



CITY OF ASTORIA
Founded 1811 • Incorporated 1856
COMMUNITY DEVELOPMENT

August 7, 2020

TO: Interested Parties

FROM: Planning Division

RE: Notice of Decision – Astoria Planning Commission
Amendment to Existing Permit Request, No. AEP20-04
by Ted Forcum, Nomadic Properties, LLC

This letter is to inform you of the decision of the Astoria Planning Commission concerning a request for an Amendment to an Existing Permit AEP20-04 for Conditional Use Requests (CU11-06 and CU14-15) to locate live/work facilities at 3930 and 3990 Abbey Lane in the S-2A, Civic Greenway Overlay and Gateway Overlay Zones, Astoria, OR 97103. The property can be specifically identified as Tax Lots 102, 103, 104, 105, 106, Building A, Cannery Loft Condominium, Tax Lots 103, 104, 105, 106, 107, Building B, Cannery Loft Condominium Stage 2, on the Clatsop County Assessor's Tax Map T8N R9W, Section 09AA.

The decision of the Astoria Planning Commission is to **deny** the request as noted in Findings of Fact report. A copy of the decision is enclosed for your information.

Any person with standing may appeal the Astoria Planning Commission's decision and request a public hearing before the City Council by filing a Notice of Appeal with the Community Development Director within 15 days of the Date of Decision. The appeal deadline is 5:00 p.m. August 24, 2020. The Notice of Appeal should state the reasons for the request. A fee is required to cover the cost of the appeal. If no appeal is filed within the 15- day period, the decision of the Astoria Planning Commission becomes final.

If you have any questions, please call the Planning Division at (503) 338-5183.

Sincerely,

Tiffany Taylor

Enclosures: AEP20-04 Order
Findings of Fact/Staff Report

BEFORE THE ASTORIA PLANNING COMMISSION
OF THE CITY OF ASTORIA

IN THE MATTER OF AN AMENDMENT TO EXISTING PERMIT)
)
FOR THE FOLLOWING PROPERTY:)
MAP T8N R9W SECTION 09AA, TAX LOTS 102, 103, 104, 105, 106,)
BUILDING A, CANNERY LOFT CONDOMINIUM,)
TAX LOTS 103, 104, 105, 106, 107, BUILDING B, CANNERY)
LOFT CONDOMINIUM STAGE 2,)
3930 AND 3990 ABBEY LANE, ASTORIA, OR 97103)
)
ZONING: S-2A (TOURIST-ORIENTED SHORELANDS),)
CGO (CIVIC GREENWAY OVERLAY), AND)
GOZ (GATEWAY OVERLAY) ZONES)
)
APPLICANT: TED FORCUM, NOMADIC PROPERTIES, LLC,)
3621 HUMPHREY BOULEVARD, PORTLAND OR 97221)

ORDER NO. AEP 20-04

The above named applicant applied to the City for an Amendment to an Existing Permit (AEP20-04) for Conditional Use Requests (CU11-06 and CU14-15) to locate Live/Work facilities at 3930 and 3990 Abbey Lane, Astoria, OR 97103.

A public hearing on the above entitled matter was held before the Astoria Planning Commission on June 23, 2020; and the Astoria Planning Commission closed the public hearing on June 30, 2020. The Astoria Planning Commission deliberated at the July 28, 2020 meeting and came to a decision at the August 4, 2020 meeting.

The Astoria Planning Commission orders that this application for an Amendment to Existing Permit Request AEP20-04 to amend CU11-06 and CU14-15 is denied and adopts the findings of fact and conclusions of law attached hereto.


The effective date of this denial is 15 days following the signing of this order, subject to any attached conditions. *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.*

This decision may be appealed to the City Council by the applicant, party to the hearing, or a party who responded in writing, by filing an appeal with the City within 15 days of this date (Section 9.040).

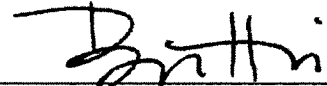
DATE SIGNED: AUGUST 5, 2020

DATE MAILED: AUGUST 7, 2020

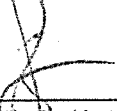
ASTORIA PLANNING COMMISSION



President

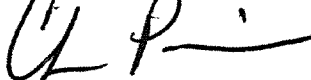


Commissioner




Vice-President

Commissioner



Commissioner

Commissioner



Commissioner



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT DEPARTMENT

REVISED August 3, 2020

STAFF REPORT AND FINDINGS OF FACT

~~June 16, 2020~~ *August 3, 2020*

TO: PLANNING COMMISSION

FROM: BARBARA FRYER, CITY PLANNER

SUBJECT: AMENDMENT TO A PERMIT (AEP20-04) TO AMEND TWO CONDITIONAL USE PERMITS (CU11-06 AND CU14-15) BY NOMADIC PROPERTIES TO PERMIT LIVE/WORK UNITS WHERE PROFESSIONAL OFFICES WERE PERMITTED AT 3930 ABBEY LANE, UNITS A102, A103, A104, A105 AND **A106**; AND 3990 ABBEY LANE, UNITS B103, B104, B105, B106 AND B107

I. SUMMARY

- A. Applicant(s): Ted Forcum
Nomadic Properties LLC
3621 SW Humphrey Boulevard
Portland OR 97221
- B. Owner: Nomadic Properties, LLC
3621 SW Humphrey Boulevard
Portland OR 97221
- C. Location: 3930 Abbey Lane; Map T8N-R9W Section 9AA, Tax Lots 102, 103, 104, 105, 106, Building A, Cannery Loft Condominium; 3990 Abbey Lane; Map T8N-R9W Section 9AA, Tax lots 103, 104, 105, 106, and 107, Building B, Cannery Loft Condominium Stage 2
- D. Zone: S-2A (Tourist Oriented Shorelands), CGO (Civic Greenway Overlay) and GOZ (Gateway Overlay) Zones.
- E. Proposal: To allow live/work units where professional offices were previously permitted.
- F. 120 Day: September 25, 2020

- G: Previous Applications: CU11-06 to locate professional offices at 3990 Abbey Lane (Building B), CU14-09 to locate a wellness center as a professional office in an existing industrial/residential building at 3930 Abbey Lane (Building A), and CU14-15 to expand professional offices in the first floor of the commercial portion of 3990 Abbey Lane (Building B)

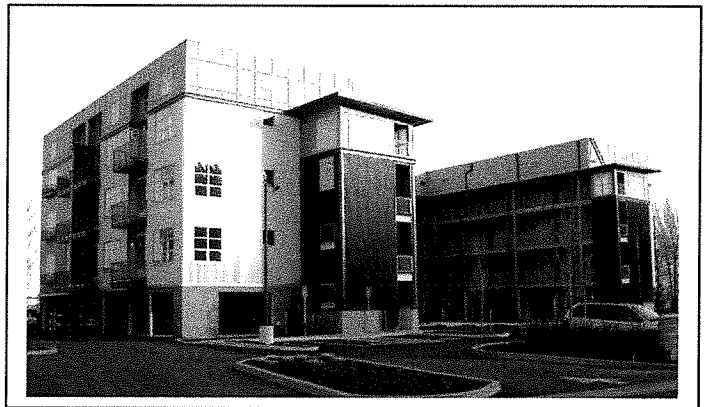
II. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 200 feet pursuant to Section 9.020 on May 29, 2020. The Notice was emailed to interested parties and posted on the Web on May 29, 2020. A notice of public hearing was published in the *Astorian* on June 13, 2020. The site was posted on June 9, 2020. Four inquiries were made for additional information. Any comments received will be made available at the Planning Commission meeting.

III. BACKGROUND

A. Subject Property

The property is located on the north side of Abbey Lane in Buildings A and B of the Cannery Loft Condominium complex. The structures are four stories tall with commercial use spaces on the ground floor and residential use on the upper floors.



B. Adjacent Neighborhood

The neighborhood is developed with a mixture of industrial and commercial uses. To the south across Abbey Lane is the Astoria Business Park with construction supplies, automotive repair/detailing, and gym. To the north are the City Trolley line and River Trail, Columbia River, and Pier 39 facility with eating and drinking establishments, boat storage, offices, and marine related supplies. To the west and across the 39th Street right-of-way is the Hampton Inn Hotel. To the east are a vacant lot and a wetland with City River Trail.

C. Proposed Use

The applicant has requested a modification of the existing conditional use permits to allow live/work units in the ground floor units of both buildings. Nomadic Properties owns all of the first floor commercial space and would lease it to tenants. As a condominium, each unit is individually owned, but the building envelope, parking, and other common areas are owned jointly by all condominium owners through a home owner's association.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

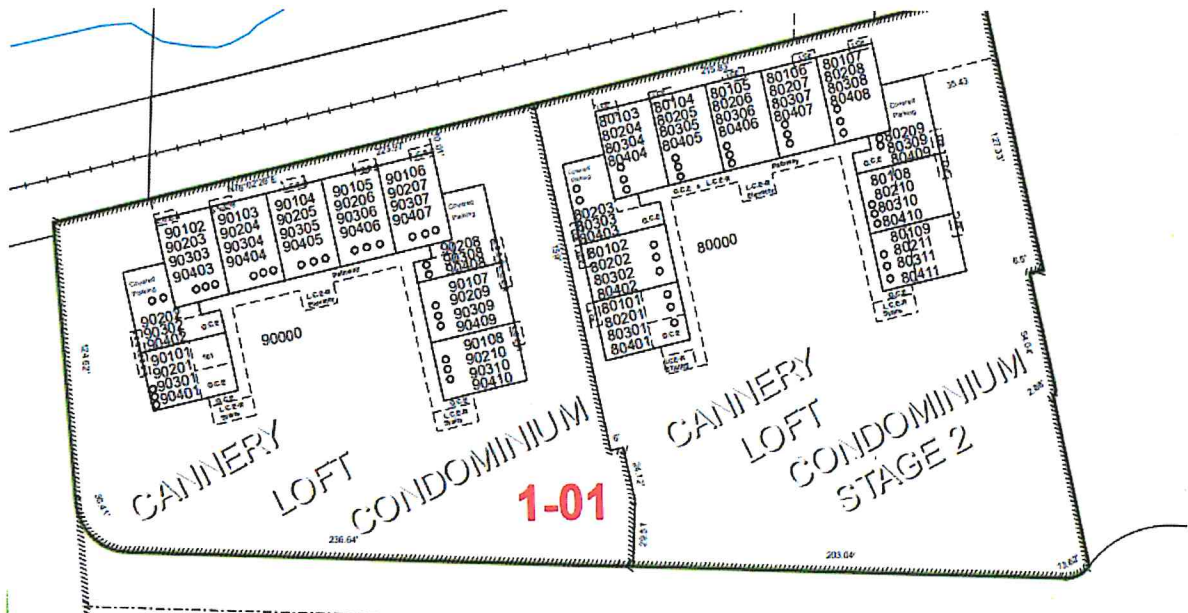
- A. **9.060.2 allows that amendments to existing permit conditions and/or approved plans may be allowed as a Type III permit as determined by the Community Development Director.**

This proposal is to amend the existing permit conditions and approved plans to allow live/work uses in one unit. This would allow a portion of the commercial development to continue as commercial and a portion would be residential. In this case, approximately 600 square feet is proposed as commercial and approximately 300 square feet is proposed as residential. The restroom facility and a closet are proposed for both uses simultaneously.

FINDING: The Astoria Planning Commission considered the application and found that the Amendment to an Existing Permit is not appropriate for this application. The Astoria Development Code does not have a definition of live/work units. Where the City does not have a definition, a temporary use permit can be applied for that is valid for only one year.

- B. Section 2.710, Conditional Uses in the S-2A Zone, lists "Professional and business offices" and "multi-family dwelling" as an allowable conditional use.

Finding: The applicant proposes to expand modify the use of the ground floor commercial space from a professional office to live/work units.

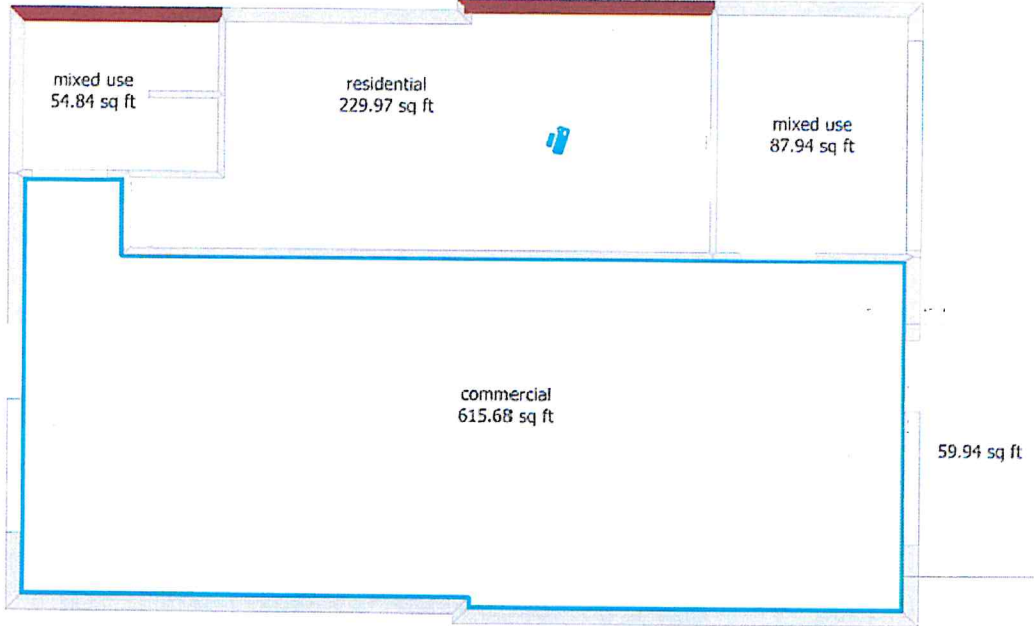


Cannery Loft Work Live — mock up

Building A for A103, 105 Building B 104, 106

The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.

Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.

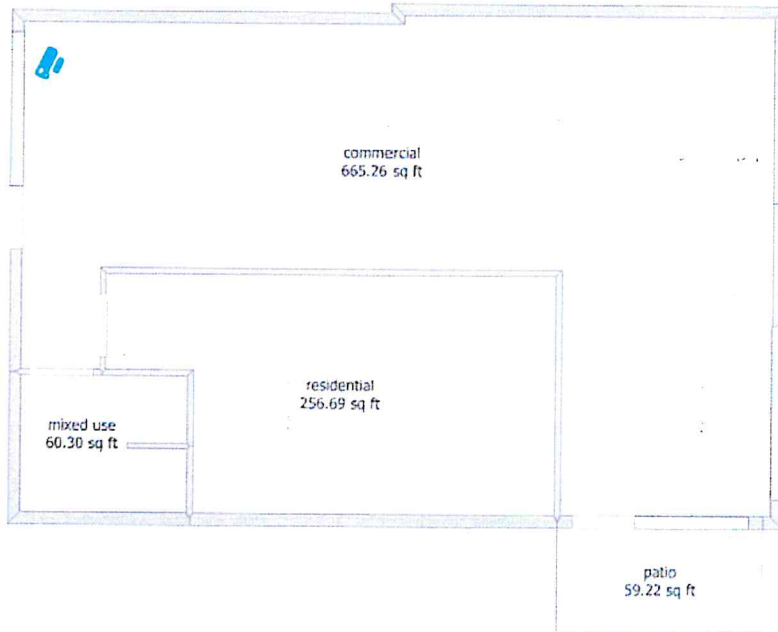


Cannery Loft Work Live — mock up

Building A for A102 and 106 Building B 103 and 107

The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.

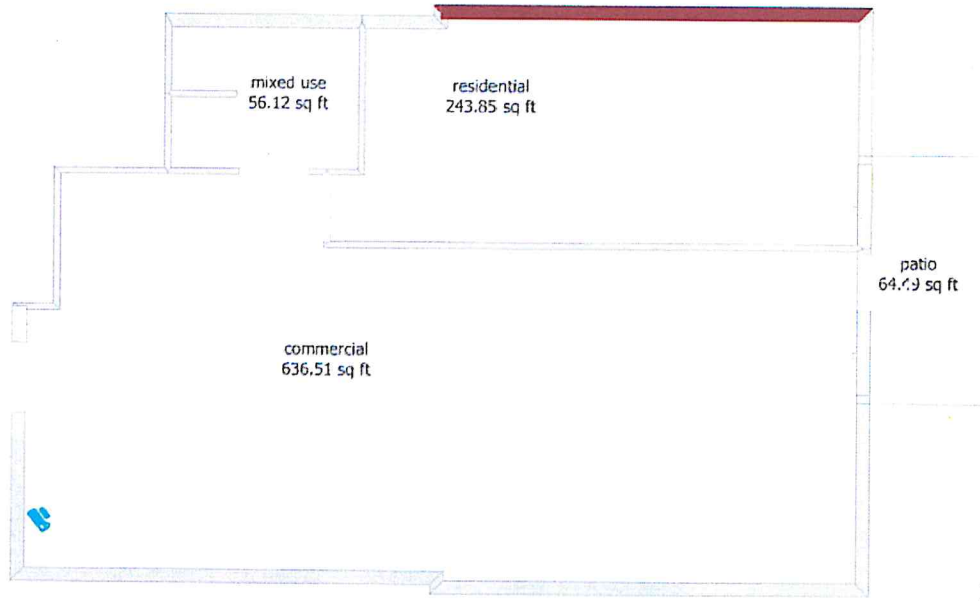
Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.



Cannery Loft Work Live — mock up

Building A for A104 Building B 105 The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.

Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.



- C. Section 2.485(2) Other Applicable Use Standards, Parking, states “All uses will comply with access, parking and loading standards in Article 7. Where feasible, joint access points and parking facilities for more than one use should be provided. Within the S-2A Zone, on-street parking fronting on the lot proposed to be developed may be applied toward meeting the minimum parking space requirements specified in Astoria Development Code Section 7.100. In-lieu of the paving requirements for parking areas specified in Astoria Development Code Section 7.110 (B), an applicant may propose an alternative pervious surface. Such alternative must be reviewed and approved by the City Engineer.

Section 7.100(C), Minimum Parking Space Requirements, Business and Professional Services, requires one off-street parking space per 500 square feet of gross floor area. Residential uses require **one space per bedroom. 1.25 spaces per dwelling unit limited to one bedroom and 1.5 per dwelling unit with more than one bedroom. Calculation is based on specific number of each type of unit. All of Mr. Forcum's proposed units are one bedroom. Therefore, 1.25 spaces per unit is proposed.**

This table is replaced by the following table

Unit #	Building A		Building B		
	A103, A105	A104	B104, B106	B105	
Mixed Space	142.78	56.12	142.78	56.12	
Residential	229.97	243.85	229.97	243.85	
Office	615.68	636.51	615.68	636.51	
Total	988.43	936.48	988.43	936.48	
Parking Office		2		2	
# of Units		2		1	
Total Office		4		2	
Parking Residential		1		1	
Units		2		1	
Total Residential		2		1	
Total Spaces		6		3	
Net new spaces needed		2		1	6

REVISED PARKING CALCULATIONS

Unit #	Building A			Building B			
	A103, A105	A104	A102, A106	B104, B106	B105	B103, B107	
Mixed Space	142.78	56.12	60.3	142.78	56.12	60.3	
Residential	229.97	243.85	256.69	229.97	243.85	256.69	
Office	615.68	636.51	665.26	615.68	636.51	665.26	
Total	988.43	936.48	982.25	988.43	936.48	982.25	
Parking Office	2	2	2	2	2	2	
# of Units	2	1	2	2	1	2	
Total Office	4	2	4	4	2	4	20
Parking Residential	1.25	1.25	1.25	1.25	1.25	1.25	
Units	2	1	2	2	1	2	
Total Residential	2.5	1.25	2.5	2.5	1.25	2.5	12.5
Total Required Spaces	6.5	3.25	6.5	6.5	3.25	6.5	32.5
# of Spaces Originally Allocated to the ground floor uses							23
Net new spaces needed							9.5

Finding: ~~The Cannery Loft Condominium complex was constructed with parking in the common areas included some covered parking area. The building was developed with 13 covered parking spaces. The proposed live/work units would need ten parking spaces. The site was developed with 30 residential units in Building A requiring 40 parking spaces, and 33 units in Building B requiring 45 parking spaces. With the completion of construction of Building B, 85 residential common area parking spaces are available including four spaces which were included on the third vacant site (Building C) for use by Building B. With the existing residential uses at 45 spaces and the existing commercial uses of twelve spaces for commercial uses, six additional spaces are needed for the Live/Work units. (Condition # 4)~~

~~As noted in the table above, an additional 9.5, rounding up, 10 parking spaces are required for the change in use. The Planning Commission remarked that with COVID-19, more people are working at home and the shared parking arrangement of commercial space using the parking during the day and the residential spaces using the parking primarily at night may not be accurate. Therefore, the Planning Commission found that there is inadequate parking for this change in use.~~

D. Section 11.020(B.1) states that “the Planning Commission shall base their decision on whether the use complies with the applicable policies of the Comprehensive Plan.”

1. CP.200, Economic Development Goal 1, states “The City of Astoria will strengthen, improve, and diversify the area's economy to increase local employment opportunities.”

CP.200, Economic Development Goal 1 Policies, states

4. Encourage private development such as retail, restaurants, commercial services, transient lodging.
5. Provide a supportive environment for new business.
6. Encourage a diversity of businesses, target firms to add to the business mix and strengthen the overall economic base.”

Finding: The proposed live/work units will use a long vacant commercial space.

Finding: The proposed use complies with the Comprehensive Plan.

E. Section 11.030(A) requires that “before a conditional use is approved, findings will be made that the use will comply with the following standards:”

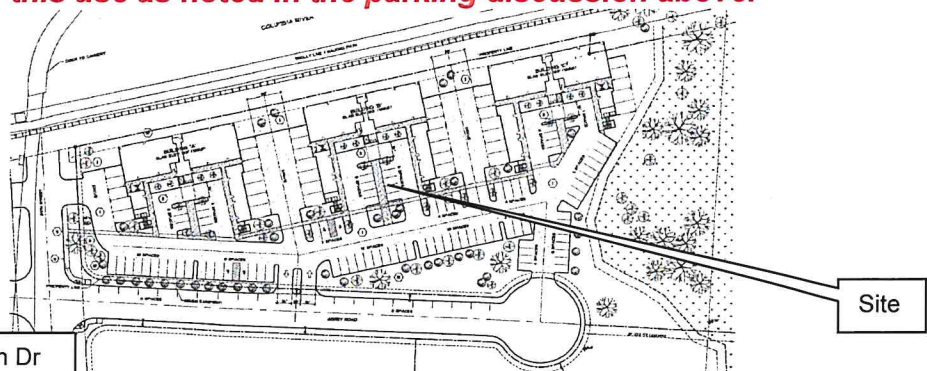
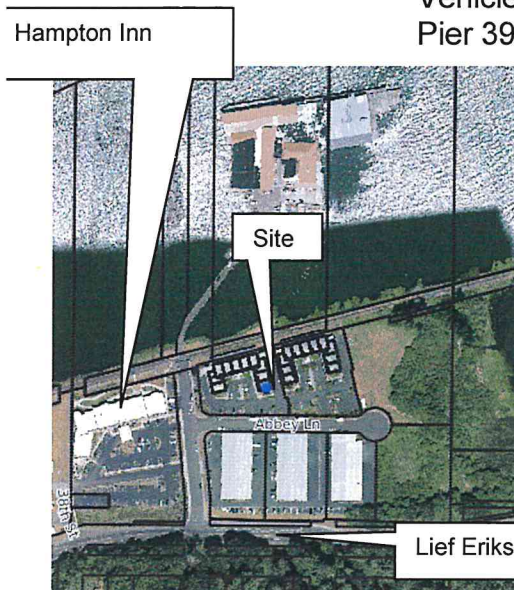
1. Section 11.030(A)(1) requires that “the use is appropriate at the proposed location. Several factors which should be considered in determining whether or not the use is appropriate include: accessibility for users (such as customers and employees); availability of similar existing uses;

availability of other appropriately zoned sites; and the desirability of other suitably zoned sites for the use.”

Finding: *Due to the fact that the live/work concept is not called out in the Development Code, the Planning Commission finds that the proposed use of Live/Work is inappropriate at this location at this time. Planning Commission recommends staff work to develop Live/Work standards in the Development Code. The proposed use is an appropriate use of an existing under-utilized building.* The property is accessed from 39th Street, north of Lief Erikson Drive. There is an existing parking lot at the site with sufficient area for vehicle maneuvering. The nature of the applicant’s business is a medical office with customers physically coming to and from the site by appointment or at limited times, minimizing traffic and accessibility impacts on the site. Other zones which allow this type of use outright may have difficulty accommodating the need for off-street parking for full-time employees and customers. Other suitable sites for this particular use are not immediately available in the vicinity.

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 ample area available for maneuvering of vehicles on the site. The 39th Street and Abbey Lane rights-of-way are improved to a width of approximately 35’, with existing curbs and sidewalks. The site is easily accessible by bike and foot, via the River Trail. The site is located within walking distance of the trolley line. The site is accessible by vehicle. Vehicle traffic on 39th Street is increasing yearly with the development at Pier 39, the occupancy of the Condominium buildings, and the Hampton Inn Hotel. However, the proposed use should not add a larger volume of vehicle trips to the site due to the nature of the client appointments for the business. ***There is inadequate parking for this use as noted in the parking discussion above.***



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 at the site and are capable of serving the use. As with all new or increased businesses and development, there will be incremental impacts to police and fire protection but it will 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 site is not within 100’ of a known geologic hazard as indicated on the City map. No new construction is proposed.

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

Finding: The site is landscaped and is buffered from other uses. No additional landscaping is required.

V. CONCLUSIONS AND RECOMMENDATIONS

The request does not meet the applicable review criteria.

The Astoria Planning Commission considered the application and found that the Amendment to an Existing Permit is not appropriate for this application. The Astoria Development Code does not have a definition of live/work units. Where the City does not have a definition, a temporary use permit can be applied for that is valid for only one year.

As noted in the table above an additional 10 parking spaces are required for the change in use. The Planning Commission remarked that with COVID-19 more people are working at home and the shared parking arrangement of commercial space using the parking during the day and the residential spaces using the parking primarily at night may not be accurate. Therefore, the Planning Commission found that there is inadequate parking for this change in use.

Due to the fact that the live/work concept is not called out in the Development Code, the Planning Commission finds that the proposed use of Live/Work is inappropriate at this location at this time.

~~The request meets all applicable review criteria. Staff recommends approval of the request. The applicant should be aware of the following Conditions of Approval:~~

- ~~1. The applicant shall submit to the planner an executed lease agreement with an adjacent property owner for use of six parking spaces prior to occupancy of any of the live/work units.
ALTERNATIVE CONDITION #1 The commercial component to any live/work unit shall be limited to 500 square feet unless additional parking to satisfy the parking requirements of Astoria Development Code 7.100 is provided prior to occupancy of the live/work unit exceeding 500 square feet of commercial space.~~
- ~~2. Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.~~
- ~~3. The applicant shall obtain all necessary City and building permits prior to the start of operation.~~

ATTACHMENTS

- Exhibit 1: Application
- Exhibit 2: Notice
- Exhibit 3: V17-04
- Exhibit 4: Email from Ted Forcum, Applicant
- Exhibit 5: Comments

EXHIBIT 6: Comments received by 6/30/2020

Exhibit 1: Application



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY
DEVELOPMENT

RECEIVED
MAY 12 2020

Community Development
CITY OF ASTORIA

Received
5/12/2020
B. Taylor

Fee Paid Date 5/21/2020 By TT cc
Fee: Administrative: None via phone \$500.00
Commission: Same as Original Permit

AEP 20-04

AMENDMENT TO AN EXISTING PERMIT

Property Address: 3930 A-102-6 and 3990 B-103-7 Abbey Lane Astoria, Oregon 97103

Lot _____ Block _____ Subdivision Cannery Loft Condo

Map 8099AA90101-8 and 80101 Tax Lot _____ Zone S-

Permit to be Amended: _____

Applicant Name: Ted Forcum

Mailing Address: 3621 SW Humphrey Blvd Portland, Oregon 97221

Phone: 503-816-6581 Business Phone: _____ Email: tf@nomadicdr.com

Property Owner's Name: Nomadic Properties, LLC

Mailing Address: 3621 SW Humphrey Blvd Portland, Oregon 9722 Email: tf@nomadicdr.com

Business Name (if applicable): _____

Signature of Applicant: _____ Date: _____

Signature of Property Owner: _____ Date: _____

Proposed Amendment: Allow work-live use of existing vacant commercial office/retail.

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 1st 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 13th 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 20th 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:	<u>5/20/2020</u>	Permit Info Into D-Base:
Labels Prepared:	<u>5/29/2020</u>	Tentative Meeting Date:
120 Days:	<u>9/25/2020</u>	<u>6/23/2020</u>

CM 11-06
CM 14-15
12-A3

3990/3930-#101, 102, 109

Briefly address each of the Criteria for the type of permit to be amended and state why this request should be approved. (Use additional sheets if necessary.):

A. Conditional Use Permit. (Fee: \$500.00)

Before an amendment to an existing Conditional Use Permit is approved, findings will be made that the following criteria are satisfied:

1. 11.030(A)(1) The use is appropriate at the proposed location. Several factors which should be considered in determining whether or not the use is appropriate include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites; and the desirability of other suitably zoned sites for the use.

Work-live whereby the commercial use is primary is not described in the code other than zone S-2 allows for housing, which is secondary to another permitted use such as a proprietor. This is very similar if not the same to work-live. There are provisions for home occupation whereby residential use is the primary function in zones RI, R2, R3, C1, C2, C3, C4, and A3. This location is currently mixed use. The addition of work-live does not impact parking and utilities services. Visually there would be no change to the complex.

2. 11.030(A)(2) An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements.

Work-live use will reduce transportation requirements compared to off-site ownership which must commute to the location. There is no change to on-site drives, loading areas, refuse collection, sidewalks or other transportation facilities. Facility safety, traffic flow should improve. There is no impact on traffic control and emergency vehicle movement.

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

There should be no appreciable change in utility use and no change in fire and police protection.

4. 11.030(A)(4) The topography, soils, and other physical characteristics of the site are appropriate for the use. Where determined by the City Engineer, an engineering or geologic study by a qualified individual may be required prior to construction.

There is no impact on these structures.

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

There is no change or impact on these structures.

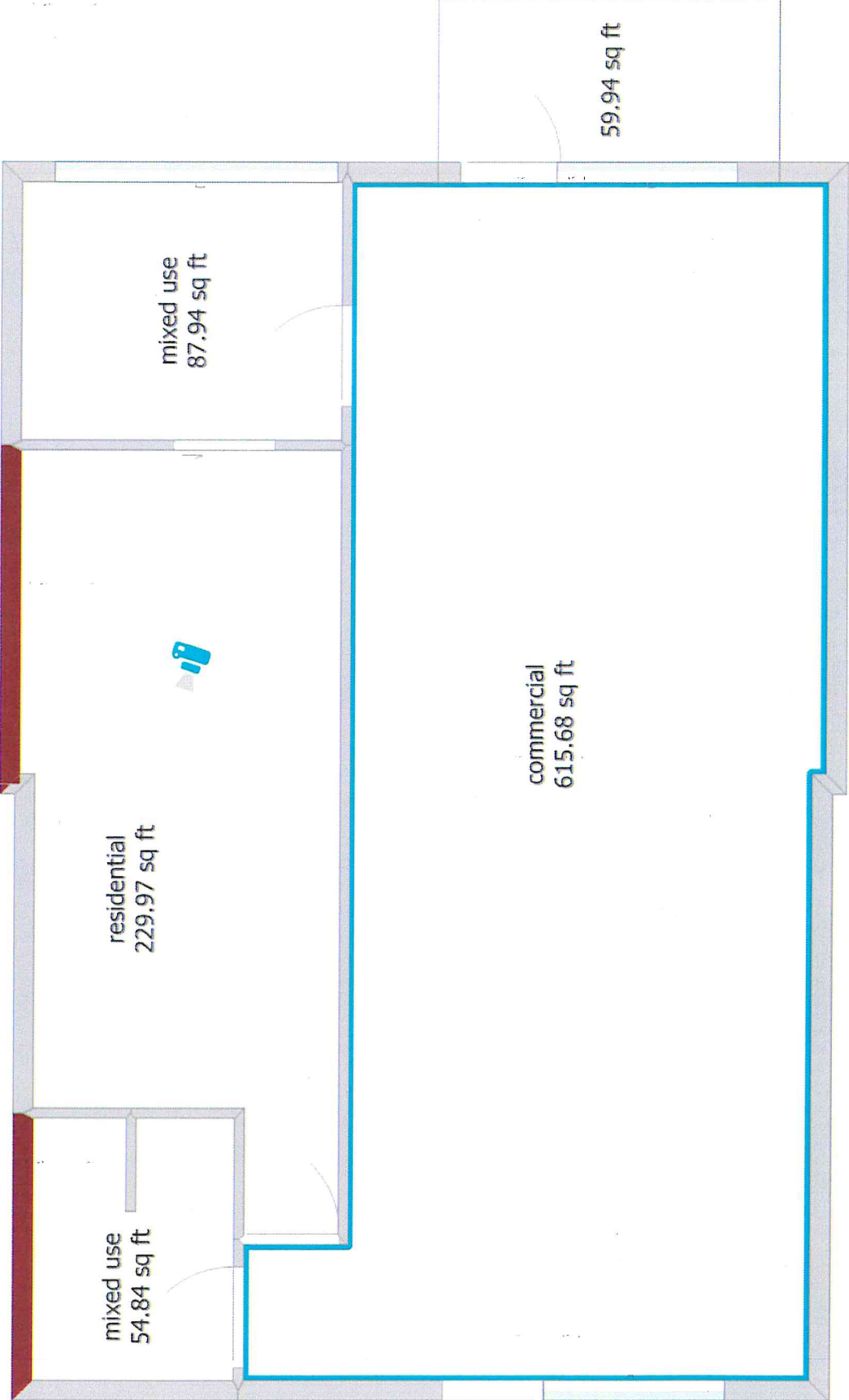
SITE PLAN: A Site Plan depicting property lines and the location of all existing and proposed structures, parking, landscaping, and/or signs is required. The Plan must include distances to all property lines. Scaled free-hand drawings are acceptable.

Cannery Loft Work Live — mock up

Building A for A103, 105 Building B 104. 106

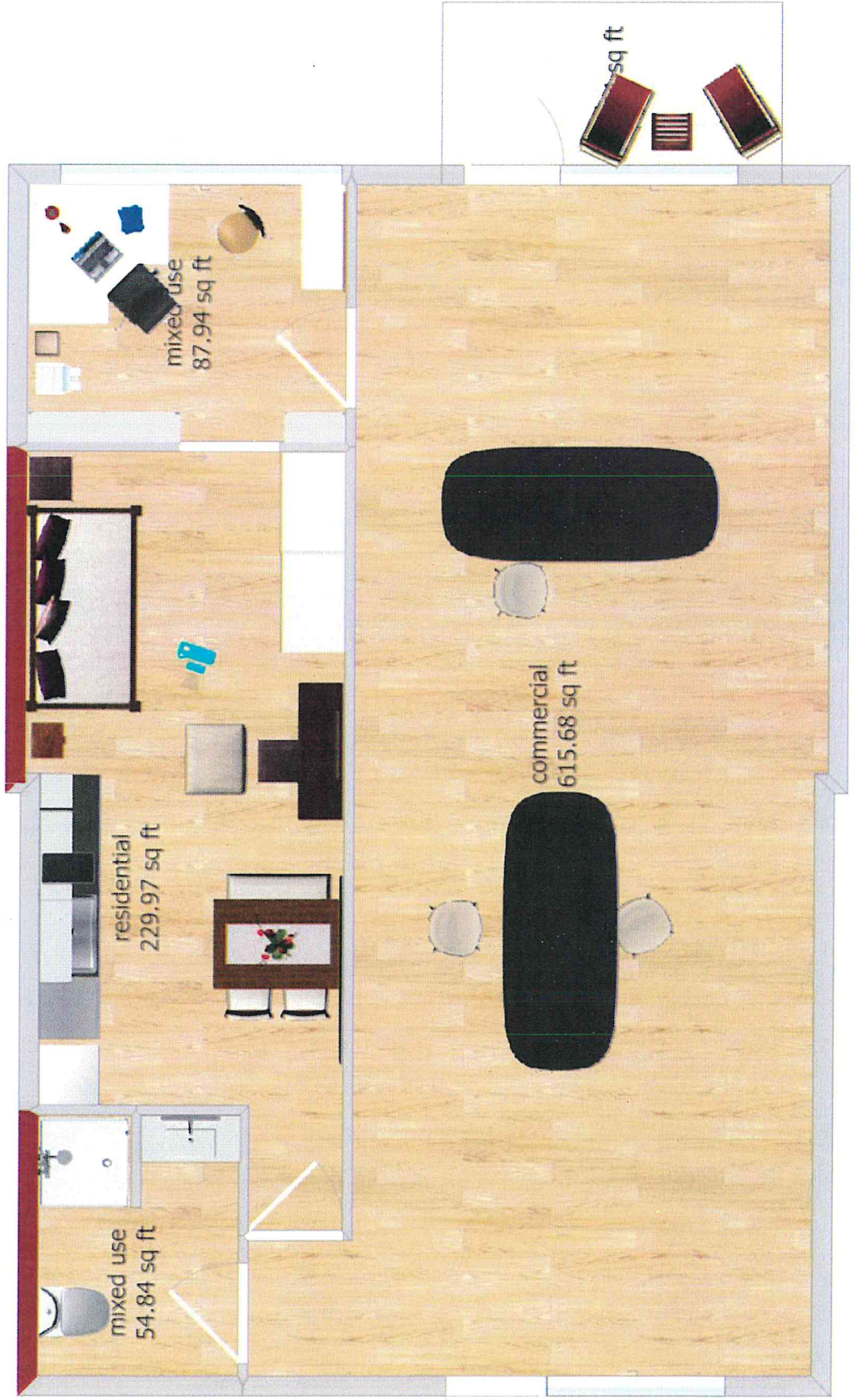
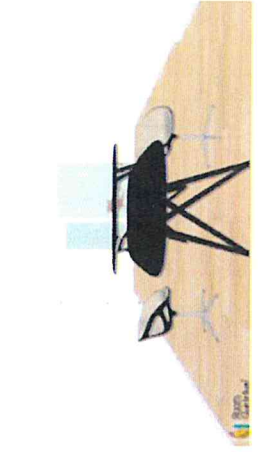
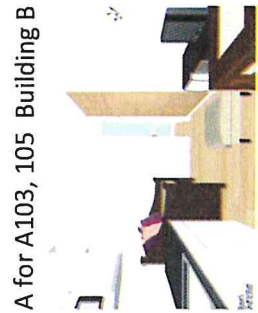
The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.

Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.



Cannery Loft Work Live — mock up

Building A for A103, 105 Building B 104, 106



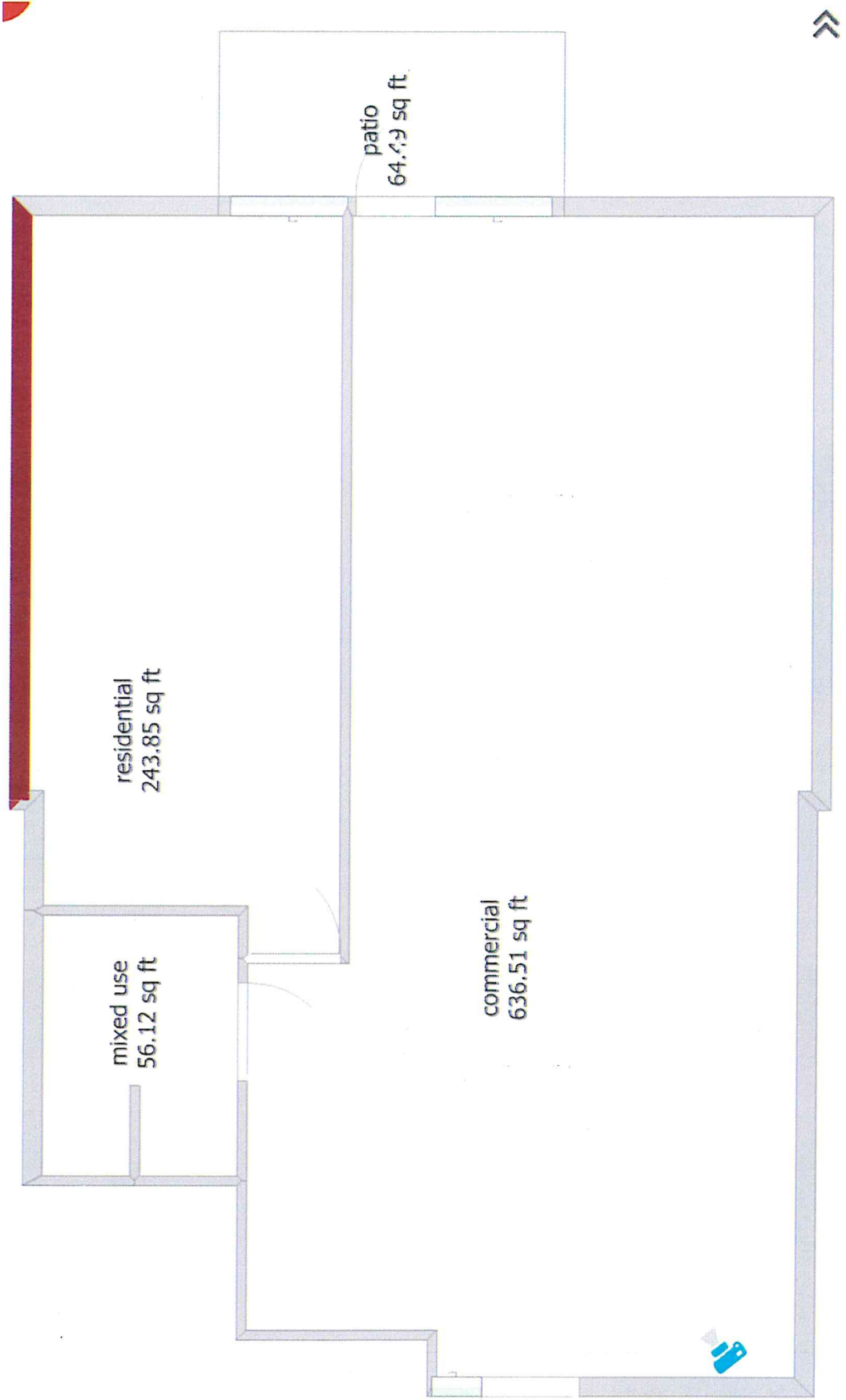
Cannery Loft Work Live — mock up
Building A for A103, 105 Building B 104, 106

1. Floor



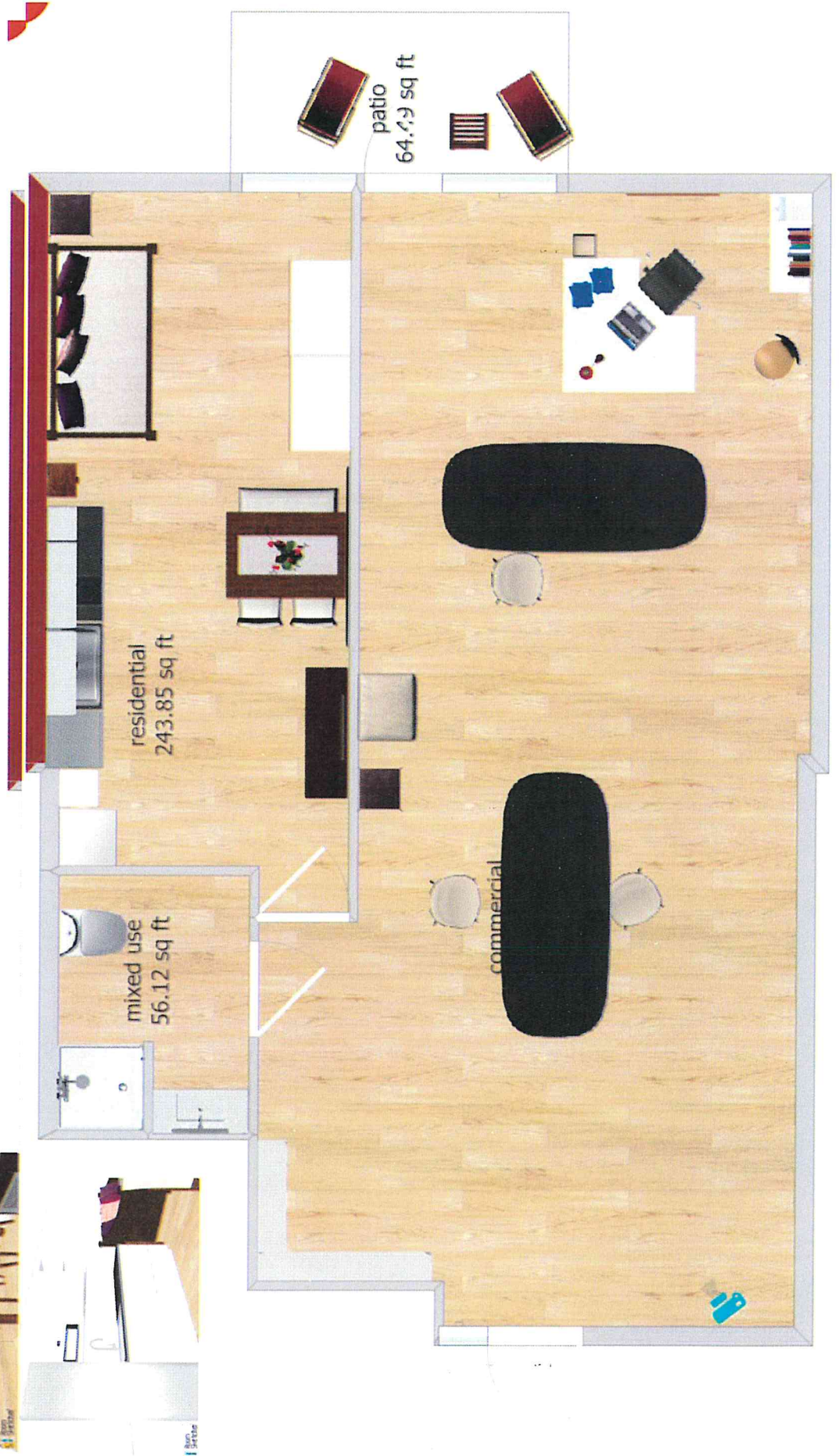
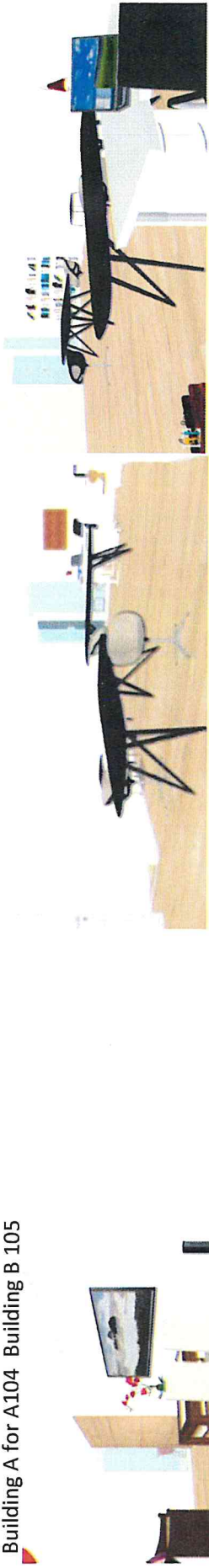
Cannery Loft Work Live — mock up

Building A for A104 Building B 105 The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.
Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.



Cannery Loft Work Live — mock up

Building A for A104 Building B 105



Cannery Loft Work Live — mock up

Building A for A104 Building B 105

01/20/2017

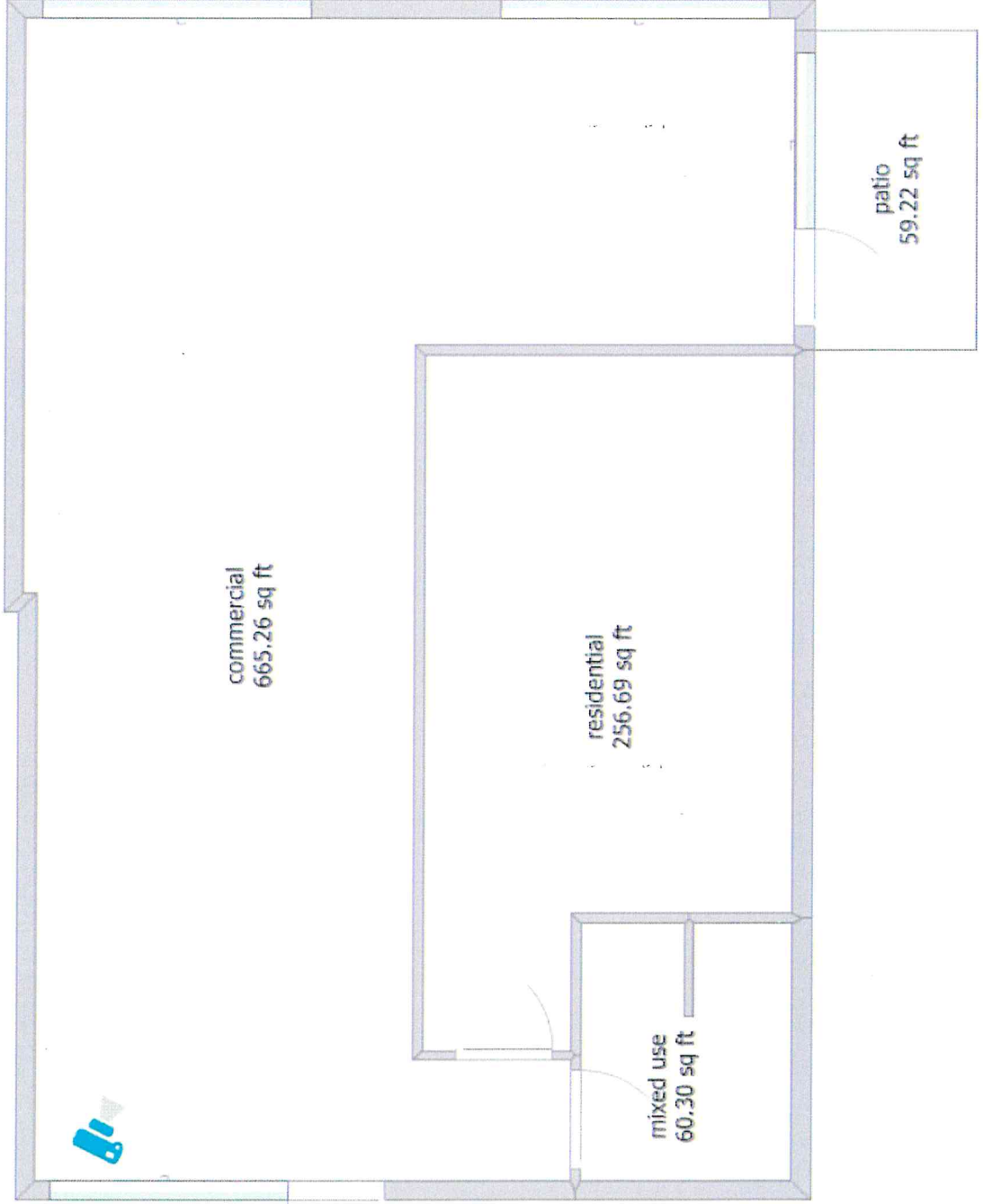


Cannery Loft Work Live — mock up

Building A for A102 and 106 Building B 103 and 107

The central wall is planned to be 7-8 feet in height to accommodate HVAC and fire sprinkler distribution.

Please note: Public access men's and women's ADA accessible bathrooms are available in the breezeway in addition to in unit bathrooms.



Cannery Loft Work Live — mock up

Building A for A102 and 106 Building B 103 and 107



Exhibit 2: Notice

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

NOTE: Due to the COVID-19 Pandemic, you may participate in the Public Hearing remotely by computer or telephone. You will be able to hear and/or view the proceedings and **fully participate remotely**. Please access the following URL to reach the options: https://www.astoria.or.us/LIVE_STREAM.aspx

Mail	5-29-20
Email	5-29-20
Web	5-29-20
On Site	6-9-20
Pub	6-13-20

**CITY OF ASTORIA
NOTICE OF PUBLIC HEARING**

The City of Astoria Planning Commission will hold a public hearing on Tuesday, June 23, 2020 at **6:30pm** in the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

- 1) Permit Extension Request for Temporary Conditional Use (CU17-06) by Astoria Warming Center to extend the permit to September 6, 2021 to operate the Astoria Warming Center at 1076 Franklin Ave. (Map T8N-R9W Section 8CC, Tax Lot(s) 2300; Lot(s) 5 & 6, Block 45, McClure's) in the R-3 High Density Residential Development Zone. Development Code Standards 2.150-2.185, 3.240, Articles 9 and 11 are applicable to the request.
- 2) Zoning Map Amendment Request (A20-01) by Jeff Breymeyer, on behalf of Yakima Valley Farm Workers Clinic, to amend the City of Astoria zoning map from LS (Local Service) to CA (Education/Research/Health Care Campus Zone) in the GOZ (Gateway Overlay Zone) and CGO (Civic Greenway Overlay Zone) to allow for medical or health care service establishment as a permitted use at 2275 Commercial Street (Map T8N-R9W Section 8DA, Tax Lot 01402; Lot(s)1, 2, and 3, Block 127, Shively's; and Tax lot 01401; Lot(s) 4 and 5; Block 127, Shively's; and Tax lot 01700; Lot 6; Block 127, Shively's and north portions of Lot(s) 1, 2, and 3 Block 128, Shively's and vacated portions of Duane and 22nd Streets). Development Code Articles 9 and 10 and Comprehensive Plan Sections CP.005 to CP.028, CP.057 to CP.058 (Gateway Overlay), CP.067 to CP.068 (Riverfront Vision Overlay), and CP.190 to CP.210 (Economic Element) are applicable to the request.
- 3) Amendment to Existing Permit Request (AEP20-04) for Conditional Use (CU11-06 and CU14-15) by Ted Forcum of Nomadic Properties, LLC, to permit Live/Work units at 3930 Abbey Lane, Units A102, A103, A104, A105, and A106 (Map T8N-R9W Section 09AA, Tax Lots 102, 103, 104, 105, 106, Cannery Lot Condominium) and at 3990 Abbey Lane, Units B103, B104, B105, B106, and B107 (Map T8N-R9W Section 09AA, Tax Lots 103, 104, 105, 106, and 107, Cannery Lot Condominium Stage 2) in the S-2A (Tourist-Oriented Shorelands), CGO (Civic Greenway Overlay) and GOZ (Gateway Overlay) Zones. Development Code Standards 2.700- 2.715, Articles 7, 9, and 11 and Comprehensive Plan Sections CP.005 to CP.028, CP.057 to CP.058 (Gateway Overlay), CP.067 to CP.068 (Riverfront Vision Overlay) 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 Director at 503-338-5183 for additional information.

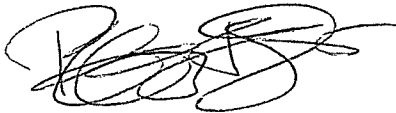
The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183 48 hours prior to the meeting.

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 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



Tiffany Taylor
Administrative Assistant

MAIL: May 29, 2020

Exhibit 3: V17-04

STAFF REPORT AND FINDINGS OF FACT

March 6, 2018

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

THROUGH: NANCY FERBER, PLANNER

SUBJECT: VARIANCE REQUEST (V17-04) BY DR. TED FORCUM FROM OFF-STREET PARKING REQUIRMENTS AT 3930 ABBEY LANE (BUILDING A) AND 3990 ABBEY LANE (BUILDING B) IN THE S-2A ZONE (TOURIST-ORIENTED SHORELANDS)

I. BACKGROUND SUMMARY

A. Applicant: Dr. Ted Forcum
10139 NW Skyline Heights Drive
Portland OR 97229

B. Owner: Nomadic Properties LLC (Ground floor condominium units)
10139 NW Skyline Heights Drive
Portland OR 97229

Cannery Loft Storage LLC (Building A Unit 107 & Building B Unit 108)
10139 NW Skyline Heights Drive
Portland OR 97229

Nomadic Properties LLC (Building B Unit 103, 104, 105, 106, 107)
Coastal Family Health Center
10139 NW Skyline Heights Drive
Portland OR 97229

Cannery Loft Partners LLC (Communal areas)
c/o Cannery Loft Holdings LLC
4380 SW Macadam Suit 190
Portland OR 97239-6404

C. Location: Building A - 3930 Abbey Lane; Map T8N R9W Section 9AA, Tax Lots 90101, 90102, 90103, 90104, 90105, 90106, 90107, 90108; Cannery Loft Condominium

Building B - 3990 Abbey Lane; Map T8N R9W Section 9AA, Tax Lots 80101, 80102, 80103, 80104, 80105, 80106, 80107, 80108, 80109; Cannery Loft Condominium Stage 2

- D. Zone: S-2A, Tourist Oriented Shoreland
- E. Lot Size: Building A - Approximately 1.02 acres
Building B - Approximately 1.2 acres
- F. Proposal: Building A - variance from the required potential 18 off-street parking spaces to provide 11 spaces for potential future and existing uses within the ground floor units of 6,953 gross square feet. In addition, the applicant requested a variance from the one space per chair for the salon which currently occupies approximately 2,286 gross square feet with four chairs.

Building B - variance from the required 18 off-street parking spaces to provide 13 spaces for potential future and existing uses within the ground floor units of 7,534 gross square feet

Allowable Uses in S-2A Zone	Space/Per SF Required by Article 7	Parking Allocation
Arts & Crafts	1/500	1
Retail	1/500	1
Professional and business office	1/500	1
Public or semi-public use	1/500	1
Repair services	1/250	2
Eating, drinking and entertainment w/o drive through	1/chair/table	No more than 35% of space (2 units)
Personal service establishment	1/chair/booth	No more than 35% of space (2 units)
Educational establishment *	1/300 SF	No more than 35% of space (2 units)
Daycare *	1/employee	3
TOTAL AVAILABLE		18 spaces

* Not allowable uses within the S-2A Zone

II. BACKGROUND INFORMATION

The request for the Variance is for two separate buildings within the Cannery Lofts Condominium development. Each building is on its own site and have separate development possibilities. The variance request will be addressed in one Findings of Fact with specific figures for each building identified throughout the report. Due to the fact that the communal areas on the ground floor are also used by the upper floor condominium owners, the “gross” floor area for the ground floor needed to be distributed throughout all floors of the entire building. The applicant was offered several options for computing this calculation including prorating the total square footage of the communal area on the ground floor to all units, or to use the one hallway and restroom on the ground floor as ground floor gross footage. The remaining communal areas include the solid waste disposal area, fire equipment room, electrical room, hallways, and elevator.

The applicant chose to calculate the gross floor area based on inclusion of the one hallway and the restroom on the ground floor with the following results:

Building A - Ground floor gross floor area is 6,953 square feet with eight units

Building B - Ground floor gross floor area is 7,534 square feet with nine units

Subject Site:

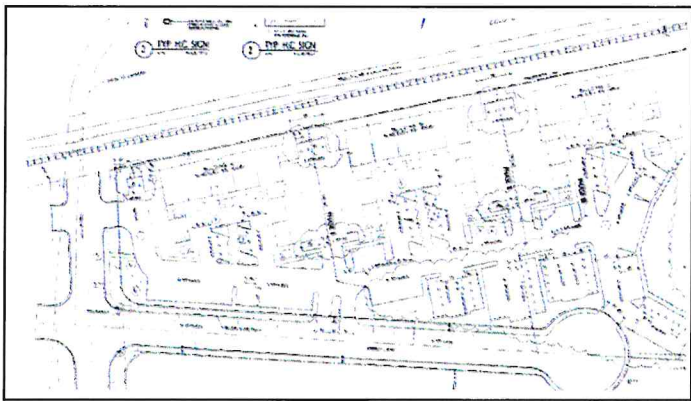
Building A site is approximately 1.0 acres in size, Building B site is approximately 1.2 acres in size. They are located on the dead-end cul-de-sac of Abbey Lane accessed from 39th Street off Lief Erikson Drive. Each site is developed with a four-story mixed-use condominium. Building A has 30 residential condominium units and eight commercial condominium units. Building B has 33 residential condominium units and nine commercial condominium units. The number of units refers to the number as it was originally constructed. Some units have been combined for a single use.



The site was originally zoned S-1 (Marine Industrial Shoreland) but was rezoned to GI in 1992 (A92-03) recognizing that the parcels were not feasible for shoreland activities as they were cut off from the River and shoreland development opportunities. With the change to GI Zone, the property was developed with residential condominium units on upper floors and industrial uses on the ground floor under Conditional Use permit (CU04-04 as amended AEP05-05). The parking for each building was allocated within a communal parking area on each lot. The ground floor of Building A was allocated 11 parking spaces and the ground floor Building B was allocated 13 parking spaces. Exact spaces were not identified, and parking could occur in any of the available spaces on the lot. Industrial use

of the ground floor units did not occur, and it became more apparent that a more commercial use would be appropriate. In 2014, the property was rezoned (A14-03) to S-2A (Tourist Oriented Shoreland) to allow for a broader range of non-residential uses on the ground floor. The number of parking spaces allocated to those units did not change.

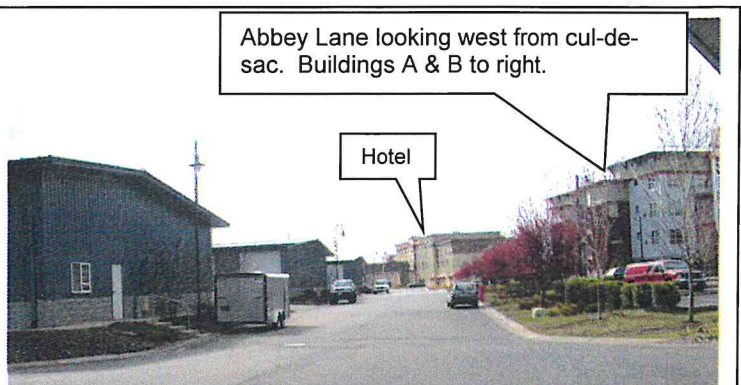
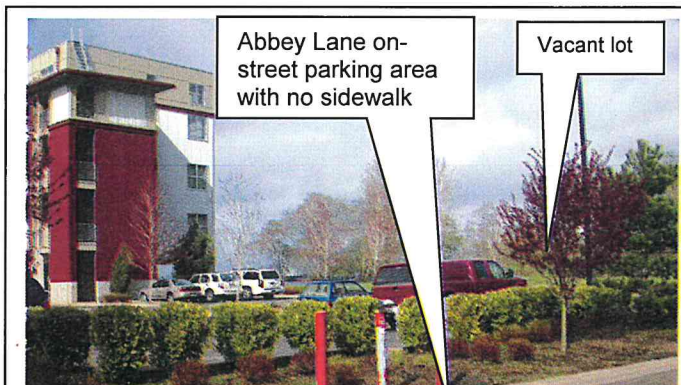
The applicant owns all of the ground floor units in both buildings. At this time, the off-street parking spaces have been allocated to the current uses within the building yet there are remaining units that are not occupied and have no available parking spaces. The applicant does not have definite tenants for those units at this time but proposes to market spaces as they are available to a variety of potential commercial uses. While it is unknown how much space would be utilized by each type of use, the applicant submitted a list of potential uses with some limitations on how much of the building would be used for certain uses. The proposed potential uses could require up to 18 parking spaces per building. The applicant is requesting a Variance from 18 to 11 on Building A (7 spaces) and 18 to 13 on Building B (5 spaces). In addition, the applicant is requesting a reduction in the one space per chair/table for the existing spa which has four chairs/tables.



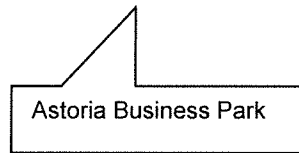
Buildings A & B with communal parking areas

Neighborhood:

To the west across the 39th Street right-of-way is the Hampton Inn Hotel; to the northwest is the East End Mooring Basin, water area; to the north is the Columbia River, Pier 39, and River Trail (the trolley line ends at 39th Street); to the east is a vacant lot, the Alderbrook Lagoon, and wetlands; to the south are four industrial lots developed with three industrial buildings on the south side of Abbey Lane adjacent to Lief Erikson Drive. The area to the east is zoned A-3 (Aquatic Conservation). Properties to the south are zoned GI Zone (General Industrial). The area west of 39th Street is zoned S-2A (Tourist Oriented Shoreland). There are no sidewalks along Abbey Lane.



01
e.f.



III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 200 feet, pursuant to Section 9.020 on February 2, 2018. In accordance with Section 9.020, a notice of public hearing was published in the *Daily Astorian* on February 19, 2018. Any comments received will be made available at the Planning Commission meeting.

IV. APPLICABLE REVIEW CRITERIA AND FINDINGS OF FACT

- A. Section 2.705 allows the following uses as Outright Uses in the S-2A Zone
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.*
 5. *Personal service establishment, excluding funeral homes.*

Finding: The above uses are proposed by the applicant and allowed outright. The applicant also indicated “Educational Establishment” and “Daycare” as proposed uses. These uses are not allowed as outright or conditional uses within the S-2A Zone and therefore are not included as approved uses with this parking variance application (Condition 1).

- B. Section 2.710 allows the following uses as Conditional Uses in the S-2A Zone, in accordance with Article 11, Conditional Uses.
1. *Arts and crafts studio.*
 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.*

Finding: The above uses are proposed by the applicant and allowed as conditional uses in accordance with Article 11. The applicant also indicated “Educational Establishment” and “Daycare” as proposed uses. These uses are not allowed as outright or conditional uses within the S-2A Zone and therefore are not included as approved uses with this parking variance application (Condition 1).

- C. Section 9.100(A.1), Time Limit on Permits, states that *“Except as otherwise provided in this Code, a permit shall expire two years from the date of Final Decision unless substantial construction has taken place or use has begun. . .”*

Finding: The buildings have been constructed and are being marketed for use. In order to facilitate tenant occupancy, the Variance is intended to run with the property and be applicable to future tenants to allow flexibility in various uses at different times. To require a parking variance with each new use delays the ability of tenant occupancy and reduces the ability to rent the spaces. Therefore, the existence of the commercial units and the list of acceptable possible uses shall constitute a valid permit that would not expire in two years should some of the units not be utilized within that two-year period (Condition 2). As with other land use permits, the variance would run with the property even if it is sold to a new owner.

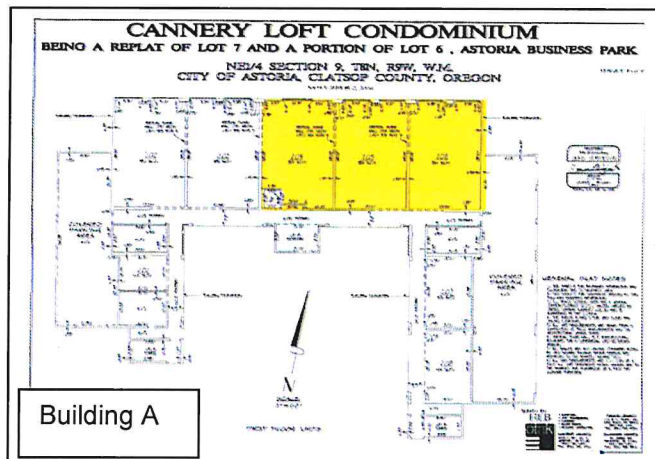
- D. Section 7.010, Parking and Loading Areas Required, states that
- “A. *Off-street parking areas and off-street loading areas meeting the applicable requirements of this Section shall be provided and maintained:*
1. *For each separate use in any building or structure erected after the adoption of 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.”*

Section 7.060.A, Off-Street Vehicle Parking Requirements states *“Except as otherwise specifically provided in this ordinance, off-street parking spaces shall be provided in amounts not less than those set forth in Section 7.100.”*

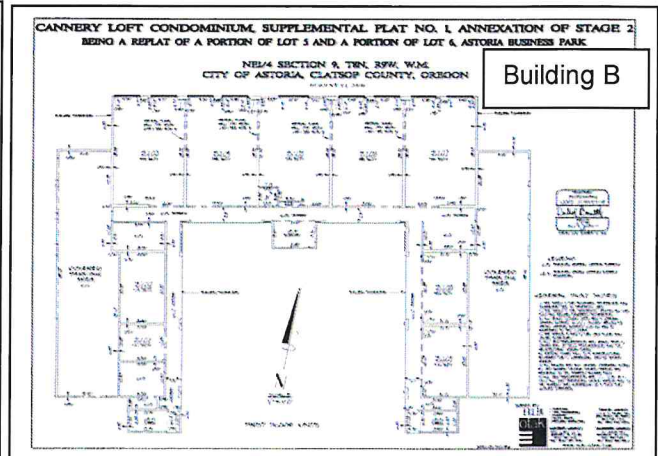
Section 7.100, Minimum Parking Space Requirements, Table 7.100 – Off-Street Parking Space Requirements by Use states that *“The following are minimum off-street parking requirements by use category. The Community Development Director or Planning Commission, as applicable, may increase the required off-street parking based on anticipated need for a specific conditional use.*

Use Categories	Minimum Parking per Land Use (Fractions are rounded up to the next whole number.)
<i>Offices: General, medical/dental, professional</i>	<i>1 space per 500 sq. ft. gross floor area</i>
<i>Personal Services (i.e. salon, spa, barber, animal grooming, out-patient veterinary services)</i>	<i>1 space per chair, table, or booth for customers</i>
<i>Repair or Service other than automotive</i>	<i>1 space per 500 sq. ft. gross floor area</i>
<i>Retail Sales, General Merchandise</i>	<i>1 space per 500 sq. ft. gross floor area</i>
<i>Community Service, including Government Offices and Services (public / semi-public use)</i>	<i>Same requirement as non-institutional use for the category</i>
<i>Eating and Drinking / Restaurant</i>	<i>1 space per 500 sq. ft. if no seating; 1 space per 250 sq. ft. with seating.”</i>

Finding: The uses within the building are proposed to be changed. Off-street parking and loading is required for the use at the time of the change. Currently, Building A is occupied by a day spa, computer repair, law office, mini-storage. Building B is occupied by healthcare office and mini-storage. These uses do not occupy all of the available units but have utilized all of the available spaces for the ground floor units. Any additional occupancy of the units would require parking based on the numbers indicated in the Code section.



Building A



Building B

The applicant indicated the above uses with limitation on the total area that would be occupied by some of those uses. The Variance is being reviewed based on the anticipated impact of these proposed uses. The uses with higher impacts such as eating and drinking are limited to a maximum percentage, as proposed by the applicant, to assure the least impact to the parking in this area. Eating and drinking, and personal services would each be limited to 35% of the building area (Condition 4). As the specific uses would change over time, the actual tenants would be limited by the number of available parking spaces. Therefore, while a use may be approved, it must still have the minimum required parking spaces. The findings of fact are based on the uses as proposed for marketing purposes. Prior to any unit being occupied, the use shall be reviewed to assure that the required parking is available. If a use requires a Conditional Use Permit, the actual number of spaces required for that use could be increased by the Planning Commission in accordance with Development Code Section 11.040. No use may occupy the building if it would require parking in excess of the available parking under this variance (Condition 5).

The requested Variance would possibly increase the number of available spaced in Building A from 11 to 18 and in Building B from 13 to 18. The actual amount of parking required cannot be determined until the actual tenants are approved. The final parking calculation would be reviewed at the time of the building permit for occupancy or the Occupational Tax application is submitted based on the proposed square footages of each of the uses at that time. Any proposed use would be required to meet the parking requirements of the Code at the time of occupancy.

The applicant also requested a reduction in the required number of parking spaces for the salon in Units 102 and 103 in Building A. The salon occupies approximately 1,824 net square feet with an approximate 2,286 gross square footage. The tenant was limited to four chairs/tables for their clients as only four parking spaces were available. The Code requires one space per chair/table with the idea that there could be a customer at each location at the same time. The

tenant indicated that all four chairs/tables are not fully occupied at the same time. However, there is the possibility in the future that they could be occupied since they are available.

- E. Section 7.030, Location, states that
- “A. *Off-street parking and loading areas required by this ordinance shall be provided on the same lot with the use except that:*
2. *In non-residential zones, up to 50% of the required parking area may be located off the site of the primary use or structure provided it is within 300 feet of such site.”*

Finding: Building A would have 11 spaces on the same lot; Building B would have 13 spaces on the same lot. The applicant is requesting application of Section 7.062 to modify the number of required parking spaces. This section would allow some on-street parking to be used toward the calculation of parking spaces. Ted is proposing to use some parking spaces within the 39th Street right-of-way, and Ted is proposing to use some parking spaces with the Abbey Lane right-of-way. These locations are within 300' of each of these sites.

- F. Section 7.040, Fractional Measurements, states that *“When calculations for determining the number of required off-street parking or loading spaces result in a requirement of fractional space, any fraction of a space less than one-half shall be disregarded, and a fraction of one-half or greater shall be counted as one full space.”*

Finding: Each unit within the building would be required to provide a minimum of one space but depending on the use and the square footage of that unit, there may be fractional spaces. Also, several units may be combined for one use. Each unit and/or single use in combined units is subject to these requirements. The multiple units within a building shall not be combined in calculating the parking such as 1.5 space requirement for one unit with an office and 1.5 space requirement for one unit with retail space combined to equal 3 spaces between the two uses. This would be calculated at 2 spaces for each unit separately based on fractional measurements (Condition 3).

- G. Section 7.050, Ownership of Parking and Loading Areas, states
- “A. *Except as provided for joint use parking in Section 7.070, the land to be provided for off-street parking and loading areas, including driveways, aisles, and maneuvering areas shall be:*
1. *Owned by the owner of the property served by the parking; or*
 2. *In commercial and industrial zones, the parking may be provided by a permanent and irrevocable easement appurtenant to the property served by the parking; . . .”*

Finding: The applicant owns the ground floor units under three separate names: Nomadic Properties LLC, Coastal Family Health Center, and Cannery Loft Storage

LLC. The building was constructed as a condominium with individual ownership of units and joint ownership of the communal areas as established in the Covenants, Conditions, and Restrictions for the Cannery Loft Condominium Home Owners Association. The allocated 11 spaces for Building A and 13 spaces for Building B are in some form of ownership by the applicant subject to condominium laws and agreements. These Findings of Fact make no assumption or interpretation of the CC&R's and/or right of ownership. It is sufficient for compliance with this section to state that the applicant owns several condominium units and is therefore presumably included as part of the communal parking are ownership.

H. Section 7.062.B, Special Exceptions to Off-Street Vehicle Parking Requirements, Modification of Parking Space Requirements, states

“The applicant’s proposal shall consist of a written request, and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors. The Community Development Director may reduce the off-street parking standards for sites with one or more of the following features: . . .”

Finding: The applicant submitted a Parking Study Technical Memorandum by Lancaster Engineering, dated August 31, 2017. The Study addresses available spaces and the parking demand/occupancy for various uses. Lancaster Engineering based several of their findings on Section 7.062 in order to modify the parking requirements. Some of their findings concerning the Modification criteria were not correct as noted below.

- a. *Site has a bus stop with existing or planned frequent transit service (15minute headway or less) located adjacent to it, and the site’s frontage is improved with a bus stop waiting shelter, consistent with the standards of the applicable transit service provider: Allow up to a 20 percent reduction to the standard number of automobile parking spaces;*

Finding: The bus stop is at 39th and Lief Erikson (approximately 600' from Bldg A and 800'+ from Bldg B) and not “adjacent” to the site; there is no shelter; and it is a 60-minute wait, not 15 minutes. The 39th/Lief Erikson bus stop does not run from 5:45 am to 9:15 pm as indicated in the report. This stop is active from 8:17 am to 7:17 pm only.

The trolley does not run year-round and has a wait of approximately 60 minutes, not 15 minutes and does not run daily. Does not meet this criterion.

- b. *Site has dedicated parking spaces for carpool/vanpool vehicles: Allow up to a 10 percent reduction to the standard number of automobile parking spaces;*

Finding: There are no dedicated carpool spaces. Does not meet this criterion.

- c. *Site has dedicated parking spaces for motorcycle and/or scooter or electric carts: Allow reductions to the standard dimensions for parking spaces and the ratio of standard to compact parking spaces;*

Finding: There are no dedicated motorcycle spaces. This criterion would only allow a reduction in space size and/or compact to standard size ratio. Does not meet this criterion.

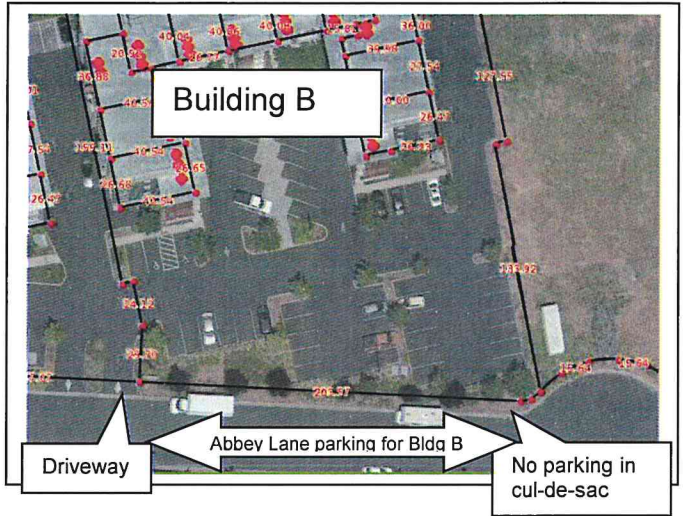
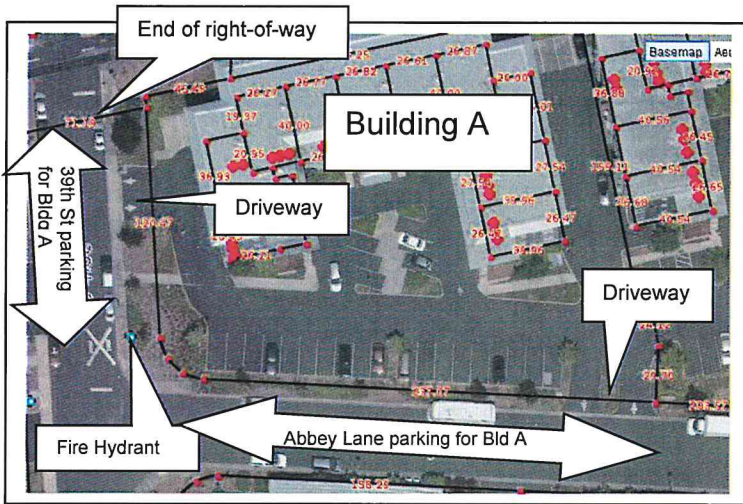
- d. *Available on-street parking spaces adjacent to the subject site in amounts equal to the proposed reductions to the standard number of parking spaces.*

Finding: Eight of the on-street parking spaces on Abbey Lane adjacent to Building A are not “available” as they have been used in the calculation of required parking for the condominium building under Section 2.485, “Other Applicable Use Standards, Parking”. This exception was allowed in the GI Zone at the time of construction and is grandfathered as the property has been rezoned to S-2A Zone.

Section 7.030.A.2 allows up to 50% of the required non-residential parking to be off-site “within 300’ of the site”. The report refers to all of the adjacent on-street parking spaces combined for both buildings, some of which is much further away than 300’ from a building site. Each building site is being processed as a separate site as noted above, so only the on-street parking adjacent to each site separately is considered.

There are only two segments of Abbey Lane adjacent to the sites. Across the right-of-way is not “adjacent to the site” as it is considered as adjacent to the building sites on that side of the street. Only the portion of the right-of-way abutting the property line for the building can be calculated as parking available for that building under the Code Section on the Modification Request. The segment of Abbey Lane adjacent to Building A site is approximately 200’ long and could only accommodate 8 to 10 spaces maximum. The segment of Abbey Lane adjacent to Building B is approximately 200’ long and could only accommodate 8 to 10 spaces maximum. Parking is not allowed in the cul-de-sac portion of the Abbey Lane right-of-way. The on-street parking spaces are not marked at this time. A standard space is 20’ long. In some areas of the City, when spaces are marked, a 4’ buffer is identified between every two spaces; however, this is not always done. Therefore, there may be possibly 8 to 10

available spaces in each segment of Abbey Lane, not 30 as noted in the report. Building A has 8 on-street parking spaces already allocated, so one or two spaces are available for this calculation. Building B has 8 to 10 on-street parking spaces that are available for this calculation.



The “adjacent” 39th Street parking is approximately 120’ long but has a driveway and a fire hydrant that are not available for parking. The north portion is approximately 36’ long which could accommodate one standard (20’) and one compact (16’) vehicle for on-street parking. A portion of the “street” is constructed within the City-owned trolley line property and is not considered as right-of-way in calculating on-street parking. The south portion of 39th Street is approximately 60’ long due to the location of the fire hydrant and could accommodate a maximum of three on-street parking spaces. The total number of on-street parking spaces on 39th Street available for Building A site would be five spaces.



Based on the “available/adjacent” on-street parking, a possible space for space reduction of the required spaces may be allowed as follows:

Building A: Maximum of one or two spaces available on Abbey Lane and five spaces available on 39th Street for a total of six or seven spaces available within the rights-of-way. The applicant requested a variance from

18 spaces to provide 11 spaces existing for a total of seven spaces. There are six or seven spaces available.

Building B: Maximum of 8 to 10 spaces available on Abbey Lane. The applicant requested a variance from 18 spaces to provide 13 spaces existing for a total of five spaces. There are at least five spaces available on Abbey Lane.

- e. *Site has more than the minimum number of required bicycle parking spaces: Allow up to a 10 percent reduction to the number of automobile parking spaces.*

Finding: There are no bicycle parking spaces. This criterion would only allow a 10% reduction of the applicant's number of spaces if the required bicycle spaces were provided. Does not meet this criterion.

- I. Section 14.030.C.3, Other Applicable Use Standards, C. Access and Parking Design, for the Gateway Overlay Zone, states that *"Parking areas should be shared among various uses where a development or block is planned as a whole. On-street parking on internal streets may be counted towards the off-street parking requirements with the approval of the Community Development Director."*

Finding: The sites are within the Civic Greenway portion of the Gateway Overlay Zone and are subject to those Code sections. Section 14.030.C.3 would apply to new construction or major renovation and not to change of use. However, it is noted here to show that the Gateway Overlay Zone does support the use of on-street parking to meet some of the off-street parking requirements for new construction. While this is not new construction, the concept is allowed through the Modification of Required Parking Spaces as noted above and would be compatible with the allowable exception for new construction or major renovation.

- J. Section 7.070.A, Joint Use of Parking Areas, states that *"The Community Development Director may authorize the joint use of parking areas by the following uses or activities as a Conditional Use in every zone under the following conditions:*
1. *Up to 50% of the off-street parking spaces required by this ordinance for a church, auditorium in a school, theater, bowling alley, night club, eating or drinking establishment may be satisfied by the off-street parking spaces provided by uses occupied only during the daytime on weekdays.*
 2. *Up to 50% of the off-street parking spaces required by this ordinance for any daytime use may be satisfied by the parking spaces provided for nighttime or Sunday uses. . ."*

Finding: The Parking Study by Lancaster Engineering suggested that Joint Use (shared) parking may be a possibility on the adjacent hotel parking lot and/or industrial park building area across the Abbey Lane right-of-way. Joint use parking

as allowed in Section 7.070 has specific criteria. The hours of use are critical to the joint use and therefore, the proposed use must be known. The spaces must be available and there must be a written agreement. Only 50% of the spaces may be provided through a joint use agreement. The hotel already has a joint use agreement with Pier 39 and therefore does not have any additional spaces to share. The uses across Abbey Lane right-of-way may have some spaces that could be considered with a joint use agreement depending on the hours of operation, current uses in those buildings, and number of excess available spaces. It would also require an agreement approved by the Planner that is reviewed every five years to assure it is still active.

- K. Section 7.105.A, Bicycle Parking, Standards, states *“Bicycle parking spaces shall be provided for new development, change of use, and major renovation, at a minimum, based on the standards in Table 7.105. Major renovation is defined as construction value at 25% or more of the assessed value of the existing structure.”*

Where an application is subject to Conditional Use Permit approval or the applicant has requested a reduction to an automotive parking standard, pursuant to Section 7.062, the Community Development Director or Planning Commission, as applicable, may require bicycle parking spaces in addition to those in Table 7.105.”

Section 7.105.B, Bicycle Parking, Minimum Required Bicycle Parking Spaces, requires “1 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater” for commercial uses with 50% long term and 50% short term spaces.

Finding: At the time the structure was constructed, the Code did not require bicycle parking. However, the Code adopted in 2014 does require bicycle parking when a use changes, or *“the applicant has requested a reduction”* in parking. The units in Building A & B are not fully occupied and therefore any new use would be a “change of use” requiring bicycle parking. In addition, the applicant is requesting a parking variance in accordance with Section 7.062. Therefore, bicycle parking can be required.

The nature of some uses is not conducive to bicycle use, but with the variety of existing and proposed uses, it is reasonable that a patron/client could arrive by bicycle. The applicant indicated 18 needed parking spaces for the ground floor units in Building A and 18 for Building B. At 1 bike space per 10 vehicle spaces, each building would be required to provide two bicycle parking spaces, 50% of which need to be long term parking. There is limited area to provide long term parking as the buildings are already constructed. Therefore, it may be beneficial to provide the two spaces as short-term parking spaces as it may not be feasible to install long term parking. The applicant shall work with the Planner to determine if a long-term parking space is possible (Condition 7).

The applicant owns the ground floor units but only has ownership of the communal areas in accordance with the CC&R's. Therefore, he does not have full control on what can occur in the communal areas. The applicant could approach the Cannery Loft Condominium Home Owners Association (HOA) to identify a potential location on each lot for bicycle parking, or the parking could be located within the City right-of-way with City approval. With the proposed "modified" parking to allow on-street spaces to be counted toward the required parking, the proposed change of uses, and the proposed reduction in the number of spaces for the spa, the addition of bicycle parking would be beneficial to the building tenants. The applicant shall work with the City and/or the HOA to locate two bicycle parking spaces for each lot. A parking plan shall be submitted to the Planner for review and approval prior to the location of the spaces (Condition 6).

- L. Section 7.110 concerning Parking and Loading Area Development Requirements addresses the size, location, landscaping, and other design standards for required parking areas.

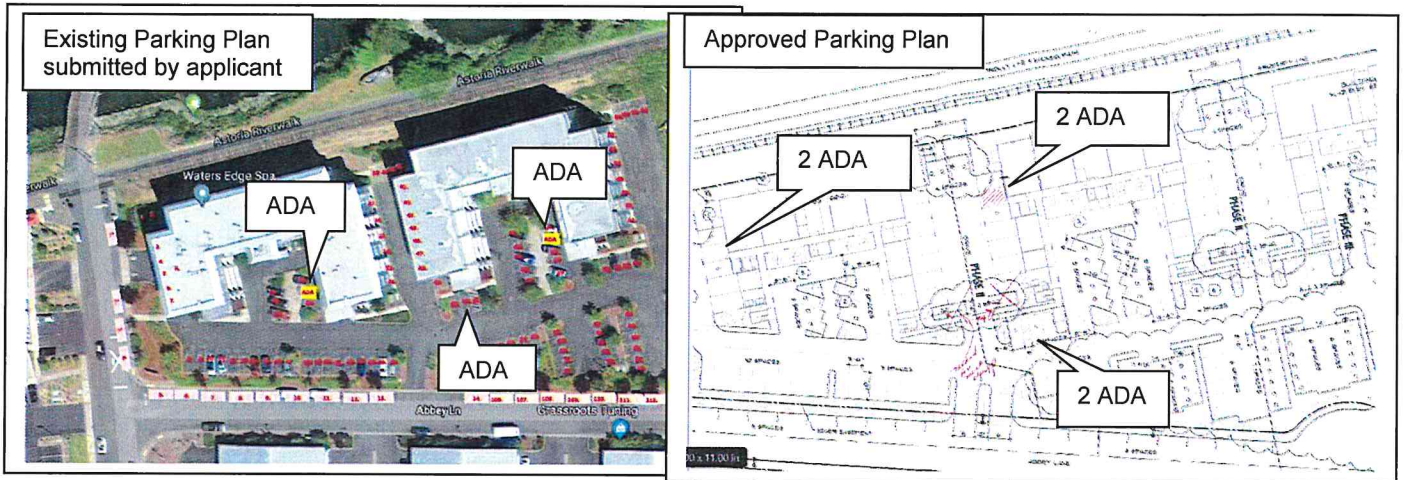
Finding: Under Conditional Use permit (CU04-04), the developer/applicant was required to improve the parking area, and install landscaping per Development Code Section 7, Parking and Loading, prior to issuance of the final occupancy permit for the buildings. All parking and landscaping improvements shall be maintained in accordance with the previously approved plans. Any changes to the already approved parking plan would need to meet code provisions and the Cannery Lofts Home Owners Association would need to submit a revised parking and landscaping plan to be reviewed and approved by the Planner.

- M. Section 7.150, Accessible Parking Spaces, concerning handicap accessible parking states
- "A. *Effective September 1, 1990, existing and new parking spaces for disabled persons shall be required by law at all public and government buildings.*
- B. *The size, location, dimension, and marking for accessible parking spaces shall be in accordance with current State and Federal regulations for accessible parking facilities.*"

Finding: The buildings were originally constructed with the communal parking lots accommodating two handicap accessible space on Building A site and four on Building B site. These spaces shall remain available to both the commercial and residential tenants of the two buildings.

Only two spaces are required on each lot as residential uses are not required to provide handicap accessible parking spaces. The two spaces for Building A were located in the covered parking area but have been moved to the courtyard spaces. These spaces are compact spaces and may not of sufficient size for handicap accessible spaces and only one space has been identified. Two handicap accessible spaces of approved size and location need to be identified for Building A.

Building B had four spaces, two of which were in the covered parking area. It appears that these have been removed and only the two spaces remain, one south of the west wing of the building, and one in the courtyard compact spaces. The courtyard space may not meet the dimension requirements. Two handicap accessible spaces of approved size and location need to be identified for Building B.



The applicant is not in control of the communal areas including the location of the handicap accessible spaces. However, it is noted here as the applicant is required to meet the handicap accessible parking for his units. Therefore, the applicant shall work with the HOA to relocate and/or identify the required parking spaces that meet the Code requirements. A parking plan shall be submitted to the Planner for review and approval prior to the relocation of the spaces (Condition 8).

- N. Section 7.160.C, Minimum Loading Space Requirements, Commercial, Non-office, Public and Semi-Public states that “Use or Gross Square Footage of Floor Area” of “Under 5,000 sq ft” does not require a loading zone.

Finding: At the time the building was constructed, each industrial/commercial condominium unit was anticipated to be separately owned. The gross square footage of each unit separately was considered, and each were under 5,000 square feet. While the units are currently owned by one individual, the square footage of the individual units has not changed and each unit, or a combination of several units, would be occupied by different tenants, each under the 5,000-square foot requirement. If units are combined in the future for a single use of 5,000 square feet or greater, a loading zone may be required. At this time, a loading zone is not required.

- O. Section 12.030, General Criteria, states that “*Variations to a requirement of this Code, with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, and other quantitative requirements may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, findings are made based on the four factors listed below. Variations from off-street parking, sign requirements, and Flood Hazard Overlay Zone are not subject to General Criteria (refer to Sections 12.040, 12.050, and 12.055 as applicable).*”

Finding: The request is for a variance from off-street parking variances and therefore is not subject to this section.

P. Section 12.040, Criteria for Variance from Standards Relating to Off-Street Parking and Loading Facilities 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 applicant submitted a Parking Study Technical Memorandum by Lancaster Engineering, dated August 31, 2017. The Study addresses available spaces and the parking demand/occupancy for various uses. Lancaster Engineering based several of their findings on Section 7.062 in order to modify the parking requirements. The applicant also submitted a list of potential future uses within the ground floor units. These are addressed in the Parking Study.

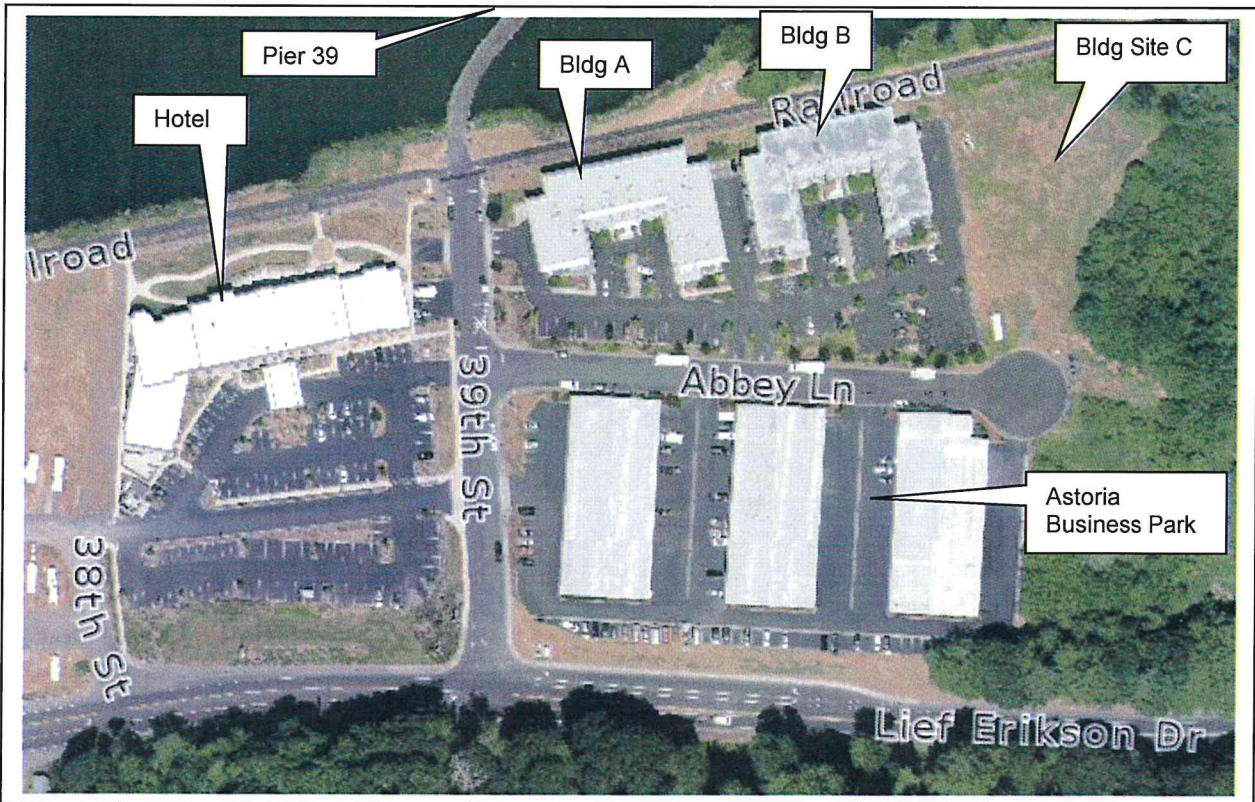
The neighborhood is generally built out to its maximum except for a vacant lot at the east end of Abbey Lane formerly known as Building Site C of the Cannery Loft Condominiums. Building Site C has a valid development permit as it was originally the third phase of the Cannery Loft Condominium project. It is now in separate ownership, but the permit is still valid. The permit would allow construction of a four-floor mixed use residential/commercial building similar to Buildings A & B with proposed on-site parking. No building permit has been submitted for this site. The other property is Pier 39 which is located over water and has some of its required parking on the Hampton Inn parking lot. Future expansion of any uses at Pier 39 could impact parking demand in the area, but that is not addressed in the Parking Study as no new uses are proposed at this time. Any additional uses at the Pier 39 site would need to address parking prior to occupancy or approval for the use at that site.

The Parking Study indicates that the existing on-site and off-site parking adjacent to the subject property is not fully utilized. The communal on-site parking spaces, while not fully utilized, are allocated to the owners of the residential and commercial condominium units through the CC&R's. Those property owners have a reasonable expectation that those spaces are for their use whether they are used or not at this time. Since they are in private ownership and not “public” parking, they cannot be counted towards the applicant's request. However, the amount of spaces that appear to be not

fully utilized does show a trend in the area and is justification for possibly allowing the "Parking Modification" in Section 7.062.B.1.

- "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 . . ."

Finding: As noted above, the on-street parking spaces are limited by the location of intersections, driveways, fire hydrants, cul-de-sac, and the City-owned trolley property at the end of 39th Street. Parking is proposed to meet all requirements for these areas. The remaining on-street parking spaces adjacent to the properties is available and located on rights-of-way that are of sufficient width to allow for safe maneuvering of vehicles into and out of the parking spaces. Abbey Lane is a dead-end cul-de-sac right-of-way and 39th Street is a dead-end street out to Pier 39. Therefore, there is not a large amount of traffic and with no through traffic on the straight streets, speeds are minimal and sight distances ample. On-street parking is allowed and as indicated in the Parking Report by Lancaster Engineering submitted by the applicant, the spaces appear to be underutilized and available for parking.



Q. Applicable policies of the Comprehensive Plan.

1. CP.020(3) concerning Community Growth-Plan Strategy states that *“The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section.”*

Finding: The proposed uses within the S-2A (Tourist-Oriented Shoreland) will allow for an increased variety of uses to potentially occur on this property. This will allow for the development of the site in a flexible manner and allow for multiple uses. The Variance for “proposed potential uses” allows for flexibility in marketing.

2. CP.015(6) concerning General Land and Water Use Goals states that *“The Plan establishes the goal of encouraging development which the City is capable of servicing. New industry or housing development should be permitted if public facilities such as sewer, water, police and fire protection, and schools, are capable of accommodating increased demand.”*

Finding: The property is currently developed with two mixed use condominium buildings. The proposed uses would allow a variety of commercial, tourist-oriented, and residential uses on the site. Based on the previously approved residential, commercial, and industrial uses, it is anticipated that public facilities should be sufficient to serve the proposed uses in this area. The proposed uses would add to the increasing vitality of the vicinity.

3. CP.200 concerning Economic Development Goal 1 Policies states that *“The City of Astoria will:*
 4. *Encourage private development such as retail, restaurants, commercial services, transient lodging.*
 5. *Provide a supportive environment for new business.*
 6. *Encourage a diversity of businesses, target firms to add to the business mix and strengthen the overall economic base. . .*
 8. *Encourage the broadening of the economy, particularly in areas which help balance the seasonal nature of existing industries.”*

Finding: In addition to the existing uses within the two buildings, the proposal is for potential business and professional offices, retail sales, personal services, and eating and drinking establishments. These uses would support the existing mooring basin, hotel, industrial, and condominium development in the area. The mixture of approved uses would also support a work/live environment within the building.

4. CP.210.8 concerning Economic Development Recommendations states that *“The City will implement Advance Astoria: Five Year Economic Development Strategy to guide day to day decisions on future investments*

and target five industries for development: craft beverages, maritime, research and development centered on education, health care, and seafood, seafood processing, and microenterprise. The Economic Development Strategy is hereby adopted by reference.”

Advance Astoria: Five Year Economic Development Strategy dated July 2017, Strategy 4 states *“Ensure that adopted permitting & development regulations provide adequate flexibility, clarity and predictability to foster economic growth”* and Action 4.1, Zoning Flexibility, states *“Continue to provide flexibility in the interpretation and application of zoning requirements to encourage adaptive reuse and compatible commercial / industrial development.”*

Finding: The proposed uses include “Professional and Business Office” which would include health care which is one of the targeted industries in the Advance Astoria Plan. Allowing the application of the parking Modification in conformance with Section 7.062.B would support the intent of Action 4.1 for flexibility in the interpretation and application of the zoning requirement. The exception to allow all short-term bicycle parking in lieu of 50% long-term bicycle parking would also support Action 4.1.

Finding: Some of the proposed uses would be reviewed as conditional uses subject to compliance with Article 11 at the time they are proposed for this location. If a use requires a Conditional Use Permit, the actual number of spaces required for that use could be increased by the Planning Commission in accordance with Development Code Section 11.040. Both Outright and Conditional uses need to comply with the Comprehensive Plan. The Variance would allow for these potential uses to locate at this site and the uses could therefore comply with these applicable policies of the Comprehensive Plan.

V. CONCLUSIONS AND RECOMMENDATIONS

The request meets all applicable review criteria. Staff recommends approval of the request based on the findings of fact above with the following conditions:

1. “Educational Establishment” and “Daycare” uses are not allowed as outright or conditional uses within the S-2A Zone and therefore are not included as approved uses with this parking variance application.
2. The permit shall be valid beyond the two-year maximum pending occupancy by any of the approved uses in this permit.
3. Each unit and/or single use in combined units is separately subject to the fractional measurement requirements of Section 7.040. Multiple separate units within a building shall not be combined in calculating the parking.

4. Eating and drinking, and personal services shall each be limited to 35% of the gross floor area of each building.
5. Prior to any unit being occupied, the use shall be reviewed to assure that required parking is available. No use may occupy the building if it would require parking in excess of the available parking under this variance unless a separate variance is obtained.
6. The applicant shall work with the City and/or the HOA to locate two bicycle parking spaces for each lot. These may be located on the Right of Way or City property. A bicycle parking plan shall be submitted to the Planner for review and approval prior to the location of the spaces. (This has been completed).
7. The applicant shall work with the Planner to determine if a long-term parking space is possible. If the Planner determines that long-term bicycle parking is not feasible, the spaces may be provided as short-term bicycle parking only.
8. The applicant shall work with the HOA to relocate and/or identify the required handicap accessible parking spaces that meet the Code requirements for Buildings A & B. A parking plan shall be submitted to the Planner for review and approval prior to the relocation and/or striping of the spaces.

The applicant should be aware of the following requirements:

Significant changes or modifications to the proposed plans as described in this Staff Report shall be reviewed by the Astoria Planning Commission.

The applicant shall obtain all necessary City and building permits prior to the start of construction and/or use.

Exhibit 4: Email from Ted Forcum, Applicant

Barbara Fryer

From: Ted Forcum <tf@nomadicdr.com>
Sent: Tuesday, June 16, 2020 11:37 AM
To: Barbara Fryer
Subject: Work-live

*****EXTERNAL SENDER*****

Barbara,

The provisional plan for any work-live unit at the Cannery Loft would not have any one commercial portion consume more than 500 square feet of a space. Each unit ranges from 925-998 sq. ft.

Thank you for your assistance,

Ted

Nomadic Properties, LLC

3621 SW Humphrey Blvd
Portland, Oregon 97221
503-816-6581

Exhibit 5: Comments

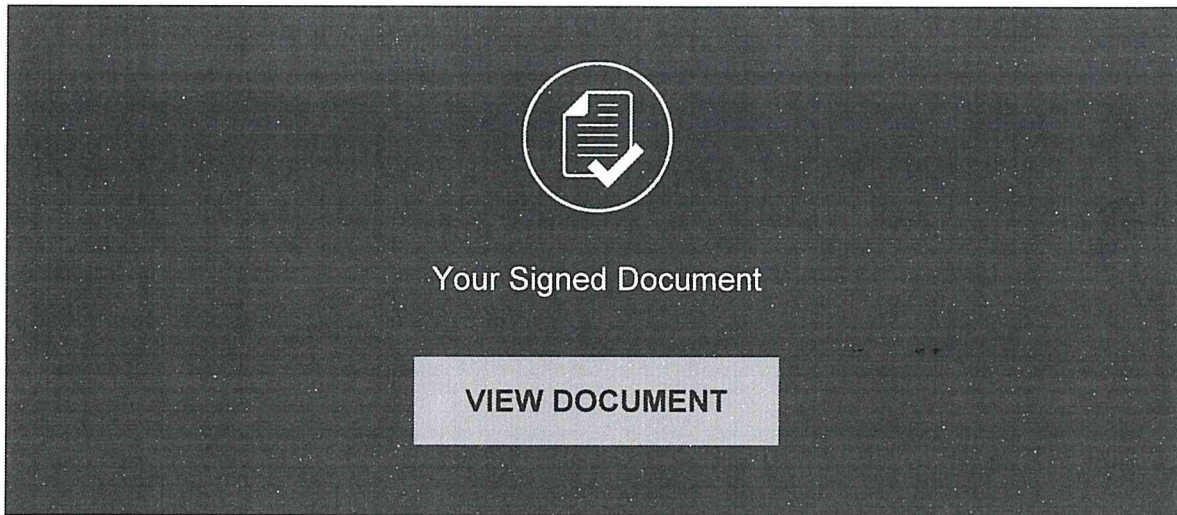
Tiffany Taylor

From: DocuSign System <dse_na2@docusign.net> on behalf of Jill M. Bakke via DocuSign <dse_na2@docusign.net>
Sent: Sunday, June 14, 2020 4:50 PM
To: Tiffany Taylor
Subject: Here is your signed Please DocuSign: Letter to Planning Commission, 06_12_2020 - DocUSign.docx

*****EXTERNAL SENDER*****

DocuSign

RECEIVED
JUN 15 2020
Community Development
CITY OF ASTORIA AEP20-04



Jill M. Bakke
jillbakke@ymail.com

Jill M. Bakke has signed a document using DocuSign. Here is the message:

"Please consider the attached letter and its contents. I would appreciate your acknowledgement of receipt.
Jill Bakke"

Select VIEW DOCUMENT to securely view and download your documents.



TO ASTORIA PLANNING COMMISSION

We believe the existing "Amendment" to an existing permit from January 2015 for the expansion of professional offices at 3990 Abbey as requested by Ted Forcum is not an appropriate application on the existing permit. We believe there should be a new application that takes into consideration work/live occupancy in both Buildings, 3990 and 3930 Abbey, as he states this is his plan, but is not addressed in the application. This application is spelling out new provisions that don't currently exist in our city code. We find the criteria requirements are not relevant in this case.

Several articles have addressed problems with building codes of these units, such as fire and sewer capacity, and in the interpretation between residential and commercial. In an article about the 10 truths of Work/Live (Thomas Dolan Architecture) it is a common practice for these occupancies to become primarily residential in character, regardless of how it was permitted. Planning regulations should be applied to locate live/work types suitably as noted in his articles of March 17, 2017 article Thomas Dolan article Live-Work Planning and Coding Challenges (such as changes with existing taxation).

Concerns have been raised by the below signed residents based on the following:

1. 11.030 (A) (1) Appropriate use- we do not believe this is appropriate use of S2-A zoning.
2. 11.030 (A) (3) Use will not overburden the use of utilities- The original use was designed for R Industrial and then converted to S2-A. No consideration was ever taken into planning of capacity beyond the initial design requirements for water and sewer as noted in this application. The system is being tested currently with the addition of new tenants, such as salon and yoga studio. We are concerned that Work/live could impact water and sewer facilities beyond current capacity.
3. Under the current zoning, several applicable uses are in direct conflict with our Declaration and Bylaws, such as:
 - Under S2-A the following is a permitted use "Hotel, motel, inn, bed and breakfast, and associate uses" however our declarations do not allow rentals under 30-day stays.
 - S2-A also allows for permitted use for "Seafood receiving, and processing plants. This is in violation for our Bylaws for noxious smells.
 - Our location is the only remaining S2-A zone following recent zoning changes.
4. In the application submitted by Mr. Forcum, the inclusion of the 60-65 sq. foot concrete pad (patio) is General Common Elements. They are not owned by the commercial unit owner, therefore should be excluded by the square footage of each unit being addressed in this application.
5. How would the city feel if these units are not constructed but tenants are allowed to put cots into space for overnight stay.
6. Would the city require permits be pulled and acted on before this project is approved.
7. Does a timeframe exist to build out as many of these units are occupied by tenants that have leases and have no intention to work in a work/live location.

8. How is the city going to view the taxation now that these would be changed to partial living space.

As concerned owners, we are requesting that the decision for this application be rejected until zoning regulations can be developed for work/live. In the meantime, we are requesting that the Planning Commission consider how various options for zoning should be taken into consideration, that 63 units are unique as vertical residential in nature, and as individual home owners we are enquiring as to whether S2-A is appropriate for our location.

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owner, therefore should be excluded by the square footage of each unit being addressed in this application.

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Respectfully submitted,

By the Following:

DocuSigned by:
Jill M. Bakke
4205B2D7CC1439...

Jill M. Bakke

Owner Unit 406A, Cannery Loft Condo

On 6/14/2020

RECEIVED
JUN 15 2020

Community Development
CITY OF ASTORIA

AEF20-04

Planning Commission
Dear Members:

Re Public Hearing Tuesday June 23, 2020
6³⁰ pm Astoria City Hall

③ Amendment to Existing Permit Request
AEP 2004 for Conditional use
(Cec 11-06 and Cec 14-15) by Ted Forcum
to permit Live/Work units at
3930 and 3990 Abbey Lane, Astoria Ore.

I strongly protest Live In Commercial
Units. Live In would mean
electrical or gas hookups for heating
cooking - hot water service,
bath room facilities - etc. -
(We have one bathroom for
common elements on the first
floor. Commercial units, now =
not sufficient for live in
Commercial units.

Thank you for your consideration

Donna and Russell Calabran unit 204/B
3990 Abbey Lane, Astoria, Ore. 97103

RECEIVED
JUN 15 2020

Community Development
CITY OF ASTORIA AEP20-04

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Several articles have addressed problems with building codes of these units, such as fire and sewer capacity, and in the interpretation between residential and commercial. In an article about the 10 truths of Work/Live (Thomas Dolan Architecture) it is a common practice for these occupancies to become primarily residential in character, regardless of how it was permitted. Planning regulations should be applied to locate live/work types suitably as noted in his articles of March 17, 2017 article Thomas Dolan article Live-Work Planning and Coding Challenges (such as changes with existing taxation).

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Respectfully submitted,
By the Following:

Jean Danforth (Representing myself as an owner)
3930 ABBEY LANE, Astoria OR #308

jean.danforth@gmail.com

Tiffany Taylor

AEP20-04

From: Sondra Dyroff <sondra_dyroff@yahoo.com>
Sent: Tuesday, June 16, 2020 11:49 AM
To: Tiffany Taylor
Subject: Reference: Proposed permit changes for Cannery Loft Condos
Attachments: Scan0017.pdf

*****EXTERNAL SENDER*****

Please find my letter attached regarding the proposed permit changes.

Terrence Dyroff
Unit 310
3990 Abbey Lane
Astoria, Oregon 97203

6/16/2020

RECEIVED
JUN 16 2020

Community Development
CITY OF ASTORIA

AEP20-04

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3. Under the current zoning, several applicable uses are in direct conflict with our Declaration and Bylaws, such as:
 - Under S2-A the following is a permitted use "Hotel, motel, inn, bed and breakfast, and associate uses" however our declarations do not allow rentals under 30-day stays.
 - S2-A also allows for permitted use for "Seafood receiving, and processing plants. This is in violation for our Bylaws for noxious smells.
 - Our location is the only remaining S2-A zone following recent zoning changes.
4. In the application submitted by Mr. Forcum, the inclusion of the 60-65 sq. foot concrete pad (patio) is General Common Elements. They are not owned by the commercial unit owner, therefore should be excluded by the square footage of each unit being addressed in this application.
5. How would the city feel if these units are not constructed but tenants are allowed to put cots into space for overnight stay.
6. Would the city require permits be pulled and acted on before this project is approved.
7. Does a timeframe exist to build out as many of these units are occupied by tenants that have leases and have no intention to work in a work/live location.

8. How is the city going to view the taxation now that these would be changed to partial living space.

As concerned owners, we are requesting that the decision for this application be rejected until zoning regulations can be developed for work/live. In the meantime, we are requesting that the Planning Commission consider how various options for zoning should be taken into consideration, that 63 units are unique as vertical residential in nature, and as individual home owners we are enquiring as to whether S2-A is appropriate for our location.

Respectfully submitted,
By the Following:

Terence E. Myroff
3990 Abbey Ln
Unit 310

We believe the existing "Amendment" to an existing permit from January 2015 for the expansion of professional offices at 3990 Abbey as requested by Ted Forcum is not an appropriate application on the existing permit. We believe there should be a new application that takes into consideration work/live occupancy in both Buildings, 3990 and 3930 Abbey, as he states this is his plan, but is not addressed in the application. This application is spelling out new provisions that don't currently exist in our city code. We find the criteria requirements are not relevant in this case.

Several articles have addressed problems with building codes of these units, such as fire and sewer capacity, and in the interpretation between residential and commercial. In an article about the 10 truths of Work/Live (Thomas Dolan Architecture) it is a common practice for these occupancies to become primarily residential in character, regardless of how it was permitted. Planning regulations should be applied to locate live/work types suitably as noted in his articles of March 17, 2017 article Thomas Dolan article Live-Work Planning and Coding Challenges (such as changes with existing taxation).

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Respectfully submitted,
By the Following:

Eleanor Green
3930 Abbey Ln #306 A
Astoria, OR 97103

Tiffany Taylor

RECEIVED
JUN 15 2020

From: brian J <pjbbudnik@gmail.com>
Sent: Monday, June 15, 2020 4:21 PM
To: Tiffany Taylor
Subject: Amendment Application to Be Heard by Astoria Planning Commission
Attachments: SCAN0037.JPG

Community Development
CITY OF ASTORIA AEP20-04

*****EXTERNAL SENDER*****

Ms. Taylor:

I am writing regarding the proposal for conditional use on an existing permit which will be considered by the Astoria Planning Commission on June 23, 2020. Attached is our statement and position that the application, submitted with intent to ultimately allow work/live occupancy in currently designated commercial only occupancy units, not be approved. Thank you for your consideration.

Regards,

Brian Jespersen

3930 Abbey LN., Unit 203A
Astoria, OR. 97103



Community Development
CITY OF ASTORIA

To: Astoria Planning Commission

June 15, 2020

We believe the existing "Amendment" to an existing permit from January 2015 for the expansion of professional offices at 3990 Abbey as requested by Ted Forcum is not an appropriate application on the existing permit. We believe there should be a new application that takes into consideration work/live occupancy in both Buildings, 3990 and 3930 Abbey, as he states this is his plan, but is not addressed in the application. This application is spelling out new provisions that don't currently exist in our city code. We find the criteria requirements are not relevant in this case.

Several articles have addressed problems with building codes of these units, such as fire and sewer capacity, and in the interpretation between residential and commercial. In an article about the 10 truths of Work/Live (Thomas Dolan Architecture) it is a common practice for these occupancies to become primarily residential in character, regardless of how it was permitted. Planning regulations should be applied to locate live/work types suitably as noted in his articles of March 17, 2017 article Thomas Dolan article Live-Work Planning and Coding Challenges (such as changes with existing taxation).

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8. How is the city going to view the taxation now that these would be changed to partial living space.

As concerned owners, we are requesting that the decision for this application be rejected until zoning regulations can be developed for work/live. In the meantime, we are requesting that the Planning Commission consider how various options for zoning should be taken into consideration, that 63 units are unique as vertical residential in nature, and as individual home owners we are enquiring as to whether S2-A is appropriate for our location.

Respectfully submitted,
By the Following:

Brian A. Jespersen 6/15/2020
Brian A. Jespersen

Penny J. Jespersen 6-15-2020
Penny J. Jespersen

3930 Abbey LN.
Astoria, OR. 97103
Unit 203A



Tiffany Taylor

From: Ctoddjessell <ctoddjessell@yahoo.com>
Sent: Monday, June 15, 2020 10:16 AM
To: Tiffany Taylor
Subject: Letter to Planning Commission, 06_12_2020.docx
Attachments: Letter to Planning Commission, 06_12_2020.docx

RECEIVED
JUN 15 2020
Community Development
CITY OF ASTORIA AEP20-04

*****EXTERNAL SENDER*****

We disagree with the application for live/work units in the Cannery Lofts.
Todd and Linda Jessell bldg unit 410B1

Sent from my iPhone

We believe the existing "Amendment" to an existing permit from January 2015 for the expansion of professional offices at 3990 Abbey as requested by Ted Forcum is not an appropriate application on the existing permit. We believe there should be a new application that takes into consideration work/live occupancy in both Buildings, 3990 and 3930 Abbey, as he states this is his plan, but is not addressed in the application. This application is spelling out new provisions that don't currently exist in our city code. We find the criteria requirements are not relevant in this case.

Several articles have addressed problems with building codes of these units, such as fire and sewer capacity, and in the interpretation between residential and commercial. In an article about the 10 truths of Work/Live (Thomas Dolan Architecture) it is a common practice for these occupancies to become primarily residential in character, regardless of how it was permitted. Planning regulations should be applied to locate live/work types suitably as noted in his articles of March 17, 2017 article Thomas Dolan article Live-Work Planning and Coding Challenges (such as changes with existing taxation).

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8. How is the city going to view the taxation now that these would be changed to partial living space.

As concerned owners, we are requesting that the decision for this application be rejected until zoning regulations can be developed for work/live. In the meantime, we are requesting that the Planning Commission consider how various options for zoning should be taken into consideration, that 63 units are unique as vertical residential in nature, and as individual home owners we are enquiring as to whether S2-A is appropriate for our location.

Respectfully submitted,
By the Following:

Tiffany Taylor

From: Philip Matteo <kcbarpilot@gmail.com>
Sent: Monday, June 15, 2020 11:57 AM
To: Tiffany Taylor
Subject: Live/Work Permit
Attachments: Canary loft.pdf; CL2.pdf

RECEIVED
JUN 15 2020
Community Development
CITY OF ASTORIA AEP20-04

*****EXTERNAL SENDER*****

Attached is our signed petition. Thank you so much for your efforts. Please confirm receipt of this email.

Best Regards,
Phil & Angela Matteo
B210



We believe the existing "Amendment" to an existing permit from January 2015 for the expansion of professional offices at 3990 Abbey as requested by Ted Forcum is not an appropriate application on the existing permit. We believe there should be a new application that takes into consideration work/live occupancy in both Buildings, 3990 and 3930 Abbey, as he states this is his plan, but is not addressed in the application. This application is spelling out new provisions that don't currently exist in our city code. We find the criteria requirements are not relevant in this case.

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How would the city feel if these units are not constructed but tenants are allowed to put cots into space for overnight stay.

Would the city require permits be pulled and acted on before this project is approved.

Does a timeframe exist to build out as many of these units are occupied by tenants that have leases and have no intention to work in a work/live location.

How is the city going to view the taxation now that these would be changed to partial living space.

As concerned owners, we are requesting that the decision for this application be rejected until zoning regulations can be developed for work/live. In the meantime, we are requesting that the Planning Commission consider how various options for zoning should be taken into consideration, that 63 units are unique as vertical residential in nature, and as individual home owners we are enquiring as to whether S2-A is appropriate for our location.

Respectfully submitted,
By the Following:

Philip A. Matteo
PHILIP A. MATTEO

Angela Matteo
ANGELA MATTEO

3990 ABBEY LN.

UNIT B-210

ASTORIA, OR. 97103

R E C E I V E D
JUN 15 2020
Community Development
CITY OF ASTORIA AEP20-04

June 15, 2020

To Whom it May Concern

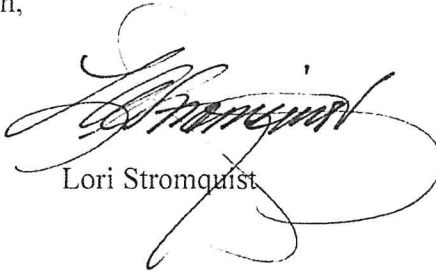
We live in the Cannery Lofts at 3990 Abbey Lane and would like to weigh in on the proposed amendment to the existing permit for commercial spaces here. We have no problem with Mr. Forcum leasing the spaces to appropriate tenants for an appropriate length of time. That is his right. We understood that before buying a condo here.

Whether or not this is an appropriate use of the space under zoning regulations is not something we have any expertise in. We are concerned, first of all, about the process he has used. Ted failed to notify the HOA Board or make this an agenda item for a board meeting, which would have allowed for discussion about the impact on our community and led to negotiations over his proposed amendment so we were all on the same page. Secondly, we are concerned about the impact on unapproved and unpermitted build-outs, as well as parking, garbage, recycling and utility use. Mostly, we are concerned about temporary use of these spaces, including our public bathroom, by people and "businesses" that have no vested interest in the livability of our community.

Thank you for your consideration,



Eric Stromquist



Lori Stromquist

3990 Abbey Lane #203B
Astoria, OR 97103
503-468-0584
stromquist2@gmail.com

Exhibit 6: Comments received by 6/30/20

To: City of Astoria Planning Commission
From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
Re: Conditional Use application for Work/Live commercial units at Cannery Lofts

We homeowners at Cannery Lofts are concerned that the applicant will be granted a "Work/Live" conditional use permit when there are no provisions that spell out necessary regulations in the City's codes for this intent.

As a Homeowner's Association our CC&Rs cannot address zoning and coding requirements, so "what we want", as Commissioner Price put it so succinctly, is for the City of Astoria to define and develop Work/Live Regulations in the form of an Ordinance.

Instead, Mr Forcum's Work/Live request is tacked onto a prior permit request (in 2015) to allow medical offices at 3990 Abbey Lane. The relationship here is distant, at best. We wonder if it is in the City's best interests to entertain a "Work/Live" amendment to a permit request that did not propose (or even mention) a living space -- and 5 years later, at that.

There may appear to be straightforward compliance on all of the conditions on the application request, (11.30(A)(1), 11.030(A)(2), 11.303(A)(3), 11.030(A)(4), and 11.030(A)(5), and it may be suitable criteria for "location", but we believe this not suitable for determining appropriateness at a vertical mixed-use site such as ours for Work/Live.

For example, under:

11.030 (A) (1) Appropriate use for the proposed location SA-2 zone.

The applicant informs us that "commercial" use is the primary use in this zone, but housing is allowed under 2.710 Conditional Uses, #3, Multi-family dwelling. We believe his comments are a misinterpretation, as this does not meet the definition of Work/Live use.

Parking: The addition of Work/Live would directly impact parking on the property. Although there may be less traffic as a result of reduced travel, these vehicles would be taking up parking spaces. And as such, the presence of Work/Live units would directly impact parking availability 24/7. We encourage you to adhere to the existing parking formula for this zone.

We are requesting that the Planning Department develop specific criteria for Work/Live studios that would address not only location, but address site specific regulations.

We are concerned about the possible negative impact on our property values and livability if certain businesses are allowed that would conflict or adversely affect the existing use, such as primarily residential.

We have researched several other municipalities with Work/Live ordinances that have regulations in place to protect livability and prevent possible abuse of building codes.

Below is a composite of some of the regulations listed by other municipalities that are in place to address the need for strict regulations.

Sources are the following:

- City of Berkeley (CA) Chapter 23E.20: Live/Work Provisions, 1999
- City of Berkeley (CA), Chapter 23E.84: MU-R Mixed Use-Residential District Provisions, July 31, 2018
- City of Alameda (CA), 30.15, Work/Live Studios, November 19, 2019
- City of Austin (TX) Chapter 4.2. Model Live/Work Ordinance

Sample text 1: WORK/LIVE STUDIOS.

Purpose:

- *To provide for and make feasible the reuse of existing commercial or industrial buildings in specified zones.*
- *To provide cost-efficient alternative workspaces to provide incentive to business owners, entrepreneurs, and individuals to work in Astoria.*
- *To allow activities that are compatible with and will not compromise or interfere with existing uses, such as residential.*
- *To ensure that work/live studios will function predominately as workspaces with incidental accommodations that meet basic habitability requirements. No portion of any work/live shall be considered a "dwelling" as defined by existing city codes.*
- *To ensure that the interior and exterior design reflects the predominate nature of the structures and locale.*

Applicability:

- *Work/Live studios should be only allowed subject to use of a permit in certain zones and only if they meet the following:*

Definitions:

- *Living Space shall mean that a portion of Work/Live studio is used for residential purposes, and will require a sleeping area, food preparation, and full bathroom (toilet, sink, shower) that satisfy the applicable codes.*
- *Work/Live studio shall mean a commercial unit with incidental residential accommodations for:*
 - *Adequate working space should not be less than 60% of the total sq.ft.*
 - *Adequate living space should not be less than 40% of the total sq.ft.*
 - *Use for so many persons per sq. feet. (for example: if <than 1000sq. ft, only 1 person occupancy).*

Development Standards:

- *Minimum Floor Area - Each Work/Live studio shall include at least 1000 sq. ft. of gross floor area.*
- *Each Work/Live studio shall be separated from other work/live studios or other uses in the building.*
- *Access to each Work/Live studio shall be provided from established common areas, common halls or corridors, or directly from the exterior of the building.*
- *Each Work/Live studio shall have parking spaces in compliance with the zone codes.*

Additional Requirements:

- *A building permit should be required for building Work/Live studios that are consistent with and comply with the city codes.*
 - *A certificate of completion with the building inspector must be obtained prior to occupancy.*
 - *Work/Live studios shall have prior approval conforming to ventilation, such as HVACS, flooring, fire walls, etc according to state and city codes that may apply to the type of work activity.*
 - *Areas within a Work/Live studio that are designated as live shall be an integral part of the studio and separated from the workspace, such as doors and walls do not extend all the way to the ceiling, except for sanitary facilities and sleeping.*
 - *Permitted work activity: should be permitted by the zone codes, and by nature of the operation not cause significant dust, glare, heat, noise, noxious gases, odors, smoke, traffic, or vibration near residential areas.*

Rental/Sales:

- *No portion of a Work/Live studio may be separately rented.*
- *The property owner shall ensure that all Work/Live studio leases include provisions requiring maintenance of a valid Work/Live Permit and Valid Business license.*
- *No Work/Live studio shall be changed to exclusively residential use without the permission of the proposed code requirements.*
- *Abide by HOA bylaws and CC&Rs, if part of an HOA.*

Sample text 2:

- ***Notice to Occupants Required.*** The owner or developer of any building containing Work/Live studios shall provide written notice to all Work/Live occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial uses at higher levels than would be expected in residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the district where the project is located. For purposes of noise control, Work/Live studios shall be subject to the governing documents associated with the development.

- *Change of Use from Work/Live Studio.* No Work/Live studio shall be changed to exclusively residential use in any building where residential use is not permitted. The conversion of an existing Work/Live studio to exclusively residential or nonresidential use is permitted with a Conditional Use Permit amendment and when the conversion meets all other applicable Astoria Municipal Code requirements for the proposed use. Such a change shall be subject to all applicable requirements for the district where the proposed dwelling unit is located.
- *Increase in Residential Use.* No Work/Live studio shall be changed to increase the floor area devoted to residential use without review and approval of the Planning Director. In no case shall the floor area devoted to residential use be increased to more than five hundred (500) square feet or fifty (50%) percent of the gross floor area of the unit, whichever is less.
- *Lease Agreements.* The property owner or manager of the property shall ensure that all Work/Live studio leases include provisions requiring maintenance of a valid Work/Live Permit and valid business license which are to be filed with the properties' management company.
- *Business License and Insurance Requirements.* At least one (1) occupant of each Work/Live studio shall maintain a current City of Astoria business license for a business located in that studio. Interior insurance is required to be held by each occupant of the space and filed with the management company to be in compliance with the governing documents.

Sample text 3:

Use Limitations

- No commercial use shall operate except between the hours of 7:00 a.m. and 19:00,
- Commercial uses are to open to the public as a retail business and follow city guidelines for business operations.
- Residential portion shall follow governing rules for residential units.
- Units cannot operate under Work/Live until all the permits have been submitted and work completed; temporary housing is not allowed while under construction or future construction considerations

In Summary:

We request that any approval of the permitted Work/Live shall be allowed with respect to the circumstances and conditions of the subject property.

We do not object to the idea of Work/Live concept regarding our property; we are just asking the City to put regulations in place.

Concerns with the commercial owner:

1. We believe that if proper regulations are not put into place, the commercial owner will use the opportunity to allow tenants to move into vacant spaces without the proper permitting in place. This is now the case with a tenant currently occupying a unit in violation of City code. And, it is not the first time.
2. The commercial owner is telling us that the conversion will be up to the tenant. This is very concerning, as the "conversion" could be a mat on the floor.
3. He reminds us that the "complex is designed under commercial usage as primary and residential as secondary". Yes, that is the well-known origin of Cannery Lofts. However, we are 63 residential units, and for more than 10 years residents have borne almost the entire burden of maintaining the beauty, value and top-notch quality of life of our remarkable property. We are constantly having to take on the commercial owner to protect our community from unknown tenants, bothersome activities and the unattractive appearance of the ground floor units.

The commercial owner is struggling with chronic vacancies and has requested at least 4 previous permits for conditional use in the past 5 years: two marijuana dispensaries; conditional use for medical office space; and a variance for on street parking. Nothing has worked so far, to make those spaces look alive, lighted, safe & secure, welcoming, and cared for.

Concerned homeowners do want this problem resolved, for the benefit of the commercial owner as well as everybody else. Work/Live may be a viable option. However, we want the rules and regulations to be detailed and clear.

We are simply and sincerely requesting the City of Astoria to put Work/Live regulations in place prior to approval.

Signature Yvonne Edwards

Name (Printed) YVONNE EDWARDS

Address 3862 FRANKLIN, ASTORIA, OR 97103

Date June 30, 2020

To: City of Astoria Planning Commission
From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
Re: Conditional Use application for Work/Live commercial units at Cannery Lofts

I am writing to share my concerns for the pending work/live conditional use of the Cannery Lofts put forth by Ted Forcum. There are numerous concerns for this potential permit because there are so many unknown determinations and decisions of what work/live would look like for our specific building, which under the current HOA rules does not allow for it. All owners purchased the condos accepting the commercial spaces as an aspect of the building, but not to have those spaces augmented into live/work, which will transform the building and community into something we did not want when we purchased the condo.

Additionally, a fact that has not been raised, is that Mr. Forcum, is also a member of the condo Board of Directors (Board). Under the Director's Code of Ethics, and one of the overriding principles of the Board is that everyone pledges to put the interest of the Cannery Lofts community ahead of personal interests. This is where his request for a work/live conditional use of the commercial spaces become suspect because of his lack of transparency. He did not communicate to give the courtesy to the Board and owners to let us know that he had submitted his work/live condition use permit to the planning commission. It was purely by accident that I came across the public notice with the pending work/live request and elevated my concerns to the board and owners. It was only after this became public knowledge, that Mr. Forcum decided to talk to owners about it, but without having his application and supporting documentation, it was not feasible to discuss. His lack of openness should give everyone pause to his business conduct now, and in the future. How can we trust what is being said and promised if Mr. Forcum was not transparent at the onset of this process?

I urge members of the Planning Commission to not proceed with granting a work/live permit at the Cannery Lofts, certainly, not with so many unanswered questions and understanding of what regulations would look like under such use. Thank you.

We, the homeowners at Cannery Lofts are concerned that the applicant will be granted a "Work/Live" conditional use permit when there are no provisions that spell out necessary regulations in the City's codes for this intent.

As a Homeowner's Association our CC&Rs cannot address zoning and coding requirements, so "what we want", as Commissioner Price put it so succinctly, is for the City of Astoria to define and develop Work/Live Regulations in the form of an Ordinance.

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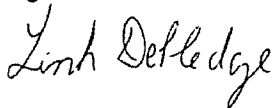
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Signature



Name (Printed): Linh DePledge

Address: 3990 Abbey Lane #202B, Astoria, OR 97103

Date: June 30, 2020

To: City of Astoria Planning Commission
From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
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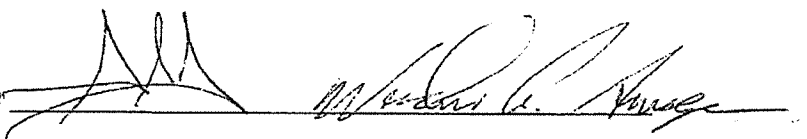
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Name (Printed) James & Woodrow Savage

Address B411
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Signature Nancy Walsh: John F. Walsh

Name (Printed) Nancy Walsh John F. Walsh

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Signature Jean Danforth (REPRESENTING MYSELF AS A CONCERNED OWNER)

Name (Printed) JEAN DANFORTH

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Signature Rufus Day, III Karen Day

Name (Printed) RUFUS S. DAY, III Karen Day

Address 309 B, 3990 Abbey Lane, Astoria

Date 30 June 2020

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From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
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We have researched several other municipalities with Work/Live ordinances that have regulations in place to protect livability and prevent possible abuse of building codes.

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Sample text 1: WORK/LIVE STUDIOS.

Purpose:

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Signature TE Dyroff

Name (Printed) Terrence Dyroff

Address 3990 Abbey Ln Unit 310, Astoria OR

Date: 6/30/2020

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From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
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Name (Printed) Leslie A. Morehead

Address 3990 Abbey Lane #406B Astoria Oregon 97103

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- Work/Live studios should be only allowed subject to use of a permit in certain zones and only if they meet the following:

Definitions:

- Living Space shall mean that a portion of Work/Live studio is used for residential purposes, and will require a sleeping area, food preparation, and full bathroom (toilet, sink, shower) that satisfy the applicable codes.
- Work/Live studio shall mean a commercial unit with incidental residential accommodations for:
 - Adequate working space should not be less than 60% of the total sq.ft.
 - Adequate living space should not be less than 40% of the total sq.ft.
 - Use for so many persons per sq. feet. (for example: if <than 1000sq. ft, only 1 person occupancy).

Development Standards:

- Minimum Floor Area - Each Work/Live studio shall include at least 1000 sq. ft. of gross floor area.
- Each Work/Live studio shall be separated from other work/live studios or other uses in the building.
- Access to each Work/Live studio shall be provided from established common areas, common halls or corridors, or directly from the exterior of the building.
- Each Work/Live studio shall have parking spaces in compliance with the zone codes.

Additional Requirements:

- A building permit should be required for building Work/Live studios that are consistent with and comply with the city codes.
 - A certificate of completion with the building inspector must be obtained prior to occupancy.
 - Work/Live studios shall have prior approval conforming to ventilation, such as HVACS, flooring, fire walls, etc according to state and city codes that may apply to the type of work activity.
 - Areas within a Work/Live studio that are designated as live shall be an integral part of the studio and separated from the workspace, such as doors and walls do not extend all the way to the ceiling, except for sanitary facilities and sleeping.
 - Permitted work activity: should be permitted by the zone codes, and by nature of the operation not cause significant dust, glare, heat, noise, noxious gases, odors, smoke, traffic, or vibration near residential areas.

Rental/Sales:

- *No portion of a Work/Live studio may be separately rented.*
- *The property owner shall ensure that all Work/Live studio leases include provisions requiring maintenance of a valid Work/Live Permit and Valid Business license.*
- *No Work/Live studio shall be changed to exclusively residential use without the permission of the proposed code requirements.*
- *Abide by HOA bylaws and CC&Rs, if part of an HOA.*

Sample text 2:

- *Notice to Occupants Required.* The owner or developer of any building containing Work/Live studios shall provide written notice to all Work/Live occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial uses at higher levels than would be expected in residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the district where the project is located. For purposes of noise control, Work/Live studios shall be subject to the governing documents associated with the development.
- *Change of Use from Work/Live Studio.* No Work/Live studio shall be changed to exclusively residential use in any building where residential use is not permitted. The conversion of an existing Work/Live studio to exclusively residential or nonresidential use is permitted with a Conditional Use Permit amendment and when the conversion meets all other applicable Astoria Municipal Code requirements for the proposed use. Such a change shall be subject to all applicable requirements for the district where the proposed dwelling unit is located.
- *Increase in Residential Use.* No Work/Live studio shall be changed to increase the floor area devoted to residential use without review and approval of the Planning Director. In no case shall the floor area devoted to residential use be increased to more than five hundred (500) square feet or fifty (50%) percent of the gross floor area of the unit, whichever is less.
- *Lease Agreements.* The property owner or manager of the property shall ensure that all Work/Live studio leases include provisions requiring maintenance of a valid Work/Live Permit and valid business license which are to be filed with the properties' management company.
- *Business License and Insurance Requirements.* At least one (1) occupant of each Work/Live studio shall maintain a current City of Astoria business license for a business located in that studio. Interior insurance is required to be held by each occupant of the space and filed with the management company to be in compliance with the governing documents.

Sample text 3:

Use Limitations

- *No commercial use shall operate except between the hours of 7:00 a.m. and 19:00,*
- *Commercial uses are to open to the public as a retail business and follow city guidelines for business operations.*
- *Residential portion shall follow governing rules for residential units.*
- *Units cannot operate under Work/Live until all the permits have been submitted and work completed; temporary housing is not allowed while under construction or future construction considerations*

In Summary:

We request that any approval of the permitted Work/Live shall be allowed with respect to the circumstances and conditions of the subject property.

We do not object to the idea of Work/Live concept regarding our property; we are just asking the City to put regulations in place.

Concerns with the commercial owner:

1. We believe that if proper regulations are not put into place, the commercial owner will use the opportunity to allow tenants to move into vacant spaces without the proper permitting in place. This is now the case with a tenant currently occupying a unit in violation of City code. And, it is not the first time.
2. The commercial owner is telling us that the conversion will be up to the tenant. This is very concerning, as the "conversion" could be a mat on the floor.
3. He reminds us that the "complex is designed under commercial usage as primary and residential as secondary". Yes, that is the well-known origin of Cannery Lofts. However, we are 63 residential units, and for more than 10 years residents have borne almost the entire burden of maintaining the beauty, value and top-notch quality of life of our remarkable property. We are constantly having to take on the commercial owner to protect our community from unknown tenants, bothersome activities and the unattractive appearance of the ground floor units.

The commercial owner is struggling with chronic vacancies and has requested at least 4 previous permits for conditional use in the past 5 years: two marijuana dispensaries; conditional use for medical office space; and a variance for on street parking. Nothing has worked so far, to make those spaces look alive, lighted, safe & secure, welcoming, and cared for.

Concerned homeowners do want this problem resolved, for the benefit of the commercial owner as well as everybody else. Work/Live may be a viable option. However, we want the rules and regulations to be detailed and clear.

We are simply and sincerely requesting the City of Astoria to put Work/Live regulations in place prior to approval.

Signature Catherine Murray

Name (Printed) Catherine Murray

Address 3930 Abbey Lane Unit 305 A

Date 6-30-2020

To: City of Astoria Planning Commission
From: Cannery Lofts Homeowners, as signed below
Date: 30 June 2020
Re: Conditional Use application for Work/Live commercial units at Cannery Lofts

We homeowners at Cannery Lofts are concerned that the applicant will be granted a "Work/Live" conditional use permit when there are no provisions that spell out necessary regulations in the City's codes for this intent.

As a Homeowner's Association our CC&Hs cannot address zoning and coding requirements, so "what we want", as Commissioner Price put it so succinctly, is for the City of Astoria to define and develop Work/Live Regulations in the form of an Ordinance.

Instead, Mr Forcum's Work/Live request is tacked onto a prior permit request (in 2015) to allow medical offices at 3990 Abbey Lane. The relationship here is distant, at best. We wonder if it is in the City's best interests to entertain a "Work/Live" amendment to a permit request that did not propose (or even mention) a living space -- and 5 years later, at that.

There may appear to be straightforward compliance on all of the conditions on the application request, (11.30(A)(1), 11.030(A)(2), 11.303(A)(3), 11.030(A)(4), and 11.030(A)(5), and it may be suitable criteria for "location", but we believe this not suitable for determining appropriateness at a vertical mixed-use site such as ours for Work/Live.

For example, under:

11.030 (A) (1) Appropriate use for the proposed location SA-2 zone.
The applicant informs us that "commercial" use is the primary use in this zone, but housing is allowed under 2.710 Conditional Uses, #3, Multi-family dwelling. We believe his comments are a misinterpretation, as this does not meet the definition of Work/Live use.

Parking: The addition of Work/Live would directly impact parking on the property. Although there may be less traffic as a result of reduced travel, these vehicles would be taking up parking spaces. And as such, the presence of Work/Live units would directly impact parking availability 24/7. We encourage you to adhere to the existing parking formula for this zone.

We are requesting that the Planning Department develop specific criteria for Work/Live studios that would address not only location, but address site specific regulations.

We are concerned about the possible negative impact on our property values and livability if certain businesses are allowed that would conflict or adversely affect the existing use, such as primarily residential.

We have researched several other municipalities with Work/Live ordinances that have regulations in place to protect livability and prevent possible abuse of building codes.

Below is a composite of some of the regulations listed by other municipalities that are in place to address the need for strict regulations.

Sources are the following:

- City of Berkeley (CA) Chapter 23E.20: Live/Work Provisions, 1999
- City of Berkeley (CA), Chapter 23E.84: MU-R Mixed Use-Residential District Provisions, July 31, 2018
- City of Alameda (CA), 30.15, Work/Live Studios, November 19, 2019
- City of Austin (TX) Chapter 4.2. Model Live/Work Ordinance

Sample text 1: WORK/LIVE STUDIOS.

Purpose:

- To provide for and make feasible the reuse of existing commercial or industrial buildings in specified zones.
- To provide cost-efficient alternative workspaces to provide incentive to business owners, entrepreneurs, and individuals to work in Astoria.
- To allow activities that are compatible with and will not compromise or interfere with existing uses, such as residential.
- To ensure that work/live studios will function preeminently as workspaces with incidental accommodations that meet basic habitability requirements. No portion of any work/live shall be considered a "dwelling" as defined by existing city codes.
- To ensure that the interior and exterior design reflects the predominate nature of the structures and locale.

Applicability:

- Work/Live studios should be only allowed subject to use of a permit in certain zones and only if they meet the following:

Definitions:

- Living Space shall mean that a portion of Work/Live studio is used for residential purposes, and will require a sleeping area, food preparation, and full bathroom (toilet, sink, shower) that satisfy the applicable codes.
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- *Increase in Residential Use.* No Work/Live studio shall be changed to increase the floor area devoted to residential use without review and approval of the Planning Director. In no case shall the floor area devoted to residential use be increased to more than five hundred (500) square feet or fifty (50%) percent of the gross floor area of the unit, whichever is less.
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We do not object to the idea of Work/Live concept regarding our property; we are just asking the City to put regulations in place.

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1. We believe that if proper regulations are not put into place, the commercial owner will use the opportunity to allow tenants to move into vacant spaces without the proper permitting in place. This is now the case with a tenant currently occupying a unit in violation of City code. And, it is not the first time.

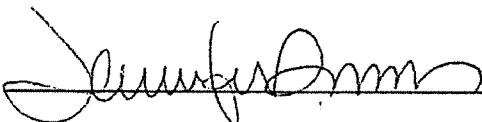
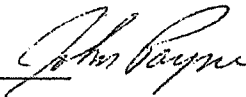
2. The commercial owner is telling us that the conversion will be up to the tenant. This is very concerning, as the "conversion" could be a mat on the floor.

3. He reminds us that the "complex is designed under commercial usage as primary and residential as secondary". Yes, that is the well-known origin of Cannery Lofts. However, we are 63 residential units, and for more than 10 years residents have borne almost the entire burden of maintaining the beauty, value and top-notch quality of life of our remarkable property. We are constantly having to take on the commercial owner to protect our community from unknown tenants, bothersome activities and the unattractive appearance of the ground floor units.

The commercial owner is struggling with chronic vacancies and has requested at least 4 previous permits for conditional use in the past 5 years: two marijuana dispensaries; conditional use for medical office space; and a variance for on street parking. Nothing has worked so far, to make those spaces look alive, lighted, safe & secure, welcoming, and cared for.

Concerned homeowners do want this problem resolved, for the benefit of the commercial owner as well as everybody else. Work/Live may be a viable option. However, we want the rules and regulations to be detailed and clear.

We are simply and sincerely requesting the City of Astoria to put Work/Live regulations in place prior to approval.

Signature  

Name (Printed) Jennifer Sims John Payne

Address 3990 Abbey Lane #303B
Astoria, OR 97103

Date June 30, 2020

Concerns with the commercial owner:

1. We believe that if proper regulations are not put into place, the commercial owner will use the opportunity to allow tenants to move into vacant spaces without the proper permitting in place. This is now the case with a tenant currently occupying a unit in violation of City code. And, it is not the first time.

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Signature Eleanor Green

Name (Printed) Eleanor Green

Address 3930 Abbey Lane #304A

Date 6/28/2020

From: Steve Floth
To: Barbara Fryer; Tiffany Taylor
Subject: Cannery Lofts Live/work proposal
Date: Tuesday, June 30, 2020 10:07:27 AM

*****EXTERNAL SENDER*****

Barbara and Tiffany,

I own unit 301B at the Cannery Lofts. I am concerned with the Live/work proposal that the city is considering.

I believe that this proposal could work and be a positive addition to the community. But, I would ask you to please proceed with a specific plan to ensure that the units are utilized appropriately.

This proposal was presented to the city without any discussion with owners at the loft. Further, this proposal was not even presented to the HOA board. The proposal should have been coordinated with the owners for input and discussion. There is a long history between the commercial unit owner and the community. Trust is an ongoing issue. For example, a marijuana dispensary was proposed years ago, against the liking of the majority of owners.

I believe that very specific guidelines need to be developed to ensure that, if approved, the units are utilized under the rules developed. I know that parking space is one issue, but the use of the space should be clearly defined as well. The units were constructed to be light industrial use. If they become occupied, the building systems need to be reviewed. This includes HVAC, lighting, plumbing, electrical and fire systems.

Thank you for your consideration.

Steve Floth, 301B
5034757332

June 30, 2020

To: Barbara Fryer, City of Astoria City Planner / Project Manager
Tiffany Taylor, City of Astoria Administrative Assistant
From: Eric and Lori Stromquist, Homeowners
Cannery Lofts, 3990 Abbey Lane #203B
Astoria, OR 97103
stromquist2@gmail.com
Re: Conditional Use Application for Work/Live Commercial Units at Cannery Lofts

We are writing to request City oversight with regard to the Conditional Use Application for Work/Live units in the Cannery Lofts complex.

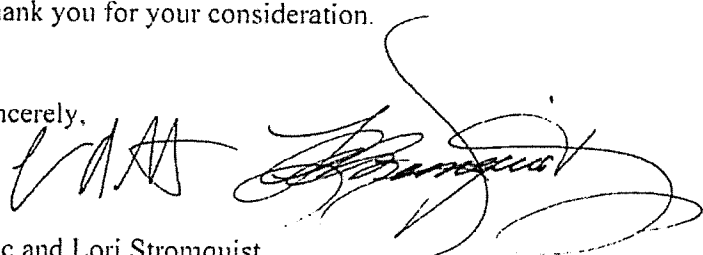
Work/Live units may very well be a viable option to Commercial units, but there are many unknowns. We believe that understanding and consensus – that serves not only the Commercial owners but the HOA as well – can be reached, but only with oversight from the City.

We're concerned about the impact on livability and services such as parking, garbage, recycling, plumbing and electricity. We're also concerned about possible degradation of our property by way of lease-holders who may not take as much stock in our community as long-term residents.

We would respectfully ask that the City of Astoria clearly define specific criteria and regulations – that give both the Commercial unit owner, and residents in general, guidelines that allow us to reach our mutual goals in making this a more vibrant and profitably community – prior to approval of this application.

Thank you for your consideration.

Sincerely,


Eric and Lori Stromquist

From: [Suzanne Andleman](#)
To: [Barbara Fryer](#); [Tiffany Taylor](#)
Subject: Conditional applications for Work Live units @ Cannery Lofts
Date: Tuesday, June 30, 2020 5:28:23 PM

*****EXTERNAL SENDER*****

I am a homeowner at Cannery Lofts and I am concerned about the granting of the Work/Live conditional use permit that Mr. Forcum has requested.

I think the city of Astoria really needs to define Work/Live regulations in the form of an ordinance. The city of Austin, Texas and several cities in the Bay Area have their ordinances online. Perhaps the city of Astoria could use these as a model. I think having the ordinance is really important for this permit as well as for future requests for Work/Live units.

Thank you,

Suzanne Andleman
3930 Abbey Lane, #208

From: Beata Zawadzka
To: Tiffany Taylor; Barbara Fryer
Subject: work-live application at Cannery Lofts
Date: Tuesday, June 30, 2020 4:22:54 PM

*****EXTERNAL SENDER*****

Dear commissioner and chair,

As a business owner and potential tenant, I am in support of the work-live application at the Cannery Lofts.

Sincerely,
Beata Zawadzka
Whisper Aesthetics, LLC.

Dear Council Members,

Regarding the work/live application for the Cannery Loft Condominiums commercial units submitted by Dr. Ted Forcum I attended virtually on June 23rd and offered my support for the city to accept and approve this request. Following my verbal statements on-line in favor of passing the request a few of my fellow owners at the Cannery Lofts testified in opposition of passing the requested application. Therefore, I am submitting further information I believe supports the acceptance of the application.

As one of the original owners at the Cannery Lofts, my wife and I purchased our first condo unit in 2008 even before the ground was broke to start construction of the second building. We now own three of the residential condos on each floor and located in both buildings and addition I co-own two the commercial condos with Dr. Forcum. I served on the advisory board at the beginning and later after we gained control of the property from the developer I served another six years mostly as the Board Chair so I have a considerable amount of knowledge of this complex to draw from.

In the beginning I remember how short we were in financial funds to operate the HOA because the developer stopped paying HOA dues on all of the unsold residential and commercial condos that we had to curtail garbage removal service and reduce our water usage so we could barely be able to pay the monthly bills to operate the complex. Eventually the developer held an auction to sell all of the unsold units and we gained a number of new owners for many of the unsold residential condos. After that a Portland firm was able to purchase all of the commercial condos (17 units) and the last few of the remaining unsold residential units. This helped tremendously with our cash flow problems but the company that purchased all the remaining units only paid dues after they sold a condo so we still were having financial issues. What rescued the whole complex was when Dr. Forcum purchased all of the remaining unsold commercial condos (15 units). He immediately paid all the dues on time for all of his units and worked to change the coding to Shoreline Tourism so he could locate tenants for the commercial units that would be a great fit and complement the residential condos located on the four floors above them. He has brought in all great businesses that have been wonderful additions to our community such as a medical support office, beauty shop, investigative service, mini-storage and a yoga studio, etc. All low impact with very minimum if any impact to the enjoyment of the owners in the residential units located above them. In fact many of these businesses have provided services to the owners which has been greatly appreciated by all. In the beginning the commercial units were coded for industrial use only so we would have had machine shops, welders, fish processing plants, etc. located below the 63 residential condos and that would not have worked well for us residential owners.

I greatly appreciate all money and time Dr. Forcum expended to make the classification change so he could locate businesses that would complement the entire complex and thus the city of Astoria also. Another benefit of the code change is that the property values of every residential condo was enhanced due to only complementary businesses being allowed to occupy the commercial condos.

Ever since Dr. Forcum purchased all of the commercial condos he has paid all of his monthly dues on time which presently is over \$5000 dollars a month plus he has also paid all of the special assessments over the years which amounts to many tens of thousands of dollars plus we have another special assessment starting this August to replace the roof on the 'B' building which he will pay about another \$70,000 dollars in dues. These are mind boggling amounts of cash flow out. At present only about 50% or less of the commercial condos are occupied so I believe it is safe to assume Dr. Forcum is suffering a negative cash flow after paying all the HOA monthly dues and special assessments and property taxes, etc. I am again very thankful he is hanging in there and trying to make this investment work for him and all of us owners. I shudder to think what would happen if he has to sell all of the commercial units because he can no longer afford this negative cash flow situation. We would have to accept up to 15 or more new commercial owners and just hope they are as diligent as Dr. Forcum is in paying the HOA dues and renting to really complementary tenants. I for one do not wish to risk having to live with this nightmare situation. I ask that the city approve his request to allow work/live tenants to occupy some of the larger commercial condos which I believe will even further complement our community by filling many of the remaining vacant spaces. I see nothing but advantages to our community to allow a commercial tenant to have a living quarters located in their commercial condo as this would benefit many entrepreneurial enterprises to have an opportunity to start and survive during their first few years in existence. I know of one business owner that travels to both Astoria and Washington State locations periodically and would gladly rent a commercial condo where he could live in while in Astoria and run his business from. I see this as a "win-win" situation for the city and the Cannery Lofts community.

Respectfully,

Greg Kenney

3990 Abbey Lane

Unit B404

Abbey Lane, Astoria Oregon

503/317-6245



Recording Instrument#: 200810817
 Rec'd By: Clatsop County Clerk
 #of Pages: 16 Fee: 101.00
 Transaction date: 12/12/2008 13:55:33
 Deputy: tromeyn

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EXHIBIT B

Unit Square Footages and Undivided Interests at Stages 1 and 2

Unit	Unit Type	Square Footage	Undivided Interest
Stage 1			
101	Commercial	214	214/79217
102	Commercial	987	987/79217
103	Commercial	989	989/79217
104	Commercial	925	925/79217
105	Commercial	989	989/79217
106	Commercial	991	991/79217
107	Commercial	425	425/79217
108	Commercial	424	424/79217
201	Residential	970	970/79217
202	Residential	901	901/79217
203	Residential	958	958/79217
204	Residential	961	961/79217
205	Residential	968	968/79217
206	Residential	961	961/79217
207	Residential	960	960/79217
208	Residential	898	898/79217
209	Residential	968	968/79217
210	Residential	975	975/79217
301	Residential	970	970/79217
302	Residential	896	896/79217
303	Residential	960	960/79217
304	Residential	960	960/79217
305	Residential	968	968/79217
306	Residential	961	961/79217
307	Residential	961	961/79217

Exhibit B

Portland-221183.9.3 0066267-00001

Unit	Unit TJ!!!	SquareFoot\$e	Undivided Interesi
308	Residential	895	895/79217
309	Residential	968	968/79217
310	Residential	972	972/79217
401	Residential	1316	1316/79217
402	Residential	1105	1105/79217
403	Residential	1301	1301/79217
404	Residential	1311	1311/79217
405	Residential	1314	1314/79217
406	Residential	1309	1309/79217
407	Residential	1308	1308/79217
408	Residential	1101	1101/79217
409	Residential	1325	1325/79217
410	Residential	1324	1324/79217
Stalle 2			
8101	Comriercial	211	211/79217
8102	Commercial	414	414/79217
8103	Commercial	994	994/79217
8104	Commercial	998	998/79217
8105	Commercial	936	936/79217
8106	Commercial	998	998/79217
8107	Commercial	994	994/79217
8108	Commercial	420	420/79217
8109	Commercial	419	419/79217
8201	Residential	970	970/79217
8202	Residential	970	970/79217
8203	Residential	908	908/79217
8204	Residential	964	964/79217
8205	Residential	964	964/79217
8206	Residential	963	963/79217
8207	Residential	965	965/79217

ExhibitB

PortIndl-2211839.3 0066267--00001

Unit	Unit Type	Square Footage	Undivided Interest
6208	Residential	963	963/79217
6209	Residential	905	905/79217
6210	Residential	968	968/79217
8211	Residential	969	969/79217
8301	Residential	972	972/79217
6302	Residential	972	972/79217
6303	Residential	904	904/79217
8304	Residential	964	964/79217
8305	Residential	962	962/79217
8306	Residential	958	958/79217
8307	Residential	965	965/79217
8308	Residential	963	963/79217
8309	Residential	902	902/79217
8310	Residential	969	969/79217
6311	Residential	970	970/79217
6401	Residential	1309	1309/79217
8402	Residential	1312	1312/79217
6403	Residential	1175	1175/79217
8404	Residential	1309	1309/79217
8405	Residential	1313	1313/79217
8406	Residential	1312	1312/79217
8407	Residential	1313	1313/79217
8408	Residential	1302	1302/79217
8409	Residential	1174	1174/79217
6410	Residential	1307	1307/79217
6411	Residential	1308	1308/79217
Total		79217	

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APPROVALS
APPROVED THE 25TH DAY OF NOVEMBER, 1988
[Signature]
CITY CLERK
APPROVED THE 26TH DAY OF NOVEMBER, 1988
[Signature]
CITY CLERK
APPROVED THE 1ST DAY OF DECEMBER, 1988
[Signature]
CITY CLERK
ALL SALES TAX ASSIGNED ON OTHER OWNED AS PROVIDED BY
O.S.A. BEING PAID FOR AS OF December 1, 1988
[Signature]
CITY CLERK

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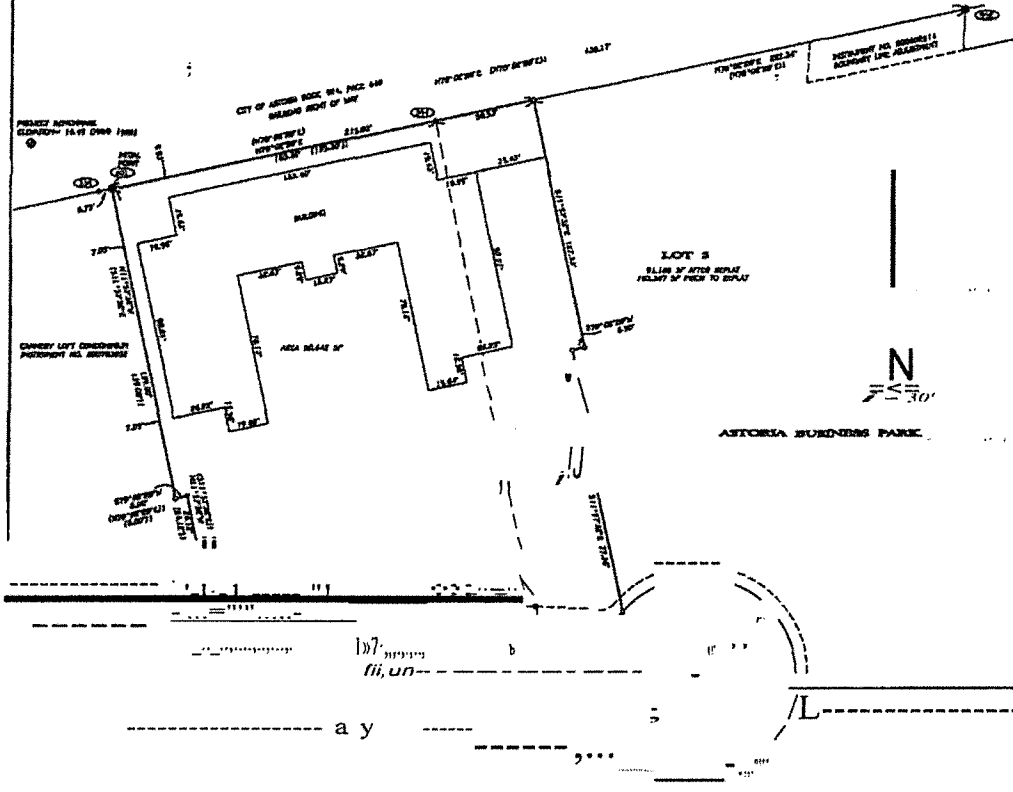
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CANNERY LOFT CXJNDOMINruM. SUPPLEMENTAL PLAT NO. J. ANNEXATION OF STAGE 2
 BEING A RB'L'L'I' OF A POR'L'I'KIN OF L.Or S AND A POR'L'I'KIN OF L.Or 6, ASI'ORJA 11USINBSS PARK
 NE1/4 SECTION 9, T1'8N, R9W, W.M.
 CITY OF ASTORIA. crATSOP <OOUN'JiY, OIRECION
 AUGUST 13, 2008

SHEET 2 of 2



LAND SURVEYOR
A. J. ...

C. ...
 I, **C. ...**, being the owner of the above described land, do hereby certify that the above is a true and correct copy of the original plat as recorded in my office.

N
 30'

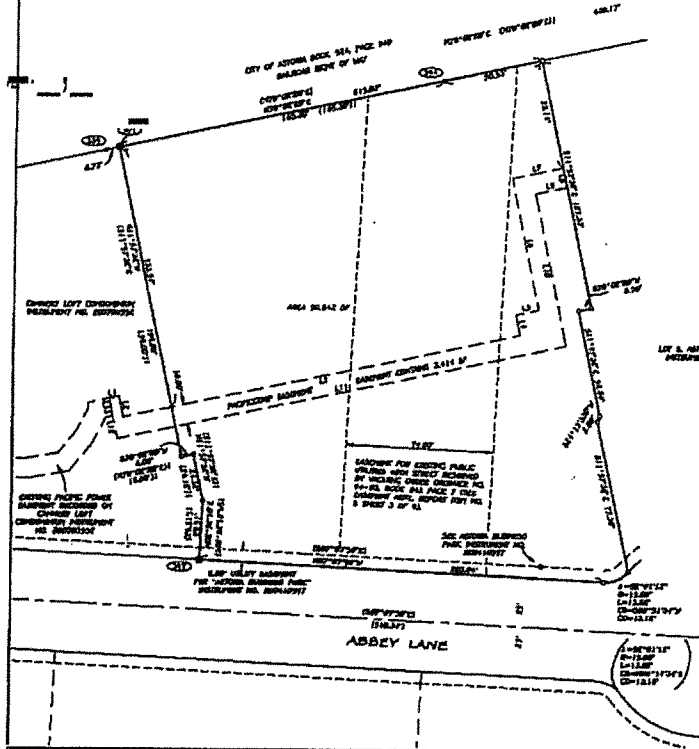
& ...
MTO/r...-mLOIYYW/r
U
 BEING THE PUBLIC RECORDS OF SAID COUNTY, I DO HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAT AS RECORDED IN MY OFFICE.

HLB
 SURVEY BY
HLB
 LAND SURVEYING
 1000 N. ...
 ASTORIA, OREGON
 503.325.1111
 WWW.HLB-SURVEY.COM

**CANNERY LOFT CONDOMINIUM. SUPPLEMENTAL PLAT NO. I. ANNEXATION OF STAGE 2
BEING A REPEAT OF A PORTION OF LC7C 5 AND A PORTION OF LC7C 6, ASI"ORJA BUSINESS PARK**

NEW4 SIECDON 9, "IrBN, RI1W, W.M.
CITY OF ASrOIRIFA,, CILArirSOJP COUNTY, OJRBGON
AUGUST 18, 2008

SHEET 3 of 9



NO.	DATE	DESCRIPTION
1	11/10	
2	11/11	
3	11/12	
4	11/13	
5	11/14	

Official
111
NO. 0 PROCEEDS RELEASED HERE.
RECORDING FEE: \$100.00
RECORDING TAX: \$10.00
TOTAL: \$110.00

PLAT NO. 1
CANNERY LOFT CONDOMINIUM
SUPPLEMENTAL PLAT NO. I
ANNEXATION OF STAGE 2
BEING A REPEAT OF A PORTION OF LC7C 5
AND A PORTION OF LC7C 6, ASI"ORJA BUSINESS PARK
CITY OF ASTORIA, CLATSOP COUNTY, OREGON
AUGUST 18, 2008

SCALE:
1" = 50'

N

LAND SURVEYOR
J. A. ...

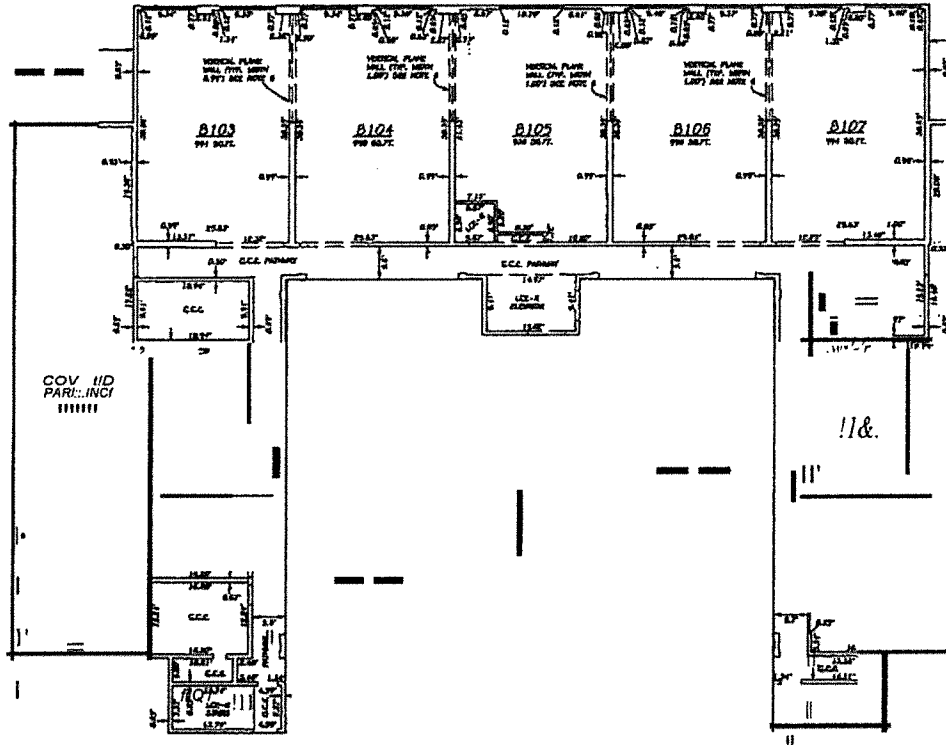
SURVEY BY:
J. A. ...
REGISTERED LAND SURVEYOR
NO. 12345
CLATSOP COUNTY, OREGON

CANNERY LOFT CONJUNCTION MINIMUM. SUPPLEMENTAL PLAT NO. 1. ANNEXATION OF SPACE 2 BEING A PORTION OF A PORTION OF LOT 5 AND A PORTION OF LOT 6, ASTORIA BUSINESS PARK

NB1/4 SECTION 9, T178N, R9W, W.M.
CITY OF ASTORIA, CLATSOP COUNTY, OREGON
AUGUST 13, 2008

SHEET 029

meters



Qs&Lc
I have examined the above copy and find it to be a true and correct copy of the original, plus all amendments.
Daniel B. Burt
PROFESSIONAL LAND SURVEYOR
1111111111

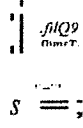
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I have done a full boundary inspection and find that the same is in conformity with the plat and the original survey. I have also done a full boundary inspection and find that the same is in conformity with the plat and the original survey. I have also done a full boundary inspection and find that the same is in conformity with the plat and the original survey. I have also done a full boundary inspection and find that the same is in conformity with the plat and the original survey.

ARCA SURVEY BY HLB

DATE	11/11/08	PROJECT	ANNEXATION OF SPACE 2
BY	HLB	CLIENT	ASTORIA BUSINESS PARK
CHECKED BY	HLB	DATE	11/11/08
SCALE	AS SHOWN	PROJECT NO.	1111111111

WWW.HLB-OR.COM

N

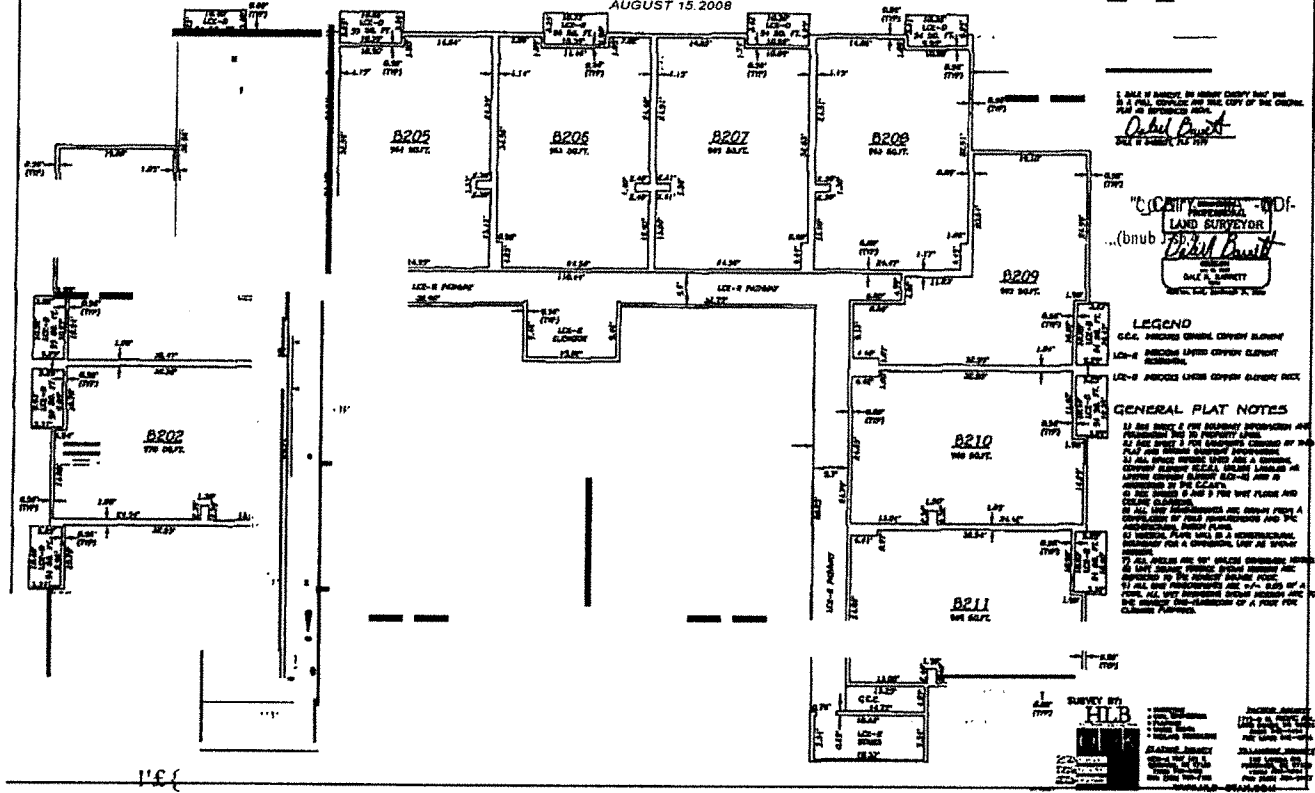


FIRST PLOOR UNITS

CANNERY LOFT CONDOMINIUM. SUPPLEMENTAL HAT NO. 1. ANNEXATION OF STAGE 2
BEING A REPLAT OF A PORTION OF LOT 5 AND A PORTION OF LOT 6, MIDVA BUSINESS PARK

N1/4 SBTJION 9, T11N, R9W, W.M.
CITY OF ASJrORIA, CLATSOP COUNTY, ORJBOON
AUGUST 15, 2008

SHEET 5 of 9



I, DANIEL B. BROWN, BEING DULY SWORN, DO hereby certify that this is a true and correct copy of the original and as recorded hereon.

Daniel Brown
DANIEL B. BROWN
PLAT 15, 2008, PL 15-179

COUNTY OF CLATSOP
LAND SURVEYOR
(b)ub *Daniel Brown*
DANIEL B. BROWN
PLAT 15, 2008, PL 15-179

LEGEND

CL-1 BOUNDARY LINES CONVEY ELEMENT

CL-2 BOUNDARY LINES CONVEY ELEMENT

CL-3 BOUNDARY LINES CONVEY ELEMENT

GENERAL PLAT NOTES

1. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

2. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

3. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

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7. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

8. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

9. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

10. ALL AREAS OF THE BOUNDARY LINES ARE SHOWN IN THIS PLAT AND SHALL BE CONSIDERED AS SUCH.

HLB

SURVEY BY
H. L. BROWN
PLAT 15, 2008, PL 15-179

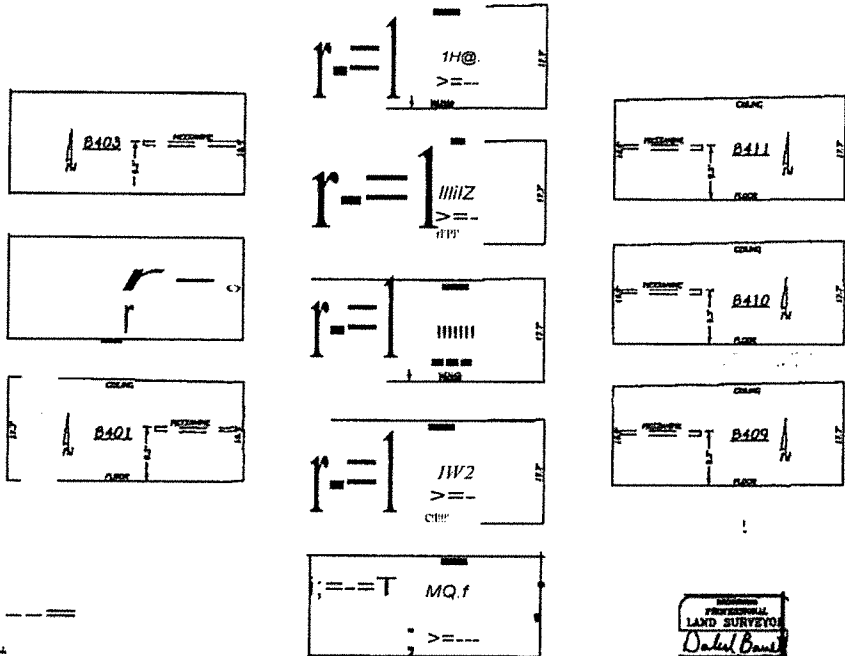
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COND FLOOR UNITS

CANNERY LOFT CONDOMINIUM. SUPPLEMENTAL HAT NO. 1. ANNEXATION OF STAGE 2
 BEING A REPEAT OF A PORTION OF LOT 5 AND A PORTION OF LOT 6, ASTORIA BUSINESS PARK

N1/4 SECTION 9, T18N, R9W, W.M.
 CITY OF ASTORIA, CLATSOP COUNTY, OREGON
 AUGUST 28, 2008

SHEET 9 of 9



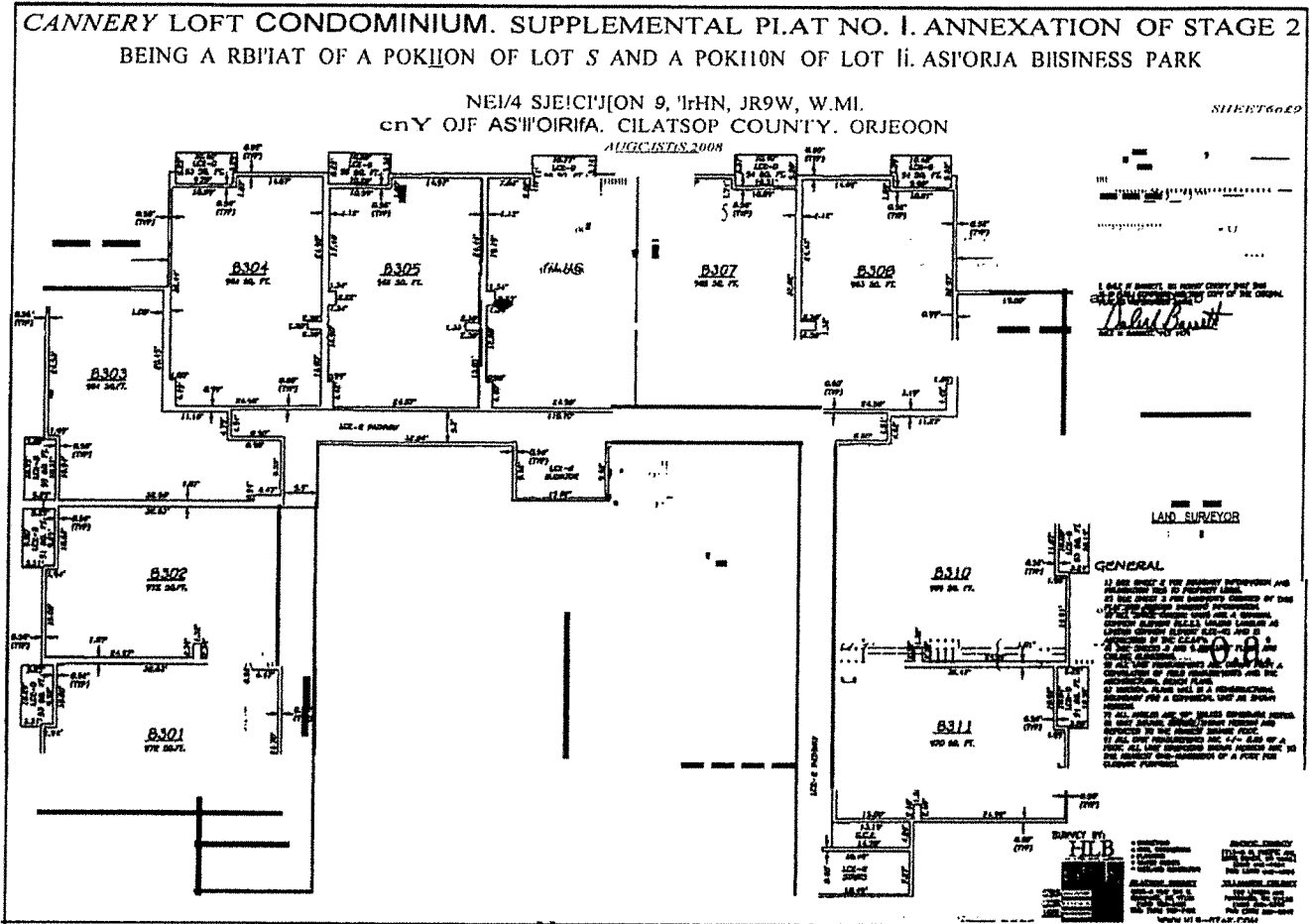
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Handwritten signature
 A PORTION OF SECTION 9, T18N, R9W, W.M. IS A PUBLIC HIGHWAY AND SHALL BE OPEN TO THE PUBLIC AS A PUBLIC HIGHWAY.

PROFESSIONAL
 LAND SURVEYOR
David B. Bennett
 DAVID B. BENNETT
 1000 N. GASTRUIT ST. SE.
 ASTORIA, OREGON 97103

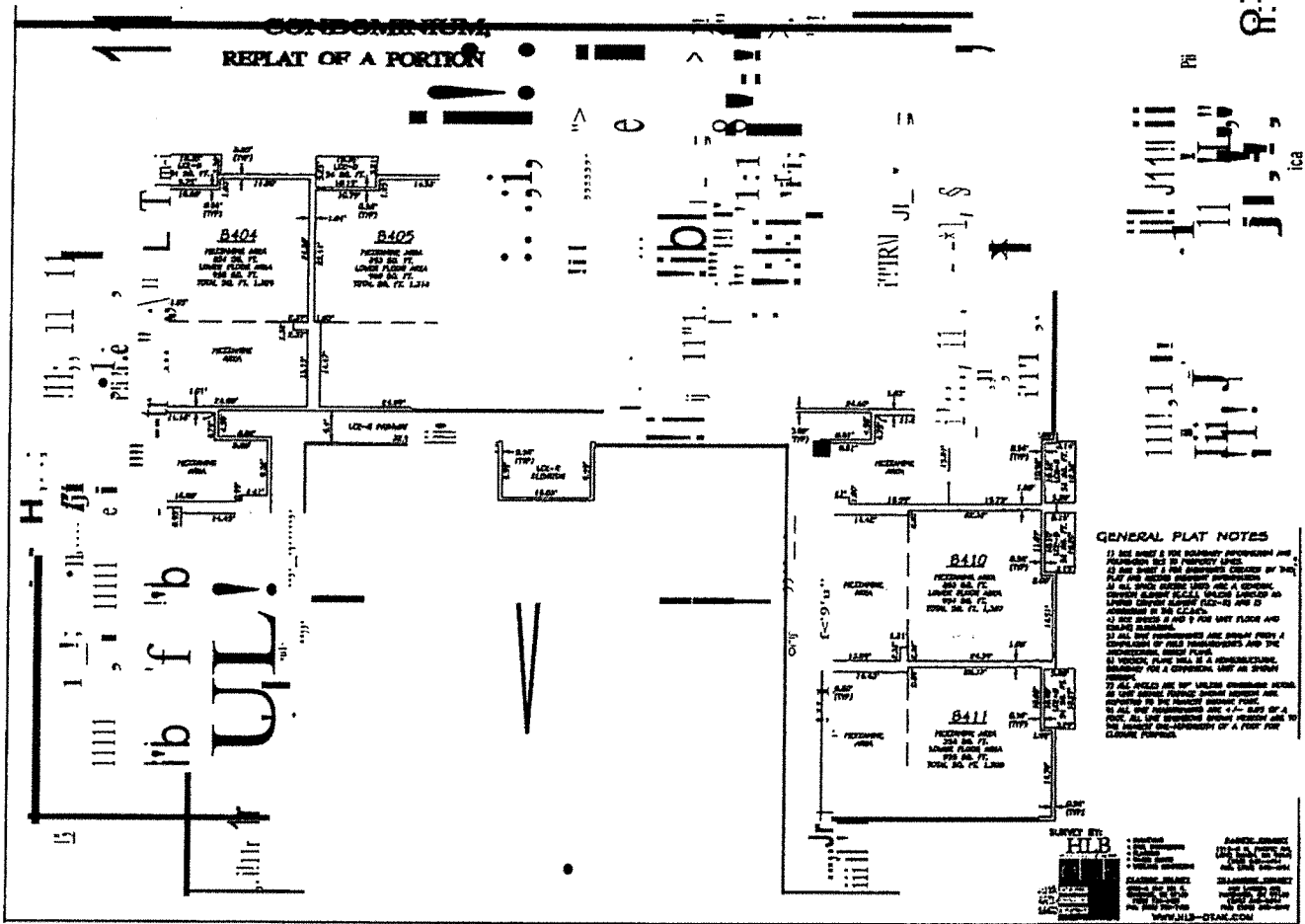
SURVEY BY:
JTB
 JAMES T. BENTLEY
 1000 N. GASTRUIT ST. SE.
 ASTORIA, OREGON 97103
 503-325-1111
 WWW.MLS-ORIG.COM

4th FLOOR ROOM ELEVATION VIEW



I. N

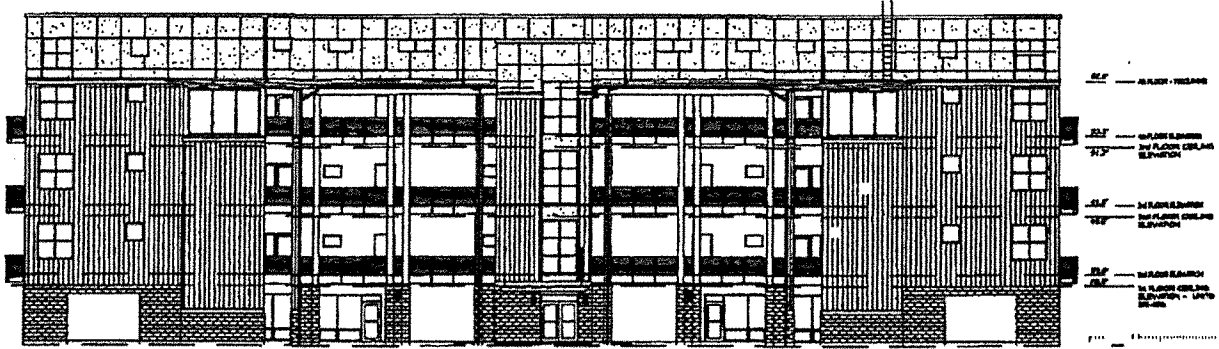
THIRD FLOOR UNITS



CANNERY LOFT CONDOMINIUM. SUPPLEMENTAL PLAT NO. L ANNEXATION OF srAGE 2
BEING A REPIAT OF A PORTION OF Lor 5 AND A POKJICIN OF Lor 6, ASFORJA BUSINBSS PARK

NE/4 SECT.ICON 9, 'lrBN. 1R9'W7, W.M.
CITY OF .ASJI"OIRIIA. CJLATSC>!? COUN'lrY, ORJEGON
AUGUST 18, 2008

SHEET 8 of 9



SOUTH ELEVATION VIEW

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= ...
A true and correct copy of the original as shown on the original plat as recorded.

NO. 100-100-100
3
R-100-100-100

PROFESSIONAL
LAND SURVEYOR
D. B. Smith
DALE K. SMITH
100

SURVEY BY
H.B.
PLANNING ENGINEER
DAVID B. SMITH
100-100-100
WWW.HLS-STAT.COM



Recording Instrument#: 200703551
Recorded By: Clatsop County Clerk
of Pages: 65 Fee: 346.00
: 4/10/2007 14:44:18

AFTER RECORDING, RETURN TO:

SEE BELOW

PREPARED BY:

Howard M. Feuerstein
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204

DECLARATION SUBMITTING
CANNERY LOFT CONDOMINIUM
TO CONDOMINIUM OWNERSIDP

Cannery Loft Partners, LLC
Declarant

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**DECLARATION SUBMITTING
CANNERYLOFT CONDOMINIUM
TO CONDOMINIUM OWNERSHIP**

THIS DECLARATION, pursuant to the provisions of the Oregon Condominium Act, is made and executed this 25 day of January, 2007 by **CANNERY LOFT PARTNERS, LLC**, an Oregon limited liability company ("**Declarant**").

Declarant proposes to create a condominium to be known as Cannery Loft Condominium, that will be located in the City of Astoria, Clatsop County, Oregon. The purpose of this Declaration is to submit the property described in Article 2 below to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

Article 1

DEFINITIONS

When used in this Declaration the following terms shall have the following meanings:

1.1 "**Association**" means the association of unit owners established pursuant to Article 15 below.

1.2 "**Bylaws**" means the Bylaws of the Cannery Loft Condominium Owners Association adopted pursuant to Section 15.4 below as the same may be amended from time to time.

1.3 "**Commercial Units**" means those commercial units labeled as such in the attached Exhibit B or in any supplemental declaration annexing property to the Condominium.

1.4 "**Condominium**" means all of that property submitted to the condominium form of ownership by this Declaration plus any additional property annexed to the project pursuant to Article 16 below.

1.5 "**Declarant**" means Cannery Loft Partners, LLC, an Oregon limited liability company, and its successors and assigns.

1.6 "**Declaration**" means this Declaration as the same may hereafter be amended and any supplemental declaration annexing property to the Condominium.

1.7 "**Mortgage**" and "**Mortgagee**" mean, respectively, a recorded mortgage, trust deed or contract of sale that creates a lien against a unit, and the holder, beneficiary or vendor of such a mortgage, trust deed or contract of sale.

1.8 "Plat" means the plat of Cannery Loft Condominium recorded simultaneously with the recording of this Declaration.

1.9 "Residential Units" means those dwelling units labeled as such in the attached Exhibit B, or in any-supplemental declaration annexing property to the Condominium.

1.10 Incorporation by Reference. Except as otherwise provided in this Declaration, each of the terms defined in ORS 100.005, a part of the Oregon Condominium Act, shall have the meanings set forth in such section.

Article2

SUBMISSION OF PROPERTY TO CONDOMINIUM STATUTE

The property submitted to the Oregon Condominium Act by this Declaration is held by Declarant and conveyed by Declarant in fee simple estate. The land submitted is located in the City of Astoria, Clatsop County, Oregon, and is more particularly described in the attached Exhibit A. The property submitted includes the land so described, all buildings, improvements and structures, all easements, and rights and appurtenances located on, belonging to or used in connection with such land.

Article3

NAME OF CONDOMINIUM

The name by which the Condominium shall be known is "Cannery Loft Condominium."

Article4

UNITS

4.J General Description of Buildings. Stage 1 contains one building of dwelling units, which contains 4 stories, without basement. The 4th floor dwelling units each have a loft-style floor designated as a "mezzanine" on the plat. The building is of wood frame construction with concrete block siding on the 1st floor, metal siding on the 2nd 4th floors, Hardiplank siding around the mezzanine level of the 4th floor, and a built-up roof

4.;i General Description, Location and Designation of Units. Stage 1 contains 30 Residential Units and eight Commercial Units for a total of 38 units. The designation, location and description of boundaries and area in square feet of each unit are shown on the Plat and the attached Exhibit B.

43 Boundaries of Units. Each unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim. The unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of its finished surfaces, except those portions of the walls, floors or ceilings that materially contribute to the structural or shear capacity of the Condominium. All other portions of the

walls, floors or ceilings shall be a part of the common elements. In addition, each unit shall include the following: (a) All spaces, nonbearing interior partitions, window glass and interior doors and door frames and all other fixtures and improvements within the boundaries of the unit; and (b) All outlets of utility and communications service lines, including but not limited to power, light, gas, hot and cold water, heating, refrigeration, air conditioning and waste disposal, security, cable television and telephone, within the boundaries of the unit, but shall not include any part of such lines or ducts themselves. Where no boundary wall separates two units or a unit and a common element, the boundary shall be a vertical plane as shown on the Plat.

Article 5

GENERAL COMMON ELEMENTS

The general common elements consist of all portions of the Condominium that are not part of a unit or a limited common element, including, but not limited to, the following:

5.1 The land, pathways, driveways, parking areas, fences, and grounds.

5.2 Pipes, ducts, flues, chutes, conduits, wires and other utility and communications installations to their outlets.

5.3 Roofs, foundations, bearing and shear walls, perimeter walls, common walls added to separate units, beams, columns and girders to the interior surfaces thereof, exterior doors and door frames and window frames.

5.4 All other elements of the buildings and the Condominium necessary or convenient to their existence, maintenance and safety, or normally in common use, except as may be expressly designated in this Declaration as part of a unit or a limited common element.

Article 6

LIMITED COMMON ELEMENTS

The following shall constitute limited common elements, the use of which shall be restricted to the units to which they pertain:

6.1 All decks, each of which shall pertain to the unit that it adjoins as shown on the Plat.

6.2 Those areas marked LCE-R on the Plat, which shall pertain to the Residential Units based upon the relative square footage of each Residential Unit compared to all Residential Units combined.

Article 7

ALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS

Each unit will be entitled to an undivided ownership interest in the common elements determined by the ratio by which the square footage of the particular unit bears to the total square footage of all units combined, as shown on the attached Exhibit B. Such allocation will change if additional stages are added to the Condominium as is more particularly described in Section 16.4 below. Each unit's interest in the common elements shall be inseparable from the unit and any conveyance, encumbrance, judicial sale, or other transfer, voluntary or involuntary, of an undivided interest in the common elements shall be void unless the unit to which that interest is allocated is also transferred. If units are ever consolidated, or if Commercial Units are ever subdivided, the percentage ownership interest in the common elements shall be allocated among the consolidated or subdivided units in the proportion by which the square footage in the individual unit bears to the total square footage of all of the affected units.

Article 8

COMMON PROFITS AND EXPENSES; VOTING

8.1 **Allocation of Common Profits and Expenses.** The common profits and common expenses of the Condominium shall be allocated to the owner of each unit according to the ratio by which the square footage of the particular unit bears to the total square footage of all units combined, except that the costs of operating, maintaining and repairing the Residential Limited Common Elements shall be charged exclusively to the Residential Units based upon their relative square footage as shown on the attached Exhibit B, and if a Commercial Unit uses more water than would be used by a residential or office use of such size, then the cost of the excess water service shall be charged to such unit. If any utilities are separately metered as between Commercial Units and Residential Units, or if separate trash collection is provided for Commercial Units and Residential Units, the costs of such services shall be allocated separately to Commercial Units and Residential Units, with each Commercial or Residential Unit assessed based upon relative square footage within such unit type. Upon the sale of each unit to a person other than a successor declarant, the purchaser shall make a contribution to the working capital of the Association equal to two month's of regular Association assessments for the unit as further described in the Bylaws. Except upon termination of the Condominium or as otherwise provided in the Bylaws with respect to damage, destruction or condemnation, any common profits shall be used solely for the purpose of maintaining, repairing and replacing the common elements or for other expenses or reserves of the Association.

8.2 **Allocation of Voting Rights.** Each unit owner shall be entitled to a vote in the affairs of the Association based upon the ratio by which the square footage of a particular unit bears to the total square footage of all units combined; provided, however, that Declarant shall have five times the voting rights otherwise allocable to each unit owned by Declarant until the earlier of (a) when Declarant has sold and conveyed to a person other than a successor declarant 75 percent or more of the total number of units that Declarant may submit in the Condominium, or (b) seven years after the date of the first conveyance of a unit to a person other than a successor declarant.

Article 9

SERVICE OF PROCESS

The designated agent to receive service of process in cases provided in subsection (1) of ORS 100.550 is named in the Condominium Information Report that has been filed in accordance with ORS 100.250(1)(a).

Article 10

USE OF PROPERTY

Each unit is to be used for the purposes set forth below. Additional limitations on use are contained in the Bylaws and the rules and regulations adopted pursuant to the Bylaws. Each unit owner shall be bound by each of such documents.

10.1 **Residential Units.** Residential Units shall be used for residential purposes as defined in the Bylaws.

10.2 **Commercial Units.** Commercial Units shall be used for any retail, commercial or professional purposes permitted by applicable zoning regulations; provided, however, that Commercial Units may not be used for sales of pornographic or erotic videos, adult literature, objects or similar merchandise, used as a gym, nightclub, bar, or any other facility providing nighttime entertainment.

Article 11

MAINTENANCE OF COMMON ELEMENTS

11.1 **Responsibility for Maintenance.** The necessary work to maintain, repair or replace the common elements shall be the responsibility of the board of directors of the Association and shall be carried out as provided in the Bylaws.

11.2 **Mortgagee's Rights upon Failure to Maintain.** If the Mortgagee of any unit determines that the board of directors is not providing an adequate maintenance, repair and replacement program for the common elements, such Mortgagee, at its option, may give a notice to the board of directors by delivering same to the registered agent, setting forth the particular defect that it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within 90 days subsequent to receipt of such notice, then the Mortgagee, upon written notice to the registered agent that it is exercising its proxy rights, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each unit on which it holds a Mortgage on all business coming before such meeting. Such proxy rights shall continue until the defects listed on the notice are corrected.

Article 12

EASEMENTS

12.1 **In General.** Each unit has an easement in and through each other unit and the common elements for all support elements and utility, wiring, heat, plumbing, and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium, including, without limitation, easements as required for the electrical wiring and plumbing for each unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law. Each unit owner has an unrestricted right of ingress and egress to his or her unit. This right is perpetual and passes with the ownership of the unit.

12.2 **Encroachments.** Each unit and all common elements shall have an easement over all adjoining units and common elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching units and common elements so long as the encroachments shall exist, and the rights and obligations of owners shall not be altered in any way by the encroachment. This provision does not relieve a unit owner of liability in the case of willful misconduct of the unit owner, or relieve Declarant or any contractor, subcontractor or materialman from any liability as a result of failure to adhere to the Plat. The encroachments described in this Section 12.2 shall not be construed to be encumbrances affecting the marketability of title to any unit.

12.3 **Granting of Easements by Association.** Subject to the requirements of ORS 100.405(6), the Association may grant, execute, acknowledge, deliver and record on behalf of the unit owners leases, easements, rights-of-way, licenses, and similar interests affecting the common elements and consent to vacation of roadways within and adjacent to the Condominium. Any such instrument shall be executed by the chairperson and secretary of the Association. No such interest may be granted with regard to a limited common element unless the owners and Mortgagees of the units having the right to use such limited common element consent to and join in the instrument granting the interest.

12.4 **Right of Entry.** The board of directors of the Association, managing agent, manager or any other person authorized by the board of directors shall have the right to enter any unit and limited common element in the case of an emergency originating in or threatening such unit or other condominium property, whether or not the owner is present at the time. Such persons shall also have the right to enter any unit and limited common element for the purpose of performing installations, alterations or repairs to any common element and for the purpose of inspection to verify that the unit owner is complying with the restrictions and requirements described in this Declaration and the Bylaws, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner.

12.5 **Easements for Declarant.** Declarant and Declarant's agents, successors and assigns shall have an easement over and upon the common elements as may be reasonably

necessary for the purpose of constructing additional stages and completing or making repairs to existing structures, for the purpose of carrying out sales and rental activities necessary or convenient for the sale or rental of units, including, without limitation, the right to use the units owned by Declarant as model units and the right to use a unit as a sales office, and for the purpose of discharging any other obligation of Declarant or exercising any other special Declarant right, whether arising under the Oregon Condominium Act or reserved in this Declaration or the Bylaws. For a period of ten (10) years following recording of this Declaration, Declarant shall have a right to inspect the common elements of the Condominium and the Association's records regarding inspections and maintenance of the Condominium.

12.6 Reservation of Easements for Future Development. Until such time, if ever, that the real property described in Exhibit C has been annexed to the Condominium, Declarant hereby reserves (a) a nonexclusive easement for ingress and egress over all roadways and driveways within the Condominium, (b) an easement for the maintenance and use of all existing utility lines and systems within the Condominium, including without limitation water, sewer, gas, electrical, telephone, communication and cable television systems, and (c) an easement for the installation, maintenance and use of new utility lines and systems upon the general common element land of the Condominium, provided Declarant restores any damage to the general common elements resulting from such installation or maintenance. Such easements shall be for the benefit of and shall run with the ownership of the entire remainder of the proposed project site as more particularly described in Exhibit C, and each and every portion thereof, whether or not such property is annexed to the Condominium as provided in Article 16 below.

Article 13

APPROVAL BY MORTGAGEES

13.1 Notice of Action. Upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the unit number or address of the unit on which it has (or insures or guarantees) the Mortgage; any such Mortgagee shall be entitled to timely written notice of the following:

- (a) Any condemnation or casualty loss that affects a material portion of the Condominium or affects the unit securing its Mortgage.
- (b) Any 60-day delinquency in the payment of assessments or charges owed by an owner of any unit on which it holds the Mortgage.
- (c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.
- (d) Any proposed action that would require consent of a specified percentage of Mortgagees as required by this article.

13.2 Termination and Amendment to Documents.

- (a) Unless a greater vote is required by this Declaration, the Bylaws or the Oregon Condominium Act, the approval of Mortgagees holding Mortgages on units that have at

least 51 percent of the voting rights of units subject to Mortgages shall be required to terminate the legal status of the project as a condominium.

(b) . Except when a greater percent is required by the Declaration or Bylaws, or a greater or lesser percent is required by the Oregon Condominium Act, the consent of the Mortgagees holding Mortgages on units that have at least 51 percent of the voting rights of the units subject to Mortgages shall be required for any amendments to the Declaration or Bylaws of a material adverse nature to Mortgagees.

(c) An addition or amendment to the Declaration or Bylaws shall not be considered material or adverse for purposes of Section 13.2(b) if it is for the purpose of correcting technical errors, or for clarification only. Any Mortgagee who receives a written request to approve any termination, additions or amendments and who does not deliver or post to the requesting party a negative response within 60 days shall after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, return receipt requested, be deemed to have approved such request.

13.3 **Additional Approvals.** In addition to any other or greater approvals required by the Oregon Condominium Act, this Declaration or the Bylaws, the prior written approval of two-thirds of the holders of first Mortgages on units in the Condominium (based upon one vote for each first Mortgage owned) or unit owners (other than Declarant) must be obtained for the following:

(a) Abandonment or termination of the Condominium regime.

(b) Except as otherwise provided in Section 16.4 and 17.1, any change in the pro rata interest or obligations of any individual unit for (a) purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the pro rata share of ownership of each unit in the common elements.

(c) The partition or subdivision of any unit, except as otherwise provided in Article 14.

(d) Abandonment, partition, subdivision, encumbrance, sale or transfer of the common elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause.

(e) Use of hazard insurance proceeds for losses to any condominium property, whether to units or to common elements, for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the units and/or common elements of the condominium project.

13.4 **Notice to First Mortgagees of Defaults.** Any first Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the owner of the Mortgaged unit of any obligation under this Declaration, the rules and regulations or the Bylaws that is not cured within 60 days.

Article 14

CHANGES TO UNITS

14.1 **Relocation or Elimination of Boundaries; Consolidation or Division of Units.** Subject to compliance with the provisions of this Article and the Oregon Condominium Act,

(a) The boundaries between adjoining Commercial Units may be relocated, or may be eliminated so as to consolidate two or more such units into one unit; and

(b) A Commercial Unit may be divided or subdivided by an owner; including Declarant, into a total of not more than three Commercial Units; provided that no such division shall result in a Commercial Unit of less than 700 square feet.

14.2 **Proposed Amendment.** The owner or owners of the units to be changed as provided in Section 14.1 above shall submit to the board of directors of the Association a proposed amendment which shall (a) state the purposes of the amendment, (b) identify the units involved, (c) assign an identifying number to any new unit created, (d) reallocate the interest in the common elements and the use of any limited common elements, voting rights, common expense liability and the right to common profits on the basis of the relative square footage of the units, (e) provide a means of access for each unit to common elements in the case of division of units or conversion of units to common elements, (f) include words of conveyance in the case of a relocation or elimination of boundaries and (g) include any additional provisions necessary to conform to any other provisions of this Declaration or the Bylaws.

14.3 **Approval of Board of Directors.** The board of directors shall approve the proposed amendment unless the board determines within 45 days that the amendment is inconsistent with this Declaration or the Bylaws, or the change will impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

14.4 **Opinion of Engineer; Supervision.** The board of directors may require the owner or owners of the units to be changed to submit an opinion of a registered professional engineer as to whether or not the proposed change will impair the structural integrity or mechanical systems of the Condominium or weaken support of any portion of the Condominium. The board of directors or any agent appointed by the board may supervise the work necessary to effect the change. Any expenses incurred under this section shall be charged to the owners requesting the change.

14.5 **Execution and Recording of Amendment and Plat.** The amendment shall be executed by the owner or owners and any mortgagees of the affected units, certified by the chairman and secretary of the Association and approved and recorded in accordance with the Oregon Condominium Act. In addition, a plat showing the change shall be recorded in accordance with such Act.

Article 15

ASSOCIATION OF UNIT OWNERS

15.1 Organization. Upon the recording of this Declaration an association of unit owners shall be organized to serve as a means through which the unit owners may take action with regard to the administration, management and operation of the Condominium. The name of this association shall be "Cannery Loft Condominium Owners Association," and the Association shall be an Oregon nonprofit corporation.

15.2 Membership: Board of Directors. Each unit owner shall be a member of the Association. The affairs of the Association shall be governed by a board of directors as provided in the Bylaws.

15.3 Powers and Duties. The Association shall have such powers and duties as may be granted to it by the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4), together with such additional powers and duties afforded it by this Declaration or the Bylaws.

15.4 Adoption of Bylaws. Declarant Control of Association. Upon the execution and the recording of this Declaration, Declarant shall adopt Bylaws for the Association, which Bylaws are attached as Exhibit D. Declarant specifically reserves the right to control the Association by appointing the interim directors of the Association until the organizational and turnover meeting of the Association has been held and the unit owners have elected regular directors as provided in Sections 2.2 and 3.4 of the Bylaws. In addition, Declarant shall have the right to consent to any amendment to the Declaration or the Bylaws as provided in Section 17.1 below and Section 9.2 of the Bylaws, and a weighted vote in the Association as provided in Section 8.2 above.

Article 16

PLAN OF DEVELOPMENT

The Condominium may be developed in stages. By recording this Declaration, Declarant hereby submits Stage 1 to the Condominium form of ownership. Declarant reserves the right to add additional stages to the Condominium and to annex such additional stages by recording supplements to this Declaration pursuant to ORS 100.120, together with a plat of the stage being annexed bearing a completion certificate as required by ORS 100.120 and 100.115.

16.1 Maximum Number of Units. If fully developed, the Condominium shall contain not more than 93 Residential Units and 27 Commercial Units, for a total of not more than 120 units.

16.2 Termination Date. No additional stage may be added more than 10 years after the recording of this Declaration. Such date may be extended for a period not to exceed two years by an amendment adopted pursuant to Section 17.1.

16.3 **Additional Common Elements.** Declarant does not propose to include in future stages any common elements that would substantially increase the proportionate amount of the common expenses payable by owners of units in Stage 1.

16.4 **Allocation of Interests in Common Elements.** The allocation of undivided interests in the common elements of units in Stage 1 will change if additional stages are annexed to the Condominium. Such allocation shall be determined by the ratio of the approximate area of each unit compared to the total approximate area of all units then existing in the Condominium.

Article 17

AMENDMENT

17.1 **How Proposed.** Amendments to the Declaration shall be proposed by either a majority of the board of directors or by unit owners holding thirty percent (30%) or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

17.2 **Approval Required.** Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if such amendment is approved by unit owners holding 75 percent of the voting rights of the Condominium, without regard to any weighted vote otherwise allocable to units owned by Declarant, and by Mortgagees to the extent required by Article 13. Declarant's prior written consent shall also be required until annexation of the last stage of the Condominium and so long as Declarant owns any of the units in the last stage of the Condominium, but no such consent shall be required after 10 years from the date of annexation of the last stage of the Condominium. Except as provided in Article 16 and except as otherwise permitted by the Oregon Condominium Act, no amendment may change the size, location, allocation of undivided interest in the common elements, the method of determining liability for common expenses, the method of determining the right to common profits, or the method of determining voting rights of any unit unless such amendment has been approved by the owners and Mortgagees of the affected unit. Any amendment that would limit or diminish any special Declarant rights established in this Declaration or the Bylaws, including, without limitation, any amendment that could unreasonably interfere with the sale, lease or other disposition of units owned by Declarant or that could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved for Declarant or which would impose any discriminatory charge or fee against Declarant, shall require the written consent of Declarant. Any provision of this Declaration adversely and materially affecting the Commercial Units may not be amended without the written consent of the owners of the Commercial Units.

17.3 **Recordation.** The amendment shall be effective upon recordation in the Deed Records of Clatsop County, Oregon, of the Declaration as amended or of the amendment thereto, certified to by the chairperson and secretary of the Association as being adopted in accordance with this Declaration and the provisions of the Oregon Condominium Act, and approved by the county assessor and the Real Estate Commissioner if such approvals are required by the Oregon Condominium Act.

The foregoing Declaration is approved this **!!!I!** day of **Af#il**, 20P1_.

ASSESSOR AND TAX COLLECTOR
FOR CLATSOP COUNTY



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The foregoing Declaration is approved pursuant to ORS 100.110 this# aay of
, 20!!:1_ and in accordance with ORS 100.110(7), this approval shall
automatically expire if this Declaration is not recorded within two (2) years from this 41\tr'.

seeH Wp"f::SR

Acting

Real Estate Commissioner

By *Laurie Sta*



EXHIBITA

Legal Description Stage 1

The real property being described as follows:

All of Lot 7 and a portion of Lot 6, ASTORIA BUSINESS PARK, NE 114 Section 9, T8N, R9W, W.M., in the City of Astoria, Clatsop County, Oregon, being recorded under instrument No. 200410597, Records of the Clatsop County Clerk, further described as follows:

Beginning at the initial point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "LS 1887", said point being the Northwest corner of said Lot 7;

Thence North $78^{\circ}02'28''$ East a distance of 230.70 feet along the North boundary of said Lot 7 and its Easterly extension to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence South $11^{\circ}57'32''$ East a distance of 159.00 feet to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence North $78^{\circ}02'28''$ East a distance of 6.00 feet to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence South $11^{\circ}57'32''$ East a distance of 24.12 feet to a point being marked with a 5/8 inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC.".

Thence South $02^{\circ}52'10''$ West a distance of 29.51 feet to the South line of aforesaid Lot 6, and being on the North right-of-way line of Abbey Lane, to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence North $87^{\circ}07'50''$ West a distance of 236.64 feet along said North right-of-way line of Abbey Lane to a 25.00 foot radius curve to the right; said point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped HLB & ASSOC INC";

Thence along said curve to the right having a radius of 25.00 feet, through a central angle of $83^{\circ}27'14''$, an arc length of 36.41 feet (the chord of which bears North $45^{\circ}24'13''$ West 33.28 feet) to a point on the West line of said Lot 7, said point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC", and being the East right-of-way line of 39th Street;

Thence North $03^{\circ}40'36''$ West a distance of 124.62 feet, along said East right-of-way line of 39th Street to the initial point.

EXHIBIT B

Unit Square Footages and Undivided Interests

Unit	Unit Type	Square Footage	Undivided Interest
101	Commercial	214	0.568%
102	Commercial	987	2.619%
103	Commercial	989	2.624%
104	Commercial	925	2.454%
105	Commercial	989	2.624%
106	Commercial	991	2.629%
107	Commercial	425	1.128%
108	Commercial	424	1.125%
		5944	

201	Residential	970	2.574%
202	Residential	901	2.391%
203	Residential	958	2.542%
204	Residential	961	2.550%
205	Residential	968	2.568%
206	Residential	961	2.550%
207	Residential	960	2.547%
208	Residential	898	2.383%
209	Residential	968	2.568%
210	Residential	975	2.587%
		9520	

301	Residential	970	2.574%
302	Residential	896	2.377%
303	Residential	960	2.547%
304	Residential	960	2.547%
305	Residential	968	2.568%
306	Residential	961	2.550%
307	Residential	961	2.550%
308	Residential	895	2.375%
309	Residential	968	2.568%
310	Residential	972	2.579%
		9511	

401	Residential	1316	3.492%
402	Residential	1105	2.932%
403	Residential	1301	3.452%
404	Residential	1311	3.478%
405	Residential	1314	3.486%
406	Residential	1309	3.473%
407	Residential	1308	3.471%
408	Residential	1101	2.921%
409	Residential	1325	3.516%
410	Residential	1324	3.513%
		12714	

TOTAL		37689	100.000%
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EXHIBIT C

Legal Description of Property Available for Annexation

The real property being described as follows:

All of Lot 7 and a portion of Lot 6, ASTORIA BUSINESS PARK, NE 1/4 Section 9, T8N, R9W, W.M., in the City of Astoria, Clatsop County, Oregon, being recorded under instrument No. 200410597, Records of the Clatsop County Clerk, further described as follows:

Beginning at the initial point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "LS 1887", said point being the Northwest corner of said Lot 7;

Thence North 78°02'28" East a distance of 230.70 feet along the North boundary of said Lot 7 and its Easterly extension to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "H.I.B OTAK INC";

Thence South 11°57'12" East a distance of 159.00 feet to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence North 78°02'28" East a distance of 6.00 feet to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence South 11°57'32" East a distance of 24.12 feet to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence South 02°52'10" West a distance of 29.51 feet to the South line of aforesaid Lot 6, and being on the North right-of-way line of Abbey Lane, to a point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC";

Thence North 87°07'50" West a distance of 236.64 feet along said North right-of-way line of Abbey Lane to a 25.00 foot radius curve to the right, said point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB & ASSOC INC";

Thence along said curve to the right having a radius of 25.00 feet, through a central angle of 83°27'14", an arc length of 36.41 feet (the chord of which bears North 45°24'13" West 33.28 feet) to a point on the West line of said Lot 7, said point being marked with a 5/8-inch diameter rebar with a yellow plastic cap stamped "HLB OTAK INC", and being the East right-of-way line of 39th Street;

Thence North 03°40'36" West a distance of 124.62 feet, along said East right-of-way line of 39th Street to the initial point.

From: Ted Forcum
To: Tiffany Taylor; Barbara Frver
Subject: Work-live application
Date: Tuesday, June 30, 2020 12:39:09 PM

*****EXTERNAL SENDER*****

Dear commissioners and chair,

I would like to take this moment to comment on some of the statements made in public forum on the work-live use at the Cannery Lofts and provide clarification. I appreciate the many of the owners are fearful of change and feel entitlement of the commercial units, but also recognize that change is necessary in business for survival. Clearly there is a great deal of change necessary in the world right now for businesses to survey COVID-19.

Purpose

The purpose of this application is to attempt to increase commercial occupancy and draw new business to the city of Astoria. With economic uncertainty amidst COVID-19 I believe we might be facing additional future economic hardships further challenging business opportunities. As it is commercial occupancy has been very challenging with mixed-use limitations. I currently have parties actively expressing interest in work-live use without other viable alternatives for maintaining both residents and business in Astoria. Additionally, I feel this use is very compatible with the already mixed-use design at the Cannery Loft.

Background

Most commercial spaces in the complex have remained vacant since 2007 with few exceptions over the 13 years. At the time I purchased the commercial spaces the HOA was in severe financial hardship as all the commercial dues had not been paid by the preceding owners. Additionally, the complex was entering turmoil of construction litigation. I brought the HOA into a stable financial position by bring the dues current and continuing to maintain timely payments without which the HOA may have been facing bankruptcy according to two prior board chairs.

The Cannery Lofts were originally constructed under general industrial zoning with residential as a secondary use. Several years ago, through great effort and expense I worked with the city to rezone the complex to shoreline tourism, S2A. The thought was that machine shops, fish processing and fuel storage commercial use under residence is unfavorably under residences.

HOA permission

Several HOA residents and board members are upset that permission wasn't granted from the HOA and residents prior to application. HOA permission is not a requirement by the HOA of commercial use or of the city for conditional use. If resident and HOA permission was a condition of commercial use there would never be any business occupying the spaces as there would never be agreement within the 80 units and board.

There is a long history of HOA interference and blocking of commercial activity at the Cannery Lofts. This has contributed largely to the prolonged vacancy at the complex. This preceded my ownership and extended through the two prior commercial owners. Unfortunately, a few years back I was forced to file legal action related to transparency issues of back channeling, dues charges and interference with commercial tenants.

HOA notification

There was a great deal of complaint over lack of notification provided to the HOA board. Several conditional use applications have been made in the past for use at the Cannery Lofts. None of which had HOA board advanced approval.

The HOA was made aware almost immediately upon approval of the application based on the efficiency of city planner Barbara Fryer who must have sent out notifications to owners at nearly the same time she notified me.

- June 1, I receive notification from the HOA chair at 7:12 PM that owners have receive notice.
- I reached out to each board member individually regarding questions. Only one responded with questions.
- June 2, The HOA sent out a statement to all owners regarding the June 23 hearing. This is never been done before with any prior conditional use application. (see email below)

To Owners:

You have no doubt received a notice from the Planning Office of Astoria regarding a public hearing to be held on Tuesday, June 23, 2020 at 6:30 PM in the Astoria City Hall. This news comes as a surprise to the Board of Directors, and are we are unable to provide you with any information other than the application document that can be obtained from the Community Development Department.

I have been in contact with the applicant, Ted Forcum, of Nomadic Properties, who is the Commercial Owner and a Board Member of the HOA in an attempt to obtain more information. This proposal will bring major changes to our community, and I have asked Mr. Forcum to share the details of this project to the owners as soon as possible.

He indicates in his email to me that he is more than willing to talk with and welcomes owners comments and concerns, he can be reached at tedforum@gmail.com.

Sincerely,

Jean Danforth, President

- June 9, I provided summary information to residents, based information provided by the city planner and information submitted in the application. Those that called or e-mailed I responded to personally.
- June 19 at the HOA board meeting I reported to the board and owners on the conditional use application. No questions were asked when I called for questions.

While notification is not a requirement of the city or HOA for application, I did provide more than adequate notice and opportunity for questions.

Commercial/residential use of utilities

The residents expressed concerned about utilities fees. I have been paying for the same allocation of utilities as residential owners on vacant spaces for 13 years with predominantly vacant commercial spaces. As such the residential owners have a vested interest to have commercial units unoccupied keeping the commercial owner paying a disproportionate share of HOA expenses services with minimal use of utility.

There is absolutely no logic how work-live would utilize a greater percentage of utilities than a resident or average commercial space.

Commercial use of infrastructure

Utility capacity infrastructure in the buildings are existing for the commercial units and would be utilized without regard to occupancy by a commercial business or residence. If anything industry many have the potential of greater use and the building was constructed with general industrial use as the primary purpose. Lancaster Engineer produced a n 81 page study of possible public services use for the 2015 rezoning, in the worst case scenario of occupancy utility capacity was more than sufficient for industry, restaurant and laundry service, etc.

Permitting

Obviously, any plans for construction are approved, permitted, and inspected by the city whether commercial or residential. There is no assumption that somehow with work-Live that these occupants would be any different.

Parking

During the rezoning to S2a there was great residential concern about disruption of their parking utilization. Residential owners held a parking coup led by one of the HOA board members Leslie Morehead through ex-partite communication. At that time parking occupancy averaged 24.9%. A parking study was performed by Lancaster Engineering which was submitted to the City of Astoria last year demonstrating total parking occupancy varying from 28.6-35.4%. Clearly there have been unfortunate inaccurate rumors and the parking concerns by many residents are not well founded by data and reality but etched in fear and control.

The city calculates parking for the residential units as 1.25 parking spaces per approximately 950 sq. ft. unit and 1.5 parking spaces per approximately 1,400 sq. ft. unit. For the 425-489 sq. ft. residential portion of the work-live spaces the city is applying 2 parking spaces. I think it is safe to say that the probability of a 1400 sq. ft. residential unit utilizing more parking than a 425-489 sq. ft. residential unit is self-evident. I believe it is reasonable to anticipate that the

parking use of the 425-489 sq. ft. residential component of the work-live unit would comprise 1 parking spaces which is equivalent to the existing commercial parking of 1 vehicle per 500 sq. ft. Thus, work-live application would not create any change in meaningful parking utilization at the complex.

Summary

So far, I have received complaints from residents regarding every commercial use at the complex. This includes psychology, medical administrative office, massage therapist, hair salon, photography, medical office, day spa, mini storage, investigation service, legal office, and a prosthetics clinic. In my mind these are all the ideal businesses in a complex associated with residential use compared to other alternatives allowed within the zoning. It just seems that you cannot satisfy residential owners who have a vested interest to keep the commercial spaces unoccupied.

I hope you can support this very compatible work-live use with the already mixed-use design at the Cannery Loft while there are parties actively expressing interest in work-live use without other viable alternatives for maintaining both residents and business in Astoria.

Sincerely,

Ted Forcum, DC, DACBSP, DACRB, FICC(hon),CES, PES, CSCS

Joint Commission on Sports Medicine and Science, Board Member
Portland Winterhawks, Team Chiropractor
2015 USA Track & Field World Championships Medical Team
'07-08 US Olympic Sports Medicine Team Member
ACA Sports Council, Past President 2008-2010

Dr Forcum LLC
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