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# AGENDA

## ASTORIA PLANNING COMMISSION

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March 27, 2018  
6:30 p.m.  
2<sup>nd</sup> Floor Council Chambers  
1095 Duane Street • Astoria OR 97103

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
  - a. February 27, 2018 Minutes.
4. PUBLIC HEARINGS
5.
  - a. Conditional Use CU18-01 by Karen and Steve Allen to allow outside eating and drinking establishments on docks and other parts of the private property at 80 11<sup>th</sup> St in the A-2 Aquatic Two Development zone.
  - b. Amendment to Existing Permit AEP 18-01 by Karen and Steve Allen to amend Conditional Use Permit Order CU 09-04 to allow outdoor eating and drinking on private property around 77 11th St in the A-2 Aquatic Two Development zone.
  - c. Amendment A17-03 by Kevin Cronin to change the zone from S-1 Marine Industrial to S-2 General Shorelands development zone at 3738 Lief Erikson Drive in the S-1, Marine Industrial Shorelands Development Zone.
  - d. Variance 17-05 by Cathy Frizelle Smith for a parking variance from two spaces for single family dwelling and one additional space for accessory dwelling unit at 956 Irving Ave in the R-3, High Density Residential zone.
6. REPORT OF OFFICERS
7. WORK SESSION
8. STAFF UPDATES
9. MISC
10. PUBLIC COMMENTS – NON AGENDA ITEMS
11. ADJOURNMENT

**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 COMMUNITY DEVELOPMENT DEPARTMENT, 503-338-5183.**

## **ASTORIA PLANNING COMMISSION MEETING**

Astoria City Hall  
February 27, 2018

### CALL TO ORDER:

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

### ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Vice President Kent Easom, Jennifer Cameron-Lattek, Daryl Moore, Jan Mitchell, Joan Herman, and Brookley Henri.

Staff Present: Planners Mike Morgan. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

### APPROVAL OF MINUTES:

President Fitzpatrick confirmed that the minutes of the January 24, 2018 meeting were not available.

### PUBLIC HEARINGS:

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

### ITEM 4(a):

V17-04 Variance Request (V17-04) by Dr. Ted Forcum to apply the Development Code "Modification of Parking Space Requirements" for Cannery Loft Condominium Building A for the required potential 18 off-street parking spaces to provide 11 spaces on-site and 7 spaces within the right-of-way for potential future and existing uses within the ground floor units, and for a partial reduction in the number of spaces required for the existing personal service establishment/spa from the required one space per client chair/table. The request is also to apply the "Modification of Parking Space Requirements" for Cannery Loft Condominium Building B for the required potential 18 off-street parking spaces to provide 13 spaces on-site and 5 spaces within the right-of-way for potential future and existing uses within the ground floor units. The buildings are located in the S-2A Zone.

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

Planner Morgan reviewed the written Staff report. Staff recommended approval of the request with the conditions listed in the Staff report.

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

Ted Forcum, 10139 NW Skyline Heights Drive, Portland, stated he owned the two properties on Abbey Lane. He started the application process over 18 months ago, so this had been a long and expensive process. The Google maps displayed on the screen show plenty of parking is available at Cannery Lofts. He believed the image was recent based on the colors in the image. Over the last four years, he completed studies on what the parking occupancy had been, which averaged just below 25 percent. He did not see any reason that this would change. The residential units are fully owned and the commercial units are 65 percent occupied. Thirty-five percent of the spaces have been vacant since 2007 and many of the spaces he cannot lease because of available parking. When the complex was rezoned from General Industrial to S2-A, he because the process of trying to create more favorable businesses in a mixed-use complex. Fish processing would not be an ideal neighbor to those living close by or above. He did not fully understand the City's parking limitations at the time of the rezoning. He had misinterpreted the City's calculations on how parking was stated. Most S2-A businesses use more space

than general industrial businesses. A year and half ago, he built an office with the intention of moving to Astoria to open a practice. However, he had not been able to do so since there was not enough parking. In the interim, he had taken another job, but still hoped to have a practice in Astoria. He has lived on the coast for about 17 years and would like to settle in Astoria. As a result of the parking issues, he has had to turn away businesses that would have been great assets to the city, including a company associated with the Food Channel that would have brought a lot of media to Astoria. He hoped the Commission would approve the variance. He could work with the conditions recommended by Staff. He is co-owner of a mini-storage business that offers bike parking in storage units at Buildings A and B, so, the condition to provide long-term bike parking had already been met. He had previously discussed the difficulties of providing street side bike parking with Staff. The homeowner's association (HOA) denied his request to put City bike parking on site, so he proposed street side bike parking. He hoped he could work with the HOA to come up with a better solution for bike parking. His job on the Joint Commission for Sports Medicine is to work with city planning to make communities healthier, so, he was a big proponent of biking. He had demonstrated that ADA parking was available and sufficient. He and the HOA moved the ADA parking to a more amenable location for accessibility to all units, commercial, and residential.

Commissioner Herman confirmed that the available parking was not zoned for use by the commercial spaces, which limited Dr. Forcum's ability to fill additional commercial spaces.

Dr. Forcum added that his three-year parking study showed that on average about 75 percent of the spaces were available. Some spaces are allocated for commercial use and some are allocated for residential use. Additional spaces in the interior of the parking lot go beyond those requirements, so he was just asking for a variance on the street side parking.

Commissioner Herman asked if there was any competition between the commercial and residential parking spots.

Dr. Forcum explained that after the rezoning, commercial parking was moved from the covered parking area to the uncovered area with the exception of five spaces that were reserved as part of contracts signed when the zoning was General Industrial. Everything else is open parking. There is no reserved parking for the residential units. The complex has a total of 104 parking spaces.

President Fitzpatrick called for any testimony in favor of the application.

Kevin Cronin, Astoria, said Dr. Forcum was his client. The application was submitted prior to his involvement with Dr. Forcum, but he could answer questions about the project. He and Dr. Forcum met with Planning Consultant Rosemary Johnson last week, just before the Staff report was published, to make sure some of the conditions were clarified and agreed upon. Everyone involved has agreed to make the complex a better resource for the community.

Leslie Moorehead 3990 Abbey Lane, Unit 406B, Astoria, Cannery Loft HOA Board Member, stated she was not speaking on behalf of the loft owners, HOA members, or board members. Her specific concerns were as follows:

- The application states the variance was for the tax lots that make up the entire community. However, the Staff report identifies specifically which tax lots are owned by Dr. Forcum, which are the tax lots for the ground floor of the buildings.
- The application states the property owner is the same as the applicant, Dr. Forcum. However, the HOA owns the property. She asked that the application be corrected before being entered into the public record.
- Page 1 of the Staff report lists the wrong address for Cannery Loft Partners LLC. She confirmed the address was obtained from the tax assessor's office. The property management company would provide Staff with the current legal address for the HOA.
- Page 3 of the Staff report contained the gross ground floor area for each building, which included restrooms. However, last fall Dr. Forcum told the HOA that the restrooms were common elements that did not have a direct relationship to the commercial units. The HOA had reserved the ground floor restrooms for commercial use only until last fall. They are now available to commercial and residential users.
  - She did not object to the request for additional on-street parking and did not know how a change in calculating the floor area could impact the number of parking spaces required.
- The first Finding on Page 8 of the Staff report states Buildings A and B are proposing different things. When the HOA refers to a specific building, they are referring to the entire residential portion of the building. She

believed this was what the Staff report was trying to say. However, only the owner of the commercial spaces in each building is requesting a certain number of parking spaces.

- The HOA would like to work with Dr. Forcum to make his proposal a good one. The HOA supports his interest in filling the remaining commercial spaces. They would like the spaces filled with good paying tenants and customers. They would like the spaces lighted to prevent safety issues. However, the HOA would need to work with Dr. Forcum on the City's requirements. She wanted to know exactly what the City expects of the HOA. She understood the ADA parking issues had been resolved. She understood the City was requiring the HOA to review a proposal for the bike parking requirements, and then present the proposal to the Planning Commission.

Planner Morgan clarified that since the HOA denied Dr. Forcum's request for on-site bike parking, Staff would allow bike parking in the rights-of-way, either on the sidewalk or in the landscaping along 39<sup>th</sup> or Abbey Lane. It would be best if Dr. Forcum and the HOA could come to an agreement to allow bike parking in the parking lot.

Ms. Moorehead responded that was a possibility. The HOA discussed bike parking late last year, but in a different context. It is not a true statement to say the HOA turned down Dr. Forcum's request. She believed an agreement could be worked out. She believed on site bike parking would have to be made available to both commercial and residential uses. She did not understand what the City was asking the HOA to do about landscaping, which was mentioned a few times in the Staff report. The loft's two-year construction project was complete, so they are now working on landscaping on the north side of the property. Landscaping would also be done on the south side and in the cul-de-sac area. She hoped the City would let the HOA know if there were any landscaping requirements, whether in connection with the variance request or other requirements. She wanted the residential owners to be assured that residential parking would not be taken from them. The residential units are allocated at least 85 parking spaces. This allocation has existed from the beginning and has never changed, even when the zoning changed. The residential parking spaces are not marked or reserved; they are first come first served. The complex has a lot of available parking, so she did not understand the argument for a variance. Dr. Forcum is requesting an additional 12 to 18 spaces on the street, even though people were not likely to park on the street. People are welcome to park anywhere on the property and were likely to park close to Dr. Forcum's units. Eventually, the buildings might have a much heavier residential use, but the buildings are nowhere near full capacity. She hoped the argument that there is a lot of available parking would not be considered for this variance request. However, she favored the application.

Sunil Raju Attorney, Campbell and Popkin, 1580 N Roosevelt Dr, Seaside, stated he was speaking on behalf of his client, Mary French-Peterson who owned Water's Edge Spa in Suites 102 and 103 of Building A at Cannery Loft. Ms. French-Peterson and her son co-signed the lease in 2016 and built the spaces for the business. Ms. French-Peterson invested \$65,000 out of her retirement to build space, but she did not realize the parking restrictions would only allow her to use half of the space. He asked the Planning Commission to consider the needs of the businesses. Ms. French-Peterson's business would benefit from some flexibility. The spa is not open in the evenings, so customers would not compete with residents for parking. He believed the variance would be complimentary between the businesses and the residences.

President Fitzpatrick called for any testimony impartial to the application. There were none. He called for any testimony in opposed to the application.

Lois Dupet, P.O. Box 1282, Astoria, said she urged the Planning Commission and City Council to adopt a standard that requires applicants to provide 100 percent parking. Astoria has a big parking problem that would only get worse. There has been a lot of public testimony about safety issues in crosswalks. This variance would only compound the problems. The future of the town is positive and development would occur rapidly. If the City does not think ahead and provide leadership on this issue, the community will run into problems. She asked the Commission to deny the application. The City needs to require investors to build the parking they need. Tourism and the fishing industry will not leave Astoria. There are many uses for right-of-way parking. The parking lot on the pier is full when people are at the coffee shop. It is not fair to the public to allow this developer to monopolize the public right-of-way.

President Fitzpatrick called for the Applicant's rebuttal.

Dr. Forcum clarified that the tax lots for the commercial units were listed correctly. The ground floor restrooms were calculated into the ground floor area, as requested by Planning Consultant Johnson. He confirmed that he



submitted to the HOA a request for twice the bike parking required by the City, which was denied by the HOA. His parking proposal had nothing to do with residential parking. The variance would just add unallocated parking in the right-of-way. He explained that during the rezoning process, there was a great deal of acrimony between himself and the HOA. One board member held secret meetings to organize a parking coup, which changed the way he presented the variance request.

President Fitzpatrick called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Mitchell said she goes to the coffee shop near the Cannery Loft and it is clear that there are many vacant parking spaces. She believed this was because less than 30 percent of the condominium owners have local addresses. Small cities have only recently begun dealing with condominiums as second homes. Traditionally, parking spaces along street frontage have been considered public parking. Even houses must have off-street parking because the owners do not own the parking space in front of their homes. She believed that the on-street parking was currently being used by people taking the trolley, visiting the pier, using the Riverwalk, and during special events. The ferry parking would also be along the street in that area. She did not know how the City could guarantee those spaces for commercial uses. However, it would be to everyone's benefit if the commercial spaces were filled with uses appropriate for the condominiums. She was undecided about the variance request.

Planner Morgan referred to the parking study that was included in the agenda packet and noted that Staff considered the usage of the parking lot over a three-year period. The largest percentage of usage of the 111 spaces occurred on Memorial Day weekend with 34 spaces used, and then the HOA meeting in mid-July with 43 spaces used. When the complex was built, the City required each unit to have two parking spaces. People who use the condominiums as second homes do not typically come to Astoria with two cars. Additionally, the spaces in the parking lot are not available to the public. Pier 39 leases parking space from the Hampton, which provides a buffer against the overcrowding of on-street parking.

Commissioner Mitchell said maybe the Commission should consider the second home ownership given that two parking spaces are required per unit. She questioned how the zoning ordinance would be enforced.

Commissioner Henri asked if the variance would expire in two years. Planner Morgan explained that because the tenants come and go, the variance would be valid for longer depending on the occupancy of the approved uses.

Commissioner Henri said she wanted to help fill the empty units with viable businesses. It was a shame that the salon was limited to using only four of their chairs because they only have four parking spaces in a lot that is 75 percent empty most of the time. On street parking in commercial districts is first come first served. She would feel better about this request if the property had reserved resident parking. It would be unfair to the residents to drive up and find no available parking. She was undecided.

Vice President Easom said he was undecided. The Commission has suggested shared parking for other uses and he believed that would work in this situation. Occupancies of the residential and commercial uses would not be the same. People say that Astoria has a parking problem, but he disagreed. People get upset that they have to walk half a block to a store in downtown. The farthest he has had to walk is a block and a half. He did not consider that to be a parking problem. He had always been able to find a parking spot downtown. He did not believe this property would experience anything close to the parking situation downtown. It would not be feasible for every building to supply all parking. He was leaning towards voting in favor of the request.

Commissioner Herman said she was also leaning in favor of the variance. Many of the residences are second homes so the chance of the parking lot being completely full was small. Even though the variance would be set in stone, she was comfortable approving it because of the nature of the housing. There is more than adequate housing. It is a shame that commercial spaces cannot be filled due to the lack of zoning for parking. She asked if the City overestimated the amount of parking that would be needed for this property. Planner Morgan said one parking space per 500 square feet for retail and office space was generous. However, the spa is required to have a parking space for every chair, which he believed was unreasonable. Most of the standards were similar to other communities. Two spaces for each condominium provides a lot of overage, especially since a large percentage of the condominiums are second homes. The standards are reasonable, but there is always room for improvement.

Commissioner Herman asked if approving the variance would prevent the public from parking in the on-street spaces. Planner Morgan said no, the spaces would be first come first served.

Commissioner Cameron-Lattek stated she assumed the on-street spaces would not be marked or restricted, but would simply be allocated for zoning purposes. She was comfortable with allocating the spaces in this part of town because the variance is written in a way that the commercial parking would not compete with the residential parking in any way. She was in favor of flexibility that encouraged economic development. This variance only specifies right-of-way parking spaces directly adjacent to the buildings. There is a lot of other on-street parking in the area. The Hampton already takes up a lot of property and she did not believe much competition would come into the area. She was glad to learn the businesses on Pier 39 leased parking space. She was in favor of the proposal.

Commissioner Moore confirmed that the variance request is to reduce the number of off-street parking spaces required and the justification is the availability of on-street parking. The on-street parking would not be locked into anything. The key considerations for this variance are whether or not it would prevent an unnecessary hardship; that the development is consistent with the neighborhood; and the request is necessary to make reasonable use of the property. The Planning Commission has reviewed this property before and it has been very difficult to get commercial businesses in the building. Parking has been huge problem. He supported the request and hoped it would generate more interest in the commercial spaces.

President Fitzpatrick said he owned commercial and residential parking lots, two of which are legal non-conforming under the current Code based on the number of units. Both of the lots are located on corners and there has never been an issue with on-street parking or the availability of parking. His other lots that do provide the required number of parking spaces are not full. The only time he has an issue is on the day of the Regatta parade. His commercial lot is not used at all. He understood what Dr. Forcum was looking for and appreciated Commissioner Herman's clarification that the on-street parking would not be reserved. Dr. Forcum was simply asking if the on-street parking could count towards his requirement so he could fill the commercial spaces. This is not an unreasonable request, so he was leaning towards approval.

Vice President Easom moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Variance Request V17-04 by Dr. Ted Forcum; seconded by Commissioner Henri. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

There were none.

President Fitzpatrick called for a recess at 7:35 pm and reconvened the meeting at 7:42 pm.

WORKSESSION:

Item 6(a): Proposed Code Language for Emergency Shelters

Commissioner Moore said his proposed Code language for emergency shelters was a result of the long meetings held to discuss the Astoria Warming Center. The goal was to update the Development Code to provide guidance on emergency warming shelters. Currently, the Warming Center must apply for a temporary use permit every year because the Development Code does not contain any language specific to emergency shelters. The proposed language would create definitions, a conditional use standard, and criteria that would allow emergency shelters to operate in the same location every year. He noted the draft of the Code language had been updated since the agenda packet was published because Chief Ames had some concerns. The most recent version was available on the desk. He explained how he developed the proposed Code language and gave an overview of the criteria and standards for this specific conditional use, noting how Chief Ames' concerns about the original draft had been addressed in the most recently updated draft. He confirmed the definition of emergency shelter would prevent this Code language from impacting permanent shelters or recovery centers.

Planner Morgan confirmed that the term recovery center was not defined in the Development Code, but did fall under the category of semi-public use since a non-profit was in operation for the general public. Staff recommended including another category that defined recovery centers if this new Code language was adopted. Recover centers also exist in residential areas of Astoria. He reviewed the steps necessary to get the Code language adopted, noting that Planning Staff would like the opportunity to make recommendations.

Discussion by the Commission with Commissioner Moore's responses to questions, comments, and concerns were as follows:

- When asked if there were separate facilities for youth, Commissioner Moore noted he took the definitions straight out of Oregon City's Development Code. The Astoria Warming Center does not accept youth unless accompanied by their parents.
- The recommendation for crime watch requirements was based on letters sent to the City from residents in the neighborhood indicating most disruptions occurred hours before and after the center's hours of operation. This is consistent with Warming Center's current neighborhood agreement. Adding the requirement to the Code would allow the City to enforce regulations rather than relying on a neighborhood agreement. Commissioner Mitchell believed this was unnecessary as things had changed and the Warming Center did not have enough staff.
  - Commissioners agreed that someone should be responsible for a crime or neighborhood watch, but debated about how long before and after operational hours would be appropriate. After some discussion, Commissioners agreed that a neighborhood watch 30 minutes to an hour before and after operational hours was reasonable.
- The off-street parking requirement seemed unnecessary because most of the people using the Warming Center do not have cars and the parking lot was not used at night. Additionally, the requirement might adversely affect shelters that want to locate in areas without any nearby off-street parking. The Commissioners agreed the parking requirement should be removed from the draft Code language. Commissioner Cameron-Lattek believed several of the terms and definitions should be changed.
  - The definition of emergency shelter should be more specific to differentiate between homeless shelters and emergency shelters for natural disasters. The Oregon Fire Code's technical advisory uses the term temporary shelter. The Commission agreed to use the term temporary homeless shelter.
  - Family should be changed to household.
  - Crime watch should also be changed because the issues were with loitering, not crime. Commissioners agreed to use the term neighborhood watch.
  - Garbage watch should be required only on days following a day the shelter is open.
  - Only individuals not licensed to carry firearms should be reported to the police.
- Testimony at the last temporary use hearing was in regard to impacts to residential zones. The Comprehensive Plan states residential zones must be protected from incompatible uses. He understood the need for shelters, but their scale was impacting neighborhoods. Smaller shelters would not have the same impact. Therefore, the proposed Code language would prohibit larger shelters from being located in residential areas and small shelters would be limited to ten people.
  - The proposed zones are near businesses and services that shelter guest frequently use.
- The Commission and Staff discussed the differences between allowing shelters through a temporary use permit and a conditional use permit. Requiring the Warming Center to get a permit every year so the Planning Commission could review the request on a regular basis could incentivize compliance with the permit's requirements. However, there are currently no enforcement options in the Development Code. And while the Astoria Warming Center has worked hard to be a good neighbor, other shelters might not.
- This Code language would prevent the Astoria Warming Center from serving as many people in their current location. Commissioner Mitchell was concerned about this because the impact to the neighborhood would spread across several neighborhoods and the services offered by the Warming Center allow people to clean up before attended classes or job interviews. Additionally, she did not want a city full of ten-person shelters because each would need staff, volunteers and food.
  - Commissioners recalled that the Warming Center's original proposal was to serve broth and coffee when the temperatures were below 35 degrees and it was their choice to begin offering additional services. The need for shelters would become more permanent each year and neighborhoods should not be invaded by a large and growing shelter.
  - Commissioner Henri suggested that shelters in R-3 zones be required to reapply for a conditional use permit if they propose to grow in square footage or increase the number of people they serve. This would allow the Astoria Warming Center to remain in its current location.

- This new Code language would prevent a shelter from obtaining a temporary use permit because temporary use permits are issued for uses that are not defined in the Code.
- Commissioners discussed their desire to hear from the public, particularly about allowing shelters in R-3 zones. Staff confirmed two public hearings would be conducted, one before the Planning Commission and one before the City Council. Commissioner Henri wanted to hear from the public before a hearing so she could decide whether the proposed Code language should allow shelters in R-3 zones.

President Fitzpatrick called for public comments.

Annie Martin, 1024 Grand, Astoria, said she had an issue with all of the zones. The proposed Code language limits organizations like the Warming Center from purchasing land because there is no land available in the zones specified, nor are there any buildings in those zones that would be affordable for that type of organization. If churches are allowed to serve ten or less people and several churches are located in a one block area, the impact to the neighborhood would be the same as what is happening now at the Warming Center.

Commissioner Moore clarified that the conditional use standards would only apply to shelters serving more than ten people. It would be up to the City to decide whether smaller shelters still needed to apply for a temporary use permit or could operate without permission. He explained the circumstances under which the Astoria Warming Center was required to get a temporary use permit after operating without one for several years. The proposed conditional use standards would prevent continued growth and impacts to neighborhoods.

Ron Maxted, 359 6<sup>th</sup> Street, Astoria, thanked the Commission for thinking about the Warming Center. The City gave the Warming Center awareness and guidance that the facility needed. This year, the Warming Center tried to implement the City's guidance. They do not allow people to gather before entering the shelter and try not to have the same problems that occurred last year. He would like temporary shelters allowed in R-3 zones because the Warming Center is in an R-3 zone. He did not want the Warming Center to be excluded or limited to serving ten people. They currently average 25 people and last year the average was 35 people. He believed implementing the new rules has discouraged people from coming from other places. He liked the idea of referring to the crime watch as a neighborhood watch. Thirty minutes before and after operational hours would be reasonable. He was not aware of any crime reported due to the Warming Center. Locating shelters in other areas would be great. The Warming Center is still on the lookout for other places, like in a commercial zone.

George McCartin, 490 Franklin Avenue, Astoria, stated that this process was an extraordinary and unusual procedure for amending any code. In this case, a Commissioner is making up the framework for the Code. In his experience over 13 years, Staff initiates Code amendments by recommending language to the Commission. The proposed code makes no mention of showers or laundry. He wanted to know if this meant showers and laundry were prohibited or allowed. The proposed calculation for determining the maximum number of occupants would exceed what is currently allowed. The existing shelter would have to get permission from the church, which is already reluctant to allow expansion. The Warming Center has already been confiscating all weapons for the past four years, but the new conditions would prevent people carrying firearms from entering the shelter. A lot of people carry firearms. There are permits for concealed weapons. He questioned whether the proposed language was saying that homeless people could not have a permit or a gun. He did not want people to have weapons on them while in the shelter. The Warming Center puts weapons in a locked box. He was especially concerned that anyone with a firearm would be reported to the police. He asked on what basis the police would be contacted. He believed the parking requirements were ridiculous because there is only a maximum of two cars at the existing Warming Center. One car is owned by staff and the other car is owned by someone at the bed and breakfast next door.

Lois Dupet, P.O. Box 1282, Astoria, thanked the Commission for working on the Code language and listening to the community. The homelessness problems will not go away anytime soon. The proposed code is a good start. She believed the shelters should be called emergency warming centers because they are not really shelters. The facilities only exist when the weather is bad. This code language could be used as a template as the problem grows. She objected to the way the clients are described in the definitions of homeless, homeless individual, homeless person, and homeless family. Many of the people being served in these facilities are not homeless. The City needs to get to the root of who they are serving and why. The clients are people who are families and individuals experiencing housing inequality for several reasons. To many people in the disenfranchised community, the word homeless is an insulting slur. She asked that the word homeless be removed from the proposed code language and the phrase "those experiencing housing inequality" be used instead. The definition

of family should be amended to include "...to whom a fixed regular and adequate night time residence is not currently available." The second paragraph in the definition is insulting, overly burdensome, and dehumanizes clients.

Commissioner Mitchell excused herself from the meeting at 8:37 pm.

President Fitzpatrick called for a recess at 8:41 pm and reconvened the work session at 8:47 pm.

Commissioner Henri said she appreciated the comments about the word homeless, but questioned how important it was in the City Code. Using the word houseless would keep the Code language simple. The term Warming Center seemed appropriate. She confirmed the calculation for determining the maximum number of people allowed was recommended by the State Fire Marshall.

Commissioner Moore specified which sections of the proposed code were taken verbatim from the Fire Marshall's recommendations and which sections were drafted from existing neighborhood agreements or public input about the Warming Center.

Commissioner Henri confirmed that building codes required fire extinguishers, so there would be no need to include it in this code.

Commissioner Moore believed Mr. McCartin made good points about the language in the life safety section referring to weapons. He recommended removing Section 5.a) Weapons. Warming centers can deal with weapons however they choose. Commissioners Henri and Cameron-Lattek agreed.

President Fitzpatrick confirmed that the Astoria Warming Center continued to take weapons away from guests. The requirement is a policy of the Warming Center and is included in their neighborhood agreement.

Unidentified Speaker, said she had never seen a gun in the two years she had been volunteering at the Warming Center. However, she did see knives and multi-tools. The knives are put into a lockbox at check-in.

Vice President Easom suggested the Code required facilities to have a weapons policy.

A straw poll vote indicated the Planning Commission unanimously agreed to pursue developing Code language for emergency shelters.

President Fitzpatrick believed the difference between 10 and 30 people in a shelter was exponential. He asked the Commission to consider impacts to the neighborhood as they moved forward.

Commissioner Moore believed that getting a temporary use every year made investing in a permanent location impossible. Organizations would not put money into a building they might not be able to use the following year. A conditional use permit could spur investment in a permanent location. Vice President Easom added the permit could also make an organization eligible for grant funding.

President Fitzpatrick stated the proposed code language was not specific regarding an existing warming center. The Astoria Warming Center might not always exist and other shelters might have their own unique challenges and situations.

Planner Morgan confirmed Staff would prepare a new draft based on comments and direction given by the Commission during this work session. The updated draft could be ready for Commission review by March. After some discussion, the Commission and Staff agreed to review the updated draft at a work session in April.

Planner Morgan displayed a zoning map on the screen and pointed out the R-3, R-2, and C-3 zones.

STAFF UPDATES: There were none.

MISCELLANEOUS: There was none.

PUBLIC COMMENTS: There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:07 pm.

**APPROVED:**

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Community Development Director

# STAFF REPORT AND FINDINGS OF FACT CU 18-01

March 20, 2018

TO: ASTORIA PLANNING COMMISSION

FROM: MIKE MORGAN, PLANNER

SUBJECT: A CONDITIONAL USE REQUEST (CU 18-01) BY STEVE AND KAREN ALLEN TO ALLOW OUTDOOR FOOD CARTS (EATING AND DRINKING ESTABLISHMENTS) AT 80 11<sup>TH</sup> STREET IN PRIVATELY OWNED AREAS ONLY.

## I. BACKGROUND SUMMARY

- A. Applicant: Karen and Steve Allen  
990 Astor  
Astoria OR 97103
- B. Owner: same  
  
Division of State Lands (Submerged Lands)  
775 Summer Street NE  
Salem OR 97310
- C. Location: 80 11<sup>th</sup> Street; Map T8N-R9W Section 8CA, Tax Lot 100
- D. Proposal: To locate outdoor eating and drinking establishments, in privately owned areas owned by the applicant.
- E. Zone: A-2 (Aquatic Two Development)

## II. BACKGROUND

### A. Subject Property

The subject property is located on the Columbia River east of 11th Streets on the waterfront and the Riverwalk. The building was constructed in the 80s as a fish receiving and processing facility, and a retail fish market was added in 1992. It was converted to a retail store selling skateboards and other merchandise in 2016. The building is located over water and therefore the submerged land is leased from the Department of State Lands (DSL).

This amendment would allow eating and drinking establishments such as food carts to be located on the dock space owned by the applicants (not in the right of way, which is public property) and reduce the need to process individual permits.



B. Adjacent Neighborhood

The site is bounded on the north by the Columbia River; on the west by the Pier 11 complex at 77 11th Street; on the east by the river, on the south by the Riverwalk, trolley line, retail stores, and Wet Dog Cafe and Brewery. Both Pier 11 and the Wet Dog restaurant are owned by the applicants.

C. Proposed Use

The applicant proposes to increase the allowable uses to include food carts consistent with the zone and suitable for outside locations. The exact tenants are not known at this time, although one food cart has expressed interest. The Development Code allows these proposed uses as a conditional use, but the intent of this permit is to provide an "umbrella" permit to allow food carts or similar eating or drinking establishments without having to individually apply.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on March 5, 2018. A notice of public hearing was published in the Daily Astorian on March 20, 2009. Comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Development Code Section 2.535 (12) allows *"Eating and drinking establishment open to the general public which provides significant visual access to the waterfront."* as a conditional use.

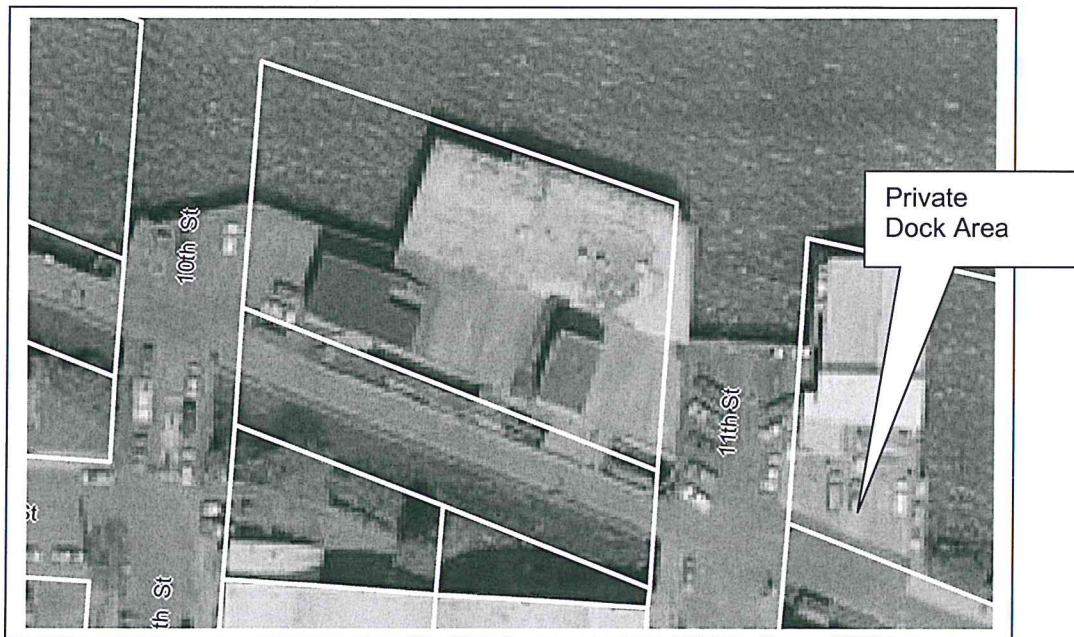
Finding: The conditional use will enable this use to be located on the space outside the building. The uses are being reviewed as a conditional use.

- B. Development Code Section 2.540(10) states that *"Professional and business office, personal service establishment limited to beauty and barber services and garment alterations, residence, and arts and crafts studio are permitted where they are part of a mixed-use development that also includes some of the tourist-oriented uses listed in Section 2.535 (12 through 15), under the following conditions:*
- a. *Single-Story Structure: The office, personal service establishment, residence, or arts and crafts studio uses shall constitute no more than 25% of the total project's gross floor area.*
  - b. *Multi-Story Structure, shall conform to one of the following options:*



- 1) *The office, personal service establishment, residence, or arts and crafts studio uses shall constitute no more than 50% of the total project's gross floor area.*
- 2) *A multi-story structure which maintains at least 75% of the ground floor or street level space for tourist-oriented uses as listed above, may devote 100% of the upper floors to non-tourist oriented uses, consisting of professional and business offices, personal service establishment limited to beauty and barber services and garment alterations, residences, and arts and crafts studios."*

Finding:



No retail outdoor sales would be permitted under this permit other than eating or drinking establishments (food carts).

C. Section 2.540(1) states that *"All uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. Where a proposal involves several uses the standards applicable to each use shall be satisfied. . ."*

1. Section 4.160(1) concerning Residential, Commercial and Industrial Development standards of the Columbia River Estuary and Shoreland Regional Standards states that *"sign placement shall not impair views of water areas. Signs shall be constructed against existing buildings whenever feasible. Off-premise outdoor advertising shall not be allowed in aquatic areas."*

Finding: Signage is not proposed with this application. A sign permit will be required for any signs at this location and will be reviewed against this Development Code standard and the Sign Code standards.

2. Section 4.160(3) concerning Residential Commercial, and Industrial Development standards of the Columbia River Estuary and Shoreland Regional Standards states that *“Joint use of parking, moorage, and other commercial support facility is encouraged where feasible and where consistent with local Code requirements.”*

Finding: The applicant is proposing to use on-street parking (the dock occupying 11<sup>th</sup> St. between Pier 11 and this building) and the parking spaces on the existing dock provided for all patrons of the site. The dock area is located partially on the applicant’s property and partially within the 11th Street rights-of-way. The dock area within the right-of-way is maintained by the applicant. This area may be used for parking but may not be posted or for the exclusive use of the Pier 11 patrons. There are currently approximately 30 parking spaces on the public and private dock areas.

Finding: The proposed uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. This criteria is met.

Some of the patrons will be tourists arriving by tour boat, train, and Trolley and the balance of patrons will utilize some of the existing parking on the dock and on-street parking. Additional off-street parking on the site would not be possible. The site is adjacent to the Intermodal Transportation Center at 900 Marine Drive which has a public parking area for evening use. Many of the anticipated patrons will also most likely be visiting other businesses along the Riverfront.

With the on-dock parking spaces, varying times of hours of operation allowing for some joint use parking, available on-street parking, and the small nature of the proposed changes in parking needs, there appears to be ample parking provided. The food carts will be seasonal in nature, open possibly no more than eight months per year. Therefore, the request does not warrant the requirement off-street parking as a condition of the conditional use approval. However, depending on the use of the metal building, the food carts may be required to rent a parking space off site.

- E. Section 11.020(B)(1) concerning Conditional Uses Application and Procedures, requires that the proposed use comply with the applicable policies of the Comprehensive Plan.

1. Section CP.200(1) concerning Economic Development Goals states that *“Work toward the improvement and diversification of the area’s economy and to increase local employment opportunities. The City will coordinate its efforts with the Astoria Downtown Development Association, Clatsop Economic*



*Development Committee, the Port of Astoria, the Chamber of Commerce, and other groups involved in economic development.”*

Finding: This conditional use would allow flexibility in uses that could change periodically as tenants change. There has been an increase in the patronage of the riverfront by tourists and local residents. The proposed uses would not be detrimental to the downtown and would enhance the area’s economy with the diversification of uses in the existing building.

2. Section CP.200(5) concerning Economic Development Goals states that *“Encourage the preservation of Astoria’s historic buildings, neighborhoods, and sites, and unique waterfront location in order to attract visitors and new industry.”*

Finding: The underutilized building is not designated as historic but is a unique waterfront location with good views of the River from the building spaces. The applicants are proposing to increase the variety of potential eating and drinking uses helping to make the needed repairs to the building cost effective. The potential businesses will attract visitors to the waterfront and will help preserve this waterfront building.

3. Section CP.210(1) concerning Economic Development Recommendations states that *“The City should reevaluate its plan and zoning designation for its waterfront in light of the decline of the fishing industry. The reevaluation should focus on the waterfront’s potential for tourist oriented development. Plan policies and implementing measures should be developed to encourage and promote tourist oriented development of the waterfront. Possible rezonings should include the A-1 area between 6th and 10th Streets, and in the vicinity of the Samuel Elmore Cannery.”*

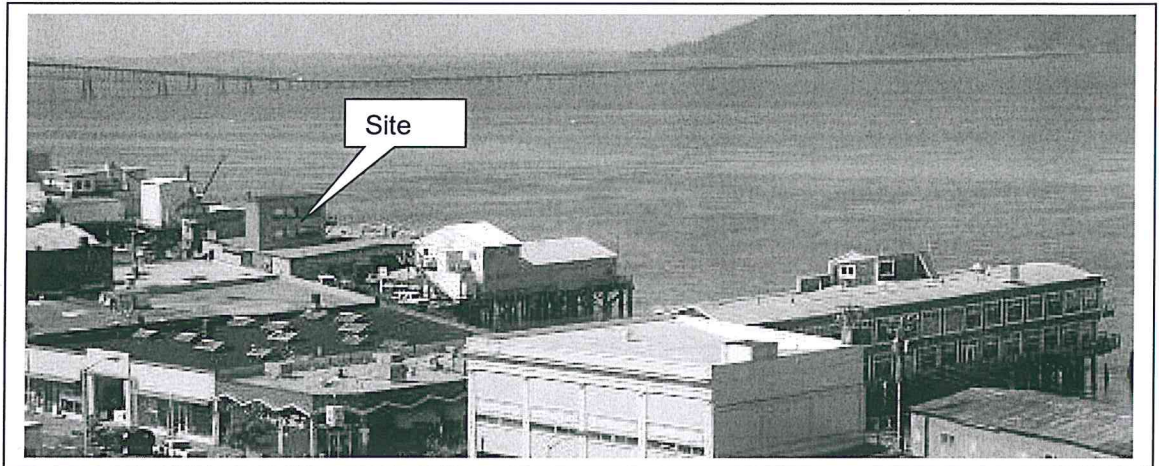
Finding: The proposed uses will provide a variety of opportunities for eating and drinking outdoors. The approval of a conditional use to allow adaptive reuse of this building for other uses, especially the tourist oriented uses, is a measure available to the City to implement this policy.

4. Section CP.055(4) concerning the Downtown Area Policies states that *“The City encourages the reuse of existing buildings prior to the expansion of commercial zones.”*

Finding: The proposed uses will be located in an under utilized portion of an existing site and would provide more location opportunities for businesses within the downtown core.

5. Section CP.250(1) 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.”*

Finding: The building is not designated as historic The proposed outdoor uses will allow this waterfront site building to be utilized with proximity to the Trolley, Riverwalk, and Downtown.



Finding: The proposed uses comply with the applicable policies of the Comprehensive Plan.

F. Section 11.030(A), Basic Conditional Use Standards, requires that *“before a conditional use is approved, findings will be made that the use will comply with the following standards:*

1. Section 11.030(A.1) requires that *“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: The proposed use is appropriate at this location. The proposed uses could be located in other commercial zones, but the desirability of a waterfront location near to the tourist oriented uses and tourist facilities such as the trolley line and Riverwalk make this an appropriate site for the proposed uses.

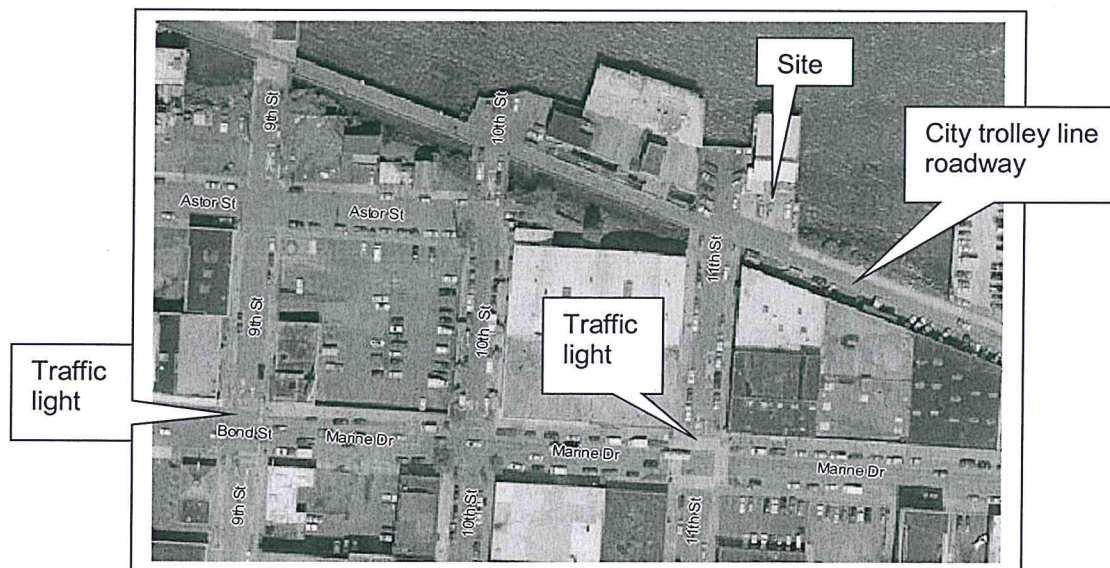




The public dock area within the rights-of-way must remain open to the public due to the unique waterfront location, but food carts can occupy the private dock space on the front of the building. The Planner shall review and approve any proposed cart for compliance with the intent of this condition. This criteria is met.

2. Section 11.030(A)(2) requires that *“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: There is some existing dock area for parking for patrons to the building and there is ample room for vehicles and deliveries to enter the dock area from the foot of 11th Street. There is easy access to the site by public or private vehicles, Rivertrail, and Trolley. The proposed use will utilize the existing refuse areas or have individual waste disposal for each business. This criteria is met.



3. Section 11.030(A)(3) requires that the use will not overburden water and sewer facilities, storm drainage, fire and police protection, or other utilities.

Finding: All utilities are available in the area and are capable of serving the use. Any needed increase in fire suppression system would require coordination with Public Works as there currently is not sufficient water service along the riverfront for new fire suppression systems. As with all new

or increased businesses and development, there would be incremental impacts to police and fire protection but it would not overburden these services.

4. Section 11.030(A)(4) requires that the topography, soils and other physical characteristics of the site are adequate 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 subject site is flat, completely over water, and no new buildings are proposed.

The site is not located within 100' of a known geologic hazard area, and is located in Flood Zone A-2, "Areas of 100 Year Flooding", of the Flood Insurance Rate Map, Community Panel Number 410028-0005-B, dated August 1, 1978. The site is located within the Tsunami Inundation Zone as noted on the US Department of the Interior Geological Survey map as prepared by the Corps of Engineers. However, no new construction is proposed as the use will utilize an existing building. This criteria is met.

5. Section 11.030(A)(5) requires that the use contains an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.

Finding: The building is existing and no new landscaping or separations are required. The request meets this criteria.

- G. Section 9.100 concerning Time Limit on a Permit states that *"Authorization of a permit shall be void after one year unless substantial construction or use pursuant thereto has taken place. However, the Commission may, at its discretion, extend authorization for an additional period up to one year on request."*

Finding: The request is for general approval of future food carts which may come and go over the years. It is understood that some uses may not start operation within one year and that approved uses may continue to change periodically as tenants change. Therefore, this permit would be valid as long as these variety of uses inside or outside the building.

## V. CONCLUSION AND RECOMMENDATION

The request meets all the applicable review criteria. The applicant should be aware of the following requirements:

The applicant shall obtain all necessary City permits prior to the start of any construction or operation.

Staff recommends approval of the request with the following conditions:

1. Should the percentage of tourist oriented uses on the ground floor be reduced below the required 75%, the applicant shall obtain approval for a variance from the minimum 75% requirement or comply with the requirement.
2. The public dock areas within the rights-of-way shall remain open to the public and not used exclusively by Pier 11 tenants unless otherwise approved by special right-of-way use permit.
3. This permit shall be valid as long as the approved variety of uses continue.
4. Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.





**CITY OF ASTORIA**  
 Founded 1811 • Incorporated 1856  
**COMMUNITY DEVELOPMENT**

No. CU 18-01

Fee Paid Date 2/21/18 By —

Fee: ~~\$500.00~~ FEE WAIVED

**CONDITIONAL USE APPLICATION**

Property Address: 77 11<sup>th</sup> & 80 11<sup>th</sup>

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Map 89 8CB200 Tax Lot \_\_\_\_\_ Zone A 2 / S 2 A  
89 8CA100

Applicant Name: KAREN ALLEN

Mailing Address: 990 ASTOR ST

Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Property Owner's Name: Stephen Allen Karen Allen

Mailing Address: 77 11<sup>th</sup> St. Astoria

Business Name (if applicable): PIER 11

Signature of Applicant: [Signature] Date: 2-1-18

Signature of Property Owner: [Signature] Date: 2-1-18

Existing Use: Commercial Bldg Retail/Business/Restaurant

Proposed Use: TO ALLOW OUTSIDE RETAIL SALES/EATING + DRINKING/ETC ON DECKS + OTHER PROPERTIES

Square Footage of Building/Site: \_\_\_\_\_

Proposed Off-Street Parking Spaces: \_\_\_\_\_

**SITE PLAN:** A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines and dimensions of all structures, parking areas, and/or signs. Scaled free-hand drawings are acceptable.

<i>For office use only:</i>			
Application Complete:		Permit Info Into D-Base:	
Labels Prepared:		Tentative APC Meeting Date:	
120 Days:			



YOU ARE RECEIVING THIS NOTICE BECAUSE THERE IS A  
PROPOSED LAND USE APPLICATION NEAR YOUR PROPERTY IN ASTORIA

CITY OF ASTORIA  
NOTICE OF PUBLIC HEARING

Mail	3/5/18
Email	3/6/18
Web	3/6/18

The City of Astoria Planning Commission will hold a public hearing on Tuesday, March 27, 2018 at 6:30 p.m., at the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. Conditional Use CU18-01 by Karen and Steve Allen to allow outside eating and drinking establishments on docks and other parts of the private property at 80 11<sup>th</sup> St (Map T8N-R9W Section 8CB, Tax Lot(s) 100; Frontage to Block 56.5, McClure) in the A-2 Aquatic Two Development zone. Development Code Standards 1.010-1.400 (General), 2.525-2.540 (Zoning), 14.500 to 14.510 (CRESO), Article 9 (Administrative), Article 11 (Conditional Uses) and Comprehensive Plan CP .005-CP.028 (General), CP.050-CP.055 (Downtown Area), CP.130 to CP.186 (Aquatic and Shoreland), and CP.190-CP.210 (Economic Element) are applicable to this request.
2. Amendment to Existing Permit AEP 18-01 by Karen and Steve Allen to amend Conditional Use Permit Order CU 09-04 to allow outdoor eating and drinking on private property around 77 11<sup>th</sup> St (Map T8N-R9W Section 8CB; Tax Lot(s) 200; Frontage to Block 56, McClure) A-2 Aquatic Two Development zone. Development Code Standards 1.010-1.400 (General), 2.525-2.540 (Zoning), 14.500 to 14.510 (CRESO), Article 9 (Administrative), Article 11 (Conditional Uses) and Comprehensive Plan CP.005-CP.028 (General), CP.050-CP.055 (Downtown Area), CP.130 to CP.186 (Aquatic and Shoreland), CP.190-CP.210 (Economic Element) are applicable to this request.
3. Amendment A17-03 by Kevin Cronin to change the zone from S-1 Marine Industrial to S-2 General Shorelands development zone at 3738 Lief Erikson Drive (Map T8N-R9W Section 8AC; Tax Lot(s) 200; Lot(s) 3, 4, 5, 6, east 50' Lots 2 & 7, Block 1, and unplatted portion of Frontage to Block 1, Adair's Port of Upper Astoria, and vacated portions of 38<sup>th</sup> Street and midblock alley) in the S-1, Marine Industrial Shorelands Development Zone. Development Code Standards 1.010-1.400 (General), 2.650-2.690 (Zoning), 14.005 to 14.030 (Gateway Overlay), 14.500 to 14.510 (CRESO), 14.035 to 14.061 (Civic Greenway Overlay), Article 9 (Administrative), Article 10 (Amendments), and Comprehensive Plan CP.005-CP.028 (General), CP.070-CP.075 (Uppertown Area), CP.057-CP.058 (Gateway Overlay Zone), CP.130 to CP.186 (Aquatic and Shoreland), CP.190-CP.210 (Economic Element), are applicable to this request.
4. Variance 17-05 by Cathy Frizelle Smith for a parking variance from two spaces for single family dwelling and one additional space for accessory dwelling unit at 956 Irving Ave (Map T8N-R9W Section 8CC, Tax Lot(s) 13100; Lot(s) 6; Block 95; McClure's) in the R-3, High Density Residential zone. Development Code Standards 1.010-1.400 (General), 2.150 to 2.185 (R-3 Zone), 3.020 (Accessory Dwelling Units), Article 7 (Parking), Article 9 (Administrative Procedures), and Article 11 (Conditional Uses), and Comprehensive Plan Sections CP.005-CP.028 (General Development), CP.040-CP.045 (Central Area), CP.190-CP.210

80908CB00200  
Pier 11 LLC  
990 Astor St  
Astoria, OR 97103-4201

80908CB08300  
Hoxie Ronald P  
PO Box 207  
Astoria, OR 97103-0207

80908CA00600  
Tonquin Resources Ltd  
13225 N Lombard St  
Portland, OR 97203-6410

80908CB00101  
L & F Properties LLC  
155 11th St  
Astoria, OR 97103-4103

80908CB08400  
L & F Properties LLC  
155 11th St  
Astoria, OR 97103-4103

80908CA00200  
Allen Stephen C  
144 11th St  
Astoria, OR 97103-4104

80908CA00300  
AION LLC  
90143 Lake Shore Ct  
Warrenton, OR 97146

80908CB08600  
Erie Investment and Management LLC  
4021 NW 137th St  
Vancouver, WA 98685

80908CA01600  
Cecil's Pier LLC  
PO Box 204  
Astoria, OR 97103-0204

80908CB08500  
Clatsop Leasing LLC  
Paul R Larson  
155 11th St  
Astoria, OR 97103-4103

80908CA01800  
Riviera LLC  
Uriah Hulsey  
1775 Irving Ave  
Astoria, OR 97103-3513

80908CA01700  
AION LLC  
90143 Lake Shore Ct  
Warrenton, OR 97146

80908CA07281  
Astoria Brewing Co Inc  
990 Astor St  
Astoria, OR 97103-4201

80908CA01500  
Allen & Huber Real Estate LLC  
Astoria Brewing Company Inc Lessee  
990 Astor St  
Astoria, OR 97103-4201

80908CA01500  
Astoria Brewing Company Inc  
990 Astor St  
Astoria, OR 97103-4201

80908CA03000  
Schwietert Enterprises V LLC  
PO Box 189  
Cannon Beach, OR 97110

80908CA03500  
CHS LLC  
33416 Westlake Ln  
Warrenton, OR 97146-7123

80908CA03600  
Bjork Bernard E  
36293 Bartoldus Loop  
Astoria, OR 97103-8558

80908CA03700  
Allen William J  
92628 Fern Hill Rd  
Astoria, OR 97103-8206



Division of State Lands  
775 Summer St NE #100  
Salem OR 97301-1279

**JIM STOFFER**  
**ALDERBROOK GROUP**  
**[istoffer@charter.net](mailto:istoffer@charter.net)** E-MAIL

**Planning & Development Manager**  
**Oregon Department of Transportation**  
**Region 2 Headquarters**  
**455 Airport Road SE Building B**  
**Salem OR 97301-5395**  
E-MAIL

**ADHDA**  
**[office@astoriadowntown.com](mailto:office@astoriadowntown.com)**  
E-MAIL

**Greg Kenney** E-MAIL  
**Cannery Lofts HOA**  
**[Gregkenney2@msn.com](mailto:Gregkenney2@msn.com)**

be

**Arline LaMear** E-MAIL  
**[alamear@astoria.or.us](mailto:alamear@astoria.or.us)**

**Sirpa Duoos** E-MAIL  
**[sduoos@co.clatsop.or.us](mailto:sduoos@co.clatsop.or.us)**

Floral Alameda Ngbhd Assoc  
c/o Bruce Conner  
P.O. Box 543  
Astoria OR 97103

EMERALD HEIGHTS GRP  
1 EMERALD DRIVE  
ASTORIA OR 97103  
**[emeraldheights@charter.net](mailto:emeraldheights@charter.net)** E-MAIL

**BLAIR HENNINGSGAARD**  
**1482 JEROME**  
**ASTORIA OR 97103**  
**[blair@astorialaw.com](mailto:blair@astorialaw.com)** E-MAIL

**Patrick Wingard**  
**Coastal Services Representative**  
**DLCD**  
**4301 Third Street, Room 206**  
**Tillamook, OR 97141** E-MAIL

**Dulcye Taylor** E-MAIL  
**ADHDA**  
**[dulcye@astoriadowntown.com](mailto:dulcye@astoriadowntown.com)**

**Jennifer Holen** E-MAIL  
**ADHDA**  
**[jennifer@bakedak.com](mailto:jennifer@bakedak.com)**

Eagle Ridge Home Owner Association  
Mark Hedeem E-MAIL  
**[Mark.hedeem@raymondjames.com](mailto:Mark.hedeem@raymondjames.com)**

Leroy Aldolphson  
Uniontown Neighborhood Assoc  
c/o 165 W. Bond  
Astoria OR 97103

ATTN: HOUSING OFFICER  
COMMANDING OFFICER  
USCG AIRSTA ASTORIA  
2185 SE 12TH PLACE  
WARRENTON OR 97146-9693

**Jim Wolcott**  
**Mill Pond Village Home Owners' Assoc**  
**2735 Mill Pond Lane**  
**Astoria OR 97103** E-MAIL

**RUSS WARR**  
**415 MARINE DRIVE**  
**ASTORIA OR 97103**  
E-MAIL

**Karen Mellin** E-MAIL  
**[kmellin5382@charter.net](mailto:kmellin5382@charter.net)**

**Tryan Hartill** E-MAIL  
**[editor@northcoastoregon.com](mailto:editor@northcoastoregon.com)**

Columbia House Condominiums  
1 3rd Street # 510  
Astoria OR 97103

Port of Astoria  
**[admin@portofastoria.com](mailto:admin@portofastoria.com)**  
E-MAIL

## STAFF REPORT AND FINDINGS OF FACT AEP18-01

March 20, 2018

TO: ASTORIA PLANNING COMMISSION

FROM: MIKE MORGAN, PLANNER

SUBJECT: TO AMEND THE CONDITIONAL USE REQUEST CU09-04 BY STEVE AND KAREN ALLEN TO ALLOW OUTDOOR FOOD CARTS (EATING AND DRINKING ESTABLISHMENTS) AT 80 10<sup>TH</sup> STREET AND 77 11TH STREET(PIER 11), IN PRIVATELY OWNED AREAS ONLY.

### I. BACKGROUND SUMMARY

- A. Applicant: Karen and Steve Allen  
990 Astor  
Astoria OR 97103
- B. Owner: same  
  
Division of State Lands (Submerged Lands)  
775 Summer Street NE  
Salem OR 97310
- C. Location: 80 10<sup>th</sup> Street and 77 11th Street; Map T8N-R9W Section 8CB, Tax Lot 200
- D. Proposal: To locate outdoor retail sales, eating and drinking establishments, and similar activities in privately owned outdoor areas owned by the applicant.
- E. Zone: A-2 (Aquatic Two Development)

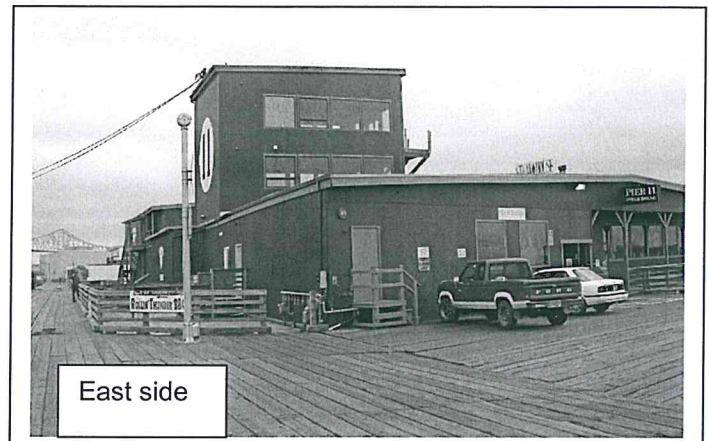
### II. BACKGROUND

#### A. Subject Property

The subject property is located on the Columbia River between 10th and 11th Streets. The building was constructed in 1890 as a dairy feed plant and operated until 1968. It was converted to restaurant and retail mall in 1977 and has operated with various related uses since that date. The most recent uses include two restaurants, office space, and a retail store. The building is located over water and therefore the submerged land is leased from the Department of State Lands (DSL).



The applicant received a conditional use in 2009 (CU09-04) allow the building to be utilized for a wide variety of uses in the interior, but not exterior space. This amendment would allow uses such as food carts to be located on the dock space owned by the applicants (not in the right of way, which is public property) and reduce the need to process individual permits.



B. Adjacent Neighborhood

The site is bounded on the north by the Columbia River; on the east by the former Bruski Dock fish station at 80 11th Street; on the west by an office building at the foot of 10th Street; on the south by the Riverwalk, Trolley line, retail stores, and Wet Dog Cafe and Brewery.

C. Proposed Use

The applicant proposes to increase the allowable uses to include food carts and similar outdoor retail sales consistent with the zone and suitable for outside locations. The exact tenants are not known at this time, although two food carts have expressed interest. The Development Code allows these proposed uses as part of a mixed-use development under certain criteria including the use of at least 75% of the ground floor as tourist-oriented uses. Depending on the percentages of each of these uses, the applicant would need to also obtain a variance from the 25% limitation to allow a higher percentage of non-tourist oriented uses if that should occur. However, at this time, the majority of the ground floor is restaurant and tourist-oriented retail and meets the 75% requirement for these uses.

III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on March 5, 2018. A notice of public hearing was published in the Daily Astorian on March 20, 2018. Comments received will be made available at the Planning Commission meeting.

#### IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Development Code Section 2.535 (12) allows *“Eating and drinking establishment open to the general public which provides significant visual access to the waterfront.”* as a conditional use.

Finding: The conditional use will enable this use to be located on the space outside the building. The uses are being reviewed as a conditional use.

- B. Development Code Section 2.540(10) states that *“Professional and business office, personal service establishment limited to beauty and barber services and garment alterations, residence, and arts and crafts studio are permitted where they are part of a mixed-use development that also includes some of the tourist-oriented uses listed in Section 2.535 (12 through 15), under the following conditions:*

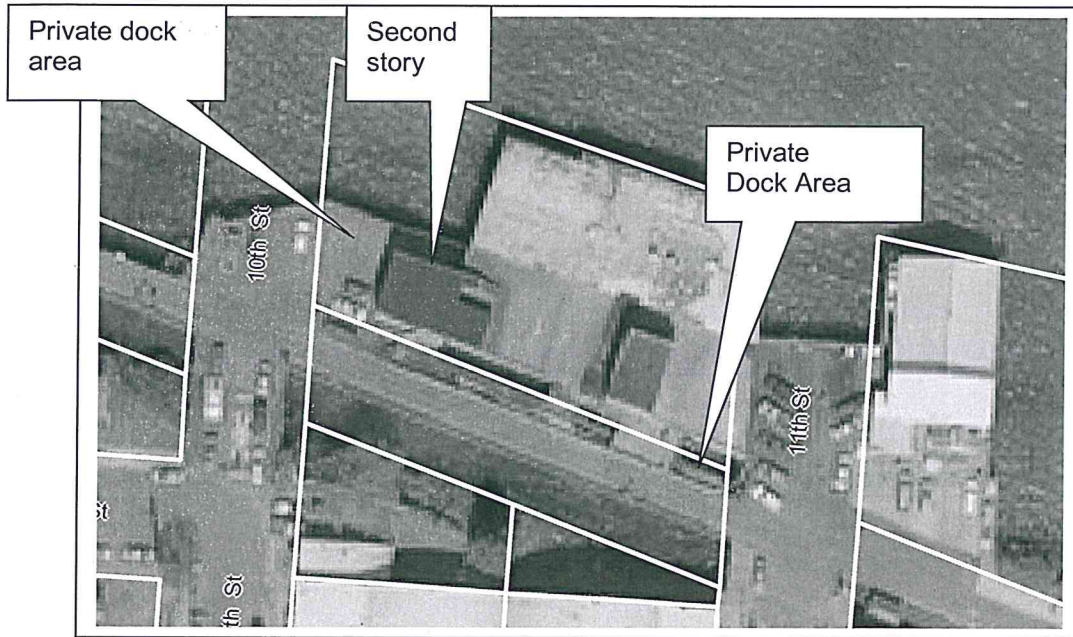
- a. *Single-Story Structure: The office, personal service establishment, residence, or arts and crafts studio uses shall constitute no more than 25% of the total project's gross floor area.*
- b. *Multi-Story Structure, shall conform to one of the following options:*
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  - 2) *A multi-story structure which maintains at least 75% of the ground floor or street level space for tourist-oriented uses as listed above, may devote 100% of the upper floors to non-tourist oriented uses, consisting of professional and business offices, personal service establishment limited to beauty and barber services and garment alterations, residences, and arts and crafts studios.”*

Finding: The existing restaurant is a continuation of pre-existing uses since 1977. There have been other tourist-oriented retail sales and craft / indoor entertainment shops that were reviewed as conditional uses over the years. Currently the existing restaurant, central lobby retail area, and the tourist oriented retail uses on either side encompass more than 75% of the ground floor. An office and computer store on the first floor accounts for the 20-25% of the non-tourist space. Food carts on the outside of the building will add to the 75% requirement.

The building is approximately 14,950 square feet plus the viewing deck to the west (approximately 1,450 square feet). The current uses include the 1,450 square foot viewing deck on the west (10<sup>th</sup> Street) and about 600 square feet of usable space on the southeast corner of the building. There is an approximate 2,500 square foot central lobby/retail area, approximate 10,000 square foot in three restaurants, and approximate 2,700 square foot retail and/or vacant space on the ground floor. The



total of existing uses that would qualify as part of the required 75% tourist-oriented uses is estimated to be approximately 12,000 square feet (80%). If the percentage should change in the future to less than 75% of tourist-oriented uses, the applicant would need to obtain a variance from the percentage of tourist-oriented use space or comply with the requirement.



The current and proposed use meets this code requirement. Any reduction in the ground floor use below the required 75% approved uses shall require a variance or compliance with the percentage.

C. Section 2.540(1) states that *“All uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. Where a proposal involves several uses the standards applicable to each use shall be satisfied. . .”*

1. Section 4.160(1) concerning Residential, Commercial and Industrial Development standards of the Columbia River Estuary and Shoreland Regional Standards states that *“sign placement shall not impair views of water areas. Signs shall be constructed against existing buildings whenever feasible. Off-premise outdoor advertising shall not be allowed in aquatic areas.”*

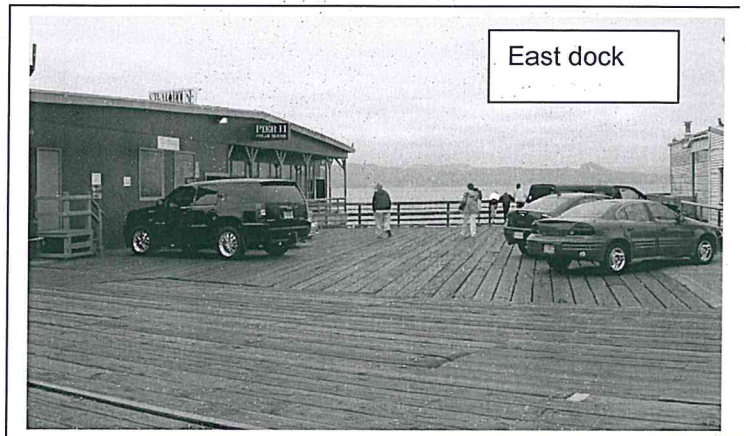
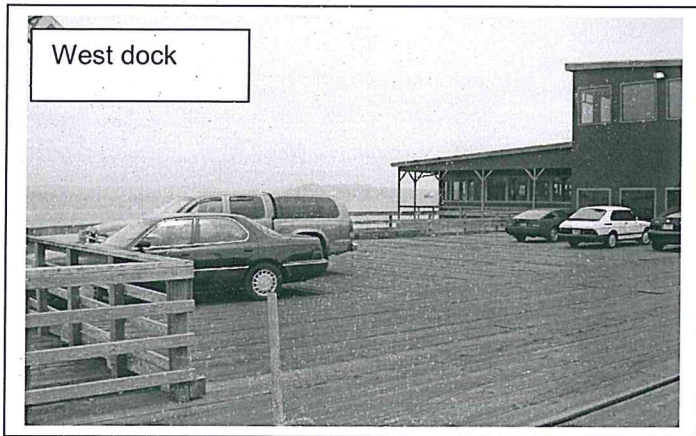
Finding: Signage is not proposed with this application. A sign permit will be required for any signs at this location and will be reviewed against this Development Code standard and the Sign Code standards.

2. Section 4.160(3) concerning Residential Commercial, and Industrial Development standards of the Columbia River Estuary and Shoreland

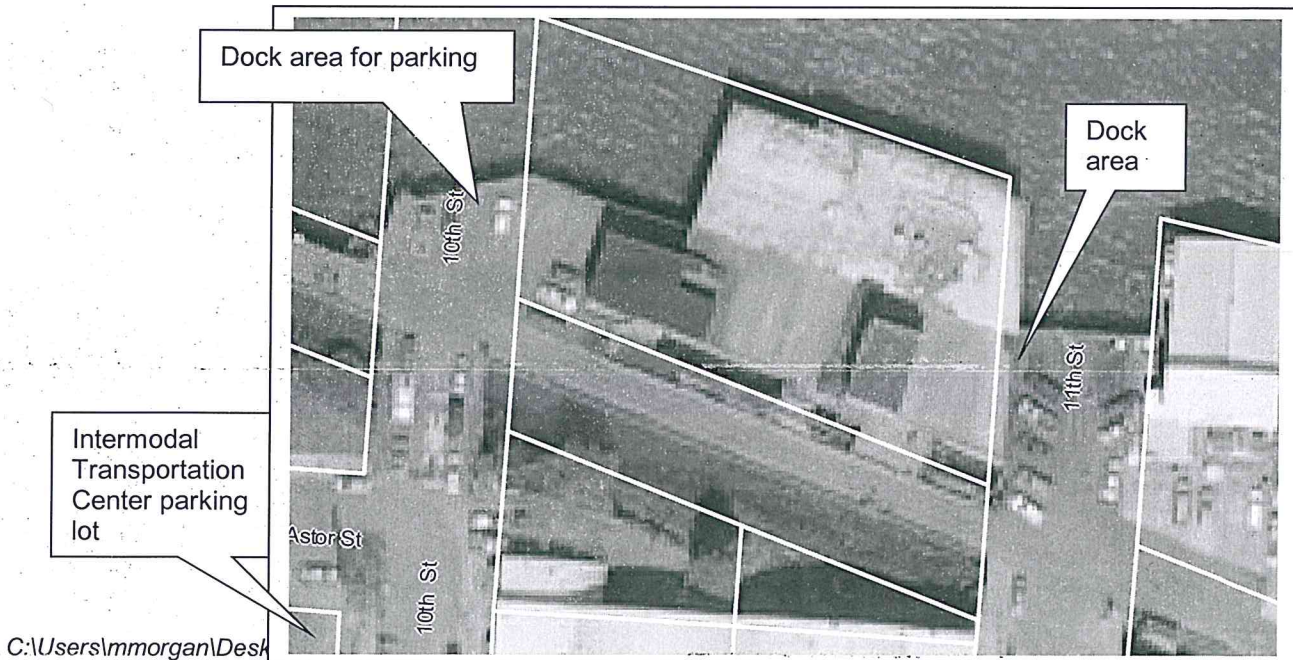


Regional Standards states that "Joint use of parking, moorage, and other commercial support facility is encouraged where feasible and where consistent with local Code requirements."

Finding: The applicant is proposing to use on-street parking and the parking spaces on the existing dock provided for all patrons of the site. The dock area is located partially on the applicant's property and partially within the 10th and 11th Street rights-of-way. The dock area within the right-of-way is maintained by the applicant. This area may be used for parking but may not be posted or for the exclusive use of the Pier 11 patrons. There are currently approximately 17 parking spaces on the public and private dock areas.



Finding: The proposed uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. This criteria is met.





Some of the patrons will be tourists arriving by tour boat, train, and Trolley and the balance of patrons will utilize some of the existing parking on the dock and on-street parking. Additional off-street parking on the site would not be possible. The site is adjacent to the Intermodal Transportation Center at 900 Marine Drive which has a public parking area for evening use. Many of the anticipated patrons will also most likely be visiting other businesses along the Riverfront.

With the on-dock parking spaces, varying times of hours of operation allowing for some joint use parking, available on-street parking, and the small nature of the proposed changes in parking needs, there appears to be ample parking provided. The food carts will be seasonal in nature, open possibly no more than eight months per year. Therefore, the request does not warrant the requirement off-street parking as a condition of the conditional use approval.

E. Section 11.020(B)(1) concerning Conditional Uses Application and Procedures, requires that the proposed use comply with the applicable policies of the Comprehensive Plan.

1. Section CP.200(1) concerning Economic Development Goals states that *"Work toward the improvement and diversification of the area's economy and to increase local employment opportunities. The City will coordinate its efforts with the Astoria Downtown Development Association, Clatsop Economic Development Committee, the Port of Astoria, the Chamber of Commerce, and other groups involved in economic development."*

Finding: This conditional use would allow flexibility in uses that could change periodically as tenants change. There has been an increase in the patronage of the riverfront by tourists and local residents. The proposed uses would not be detrimental to the downtown and would enhance the area's economy with the diversification of uses in the existing building.

2. Section CP.200(5) concerning Economic Development Goals states that *"Encourage the preservation of Astoria's historic buildings, neighborhoods, and sites, and unique waterfront location in order to attract visitors and new industry."*

Finding: The underutilized building is not designated as historic but is a unique waterfront location with good views of the River from the building spaces. The applicants are proposing to increase the variety of potential eating and drinking uses helping to make the needed repairs to the building cost effective. The potential businesses will attract visitors to the waterfront and will help preserve this waterfront building.



3. Section CP.210(1) concerning Economic Development Recommendations states that *“The City should reevaluate its plan and zoning designation for its waterfront in light of the decline of the fishing industry. The reevaluation should focus on the waterfront’s potential for tourist oriented development. Plan policies and implementing measures should be developed to encourage and promote tourist oriented development of the waterfront. Possible rezonings should include the A-1 area between 6th and 10th Streets, and in the vicinity of the Samuel Elmore Cannery.”*

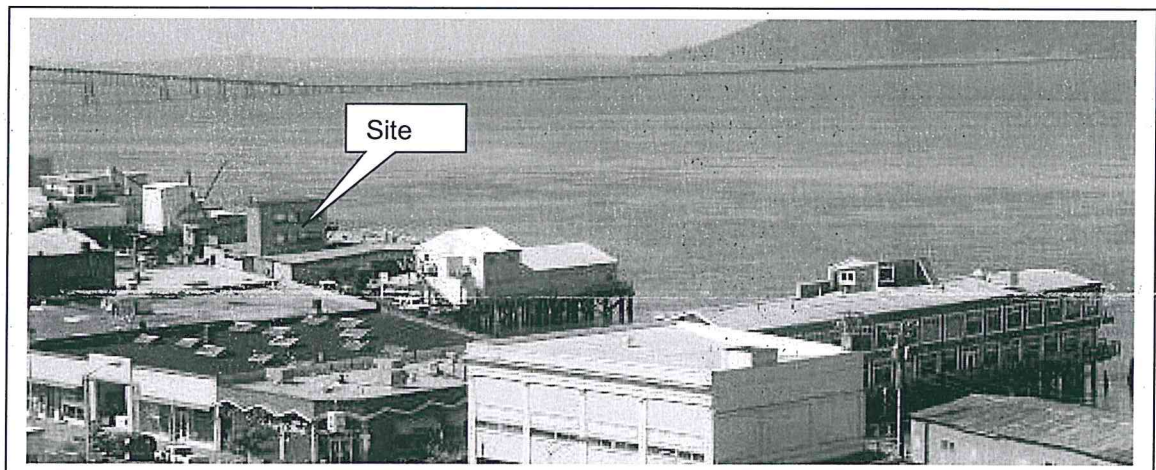
Finding: The proposed uses will provide a variety of opportunities for eating and drinking outdoors. The approval of a conditional use to allow adaptive reuse of this building for other uses, especially the tourist oriented uses, is a measure available to the City to implement this policy.

4. Section CP.055(4) concerning the Downtown Area Policies states that *“The City encourages the reuse of existing buildings prior to the expansion of commercial zones.”*

Finding: The proposed uses will be located in an under utilized portion of an existing building located in the downtown and would provide more location opportunities for businesses within the downtown core.

5. Section CP.250(1) 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.”*

Finding: While the building is not designated as historic, it was built in 1890 and does reflect some of the original waterfront buildings that characterize the working waterfront of Astoria. The applicant has renovated portions of the building to allow adaptive uses of the building which are more financially feasible. The proposed outdoor uses will allow this waterfront building to be preserved especially considering its close proximity to the Trolley, Riverwalk, and Downtown.



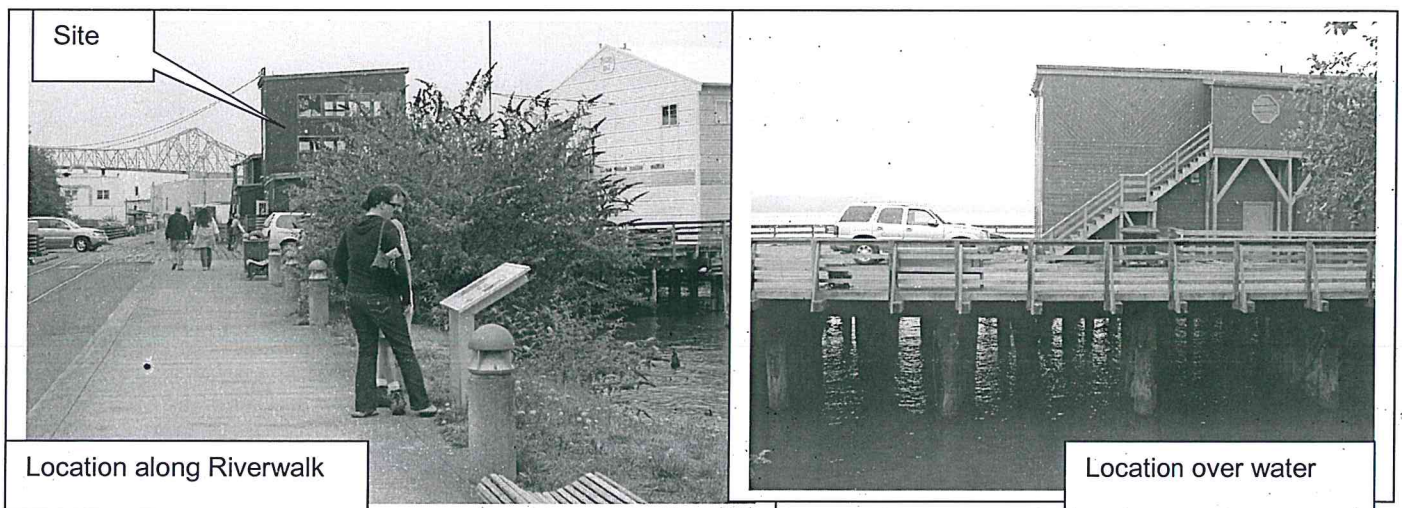


Finding: The proposed uses comply with the applicable policies of the Comprehensive Plan.

F. Section 11.030(A), Basic Conditional Use Standards, requires that *“before a conditional use is approved, findings will be made that the use will comply with the following standards:*

1. Section 11.030(A.1) requires that *“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: The proposed use is appropriate at this location. Current uses in the building includes an eating and drinking establishment, retail sales, and offices. Eating and drinking food carts outside will also be part of the attractiveness of the complex. The proposed uses could be located in other commercial zones, but the desirability of a waterfront location near to the tourist oriented uses and tourist facilities such as the trolley line and Riverwalk make this an appropriate site for the proposed uses.



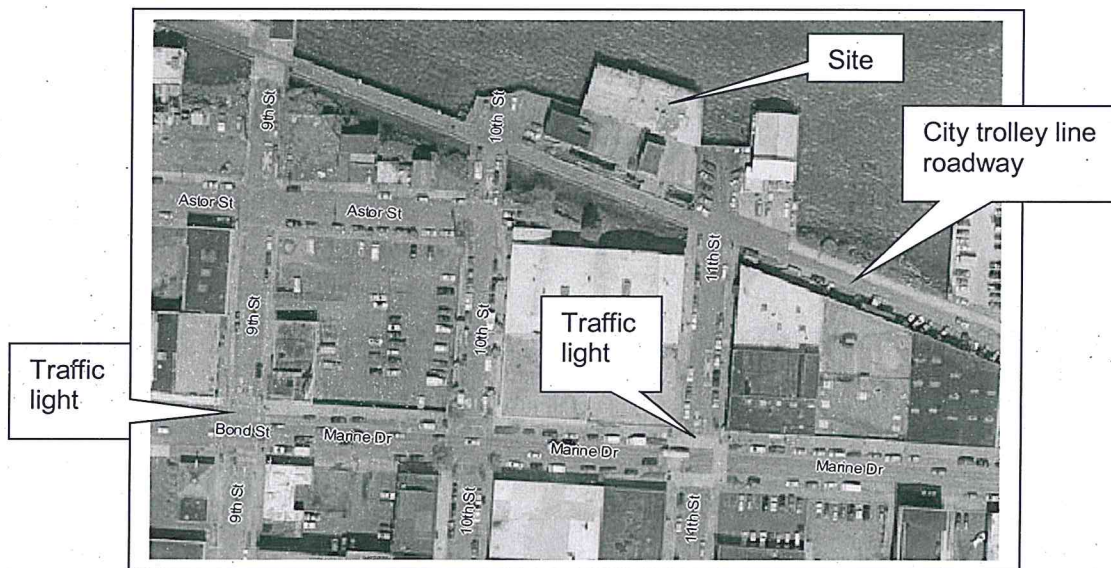
The public dock area within the rights-of-way must remain open to the public due to the unique waterfront location, but food carts can occupy the private dock space on either side of the building. The Planner shall review and approve any proposed cart for compliance with the intent of this condition. This criteria is met.

2. Section 11.030(A)(2) requires that *“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 proposed uses would occupy 100% of the building and the outdoor privately owned dock areas if they were leased. There is some existing dock for parking for patrons to the building and there is ample room for vehicles and deliveries to enter the dock area from the foot of 10th and 11th Streets to access the buildings. There is easy access to the site by public or private vehicles, RiverTrail, and Trolley. The site is accessed from either 10th or Astor Streets with a traffic signal at 9th Street, from 11th Street and Marine Drive which has a traffic light, or from the City Trolley line. There is no roadway along the Trolley line between 10th and 11th Streets. However, there is a roadway between 11th and 12th Streets. The proposed use will utilize the existing refuse areas or have individual waste disposal for each business. This criteria is met.



3. Section 11.030(A)(3) requires that the use will not overburden water and sewer facilities, storm drainage, fire and police protection, or other utilities.

Finding: All utilities are available in the area and are capable of serving the use. Any needed increase in fire suppression system would require coordination with Public Works as there currently is not sufficient water service along the riverfront for new fire suppression systems. As with all new or increased businesses and development, there would be incremental impacts to police and fire protection but it would not overburden these services.

4. Section 11.030(A)(4) requires that the topography, soils and other physical characteristics of the site are adequate 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 subject site is flat, completely over water, and no new buildings are proposed.

The site is not located within 100' of a known geologic hazard area, and is located in Flood Zone A-2, "Areas of 100 Year Flooding", of the Flood Insurance Rate Map, Community Panel Number 410028-0005-B, dated August 1, 1978. The site is located within the Tsunami Inundation Zone as noted on the US Department of the Interior Geological Survey map as prepared by the Corps of Engineers. However, no new construction is proposed as the use will utilize an existing building. This criteria is met.

5. Section 11.030(A)(5) requires that the use contains an appropriate amount of landscaping, buffers, setbacks, berms or other separation from adjacent uses.

Finding: The building is existing and no new landscaping or separations are required. The request meets this criteria.

- G. Section 9.100 concerning Time Limit on a Permit states that *"Authorization of a permit shall be void after one year unless substantial construction or use pursuant thereto has taken place. However, the Commission may, at its discretion, extend authorization for an additional period up to one year on request."*

Finding: The request is for general approval of future food carts which may come and go over the years. It is understood that some uses may not start operation within one year and that approved uses may continue to change periodically as tenants change. Therefore, this permit would be valid as long as these variety of uses inside or outside the building.

## V. CONCLUSION AND RECOMMENDATION

The request meets all the applicable review criteria. The applicant should be aware of the following requirements:

The applicant shall obtain all necessary City permits prior to the start of any construction or operation.

Staff recommends approval of the request with the following conditions:

1. Should the percentage of tourist oriented uses on the ground floor be reduced below the required 75%, the applicant shall obtain approval for a variance from the minimum 75% requirement or comply with the requirement.
2. The public dock areas within the rights-of-way shall remain open to the public and not used exclusively by Pier 11 tenants unless otherwise approved by special right-of-way use permit.
3. This permit shall be valid as long as the approved variety of uses continue.
4. Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.





CITY OF ASTORIA  
 Founded 1811 • Incorporated 1856  
 COMMUNITY DEVELOPMENT

AEP 18-01

VISA

Fee Paid Date 2/21/18 By MDM  
 Fee: Administrative: None \$500<sup>0.00</sup>  
 Commission: Same as Original Permit

**AMENDMENT TO AN EXISTING PERMIT**

Property Address: 77 11<sup>th</sup> St  
 Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision SUBMERGED LANDS DSL  
 Map 89 SCB Tax Lot 200 Zone A 2  
 Permit to be Amended: CU 09-04

Applicant Name: PIER II, INC  
 Mailing Address: 990 ASTOR  
 Phone: 440-5990 Business Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
 Property Owner's Name: KAREN ALLEN  
 Mailing Address: 990 ASTOR Email: steve@allencpas.com  
 Business Name (if applicable): PIER II, LLC  
 Signature of Applicant: [Signature] Date: 2-14-18  
 Signature of Property Owner: [Signature] Date: 2-14-18  
 Proposed Amendment: TO AMEND ORDER # CU09-04 TO ALLOW OUTDOOR VENDORS ON PRIVATE PROPERTY AROUND 77 11<sup>th</sup> ST AND 80 11<sup>th</sup> ST.

**STAFF DETERMINATION:** Staff will determine if the Amendment to Existing Permit Request meets the requirements to be reviewed administratively or if review by the Committee or Commission that originally approved the request is required.

**FILING INFORMATION:** The Design Review Committee meets on the first Thursday of each month; applications are due the 1<sup>st</sup> day of the month to get on the next month's agenda. Historic Landmarks Commission meets the third Tuesday of each month; applications are due by the 13<sup>th</sup> of the month to be on the next month's agenda. Planning Commission meets on the fourth Tuesday of each month; applications must be received by the 20<sup>th</sup> of the month to be on the next month's agenda. A Pre-Application meeting with the Planner may be required prior to acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Commission meeting is recommended.

<i>For office use only:</i>			
Application Complete:		Permit Info Into D-Base:	
Labels Prepared:		Tentative Meeting Date:	
120 Days:			

March 6, 2018

Mail	
Email	3/16/18
Web	

E-MAILED TO: LEGAL ADS, DAILY ASTORIAN VIA E-MAIL [legals@dailyastorian.com](mailto:legals@dailyastorian.com)  
FROM: ANNA STAMPER, COMMUNITY DEVELOPMENT, 338-5183  
SUBJECT: PLEASE PUBLISH THE FOLLOWING PUBLIC NOTICE ONE TIME

CITY OF ASTORIA  
NOTICE OF PUBLIC HEARING

The City of Astoria Planning Commission will hold a public hearing on Tuesday March 27, 2018 at 6:30 p.m., in the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. Conditional Use CU18-01 by Karen and Steve Allen to allow outside eating and drinking establishments on docks and other parts of the private property at 80 11<sup>th</sup> St in the A-2 Aquatic Two Development zone.
2. Amendment to Existing Permit AEP 18-01 by Karen and Steve Allen to amend Conditional Use Permit Order CU 09-04 to allow outdoor eating and drinking on private property around 77 11th St in the A-2 Aquatic Two Development zone.
3. Amendment A17-03 by Kevin Cronin to change the zone from S-1 Marine Industrial to S-2 General Shorelands development zone at 3738 Lief Erikson Drive in the S-1, Marine Industrial Shorelands Development Zone.
4. Variance 17-05 by Cathy Frizelle Smith for a parking variance from two spaces for single family dwelling and one additional space for accessory dwelling unit at 956 Irving Ave in the R-3, High Density Residential zone.

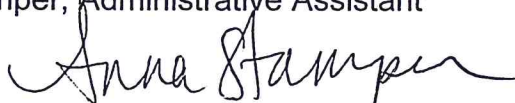
For information, call or write the Community Development Department, 1095 Duane St., Astoria OR 97103, phone 503-338-5183.

The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

The Astoria Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA  
Anna Stamper, Administrative Assistant

PUBLISH: March 20, 2018





STAFF REPORT AND FINDINGS OF FACT
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March 14, 2018

TO: ASTORIA CITY COUNCIL

FROM: MIKE MORGAN, INTERIM PLANNER

SUBJECT: AMENDMENT REQUEST (A17-03) BY KEVIN CRONIN, CONSULTANT, FOR A MAP AMENDMENT FROM S-1, MARINE INDUSTRIAL, TO S-2, GENERAL SHORELANDS TO FACILITATE ADDITIONAL NON MARINE RELATED DEVELOPMENT.

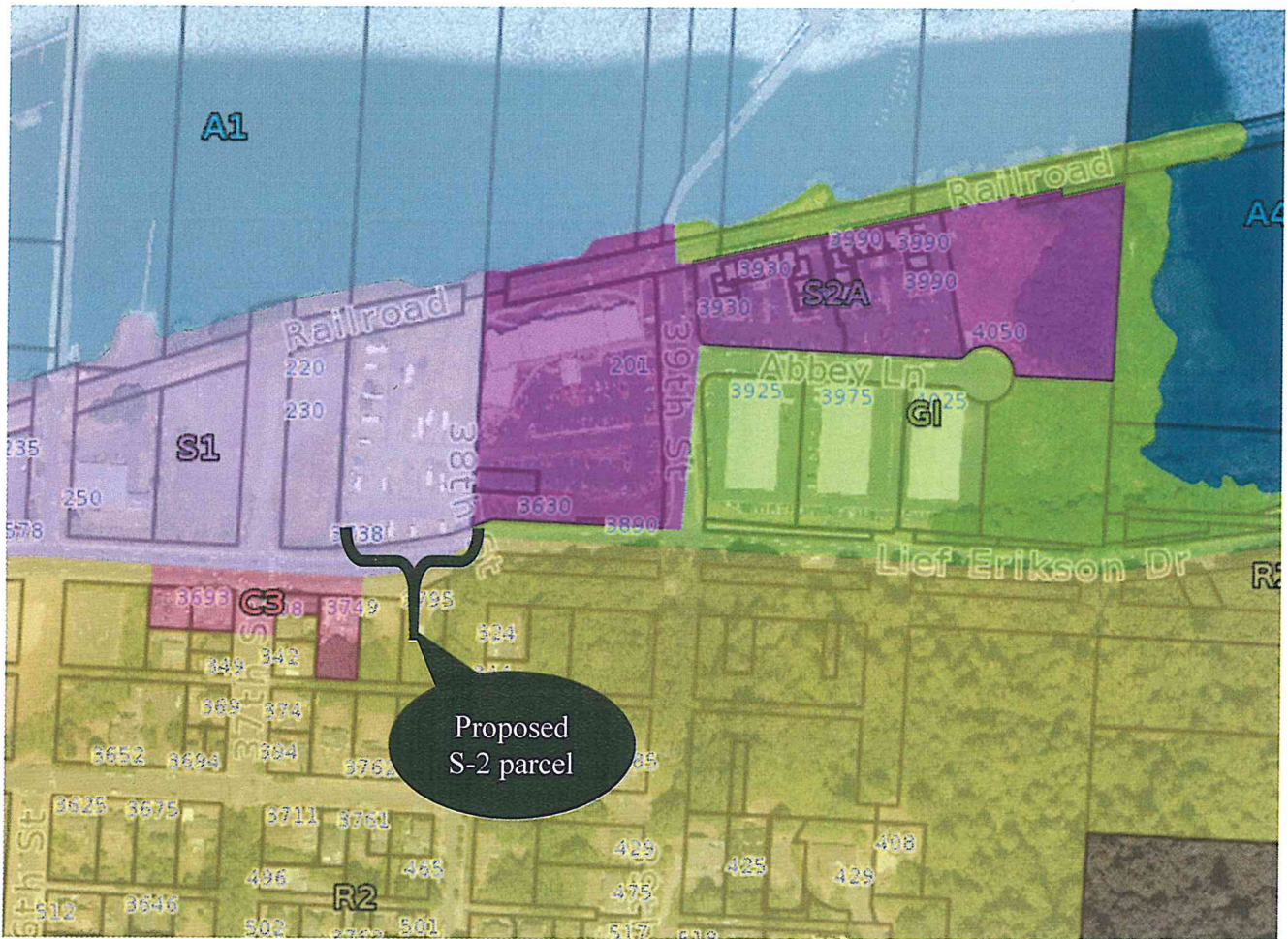
I. BACKGROUND SUMMARY

- A. Applicant: Kevin Cronin, Consultant, on behalf of Sameer Sharma, property owner.
- B. Request: To amend the zoning map at 3738 Lief Erikson Drive from S-1 to S-2.
- C. Owner: Sameer Sharma
- C. Location: 38<sup>th</sup> and Lief Erikson Drive, formerly a campground/RV park just west of Hampton Inn.
- D. Zone: S-1 Map 898AC tax lot 200, Lots 3,4,5,6, east 50" of lots 2&7, Block 1, and unplatted portion of frontage to block 1, Adair's Port of Upper Astoria, and vacated portions of 38th Street and midblock alley.
- E. Previous Applications: None

II. BACKGROUND

The property was formerly a campground/RV park owned by various parties. After purchase by the owners of the Hampton Inn, the use as transient use was discontinued and it is now vacant. A summary table of the S-1 vs. S-2 uses can be found as Attachment 1. In addition, the property lies within the Gateway Overlay Zone and Civic Greenway Overlay Zone.

# PROPOSED MAP AMENDMENT





### III. PUBLIC REVIEW AND COMMENT

#### Planning Commission

A public notice was mailed to surrounding property owners and interested parties on March 5, 2018. In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on March February 26, 2018. The proposed amendments are quasi-judicial since they apply to a specific and discreet area. The Department of Land Conservation and Development received the required 35 day notice on February 9, 2018.

### IV. FINDINGS OF FACT

#### A. AUTHORIZATION TO INITIATE AMENDMENTS

An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed.

Finding: The proposed amendment to the Development Code is being initiated by the applicant, Kevin Cronin, Planning Consultant, on behalf of Sameer Sharma, owner of the property.

#### B. Quasi-judicial Amendments.

The following amendment actions are considered quasi-judicial under this Code:

1. A zone change that affects a limited area or a limited number of property owners.

Finding: This is a limited area of 2.13 acres. Twenty surrounding properties were noticed for this amendment.

#### 10.060. PROCEDURES.

Public notice and procedures of zoning amendments shall be in accordance with Article 9.

Finding: All procedures of Article 9 have been followed.

#### 10.070. AMENDMENT CRITERIA.

##### B. Map Amendment.

Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the Comprehensive Plan.
2. The amendment will:
  - a. Satisfy land and water use needs; or
  - b. Meet transportation demands. The amendment shall be reviewed to determine whether it significantly affects a transportation facility pursuant to Section -0060 of Oregon Administrative Rule (OAR) 660-012, the Transportation Planning Rule (TPR). When the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law; or
  - c. Provide community facilities and services.
3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.
4. Resource lands, such as wetlands are protected.
5. The amendment is compatible with the land use development pattern in the vicinity of the request.

Findings: The proposed amendment is to amend the map of the Astoria Development Code to facilitate the construction of unspecified development. The request is to convert 2.13 acres from S-1 to S-2. The applicant states that the current zoning, Marine Industrial Shorelands, is too restrictive in terms of uses allowed, and an “upzone” will enable the owner to market the property to a wider variety of users. The applicant states that “Marine uses are not in demand due to many global economic factors...marine lands are dormant or have been converted to serve other more viable uses such as the Englund Marine Warehouse (Mo’s Chowder), Buoy Beer (Bornstein Seafood), Pier 11 and Pier 12.” Attachment 1 is the complete application narrative submitted by the consultant.

The major areas of S-1 lands in the City are the Port Docks at the west end of Astoria, the East Mooring Basin adjacent to this site, and Tongue Point. Attachment 2 identifies the acreage in these areas and the changes that have occurred over the years. Current and future marine dependent industries that require large land and water areas such as shipping, ship and boat repair, marinas and similar activities are likely to be concentrated in these areas.

Goal 17 (OAR 660-37) requires the City of Astoria to calculate the minimum acreage of especially suited for water dependent shorelands and implement measures to protect an area equal to or greater than the minimum acreage requirement. As shown on Attachment 2, the City currently has 170.24 acres of S-1 lands. The Comprehensive Plan section CP.025.4 requires that 125 acres are the minimum amount of acreage required to be protected for water dependent use within the estuary shoreland units. A request to rezone shorelands designated for water dependent use will require a demonstration by the applicant that at least the minimum acreage of 125 acres will remain designated for water dependent use. The removal of 2.13 acres from 170.24



acres leaves 168.11 acres, which is 43.11 acres above the minimum acreage required by the Comprehensive Plan and State law.

It should be noted that Clatsop Community College is in the process of acquiring the South Tongue Point area which contains 55 acres of lands designated S-1. The primary purpose of acquiring the land from Department of State Lands is for habitat restoration. If all 55 acres were to be rezoned it would reduce the number of acres to less than the 125 acres required by law. However, in discussions with CREST staff, who are assisting CCC in acquiring the area from DSL, no more than 30 acres would be used for restoration and need to be rezoned. The balance could remain S-1 indefinitely, leaving approximately 138 acres.

The land is physically suitable and contains no wetlands or resource lands.

Surrounding uses include the Hampton Inn hotel to the east, the Columbia River and East Mooring Basin to the north, undeveloped Port property to the west, and Lief Erikson Drive to the south. Since no uses are proposed at this time it is not possible to determine compatibility with the surrounding uses. However, since all development proposals would be evaluated under the Gateway Overlay Zone, the Civic Greenway Overlay Zone or through the conditional use process, compatibility can be determined at that time.

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

Finding: The Comprehensive Plan and Development Code establish specific uses allowed in each zone.

2. CP.015(1) concerning 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."*

CP. 015(2) concerning General Land and Water Use Goals states that *"It is a goal of the plan to encourage the development of public and private lands within the city limits, particularly areas that are presently serviced with sewer and water, prior to the extension of public facilities to areas outside the City."*

Finding: The property has been vacant or underutilized for many years, and is in an area that has seen significant redevelopment in the last

decade, including Cannery Lofts and Hampton Inn. The site is fully serviced by sewer, water, storm drainage and other utilities. Development of the site, which has views of the Columbia River and Washington, will be beneficial to the City in terms of utilizing land within the urban area prior to expansion into the urban growth boundary or expansion of the City. Additionally, it will be part of the gateway to the downtown area.

- D. Statewide Planning Goal 12 concerning Transportation requires that cities review transportation related issues when considering land use amendments. Oregon Administrative Rules (OAR) Section 660-012-0060(1) concerning Transportation Planning Rule (TPR) - Plan and Land Use Regulation Amendments stated that *“Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in Section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. . .”*

Finding: A traffic impact study has not been prepared since no development is proposed at this time. The Astoria TSP recommends an extension of Abbey Lane connecting 36<sup>th</sup> and 39<sup>th</sup> Streets. This is consistent with the extension of an easement across the Hampton Inn parking lot which would provide access to the subject parcel. When development is proposed for the site the City may require a continuation of the easement to accomplish this goal if feasible in order to prevent multiple access points along US 30. Although the entrance to 38<sup>th</sup> Street is still in existence, it is the opinion of the City Engineer that no changes are needed at this time. When a development proposal comes forward, consideration could be given to whether or not to allow the entrance to the vacated portion of 38<sup>th</sup> Street to remain as an emergency access or some other valid purpose.

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

Finding: The City conducted a Buildable Lands Inventory (BLI) which was adopted in 2011. The report concluded,

“A comparison of need and supply of industrial and other employment lands indicates an overall surplus of approximately 6.7 acres of employment land. While there is sufficient land for industrial uses, there is a deficit of land zoned for commercial and particularly retail use. However, a portion of the land identified as “Other” can accommodate specific commercial, industrial, and



high-density residential development and help meet the need for additional commercial land.”<sup>1</sup>

The proposed map amendment would remove approximately 2.13 acres from the S-1 zone and transfer it to the S-2 zone. The change would not significantly impact the supply of either commercial or residential land.

While the S-2 zone does restrict outright uses to primarily marine related activities such as charter fishing offices, it also allows uses that may not be appropriate in this location, such as manufactured dwellings, manufactured dwelling parks as a conditional use, and gasoline service stations. (Attachment 1 includes a comparison of the S-1 and S-2 zones, both outright and conditional uses) The S-2A Tourist-Oriented Shorelands Zone, which is east of this site and is the zone underlying the Hampton Inn, also permits some marine related uses but is primarily intended for uses of a tourist oriented nature such as restaurants, hotels, and so forth. The S-2A zone is attachment 2. Since the Hampton Inn is zoned S-2A, an extension of that zone to the subject property may be more appropriate than the designation S-2, which could be considered a “spot zone”. If it were to be zoned S-2A, there would be a continuous area of S-2A extending from the Cannery Pier condominiums west to the Port property. Staff believes that while a zone map amendment is justifiable, the appropriate zone should be S-2A rather than S-2.

## V. CONCLUSION AND RECOMMENDATION

Staff recommends that the Planning Commission approve the map amendment from S-1 to S-2A with the following conditions:

1. Any development proposal shall be evaluated in accordance with the Gateway Overlay Zone and the Civic Greenway Zone, as well as any other development code requirement.
2. Access to the site shall be through the easement provided through the Hampton Inn parking lot. Although the access through the vacated portion of 38<sup>th</sup> Street at Lief Erikson Drive may remain until development is proposed, after development is shall be removed or converted to an emergency access.

## FINDINGS OF FACT SUBMITTED BY THE APPLICANT

Attachment 1:

**Proposed Zone Change by Tax Lot**

Owner	Tax Lot	Square Feet (SF)	Acres
Pier 38 Marina & RV Park, LLC	200	92,657	2.13

*B. Map Amendment*

*Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*1. The amendment is consistent with the Comprehensive Plan:*

The proposed amendment from S-1 Marine Industrial Shorelands to S-2 General Development Shorelands is a slight upzone in allowed development uses for the property. It combines the allowed marine related uses from S-1 under the “Permitted Category” (Type 1) and allows other marine uses and additional compatible uses under the “Conditional Use” category. Marine uses are not in demand due to many global economic factors. Most marine lands are dormant or have been converted to serve other more viable uses such as the Englund Marine Warehouse (Mo’s Chowder), Buoy Beer (Bornstein Seafoods), and Pier 11 (Multi-tenant Bldg) and Pier 12 (Baked Alaska/Multi-tenant Bldg). The proposal rebalances the need for more flexibility in attracting more viable and compatible development on “employment lands” with the need for neighborhood protection and public process by scrutinizing a future application under the conditional use permit (Type 3) process. By allowing an upzone, the property owner can market the property for uses that are strategically aligned to achieve current Comprehensive Plan policies and objectives. From a quantitative perspective, the upzone from S-1 to S-2 does not impact the City’s compliance with Goal 17 for Coastal Shorelands because it is within the same general shoreland category and does impact the lack of commercial land that was identified in the commercial land inventory as part of the “Economic Opportunities Analysis” (EOA) that was completed in 2017. The EOA provided the baseline analysis for Advance Astoria: Five Year Economic Development Strategy. The City Council adopted a Comprehensive Plan Economic Element amendment in July 2017 that recognized changes to the local economy since the Plan was adopted or substantially revised and set new policies for growing a more sustainable local economy not solely based on tourism.



This zone change request is consistent with the new Economic Element of the Comprehensive Plan because the types of uses allowed in the S-2 are more aligned with the new strategies to attract the industry sectors identified in the five “batch” strategies. For example, “research and development laboratory” is a conditional use in the S-2 that fits perfectly with the Research & Development batch strategy to attract more outside private investment from research based institutions to grow more, high paying, professional jobs in Astoria. Below is a table that summarizes the allowed and conditional uses between the existing and proposed zone:

<b>S-1 Permitted</b>	<b>S-1 Conditional</b>	<b>S-2 Permitted</b>	<b>S-2 Conditional</b>
Water dependent uses	Retail trade for water dependent uses	Charter fishing office, cold storage, ice processing, marine sales	Auto sales, gasoline service, retail sales
Water related uses	Eating & drinking related to water dependent uses	Seafood processing and boat building/repair	Eating and drinking, contract construction facility, business, personal, repair, educational, research and development lab, and professional service offices, water related uses
	Water related recreation	Water related recreation and public park	Public/semi-public uses, utility
	Non-water as accessory to water related	Manufactured dwelling in an approved park	Manufactured dwelling park, multi family dwelling
	Non-water in underutilized buildings		Shipping and wholesale trade/distribution
			Hotel, conference center, and indoor family entertainment
			Wood processing and light manufacturing

The above table clearly illustrates the differences between the zones and why it’s important to upzone to allow the types of uses and business sectors that are envisioned in the revised Economic

Element. The property owner will be able to effectively market the property to prospective buyers and/or developers who can attract the type of tenants consistent with the City's economic development strategy. It's important to note that all future conditional uses listed under the S-2 Zone will require a public hearing.

1. *The amendment will:*

a. *Satisfy land and water use needs, or:*

The zone change request does not alter future land and water use needs because the request does not include a development proposal. The land is already located within the city with all utilities readily available to meet future demand. The only exception is a high water intensive use such as seafood processing which would require a water demand analysis and review by the Public Works Department.

b. *Meet transportation demands; The amendment shall be reviewed to determine whether it significantly affects a transportation facility pursuant to Section -0060 of Oregon Administrative Rule (OAR) 660- City of Astoria Development Code 10.080 Article 10 - Page 3 (Adopted 10-8-92) 012, the Transportation Planning Rule (TPR). When the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law; or*

The zone change request does not propose to alter the existing road system. The proposal is located between 37th and 38th St with access to US 30 (Leif Erikson Drive) from 39th St. According to city records, 38th St was vacated so a new private access would be required if access was needed directly from the highway. Alternatively, access can be gained from 39th St and an existing shared internal access from the adjacent property (Hampton Inn). When development is proposed, internal circulation will be analyzed to ensure integration with the public street system. The Transportation System Plan (TSP) identifies Leif Erikson as an arterial owned and operated by the Oregon Department of Transportation (ODOT). The TSP does not identify the need for new local streets to service the proposed area. The traffic impacts would be minimal based on a policy level review of the TSP, and a review of the ITE Standards (9th Edition) for traffic generation based on a comparison of land use categories and Development Code uses. The largest potential traffic generator in the S-2 Zone would be a gas station/ convenience market, which is a conditional use. This use would generate just under 51 trips per 1,000 SF of building. Most stores are less than 1,000 SF so the impact would



be minimal. If the site does indeed develop, then the proposed uses can be evaluated more closely for traffic impacts and a traffic analysis would be warranted based on the proposed intensity of the development. Therefore, based on the conclusions above, this standard is met.

*c. Provide community facilities and services:*

It is not known at this time what development will occur at the site. The proposal will allow more uses to occur subject to a conditional use permit.

*2. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard, and other relevant considerations.*

There are no slope, geologic or other considerations that are known at this time based on a review of the GIS database. The subject area is located adjacent to the Columbia River and could be impacted by a future flood. All development proposals will be

reviewed to establish a base flood elevation and how it relates to the 100 year floodplain.

*3. Resource lands, such as wetlands are protected.*

There are no known resource lands with the exception of the riparian area along the Columbia River. No development is proposed at this time. All future development will be reviewed to understand the potential impacts to the estuarine resources.

*4. The amendment is compatible with the land use development pattern in the vicinity of the request.*

The amendment is compatible with the land use pattern adjacent to the proposed area which is characterized as tourist oriented (hotel), local services, business offices to the east (39th St business park), and another hotel to the west. The subject property is predominantly vacant with the exception of the former OSU Seafood Lab site, which has been vacant for years. The Port of Astoria is in the process of acquiring full rights to the property from the State Higher Education Office (Oregon State University). The Columbia River lies due north and US 30 is south of the subject properties. The only residential area in the vicinity is the Cannery Loft Condos located above commercial spaces in a mixed use building adjacent to the Hampton Inn on Abbey Lane.

*Statewide Land Use Planning Goal 17 Shorelands - Findings of Fact.*

Based on a review of Goal 17 lands conducted by the City of Astoria, the City has 186.5 acres of S-1 lands (ESWD) and is well over the required amount of 125 minimum amount that was established in the Comprehensive Plan (ORD 02-05). The proposal is just over 2 acres and does not jeopardize the city's land inventory. The Planning Commission and City Council has wide discretion in rezoning S-1 lands to meet Comprehensive Plan goals and objectives and in this case the recently amended Economic Element to implement Advance Astoria. Standard is met.



City of Astoria  
Development Code

S-2A Zone

**S-2A: TOURIST-ORIENTED SHORELANDS ZONE**2.700. PURPOSE AND AREA INCLUDED.

This district is intended to provide for mixed-use tourist oriented development that retains and takes advantage of the working waterfront character of the area. The uses permitted are intended to be compatible with pedestrian orientation. The emphasis is on the rehabilitation and reuse of existing structures.

2.705. PERMITTED USES.

The following uses and activities and accessory uses and activities are permitted in the Tourist Oriented Shoreland Zone, subject to the provisions of 2.715. Development Standards and Procedural Requirements.

1. Tourist oriented retail sales establishment.
2. Eating, drinking and entertainment establishment without drive-through facility.
3. Specialized food store, such as bakery, delicatessen and seafood market.
4. Hotel, motel, inn, bed and breakfast, and associate uses.
5. Personal service establishment, excluding funeral homes.  
*(Section 2.705(5) amended by Ordinance 12-11, 11-5-12)*
6. Indoor family-oriented amusement, entertainment and/or recreation establishment.
7. Theater.
8. Seafood receiving and processing.
9. Small boat building and repair.
10. Boat and/or marine equipment sales.
11. Park and museum.
12. Shoreline stabilization.
13. Navigation aide.
14. Conference Center.  
*(Section 2.705.14) added by Ordinance 94-06, 6-6-94)*

15. Transportation facilities.  
(Section 2.705.15 added by Ordinance 14-03, 4-21-14)

2.710. CONDITIONAL USES.

The following uses and activities and their accessory uses and activities may be permitted in the Tourist-Oriented Shoreland Zone as Conditional Uses when authorized in accordance with Article 11, Conditional Uses. These uses and activities are also subject to the appropriate provisions of Section 2.715, Development Standards and Procedural Requirements.

1. Arts and crafts studio.
2. Commercial or public parking lot.
3. Multi-family dwelling.
4. Non-tourist oriented retail sales establishment.
5. Professional and business office.
6. Public or semi-public use appropriate to and compatible with the district.
7. Repair service establishment, not including automotive, heavy equipment, or other major repair service.
8. Temporary use meeting the requirements of Section 3.240.

2.715. DEVELOPMENT STANDARDS AND PROCEDURAL REQUIREMENTS.

1. All uses will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards in Article 4. Where a proposal involves several uses the standards applicable to each use shall be satisfied.
2. Outdoor storage areas will be enclosed by appropriate vegetation, fencing, or walls.
3. Uses located between 8th and 14th Street are not required to provide off-street parking or loading. Uses located in other portions of the S-2A Zone shall comply with access, parking, and loading standards in Article 7.
4. Signs will comply with requirements in Article 8.



City of Astoria  
Development Code

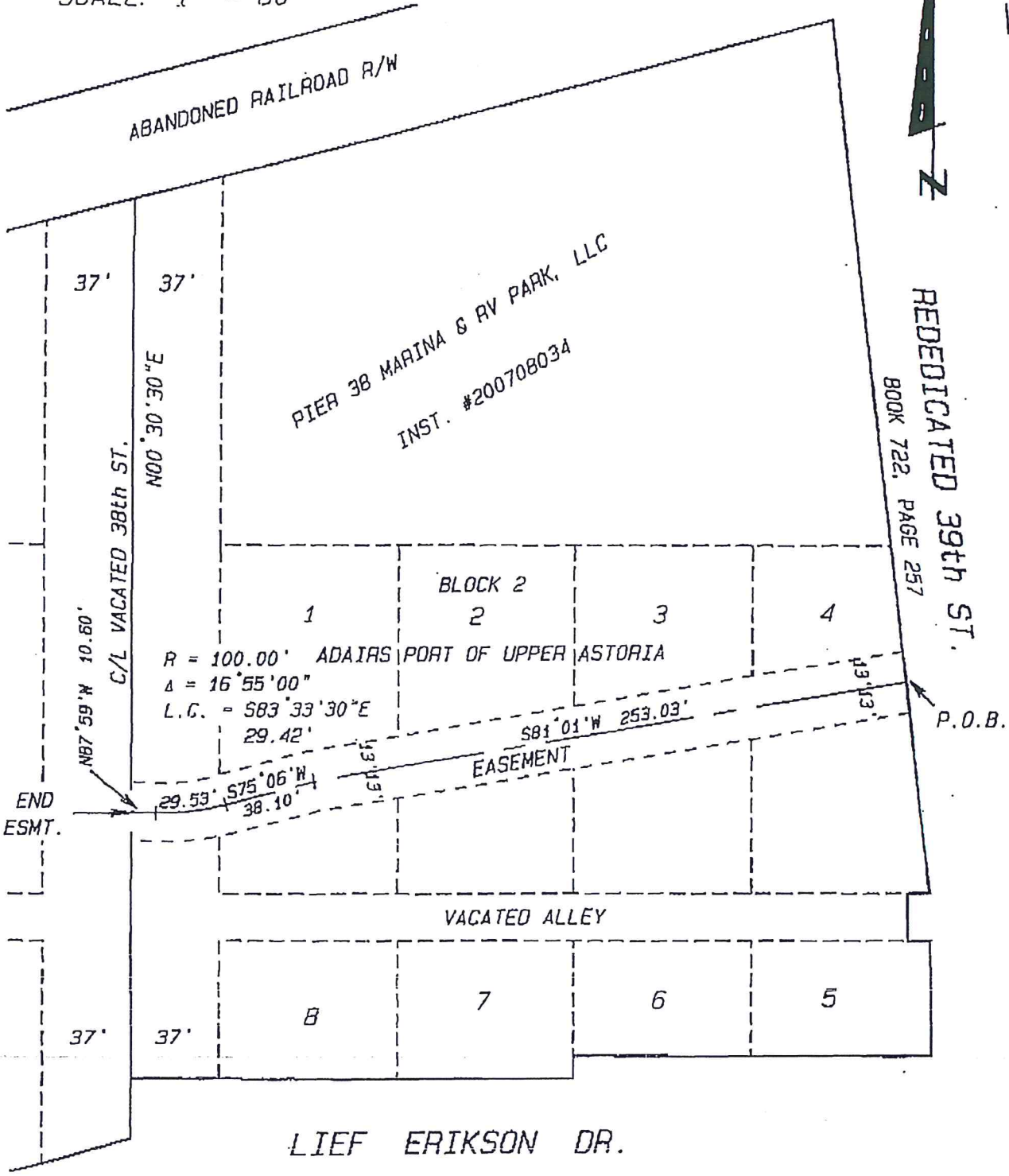
S-2A Zone

5. No structure will exceed a height of 28 feet above grade, except for those areas between the extended 15th and 21st Street rights-of-way. In this area, no structure shall exceed a height of 45 feet above grade.  
  
*(Section 2.715(5) amended by Ordinance 94-07, 7-18-94)*
6. Commercial and recreational facilities having a tourist orientation shall be designed to take maximum advantage of river views.
7. Uses in this zone which are water-dependent or water-related must meet the criteria for water-dependent uses (Section 4.220(A)) or for water-related uses (Section 4.220(B)).
8. New businesses with frontage on north-south oriented streets shall meet the following requirements:
  - a. To the extent possible, businesses which have frontage on both Marine Drive and north-south streets will locate the tourist oriented portions or functions to the north-south streets.
  - b. New or renovated storefronts will be designed to relate to existing adjacent businesses in terms of scale, color and use of materials.
  - c. Where appropriate, store front windows along north-south streets will be restored to "display window" condition.
  - d. The number of garage entry doors along the street will be kept to a minimum.
  - e. The Planning Commission may require landscaping, lighting, street furniture or other amenities as part of a renovation or new use.
9. Accessory structures in the Tourist-Oriented Shorelands Zone are limited in size to a maximum of 10% of the lot or parcel size.

EXHIBIT SHOWING PUBLIC ACCESS EASEMENT

DATE: 7/11/10

SCALE: 1" = 60'







**CITY OF ASTORIA**  
 1095 Duane Street  
 Astoria OR 97103  
 503-338-5183

A ~~17-02-03~~

Fee Paid Date 12/8/17 By NS # 8128  
 Fee: \$750.00

**AMENDMENT**

Property Address: 3738 LIEF ERIKSON DRIVE

Lot 200 Block \_\_\_\_\_ Subdivision \_\_\_\_\_

Map 80909 AC Tax Lot 200 Zone S-1

Code or Map to be Amended: S1-S-2

Applicant Name: KEVIN A. CRONIN, AICP

Mailing Address: 726 7TH ST ASTORIA OR 97103

Phone: 503 984 6489 Business Phone: \_\_\_\_\_

Property Owner's Name: PIER 38 MARINA & RV PARK LLC.

Mailing Address: 12010 NE AIRPORT WAY PORTLAND OR 97220

Business Name (if applicable): \_\_\_\_\_

Signature of Applicant: IC C.

Signature of Property Owner: Shanna

Proposed Amendment IS TO CHANGE THE ZONE FROM S-1 MARINE INDUSTRIAL TO S-2 GENERAL DEVELOPMENT SHORELANDS. PROPERTY IS CURRENTLY VACANT WITH A FORMER RV PARK OPERATING ON SITE. THERE IS NO DEVELOPMENT PROPOSAL ASSOCIATED WITH APPLICATION.

<b>For office use only:</b>			
Application Complete:		Permit Info Into D-Base:	
Labels Prepared:		Tentative APC Meeting Date:	
120 Days:			

**FILING INFORMATION:** Astoria Planning Commission meets at 7:00 pm on the fourth Tuesday of each month. Applications must be received by the 20<sup>th</sup> of the month to be on the next month's agenda.. A pre-application meeting with the Planner is required prior to the acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission is recommended.

Briefly address each of the Amendment Criteria and state why this request should be approved. (Use additional sheets if necessary.)

A. Text Amendment (Please provide draft language of proposed text amendment)

Before an amendment to the text of the Code is approved, findings will be made that the following criteria are satisfied.

1. The amendment is consistent with the Comprehensive Plan.

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N/A

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2. The amendment will not adversely affect the ability of the City to satisfy land and water use needs.

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N/A

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B. Map Amendment (Please provide a map showing the proposed area to be amended.)

Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the Comprehensive Plan:

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See attached

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2. The amendment will:

- a. Satisfy land and water use needs; or

---

See attached

---

- b. Meet transportation demands; or

---

---



c. Provide community facilities and services:

*See attached*

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.

*See attached*

4. Resource lands, such as wetlands are protected.

*See attached*

5. The amendment is compatible with the land use development pattern in the vicinity of the request.

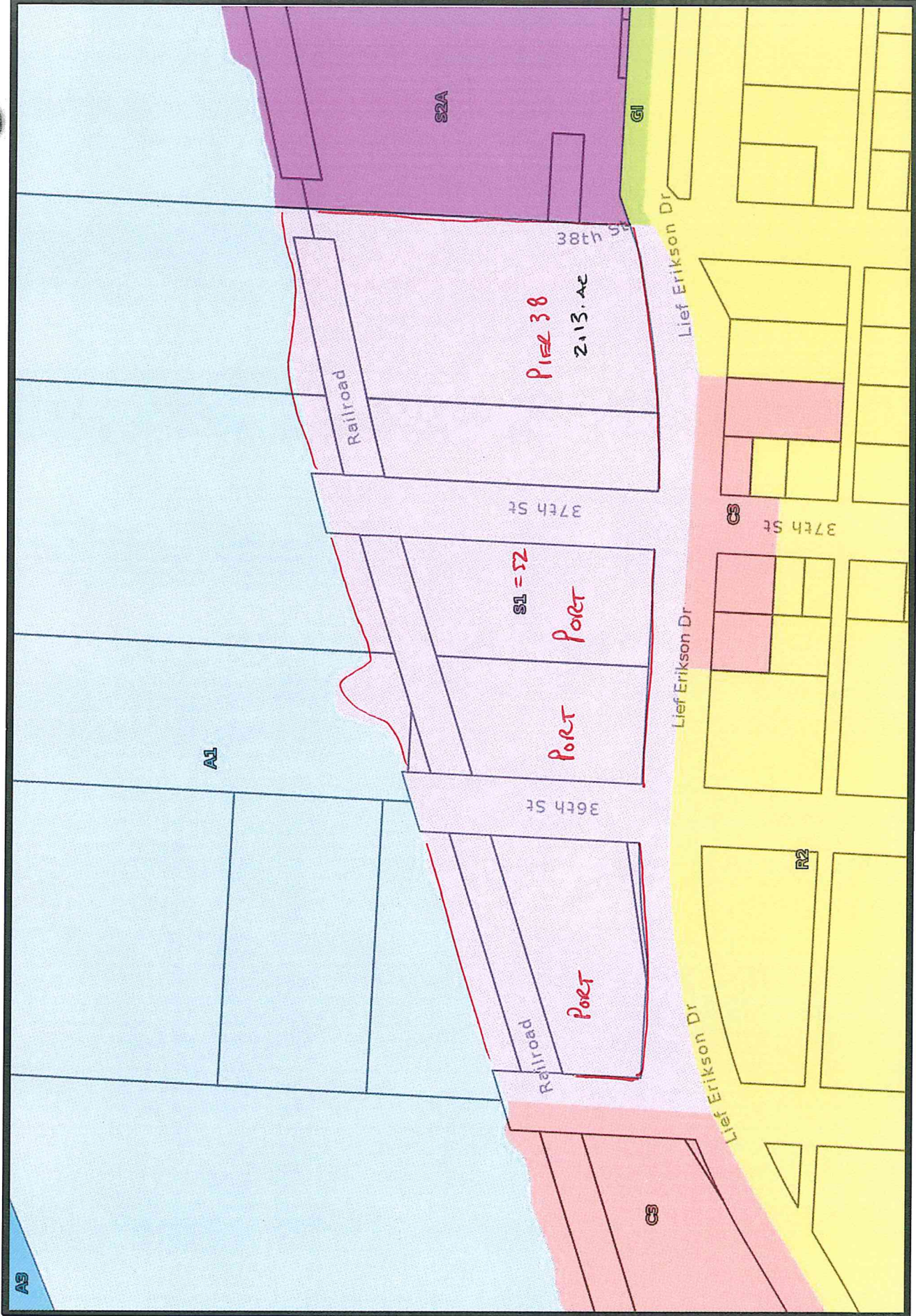
*See attached*

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**PLANS:** A site plan indicating location of any proposed zone change is required.



# E. Mooring Basin to Pier 38 RV Park



**DISCLAIMER:** The user/subscribe information provided within this GIS application comes to you from City of Astoria, Oregon. This GIS application is not an official source of information; you are it of your own use. The spatial data contained within this GIS application do not originate from Clatsop County, Astoria, Oregon. Clatsop County does not have any responsibility for its content or use. GIS applications like this are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works. And this GIS application cannot be used as a substitute for a professional land survey or official source of information. Contact the Clatsop County Assessor's Office to obtain official information. Clatsop County Assessor's Office is not responsible for any liability and limitation both known and unknown. City of Astoria, Oregon provides this GIS application as a source of information; you must agree to accept any liability for any decisions made or actions taken or not taken by the use of the GIS application. City of Astoria, Oregon assumes no liability for any decisions made or actions taken or not taken by the use of the GIS application. City of Astoria, Oregon provides this GIS application as a source of information; you must agree to accept any liability for any decisions made or actions taken or not taken by the use of the GIS application. City of Astoria, Oregon provides this GIS application as a source of information; you must agree to accept any liability for any decisions made or actions taken or not taken by the use of the GIS application. City of Astoria, Oregon provides this GIS application as a source of information; you must agree to accept any liability for any decisions made or actions taken or not taken by the use of the GIS application.



**STAFF REPORT AND FINDINGS OF FACT**

March 20, 2018

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

THROUGH: NANCY FERBER, PLANNER *Nancy Ferber*

SUBJECT: VARIANCE REQUEST (V17-05) BY CATHY FRIZELLE FROM OFF-STREET PARKING REQUIREMENTS TO ALLOW AN ACCESSORY DWELLING UNIT WITH ZERO PARKING AT 956 IRVING AVENUE

**I. BACKGROUND SUMMARY**

- A. Applicant: Cathy Frizzelle  
956 Irving Avenue  
Astoria OR 97103
- B. Owner: Catharine T Frizzelle Smith  
956 Irving Avenue  
Astoria OR 97103
- C. Location: 956 Irving Avenue; Map T8N-R9W Section 8CC, Tax Lot 13100; Lot 6, Block 95, McClure
- D. Zone: R-3, High Density Residential
- E. Lot Size: 50' x 100' (5,000 square feet)
- F. Proposal: Variance from the off-street parking requirements of two spaces for the single-family dwelling and one space to locate an Accessory Dwelling Unit (ADU) in an existing single-family dwelling with zero off-street parking.

**II. BACKGROUND INFORMATION**

A. Site:

The 2.5 story building is located on the north side of Irving Avenue between 9th and 10th Streets. It is a single-family dwelling constructed ca. 1890 and has a daylight basement with a front basement door. The structure is designated as historic.



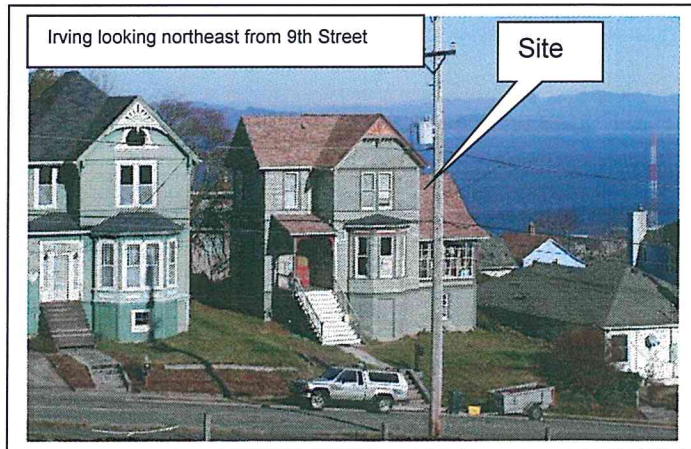
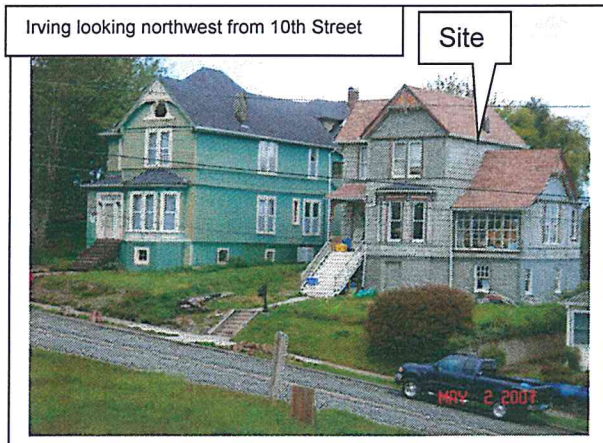


B. Neighborhood:

The surrounding area on Irving Avenue is developed with mostly single-family dwellings, a church one block to the east, and a vacant City block and a half to the south.



Irving Avenue is platted 60' wide and developed its full width with street, parking on north side, and sidewalks with green strips separating the street traffic from the pedestrian walkway. Irving Avenue is classified as a "Residential Collector Street" in the 2013 Astoria Transportation System Plan and is a main vehicular route and serves as a connecting street for the north and south sides of Astoria. The 9th and 10th Street rights-of-way on either side of the subject property are 50' wide and developed with one lane of traffic in each direction. 11th Street to the east is a secondary north-south local route through Astoria.



The applicant owns and resides in the single-family dwelling and is proposing to locate an Accessory Dwelling Unit (ADU) in the basement level of the home. There is no off-street parking for the dwelling. The ADU would require one additional parking space. The two spaces required for the single-family dwelling are existing non-conforming as they are not provided; however, would be required with the proposed change of use. The applicant applied for a Variance from the two spaces required for the single-family dwelling and the one space required for the ADU.



### III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 200 feet pursuant to Section 9.020 on March 5, 2018. A notice of public hearing was published in the *Daily Astorian* on March 20, 2018. Any comments received will be made available at the Planning Commission meeting.

### IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 2.155(4) concerning Outright Uses Permitted in the R-3 Zone allows *"Accessory Dwelling Unit"*.

Section 3.020.A.4, Accessory Dwelling Units (ADUs), Zones in Which Permitted states *"Accessory Dwelling Units are permitted outright or conditional as an accessory use to any existing single-family dwelling in all zones."*

Section 3.020.C.1, Accessory Dwelling Units (ADUs), Permits Required, states *"A Type I or Type III permit is required for the establishment of an Accessory Dwelling Unit. The property owner shall submit an application to the Community Development Department on a form provided by the City."*

Finding: The ADU is an outright use and shall comply with the ADU requirements of Section 3.020. The applicant applied for an ADU permit (ADU17-05) which was approved on February 26, 2018 with the condition that she obtain a variance from the required off-street parking.

- B. Section 7.100 concerning Minimum Parking Space Requirements states that *"Accessory Dwelling Unit"* shall have *"1 additional space for the accessory dwelling unit."*

Section 7.100 concerning Minimum Parking Space Requirements states that *"Single-family dwelling . . ."* shall have *"2 spaces per dwelling unit."*

Section 3.200, Prior Approval of Nonconforming Lots, Uses & Structures, states *"Nothing contained in this Code shall require any change in the plans, construction, alteration or designated use of a structure for which a legal permit has been issued by the City and construction has begun, provided the structure, if nonconforming, or intended for a nonconforming use, is completed and is used within two years from the time the permit was issued."*

Section 7.010, Parking and Loading Areas Required, states

- A. *Off-street parking areas and off-street loading areas meeting the applicable requirements of this Section shall be provided and maintained:*

1. *For each separate use in any building or structure erected after the adoption of this ordinance.*



2. *For additional seating capacity, floor area, guest rooms, or dwelling units added to any existing structure or lot.*
3. *When the use of the structure or portion thereof is changed.*

*B. Where a structure is added to, or a portion thereof changes in use such that additional parking or loading is required, only the number of additional spaces required under Sections 7.100 and 7.160 for the area added or changed in use need be provided. Nevertheless, if the lot or structure as used prior to the addition or change of use did not have the number of parking and loading spaces required by Sections 7.100 and 7.160 and such deficiency was not lawfully nonconforming, parking for the entire building or use shall be provided as required by Sections 7.100 through 7.160.”*

Finding: The single-family dwelling is existing and has no off-street parking spaces. The dwelling would be required to have 2 parking spaces; however, it was constructed prior to this requirement and therefore is not required to provide the two spaces. However, due to the proposed change of use with the addition of the ADU, parking could be required. The proposed ADU would be a change in the use and therefore is required to provide one off-street parking space. The applicant submitted a Variance application (V17-05) from the parking requirement for the ADU and the single-family dwelling.

*C. Section 12.040 states that “Variances from the requirements of this Code with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation, and the evidence submitted by the applicant, all three (3) of the following expressly written findings are made.”*

*“1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Code; and”*

Finding: The present use as a single-family dwelling requires 2 off-street parking spaces which is not currently provided and is grandfathered. The request to add an ADU requires one additional off-street parking space and triggers the requirement for the single-family dwelling parking.

The lot is raised above the level of Irving Avenue and the dwelling encompasses almost the full width of the lot. To create parking on this lot would require a steep driveway and paving of the front yard for parking in the yard. There is no room to create a driveway to the rear of the lot. To develop parking in the front yard for off-street parking space would reduce the on-street parking for the creation of a driveway.





While the change from a single-family dwelling unit to add an ADU requires one additional off-street parking space, the anticipated increase in parking needed for the use is minimal. On-street parking is available on the Irving Avenue right-of-way and most of the adjacent dwellings have off-street parking. This is a residential urban neighborhood with mostly single-family dwellings. To the south across the Irving Avenue right-of-way is a vacant City block that is available for residential development. Any development of that site would be required to provide off-street parking.



The block is 200' long which would allow for several vehicles to park on the north side of the street, and the site is within easy walking distance to the two side streets, 9th and 10th Streets which also have available on-street parking.

Irving looking northeast from 9th



Residential

Since there are a number of on-street parking spaces available in this block, a strict interpretation of the requirement is not required.

“2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere





*with the free flow of traffic on the streets;”*

Finding: Irving Avenue is platted 60’ wide and is improved with a 34’ wide roadway and sidewalks with green strips on both sides of the street. It is classified as a “Residential Collector Street” in the 2013 Astoria Transportation System Plan and is a main route for north/south traffic in Astoria traveling from 7th Street on the South Slope to 11th Street leading to the Downtown area. The paved right-of-way allows for two 10’ wide traffic lanes and 7’ wide parking on the north side of the street. Parking is allowed on the south side of the street, but vehicles park up on the grass strip when parking on this side of the street due to the volume of traffic. The street width complies with the TSP desired street design for a Residential Collector Street except for provision of a bicycle lane. The street is straight with good length of visibility and wide enough for one lane of traffic in each direction. Parking on the north side would not materially interfere with traffic flow or cause a safety hazard. With the sight distances, parking maneuvering should not be a problem.

It is anticipated that the street will be able to accommodate future traffic generated by the ADU.

*“3. That the granting of the variance will not create a safety hazard.”*

Finding: As noted above, Irving Avenue is developed to its full width with parking on the north side. There is good visibility toward the east and west. Granting the variance will not create a safety hazard.

## **V. CONCLUSION AND RECOMMENDATION**

The request, in balance, meets all the applicable review criteria and Staff recommends approval with the following conditions:

1. The variance would allow zero off-street parking.
2. Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.

The applicant should be aware of the following requirements:

The applicant shall obtain all necessary City and building permits prior to the start of operation.



**CITY OF ASTORIA**  
 Founded 1811 • Incorporated 1856  
**COMMUNITY DEVELOPMENT**

\$ 250 APC  
 \$ 100 ADU  
 \$ 150 pre-app  
\$ 500

Fee Paid Date Check By AF 2/22

No. V 17-05

Fee: ~~Administrative Permit \$150.00~~  
 or Planning Commission \$250.00

**PARKING VARIANCE APPLICATION**

Property Location: Address: 956 Irving

Lot 6 Block 95 Subdivision McClure

Map T8NR9W 8CC Tax Lot 13100 Zone R-3

Applicant Name: Cathy Frizelle

Mailing Address: 956 Irving

Phone: 971-270-8826 Business Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Property Owner's Name: Catharine T Frizelle Smith

Mailing Address: 956 Irving

Business Name (if applicable): \_\_\_\_\_

Signature of Applicant: Catharine T. Frizelle Smith Date: 2/24/18

Signature of Property Owner: Same as above Date: \_\_\_\_\_

Existing/Proposed Use: SFD to add an Accessory Dwelling Unit

What Development Code Requirement do you need the Variance from? (Describe what is required by the Code and what you are able to provide without a Variance.)

From required two spaces for SFD which do not currently exist and from one additional parking space for the ADA. Zero off-street parking provided

**SITE PLAN:** A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines and dimensions of all structures, parking areas, and/or signs. Scaled free-hand drawings are acceptable.

<b>For office use only:</b>			
Application Complete:	<u>ADU 12/18?</u>	Permit Info Into D-Base:	
Labels Prepared:		Tentative APC Meeting Date:	<u>Apr 3/27/18</u>
120 Days:			



**FILING INFORMATION:** Planning Commission meets on the fourth Tuesday of each month. Completed applications must be received by the 13th of the month to be on the next month's agenda. A Pre-Application meeting with the Planner is required prior to acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission meeting is recommended.

Briefly address the following criteria to **PARKING RELATED VARIANCES**:

12.040. VARIANCE FROM STANDARDS RELATING TO OFF-STREET PARKING AND LOADING FACILITIES.

Variations from the requirements of this Code with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation, and the evidence submitted by the applicant, all three (3) of the following expressly written findings are made:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Code; and

---

The adjacent houses in this block all have off-street parking. Applicant has one vehicle which parks on Irving Avenue. One additional vehicle for the ADU would increase the vehicle parking to that of a standard SFD which is two parking spaces.

---

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and

---

Irving Avenue is improved its full width with sidewalks and green strip on both sides of the right-of-way. Irving is a secondary east-west route for traffic but is a straight road at this location with good visibility. Parking on the right-of-way would not interfere with traffic

---

3. That the granting of the variance will not create a safety hazard.

---

On-street parking is allowed in this block but is not highly utilized. The addition of one vehicle parking in the right-of-way would not create a safety hazard

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**Attach Site Plan**





# 956 Irving (Site Plan for ADU 17-025)



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Mail	
Email	3/6/18
Web	

March 6, 2018

E-MAILED TO: LEGAL ADS, DAILY ASTORIAN VIA E-MAIL [legals@dailyastorian.com](mailto:legals@dailyastorian.com)  
FROM: ANNA STAMPER, COMMUNITY DEVELOPMENT, 338-5183  
SUBJECT: PLEASE PUBLISH THE FOLLOWING PUBLIC NOTICE ONE TIME

CITY OF ASTORIA  
NOTICE OF PUBLIC HEARING

The City of Astoria Planning Commission will hold a public hearing on Tuesday March 27, 2018 at 6:30 p.m., in the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. Conditional Use CU18-01 by Karen and Steve Allen to allow outside eating and drinking establishments on docks and other parts of the private property at 80 11<sup>th</sup> St in the A-2 Aquatic Two Development zone.
2. Amendment to Existing Permit AEP 18-01 by Karen and Steve Allen to amend Conditional Use Permit Order CU 09-04 to allow outdoor eating and drinking on private property around 77 11th St in the A-2 Aquatic Two Development zone.
3. Amendment A17-03 by Kevin Cronin to change the zone from S-1 Marine Industrial to S-2 General Shorelands development zone at 3738 Lief Erikson Drive in the S-1, Marine Industrial Shorelands Development Zone.
4. Variance 17-05 by Cathy Frizelle Smith for a parking variance from two spaces for single family dwelling and one additional space for accessory dwelling unit at 956 Irving Ave in the R-3, High Density Residential zone.

For information, call or write the Community Development Department, 1095 Duane St., Astoria OR 97103, phone 503-338-5183.

The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

The Astoria Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA  
Anna Stamper, Administrative Assistant



PUBLISH: March 20, 2018

YOU ARE RECEIVING THIS NOTICE BECAUSE THERE IS A  
PROPOSED LAND USE APPLICATION NEAR YOUR PROPERTY IN ASTORIA

CITY OF ASTORIA  
NOTICE OF PUBLIC HEARING

Mail	3/5/18
Email	2/21/18
Web	5/6/18

The City of Astoria Planning Commission will hold a public hearing on Tuesday, March 27, 2018 at 6:30 p.m., at the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. Conditional Use CU18-01 by Karen and Steve Allen to allow outside eating and drinking establishments on docks and other parts of the private property at 80 11<sup>th</sup> St (Map T8N-R9W Section 8CB, Tax Lot(s) 100; Frontage to Block 56.5, McClure) in the A-2 Aquatic Two Development zone. Development Code Standards 1.010-1.400 (General), 2.525-2.540 (Zoning), 14.500 to 14.510 (CRESO), Article 9 (Administrative), Article 11 (Conditional Uses) and Comprehensive Plan CP .005-CP.028 (General), CP.050-CP.055 (Downtown Area), CP.130 to CP.186 (Aquatic and Shoreland), and CP.190-CP.210 (Economic Element) are applicable to this request.
2. Amendment to Existing Permit AEP 18-01 by Karen and Steve Allen to amend Conditional Use Permit Order CU 09-04 to allow outdoor eating and drinking on private property around 77 11<sup>th</sup> St (Map T8N-R9W Section 8CB; Tax Lot(s) 200; Frontage to Block 56, McClure) A-2 Aquatic Two Development zone. Development Code Standards 1.010-1.400 (General), 2.525-2.540 (Zoning), 14.500 to 14.510 (CRESO), Article 9 (Administrative), Article 11 (Conditional Uses) and Comprehensive Plan CP.005-CP.028 (General), CP.050-CP.055 (Downtown Area), CP.130 to CP.186 (Aquatic and Shoreland), CP.190-CP.210 (Economic Element) are applicable to this request.
3. Amendment A17-03 by Kevin Cronin to change the zone from S-1 Marine Industrial to S-2 General Shorelands development zone at 3738 Lief Erikson Drive (Map T8N-R9W Section 8AC; Tax Lot(s) 200; Lot(s) 3, 4, 5, 6, east 50' Lots 2 & 7, Block 1, and unplatted portion of Frontage to Block 1, Adair's Port of Upper Astoria, and vacated portions of 38<sup>th</sup> Street and midblock alley) in the S-1, Marine Industrial Shorelands Development Zone. Development Code Standards 1.010-1.400 (General), 2.650-2.690 (Zoning), 14.005 to 14.030 (Gateway Overlay), 14.500 to 14.510 (CRESO), 14.035 to 14.061 (Civic Greenway Overlay), Article 9 (Administrative), Article 10 (Amendments), and Comprehensive Plan CP.005-CP.028 (General), CP.070-CP.075 (Uppertown Area), CP.057-CP.058 (Gateway Overlay Zone), CP.130 to CP.186 (Aquatic and Shoreland), CP.190-CP.210 (Economic Element), are applicable to this request.
4. Variance 17-05 by Cathy Frizelle Smith for a parking variance from two spaces for single family dwelling and one additional space for accessory dwelling unit at 956 Irving Ave (Map T8N-R9W Section 8CC, Tax Lot(s) 13100; Lot(s) 6; Block 95; McClure's) in the R-3, High Density Residential zone. Development Code Standards 1.010-1.400 (General), 2.150 to 2.185 (R-3 Zone), 3.020 (Accessory Dwelling Units), Article 7 (Parking), Article 9 (Administrative Procedures), and Article 11 (Conditional Uses), and Comprehensive Plan Sections CP.005-CP.028 (General Development), CP.040-CP.045 (Central Area), CP.190-CP.210



(Economic Element), and CP.215-CP.230 (Housing Element) are applicable to the request.

A copy of the application, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available at least seven days prior to the hearing and are available for inspection at no cost and will be provided at reasonable cost. All such documents and information are available at the Community Development Department at 1095 Duane Street, Astoria. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Contact the Planner at 503-338-5183 for additional information.


The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

All interested persons are invited to express their opinion for or against the request(s) at the hearing or by letter addressed to the Planning Commission, 1095 Duane St., Astoria OR 97103. Testimony and evidence must be directed toward the applicable criteria identified above or other criteria of the Comprehensive Plan or land use regulation which you believe apply to the decision. Failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes an appeal based on that issue.

The Planning Commission's ruling may be appealed to the City Council by the applicant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Appeal within 15 days after the Planning Commission's decision is mailed. Appellants should contact the Community Development Department concerning specific procedures for filing an appeal with the City. If an appeal is not filed with the City within the 15 day period, the decision of the Planning Commission shall be final.

The public hearing, as conducted by the Planning Commission, will include a review of the application and presentation of the staff report, opportunity for presentations by the applicant and those in favor of the request, those impartial to the request, and those in opposition to the request, and deliberation and decision by the Planning Commission. The Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA

  
Anna Stamper  
Administrative Assistant

MAIL: March 5, 2018

80917BB02800  
Wecoma Partners Ltd  
PO Box 777  
Astoria, OR 97103-0777

80908CC12400  
Adam Peter  
Trost Antonia  
9712 N Fairhaven Ave  
Portland, OR 97203

80908CC12000  
Ames William R  
Wattley-Ames Helen A  
610 NW 70th St  
Seattle, WA 98117-5047

80908CC12900  
Peace Lutheran Church  
565 12th St  
Astoria, OR 97103

80908CC90203  
Barnett Lisa  
1017 Harrison Ave  
Astoria, OR 97103

80908CC13000  
Brown Mark B  
Stichman Dennis  
808 9th St  
Astoria, OR 97103-4825

80908CC14100  
Capito Jane A  
1348 Jenifer St  
Madison, WI 53703

80908CC12700  
Clay Kellie  
1050 Irving Ave  
Astoria, OR 97103

80908CC11100  
Collins Tobin P  
914 Harrison Ave  
Astoria, OR 97103-4742

80908CC10100  
Davis Guy A/April R  
787 9th St  
Astoria, OR 97103-4709

80908CC11000  
Day Steven  
3914 SW Martins Lane  
Portland, OR 97239

80917BB02600  
Deford Teresa Ann  
910 10th St  
Astoria, OR 97103-4827

80917BB03100  
Dreyer Judith L  
956 10th St  
Astoria, OR 97103-4844

80908CC12800  
Ehrlich Paul R/Hazel L  
1042 Irving Ave  
Astoria, OR 97103-4837

80908CC10900  
Erickson Joy A  
Erickson Warren L  
737 10th St  
Astoria, OR 97103

80908CC14000  
Freeland Brian C  
PO Box 9007  
Portland, OR 97207-9007

80908CC13300  
Green Catherine A  
Rosen Jay H  
934 Irving Ave  
Astoria, OR 97103-4835

80908CC11800  
Johnson Roger R  
1064 Harrison Ave  
Astoria, OR 97103

80908CC12200  
Kanlic Fordinka  
813 11th St  
Astoria, OR 97103-4135

80917BB02700  
Kauth Susan M  
Kauth David P  
15105 NE Rose Pkwy  
Portland, OR 97230

80908CC90101  
Keefe Patrick  
1005 Harrison Ave #1  
Astoria, OR 97103

80908CC90102  
Kustura Lois  
35255 Lyngstad Heights Ln  
Astoria, OR 97103

80908CC13800  
Leshner Robert P/Melinda S  
886 Irving Ave  
Astoria, OR 97103-4833

80908CC11200  
Lockett Robert J  
736 10th St  
Astoria, OR 97103

80908CC13101  
May Charles W/Mary M  
999 Harrison Ave  
Astoria, OR 97103-4743

80908CC13600  
McMullen Scott R  
864 Irving Ave  
Astoria, OR 97103

80908CC10700  
MGRS of the F&S Pacific Prop LLC  
Frank & Sylvia James  
PO Box 640  
Warrenton, OR 97146

80908CC13200  
Miltenberger Joseph J/Janet M  
877 10th St  
Astoria, OR 97103-4826

80917BB03000  
Miner William D  
Gallino Jody L  
11185 SW 125th Pl  
Tigard, OR 97223

80908CC13500  
Morlas Lisa M Trustee  
Morlas Lisa Family Living Trust  
14651 Huston St  
Sherman Oaks, CA 91403-1642



80917BB01900  
New Riverview Partners LLC  
879 8th St  
Astoria, OR 97103-4819

80908CC10000  
Olson James  
Olson Jennifer  
160 Lexington Ave  
Astoria, OR 97103

80917BB02900  
ONeel Billie M  
ONeel Dave  
2123 N Arthur St  
Little Rock, AR 72207-3411

80908CC10200  
Patterson Matt/ Kathy Marie  
40781 Hillcrest Loop  
Astoria, OR 97103-8630

80908CC10300  
Roman Stephen L  
456 S Denver Ave  
Astoria, OR 97103-5714

80908CC11700  
Romero Jason C  
Lorenzen-Romero Amy M  
1078 Harrison Ave  
Astoria, OR 97103

80908CC90204  
Sage Florence E  
Sage Victoria Helen  
1011 Harrison Ave #4  
Astoria, OR 97103

80908CC12300  
Singh Davinder  
Singh Adip  
3446 Pacific Wy  
Longview, WA 98632

80908CC12600  
Skinner Steven A/Patricia G  
895 11th St  
Astoria, OR 97103-4135

80908CC13100  
Smith Catharine T Frizelle  
956 Irving Ave  
Astoria, OR 97103-4835

80908CC11900  
Spangler Lee M  
2571 NW Monterey Pines Dr  
Bend, OR 97701-5272

80908CC10500  
Troutman Yvonne  
10117 NW Langworthy Ter  
Portland, OR 97229-8166

80908CC14200  
Wood James P/Dorothy Sue  
892 8th St  
Astoria, OR 97103-4820