

A G E N D A
ASTORIA PLANNING COMMISSION

Astoria City Hall Council Chambers, 1095 Duane Street, Astoria

Tuesday, May 28, 2013

Immediately Following the Traffic Safety Committee Meeting at 7:00 p.m.

1. CALL TO ORDER
2. INTRODUCTION OF NEW MEMBER - KERA HUBER
3. ROLL CALL
4. MINUTES
 - a. April 23, 2013
5. PUBLIC HEARINGS
 - a. Variance V13-06 by Stephen Lakatos from the maximum allowed 4' high fence to install a 6' fence on the north, east and west property lines of a single family dwelling at 529 35th Street in the R-2, Medium Density Residential zone. Staff recommends approval with conditions.
6. REPORT OF OFFICERS
7. ADJOURNMENT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
April 23, 2013

CALL TO ORDER:

President Innes called the meeting to order at 7:34 p.m.

ROLL CALL:

Commissioners Present: President McLaren Innes, Vice-President Mark Cary, Thor Norgaard, and Zetty Nemlowill.

Commissioners Excused: Al Tollefson and David Pearson, 1 Vacancy

Staff Present: Community Development Director / Assistant City Manager Brett Estes, Planner Rosemary Johnson, and City Attorney Blair Henningsgaard.

APPROVAL OF MINUTES:

Item 3(a): March 26, 2013

President Innes moved to approve the minutes of the March 26, 2013 meeting; seconded by Commissioner Nemlowill. Motion passed unanimously.

PUBLIC HEARINGS:

President Innes described the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria that apply to each issue were available from the Staff.

ITEM 4(a):

CU13-01 Conditional Use CU13-01 by Larry Cary to locate an eating and drinking establishment, indoor entertainment, and tourist-oriented retail sales in conjunction with a distillery in an existing commercial building at 80 11th in the A-2, Aquatic Two Development zone. The applicant has withdrawn the request.

Planner Johnson announced that CU 13-01 has been withdrawn by the Applicant as he is no longer able to get the location; therefore, this item has been removed from the agenda.

ITEM 4(b):

A13-01 Amendment A13-01 by Rising Tide Enterprises LLC to amend the Astoria Land Use and Zoning Map to rezone an area at 1585 Exchange, 539 - 16th Street and a vacant lot on 16th Street from C-3 (General Commercial) to R-3 (High Density Residential) zone. The Planning Commission's recommendation will be forwarded to the City Council for a public hearing tentatively scheduled for May 20, 2013 at 7:00 p.m. in the City Hall Council Chambers at 1095 Duane Street.

President Innes asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Innes asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. There were none.

Planner Johnson reviewed the written Staff report. No correspondence has been received other than from the Applicant. Staff recommends approval of the request with conditions.

Commissioner Cary asked if the last approved variance eliminated the requirement for commercial occupancy on the ground floor. Planner Johnson explained that the C-3 zone allows for multi-family units on all floors. The Applicant had proposed a four-plex, which is allowed in a commercial zone, however, a single-family dwelling is

not permitted on the first floor. The C-3 zone would only allow a single-family residence above the ground floor if the ground floor were commercial. A standalone, single-family residence with no commercial use is not allowed in a C-3 zone.

Commissioner Cary noted language on Page 7 discussed rezoning the property from C-3 to R-3 would help preserve it. He asked if this regarded the same fact that no single-family dwelling is allowed in the C-3 zone. He did not understand that a single-family dwelling could not be done in a C-3 zone. Planner Johnson explained that potential buyers of this property are more interested in restoring it as a historic property and using it as a single-family dwelling. There has been little interest in using this building as a commercial or multi-family dwelling. Therefore, the property has not been sold. Properties can only be restored as a single-family dwelling in an R-3 zone. Properties in a C-3 zone can only be restored as a multi-family unit or commercial building. Rezoning the property would provide more opportunities for buyers to use it as a residence.

President Innes opened the public hearing and called for the Applicant's presentation.

Robert Stang, 3834 Franklin Ave, Astoria, thanked Staff for working with them and their neighbors. He explained that as he considered the four-plex, he became concerned. After researching the real estate market, he discovered that buyers are interested in a single-family unit or a duplex, neither of which are permitted in the C-3 zone. He was unaware of those zoning restrictions until speaking with Planner Johnson.

President Innes called for any testimony in favor of, impartial or opposed to the application. Hearing none, she closed the public hearing and called for Commissioner comment.

Commissioner Nemlowill moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and recommend that the City Council adopt Amendment A13-01 by property owners Rising Tide Enterprises LLC, Michael Peterson, and Michael and Emily Henderson with conditions; seconded by Commissioner Cary. Motion passed unanimously.

ITEM 4(c):

A 13-02 Amendment A13-02 by Cannery Loft Holdings, LLC to amend the Astoria Land Use and Zoning Map to rezone a vacant parcel from GI, General Industrial to S-2A, Tourist-Oriented Shoreland, at 4050 Abbey Lane. The Planning Commission's recommendation will be forwarded to the City Council for a public hearing tentatively scheduled for May 20, 2013 at 7:00 p.m. in the City Hall Council Chambers at 1095 Duane Street.

President Innes asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Innes asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. There were none.

Planner Johnson reviewed the written Staff report. No correspondence has been received; however, Staff has received several phone calls of inquiry concerning the change of use with the change in zoning. A repeated question regarded the multi-family dwellings and how that would change. Under the applicant's proposal the site may not be constructed for condominiums; however, because the site is approved for multi-family, a condominium or multi-family rental project could be built. The City does not differentiate between rentals and home ownership; it is just considered multi-family residential. Staff recommends approval of the request.

President Innes opened the public hearing and called for testimony from the Applicant. There was none. President Innes called for any testimony in favor of, impartial or opposed to the application. Hearing none, she closed the public hearing and called for Commissioner comment.

Commissioner Nemlowill asked for more information about the intent of the General Industrial zoning in the area. Planner Johnson explained that originally, the area was a Shore Land zone. The State required the City to maintain a certain percentage of what they referred to as "especially suited for water dependent use zoning." The City determined that 25 acres of "especially suited for water dependent use" was needed. At the time of the analysis, it was determined that this parcel could be rezoned, however the original request was for pure residential. At that time, the State Department of Land Conservation and Development (DLCD) did not support residential zoning in this area and suggested an industrial or other shore land designation that would allow for

some residential use. Over the years, the nature of the waterfront development has changed. Staff spoke with the DLCD and Oregon Department of Transportation (ODOT) staff who are now willing to support this requested zone change due to changes in the area. Some of these waterfront properties are not conducive to waterfront development. This property sits far enough back from the shoreline and is on the other side of the trolley line. DLCD and ODOT have reevaluated their prior position and do not oppose the zone change. The General Industrial zone was developed specifically for this site and is the only General Industrial zone in the city; however, this area has not developed as the city originally anticipated.

Commissioner Nemlowill believed the developers who built the first condominiums would have appreciated having this opportunity as getting commercial uses on the ground floor has been a problem. Given the residential nature of the development already in place, this zone change seems to be appropriate. President Innes agreed, although she typically does not prefer buildings on any vacant space. She uses the Riverwalk and does not see adding more buildings as commensurate with that space.

Commissioner Nemlowill asked if President Innes would prefer seeing residences or storefronts on the ground floor of buildings along the Riverwalk. President Innes responded that she would oppose any 55-foot building, regardless of what is on the ground floor. She noted the data received from the downtown review which discusses what can be done regarding entry from the city at both ends. Building on this parcel is likely to affect the view corridor for people arriving in Astoria; seeing another building is not as remarkable as a view of the Columbia River. Commissioner Nemlowill agreed.

Commissioner Cary moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and recommend that City Council adopt Amendment A13-02 by Cannery Loft Holdings, LLC; seconded by Commissioner Norgaard. Motion passed by a 3 to 1 vote with President Innes opposed.

ITEM 4(d):
CU 13-02

Conditional Use CU13-02 by 210 Developers, LLC to locate a multi-family dwelling, professional office, and non-tourist oriented retail sales in a future structure at 4050 Abbey Lane in the S-2A, Tourist-Oriented Shoreland Zone. This request is being processed concurrently with Amendment Request A13-02 and is contingent upon approval of that requested amendment.

President Innes asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Innes asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. There were none.

Planner Johnson reviewed the written Staff report. No correspondence has been received and Staff recommends approval of the request with conditions.

Commissioner Nemlowill asked what could occur on the property if City Council approved the rezone but the conditional use was denied. Planner Johnson replied the Applicant could build the building with multi-family units above the ground floor, which could have any or all of the approved outright uses, including tourist-oriented retail sales, food and drink establishments, specialized food product sales, personal services, indoor family entertainment, small boat building theatres, and seafood receiving and processing. Professional offices and non-tourist oriented retail sales would not be allowed at all and residential would not be allowed on the ground floor.

Tourist oriented sales involve products of substantial interest to a tourist. A hardware store would be an example of a non-tourist oriented store. Director Estes recalled that the Planning Commission approved a permit to allow H & R Block to occupy space in an S2-A zone. He and Planner Johnson discussed other instances of non-tourist oriented retail sales that were allowed in an S2-A zone. A doctor's office would be classified as a professional office of which the Applicant is requesting one. Attorney's and doctor's offices are professional. Allowing a professional office with the conditional use permit will provide more of a live/work scenario.

President Innes opened the public hearing and called for testimony from the Applicant. There being none, President Innes called for any testimony in favor of, impartial or opposed to the application. Hearing none, she closed the public hearing and called for Commissioner comment.

Commissioner Cary said he supports the application given the work/live situation as it encourages better use of the space. Commissioner Nemlowill did not believe the conditional use request made a difference; she was not concerned about the impact of what is proposed. The bigger issue is the request to rezone.

Commissioner Nemlowill moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU13-02 by 210 Developers, LLC, with conditions; seconded by Commissioner Cary. Motion passed unanimously.

President Innes read the rules of appeal into the record.

Planner Johnson explained that the multi-family building is vested but the conditional use for the professional office and ground floor is not vested because that would be a new use in this proposed building; so the conditional use has a two year limitation.

REPORTS OF OFFICERS/COMMISSIONERS: No reports.

STATUS REPORTS:

Planner Johnson has included status report photographs of the following: V12-08 for 1400 W. Marine Drive. The project(s) is complete and conditions have been met. This status report is for Commission information.

Director Estes noted a work session will be held on Tuesday, May 21, 2013 at 7:00 p.m. where consultants will apprise the Planning Commission on the Transportation System Plan (TSP) Update. The Commission would be later reviewing the TSP when a draft is completed and making a recommendation to City Council.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:21 p.m.

ATTEST:

Secretary

APPROVED

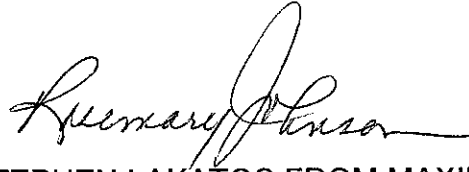
Community Development Director /
Assistant City Manager

STAFF REPORT AND FINDINGS OF FACT

May 17, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: VARIANCE REQUEST (V13-06) BY STEPHEN LAKATOS FROM MAXIMUM FENCE HEIGHT REQUIREMENTS OF THE R-2 ZONE AT 529 35TH STREET

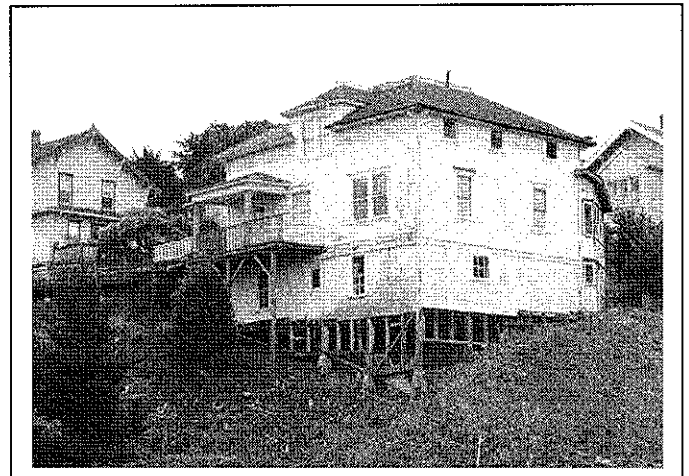
I. BACKGROUND SUMMARY

- A. Applicant: Stephen Lakatos
939 NE 168th Place
Portland OR 97230
- B. Owner: Stephen Lakatos
Koel Kudo
939 NE 168th Place
Portland OR 97230-6123
- C. Location: 529 35th Street; Map T8N R9W Section 9BD, Tax Lot 4500; north 69.5' of west 50' Lot 6, Block 18, Adair's Port of Upper Astoria
- D. Zone: R-2, Medium Density Residential
- E. Proposal: From maximum 4' fence height to construct a 6' high fence on the north, east, and west property lines

II. BACKGROUND

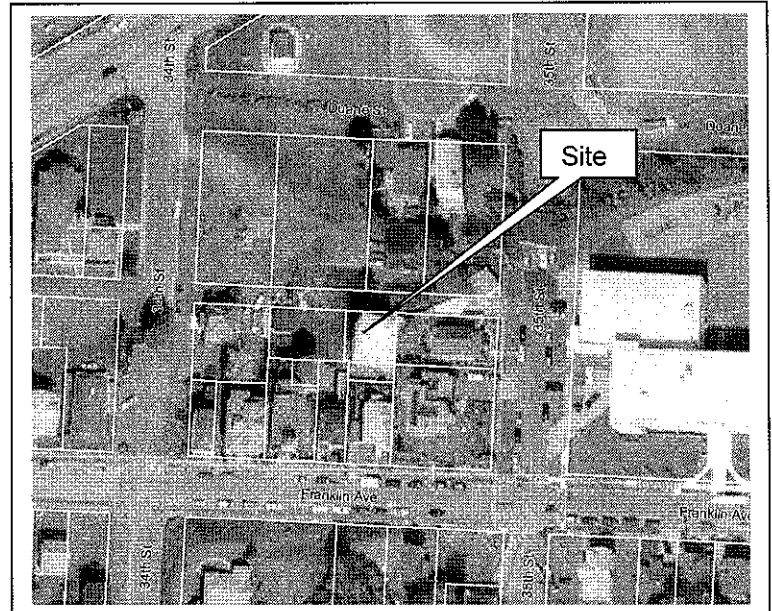
A. Site:

The residence is located on the north side of Franklin Avenue fronting on an alley. The lot is approximately 50' x 68' and is accessed from a raised walkway off the dead end of 35th Street. The house encompasses a majority of the lot and sits high above the alley on the north due to the steep topography. It is visible from Lief Erikson Drive to the north.



B. Adjacent Neighborhood:

The neighborhood is developed with a mixture of single-family dwellings, multi-family dwellings, a church, and school. Lots are a variety of sizes and shapes with many lots built out with little open space. There is an unimproved alley to the north of the property extending east-west. The property northwest of the subject site across the alley right-of-way is used as the parking area for the church at 451 34th Street.



C. Proposal:

The applicant requests a variance from the maximum allowable fence height of 4' along rights-of-way on the rear and side setback yards to allow a fence of 6' on the north, east, and west sides of the lot. There is an existing fence on the south side of the property. The request is to add security and safety as they have experienced trespassers and children playing on the steep embankment and under the rear deck area.

III. PUBLIC REVIEW AND COMMENT

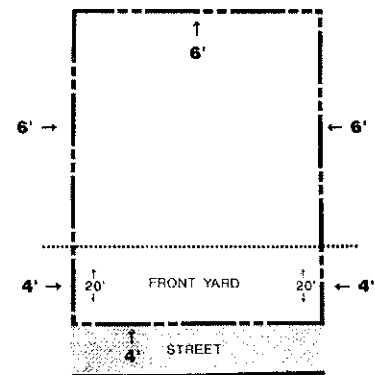
A public notice was mailed to all property owners within 100 feet pursuant to Section 9.020 on May 3, 2013. A notice of public hearing was published in the Daily Astorian on May 21, 2013. Any comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE CRITERIA AND FINDINGS OF FACT

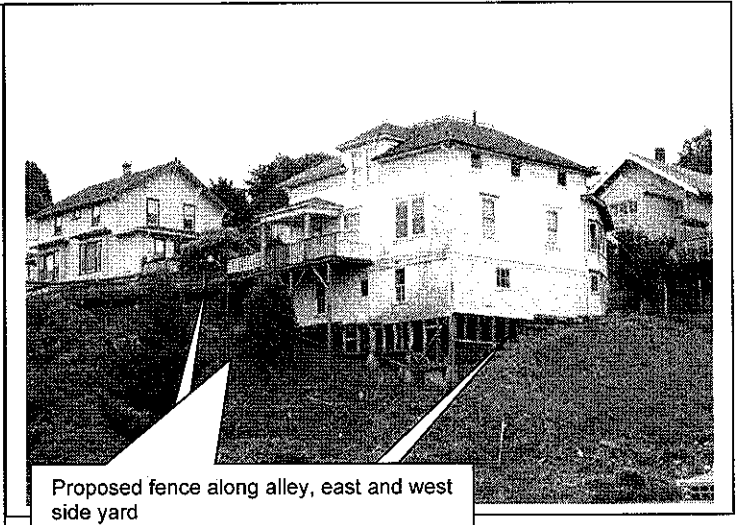
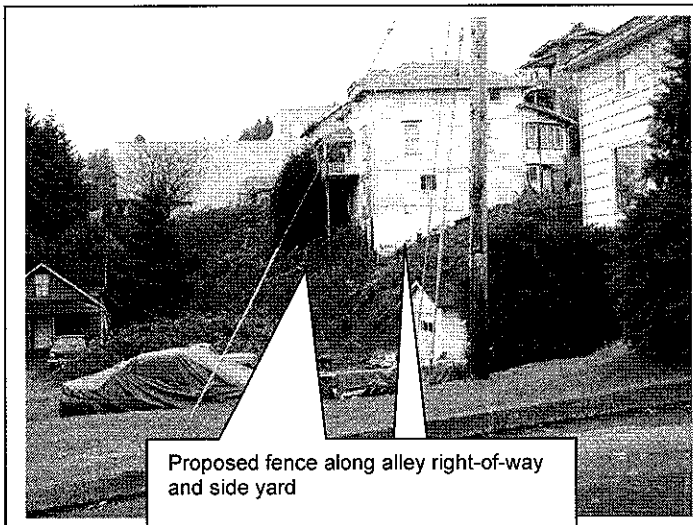
A. Development Code Section 3.035.A on Fences, Walls, and Hedges states that

"1. Except as provided in Section 3.045 of this code, fences, walls, or mature hedges not over 48 inches in height may occupy the required front yard of any lot, or the required side yard along the flanking street of a corner lot.

2. Fences or hedges located back of the required front or flanking street side yard shall not exceed a height of six (6) feet."



site is steep and the building is undergoing restoration/construction and is not safe as a play area. The property is adjacent to Astor Elementary School and near the Columbia Ball Field and therefore there are many children in the area. The alley right-of-way is not improved and does not serve as a vehicle access area. With the current development of the area, the steep topography, and the unimproved right-of-way, the fence will not appear to be excessive.



The 6' fence would prevent unwanted/unsafe access to the applicant's property. A 4' fence is easily scaled and does not provide as much of a deterrence. Therefore it would be a hardship to limit the fence to 4' and not provide the security needed.

2. Development Code Section 12.030(A)(2) states that "*development consistent with the request will not be substantially injurious to the neighborhood in which the property is located.*"

Relevant factors to be considered in determining whether development consistent with the request is substantially injurious to the neighborhood include:

- a. *The physical impacts such development will have, such as visual, noise, traffic and the increased potential for drainage, erosion and landslide hazards;*
- b. *The incremental impacts occurring as a result of the proposed variance."*

Finding: The neighborhood is developed with a mixture of single-family dwellings, multi-family dwellings, a church, and school. With the steep topography of the area and the existing location of houses, the fence would not impact the neighbors. It would be below the houses and would not be a visual block. The access by children and trespassers

adds to the potential erosion of the hillside. The 6' fence would deter this unwanted access and would help keep the hillside stabilized. The fence would not impact drainage and would be constructed on the property line. It would not be injurious to the neighborhood to allow the higher fence on these sides of the property.

3. Section 12.030(A)(3) states that the request is necessary to make reasonable use of the property.

Finding: The increased height on the fence is necessary to deter unwanted access to the steep portions of the property. It would allow for greater controlled use of the yard. It is reasonable to want to prevent trespassers from entering the property.

4. Section 12.030(A)(4) states that the request is not in conflict with the Comprehensive Plan.

Comprehensive Plan Section CP.220(1) concerning Housing Policies states that *"The primary focus of residential development should be the maintenance of attractive and livable residential neighborhoods, for all types of housing."*

Finding: Use of the property will remain residential. The request to increase the height of the fence allows for greater controlled use of the property adding to the livability and safety of the adjacent properties. The request for the increased fence height is not in conflict with the Comprehensive Plan.

V. CONCLUSION AND RECOMMENDATION

The request meets the applicable review criteria. Based on the Findings of Fact above, staff recommends approval of the request with the following conditions:

1. Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the 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 construction.



CITY OF ASTORIA
 Founded 1811 • Incorporated 1856
COMMUNITY DEVELOPMENT

APR 11 2013
 COMMUNITY DEVELOPMENT

v 13-06

Planning Commission \$250.00

VARIANCE APPLICATION

Property Address: 529 35th Street
 n 69.5' of w 50'
 Lot Lot 6 Block 18 Subdivision Adair's Port of Upper Astoria
 Map 8 9 9BD Tax Lot 4500 Zone R-2

OK

Applicant Name: Stephen Lakatos

Mailing Address: 939 NE 168th Place, Portland, OR 97230

Phone: 503-223-5763 Business Phone: _____ Email: lakatos 97201@yahoo.com

Property Owner's Name: Stephen Lakatos

Mailing Address: 939 NE 168th Place, Portland, OR 97230

Signature of Applicant: Stephen Lakatos Date: 4/10/13

Signature of Property Owner: Stephen Lakatos Date: 4/10/13

Existing/Proposed Use: 6' high vinyl-coated (green) chain-link fence delineating the western (side) and northern (front) property lines

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.)

Development Code Section 3.035.A. Fences, Walls, and Hedges. We request a variance from the requirement that fences occupying the "street side yard of any lot" be no taller than 48" to install a 6' high fence.

from maximum allowed 4' high fence to install a 6' fence on the north, east and west property lines of a SFD at

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.

For office use only:

Application Complete:		Permit Info Into D-Base:	<u>4-16-13</u>
Labels Prepared:	<u>4-16-13</u>	Tentative APC Meeting Date:	<u>5/28/13</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 each of the following criteria: Use additional sheets if necessary.

12.030(A)(1) The request is necessary to prevent unnecessary hardship.

The house at 529 35th Street lies at the center of a large block, surrounded by other properties and with no property line directly adjacent to a paved street. The "street side" property line, running west to east along the north side of the property (see Site Plan), abuts a 20' wide, completely undeveloped alley bounded by 34th St. on the west and 35th St. on the east. The alley rises approximately 14' from the northwest corner of the property to its northeast corner, and an additional 10' at the point where it intersects 35th St. The nearest primary residences to the west and north are approximately 100' or more from the home's north property line. The relative remoteness of the northern portion of the property and the alley make it a tempting access route for children, teenagers, and vagrants to trespass onto our property. We have routinely found children and teenagers playing on the northern portion of our property during all seasons, and have even found them crawling under the wooden deck that runs along the east side of the house. In order to secure the property from trespassers and to ensure that no one accidentally enters our property and injures themselves on the steep slopes, we feel that a 6' high fence is essential along not only the west side of our property (side lot line), but also the north side (street side lot line). A 4' fence can be scaled with relative ease by trespassers in this remote location, and therefore would not serve its purpose in securing the property. Therefore, if the variance is denied, our home and property would continue to be at a high risk for vandalism and break-ins.

12.030(A)(2) Development consistent with the request will not be substantially injurious to the neighborhood in which the property is located.

The request for a variance to allow a 6' high fence along the northern (street side) property line should not be substantially injurious to the neighborhood. First, as noted above in 12.030(A)(1), the northern property line and the 20' alley are in a remote location and therefore the visual impact of the 6' height of a fence along this property line from any road or residence should be negligible. Second, the alley itself is completely undeveloped (and highly likely to remain so given the steep changes in elevation), with no pedestrian or vehicular access, and therefore the fence would not detract visually in this sense, either. Indeed, the presence of a 6' fence along both the west and north property lines would actually serve as a visible deterrent to trespassers who see our property as a tempting location to access/vandalize, thereby also increasing the security for other homes lying along property's southern and eastern sides.

12.030(A)(3) The request is necessary to make reasonable use of the property.

Given the long history of trespassing on our property and the fact that its remoteness from paved roads makes it a tempting target for vandals, we feel that it is necessary to secure the property perimeter with a 6' high fence in order to maintain a reasonable level of safety and security in terms of both the house and property. It is especially important to secure the northern property line, as it is from this location that past incursions have typically occurred, and therefore a consistent 6' height is necessary to achieve this security.

12.030(A)(4) The request is not in conflict with the Comprehensive Plan.

CP.220.2 The City will *"Provide residential areas with services and facilities necessary for safe, healthful, and convenient urban living."* Granting of the variance would allow the installation of a fence height that would provide a safe, secure environment around the house due to increased vandalism and trespassing.

Astoria Development Code Section 12.030(B) states:

In evaluating whether a particular request is to be granted, the granting authority shall consider the following, together with any other relevant facts or circumstances.

1. Relevant factors to be considered in determining whether a hardship exists include:
 - a. Physical circumstances related to the property involved;
 - b. Whether a reasonable use, similar to like properties, can be made of the property without the variance;
 - c. Whether the hardship was created by the person requesting the variance;
 - d. The economic impact upon the person requesting the variance if the request is denied.
2. Relevant factors to be considered in determining whether development consistent with the request is substantially injurious to the neighborhood include:
 - a. The physical impacts such development will have, such as visual, noise, traffic and the increased potential for drainage, erosion and landslide hazards.
 - b. The incremental impacts occurring as a result of the proposed variance.
3. A determination of whether the standards set forth in Section 12.030(A) are satisfied necessarily involves the balancing of competing and conflicting interests. The considerations listed in Section 12.030(B) (1) & (2) are not standards and are not intended to be an exclusive list of considerations. The considerations are to be used as a guide in the granting authority's deliberations.
4. Prior variances allowed in the neighborhood shall not be considered by the granting authority in reaching its decision. Each request shall be considered on its own merits.

