., vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be constructed of non-reflective materials (exterior surfaces only) and shall be placed underground where feasible or be sited (i.e., depressed, or located behind earth berms) to minimize their profile.*
- b. *WCF storage facilities shall be no taller than one story (15 feet) in height and shall be designed to look like a building or facility typically found in the surrounding area.*
- c. *On-premises storage of material or equipment shall not be allowed other than that which is necessary to the use, operation, and maintenance of the WCF.”*

Finding: No material or equipment is proposed to be stored on the site.

- X. Section 11.030.A, Basic Conditional Use Standards, states that *“Before a conditional use is approved, findings will be made that the use (except for housing development) will comply with the following standards:*

- "1. The use is appropriate at the proposed location. Several factors which should be considered in determining whether or not the use is appropriate include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites; and the desirability of other suitably zoned sites for the use."*

Finding: WCF locations require specific criteria to accommodate the technology. The site must be high enough to give the needed coverage to a large area and cannot have high, sight obscuring structures to interrupt the coverage line of sight. The applicant wants to increase the service to Astoria and specifically provide better service to the south area of the City. Coxcomb Hill and the Niagara Avenue hilltop are the only two locations that meet the technical needs of a WCF without the need for multiple intersecting locations. Due to the technical aspect of WCF industry, the City hired Converge Communications to assist with all negotiations and review of materials submitted by Verizon to help protect the City's best interest. The City worked with Converge Communications and Verizon to locate a suitable site to relocate the existing Coxcomb Hill facility. Several locations on Niagara Avenue hilltop were considered. However, after much analysis of the sites, it was determined that the Shively Park location provided the best coverage with the least visual impact to the community. Other possible locations on Niagara hilltop would have resulted in a 150' pole within a residential area with little natural vegetative screening and would not have provided the same level of service. The proposed location is within a City Park. The site is at the back western corner of the Park and visible from the immediate area and key vistas of the Park from around the City. The Council questioned whether there would be potential other locations within the County that could provide the needed coverage and found that sufficient analysis of other options was not apparent. The location is not appropriate.



- "2. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and*

disposal points, sidewalks, bike paths, or other transportation facilities. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements."

Finding: The site is secluded and accessible from Shively Park Road which is a gated roadway within the Park. The WCF will be unmanned with possibly one or two trips per month for maintenance purposes. With limited site visits, and the passive nature of the facility, the site does not pose any safety concerns with the propose WCF.

- "3. *The use will not overburden water and sewer facilities, storm drainage, fire and police protection, or other utilities."*

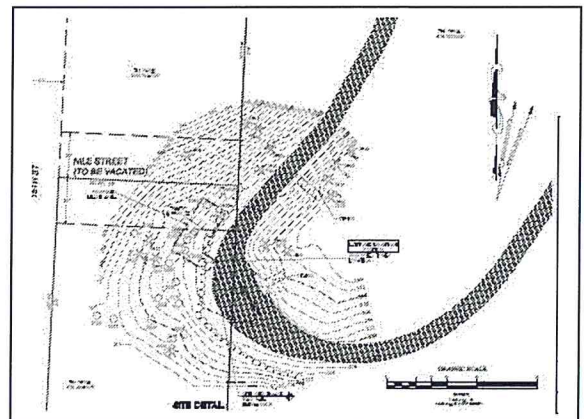
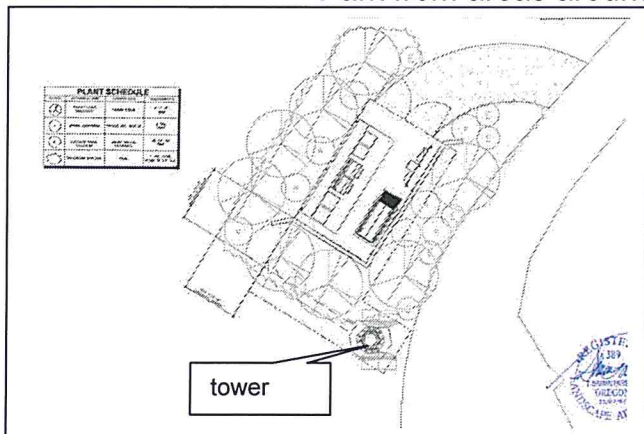
Finding: The facility will only need electricity and no other services. The power lines would be underground. The WCF will not overburden the services.

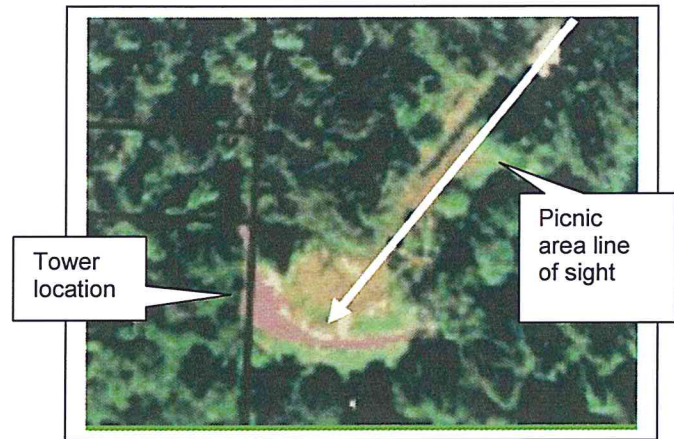
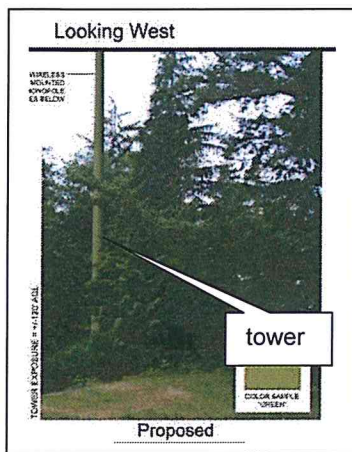
- "4. *The topography, soils, and other physical characteristics of the site are appropriate for the use. Where determined by the City Engineer, an engineering or geologic study by a qualified individual may be required prior to construction."*

Finding: The applicant has conducted engineering tests and core drillings on the site to verify that the site is capable of handling the facility. The site is not within 100' of a known geologic hazard area.

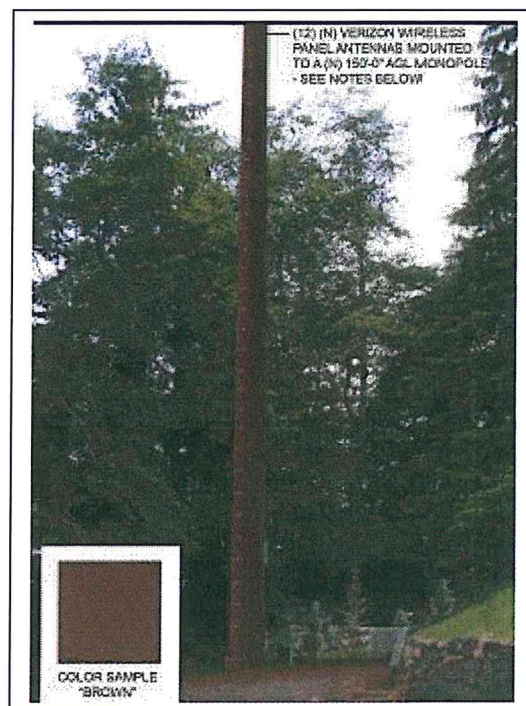
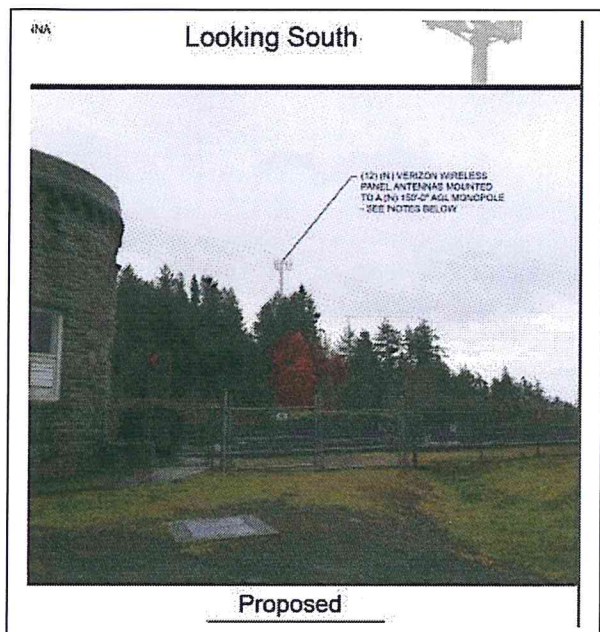
- "5. *The use contains an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses."*

Finding: The exiting trees and proposed landscaping will serve as some natural buffering of the facility. The property completely surrounding the site is forested. The closest adjacent use is the Shively Park picnic area and the tower will be located to the side and not in the direct line of sight of the picnic area. However, the height of the tower will extend above the top of the adjacent trees and would be visible from key vistas of the Park from areas around the City.

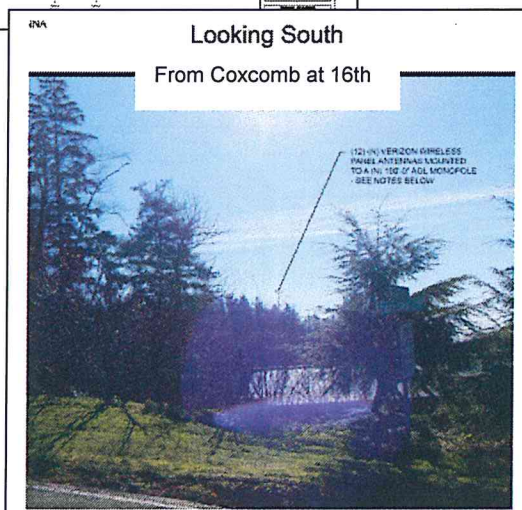
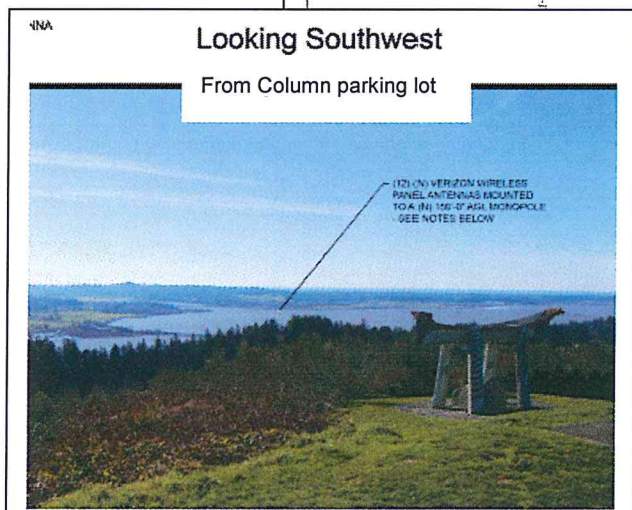
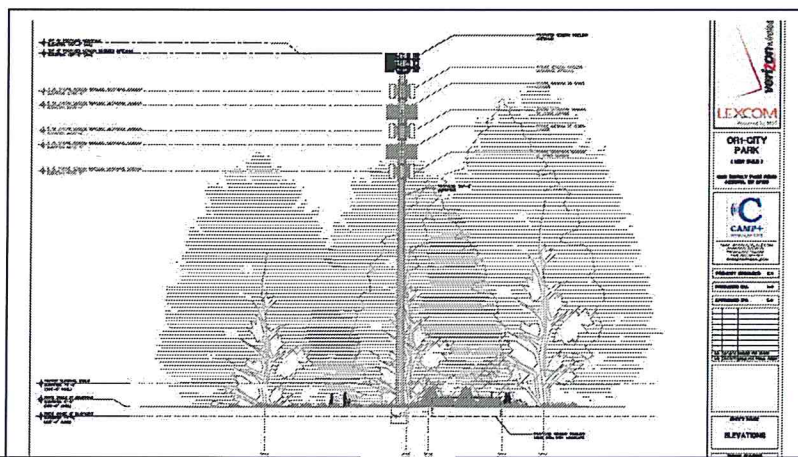


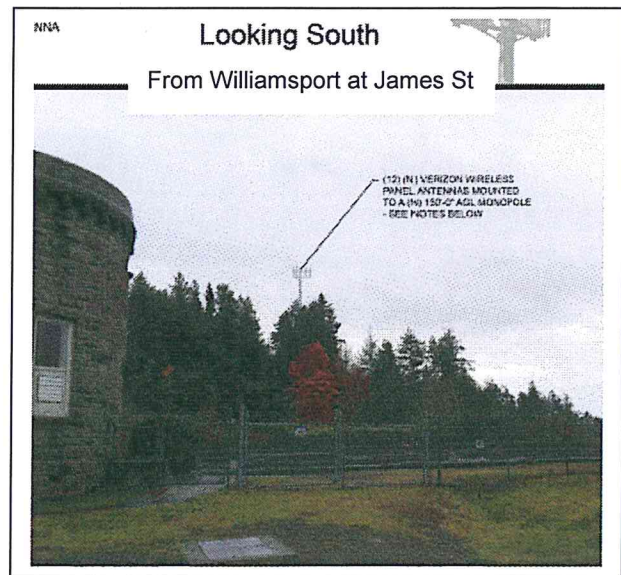
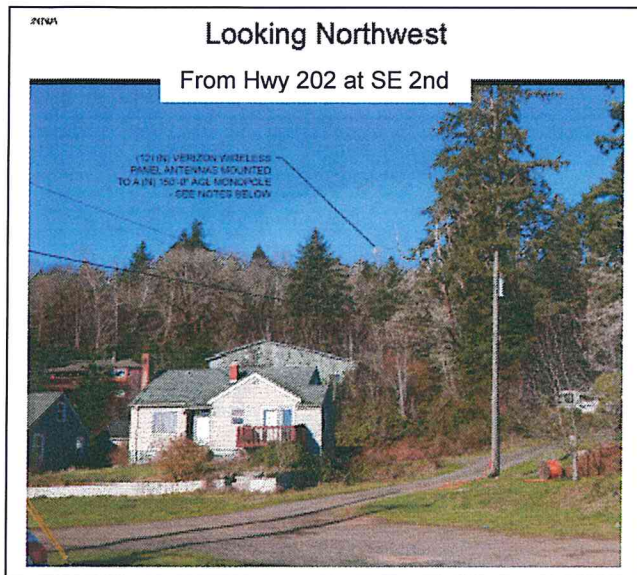


The tower would be highly visible in the immediate area of the tower and landscaping would not feasibly buffer it from view.



The revised photo simulations show a greater visual impact to Shively Park and from views of the Park from other key vantage points.





With the natural forest camouflage and the data on coverage of services, it appears that the 150' height is required to provide the needed services to Astoria. However the impact to the Park and key vistas around Astoria are significant.

Exhibit 2 – OR1 City Park without Coverage
(Inclusive of removal of Astoria HD site near the Column)

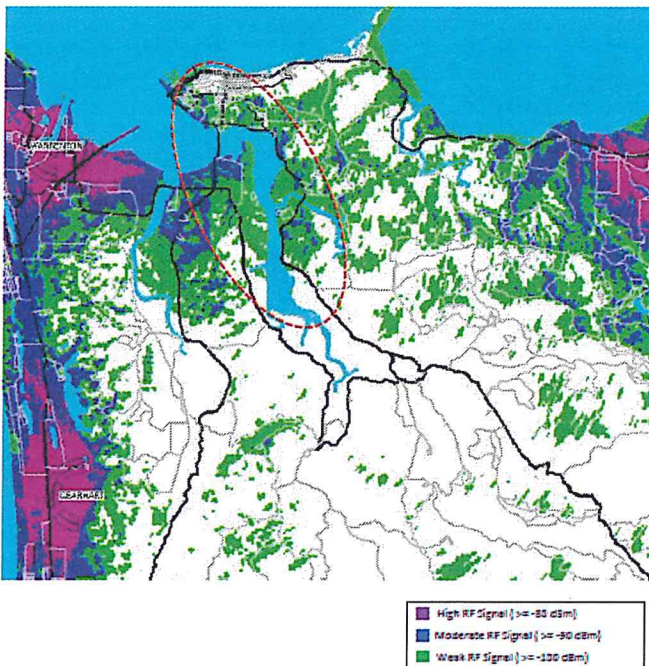
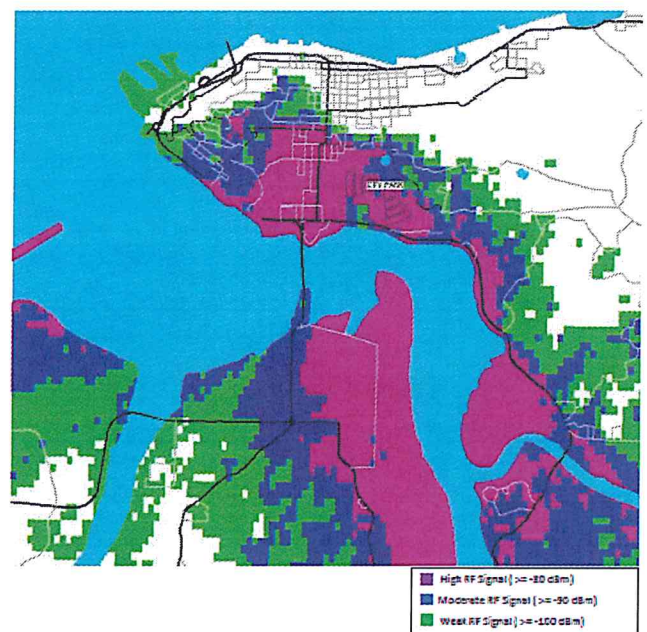


Exhibit 4 – OR1 City Park Coverage Only
(close up view)



The Development Code does not require that there be no adverse impact. The Code identifies criteria that the APC needs to review when making a decision as to whether it is “substantially injurious to the neighborhood”. The APC

considered and weighed the Development Code standard criteria for a Variance and WCF variance criteria from height of a WCF. It concluded that there would not be a "substantial injury" to the neighborhood and that the tower would be generally concealed from view from most of the area. However, while the height of the tower has not changed, the photo simulations viewed by the APC were incorrect due to an error on the part of the independent company hired to do the photo simulations. The applicant has supplied revised photo simulations that show a greater visual impact than the one approved by the APC. The APC also concluded that providing cellular coverage to the south portion of Astoria was a factor requiring the additional height. The tower would be visible from the neighborhood and surrounding areas and would also be visible from the immediate area within Shively Park and a few other key locations around the City that provide views of the Park. The applicant has provided new calculations of the adjacent tree heights and new photo simulations that show the various visual impacts.

V. CONCLUSION

The City Council concludes that the decision of the Astoria Planning Commission relied largely upon incomplete and inaccurate information provided by the applicant.

Based on the Findings of Fact and conclusions noted above, the City of Astoria finds that the applicant has not satisfied its burden of proof for siting a WCF in an historic park, grants the appeal, and denies the application.

ATTACHMENTS

WIRELESS COMMUNICATIONS FACILITY 1580 SHIVELY PARK ROAD

**WCF15-03
V15-03
NC15-03**

Application, 8-4-15
Statement of Compliance for Proposed Wireless Facility, 7-20-15
FCC License
Non-Ionizing Electromagnetic (NEIR) Report, January 2015
Architectural Drawings
RF Propagation Maps
Location Map of All Sites
Photo Simulations
Federal Aviation Administration Determination, 1-15-15
Oregon Department of Aviation Determination, 3-4-15
Oregon Department of Aviation Letter, 8-26-15
State Historic Preservation Office Section 106 NEPA Review Determination, 2-24-15
Email from Lexcom on site selection, 7-13-15

ATTACHMENTS SUBMITTED FOR APPEAL HEARING ON 1-19-16

Hathaway Kobak Connors Letter 12-30-15
Hathaway Kobak Connors Letter 11-9-15
Duncanson Company Inc. letter 12-28-15
Survey 12-31-15
Verizon Wireless Letter 12-30-15
Verizon Wireless RF Propagation Maps 12-31-15
Camp+ Associates Letter 12-23-15
Centerline Solutions Letter 12-31-15
Photo Simulations 12-23-15



CITY OF ASTORIA
POLICE DEPARTMENT

January 25, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: LOCAL OPTION TAX - MARIJUANA RETAILERS

DISCUSSION/ANALYSIS

Under House Bill 3400, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses. This tax must be imposed by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year. There is no provision in law for taxing medical sales.

As with any revenue raising measure, it's important that the budget committee approve any proposed taxes as part of its approval of the budget. See the Department of Revenue "Tax Election Ballot Measures" manual for more information.

In anticipation of this matter being brought to City Council to consider referring the matter to the voters, Police Chief Johnston visited with the four existing medical marijuana retailers who have all "opted in" for recreational sales. All of the retailers were very open to the conversation. Some relevant points to the conversation included:

- Three of the four existing businesses plan on converting to recreational outlets. The fourth has plans to remain a medical outlet but will be opening an additional outlet that is a recreational outlet.
- Three of the four existing businesses were very supportive of the City pursuing the tax. The fourth was supportive after a discussion on the state tax plan. They initially believed that this three percent would be on top of the existing 25 percent being levied by the state. Once they learned that the tax would be imposed only on the licensed recreational facility that will have a state tax rate of seventeen percent and not in addition to the higher "opt in" tax of twenty five percent they were supportive.
- Based on verbal estimates of what the businesses have seen for recreational sales since the October "opt in" sales began revenue is estimated to be in the neighborhood of \$100,000 annually.

Revenue estimates are very rough. Given the early sales this is a conservative number; however, what the sales will look like over time is difficult to gauge. The opt in law only allowed sales of flower and not extracts or other marijuana related products. The retail price of edibles and other extracts is more expensive than that of flowers. How the availability of these products in the market shapes the sales is unknown. Additionally, it is unknown what tourism opportunities are available to this market. Several of the current owners have plans to market toward the tourist economy. They also see several other markets available that will require legislative change.

One concern that we tried to address is a concern that high tax will move people back to the black market. All four of the current retailers in Astoria do not believe they are competing on price with the black market. They instead are offering a variety, safety, and surety that the black market cannot. None thought that the tax would move people back to the black market.

To refer the matter to the voters, Council would hold a first reading and second reading of the ordinance at separate meetings then adopt the ordinance by a roll call. After adopting the ordinance Council would adopt the resolution. This adoption will set the ballot title. The ballot title will be published in the "newspaper of general circulation in the city." After a period of review, if no objection to the ballot title is filed the matter will be filed with the County Elections Official.

RECOMMENDATION

It is recommended that Council consider holding a first reading of the proposed ordinance to refer a 3 percent local option tax to the November 8, 2016 ballot.

A handwritten signature in dark ink, appearing to read 'Brad Johnston', with a horizontal line extending to the right.

Brad Johnston
Chief of Police
Assistant City Manager

ORDINANCE NO. 16-_____

AN ORDINANCE OF THE CITY OF ASTORIA IMPOSING A THREE PERCENT TAX
ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND
REFERRING ORDINANCE

WHEREAS, Section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

WHEREAS, the Astoria City Council wants to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City.

NOW THEREFORE, THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Definitions.

- (1) "Marijuana Item" has the meaning given that term in Oregon Laws 2015, Chapter 614, Section 1.
- (2) "Marijuana Retailer" means a person who sells marijuana items to a consumer in this state.
- (3) "Retail Sale Price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

Section 2. Tax Imposed. As described in section 34a of House Bill 3400 (2015), the City of Astoria hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

Section 3. Collection. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

Section 4. Referral. This ordinance shall be referred to the electors of Astoria at the next statewide general election on Tuesday, November 8, 2016.

Section 5. Effective Date. This ordinance will be effective 30 days following the date of its passage by the City Council.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2016.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2016.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA

NAY

ABSENT

Councilor Nemlowill

Herzig

Price

Warr

Mayor LaMear

RESOLUTION NO. 16-_____

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF ASTORIA THE QUESTION OF IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY

WHEREAS, Section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

WHEREAS, the City of Astoria City Council adopted Ordinance No. 16-_____, which imposes a tax of three percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Measure. A measure election is hereby called for the purpose of submitting to the electors of the city of Astoria a measure imposing a three percent tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.

Section 2. Election Conducted by Mail. The measure election shall be held in the City of Astoria on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Clatsop County, according to the procedures adopted by the Oregon Secretary of State.

Section 3. Delegation. The City of Astoria authorizes the City Manager, or the City Manager's designee, to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

Section 4. Preparation of Ballot Title. The ballot title for the measure set forth as Exhibit 1 to this resolution is hereby adopted.

Section 5. Notice of Ballot Title and Right to Appeal. Upon receiving the ballot title for this measure, the Finance Director shall publish in the next available edition of a newspaper of general circulation in the City a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

Section 6. Explanatory Statement. The explanatory statement for the measure, which is attached hereto as "Exhibit 2," and incorporated herein by reference, is hereby approved.

Section 7. Filing with County Elections Office. The Finance Director shall deliver the Notice of Measure Election to the County Clerk for Clatsop County for inclusion on the ballot for the Tuesday November 8, 2016 election.

Section 8. Effective Date. This resolution is effective immediately upon its enactment by the City Council.

ADOPTED BY THE CITY COUNCIL THIS ____ DAY OF _____, 2016.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2016.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA

NAY

ABSENT

Councilor

Nemlowill

Herzig

Price

Warr

Mayor LaMear

Exhibit 1

BALLOT TITLE

Imposes city tax on marijuana retailer's sale of marijuana items

QUESTION

Shall City of Astoria impose a three percent tax on the sale in the City of Astoria of marijuana items by a marijuana retailer?

DRAFT

SUMMARY

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer.

Approval of this measure would impose a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

DRAFT

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

500 word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would impose a three percent tax on the sale of marijuana items by a marijuana retailer within the city. If approved, the revenues from this tax are estimated to be \$100,000. There are no restrictions on how the city may use the revenues generated by this tax.

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of Astoria city council has adopted an ordinance imposing a three percent tax on the sale of marijuana items by a retail licensee in the city, and, as a result, has referred this measure to the voters.