

## **ASTORIA PLANNING COMMISSION MEETING**

Astoria City Hall  
March 26, 2019

### CALL TO ORDER:

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

### ROLL CALL:

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

Commissioners Excused: Brookley Henri

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

### APPROVAL OF MINUTES:

#### **Item 3(a): February 5, 2019**

Commissioner Price moved to approve the minutes of the February 5, 2019 meeting as presented; seconded by Commissioner Cameron-Lattek. Motion passed unanimously.

#### **Item 3(b): February 26, 2019**

Vice President Moore moved to approve the minutes of the February 26, 2019 meeting as presented; seconded by Commissioner Womack. Motion passed unanimously.

### PUBLIC HEARINGS:

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

The Planning Commission proceeded to **Item 4(c)** at this time.

#### ITEM 4(a):

CU19-01 Conditional Use CU19-01 by James Defeo to locate a tourist lodging facility in an existing commercial building at 240 11<sup>th</sup> Street in the C-4 Central Commercial Zone (Map T8N-R9W Section 8CA, Tax Lot 3400; south 34' of lots 1 and 2, Block 58, McClure's)

This item was addressed immediately following Item 4(c).

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.

Commissioner Cameron-Lattek recused herself from the hearing. She stated she did not have a direct conflict of interest in this project, but she and the Applicant own similar businesses that are in direct competition. She could not say with confidence that she would remain unbiased.

President Fitzpatrick declared that he visited the site when it was open during the January 2019 Second Saturday Art Walk. Jeff Daly had asked what he thought about the use being proposed. Realizing that it might come before the Planning Commission, he stated he had to withhold his opinion and would not comment further until after the public hearing. He was also in the building about six months ago when Mr. Defeo offered him a display cabinet. He and Mr. Daly moved the cabinet with two other people. At that time, there was no discussion about the future use of the space. He did not believe the cabinet was offered to him to sway his opinion on the application. He believed he could be impartial in his decision on this application.

President Fitzpatrick asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report via PowerPoint. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

President Fitzpatrick opened the public hearing and confirmed that the Applicant did not wish to give a presentation. He called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Price asked if it was usual to include an economic hardship paragraph in the findings. Planner Ferber said she included the paragraph because it was discussed with the Applicant. However, it is not grounds for approving a conditional use permit.

Commissioner Price stated the argument in favor of more short-term lodging was because it could allow people to stay in their homes or do things they otherwise would not be able to do. Since the Applicant did not mention a financial hardship, she was not sure why it would be included in the Staff report. She did not like to set precedents for such things.

Vice President Moore said he was in favor of the application because he believed it met all of the reviewable criteria. Commissioners Womack and Corcoran, and President Fitzpatrick also stated they were in favor of the application.

Commissioner Price moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU19-01 by James Defeo; seconded by Commissioner Womack. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran and Womack. Nays: None.

President Fitzpatrick read the rules of appeal into the record.

ITEM 4(b):

CU19-02                      Conditional Use CU19-02 by Nancy Schoenwald to locate a property management services office at 109 9<sup>th</sup> Street (Map T8N-R9W Section 8CB, Tax Lot 2500; Lot 4, Block 9, McClure's) 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.

President Fitzpatrick declared that he owned and operated a similar or complementary business. ~~Wacoma Properties Limited~~ **Wecoma Partners** is a private property management company where he and his wife manage only properties owned by their family. They do not manage properties for clients. Both companies offer housing to tenants. The Applicant's company manages properties for clients, so they are not a direct competitor. His brother, who works for him, also operates a business that competes directly with the Applicant's company. He has no financial interest in his brother's company. He also owns a professional office building in Astoria where the proposed use is an outright use, which could be an alternative space. However, he believed he could be impartial in his decision regarding this application.

President Fitzpatrick asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report via PowerPoint. Since the Staff report was published, the business's name has changed from River and Coast Property Management to Port Town Property Management. The Staff report will be updated with the correct name. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

President Fitzpatrick opened the public hearing and confirmed that the Applicant did not wish to give a presentation. He called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Corcoran said the use was clearly reasonable and seemed appropriate, so he supported the request.

Commissioner Cameron-Lattek stated she did not have any issues with the request and appreciated that the Applicant addressed curb appeal by submitting plans for window displays. This professional office has not negatively impacted the area in the past, so she would vote to approve the application.

Vice President Moore said he supported the request.

President Fitzpatrick stated he believed the application met the criteria and the use was appropriate for the location.

Vice President Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU19-02 by Nancy Schoenwald; seconded by Commissioner Corcoran. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

President Fitzpatrick read the rules of appeal into the record.

The Planning Commission proceeded to Item 4(d) at this time.

ITEM 4(c):

MR19-01                      Miscellaneous Request MR19-01 by Jeremy Lumachi for an interpretation as to whether a retail store that sells cannabis and related materials is classified as a tourist-oriented retail and service establishment per the Astoria Development Code. This review is limited to the interpretation of terminology of the use and does not include review of the Applicant's ability to meet the requirements for development within the S-2A Zone or at a specific location.

This item was addressed immediately following Item 3: Approval of Minutes.

City Manager Estes stated the Applicant was not able to attend the meeting and have requested that the public hearing be postponed to the next regular meeting on April 23, 2019. Staff requested that meeting begin at 6:00 pm due to a full agenda. The Applicant has extended the 120-day rule to accommodate the request.

Vice President Moore moved that the Astoria Planning Commission continue the public hearing of Miscellaneous Request MR19-01 by Jeremy Lumachi to April 23, 2019 at 6:00 pm at the Judge Boyington Building; seconded by Commissioner Price. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

City Manager Estes noted that anyone who wished to provide public testimony could do so in writing. That information would be added to the public record and provided to the Planning Commission. The public is also invited to testify at the next meeting.

The Planning Commission proceeded to **Item 4(a)** at this time.

ITEM 4(d):

A19-01                      Amendment Request A19-01 by Community Development Director to amend Development Code sections concerning Riverfront overlay zone requirements, reduce height in Bridge Vista Overlay to 28', add definitions for mass and scale, add standards for outdoor storage area enclosures, clarify how to apply various sections of the Code for design review, clarify exceptions to building height, expand responsibilities of Design Review Committee, and other miscellaneous updates. The City has determined that adoption of the proposed Codes may affect the permissible uses of properties in the affected zone and may change the value of the property.

This item was addressed immediately following Item 4(b).

City Manager Estes provided details on the history of this Code amendment process, which was directed by the City Council.

Planner Johnson reviewed the written Staff report via PowerPoint. She also reviewed changes to the draft amendments which were made after the Staff report was published. She noted the following correction would be made to the last line of Page 3 of the Staff report: "...included features; ~~add maximum 0.4 Floor to Area Ratio.~~" Correspondence was received and included in the Staff report. Staff recommended approval of the request.

Commissioner Cameron-Lattek asked why the definition of visual impact was removed. Planner Johnson explained that by defining visual impact, the City would be putting unintended limits on a subjective term.

Commissioner Cameron-Lattek asked what criteria must be met to grant a variance.

Planner Johnson said a hardship must be proven. Economics is not considered a hardship, but it can be a consideration. The request must be in compliance with the Code and cannot create safety hazards. Other criteria include unnecessary hardships, the development would be consistent and not substantially injurious to the neighborhood, necessary to make reasonable use of the property, and not in conflict with the Comprehensive Plan. Administrative variances are limited to lot size, set back, up to a 10 percent increase in any numerical standard, and other minor things. The request would go through public review, be noticed to the public and adjacent property owners, and the Planner would make the final decision based on Findings of Fact. The original intention was for the Bridge Vista (BVO) to allow on land variances that would be handled on case by case basis with no precedent.

Commissioner Price asked if all on land variances would be reviewed by the Planning Commission. Planner Johnson said any increase over 10 percent of any numerical standard would be reviewed by the Planning Commission. Staff can approve set backs, signage, lot coverage, and other things.

Commissioner Price stated she was concerned about the 30,000 square foot area on a 28-foot building. She was in favor of the height, but she did not want to create long buildings that do the opposite of what the height restriction accomplishes. She asked if Staff made any progress towards figuring that out. Planner Johnson explained that Staff currently recommended 30,000 square feet. Staff did consider other options like a floor to area ratio. However, Staff was originally directed to make quick fixes to clarify issues. Bigger issues like the square footage may need to be included in subsequent amendments.

Commissioner Price was concerned that approving these amendments as recommended by Staff would set the City up for another problem that comes in before the fix can be made. She confirmed with Planner Johnson that Page 6 of the Development Code Updates contained in the Staff report stated both professional and medical offices would be prohibited in the Shoreland and BVO Zones, and that in the last three paragraphs of Page 11 the word adjacent is in quotations the second time it is used each paragraph because the Historic Landmarks Commission (HLC) must review properties that are technically adjacent to the historic structure in a new construction request. Adjacency could be defined differently by the Design Review Committee (DRC). Pages 20 and 21 stated "buildings should be designed so they do not stand out prominently." However, the Cannery Pier Hotel stands out for a number of reasons. She believed that needed more clarification. She stated she had found some typographical errors and would give Staff an annotated copy to make corrections. Page 22 references all facades visible from a street. There had been discussion that buildings should look good from the river as well because several businesses will be showing off the town from river. Planner Johnson explained that not all features are required on the river side of a building.

Commissioner Price stated that Page 25 referenced covering everything except communication services equipment. The equipment on top of the Astor building is quite large. Planner Johnson said the rooftop mechanical equipment and elevator shafts are exempt from the height so the intent was to refrain from drawing attention to them with signage or other attachments to the exterior. However, communication facilities are ideal places because they are located at the top of buildings and prevents the need for cell towers.

Commissioner Price noted one of the hotels has signage on its elevator shaft. She understood they received a variance to go above 28-feet for the elevator shaft, but the sign could be on the portion that was otherwise differentiated from the rest of the building. Planner Johnson explained that if the elevator shaft is an exception to the height and is above the allowable height, Staff is recommending signs be prohibited on the exempt height. If the elevator shaft meets the height of the zone, a sign could be installed on it.

Commissioner Price said there were many places in the Development Code where the only gender used is male. She recommended Staff take every opportunity to correct that because she found it offensive. Planner Johnson

stated the Code includes a section explaining that all references to one is for all. Commissioner Price believed the acceptable standard now was they or their. Planner Johnson added that Staff would be adding recommendations for covered outdoor storage areas.

Commissioner Cameron-Lattek asked for clarification of the use of the words building and structure on Page 8 of the Code Amendments. Planner Johnson stated the words may be used interchangeably but there are times when a building is different from a structure specifically when one is historic.

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

Kris Haefker, 687 12<sup>th</sup> Street, Astoria, asked if a variance above 28 feet would be granted if parking was included on the main floor of a building. He also wanted to know if 28 feet allowed for parking in two stories.

Planner Johnson explained that the envelope of the building would need to be 28 feet regardless of what was inside the building. Parking on the ground floor would reduce the useable space in the building.

Mr. Haefker said if parking is on the main floor, he would like to see at least two stories, an incentive to get parking out from in front of buildings, and more green space. A narrower building with more public space and green space would grant the building more height.

City Manager Estes explained that typically a two-story building is 28 feet. The building design would be up to the architect.

Mr. Haefker said many parking areas were not necessarily 10 feet tall. Getting cars from parking lots and under buildings would be good. With global warming and rising sea levels, it would be smart to have a more open lower level.

Phil Grillo 1300 SW 5<sup>th</sup> Avenue, Portland, land use attorney for Astoria Warehouse Inc., stated the public record included a letter from his client opposing the changes to the height square footage requirements. He requested the hearing be continued for at least seven days. While the Staff report is dated March 19<sup>th</sup>, it was not publicly available until March 21<sup>st</sup>. He had not had much time to review the Staff report in detail or consult with his client. He wanted the opportunity to discuss the proposed amendments more thoroughly and submit written materials. His client's site is currently for sale. The site is 12 acres and about five acres of the property is on land. The five buildings on the property total about 124,000 square feet of warehousing with a small amount of office space. One of the buildings is over 28 feet high. He had spoken to Staff that afternoon and understood this process was hard work. He complimented Staff for their work and the public for their engagement with such a sensitive topic. The 28-foot height limit is significant compared to the existing height limit. He wanted to know why 28 feet had been proposed. Applying a height limit that is typical in a single-family residential zone to a waterfront commercial zone, even with the overlay district is unusual. He understood this was in reaction to a hotel development, but he did not understand how the specific height of 28-feet was found to be appropriate.

City Manager Estes explained the specific number was proposed by City Councilor Rocka.

Mr. Grillo stated there was a non-conforming development issue because there were so many existing buildings in the overlay zone that already exceeded 28 feet. It would be beneficial to know how the proposed height limit compared to what was already there now. Staff has recommended a clarification that the 30,000 square foot maximum is for all buildings of a single development. He understood the specific language used in the clarification indicated the limitation only applied to commercial uses on land. It would be helpful to know exactly what uses the limitation applied to since the C-3 zone and the BVO were mixed-use zones.

Planner Johnson explained that commercial uses in these two zones would be uses not considered industrial. Staff had considered removing the word commercial from the proposed language in Section 14.113.D on Standards for On-Land Development in the BVO. Building codes consider one and two-family units as residential. Anything more than two-family is considered commercial development. The City considers commercial uses to be non-industrial and non-residential.

Mr. Grillo said that raises other issues, as the recommendation is a very strict limitation on commercial uses in those zones. He understood some people wanted to strictly limit residential uses along the waterfront. If that is the intent, it should be clarified so that everyone understood what commercial use meant in this context. The 30,000 square foot limit is a very aggressive way to regulate uses on a large site like the Astoria Warehouse site. A small 60,000 square foot site with a 30,000 square foot building might not break the bank. However, the

Astoria Warehouse site includes five acres of land, about 270,000 square feet. With only 30,000 square feet of commercial and residential space, his client could only get a floor area ratio (FAR) of 0.13. Generally, sites need 60 percent to 80 percent coverage with the rest left as open space or landscaping. Such a small FAR is unreasonable on a large site. The Astoria Warehouse site provides amazing opportunities because it is a 12-acre site under one ownership along the river and in a downtown area. He understood that was one of the impetus for wanting to limit height in the area. However, it is important for the Planning Commission to consider that there will always be competing interests. People will always want to protect vistas and views, but the Commission's needs to find a way to create a balance between clear and objective standards and the ability to remain flexible. A developer might want to build something similar to Seattle's Pike Street Market on the Astoria Warehouse site. The market is the 20<sup>th</sup> most popular destination in the United States and 500 people live in the immediate vicinity of the market. The many affordable housing units in the area are part of the essence of the market. The City should maintain the Astoria Warehouse site for its opportunities by providing flexibility, which he believed the Code already did well. He advised against trying to do a quick fix. The base zone of the area is C-3, which is a mixed-use zone that allows certain types of housing. The BVO zone also allows certain types of housing. He asked the Planning Commission to visualize reducing a four-story building to two stories in terms of use instead of height. The two stories being taken away would likely be housing. What used to be the working waterfront in Portland is now retail and commercial on the ground floors with housing above. The City should allow for the type of housing the community needs in those spaces and not take those spaces away. Use bulk and other mechanisms that already exist in the Code, but do not use a blunt instrument to say two stories is the limit because that removes the potential for housing. When limiting housing, the City must consider Measure 49, which requires the City to pay for the loss in value or waive regulations that limit housing. Measure 49 applies to this case. Under Oregon Revised Statute (ORS) 197, the City must provide a path to no discretionary standards to approve housing. He spoke with Staff about the statute and so far he had not been able to find this clear pathway in either the C-3 or the BVO zones. The design standards are very discretionary. Statewide Goal 10 on housing requires the City to provide an adequate supply of all types of needed housing. The most recent Clatsop County Housing Study states, "support high density housing in commercial zones." Taking two floors of housing away is not supporting housing in the C-3 zone. The study also recommends streamlining the permitting and review process as an incentive to develop housing. While the City might consider these amendments as quick fixes, he believed the City was actually making some very fundamental changes to a major opportunity site. It is important that he and his client be engaged in this process and work with the community to find a reasonable balance.

President Fitzpatrick confirmed with Staff that the Planning Commission was required to continue the hearing when asked to do so. City Manager Estes added that the Code requires the hearing be continued for a minimum of seven days. However, Staff recommended the hearing be continued to the April 23<sup>rd</sup> meeting to give Staff time to address some issues.

Mr. Grillo stated he would submit his materials by 14 days from the April 23<sup>rd</sup> meeting to give Staff time to consider the materials and update the Staff report.

President Fitzpatrick asked Mr. Grillo to also let Staff know in advance of the April 23<sup>rd</sup> meeting if he intended to give a presentation at that meeting.

President Fitzpatrick called for a recess at 7:50 pm. The meeting reconvened at 7:57 pm.

President Fitzpatrick called for public testimony.

Frank Spence, 5169 Birch, Astoria, President of the Port of Astoria Commission, said the Planning Commission has been asked to approve 24 amendments to the Development Code Article 14 and the BVO. The Port's property is within the BVO, beginning at the seaman's memorial and running to the west. In 2009, the original Riverfront Vision Plan was approved and at that time, the plan recommended the BVO begin at Portway Avenue and extend to 2<sup>nd</sup> Street. That would divide the Port property in half, so the industrial park was classified as Port Uniontown. The recommendations for a 28-foot height limit and a 30,000 square foot limit are controversial. As soon as these recommendations surfaced, both private and public sectors objected to them. The first was the Oregon HRS employment building on Marine Drive. The building is already 30,000 square feet and the State wanted to build another 30,000 square feet. However, that would not be possible with the new restriction. According to an article in the newspaper, a solution could be worked out to build into the parking lot in front of the building because they already have 157 parking spaces to the west. If this appears to be an amenable solution, a variance should allow for a situation like this. If the State cannot expand their building, they will leave Astoria and

building a new building in Warrenton. The second opposition was by Steve Fick of Fishhawk, who advised Council that he would be negatively affected by the amendments. Astoria Warehouse has also opposed the amendments. These Code amendments deal with property rights and take development opportunities away from the property owners. This could end up in court. The Port of Astoria is opposed to the limits because they are in the process of upgrading their master plan and working on a strategic plan. The Port does not want to be handcuffed by restrictions on height and mass. The Port requests that all of the Port property be excluded from the BVO, and that the east mooring basin be excluded from the Civic Greenway Overlay.

City Manager Estes clarified that in the 2008, as part of the Riverfront Vision Plan development, there were discussions with the Port on where the boundaries should be located. Portway was chosen as a boundary because the Port Commission at the time had an interest in changing the zoning from the Riverwalk Inn to Maritime Memorial Park. The City had agreed not to get into the industrial uses of the finger piers as part of the Riverfront Vision Plan. When the BVO was implemented, City Staff and Port staff coordinated to allow for the redevelopment of the Riverwalk Inn and a dispensation was developed in the Code to allow for that redevelopment. Mr. Fick's property and the State office building are in the Urban Core, not the BVO. Amendments to the Urban Core will be recommended in the future. The owner of the State office building had expressed concerns about the 30,000 square foot restriction, which is already in the Code. The amendments being recommended are clarifications about how the restriction is implemented in the BVO.

Planner Johnson added that the proposed amendments to the Civic Greenway did not address height or square footage.

Mike Sensenbach, 110 Kensington, Astoria, said he was at the City Council meeting where Councilor Rocka recommended the 28-foot height restriction. The original proposal was for 24 feet, but after some discussion the recommendation was changed to 28 feet. He believed this change in the height restriction was more significant than the City Council realized at the time. He has handled property claims for a large insurance company for the last 15 years. Twenty-eight feet could allow for a third story. In the City's Code, gable roofs are measured by the average of the height of the slope. A two-story building with a 20-foot eave could have a ridge line up to 36 feet high with an average height of 28 feet. That could be an unintended consequence of this height restriction. The Fairfield Inn ridge line height exceeds 45 feet because they took advantage of the average height of the gable roof. He was in favor of the amendments as proposed but would prefer a 24-foot height limit as originally proposed at the City Council meeting.

Elizabeth Menetrey, 3849 Grand Avenue, Astoria, said the property owners want to make maximum financial gain from their properties. She represented at least 400 people who signed a petition and the majority of the city who wanted the heights way down. People were ecstatic that the City Council discussed 28 feet because they never thought it would be discussed. The 30,000 square foot limit is a problem when working with a 28-foot height limit. However, the Planning Commission has a job to do. She had to speak for the public who had been asking for this for ten years. If she owned riverfront property she would make it into a park. There must be limits on what people can do on the riverfront. Someone may own or lease property, but ultimately this is about the city and what we want for the future of the city.

Steve Fick, P.O. Box 715, Astoria, said Steve Allen asked him to let the Commission know that he supports the Riverfront Vision Plan as it was adopted ten years ago when it was a well-balanced plan. Mr. Allen has offices, manufacturing, and restaurants along the waterfront. He believed the recommended amendments would result in a taking. He would be willing to discuss compensation for lowering the height restriction. However, this is not all about money. It is about flexibility. People who have not been small business owners do not understand how complex and challenging it is. When he came back to Astoria after college, the waterfront was a mess. He chose to take one block and try to do something with it. It is so expensive to continuously fight to work over the water. He might need six residential rentals just to maintain the property and keep it from falling in the water. The point will come when property owners cannot maintain or sell their properties if the uses are limited. The City must have faith in capitalism. If the City wants to change the area so bad they should buy the properties. It is not right for the City to constantly ask property owners to take a cut in property values just because someone else does not like what could be developed. Much of the waterfront area will never be developed, so the city will have its view corridors. This was considered ten years ago because those areas are important to everyone. It is not right to add black and white rules, which he considers to be a taking of his property.

President Fitzpatrick called for closing comments of Staff.

Planner Johnson said Staff is considering an exception to the height requirement for middle income housing in the BVO. There is a similar exemption in the Urban Core. The City deliberately omitted the industrial area of the Port because they did not want to impose design reviews on Pier 2 and Pier 3. Before the April 23<sup>rd</sup> meeting, Staff can look at the Code to make sure it includes clear and objective standards for residential development in the BVO. Clear and objective standards are mandated by the State. Staff still needed direction from the Planning Commission so that the clarification in the Code can be completed by the next meeting.

Vice President Moore said he leaned toward excluding garages from square footage but did not have a strong opinion on that. He understood the popular opinion on the 28-foot height limit, he could not find support for it in the Comprehensive Plan or the Bridge Vista section of the Riverfront Vision Plan. The BVO is the only part of the Riverfront Vision overlay area policy that discusses height. Comprehensive Plan Section 68.1.E states, "use alternative development forms, for example cluster development, narrower, taller profiles, set backs, step backs, and gaps in building frontages to preserve views." The Riverfront Vision Plan was intended to implement the Comprehensive Plan policies. Page 37 of the plan states, "trading building heights for width may be desirable in some instances, but a maximum height should be established and enforced." That maximum height likely would be one story above the base height. The base height is the height in the base zone. That clearly suggests that the policies should be implemented to use the base zone as the beginning height and then if a development were to be narrower or apply step back, an additional story would be allowed. In the S-2 zone the base height is 28 feet. Up to 35 feet would be allowed if step backs were used or a building was narrow. Currently, the BVO allows for 35 feet in the S-2 zone. Maybe other Commissioners can find support in the Comprehensive Plan for 28-feet, but he believed it was his responsibility to interpret existing Code language before making changes to the zone. If public sentiment is different from the Comprehensive Plan, then the 11-year old policies need to be revisited.

Commissioner Price said she believed Vice President Moore's argument was reasonable. If 28 feet is the height limit, she had a problem with 30,000 square feet. She was not in favor of allowing variances for over water development. She had empathy for the property owners who have visions for their properties in the future. Some of the amendments being discussed are high handed, but so are the threats of lawsuits and mandates from the State that prevent the City of Astoria from creating a vision of itself that differs from Portland and Seattle. Astoria wants to retain the village feel that it's had since the 1970s or 1980s. There could be many fabulous developments over 28-feet high and 30,000 square feet. However, the City does not have the ability to write into Code that the City wants this but not that.

Commissioner Cameron-Lattek stated she was ambivalent about the garage but leaned towards encouraging closed garages and allowing the building to be slightly bigger. She was glad the Planning Commission would have more time to think about the proposed amendments. She leaned towards tradeoffs because the overlay zone has been characterized by some very contradicting things. The Urban Core and part of the BVO should have dense development. That is why the Civic Greenway and Neighborhood Greenway were separate. She believed a good compromise was to have more limits over water and allowing more height on land. She experiences the shadows of the taller buildings on land when walking along the Riverwalk and she understood the desire to avoid a corridor. However, those buildings have exciting businesses she likes to spend time in. She was okay with allow more development to occur on land if it means retaining views of the water. Vistas should be available from the Riverwalk, but not necessarily from the car. She wanted to encourage people to get out of their cars to enjoy Astoria.

Commissioner Corcoran stated he would include garages in the gross floor area. He was very enlightened on Vice President Moore's reflection on the Comprehensive Plan and the competing interests of the public expressed at the City Council work session. He respected the interests of the property owners who would experience a change in the use of their properties. He was glad he had more time to think about these issues.

Commissioner Womack said he supported the exclusion of garages from the gross floor area. However, he did not believe that would be productive for any development. He agreed with Vice President Moore's comments about the height restrictions and he supported allowing variances for those heights.

President Fitzpatrick stated he did not want to include garages in the gross floor area. He was also concerned that the recommended height limited conflicted with the Comprehensive Plan. It had been awhile since the Commission discussed the height limit variances, but he recalled that the variances would be allowed for water-related uses and another use that the Commission wanted more clarification on at the time. He believed



variances should be allowed on land and over the water, but only for water-dependent uses. He was also concerned that the amendments could result in a taking from the property owners' rights.

City Attorney Henningsgaard advised the Planning Commission not to anticipate law suits during planning because the goal should be the betterment of Astoria. The rules make it difficult to make a case for a taking. The zoning would have to eliminate any possible use of the property.

Planner Johnson confirmed that she received the direction she needed from the Commission. Staff would present changes and recommendations at the next meeting.

Commissioner Price stated the Commission had not responded to Staff's question about step backs. She would not need step backs if the height limit was 28 feet.

President Fitzpatrick moved that the Astoria Planning Commission continue the public hearing on Amendment Request A19-01 by Community Development Director to April 23, 2019 at 6:00 pm at the Judge Boyington Building; seconded by Vice President Moore. Motion passed unanimously. Ayes: President Fitzpatrick, Vice President Moore, Commissioners Price, Corcoran, Cameron-Lattek, and Womack. Nays: None.

REPORTS OF OFFICERS/COMMISSIONERS:

Commissioners thanked Planner Ferber for her time with the City and wished her luck at the Columbia River Estuary Taskforce (CREST).

President Fitzpatrick thanked Vice President Moore for chairing the Commission meeting in his absence in February. He also thanked former Planner Johnson for coming back to the City to assist with the Code updates.

STAFF UPDATES/STATUS REPORTS:

**Save the Dates**

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

Staff said the April 2<sup>nd</sup> meeting would likely be canceled and the Traffic Safety Advisory Committee (TSAC) meeting might be postponed since the APC agenda was so full.

PUBLIC COMMENTS:

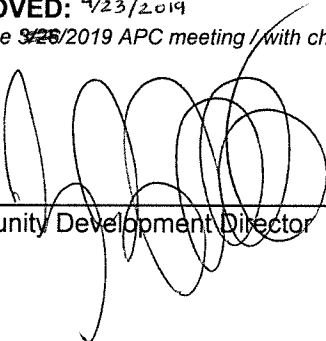
There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:45 pm.

**APPROVED:** <sup>4/23/2019</sup>

[at the ~~3/26~~ 2019 APC meeting / with changes]



Community Development Director