



CITY OF ASTORIA

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MEMORANDUM

DATE: MARCH 3, 2021

TO: MAYOR AND CITY COUNCIL

FROM: BRETT ESTES, CITY MANAGER

SUBJECT: APPEAL (AP21-01) BY ORR, HEINER, AND FULTON OF THE ASTORIA PLANNING COMMISSION'S APPROVAL OF APPEAL (AP20-04) ON THE ADMINISTRATIVE DENIAL DECISION OF MISCELLANEOUS REVIEW-CLASS "B" HOME OCCUPATION REQUEST (MR20-02) FOR AUTO-DETAILING AT 3349 IRVING

BACKGROUND

The Appeal application (AP21-01) seeks to overturn the Planning Commission's Decision to approve a Home Occupation for Auto-Detailing at 3349 Irving Avenue. The applicant submitted a Miscellaneous Review application (MR20-02), that was reviewed as a Type II (Staff Level) application and was denied. The applicant filed an appeal (AP20-04) that was reviewed as a Type III application (Planning Commission Level). The applicant made adjustments to their proposal and the Planning Commission approved the appeal, thus approving the Auto-Detailing business.

The approved proposal is to locate an indoor auto-detailing business in an existing dwelling at 3349 Irving Avenue. In the original application (MR20-02), the applicant stated that they would operate Monday through Sunday between the hours of 7:00 am to 6:00 pm. However, as part of the appeal application, the applicant changed the hours of operation to 9:00 am to 6:00 pm, limited to 3 customers per week. With this change in the hours of operation the Planning Commission approved the Appeal (AP20-04), which allowed for the business.

APPELLANTS

1-The Appellants contest that the Home Occupation Approval Order and Findings limit the operation of the business between the hours of 9am and 6pm and to three *vehicles* per week and that Condition of Approval #1 addresses the hours of operation and not the number of vehicles permitted to visit the business and that as such an increase in the number of vehicle trips on 34th street could be unlimited. This is partially accurate and partially inaccurate.

First it is important to clarify that the Planning Commission's decision did not limit the number of *vehicles* to three per week. It did limit the number of *customers* to three per week. The Finding states:

“FINDING: The City finds that the applicant's business operations are limited to 9:00 am to 6:00 pm, by appointment only, and limited to three customers per week at the residence. In order to ensure compliance with the stated hours of operation and numbers of clients coming to the location, staff recommends the following condition of approval: Condition #1: All auto-detailing activity shall occur only between the hours of 9:00 am and 6:00 pm.”

This Finding is enforceable without a condition of approval. In addition, the applicant agreed to it at the public hearing, on the record, and as a part of the Appeal application (AP20-04) material submitted to the Planning Commission.

The Finding does include the hours of operation and does limit the number of customers but not the number of vehicles. There is nothing in the Order and Findings that limit the number of vehicles. The Astoria Development Code (ADC) §3.095(C), “Standards” addresses the number of vehicles permitted for a Class B Home Occupation in the following ways:

§3.095(C)(10) states “No more than one truck, associated with the home occupation, may be parked at the site. Parking must be off-street. The maximum size of the truck allowed on site is a one-ton truck. Extended or prolonged idling of vehicles, or maintenance or repair of vehicles on adjacent streets is prohibited.”

§3.095(C)(11) states “Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00am and 6:00pm¹. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.”

2-The Appellants claim that the Planning Commission incorrectly interpreted ADC§3.095(C)(3) which states “On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.”

The Appellants contest that auto-detailing should be considered on-site repair of vehicles or equipment with internal combustion engines or large equipment. As described in the original Appeal (AP20-04) application material and in a letter from their representative, Carrie Richer of Bateman Seidel, dated January 21, 2021, the business cleans vehicles and uses vacuuming and power washing. The business does not assemble vehicles or internal combustion engines, nor does it assemble large equipment. It also does not repair component parts of a vehicle or appliances. The proposed operation includes vehicle maintenance or service.

3- The Appellants state that the Planning Commission erred in not limiting all activities to take place internally. This is inaccurate. Condition of approval #2 was corrected to specifically address this. Condition of approval #2 reads “All activity associated with the Auto-detailing business shall be conducted inside the garage and the garage door shall remain closed while equipment is in use at 3349 Irving Avenue.”

4- The Appellants claim that noise will not be contained on site. The Planning Commission found that as conditioned the noise would be contained on site. This was based on testimony from an adjacent neighbor and audio recordings submitted by the business owner in which the decibel levels recorded were less than or equitable to common residential noise.

5- The Appellants contest that the Planning Commission did not address commercial deliveries. However, ADC§3.095(C)(11) requires deliveries to be between 7:00am and 6:00pm. In addition, the standards require that any deliveries are from trucks that do not exceed 20,000 pounds gross vehicle weight. This eliminates all tractor-trailers, trucks the size of a dump truck, or concrete truck. Some mid-size to small moving trucks are approximately 20,000 pounds. The business owner did state in the record that there will be no deliveries associated with the business.

6- The Appellants claim that the Planning Commission did not consider any modifications to the home or parking for the business. Pictures of the home and site were included in the Staff Report that the Planning Commission had in advance of the public hearing. The business owner included in their application material that all parking will occur in their driveway.

7- The Appellants state that Condition of Approval #5 is “unclear”. This is a standard condition that is placed on all Orders. It is impossible for the Planning Commission to create a specific condition that would predict any potential future modifications or changes. This condition is a means for the City to require a business owner to come back in front of the Planning Commission and/or Director to decide what process, and new standards, if any, would be required if a change to the business model or site occurred.

CONCLUSION

Based on the findings of fact contained in the Planning Commission’s Decision and Order, the standards and criteria for an Auto-Detailing Home Occupation are met. Therefore, staff recommends denial of the proposed Appeal.

NOTICE OF APPEAL AP21-01

by

ORR, HEINER AND FULTON

of the

**PLANNING COMMISSION'S APPROVAL DECISION OF
APPEAL AP20-04**

by

WILL GUTIERREZ

on the

**ADMINISTRATIVE DENIAL DECISION
OF MISCELLANEOUS REVIEW-CLASS "B"
HOME OCCUPATION REQUEST (MR20-02)**

by

WILL GUTIERREZ



Prepared by

City of Astoria

Community Development Department

1095 Duane St. • Astoria, OR 97103

NOTICE OF APPEAL AP21-01

**by
ORR, HEINER AND FULTON**

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**PLANNING COMMISSION’S APPROVAL DECISION
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RE: For Appeal Request AP21-01, Guterrez car detailing home business application hearing date March 15, 2021

Dear Astoria City Council members:

I am concerned about a case that will set a precedent for the future of what is acceptable as a business on residential property in Astoria.

The specific case of Guterrez's home business application, concerns the right to have a car detailing business on residential property. It pits one person's ability to make a wage at home with another person's ability to experience peace and quiet in his home. I read about the case in the Daily Astorian and noted that as front-page news it must mean this decision will affect all neighborhoods in Astoria. The noise level generated by this business must have been significant enough to be heard by neighbors who were inside their homes in order for this case to be brought forth. The newspaper article states Guterrez will make modifications to contain the noise which is good but who will make the inspection to see that this is done? Will the business submit a description on how the garage will take into account proper ventilation and water drainage if the doors are closed? Will there be an inspection to check if the equipment noise can still be heard? I'm concerned there will not be oversight of the noise attenuation and I do not believe that neighbors should do the reporting or make sound level measurements since that would only lead to discord.

I would not like to listen to the sound of a power washer or any other equipment for several hours a day on a regular basis every week. Nobody would. A home business should not interfere with the quality of life of the neighbors. Its existence should preserve the peace and quiet of the neighborhood like the West End Comprehensive Plan. If you allow this car detailing business to proceed, be prepared to set stipulations that can be monitored and adhered to. If this is not a feasible task for the City of Astoria, then Astoria may end up having other home businesses with unregulated noise control in the future if this application goes forward. To me, this is a valid complaint. I appreciate your commitment to take on the responsibility to hear and address this matter.

Sincerely,

Lilly Lee

February 28th 2021

City of Astoria
Community Development
1095 Duane Street
Astoria, OR 97103
Appeal -AP 21-1



I live at 984 34th Street and I am writing this letter to oppose the City allowing a Auto Detailing business to operate at 3349 Irving Avenue because this business operates outside, makes noise, causes water runoff, increases customer traffic and deliveries.

My family and the Fulton family have been at 34th and Irving for easily 100 years. During this time, we have worked together to share a driveway and to pay for our part of the improvements to 34th street above Irving Avenue. It has been a very peaceful neighborhood. This is important to me because I work nights and sleep during the day.

Last year this all changed with the start-up of an unpermitted auto detailing business. It was very noisy and selfish to operate a gas power washer and electric tools outside or with the garage door open especially since the noise would go on for days at a time. In the summer the City caught him and made him change his operation. I understand the gas power washer is gone but I still regularly hear noise from his activities. Just the other day I heard his air compressor running from my bedroom. I was extremely upset that the City would allow this to still go on. To be clear- I still am hearing noise from the auto detailing business at my house, even if the business owner says otherwise. He has never talked to me and asked me about it!

We have a one lane portion of 34th Street that the neighbors pay to maintain and it splits off to go up a rock road to 3349 Irving. The increased traffic on 34th street to the business since it has started is noticeable and noise from the rock road is loud when you are trying to sleep. Last week I was blocked from leaving by a UPS truck that was backing up to deliver something to the business. I also worry about the water from the washing causing a landslide, we have too much water run off in our area and the stream at 34th Street is always full this time of year.

As I said, I work nights, so I can not attend the City meeting to let you know how mad I am about this business in my neighborhood. It is disturbing that the City would even consider to allow it here or anywhere near homes. A home business should be an office not an industrial activity like working on cars or washing them because it makes noise.

Please do not let this business operated in my neighborhood just because the owner can't afford to rent an industrial location. This is my home!

Don Heiner
984 34th Street
Astoria., Oregon 97103

A handwritten signature in black ink that reads "Don E. Heiner".

From: [Sara Orr](#)
To: [Tiffany Taylor](#)
Subject: Appeal AP 20-04/MR20-02
Date: Friday, March 5, 2021 11:52:21 AM

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

Good Morning

I am sending this to confirm I am going forward with my appeal of the Planning Commission decision regarding a business at 3349 Irving.

In order to avoid the appeal process, I had reached out to the business owner to seek clarity on the volume of cars to be serviced. I included the other neighbors who were opposed to the disruptions caused by this business. Mr. Guitierrez has chosen not to respond to our offer

The ambiguity of wording in the Planning Commission decision allows for non compliance by the business.

No actual limit was put on the number of cars to be serviced. A suggestion was offered, but to accept that as fact is assuming the business owner has no intention of growing.

"Inside with doors closed when car is being worked on". It would be reasonable to think this would mean all work to include vacuuming, washing and drying would be done inside. However, this was not specified.

ALL noise should be contained inside the business. It is not.

The interpretation of the wording "auto repair" in the city code as to mean work on internal combustion engines, could open up a Pandora's Box of any type of auto work creeping into our residential neighborhoods.

Thank you

Sara Orr

651 Help Wanted



Clatsop Retirement Village has current openings for:
Dietary Aide
Caregiver
Medication Aide
Activity Director
 If you enjoy working with seniors, consider a career with us. Benefits include – employer paid medical/dental, generous PTO, and the opportunity to advance your career. Apply online <https://www.clatsopcare.org/>



SEASIDE SCHOOL DISTRICT is seeking candidates for:
BUS DRIVER & MECHANIC/BUS DRIVER
 Paid Training Available
 Great work environment and excellent benefits!
 Visit our employment page to apply:
www.seaside.k12.or.us/employment
 or (503) 738-5591
 The District is an EOE



Pacific Sleep Program
Setting the standard in sleep medicine for over 30 years.

Pacific Sleep Program delivers comprehensive sleep medical care throughout NW Oregon & Southern Washington. We are looking for a full-time medical assistant/medical receptionist. 36-40 hours/week. Pay DOE. Benefits package includes: medical/dental/401K, paid time off. Forward resume to: sleonardopa@snoreweb.com



Full Time Registration Clerk Positions

Days, nights, weekends, holidays, shifts will vary, 2 positions available. Duties include entering all patients

651 Help Wanted



Full-Time Employment
 The YRLC Water District is hiring for entry level laborer position. Closes 3/11. WWW. YoungsRiverWater.Org for details and application or pickup at 34583 Hwy 101 Business in Astoria (503)325-4330



Immediate Opening
 Clatsop Distributing is seeking an office assistant. The assistant should have excellent customer service skills. They must be motivated, able to multitask and a problem-solver. Knowledge of the beer and wine industry a plus. The assistant should also be proficient in data entry and Microsoft Office. Send resume and cover letter to:
 Clatsop Distributing Company
 PO Box 420
 Astoria, OR 97103

Let your pockets "jingle" with extra cash from The Daily Astorian classifieds.



Clatsop Community College is hiring for the following position:
Instructor, Maritime Technology:
 Full-time position begins September 2021. View job descriptions/qualifications and apply on-line at our web site www.clatsopcc.edu/human-resources/. Applications must be completed by April 12, 2021.

Contact the Office of Human Resources at Clatsop Community College at (503) 338-2406 or hr@clatsopcc.edu if application assistance is needed. AA/EOE



Immediate Openings Full-Time

101 Legal Notices

101 Legal Notices

AB8107
 CITY OF ASTORIA
 NOTICE OF PUBLIC HEARING

Due to the COVID-19 Pandemic, public hearings will be conducted in the City Council Chambers with a limited seating arrangement. Masks are required. To adhere to the social distancing recommendation, you may also participate in the public hearing remotely. Go to https://www.astoria.or.us/LIVE_STREAM.aspx for connection options and instructions. You may also use a telephone to listen in and provide public testimony. At the start of the meeting, call (253) 215-8782 and when prompted enter meeting ID# 503 325 5821.

The Astoria City Council will hold a public hearing on Monday, March 15, 2021 at 7:00 p.m., in the City Council Chambers at City Hall, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request:

1. Appeal AP21-01 by Orr, Heiner and Fulton of the Astoria Planning Commission's decision to approve Appeal AP20-04 of Administrative Denial Decision MR20-02 by Will Gutierrez to operate a home-based business detailing automobiles at 3349 Irving (Map T8N R9W Section 17BA; Tax Lot 10900; Lot 3; Block 65; Adair's Upper) in the R-1 Zone. The appellants identified the following items as grounds for the appeal: Development Code §3.095 (Home Occupations), Sections C.1, C.3, C.7, C.9, C.11, C.12 and Staff Report Condition #5.

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. The location of the hearing is accessible to the handicapped. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting the Community Development Department at 503-338-5183, 48 hours prior to the meeting. The City Council's ruling may be appealed to the State Land Use Board of Appeals by the applicant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Intent to Appeal within 21 days after the City Council's decision. Appellants should contact the Oregon Land Use Board of Appeals (LUBA) concerning specific procedures for filing an appeal with LUBA. If an appeal is not filed with LUBA within the 21 day period, the decision of the City Council shall be final. All interested persons are invited to submit comments at the hearing or by letter addressed to the city council, 1095 Duane St., Astoria, OR 97103. The Astoria City Council 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
PUBLISHED: March 6, 2021

101 Legal Notices

101 Legal Notices

AB8106
 CITY OF ASTORIA
 NOTICE OF PUBLIC HEARING

Due to the COVID-19 Pandemic, public hearings will be conducted in the City Council Chambers with a limited seating arrangement. Masks are required. To adhere to the social distancing recommendation, you may also participate in the public hearing remotely. Go to https://www.astoria.or.us/LIVE_STREAM.aspx for connection options and instructions. You may also use a telephone to listen in and provide public testimony. At the start of the meeting, call (253) 215-8782 and when prompted enter meeting ID# 503 325 5821.
Appeal Page # 4

The City of Astoria Historic Landmarks Commission will hold a public hearing on Tuesday, March 16, 2021 at 5:30pm in the Astoria City Hall Council Chambers at 1095 Duane Street, Astoria, OR 97103.

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CITY OF ASTORIA

Founded 1811 • Incorporated 1856

1095 Duane Street • Astoria, OR 97103 • Phone 503-338-5183 • www.astoria.or.us • comdevadmin@astoria.or.us

Mail	2-22-21
Email	3-5-21
Web	3-3-21
On Site	3-3-21
PJb	3-6-21

NOTICE OF PUBLIC HEARING

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All interested persons are invited to express their opinion for or against Appeal Request AP21-01 by email comdevadmin@astoria.or.us, by letter addressed to the Astoria City Council, 1095 Duane St., Astoria OR 97103, at the hearing, or remotely. 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 Astoria City Council and the parties an opportunity to respond to the issue precludes an appeal based on that issue.

The public hearing, as conducted by the City Council, 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 City Council. The City Council 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 Council's ruling may be appealed to the Land Use Board of Appeals by the applicant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Intent to Appeal within 21 days after the City Council's decision. Appellants should contact the Oregon Land Use Board of Appeals (LUBA) concerning specific procedures for filing an appeal with LUBA. If an appeal is not filed with LUBA within the 21 day period, the decision of the City Council shall be final.

THE CITY OF ASTORIA

Tiffany Taylor
Administrative Assistant

MAIL: February 22, 2021



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

1095 Duane Street • Astoria, OR 97103 • Phone 503-338-5183 • www.astoria.or.us • comdevadmin@astoria.or.us

Public meetings will be conducted in the Council Chambers with a limited seating arrangement. In addition, to adhere to the social distancing Order from Governor Brown (Stay Home Executive Order 20-12), meetings will be audio and video live-streamed.

ONLINE MEETING

At start of our Public Meetings you will be able to join our online ZOOM meeting using your **mobile or desktop device** and watch the live video presentation and provide public testimony.

Step #1: Use this link: <https://www.astoria.or.us/zoom/>

Step #2: Install the Zoom software on your mobile device, or join in a web browser

Step #3: If prompted, enter the Meeting ID number: 503 325 5821

Note: Your device will automatically be muted when you enter the online meeting. At the time of public testimony, when prompted you may choose to select the option within the ZOOM software to "raise your hand" and notify staff of your desire to testify. Your device will then be un-muted by the Host and you will be called upon, based on the name you entered within the screen when you logged in.

TELECONFERENCE

At start of our Public Meetings you will be able to **dial-in using your telephone** to listen and provide public testimony.

Step #1: Call this number: [253-215-8782](tel:253-215-8782)

Step #2: When prompted, enter the Meeting ID number: 503 325 5821

*Note: Your phone will automatically be muted when you enter the conference call. At the time of public testimony, when prompted, you may dial *9 to "raise your hand" and notify staff of your desire to testify. Your phone will then be un-muted by the Host and you will be called upon based on your phone number used to dial-in.*

AUDIO-ONLY

At start of our Public Meetings you will be able to access the Audio only to listen to the meeting.

Step #1: Use this link to access the online audio: <http://audio.coao.us>

AP21-01
Fremstad Melissa
Fremstad Erik
3388 Irving Ave
Astoria, OR 97103

AP21-01
Lapham Sarah E
Bocci Julia A
1700 SE Ladd Ave
Portland, OR 97214

AP21-01
Odom Anne L
975 34th St
Astoria, OR 97103-2600

AP21-01
Heiner Josephine
Heiner Don
948 34th St
Astoria, OR 97103-2611

AP21-01
Will Gutierrez
3349 Irving
Astoria, OR 97103

AP21-01
Steve Fulton
1050 34th Street
Astoria, OR 97103

AP21-01
Fremstad Trust
Fremstad Fredrik / Fremstad Helene
93052 Knappa Dock Rd
Astoria, OR 97103

AP21-01
Ferguson James P
Ferguson Debora E
3359 Irving Ave
Astoria, OR 97103-2632

AP21-01
West Jessamyn
Nystrom Graham
3409 Irving Ave
Astoria, OR 97103

AP21-01
G & L Trust
Fulton G C Tr
2912 28th Ave W
Seattle, WA 98199

AP21-01
Don West
3409 Irving Avenue
Astoria, OR 97103

AP21-01
Sara Orr
2912 28th Ave West
Seattle, WA 98119

AP21-01
Landwehr Lynne E/Landwehr Alfred W
Landwehr Family Trust
5425 NE Webster St
Portland, OR 97218

AP21-01
Larson Steven C
Larson Janis M
PO Box 331
Philomath, OR 97370

AP21-01
Orlando Cynthia L
Orlando Family Rev Liv Trst
PO Box 212
Naalehu, HI 96772-0212

AP21-01
Carrie Richter
Bateman Seidel
1000 SW Broadway Suite 1910
Portland OR 97205

AP21-01
Fred White
2011 Irving Avenue
Astoria, OR 97103

AP21-01
Oregon Dept. of State Lands
775 Summer St. NE #100
Salem, OR 97301-1279



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT

RECEIVED
FEB 16 2021

Community Development
CITY OF ASTORIA

Fee Paid Date 2/16/21 By ck # 6009
Fee: \$500.00

No. AP 21-01

NOTICE OF APPEAL

Property Address: 3349 IRVING AVE ASTORIA OR

Lot 3 Block 65 Subdivision AMIRS UPPER

Map T8N-R9W Tax Lot 10900 Zone R-2

Appellant Name: SARA ORR, Don Heider, STEPHEN FULTON (LIFE TRUST)
GFL Trust

Appellant Mailing Address: 2912 28th AVE WEST 97119, 984 34th STREET 97103

Phone: 503-791-1060 Business Phone: 503-347-5743 Email: Baraeforr@comcast.net
Steve@scfulton.com
(No email for D. Heider)

Issue Being Appealed: AP20-04 - HOME OCCUPATION

Signature of Appellant: [Signature] Date: 2/15/2021

Name of Appellant's Attorney (if any): TO BE DETERMINED ON ACCEPTANCE OF APPEAL

Address of Appellant's Attorney (if any): TO BE NAMED AT A LATER DATE

This Appeal is filed with the City of Astoria, in accordance with Development Code Section 9.040,
on a decision and/or ruling dated 2/1/2021 by the ASTORIA PLANNING COMMISSION

Commission (Department/Commission/Committee/City Official) 1/26/21 AP20-04
RE: MR20-02

Specific Criteria Appealed: B, 1, 3, 7, 9, 11 & 12

The specific grounds relied upon for review: PLEASE SEE THE ATTACHED
ADDITIONAL INFORMATION TO BE PROVIDED VERBALLY TO THE COUNCIL
AT THE APPEAL HEARING

(If additional space is needed, attach additional sheets.)

For office use only:			
Application Received :	<u>2/16/21</u>	Standing to Appeal	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Appeal Criteria:		Permit Info Into D-Base:	<u>2-16-21</u>
Application Complete:		Tentative <u>CC</u> Meeting Date:	<u>3-15-21</u>
Labels Prepared:			
120 Days:			





CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

RECEIVED
FEB 16 2021

Community Development
CITY OF ASTORIA

Fee Paid Date 2/16/21 By ck # 6009
Fee: \$500.00 01

No. AP 21-01

NOTICE OF APPEAL

Property Address: 3349 IRVING AVE ASTORIA OR

Lot 3 Block 65 Subdivision ADAMS UPPER

Map BN-R9W Tax Lot 10900 Zone R-2

Appellant Name: SARA ORR, DON HEIDER, STEPHEN FULTON (ALL THREE)

Appellant Mailing Address: 2912 28TH AVE NE SE 98119, 984 34TH STREET 97103

Phone: 503 791-1060 Business Phone: _____ Email: _____

Issue Being Appealed: AP20-04 - HOME OCCUPATION

Signature of Appellant: [Signature] Date: 2/15/2021

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Specific Criteria Appealed: B. 1, 3, 7, 9, 11 & 12 RE: MR20-02

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Application Complete:		Tentative Meeting Date:	
Labels Prepared:			
120 Days:			

Signature Page

Sara Orr
2/16/21

[Handwritten mark]



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 COMMUNITY DEVELOPMENT

RECEIVED
 FEB 16 2021
 Community Development
 CITY OF ASTORIA

No. AP 21-01

Fee Paid Date 2/16/21 By ck # 6009
 Fee: \$500.00 01

NOTICE OF APPEAL

Property Address: 3349 IRVING AVE ASTORIA OR

Lot 3 Block 65 Subdivision ASHRS UPPER

Map BN-R9W Tax Lot 10950 Zone R-2

Appellant Name: SARA ORR, DON HEIDER, STEPHEN FULTON (TRUST)

Appellant Mailing Address: 2912 28TH AVE WEST 97119, 984 34TH STREET 97103

Phone: 503 791-1060 Business Phone: 503-3474 STREET, 97103 Email: _____

Issue Being Appealed: AP20-04 - HOME OCCUPATION

Signature of Appellant: [Signature] Date: 2/15/2021

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Labels Prepared:		Tentative Meeting Date:	
120 Days:			

Signature Page

Don Heider Dave E Army 2-16-2021

2

Specific Grounds Relied Upon for the Appeal as Described in the Astoria Development Code (ADC §3.095 C) or the Planning Commission Decision

ADC §3.095(C) 1. and Condition#1. *Clients or customers may visit the site only between the hours of 7:00 a.m. to 6:00 p.m.*

The Planning Commissions discussion and deliberation of the impacts of the proposed business focused on the limited hours of operation and the limited number of vehicles (3 per week) that would be involved. While the Findings state that the operation is limited to the hours of 9 a.m. to 6 p.m. and to three vehicles per week, Condition #1 only limits the hours of operation, not the volume of customers or vehicles. This could lead to continuous operations 9 hours per day, 7 days per week, instead of the few minutes per day three times per week that the applicant proposed and the Planning Commission considered. The Condition also fails to limit the number of vehicles that may be on the premises at any time.

The increase in the number of trips on 34th Street was significantly under estimated in the Planning Commission's discussions at one trip per customer. It is reasonable that each customer would drive his or her vehicle to the location, be picked up by another vehicle to leave the location during the detailing, return in another vehicle to pick up the detailed car, then have both cars leave. This amounts to a minimum of 3 round trips per customer. If the limit was 3 customers per week, this would be an increase of 9 round trips. But without a limit of customers, the increase in traffic on the single lane road, that is privately maintained by the neighbors, is unrestricted.

ADC §3.095(C) 3. *On-site repair or assembly of vehicles or equipment with internal combustion engines is prohibited.*

The Planning Commission findings are based on too narrow of an interpretation of activities that are prohibited by the code. The Staff adopted a limited interpretation of this prohibition, finding that only "repair of internal combustion engines" and large equipment such as appliances is prohibited. This interpretation apparently would allow the applicant to operate a full-service auto body repair shop, auto painting, vehicle dismantling and salvage, auto lube and brake repair service, vehicle emissions service, or any other vehicle related business so long as the engine was not being repaired. It is obvious that the intent of the code language is to prohibit the nuisance of any automotive repair, not just repair of engines.



A typical definition of repair would be far more expansive. Black's Law Dictionary defines repair "to mend, remedy, restore, renovate. To restore to a sound or good state after decay, injury, dilapidation or partial destruction." Auto -detailing would reasonably be included in this more literal interpretation. Several Oregon jurisdictions include detailing as a type of auto repair that is prohibited in residential areas.

ADC §3.095(C) 7. *All activities must be indoors. Exterior storage or display of goods is prohibited. (Included in Condition of Approval #2.)*

The Planning Commission decision did not limit all activities to take place inside of the enclosed building (garage).

ADC §3.095(C) 9. *Noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. Hazardous substances are prohibited, except at the consumer commodity level.*

The applicant provided evidence that the noise from the operation was not limited to the site, providing a variety of decibel readings from nearby property. The fact that the noise from electric equipment emitted a lower level of noise than the previously used gas-powered equipment is appreciated but irrelevant. The code is clear, If the noise cannot be contained on site, the requested use must be prohibited.

There is also concern that run off from the operation could include hazardous material, and may not be directed to the City's stormwater system. By operating in a residential area, the applicant will apparently not be subject to the same inspection and record-keeping requirements that a commercial business would need to adhere to. Therefore, there will be no monitoring of the type of cleansers and solvents that might be employed. In addition, there is no documentation of how oil, chemicals and lubricants that may be removed from the vehicles by the detailing process and how they will be treated and disposed of.

Anecdotal information was provided that run off would be contained in a catch basin. No information was provided to determine whether the drain was connected to the storm water system, or merely trailed off somewhere down the hill. At the least, the course of the run-off should be verified. Pictures submitted by the applicant clearly show puddling on the rock driveway that is clearly not draining into to basin.

ADC §3.095(C) 11. *Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00 a.m. and 6:00 p.m. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.*

The Applicant states, "No deliveries as associated with this home occupation and this criterion is satisfied. *The* and this criterion is satisfied." This criterion does not



address commercial deliveries of material that is consumed by the business. These deliveries will create additional noise and congestion on the paved/gravel road in the neighborhood. Additional commercial deliveries often take place outside of the 7:00 a.m. to 6:00 p.m. specified window of operation.

ADC §3.095(C) 12. *The dwelling and site must remain residential in appearance and character. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots,*

The Planning Commission findings did not consider that modifications were made to the building and parking lot in the period the business operated without a license and prior to the current application.

Condition of Approval #5. *Significant changes or modifications to the proposal as described in this staff report shall be reviewed by the Planning Commission.*

The Planning Commission rendered a decision that is unclear as to the extent of modifications to the proposal as outlined in the staff report necessary to require the Planning Commission Review,

NOTE: *Additional verbal testimony to be provided by the Appellant(s) at the Astoria City Council hearing.*



Documents / Record
related to the Planning Commission's approval of

NOTICE OF APPEAL NO. AP20-04

by
WILL GUTIERREZ

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
January 26, 2021

CALL TO ORDER:

President Moore called the meeting to order at 6:38 pm.

ROLL CALL:

Commissioners Present: Daryl Moore, Sean Fitzpatrick, David Kroening, Patrick Corcoran, Cindy Price, Chris Womack, and Brookley Henri.

Staff Present: Community Development Director Leatherman. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

ELECTION OF OFFICERS:

In accordance with Sections 1.110 and 1.115 of the Astoria Development Code, the APC needs to elect officers for 2021. The 2020 officers were: President Daryl Moore, Vice President Sean Fitzpatrick, and Secretary Tiffany Taylor.

Commissioner Price moved to re-elect Daryl Moore as President, Sean Fitzpatrick as Vice President, and Tiffany Taylor as Secretary for 2021; seconded by Commissioner Corcoran. Motion passed unanimously.

APPROVAL OF MINUTES:

Item 4(a): Review of Draft minutes from the October 6, 2020 APC meeting

President Moore called for approval of the October 6, 2020 minutes.

Commissioner Price moved that the Astoria Planning Commission approve the minutes of October 6, 2020 as presented; seconded by Vice President Fitzpatrick. Motion passed unanimously.

Item 4(b): Review of Draft minutes from the November 24, 2020 APC meeting

President Moore called for approval of the November 24, 2020 minutes.

Commissioner Price moved that the Astoria Planning Commission approve the minutes of November 24, 2020 as presented; seconded by Vice President Fitzpatrick. Motion passed unanimously.

PUBLIC HEARINGS:

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

ITEM 5(a):

A19-03B *Continued from the October 6, 2020 meeting - Amendment to Astoria Development Code (A19-03B) by City of Astoria Community Development Director to define Group Living Facilities and to modify Group Living regulations in the following zoning districts: R1, R2, R3, C3, C4, FA, IN, AH-HC, CA, HR, LS and AH-MP. Note: Staff has withdrawn this application.*

Director Leatherman reviewed the work done to date on the amendment and said that because the Commission had already acted on Amendment A19-03A, which included the State mandated amendments, the City was withdrawing the application for Amendment A19-03B. A joint work session with City Council was scheduled for February 18, 2021 at 5:30 pm to discuss housing affordability and potential changes. The discussion would be based on the County's housing study.

ITEM 5(b):

V20-19 *Continued from the November 24, 2020 meeting - Variance Request (V20-19) by Alexander Pappas, Western Services Group, on behalf of Terri Delafiganriere, to exceed allowed 30% lot coverage by 4.1% at 1312-1316 Kensington in the R-1 Zone. Note: The applicant has requested a continuance.*

Director Leatherman stated the Applicant had requested a continuance.

Commissioner Price moved that the Astoria Planning Commission continue the hearing of Variance Request V20-19 by Alexander Pappas to February 23, 2021 at 5:30 pm in City Hall Council Chambers; seconded by Commissioner Kroening. Motion passed unanimously.

ITEM 5(c):

CU20-09 Conditional Use Request (CU20-09) by Tony Ewing to convert two dwelling units into an Inn at 1415 Olney Avenue in the S-2 Zone.

President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time.

Helena Patin, 1886 SE Wall Street, Astoria, stated she objected to having people from out of town come, the noise, and not respecting the neighbors.

President Moore explained that comments about the application would be taken at the appropriate time. Now, he was asking if anyone objected to the Commission's jurisdiction to deliberate this request.

President Moore asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

Vice President Fitzpatrick declared ex parte contact. He lived near the property when it was under construction and he drove by it regularly. Since receiving the Agenda packet, he had driven by the property and noticed the garage. The Applicant had stated it was a three-car garage. Staff stated it was a two-car garage. So, he would question the size of the garage during the hearing. He believed he could be impartial.

Commissioner Womack declared that he knew the Applicant personally and was familiar with the property. He had visited the property, but had not discussed this application in any way. He believed he could be fair and impartial.

President Moore asked Staff to present the Staff report.

Director Leatherman reviewed the written Staff report via PowerPoint. She noted that a correction was needed to the Finding on Page 6. Finding #2 should state, "[The proposed use is an inn with one one-bedroom and one two-bedroom transient lodging units. The site has a gravel and paved parking area and a two-car garage. The proposed use would not overburden the existing street system for access. The site is sufficient for the proposed use and would not interfere with the flow of traffic and/or emergency services. The City finds the criterion is not met. However, the standard can be met with a detailed parking plan.](#)" Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Price asked if parking was the only way the City could control converting apartments into lodging. She also wanted to know if each unit would have full kitchen facilities. Director Leatherman said she was not familiar with the prior use and the existing condition of the interior of the property. She suggested the Applicant answer the question. The Code attempted to address the conversion of apartment into lodging by prohibiting such a project in some zones. However, there would be an opportunity for the Code to be revised.

President Moore added that for this Application, the criteria for a Conditional Use Permit are what control the Commission's decision.

Commissioner Corcoran asked to what extent would the Columbia River Estuary Study Taskforce (CREST) recommendation for permeable surfaces be applied to the parking requirements. Commissioner Leatherman explained that permeable surfaces that are drivable have a significant cost, and she would like to hear what the Applicant had to say about parking.

Commissioner Kroening asked if there was a parking lot on Highway 202 and if all five parking spaces needed to be on the property. Director Leatherman said all five spaces would need to be located on the site because it is located on the highway, where on-street parking was prohibited. Staff did not recommend that the Applicant lease off-site spaces because that would require their guests to cross the highway.

Commissioner Corcoran asked if the parking requirements for an inn were different from the parking requirements for a long-term rental. Director Leatherman said the number of required parking space was based on the proposed use. If this property were multi-family, 4.25 parking spaces would be required.

President Moore opened the public hearing and confirmed that the Applicant was not present to give testimony. He called for any testimony in favor of or impartial to the application. Seeing none, he called for testimony opposed to the application.

Helena Patin, 1886 SE Wall Street, Astoria, said she was concerned about people from out of town coming to stay at the property and potential noise. There were multiple bus stops where children wait by themselves to get on and off the bus. She was worried about people from out of town being there.

John Slivkoff, 1398 Olney Avenue, Astoria, asked if this project would include any changes to the exterior of the structure.

President Moore stated no exterior alterations had been proposed. He asked how the Commission would like to proceed without the Applicant present to answer their questions and suggested a continuance.

Commissioner Price said the property was originally intended for a water-dependent or water-related use. A variance was granted allowing residential use and now the request was for a variance to allow tourist-related use. Tourist-related facilities are not supposed to have full kitchens like apartments and there are parking issues. Therefore, she was not sure that a continuance was necessary. She was more interested in denying the request now but wanted further guidance from Staff.

Director Leatherman stated that speaking with the Applicant would provide more clarification about parking, but nothing would change. She believed it was best to allow the Applicant to address the Commission's concerns, although, the Applicant was aware of the hearing.

President Moore noted that 29 different conditional uses were allowed in the zone. For as long as he had lived in Astoria, the building has not been in use or was severely underutilized. Someone has invested a great deal of money to try to make good use of the building. He preferred to see the building used rather than left vacant. Therefore, he would like to hear from the Applicant and supported a continuance.

Commissioner [Kroening \[1:39:50\]](#) said besides the parking issue, he did not see anything in the Code that would allow the Commission to deny the request. He believed the width and area of the front of the property could easily handle five or more parking spaces.

Vice President Fitzpatrick moved that the Astoria Planning Commission continue the hearing of Conditional Use Request CU20-09 by Tony Ewing to February 23, 2021 at 5:30 pm in City Hall Council Chambers; seconded by Commissioner Kroening. Motion passed unanimously.

President Moore called for a recess at 7:20 pm. The meeting reconvened at 7:25 pm.

ITEM 5(d):

AP20-04 Appeal (AP20-04) of Administrative Denial Decision (MR20-02) by Will Gutierrez to operate a home-based business detailing automobiles at 3349 Irving Ave in the R-2 Zone.

President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

President Moore declared that he had driven by the property and he lived a couple of blocks away.

President Moore asked Staff to present the Staff report.

Director Leatherman reviewed the written Staff report via PowerPoint. Testimony received late was emailed to the Commissioners and would be entered into the record. Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Kroening asked how issues like ventilation or discharge to the sewer should be reviewed without a building permit. Director Leatherman stated that home occupations must be of a size that would not require that level of review unless there was a renovation that required a building permit.

President Moore added that if the conditions of approval were not met, the City could revoke the business license.

Commissioner Henri said she was concerned about the storm drain. She hoped the Applicant's statement about using environmentally safe detergents was true. She asked if car washes were allowed to drain into the storm drain or if a treatment facility needed to be in place. Director Leatherman said if storm drain facilities were nearby, the runoff could go into the storm drain.

President Moore noted that the Combined Sewer Overflow (CSO) project had not yet been completed in Uppertown, so all street drains in Uppertown empty into the sewer.

Commissioner Corcoran asked how neighbors who were not supportive could complain or report problems. Director Leatherman explained that neighbors could contact the Community Development Department via phone or email, or fill out the complaint form on the City's website. Staff logs the complaints and based on the severity of the Code enforcement violations, sends up to three letters to the offender requesting compliance. After the third letter, legal action would begin.

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

Will Gutierrez, 3349 Irving Avenue, Astoria, said he was the owner and sole employee of Vanguard Auto Detailing. He learned how to clean and detail cars by working on his own vehicle when he was young. He always wanted to own his own business doing something he enjoyed. His wife works outside their home and when his son was born in July 2020, he realized that running the business out of his home, he could have scheduling flexibility and share childcare responsibilities. Providing for his family and being present for his child were very important to him. He could not afford rent on a commercial or industrial location for this business because he did not have enough customers. Additionally, he and his wife could not afford to pay for childcare if he had to work away from the house. His family relies on the income a home occupation would provide. He had made significant investments in equipment that would allow him to conduct business without imposing any negative impacts on neighbors. He did everything possible to ensure the venture would be a success, including limiting his business hours in response to his neighbor's concerns. He had been and would continue to be respectful of his neighbors. He would also comply with all of Staff's recommended conditions of approval.

Carrie Richter, Land Use Attorney, Bateman Seidel, 1000 SW Broadway Avenue, Portland, stated the Commission had received her letter dated January 21st discussing the applicable approval criteria. Mr. Fulton's letter argued that the criterion prohibiting auto detailing repair should include service and maintenance activities, specifically auto detailing, and asked the City to interpret "vehicle repair" to have the same definition as it does in Portland. The Portland Code talked about any type of repair or assembly of vehicles. However, the Astoria Code talked about on-site repair or assembly of vehicles. The use of the words "any type" included a broader swath of prohibited activities. The terms "service" and "assembly" do not appear in the Astoria Code. Astoria does not have to interpret its Code to include the terms used in Portland's Code. Astoria's definition of an automotive service station allows minor servicing, which suggests that repair is not the same thing as service. The General

Industrial Zone allows automotive repair, service, and garage uses. The mention of both repair and service also suggests they are two different categories of use. Service refers to routine maintenance while repairs are done on something that is broken. So, repair and service do not mean the same thing in the Astoria Development Code, so there would be no reason to list automotive service in the relevant list of industrial uses. Detailing is not necessary because something is broken. This auto detailing is not prohibited by the criterion. By allowing home occupations and prohibiting vehicle repair with combustion engines, the City is trying to restrict high impact and loud activities. Low impact businesses that will not be a detriment to the surrounding neighborhood are allowed. The evidence suggests that given the conditions limiting the scope of the use, this would be a low impact business that would not impact the surrounding neighborhood. Mr. Guitierrez had submitted noise readings and recordings to show the noise generated would be contained on site. That satisfies the criteria and Staff. In the original review, no one understood this business would be operating with electric equipment. Staff has added a condition of approval requiring the use of electrical equipment. Regarding runoff, the Code does not prohibit depositing water with biodegradable soap into the City's storm drains. The Commission could require the use of biodegradable soap as a condition of approval.

President Moore called for any testimony in favor of, the application.

[Ms. Odom \[2:08:43\]](#) stated her property was adjacent to the auto detailing business. When she first heard the business going on, she thought the houses were being remodeled. She spoke to Mr. Guitierrez and he agreed to change the hours. Shortly after that, he let her know that he had changed all of his equipment from gas powered to electric, which is very quiet. She was very sensitive to sounds. A noise test was done from her deck and she could not hear anything. Having a neighbor so willing to make changes that address the neighbor's concerns was amazing. After his application was denied, they did a decibel test from the corner of her and Mr. Fulton's properties and she could not hear anything. So, she did not know what Mr. Fulton was hearing. Mr. Guitierrez did everything possible to help the neighborhood and the business helps his family. She was in favor of the request.

President Moore called for any testimony impartial to the application.

[Bill Orr \[2:13:59\]](#) 1050 34th Street, Astoria, said the request did not meet the criteria to be approved as a business in a residential neighborhood. The noise issue alone should disqualify it. Last summer, he could hear an annoying buzz while watching television. He figured out it was coming from a commercial vacuum operation in [Dave Corder's \[2:14:35\]](#) old house, which is the location stated in the application. He would prefer to hear a diesel vessel going up the river than a commercial vacuum. He would not hear birds singing or children playing with those machines operating. There was no need to annex residential property for commercial use because there is an abundance of commercial property available in town and at the Port. Noise rules are designed to ensure the ability to enjoy the neighborhood without persistent noise pollution. The new equipment may reduce the decibels to 50. He used the same application and ran a vacuum in an adjacent room with the door closed. That was about 50 decibels. He did not want that going on all day right next to him. Being quieter than when it was really loud is not a justification for annexing this neighborhood for commercial use. If the weather gets warm, he could open the doors and windows. He was not sure Astoria needed a different definition of auto repair than other jurisdictions. He would think Astoria would want to protect its citizens to the same degree as other locales. The Commission would be sending a poor message by rewarding a business that persists in operating a non-compliant use. Neighborhoods are special. The Commission should not shift the burden of enforcing rules from the City to the neighbors.

President Moore called for any testimony opposed to the application.

[Sara Orr \[2:17:01\]](#) 1050 34th Street, Astoria, said she grew up in the home her parents built at 3441 Irving and she still called the same neighborhood home. Her brother recently moved in with her full-time and during the pandemic she had been unable to return as often as she would like. She visited over the summer and noticed a constant buzz from the west. Her brother also heard it and noticed a man at 3349 Irving working on cars when the noise was present. The business Facebook page showed car detailing was taking place at that home. Shortly after, she received a hearing notice from the City regarding a complaint that had been filed from someone in the neighborhood, reporting a car detailing operating illegally near her home. She and her brother sent comments to the City noting that a car repair may not be located in a residential neighborhood. A stop work order was issued. If the business owner applied for a permit, he would have been able to learn about Astoria's rules and regulations. The City requires permits before any business can begin construction, alterations, or opening up. The full definition of repair is legally defined in Black's Law Dictionary as to mend, remedy, restore,

or renovate; to restore to a sound or good state after decay, injury, dilapidation, or partial destruction. That definition and common sense would put car detailing in the category of vehicle repair, which is prohibited in residential neighborhoods. City Codes also state that no noise, odors, or vibrations leave a business. The Applicant's submission of noise level readings shows that this happens. A condition submitted by the Applicant's attorney would allow windows and doors to be open in warm weather, which would allow even more noise and odor to escape when neighbors want to be outside. Many of the other options offered by the attorney would require the neighbors to become compliance monitors. The street leading up to the property is not maintained by the City and could not handle the extra traffic from locating an industrial business in this location. She asked that the rules in place be followed.

[Mr. Fulton \[2:20:54\]](#) stated he had submitted two documents and one was submitted to the Commission that day. He tried to look beyond the Code interpretation that Staff developed. Staff identified auto repair as only working on internal combustion engines or home appliances. That is extremely narrow and the interpretation should be wider because he believed the citizens expected when it came to enforcement. In his document dated January 26th, he noted that Portland and Astoria Codes contained similar language. However, the Portland Code clearly stated that any type of vehicle repair was prohibited in R-1 zones and defined auto repair to include auto detailing. He looked at the Codes of other cities that ban auto detailing under similar circumstances. He realized the Portland Code could not dictate what Astoria does, but it could provide guidance. He urged the Commission to consider Portland's findings reasonable and workable, based on Portland's size and history of working on land use matters. Astoria looks to the League of Oregon Cities for advice when there are tough questions. Likewise, the Commission could look to other cities for direction on how to interpret Astoria's Code. He requested that the Commission look closely at Astoria's Code and recognize that the auto repair section was a list of prohibited activities. He hoped the City denied the application. He recommended that the City direct the Applicant to apply for a zone change because the zone change process would provide the City with information from certified professionals that will analyze the system impacts by the business. No one has told him where the storm drain goes. It might go into the City's sewer system or it might just be a French drain. An engineer would study the project and develop a report that he could rely on versus someone doing a test with their cell phone. The neighborhood is off of a one-lane undeveloped City right-of-way maintained by the private homeowners. The lane has inadequate substandard storm water facilities. He needed assurance that this business would not overburden an already substandard facility. A zone change would include expert analysis of the impacts of this project instead of just relying on what the Applicant was saying.

President Moore called for the Applicant's rebuttal.

Ms. Richter stated the testimony in opposition referred to noise heard last summer. Mr. Gutierrez purchased the electric equipment in August. He was not asking the Commission to accept decibel numbers from a paid expert who had cooked the books. The audio recordings were submitted to the Commission so that they could hear the noise generated, which is no louder than a garden hose. Mr. Gutierrez has requested to operate a detailing business that would require use of this electric equipment for less than one hour, three days per week. That would not be inconsistent with residential uses, would not compromise the character of the neighborhood, and is not a basis to deny this home occupation. The only person qualified to know where the storm water goes was [Mike Grates, \[2:29:54\]](#) the excavation contractor who testified that the water goes into a storm drain that he installed. Mr. Grates also testified that he graded the site and no water leaves the property except through that drain. One complaint suggested that the neighbors would have to be compliance monitors. That is the nature of zoning and everyone is a compliance monitor. We are all policing each other all the time because that is the way it works. Mr. Gutierrez testified he would follow the conditions and his neighbor, who has no interest in helping him, affirmed that statement. If the conditions are violated, the City has a process in place for enforcement. The suggestion that Mr. Gutierrez should get a zone change was ridiculous and he could not afford that. If he were to engage in that process, he would not limit his business in this way. A zone change would not be a workable solution. The Code encourages these types of businesses to help grass roots businesses get off the ground.

President Moore called for closing comments of Staff. There were none.

Commissioner Kroening asked if limiting the Applicant to three customers per week was a condition of approval. Director Leatherman clarified that the requirement was a standard, not a condition. However, the Commission could add that as a condition of approval.

Mr. Gutierrez confirmed he would limit his business to three vehicles per week.

Commissioner Price asked if the garage would be required to remain closed. Director Leatherman said Staff did not take a position on that, but did include a condition of approval requiring all work to be done inside the garage. However, that condition could be clarified.

President Moore closed the public hearing and called for Commission discussion and deliberation.

Vice President Fitzpatrick understood that the Commission was being asked to determine whether auto detailing was assembly or repair. The Applicant worked with the neighbors on the noise by investing in more expensive equipment. Mr. Fulton's letter had noted that Astoria had the power to amend its Code, but until then a practical interpretation would be to prohibit auto detailing in residential zones. He disagreed. If the City wanted to prohibit that, it could. Additionally, a practical interpretation of the Code allows this use. While auto detailing and auto repair are in similar categories, they are not the same activities. He did not believe this application could be denied.

Commissioner Kroening said this was the most he had seen someone work with neighbors to address issues. The attorney's letter was a helpful explanation of the business and noted that washing less than eight cars per week would not require a Department of Environmental Quality (DEQ) permit. This business was unlikely to have a significant impact. He also agreed that detailing was not the same as repair. Three cars a week seemed reasonable and he was leaning towards approval.

Commissioner Corcoran stated he agreed that detailing was part of repair. There were no reasons in the Code to deny this and he was inclined to vote for approval.

Commissioner Price said she was not concerned about traffic because it seemed minor. The Applicant has done everything to address the issues, and she agreed that auto detailing was not auto repair. However, she wanted to require as a condition of approval that the garage remain closed. She noted that Code violations being complaint driven are part of any municipality.

Commissioner Womack said the Applicant remedied the criteria upon which the administrative denial was based. He explained that the request was now coming to the Commission because that was the legislative process. He did not see anything in the Code that would allow him to deny the request and he supported Staff's findings. Three customers per week is a side job that allows the Applicant to take care of his family. Additionally, the water is a low-flow system, so the amount of water being sent to the drain would be minimal. He believed the reviewable criteria had been met.

Commissioner Price asked if the Applicant and Staff discussed restricting business hours to Monday through Friday or Monday through Saturday to ensure at least one weekend day of quiet. Director Leatherman said she was not aware of that conversation, as she had only been updated on the Application that day.

Commissioner Price requested that the public hearing be reopened so she could ask the Applicant a question about her concern.

President Moore stated he was not motivated by the same concern, but if the rest of the Commission was, the hearing could be reopened.

Director Leatherman noted that home occupations with customers who come to the home more than twice a week are classified by the Code as Class B home occupations.

Commissioner Price confirmed she was not concerned about traffic or runoff, but she was concerned about the business operating seven days a week. Therefore, the neighborhood would not be guaranteed any time off.

President Moore stated he believed the application met all of the reviewable criteria. He agreed that the interpretation of the Code did not prohibit car detailing as a home occupation. The noise would only last for an hour three days a week and would not have a large impact on the neighborhood. Many people operate their lawn mowers more often than that. Comprehensive Plan Section C.P. 220.6 protects neighborhoods from incompatible uses, including large scale commercial, industrial, and public uses or activities. This would not have a large scale impact or be too disruptive to the neighborhood. C.P. 220.7 permits home occupations that

generate minimal impacts as an outright use in most cases. Therefore, he supported the application. He suggested that a condition be added requiring the garage door be closed when noise-making equipment was in use.

Commissioner Henri said the noise issues occurred before the Applicant switched to quiet equipment. The testimony in favor of the application was very helpful. She was surrounded by neighbors who love their power tools and it could be distracting. However, that is part of living in a neighborhood. She was in favor of approving the application. The business was already being required to have limited hours and she did not believe it should also be limited to three customers per week. The business should be allowed to grow. She recommended that up to five cars be allowed, one per day Monday through Friday.

Vice President Fitzpatrick agreed, noting that if the Applicant were allowed to have more than three cars per week, he would be able to afford moving to a commercial location. He also agreed that the garage door should be closed when power equipment was in use and that business hours should be limited to a certain number of days, specifying at least one day a week that the business should not be operated.

Commissioner Kroening said if the garage was required to be closed, he would be in favor of increasing the number of cars allowed per week. He was not in favor of limiting the days of the week.

Commissioner Corcoran also agreed that three cars per week seemed low. Prohibiting business on a particular day of the week seemed problematic. The Commission could prohibit business on Sundays when everyone else was out mowing their lawns. He was okay with keeping the doors closed during vacuuming.

Commissioner Price understood the Staff report indicated that all work would be done in a closed garage, so the word "closed" should be added to the Condition #2. However, some associated business would not take place within the garage.

Commissioner Womack agreed the power equipment should be operated inside the garage. He was not sure about allowing more than three cars per week because this was not a full-time commercial operation.

Commissioner Kroening noted that Condition #5 required that any significant changes come back to the Commission. If five cars showed up in one week, that would not be a significant change. However, if 10 or 15 cars were showing up in one week, that would be significant. Therefore, Condition #5 already solved that issue.

Commissioner Kroening moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Appeal AP20-04 by Will Guitierrez, with the following change:

- Condition of Approval #2 – All activity associated with the Auto-Detailing Business shall be conducted inside the garage at 3349 Irving Avenue, **and the garage shall remain closed while equipment is in use.**
- Seconded by Vice President Fitzpatrick. Motion passed unanimously.

President Moore read the rules of appeal into the record.

President Moore called for a recess at 8:48 pm. The meeting reconvened at 8:54 pm.

ITEM 5(e):

CU20-11 Conditional Use Request (CU20-11) by JCCD Wholesale LLC to expand the existing retail cannabis dispensary with an additional wholesale component at 229 Marine Drive in the C-3 and Uniontown Overlay Zones.

President Moore asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Moore asked Staff to present the Staff report.

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

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

Charles Davow [3:10:09] 5463 Compton Lane, Salem, said he was one of the owners of Hashtoria. The business was doing well, so they now have additional locations. Under Oregon Liquor Control Commission (OLCC) rules, the wholesale license is much easier and would allow them to ship products between their stores. Their safe is large enough to hold excess products and there would not be any foot traffic. Products would not be sold to vendors or third parties. Therefore, the switch to wholesale would not require any extra demands or traffic.

President Moore called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Corcoran moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use Request CU20-11 by JCCD Wholesale LLC; seconded by Commissioner Womack. Motion passed unanimously.

President Moore read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

Vice President Fitzpatrick provided a brief update on the City Commissions and Boards training. He shared what he learned and said he appreciated the participation. Commissioner Corcoran also shared what he had learned at the training.

STAFF UPDATES/STATUS REPORTS:

Save the Dates

- City Council and APC joint work session: Thurs., Feb. 18, 2021 @5:30 pm
- Next APC Meeting: Tues., Feb. 23, 2021 @ 5:30 pm

Director Leatherman thanked the Commission for their patience with the Community Development Department. The reports and application processing would continue to improve but would take some time. She noted that Planner Fryer would be gone for about three more weeks.

Vice President Fitzpatrick asked if it would be appropriate for Commissioners to ask Staff for additional information from an applicant prior to a hearing. Director Leatherman responded that it would be great to ask Staff ahead of time. She was available any time, but the Planner listed on the Staff report would be most familiar with the project. Tiffany was also available to answer questions. Any additional information received from an Applicant would be shared with everyone.

PUBLIC COMMENTS:

No comments.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:10 pm.

APPROVED:

Community Development Director

BEFORE THE ASTORIA PLANNING COMMISSION
OF THE CITY OF ASTORIA

IN THE MATTER OF AN APPEAL REQUEST)

FOR THE FOLLOWING PROPERTY:)

MAP T8N R9W, SECTION 17BA, TAX LOT 10900, LOT 3, BLOCK 65,)
ADAIR'S UPPER, 3349 IRVING AVENUE, ASTORIA, OR 97103)

**ORDER NO. APPEAL AP20-04
of MR20-02**

ZONING: R-2 (Medium Density Residential))

APPELLANT/APPLICANT: WILL GUITIERREZ)
3349 IRVING AVE., ASTORIA OR 97103)

The above named appellant/applicant applied to the City for a Miscellaneous Review (MR20-02) for a Class "B" Home Occupation to operate an indoor auto detailing/cleaning business at 3349 Irving Avenue in the R-2 (Medium Density Residential) Zone, within the city limits of Astoria.

An Administrative decision (Type II) to deny the request was mailed on November 25, 2020.

The decision was appealed on December 10, 2020 by Will Guitierrez.

A public hearing on the appeal was held before the Planning Commission on January 26, 2021 and the Planning Commission closed the public hearing at the January 26, 2021 meeting.

The Planning Commission rendered a decision at the January 26, 2021 meeting to approve the request by the appellant, reversing the Administrative Staff decision and adopted the Findings of Fact and conclusions of law attached hereto, and ordered that the Appeal AP20-04 is approved, 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.

The effective date of this approval is the date of the mailing of this Order.

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).

The permit will be void after two years unless substantial construction has taken place, or use has begun.

However, the Planning Commission may extend the permit for an additional one year upon request by the applicant.

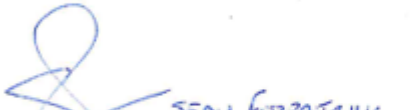
DATE SIGNED: JANUARY 26, 2021

DATE MAILED: ~~JANUARY 29, 2021~~ *Corrected: Feb. 1, 2021*

ASTORIA PLANNING COMMISSION



President – Daryl Moore



Vice President – Sean Fitzpatrick




Commissioner: Cindy Price



Commissioner David Kroening



Commissioner Brookley Henri



Commissioner Chris Womack



Commissioner: Pat Corcoran



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

1095 Duane Street, Astoria, OR 97103 • (503) 338-5183 • www.astoria.or.us

CORRECTED – February 1, 2021

REVISED - FINDINGS OF FACT FOR APPEAL DECISION

STAFF REPORT DATE: January 19, 2021

COMMISSION HEARING DATE: January 26, 2021

TO: ASTORIA PLANNING COMMISSION

FROM: BARBARA FRYER, AICP, CITY PLANNER

SUBJECT: APPEAL (AP20-04) OF MISCELLANEOUS REVIEW MR20-02 BY WILL GUITIERREZ AT 3349 IRVING AVENUE

I. SUMMARY

- A. Applicant: Will Guitierrez
3349 Irving Avenue
Astoria Oregon 97103
- B. Owner: Debora Ferguson
3359 Irving Avenue
Astoria Oregon 97103
- C. Request: To operate an auto-detailing business, a Class B Home Occupation, in an existing dwelling
- D. Location: 3349 Irving Avenue; Map T8N-R9W Section 09 CA, Tax Lot 10900; Lot 3, Block 65, Adair's Upper
- E. Zone: R-2, Medium Density Residential
- F. 120 Day: January 20, 2021 – extended to March 21, 2021

II. PUBLIC NOTICE

Public notice of the appeal was mailed to all parties to the record, the property owner, the applicant, the applicant's attorney and property owners within 200 feet pursuant to Astoria Development Code (ADC) §9.020 on December 30, 2020. Newspaper notice was published in *The Astorian* on January 19, 2021.

III. PUBLIC REVIEW AND COMMENT

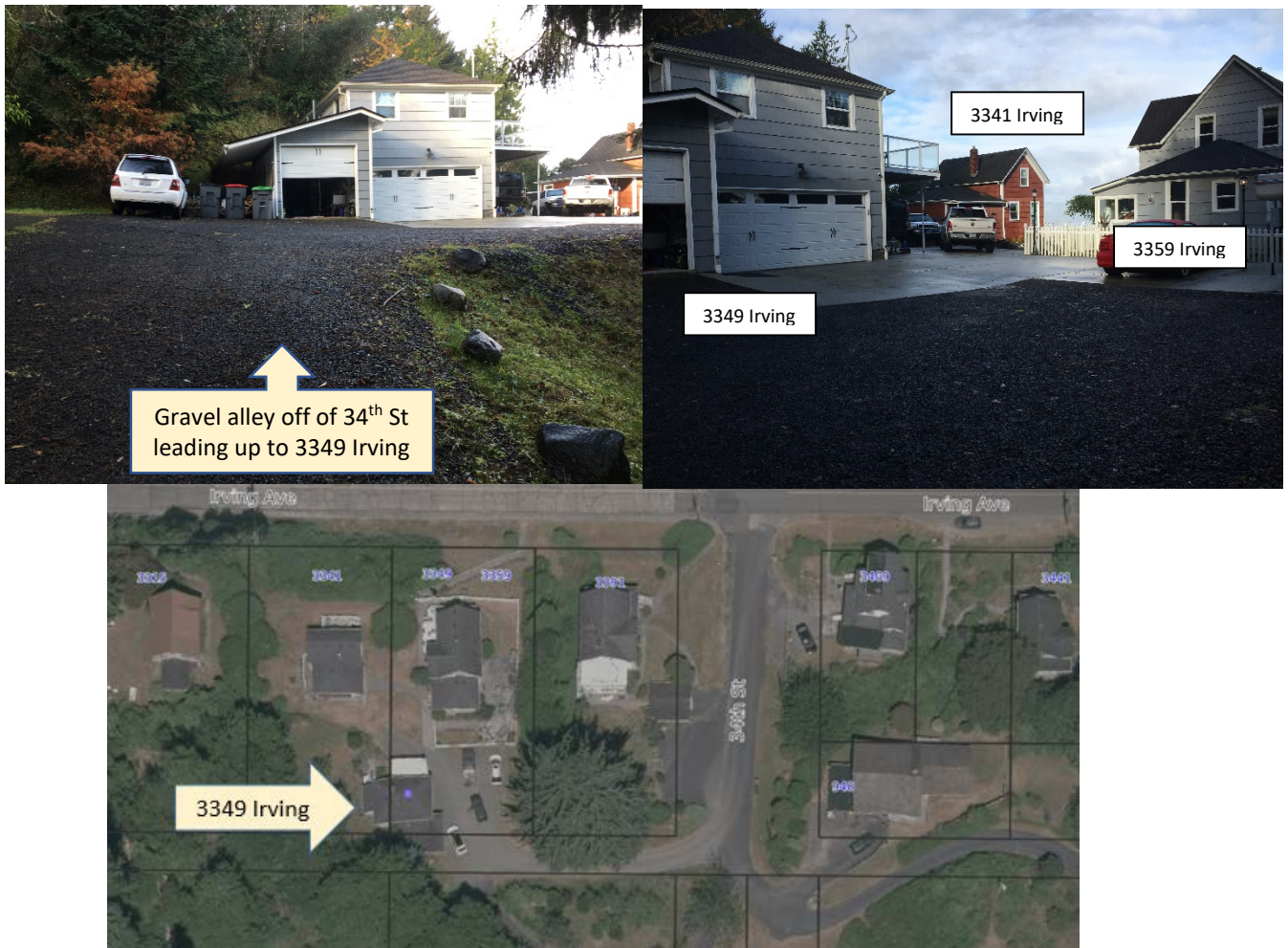
Five written comments were received within the 20-day comment period for the initial application. They are included in the Notice of Decision packet. Any new public comments will be distributed to the Planning Commission prior to the meeting.

IV. BACKGROUND

The applicant submitted a Miscellaneous Review application (MR20-02), that was reviewed as a Type II (staff level) application and was denied. The applicant filed an appeal with the Community Development Director within fifteen (15) days of the mailing of the decision order.

The applicant is proposing to locate an indoor auto-detailing business including a mobile detailing base in an existing dwelling at 3349 Irving Avenue. In the original application, the applicant stated that they would have 0 to 3 customers per week by appointment only to the home Monday through Sunday in the hours of 7:00 am to 6:00 pm. However, as part of the appeal application the applicant has changed the hours of operation to 9:00 am to 6:00 pm by appointment only, limited to 3 customers per week. With this change in the hours of operation, staff is recommending approval.

The site is currently used as a single-family dwelling and that use would remain.



V. **STANDARDS AND CRITERIA**

- A. ADC §2.065(5) lists a Home Occupation as an outright use.

FINDING: The applicant proposes to use the main structure as a residence and a garage as an indoor auto-detailing facility. The applicant also proposes the residence as a base for the mobile auto-detailing business.

- B. ADC §3.095(C) states *“The following standards shall be applicable to both Class A and Class B Home Occupations:*

1. *Clients or customers may visit the site only between the hours of 7:00 a.m. to 6:00 p.m.*

FINDING: The City finds that the applicant’s business operations are limited to 9:00 am to 6:00 pm, by appointment only, and limited to three customers per week at the residence. In order to ensure compliance with the stated hours of operation and numbers of clients coming to the location, staff recommends the following condition of approval:

Condition #1: All auto-detailing activity shall occur only between the hours of 9:00 am and 6:00 pm.

2. *Retail sales of goods on-site must be entirely accessory to any services provided on the site.*

FINDING: The City finds that the applicant does not intend to provide retail sales of goods on-site.

3. *On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.*

FINDING: The City finds that auto-detailing is not on-site repair or assembly of vehicles. Staff interprets this standard to mean repair of internal combustion engines or home appliances is prohibited. Auto-detailing does not involve repair or assembly of the mechanical parts of the engine, and therefore; would not fall under this standard.

4. *Dispatch centers or headquarters where employees come to the site and are dispatched to other locations are prohibited.*

FINDING: The application notes that 3349 Irving is the home base of the mobile auto detailing portion of the business on the front page of the application. However, later in the application under the Class "B" Home Occupation standards, the applicant wrote none under item 4. In conclusion, while the residence may be the home base for the business, the applicant did not mean that employees will come to the residence at

3349 Irving, to pick up supplies, and go to other locations. Staff finds that this standard is met.

5. *More than one Class B home occupation is not allowed in one residence.*

FINDING: The City finds that the applicant does not propose more than one Class B Home Occupation at this residence.

6. *Signs shall be in accordance with Article 8.*

FINDING: The City finds that the applicant does not propose any signage. Should the applicant want to install signs in the future, a sign permit will be required.

7. *All activities must be indoors. Exterior storage or display of goods is prohibited.*

FINDING: In the Notice of Appeal, the applicant states that the activity is wholly within the garage at 3349 Irving. The applicant notes that electric equipment has been in operation for over six months. The applicant notes, "Any outdoor activities that take place in the shared drive and parking areas are for personal use associated with 3349, 3359, and 3341 Irving Avenue." The City finds that the activities are conducted indoors. Condition #2 has been included as part of the approval to re-inforce this.

Condition #2: All activity associated with the Auto-Detailing Business shall be conducted inside the garage and the *garage door shall remain closed while equipment is in use* at 3349 Irving Avenue.

8. *Outdoor storage of associated solid waste is limited to an area of 100 square feet and must be screened from view with fencing or vegetation.*

FINDING: The City finds that outdoor storage is not proposed as part of this application.

9. *Noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. Hazardous substances are prohibited, except at the consumer commodity level.*

FINDING: The applicant's Notice of Appeal identifies that 100% of the equipment used is electric, resulting in noise limited to the site. The City finds that this standard has been met and have placed condition #3.

Condition #3: Only electric equipment may be used in the Auto Detailing Business at 3349 Irving Avenue.

10. *No more than one truck, associated with the home occupation, may be parked at the site. Parking must be off-street. The maximum size of the truck allowed on site is a one-ton truck. Extended or prolonged idling of*

vehicles, or maintenance or repair of vehicles on adjacent streets is prohibited.

FINDING: The Notice of Appeal notes that no client parking has ever taken place on adjacent City streets. The City finds that this standard can be met with the following condition of approval:

Condition #4, All clients shall park off-street at the 3349 Irving residence.

11. *Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00 a.m. and 6:00 p.m. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.*

FINDING: The City finds that the applicant states no truck deliveries or pick-ups are associated with this business.

12. *The dwelling and site must remain residential in appearance and character. Internal or external changes, which will make the dwelling appear less residential in nature or function, are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.”*

FINDING: The City finds that the applicant has not proposed exterior alterations.

- D. ADC §7.100 requires two off-street parking spaces for a single-family dwelling.

Finding: There is a single-family residence that would require two off-street parking spaces which are provided in the garage.

VI. **ADMINISTRATIVE PROCEDURES**

- A. *Administrative Permit Appeals.*

ADC §3.095(B.4) states that the decision of the Community Development Director may be appealed to the Planning Commission in accordance with ADC §9.040. ADC §9.040(A) states that “A decision on the issuance of an administrative permit or action concerning a land use matter may be appealed to the Commission by the applicant or by a party who responded in writing to the notice of the proposed development by filing an appeal with the Community Development Director within 15 days of the mailing of the decision Order. The notice of appeal that is filed with the City shall indicate the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.”

A copy of the application, all documents and evidence relied upon by the applicant, the exhibits, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

Finding: The applicant filed a timely appeal, paid the appeal fee and the applicant noted facts not in the record. Those facts provided the basis for the affirmative findings. Additionally, due to the nature of the new facts, the City added four conditions of approval to ensure that the stated facts are adhere to in the operation of the business.

VII. CONCLUSION

Based on the findings above, the application as appealed with the new findings of fact does meet the standards and criteria, therefore; this proposed Home Occupation is recommended for approval, with conditions.

Condition #1: All auto-detailing activity shall occur only between the hours of 9:00 am and 6:00 pm.

Condition #2: All activity associated with the Auto-Detailing Business shall be conducted inside the garage and the *garage door shall remain closed while equipment is in use* at 3349 Irving Avenue.

Condition #3: Only electric equipment may be used in the Auto Detailing Business at 3349 Irving Avenue.

Condition #4: All clients shall park off-street at the 3349 Irving residence.

Condition #5: Significant changes or modifications to the proposal as described in this staff report shall be reviewed by the Planning Commission.



January 26, 2021

Community Development
CITY OF ASTORIA

City of Astoria, Planning Commission:

To accompany my testimony before the Commission, I have created a comparison between the City of Portland and City of Astoria development code provisions pertaining to how Vehicle Repair is prohibited as a Home Occupation in the residential zones.

I. Using the same Home Occupation prohibitions as Astoria, Portland prohibits Auto Detailing as a type of Vehicle Repair, and Astoria should too.

Both Portland and Astoria use almost identical language in prohibiting Vehicle Repair as a Home Occupation as shown below. Portland makes it clear that “auto detailing” is expressly included as a type of Vehicle Repair and is prohibited, and Astoria should follow this same interpretation since it uses the same language. You will see Astoria Code 3.095 (C) and Portland Code 33.203.030 (B) listed below for comparison (highlighting added for emphasis).

City of Astoria Code: 3.095 Home Occupations

...

C. The following standards shall be applicable to both Class A and Class B Home Occupations:

3. On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.

City of Portland Code: 33.203.030 Use-Related Regulations

...

B. Prohibited uses.

1. Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts is prohibited.

City of Portland Code: 33.920.270 Vehicle Repair

A. Characteristics. Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.

B. Accessory Uses. Accessory uses may include offices, sales of parts, vehicle storage, and food membership distribution.

C. Examples. Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, **auto detailing**, and tire sales and mounting.

D. Exceptions. Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

Portland Code clearly states that any type of Vehicle Repair is prohibited as a Home Occupation and Auto Detailing is a repair function.

II. The Dictionary Definition of “Repair” includes the same type of activities as Auto Detailing, and should be prohibited under Astoria’s Home Occupation Prohibition on Vehicle Repair.

Common terms in a code may consider dictionary definitions to determine their intent and assist in their interpretation. Below is the definition of “repair” from Blacks Legal Dictionary 5th edition:

Repair. To mend, remedy, restore. renovate. To restore to a sound or good state after decay, injury, dilapidation, or partial destruction.

From this definition, the activities of Auto Detailing are reasonably included in the definition of “repair” since it involves restoring a vehicle to a sound or good state after decay. Astoria’s prohibition against Vehicle Repair should also include Auto Detailing within this term as a matter of dictionary definition. This dictionary term is also further evidence that Portland is correct to include Auto Detailing as prohibited under Vehicle Repair using the same code language as Astoria does as discussed above in Section I.

III. In the Astoria Code, Vehicle Repair is part of a list of prohibited from Home Occupation, separate from repair of internal combustion engines.

The use of the word “OR” means a list under rules of code interpretation. This means home occupations in Astoria prohibit the assembly or repair of 1) vehicles; 2) equipment with internal combustion engines; and 3) large equipment (such as home appliances).

“Vehicle Repair” is its own prohibited category and not allowed as a Home Occupation.

Astoria City Staff suggests only repair of internal combustion engines is prohibited, which does not give the other prohibited categories any meaning. Instead, to be consistent, the use of the word “OR” must be a list of these prohibited categories.

Astoria Staff Report below (highlighting added for emphasis):

Astoria City Staff Report Date: January 19, 2021

“The following standards shall be applicable to both Class A and Class B Home Occupations:

3. On-site repair or assembly of vehicles **or** equipment with internal combustion engines (such as autos, chain saws, boat engines) **or** of large equipment (such as home appliances) is prohibited.

Finding: The City finds that auto-detailing is not on-site repair or assembly of vehicles. Staff interprets this standard to mean repair of internal combustion engines or home appliances is prohibited. Auto detailing does not involve repair or assembly of the mechanical parts of the engine, and therefore; would not fall under this standard.

The more reasonable way to read/interpret Astoria’s code is that Vehicle Repair is part of a list of prohibited categories that includes Auto Detailing as Portland does. If Astoria wishes to allow Auto Detailing as a Home Occupation, it has the power to amend its code, but until then, a practical interpretation of the current code prohibits Auto Detailing in a residential zone.

Thank you for your consideration of my comments,

Steve Fulton

RECEIVED
JAN 25 2021

Community Development
CITY OF ASTORIA

I Will Gutierrez (Vanguard Auto Detailing) am appealing the city of Astoria's denial of permit for my home business at a hearing on 01/26/2021. This is my sole means of support for my family of 3. I started my business inside my garage at 3349 Irving Avenue in January of 2020.

I use all electric equipment (Electric power washer replaced my gasoline one in Aug 15, 2020). The noise level produced by my equipment measures less than 60 decibels, which is quieter than 2 people talking 3-5 feet apart. My electric equipment is used less then an hour 3 times or less per week. My hours of operation are 9:00am to 6pm by appointment only. I limit services to a maximum of 3 customer vehicles per week. All customers' vehicles park on my property at 3349/3359 Irving Ave. only. I use only environmentally safe, phosphate free, biodegradable detergents. I use no toxic chemicals or solvents. My power washer allows for water usage of less than 100 gallons per week. All water drains into a storm drain at the center of our parking area that is graded 6 inches below the top of our drive way. No runoff occurs on our driveway or 34th street.

These are my practices to ensure that I in no way create any nuisance or negatively impact my neighbor's quiet enjoyment or use of their property. Please sign if you support this application, allowing a permit for the continued use of my garage for my home business. Thank you for your time and consideration.

Signature, Date, printed name:

Anne L. Odom 1/21/21 Anne L. Odom

HOME: (541) 453-5721

CELL: (541) 230-8172

I Will Gutierrez (Vanguard Auto Detailing) am appealing the city of Astoria's denial of permit for my home business at a hearing on 01/26/2021. This is my sole means of support for my family of 3. I started my business inside my garage at 3349 Irving Avenue in January of 2020.

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Signature, Date, printed name:

Janis Larson 1/25/21 Janis Larson
Steve Larson 1/25/21 Steve Larson

owners: 3391 Irving Ave.

(503) 440-9712



RECEIVED
JAN 25 2021


Community Development
CITY OF ASTORIA

I Will Gutierrez (Vanguard Auto Detailing) am appealing the city of Astoria's denial of permit for my home business at a hearing on 01/26/2021. This is my sole means of support for my family of 3. I started my business inside my garage at 3349 Irving Avenue in January of 2020.

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Signature, Date, printed name:

 1/21/2021 Erik S. Fremstad

Melissa Fremstad 1/21/21 Melissa Fremstad

503 367 2259

Tiffany Taylor

Subject: FW: Additional Docs to review for the Planning Commission Meeting re: Appeal AP20-04
Attachments: Attny Ltr to Planning Commission.pdf

From: Tiffany Taylor
Sent: Friday, January 22, 2021 3:58 PM
To: 'deberfergerson@gmail.com' <deberfergerson@gmail.com>; 'Carrie Richter' <crichter@batemanseidel.com>; 'Anne Odom' <anneodom975@gmail.com>; 'restorationsupplies@yahoo.com' <restorationsupplies@yahoo.com>; 'Fred White' <fnmwhite@q.com>; 'Stephen C Fulton' <steve@scfulton.com>
Cc: Barbara Fryer <BFryer@astoria.or.us>; Megan Leatherman <mleatherman@astoria.or.us>
Subject: Additional Docs to review for the Planning Commission Meeting re: Appeal AP20-04

RE: NEW DOCUMENTS FOR APPEAL AP20-04

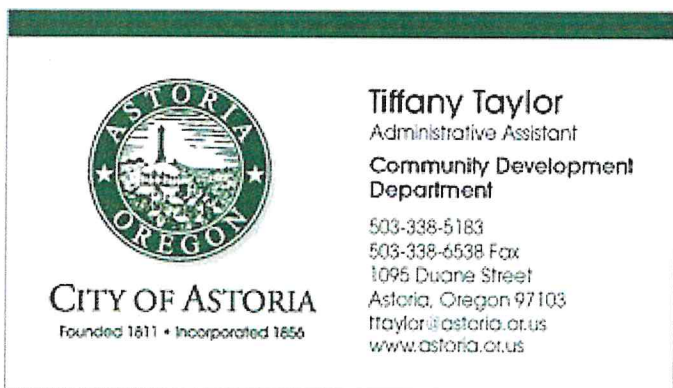
Good afternoon,

You are receiving this email because you are either a person of record or you have expressed interest in the agenda items up for review at the upcoming Planning Commission meeting.

Carrie Richter, Attorney for the appellant, submitted additional materials - including audio/video files found at the following link https://www.astoria.or.us/assets/misc/2021_01_26_APC/AP20-04/ and a new letter (see attached).

If you have trouble accessing the files, or if you have any questions, please don't hesitate to contact our office.

Regards,
-Tiffany



January 21, 2021

VIA EMAIL

Commission President Moore and Planning Commissioners
Astoria Planning Commission
c/o Barbara Fryer, City Planner
City of Astoria Community Development
1095 Duane St.
Astoria, OR 97103

Re: Appeal of Home Occupation for 3349 Irving Avenue – City File No AP 20-04

Dear Honorable Commission President Moore and Planning Commissioners:

This firm represents the Appellant/Applicant Will Gutierrez in the above-referenced appeal. The Planning Commission should be aware that Mr. Gutierrez fully supports the findings and recommendations set forth in the January 19, 2021 Staff Report, including the recommended conditions of approval. The materials set forth in this letter do not alter what is proposed, nor require significant modification of the January 19 Staff Report. Rather, this letter is offered to respond to the testimony submitted by Mr. Fulton as well as to provide greater analysis with respect to a number of the applicable approval standards.

Home occupations play an important role in the functioning of a community. Even before the COVID-19 shut-down, the Small Business Administrative estimated that 3.3% of the nation's population worked from home. Home occupations can provide numerous benefits for both home-based workers and the larger community. Home-based businesses provide useful services and encourage business growth by eliminating the initial need for some small businesses to rent commercial space – a critical factor to someone – particularly young people - who are just starting a new venture. In fact, Goal 1, Policy 1 of the City's Comprehensive Plan calls for providing a "supportive environment" for new businesses and allowing for home occupations furthers that policy. Further, home occupations place "eyes on the street," creating activity in a residential neighborhood that might otherwise be deserted during the day, helping to reduce crime.

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Astoria Planning Commission
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Page 2

It is for these reasons, that the Astoria Development Code (ADC) authorizes the establishment of home occupations in all residential zones subject to certain approval criteria set forth in ADC 3.095. As explained in greater detail below, the Appellants have submitted evidence to establish that the indoor auto-detailing operation proposed for 3349 Irving Avenue will satisfy ADC 3.095 criteria and therefore, this application should be approved.

Background Facts

Mr. Will Gutierrez began detailing and cleaning cars primarily through a truck-based mobile operation, known as Vanguard Auto Detailing, in January, 2020. On occasion, he would detail his own personal vehicle, a friend's vehicle or a customer's car in the garage of his house located at 3359 Irving Avenue. During this time, Mr. Gutierrez relied on gasoline powered power washer to complete this work. Not only was this power washer loud, it took a long time to engage and when engaged, the motor would run even when not actively in use. On August 1, 2020, Mr. Gutierrez replaced all of his gasoline powered equipment with an entirely electric powered setup a power washer. See attached bill of sale in support.

The hours of operation for this business will be between 9:00 AM – 6:00 PM, by appointment only and will be limited to no more than 3 customers per week. Attached to this letter is a statement from Mr. Gutierrez explaining the different steps associated with cleaning and detailing a vehicle. Upon arrival, a customer will park in his driveway off of 34th St.. He explains that through his appointment only structure, no car will sit outside in his driveway for more than 5 – 10 minutes before being moved into the garage. All auto-detailing activities including vacuuming and power washing will occur inside the garage. The attached photos illustrate that the garage is large enough to accommodate all of these activities, including power washing, occurring indoors. It takes between 5-9 hours to detail a car, meaning that it would be unlikely that more than one car would be detailed per day. The air compressor used for removing debris from cracks runs for 1-3 minutes, and the power washer and vacuum run for less than 20 minutes each. Taken together, power equipment use will operate for less than one hour per day or considering three vehicles, no more than three hours per week.

Vehicles will be washed with a non-hazardous, phosphate-free, biodegradable soap. This biodegradable soap is the only substance, in addition to water, that will run-off directly into the City's storm system. All wash water drains into a recently installed storm drain located in the middle of the driveway serving two residences - 3349 and 3359 Irving Ave. See statement from grading and concrete contractor explaining as much. In no circumstance does wash water leave the property such that it will reach 34th Street or Irving Ave. below.

This business does not include the use of any touch-up paint, solvents or any other hazardous substances and nothing associated with this business produces fumes or other vapor emissions requiring commercial-scaled ventilation. In fact, all of the activities associated with this home occupation could be accomplished within the garage door closed.

Once the auto detailing work is complete, the owner will be notified and upon arrival, the vehicle will be removed from the garage, onto the driveway and returned to the customer. Again, this hand-off will occur entirely within the confines of the driveway serving the home at 3359 Irving Avenue. It will add one vehicle trip to 34th Avenue per day, three times per week, in addition to trips generated by any mobile detailing unit that would be accomplished by a vehicle owned by Mr. Guitierrez. This additional customer traffic is inconsequential considering that this street serves at least 6 existing residences (2 of which are located on the 3359 Irving tax lot).

The Criteria for Granting a Home Occupation are Satisfied

ADC 3.095 sets forth the applicable approval criteria for approving a home occupation. Each of the criteria is set forth below in italics with a more complete recitation of the Applicant's response, addressing materials submitted into the record to date.

C. The following standards shall be applicable to both Class A and Class B Home Occupations:

1. Clients or customers may visit the site only between the hours of 7:00 a.m. to 6:00 p.m.

All home business activities will occur between the hours of 9:00 AM – 6:00 PM. The evidence suggests that compliance with this standard is feasible and will be assured. Unsupported allegations of previous transgressions are not supported by facts to suggest any behavior in the future. Moreover, any concerns that the Planning Commission may have can be addressed through an enforceable condition of approval limiting the business to the hour of 9:00 AM to 6:00 PM. The Applicant has no objection to the imposition of this condition and with this condition, the Planning Commission should find that this criterion is satisfied.

2. Retail sales of goods on site must be entirely accessory to any services provided on the site.

No retail sales of goods will occur on-site. This criterion is satisfied.

3. On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.

This criterion restricts only the "repair or assembly of vehicles or equipment with internal combustion engines" and does not place any restriction on vehicle maintenance or service. By its term, this criterion is limited to activities that require operation of combustion engines to evaluate and repair such functions such as fixing an engine or its installation. If the language of this provision was intended to include all "automobile maintenance" or "service," it would have been written as such. It does not. Whether oil changes or tire repair would fall within this prohibition is not relevant. No replacement or repair of vehicle component parts is proposed. Rather, what is proposed is vehicle washing and detailing. Similarly, whether or not other commercial detailing activities in the area such as Meiner or A & A Elegance Detailing operate

out of commercial buildings in commercial zones is again not relevant to whether a substantially smaller-scale auto-detailing business can be operated as a home business. The scale of this business will be assured through a staff-recommended condition of approval limiting the use to 3 vehicles per week. This criterion is satisfied.

4. Dispatch centers or headquarters where employees come to the site and are dispatched to other locations are prohibited.

The only employee for this business is Mr. Gutierrez, who resides on the subject property at 3359 Irving Ave. This criterion prohibits the dispatch of “employees.” Since there is only one employee – a resident of the subject property – his comings and goings as part of the mobile detailing business component are not relevant to this criterion. This criterion is inapplicable.

5. More than one Class B home occupation is not allowed in one residence.

This auto-detailing business is the only home occupation that will occur within this residence. This criterion is satisfied.

6. Signs shall be in accordance with Article 8.

No signage is proposed. This criterion is satisfied.

7. All activities must be indoors. Exterior storage or display of goods is prohibited.

As explained above, all auto-detailing activity will occur indoors, within the garage of the residence. See photos in support. The garage is a fully enclosed structure accessible via a garage door. This criterion requires only a finding that the activity will occur indoors and the record reflects that it can and will. This criterion does not prohibit or otherwise restrict home-based businesses from operating indoors within spaces with operable windows or garage doors.

8. Outdoor storage of associated solid waste is limited to an area of 100 square feet and must be screened from view with fencing or vegetation.

This business will not generate any solid waste and thus, no storage of the same is required. No outdoor storage of any kind is proposed. The criterion is satisfied.

9. Noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. Hazardous substances are prohibited, except at the consumer commodity level.

The initial City staff decision, dated November 20, 2020, identifies noise generated from this site as the basis for finding that this criterion is not met, which became the ultimate basis for denial. Presumably this conclusion was based on testimony from neighbors noticing noise from this operation “over the summer.” No concerns about noise were noted after August 1, when the

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applicant replaced all of his gas-powered equipment with electric equipment. In fact, the testimony from Ms. Anne Odom reported that she could not hear the power washer – the loudest of the equipment - operating from inside the garage with the door closed. With the door open, she could hear a powerful hose that was not as loud as a weed eater, lawn mower, or leaf blower. This is substantial evidence from which the Planning Commission could conclude that this criterion is satisfied.

Gas-powered tools or equipment make substantially more noise than electricity-powered equipment. Mr. Guitierrez has taken sound readings not only from the driveway right outside the garage (addressing a claim that impacts to the on-site residence were not considered) as well as from neighboring property lines with the various equipment running with both the garage door open and entirely shut. These recordings have been submitted into the record and documented in the attached chart. These readings indicate that the noise generated from this equipment is between 42 to 58 dBA. For comparison, an average home washing machine or an electric lawn mower emits approximately 75 dBA and the noise generated from this equipment will be quieter. The loudest operation, the power washer at 57 dBA with the garage door open, generates less noise than a normal conversation between people standing 3 to 5 feet apart. See attached comparative noise chart issued by DEQ.

Further, the electric motor that drives the power washer and air compressor shuts off entirely when not engaged so the noise will not be continuous and at most, the power washing activity will last no longer than 20 minutes. Vacuuming lasts 20 minutes and the use of the air compressor to remove debris from inside a vehicle will last 1-3 minutes.

None of this equipment will generate noise that is any greater than typical residential activities such as running a garden hose, sprinkler or an outdoor conversation as routinely happens in quiet residential neighborhoods throughout the City. As a result, it is unlikely that the proposed auto-detailing business will be noticed by the neighbors at all.

With respect to the use of toxic chemicals or other nuisances, no hazardous or toxic substances such as touch-up paint, solvents or lubricants will be used, nor are they necessary for the functioning of this business. No fumes will be generated and as a result, no ventilation is necessary. In fact, electric equipment has no direct fuel to burn, emitting significantly less carbon dioxide, carbon monoxide and hydrocarbons. All of the activities proposed could be accomplished with the garage door shut but nothing in the ADC home occupation criteria require the garage door to remain shut. On warm days the Applicant should be allowed to operate his business with the garage door open should he desire to do so.

Some concerns have been raised about impacts to water quality resulting from runoff from vehicle-wash water. The only run-off generated from this business will be water combined with a non-hazardous, phosphate-free, biodegradable soap. This runoff will discharge entirely into a storm drain located in a concrete driveway located on the subject property and poured two years

ago. See description from contractor and photos of the same. There will be no off-site run-off or erosion or other water-related nuisances generated from this site.

A neighbor has suggested that this activity does not comply with the Oregon DEQ “Recommended Best Management Practices for Washing Activities.” Compliance with state water quality standards is not relevant to finding compliance with this criterion. That said, DEQ Standard 5.2 makes clear that “small cleaning operations” that wash less than “eight vehicles per week” may do so “without permit.” There is no other restriction to directing water containing biodegradable soap into the City’s stormwater system particularly when the water demand is less than three cars per week.

Further, the amount of water used by this business is not any greater than average residential uses. As pointed out above, the electric power washer shuts off entirely when it is not actively engaged. The electric power washer output is 1.9 gallons per minute. The average garden hose is 13 to 17 gallons per minute. Washing three vehicles per week, the applicant will use an average of 84 gallons of water per week. With a garden hose that same three car washes would be 585 to 765 gallons of water if each of those washes took 15 minutes. The amount of water used is consistent with residential uses and the evidence shows that it will be contained entirely on-site.

For these reasons, this criterion is satisfied.

10. No more than one truck, associated with the home occupation, may be parked at the site. Parking must be off-street. The maximum size of the truck allowed on site is a one-ton truck. Extended or prolonged idling of vehicles, or maintenance or repair of vehicles on adjacent streets is prohibited.

No more than one truck – the mobile detailed unit vehicle - associated with this home occupation and all customer vehicles will be parked in the driveway, off of any street. Contrary to the November staff finding, there is no evidence of customer vehicles being parked on the street. To the extent on-street parking is alleged, these were vehicles owned by the residents of 3349 / 3359 Irving Ave who parked on the street while the driveway was being poured. This criterion is satisfied.

11. Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00 a.m. and 6:00 p.m. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.

No deliveries as associated with this home occupation and this criterion is satisfied.

12. The dwelling and site must remain residential in appearance and character. Internal or external changes which will make the dwelling appear less residential in nature or function are

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prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.

No exterior alterations to the structure are proposed. This criterion is satisfied.

Conclusion

Home occupations are permitted in residential zones throughout the City in order to provide for low-impact businesses which the owners or residents can operate within the dwelling, or in an adjacent structure. The regulations are intended to ensure that the occupation will not be a detriment to the surrounding neighborhood and that it will be subordinate to the main use of the property. The evidence submitted here not only responds to all of the concerns raised, it also shows that the proposed auto-detailing business is scaled and will operate without notice from surrounding residents. Approving this application will not authorize any other type of home business at this location, nor will it authorize any similar use within other nearby residences. This is a request is limited to a single individual just trying to get his small business started. Condition of approval limiting the hours and the number of vehicles serviced will ensure that this business can continue to function seamlessly and without any impact into the future.

I look forward to discussing this application in greater detail at the hearing.

Sincerely,



Carrie A. Richter

Attachments
CAR:kms
cc: Clients

Standard Operating Procedures for Vanguard Auto Detailing

1.) I meet customer outside of garage driveway at 3349 Irving Ave. Astoria Oregon 97103. I then provide customer with business card and customer provides me with vehicle keys. This step takes no more than 5 minutes. I then proceed to park vehicle in garage. First step in process will include interior vacuuming (15-20 Minutes). Compressed air is also used to blow out small debris from door pockets, air vents, and center console (1-3 Minutes). Third step is interior wipe/spot clean (2-3 Hours). Fourth step is the exterior wash of vehicle with pressure washer. Vehicle is hand washed with biodegradable car soap and water (15-20 Minutes). Fourth step will be drying vehicle. Fifth step will be interior/exterior window cleaning. Final step will be a coat of either spray or paste wax and tire shine. None of these supplies come in contact with the floor or water drain.

2.) My Hours of operation are Monday-Sunday 9:00AM-6:00PM. All work will be by appointment only to avoid situations where more than one customer vehicle will be onsite at all times.

3.) The only vehicle associated with my business is my personal vehicle, which will be, parked onsite.

4.) There are no hazardous substances being used to perform my work. I am also compliant with consumer commodity levels of products used. Also, there are absolutely no fumes produced from my detailing business.

5.) I am the owner/operator and only employee of the business.

6.) Also, I would like to inform everyone of my work equipment. I took the initiative to purchase all electric tools including pressure washer, air compressor, and vacuum. I did sell my previous setup which was gas powered and did produce higher decibel readings.

7.) My current pressure washer setup is equipped with TSS (Total Stop System) Electric motor shuts off when machine trigger is not squeezed. Pressure washer output is 1.9 gallons per minute. The average garden hose is 13-17 gallons per minute. In perspective I use an average of 84 gallons of water 3 times per week vs. 585-765 gallons of water with an average sized water hose.

5:59



< Inbox

Order #72812 confirmed -...



Thank you for your purchase with Obsessed Garage!

This email is to confirm your order on
08/01/2020. Your order number is **72812**.

Billing Address:

3349 IRVING AVE
ASTORIA, Oregon 97103
United States

Shipping Address:

5:59



< Inbox

Order #72812 confirmed - ...



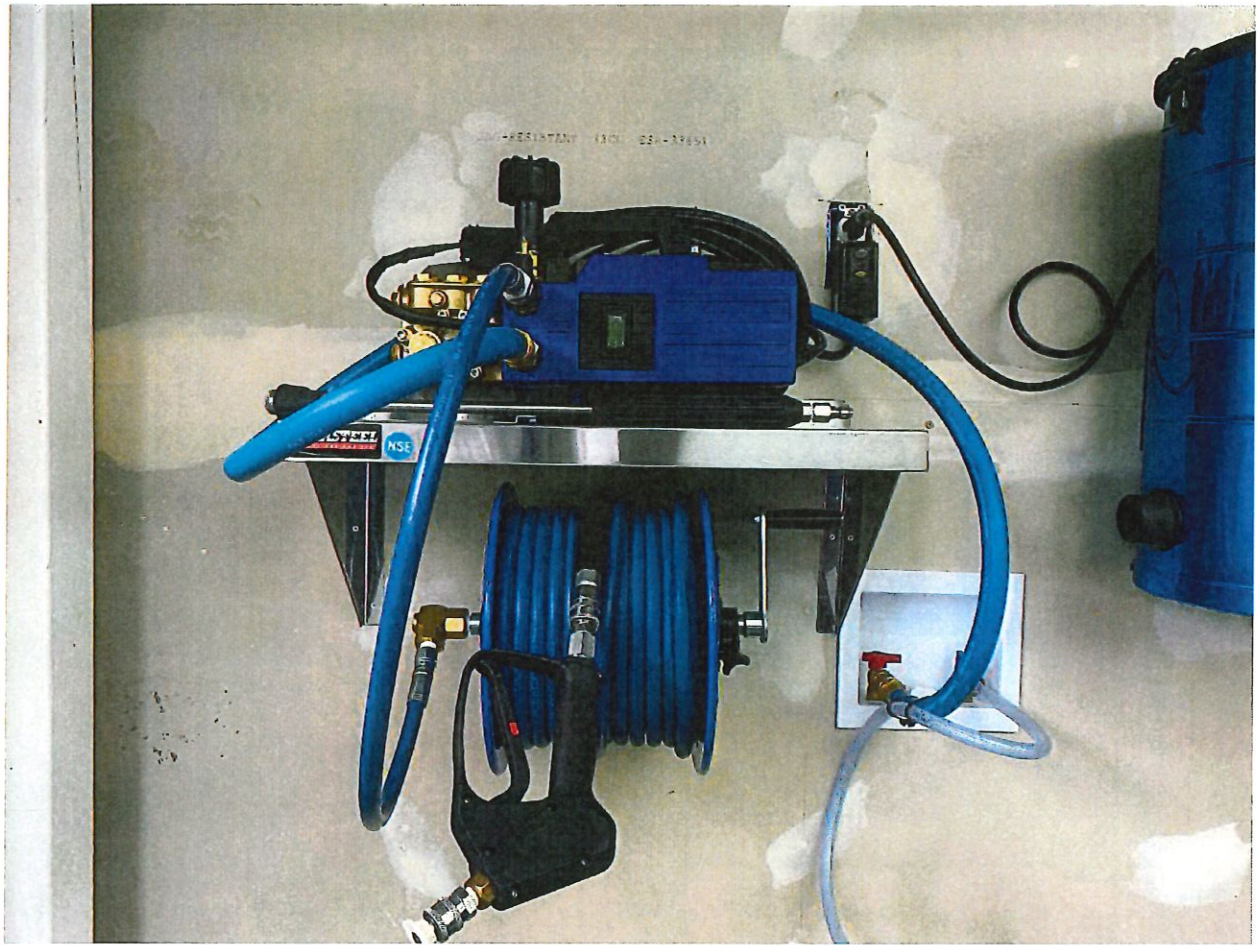
Quantity: 1
Total: \$57.25



**AR Blue Clean
AR630-TSS - Add
Complete Mosmatic
Swiveling Sprayer &
Wand Solution / Add
100' KobraJet Hose
and Quick
Disconnects /
Continental US**

Quantity: 1
Total: \$1,070.50

Equipment Photos



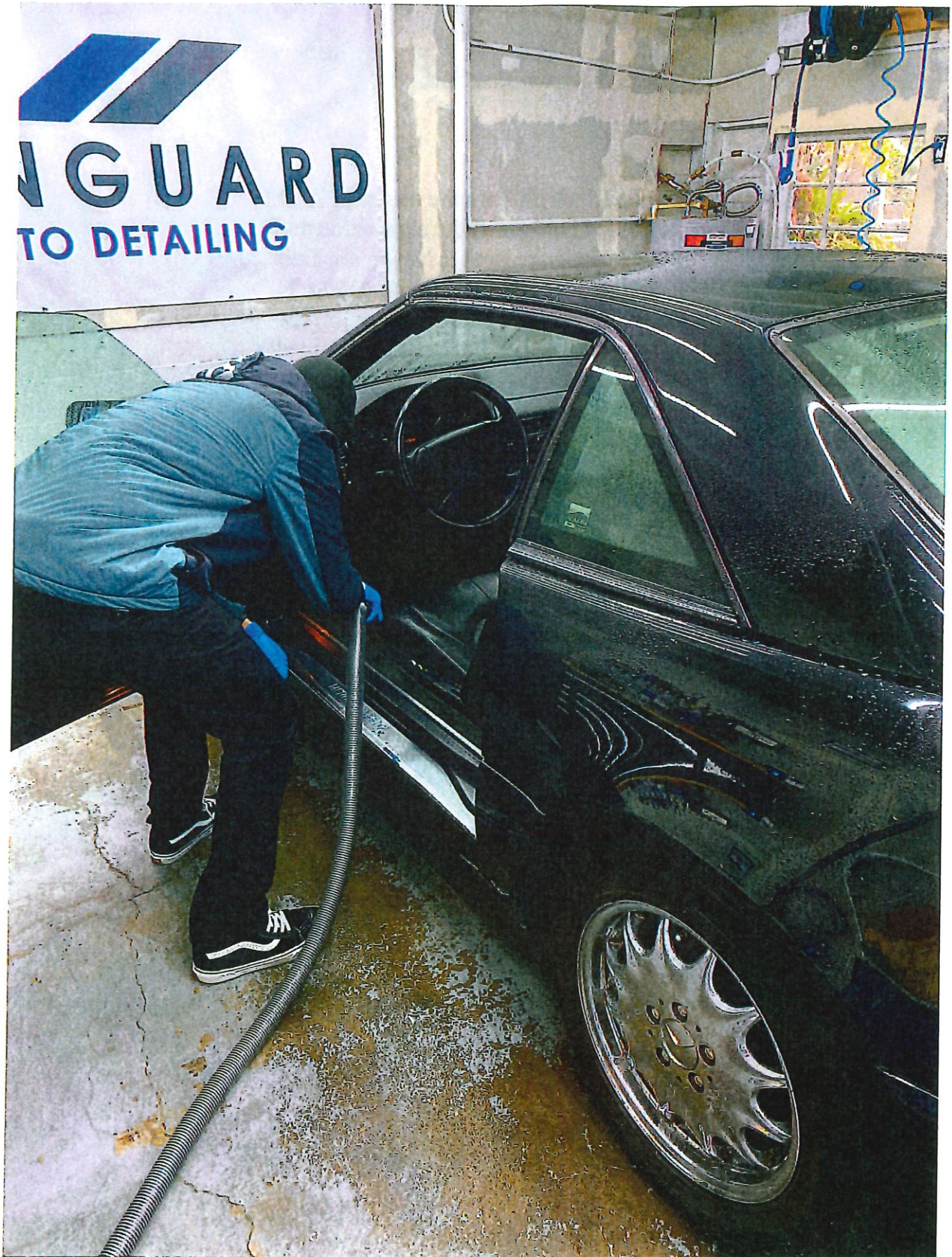
Equipment Photos



Equipment Photos







A&M Excavation Inc.

My name is Mike Rieck Sr. I am the owner of A&M Excavation Inc. in 2017, I performed the excavation and grading work for the parking area and driveway for Deb Ferguson at 3349 Irving Ave. Astoria Oregon 97103. I grew up in a local paving family, so I treat every project like as if it will be paved someday. I planned and graded the final top lift of ¾"-O rock to at least 1" of fall in every 10' of distance to a catch basin that was centrally located at the center of their parking area. From the top of the driveway back to the catch basin is 30'. In this distance there is 6'4" of fall back to the catch basin. As you can see by the numbers, that is more then twice the amount needed for proper drainage. And furthermore, the area that Mr. Gutierrez preforms work with any water is on an impermeable surface beyond the catch basin and the top of the driveway that the complainant claims is creating runoff down 34th St. down to Irving Ave. I also greatly improved the existing drainage ditch along the South side of Ms. Ferguson's driveway to aid in collecting the natural rainwater that has been traveling down the driveway forever. I am 100% certain of my work and the grades and drainage solutions that I created in 2017 and will happily prove any of this to Mr. Steve Fulton at any time.

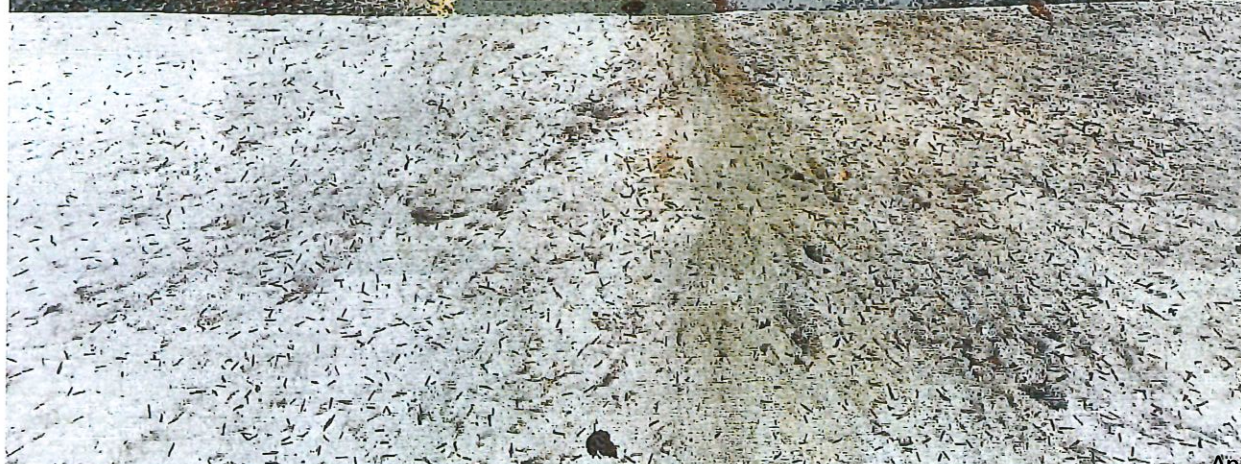
Mike Rieck Sr.
A&M Excavation Inc.

01/04/2021 *Michael K. Rieck Sr.*



A&M Excavation Inc.





Decibel Readings

Addresses	Ambient Noise	Garage Door Open				Garage Door Shut			
		Air Compressor	Vacuum	Pressure Washer	Air Compressor	Vacuum	Pressure Washer		
3349 Driveway	42.4 dB	58 dB	53 dB	57 dB	42.9DB	42DB	45DB		
3391 Steve & Janis Larson (Airbnb) South End Property Line	43 dB	51.8 dB	48 dB	57DB	45DB	42.8DB	45DB		
1054 34 th St. Mr. Fulton's Southwest Property Line	48 dB	52 dB	50 dB	50DB	50DB	50DB	50DB		
948 34 th St. Heiner Property Line East end.	45 dB	48 dB	47 dB	48DB	45DB	42.8DB	45DB		

All sound tests were 30+ seconds.

A natural spring water next to Mr. Fulton's property picked up a 10-decibel increase during testing.

All tests were performed on 01/03/2021 between 11:00AM-1:00PM

Tests were performed using an iPhone 11. The following apps were used: Voice Memos, iPhone 11 Camera, NIOSH Sound Level Meter.

Although not controlling, the Oregon Department of Environmental Quality publishes standards for commercial noise near residences, which is set forth in Table 8, OAR 340-035, below. Noise generated by the subject home occupation will be well below DEQ- regulated thresholds.

Table 8

(340-35-035)

NEW INDUSTRIAL AND COMMERCIAL NOISE SOURCE STANDARDS

Allowable Statistical Noise Levels in Any One Hour

7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
L ₅₀ - 55 dBA	L ₅₀ - 50 dBA
L ₁₀ - 60 dBA	L ₁₀ - 55 dBA
L ₁ - 75 dBA	L ₁ - 60 dBA

Decibel Noise Chart

Decibel (Loudness) Comparison Chart

Here are some interesting numbers, collected from a variety of sources, that help one to understand the volume levels of various sources and how they can affect our hearing.

Environmental Noise	
Weakest sound heard	0dB
Whisper Quiet Library	30dB
Normal conversation (3-5')	60-70dB
Telephone dial tone	80dB
City Traffic (inside car)	85dB
Train whistle at 500', Truck Traffic	90dB
Subway train at 200'	95dB
<i>Level at which sustained exposure may result in hearing loss</i>	<i>90 - 95dB</i>
Power mower at 3'	107dB
Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
<i>Pain begins</i>	<i>125dB</i>
Pneumatic riveter at 4'	125dB
<i>Even short term exposure can cause permanent damage - Loudest recommended exposure <u>WITH</u> hearing protection</i>	<i>140dB</i>
Jet engine at 100', Gun Blast	140dB
Death of hearing tissue	180dB
Loudest sound possible	194dB

OSHA Daily Permissible Noise Level Exposure	
Hours per day	Sound level
8	90dB
6	92dB
4	95dB
3	97dB
2	100dB
1.5	102dB
1	105dB
.5	110dB



FILE NOTE

DATE: January 14, 2021
TO: ASTORIA PLANNING COMMISSION
FROM: Tiffany Taylor
SUBJECT: PUBLIC COMMENT RE: APPEAL AP20-04 / MR20-02

Don Heiner called the Community Development Dept. today @ 9:10 a.m. to provide his public testimony on Appeal AP20-04.

Mr. Heiner is “totally against” the application and does not want an auto-detailing business located in his residential neighborhood. He also expressed the following:

- 34th Street is an unimproved right-of-way and he contributes to the cost of maintaining the road; and
- The applicant operated the business without a license during the summer of 2020 and it was noisy and disruptive.

Mr. Heiner does not have access to a computer or email and requested that his verbal comments were documented and submitted to the Planning Commission.

Contact Info:
Don Heiner
948 34th Street
Astoria, OR 97103
(503) 468-8847

cc: Barbara Fryer, City Planner
File

From: steve@scfulton.com
To: [Tiffany Taylor](#)
Subject: AP-20-04, (MR20-02 Appeal), Class "B" Home Occupation application by Mr. Will Gutierrez, 3349 Irving Avenue
Date: Tuesday, January 12, 2021 12:37:13 PM

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

City of Astoria Community Development Department:

Regarding AP20-04 MR20-02, Class "B" Home Occupation application by Mr. Will Gutierrez, 3349 Irving Avenue.

I live in the property located at 1050-34th Street, near the site of the proposed home occupation. This letter is to notify the City that I am opposed to the City of Astoria Planning Commission approving this application based on the impact it will have on the livability of the neighborhood.

The proposed home business (auto detailing/cleaning) is clearly not compliant with City of Astoria Development Code, 3.095, Home Occupation Standards, C.3, C.7, C.9 and C.12.

My concerns are as follows:

1. The site of this application, 3349 Irving Avenue is accessed via 34th Street, South of Irving Avenue. This portion of 34th Street is a privately maintained City ROW. The neighborhood residents have paid to have 200' of 34th Street paved. An increase in traffic, caused by this proposed business, will unequally diminish the neighbor's investment in the 34th Street improvements.
2. The proposed business has been operating at 3349 Irving since prior to COVID-19 lock-down. At that time and over the summer, the noise from the detailing equipment was persistent and very noticeable from first thing in the morning until approaching 10 PM.
3. Subsection C.9 ("Noise, odor, vibration ...") was not fully addressed in the Staff Report. The staff finding was that the proposed use would create noise, which is true; however, C.9 also addresses other nuisances, and this includes excessive motor vehicle traffic, non-residential runoff, the need for commercial-level ventilation of the workspace, and the possible unregulated use of volatile and/or hazardous substances. **This application is not in compliance with Subsection C.9.**
4. Subsection C.9 ("Hazardous substances are prohibited, except at the consumer commodity level.") Following the date of application, the company (Vanguard Auto Detailing) was not registered with the State of Oregon Corporations Division. Because it the company was not registered it is likely its vehicle washing runoff is not being handled in compliance with Oregon DEQ "Recommended Best Management Practices for Washing Activities." If the business uses touch-up paints or solvents, soaps and chemicals potentially for foul runoff and vapor emissions is quite high. The runoff from the power washing of the vehicles seems to drain off of the site and down the ROW alley/rock driveway onto 34th Street and into the catch basin at 34th and Irving Avenue. If this project is moved 100% inside this wash-water will have to directly be discharged into a floor drain connected to the municipal sewer system and the chemical vapors will have to be mechanically expelled from the building. The City of Astoria currently is experiencing issues with its combined treatment facility and this commercial outfall potential should be evaluated and monitored to prevent impacts on the sewer system. There is not an independent storm water report attached to the Staff Report/Application of show proof of compliance with provisions of the City code or Oregon/Federal law(s). **The applicant is not in compliance with this Subsection C.9.**
5. Standard C.3, the on-site repair of vehicles is prohibited. In my opinion auto detailing is a form of auto/vehicle repair. The Staff interpretation of subsection 3.095.C.3 ("Onsite repair or assembly of vehicles ...") is too narrow. Under the Staff interpretation, the city would allow, for example, a home occupation that does oil changes or repairs/replaces

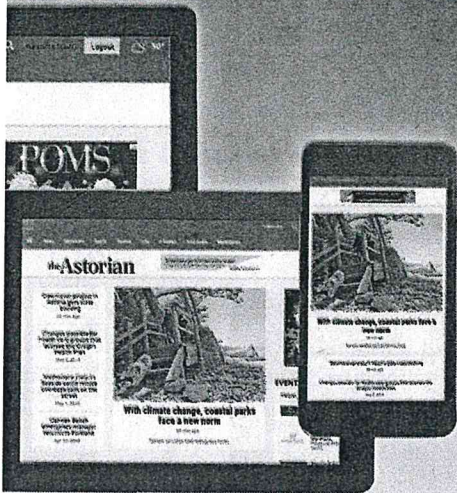
tires, as these are maintenance activities not involving repair of broken internal combustion engines. Subsection C.3 should be interpreted more broadly to prohibit all truck and automobile services. I have not been able to locate a definition in the City of Astoria code to clearly describe Auto Detailing, consequently it should be defined as Auto Repair and be prohibited. An example of a suitable classification of the proposed activity is found in the City of Beaverton Development Code: *Automotive Services, Minor. [ORD 4542; June 2010] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: retail and wholesale fuel sales; tire sales or installation, glass installation, oil changes and lubrications, general engine maintenance and repair, radiator repair, **detail shops**, mechanical car washes solely used by on-site employees as part of retail vehicle sales, or other similar service or repair.* In our area other auto detailing businesses operate out of commercial buildings in commercial zones (Meiner, A&A, maybe others), demonstrating that it's not necessary to run this type of business out of a home. **The application is not in compliance with Subsection C.3**

6. Standard C.7 requires all activities to be indoors. Previously activities associated with the auto detailing at 3449 Irving took place outside on a newly constructed concrete pad or in the remodeled garage with the doors open; it seems to be impossible that 100% of the vehicles serviced by the proposed operation will take place inside with all of the doors and windows closed. **The application is not in compliance with this Subsection C.7.**
7. Standard C.9, states that noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. There has been no evaluation of the potential impact of the auto detailing operation on nearby residences, and especially on the residential quarters upstairs in the same building, in terms of noise, air emissions, or fire safety. Will the work area be vented to the outside? How large are the fans needed to accomplish this? Will they be installed by a licensed electrician? Is there a fire wall between the work space and the upstairs residence? Has the applicant provided the City with MSDSs for the chemicals used in the detailing business? The staff Report contains none of this information. **The application is not in compliance with this Subsection C.9.**
8. Subsection C.12 prohibits exterior alterations that are non-residential in character. Although the application did not request any such alterations, ventilation will almost certainly be needed if the business is operated 100% indoors as described in the application. Does the garage have commercial ventilation; it apparently does not because the business has historically operated with the garage doors open? Neighbors comments to the staff review of the application verifies this business has operated with garage door(s) open. **The application is not in compliance with this Subsection C.12.**
9. Some of the comments associated with this letter might be addressed with conditions of approval however the City would be relying on the honor system by the Applicant for the compliance and the neighbors would become responsible for enforcement calls to the City. This is not a reasonable situation to place the neighbors and one that should be avoided.

Thank you for giving me this opportunity to comment on this application.

Sincerely,

nt subscriber



get
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orian

.781.3214
you get access

orian content on
tablet or phone



101 Legal Notices

**AB8037
PROJECT BASED
VOUCHER PROGRAM
REQUEST FOR
PROPOSALS**

The Northwest Oregon Housing Authority (NOHA) Housing is accepting proposals from owners and developers for the Project Based Voucher (PBV) Program. Competitive proposals with subject line labeled PBV Proposal must be sent to the email below by 2pm on Monday, February 1, 2021. The Request for Proposal may be obtained at www.nwoha.org or via email upon request at director@nwoha.org.

Published: January 9, 12, 14, 16, 19, 21, 23, 26, 28, 30, 2021.

AB8047

**IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF
CLATSOP**

In the Matter of the
Estate of
Robert Emmett Morrissey, Jr,
Deceased.

Case No. 20PB08974
NOTICE TO INTERESTED
PERSONS

NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative at PO Box 145, Astoria, OR 97103, within four months after the date of first publication of this notice, or the claims may be barred.

All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyers for the personal representative, Heather Reynolds.

Dated and first published on
January 21, 2021.

Robert E. Morrissey, III
Personal Representative

PERSONAL
REPRESENTATIVE:
Robert E. Morrissey, III
1566 Irving #12
Astoria, OR 97103

ATTORNEY FOR
PERSONAL
REPRESENTATIVE:
Heather Reynolds,
OSB #813487
PO Box 145, Astoria, OR
97103
503.325.8449
Heather@ReynoldsAttorney.com

**Published: January 21, 28,
February 4, 2021.**

America, The Salvation Army; and United Way Worldwide.

A Local Board will determine how the funds awarded to Clatsop County are to be distributed among the emergency food and shelter programs run by local service agencies in the area. The Local Board is responsible for recommending agencies to receive these funds and any additional funds made available under this phase of the program.

Under the terms of the grant from the National Board, local agencies chosen to receive funds must:

- 1) Be private voluntary nonprofits or units of government
- 2) Have existing needs-based programming for food-insecure and unsheltered individuals/families
- 3) Be eligible to receive Federal funds
- 4) Have staff and capacity to take on the added responsibility of this program
- 5) Have a CPA reviewed annual accounting system
- 6) Practice nondiscrimination
- 7) If they are a private voluntary organization, have a voluntary board.

Qualifying agencies are urged to apply by contacting Kassia Nye at UnitedWayofClatsopCounty.503.325.1061.comunications@uw.org

101 Legal Notices

The 101 Legal Notices

received is January 27th, 2021.

Published: January 21, 2021

**CITY OF ASTORIA
NOTICE OF PUBLIC HEARING**

Due to the COVID-19 Pandemic, public hearings will be conducted in the City Council Chambers with a limited seating arrangement. Masks are required. To adhere to the social distancing recommendation, you may also participate in the public hearing remotely. Go to https://www.astoria.or.us/LIVE_STREAM.aspx for connection options and instructions. You may also use a telephone to listen in and provide public testimony. At the start of the meeting, call (253) 215-8782 and when prompted enter meeting ID# 503 325 5821.

The City of Astoria Planning Commission will hold a public hearing on Tuesday, January 26, 2021 immediately following the Traffic Safety Advisory Committee meeting at 5:30 p.m. in the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following requests:

1. Conditional Use Request (CU20-09) by Tony Ewing to convert two dwelling units into an Inn at 1415 Olney Avenue (Map T8N R9W Section 17CD; Tax Lot 00500; Tideland Frontage to Government, Lot 3, Lying south of Highway 202) in the S-2 Zone. Development Code standards §2.675 to §2.690, Article 9, and Article 11, and Comprehensive Plan Sections §CP.005 to §CP.028 and §CP.060 to §CP.065 are applicable to the request.
2. Appeal (AP20-04) of Administrative Denial Decision (MR20-02) by Will Gutierrez to operate a home-based business detailing automobiles at 3349 Irving (Map T8N R9W Section 17BA; Tax Lot 10900; Lot 3; Block 65; Adair's Upper) in the R-1 Zone. Development Code standards §2.015 to §2.050, §3.095 to §3.100, and Article 9, and Comprehensive Plan Sections §CP.005 to §CP.028 and §CP.070 to §CP.075 are applicable to the request.
3. Conditional Use Request (CU20-11) by JCCD Wholesale LLC to expand the existing retail cannabis dispensary with an additional wholesale component at 229 Marine Drive (Map T8N R9W Section 07CA; Tax Lot 03000; Northerly portion of Lots 1 and 2, Block 2, Taylor's) in the C-3 Zone and the Uniontown Overlay Zone. Development Code standards §2.675 to §2.690, §14.147 to §14.2163, Article 9, and Article 11, and Comprehensive Plan Sections §CP.005 to §CP.028 and §CP.030 to §CP.035 are applicable to the request.

For information, call or write the Community Development Department, 1095 Duane St., Astoria OR 97103, Phone (503) 338-5183 comdevadmin@astoria.or.us. 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 48 hours prior to the meeting at (503) 338-5183. The Astoria Planning Commission reserves the right to modify the proposal or to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided.

THE CITY OF ASTORIA
Tiffany Taylor, Administrative Assistant
PUBLISHED: January 21, 2021.



CITY OF ASTORIA

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1095 Duane Street • Astoria, OR 97103 • Phone 503-338-5183 • www.astoria.or.us • comdevadmin@astoria.or.us

NOTICE OF PUBLIC HEARING

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

Due to the COVID-19 Pandemic, public hearings will be conducted in the City Council Chambers with a limited seating arrangement. Masks are required. To adhere to the social distancing recommendation, you may also participate in the public hearing remotely. Go to https://www.astoria.or.us/LIVE_STREAM.aspx for connection options and instructions (included on Page 3 of this notice as well). You may also use a telephone to listen in and provide public testimony. At the start of the meeting, call (253) 215-8782 and when prompted enter meeting ID# 503 325 5821.

The City of **Astoria Planning Commission** will hold a public hearing on **Tuesday, January 26, 2021** immediately following the **Traffic Safety Advisory Committee** meeting at 5:30 p.m. in the Astoria City Hall, Council Chambers, 1095 Duane Street, Astoria. The purpose of the hearing is to consider the following request(s):

1. A19-03B: Housing Amendment (*withdrawn*)
2. CU20-09: 1415 Olney
Conditional Use Request (CU20-09) by Tony Ewing to convert two dwelling units into an Inn at 1415 Olney Avenue (Map T8N R9W Section 17CD; Tax Lot 00500; Tideland Frontage to Government, Lot 3, Lying south of Highway 202) in the S-2 Zone. Development Code standards §2.675 to §2.690 (General Development Shorelands Zone), Article 9 (Administrative Procedures), and Article 11 (Conditional Uses), and Comprehensive Plan Sections §CP.005 to §CP.028 (General Development) and §CP.060 to §CP.065 (South Slope) are applicable to the request.
3. AP20-04: 3349 Irving
Appeal (AP20-04) of Administrative Denial Decision (MR20-02) by Will Guitierrez to operate a home-based business detailing automobiles at 3349 Irving (Map T8N R9W Section 17BA; Tax Lot 10900; Lot 3; Block 65; Adair's Upper) in the R-1 Zone. Development Code standards §2.015 to §2.050 (R-1 Zone), §3.095 to §3.100 (Home Occupations, and Article 9, and Comprehensive Plan Sections §CP.005 to §CP.028 (General Development) and §CP.070 to §CP.075 (Uppertown) are applicable to the request.
4. CU20-11: 229 Marine Drive
Conditional Use Request (CU20-11) by JCCD Wholesale LLC to expand the existing retail cannabis dispensary with an additional wholesale component at 229 Marine Drive (Map T8N R9W Section 07CA; Tax Lot 03000; Northerly portion of Lots 1 and 2, Block 2, Taylor's) in the C-3 Zone and the Uniontown Overlay Zone. Development Code standards §2.675 to §2.690 (General Commercial Zone), §14.147 to §142.163, Article 9 (Administrative Procedures), and Article 11 (Conditional Uses), and Comprehensive Plan Sections §CP.005 to §CP.028 (General Development) and §CP.030 to §CP.035 (West End) are applicable to the request.

A copy of the application, all documents and evidence relied upon by the applicant, the staff report (published seven days prior to the hearing), and applicable criteria, are available for inspection at no cost and will be provided at reasonable cost. All such documents and information are available by contacting the Community Development Department by mail at 1095 Duane Street, Astoria, OR 97103, by email at comdevadmin@astoria.or.us, or by phone at (503) 338-5183.

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

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 Council's ruling may be appealed to the State Land Use Board of Appeals by the applicant, appellant, a party to the hearing, or by a party who responded in writing, by filing a Notice of Intent to Appeal within 21 days after the City Council's decision. Appellants should contact the Oregon Land Use Board of Appeals (LUBA) concerning specific procedures for filing an appeal with the LUBA. If an appeal is not filed with LUBA within the 21-day period, the decision of the City Council shall be final.

The public hearing, as conducted by the Astoria City Council, will include a review of the application and presentation of the staff report, opportunity for presentations by the applicant/appellant and those in favor of the request, those in opposition to the request, and deliberation and decision by the Astoria City Council. The Astoria City Council 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



Barbara Fryer
City Planner

MAIL: December 30, 2020



CITY OF ASTORIA

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1095 Duane Street • Astoria, OR 97103 • Phone 503-338-5183 • www.astoria.or.us • ttaylor@astoria.or.us

Due to the COVID-19 Pandemic, public meetings will be conducted in the City Council Chambers with a limited seating arrangement. Masks are required. To adhere to the social distancing recommendation, you may also fully participate in the meeting remotely using the connection options listed below:

ONLINE MEETING

At start of our Public Meetings you will be able to join our online ZOOM meeting using your **mobile or desktop device** and watch the live video presentation and provide public testimony.

Step #1: Use this link: <https://www.astoria.or.us/zoom/>

Step #2: Install the Zoom software on your mobile device, or join in a web browser

Step #3: If prompted, enter the Meeting ID number: 503 325 5821

Note: Your device will automatically be muted when you enter the online meeting. At the time of public testimony, when prompted you may choose to select the option within the ZOOM software to "raise your hand" and notify staff of your desire to testify. Your device will then be un-muted by the Host and you will be called upon, based on the name you entered within the screen when you logged in.

TELECONFERENCE

At start of our Public Meetings you will be able to **dial-in using your telephone** to listen and provide public testimony.

Step #1: Call this number: [253-215-8782](tel:253-215-8782)

Step #2: When prompted, enter the Meeting ID number: 503 325 5821

*Note: Your phone will automatically be muted when you enter the conference call. At the time of public testimony, when prompted, you may dial *9 to "raise your hand" and notify staff of your desire to testify. Your phone will then be un-muted by the Host and you will be called upon based on your phone number used to dial-in.*

AUDIO-ONLY

At start of our Public Meetings you will be able to access the Audio only to listen to the meeting.

Step #1: Use this link to access the online audio: <http://audio.coao.us>

AP20-04
Fremstad Melissa
Fremstad Erik
3388 Irving Ave
Astoria, OR 97103

AP20-04
Lapham Sarah E
Bocci Julia A
1700 SE Ladd Ave
Portland, OR 97214

AP20-04
Odom Anne L
975 34th St
Astoria, OR 97103-2600

AP20-04
Heiner Josephine
948 34th St
Astoria, OR 97103-2611

AP20-04
Will Guitierrez
3349 Irving
Astoria, OR 97103

AP20-04
Steve Fulton
1050 34th Street
Astoria, OR 97103

AP20-04
Fremstad Trust
Fremstad Fredrik Trustee/Fremstad Helene
Trustee
93052 Knappa Dock Rd
Astoria, OR 97103

AP20-04
Ferguson James P
Ferguson Debora E
3359 Irving Ave
Astoria, OR 97103-2632

AP20-04
West Jessamyn
Nystrom Graham
3409 Irving Ave
Astoria, OR 97103

AP20-04
G & L Trust
Fulton G C Tr
2912 28th Ave W
Seattle, WA 98199

AP20-04
Dan Heiner
948 34th Street
Astoria, OR 97103

AP20-04
Don West
3409 Irving Avenue
Astoria, OR 97103

AP20-04
Landwehr Lynne E/Landwehr Alfred W
Landwehr Family Trust
5425 NE Webster St
Portland, OR 97218

AP20-04
Larson Steven C
Larson Janis M
PO Box 331 PO Box 331
Philomath, OR 97370

AP20-04
Orlando Cynthia L
Orlando Family Rev Liv Trst
PO Box 212 PO Box 212
Naalehu, HI 96772-0212

AP20-04
Carrie Richter
Bateman Seidel
1000 SW Broadway Wuite 1910
Portland OR 97205

AP20-04
Fred White
2011 Irving Avenue
Astoria, OR 97103



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT

RECEIVED
DEC 23 2020
Community Development
CITY OF ASTORIA

WAIVER OR EXTENSION OF 120 DAY RULE AT APPLICANT'S REQUEST

State law requires the City to issue a final decision on land use reviews within 120 days of receiving a complete application. State law also allows an applicant to request in writing an extension of the 120-day review period for up to an additional 245 days.

When extensions are requested, it is important to ensure that there is adequate time to accommodate the required public review, drafting the decision, and any required hearings (including appeals) within the extended review period.

To request an extension of the 120-day review period, submit this form to the Community Development Department.

Applicant: Will Gutierrez

Application Case Number: MR20-02, AP20-04

Date of Complete Application: 9/29/2020

Date of 120 Day Period 1/20/2021

Pursuant to ORS 227.178*, the Applicant requests to (check one):

^{DF 1/14/21} Extend the 120-day period for an additional 60 days to date of 3/21/2021

Extends the 120-day period to the maximum extension of 245 days to date of 9/22/2021

Note: The total number of extension requests may not exceed 245 days.

By signing this form, the applicant acknowledges that the 120-day review period for this land use review application will be extended for the number of days specified.

[Signature]
Applicant signature

22 DEC 2020
Date

Name: Will Gutierrez

Address: 3349 Irving Ave Astoria OR 97103

Phone: 503.741.1034 email: will@vanguardautodetailing.com

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538
bfrayer@astoria.or.us • www.astoria.or.us

* 227.178 final action on certain applications required within 120 days; procedure; exceptions; refund of fees.
(1) Except as provided in subsections(3) and (4) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

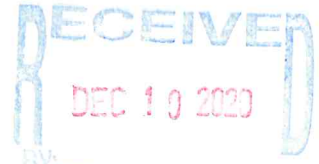
(4) The 120-day period set in subsection (1) of this section may be extended for a reasonable period of time at the request of the applicant.

(9) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (7) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT



No. AP 20-04

Fee Paid Date 12/10/20 By BF check # 65200074
Fee: \$500.00 Money Order

NOTICE OF APPEAL

Property Address: 3349 Irving Ave Astoria Oregon

Lot 3 Block 65 Subdivision Adair's upper

Map T&N-R9W Tax Lot 10900 Zone R-1

Appellant Name: Will Guitierrez

Appellant Mailing Address: 3349 Irving Ave Astoria OR

Phone: 971-506-6895 Business Phone: 503-741-1034 Email: deb.fergerson@gmail.com

Issue Being Appealed: Noise, Parking, Business hours of operation MR20-02

Signature of Appellant: [Signature] Date: 12/10/2020 Admin Denial

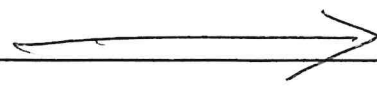
Name of Appellant's Attorney (if any): Attorney being retained - we will

Address of Appellant's Attorney (if any): Supply nm & Address next week

This Appeal is filed with the City of Astoria, in accordance with Development Code Section 9.040, on a decision and/or ruling dated 11/20/2020 by the City Planner Barbara Fryer Commission (Department/Commission/Committee/City Official)

Specific Criteria Appealed: Business Noise, Parking by clients on street, Business Hours

The specific grounds relied upon for review: See attached



(If additional space is needed, attach additional sheets.) 3359 Irving / R-2

For office use only:			
Application Received :	<u>12/10/20</u>	Standing to Appeal	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Appeal Criteria:		Permit Info Into D-Base:	<u>12/11/20</u>
Application Complete:		Tentative Meeting Date:	
Labels Prepared:			
120 Days:			

1) Customer visit hours

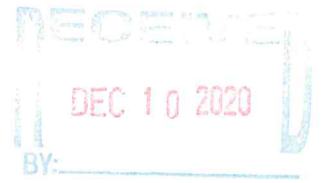
grounds: Hours as of 10/01/2020 for client visits to 3349 are by appointment only between the hours of 9:00 Am to 6pm by appointment only, limited to 3 customers per week. This change was made to respect the wishes of our adjacent Neighbors.

We are contesting Mr. Fulton's assertion that business/client visits take place from early morning to 10 pm. Client visits have never been later than 6pm. There are 3 residences with 8 to 10 vehicles not including visitors to those residence which all share the same entrance and exit in addition to residents & visitors to Anne Odom that may use the same entrance and exit over the city right of way. Those other personal activities include 3349, 3359, 3341 Irving and 975 34th residence.

2) All activities indoors.

grounds: All activities are indoors - 100% of equipment used is electric. No noise is created for neighbors as testified by our nearest Neighbor Anne Odom. No gasoline equipment (ie) power washer has been used for over 6 months. Any outdoor activities that take place in the shared drive & parking areas are for personal use associated with 3349, 3359, 3341 Irving Avenue

9.) Noise



grounds: Use of 100% electric equipment.

No gas equipment has been used for more than 6 mo. This was included in our closest adjacent neighbors testimony Anne Odom

10.) parking of client vehicles off street

No client parking has ever taken place on adjacent city streets. Summer parking excavation and concrete pouring - required all residents & contractor associated to park on adjacent streets on occasions for a period off on on for over 4 month during project completion

Documents / Record

related to the Administrative Denial Decision of

MISCELLANEOUS REVIEW-CLASS "B"

HOME OCCUPATION REQUEST (MR20-02)

by

WILL GUTIERREZ



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

1095 Duane Street, Astoria, OR 97103

(503) 338-5183 • www.astoria.or.us • planning@astoria.or.us

ABBREVIATED FINDINGS OF FACT FOR ADMINISTRATIVE DECISION

Order Mailed via USPS: November 25, 2020

MISCELLANEOUS REVIEW MR20-02

These findings are made subject to the standards of the Astoria Development Code, Section 3.095, "Home Occupations". The Community Development Director may determine that, in certain cases, additional findings are necessary.

I. BACKGROUND SUMMARY

- A. Applicant: Will Guitierrez
3349 Irving Avenue
Astoria Oregon 97103
- B. Owner: Debora Ferguson
3359 Irving Avenue
Astoria Oregon 97103
- C. Request: To operate an auto-detailing business, a Class B Home Occupation, in an existing dwelling
- D. Location: 3349 Irving Avenue; Map T8N-R9W Section 09 CA, Tax Lot 10900; Lot 3, Block 65, Adair's Upper
- E. Zone
Designation: R-1, Medium Density Residential Zone
- F. 120 Day: January 20, 2021

II. PUBLIC NOTICE

Public notice was mailed to all property owners within 200 feet pursuant to Astoria Development Code (ADC) §9.020 on October 12, 2020. Newspaper notice was published in *The Astorian* on October 15, 2020.

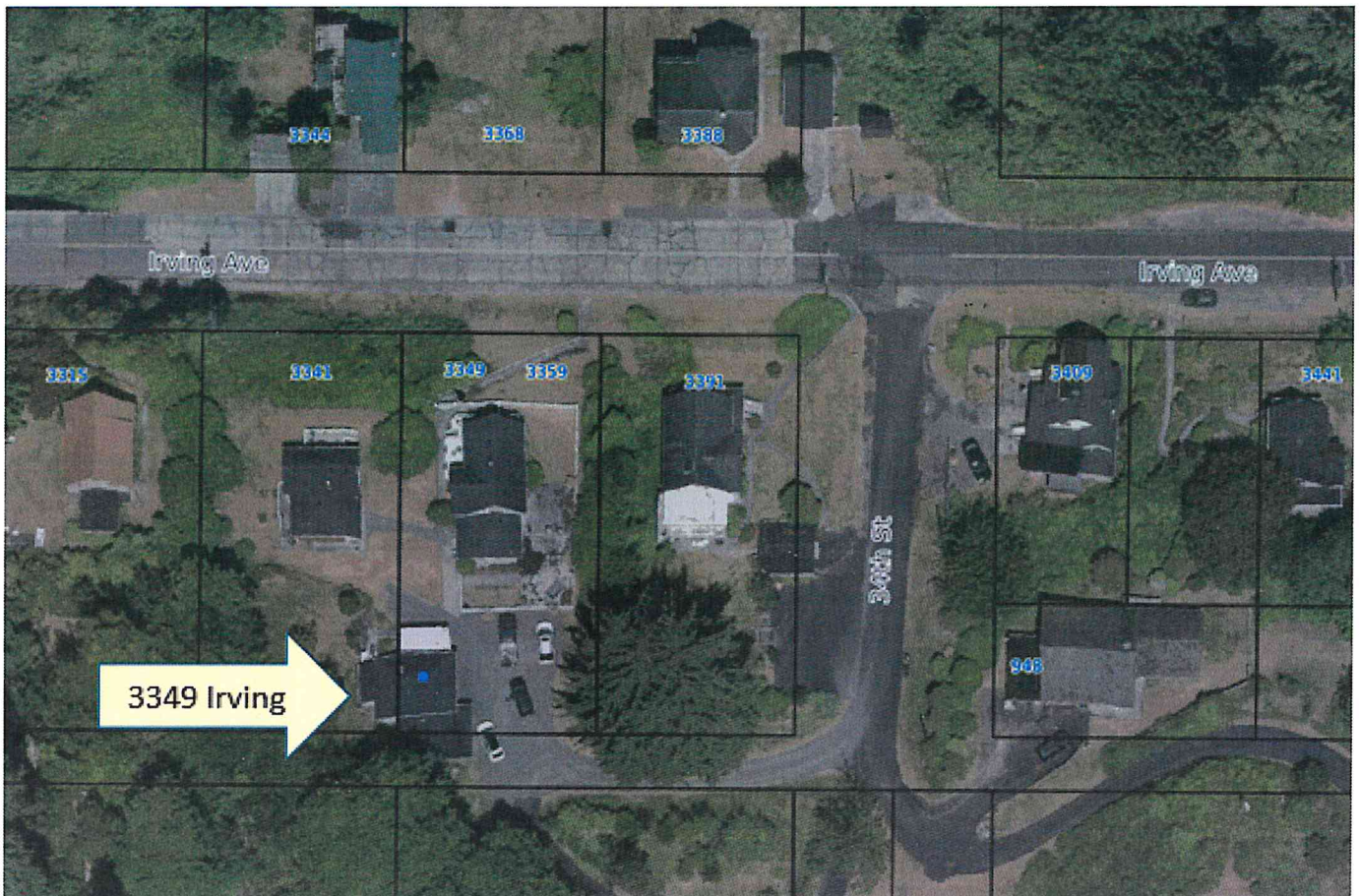
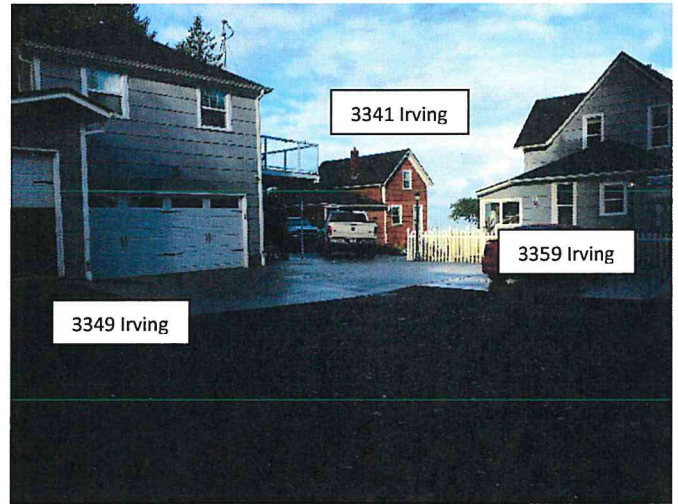
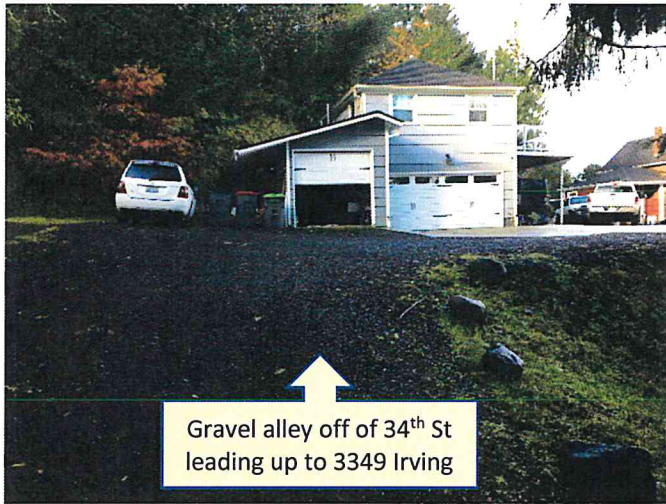
III. PUBLIC REVIEW AND COMMENT

Five written comments were received within the 20-day comment period.

IV. BACKGROUND

The applicant is proposing to locate an indoor auto-detailing business including a mobile detailing base in an existing dwelling at 3349 Irving Avenue. The applicant states that zero to 3 customers per week will come by appointment only to the home Monday through Sunday in the hours of 7 am to 6 pm.

The site is currently used as a single-family dwelling and that use would remain.



V. STANDARDS AND CRITERIA

- A. ADC §2.065(5) lists a Home Occupation as an outright use.

FINDING: The applicant proposes to use the main structure as a residence and a garage as an indoor auto-detailing facility. The applicant also proposes the residence as a base for the mobile auto-detailing business.

- B. ADC §3.095(C) states *“The following standards shall be applicable to both Class A and Class B Home Occupations:*

1. *Clients or customers may visit the site only between the hours of 7:00 a.m. to 6:00 p.m.*

Stephen Fulton provided written testimony that existing activities at 3349 Irving Avenue occurs “first thing in the morning until approaching 10PM.”

Mr. Steve Larson and Ms. Janis Larson commented that the business activity should be limited in this residential location so that any equipment is operated only during the hours of 8:00 am to 6:00 pm. Further, Mr. and Ms. Larson request that on-site clients should be limited to 3 per week as the applicant stated in the application materials.

Ms. Anne Odom requests that activity outside of the garage, or with the garage door open, only occur in the hours between 9:00 am and 6:00 pm.

FINDING: The City finds that due to the potential noise associated with this business that this use at this location does not meet the standard. As noted, three neighbors noted the operating times of the proposed home occupation as outside the window of 7 am to 6 pm.

2. *Retail sales of goods on-site must be entirely accessory to any services provided on the site.*

FINDING: The City finds that the applicant does not intend to provide retail sales of goods on-site.

3. *On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.*

Stephen Fulton provided written testimony that existing activities at 3349 Irving Avenue includes auto detailing, which Mr. Fulton equates to repair of equipment.

FINDING: The City finds that auto-detailing is not on-site repair and assembly of vehicles. Staff interprets this standard to mean repair of

internal combustion engines or home appliances is prohibited. Auto-detailing does not involve repair or assembly of the mechanical parts of the engine, and therefore; would not fall under this standard.

4. *Dispatch centers or headquarters where employees come to the site and are dispatched to other locations are prohibited.*

FINDING: The City finds that this standard is not met. The applicant has stated that the residence would be the home base for the mobile auto-detailing portion of the business. The applicant stated that employees do not come to the site. All employees currently live at 3349 Irving Avenue, so employees are not dispatched from the site.

5. *More than one Class B home occupation is not allowed in one residence.*

FINDING: The City finds that the applicant does not propose more than one Class B Home Occupation at this residence.

6. *Signs shall be in accordance with Article 8.*

FINDING: The City finds that the applicant does not propose any signage. Should the applicant want to install signs in the future, a sign permit will be required.

7. *All activities must be indoors. Exterior storage or display of goods is prohibited.*

Stephen Fulton provided written testimony that existing activities at 3349 Irving Avenue occurs outdoors. Mr. Fulton posits that "it seems impossible that 100% of the vehicles serviced by the proposed operation will be stored inside."

Mr. and Ms. Larson request that all activities be performed indoors, as required by the Astoria Development Code.

Ms. Anne Odom noted that if all work is conducted inside the garage with the door closed unless it is to wash the vehicles and that any work completed outside the garage is completed only during the hours of 9:00 am and 6:00 pm, she is amenable to the application.

FINDING: The City finds that documented exterior activities associated with this home occupation creates excessive noise, therefore; this standard is not met.

8. *Outdoor storage of associated solid waste is limited to an area of 100 square feet and must be screened from view with fencing or vegetation.*

FINDING: The City finds that outdoor storage is not proposed as part of this application.

9. *Noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. Hazardous substances are prohibited, except at the consumer commodity level.*

Stephen Fulton provided written testimony that existing activities at 3349 Irving Avenue includes “noise from the equipment was persistent and very noticeable from first thing in the morning until approaching 10PM.” Mr. Fulton further states that the runoff from the power washing of the vehicles runs down the rock driveway onto 34th Street and into the catch basin on Irving Avenue. Mr. Fulton identifies that the operation does not appear to be compliant with Oregon DEQ “*Recommended Best Management Practices for Washing Activities.*”

Mr. Don Heiner also reported excessive noise due to air compressors, etc.

Mr. Fred White notes that the business of car care, in general, involves the use of toxic chemicals. Mr. White is concerned with potential toxic fumes in the neighborhood. Additionally, Mr. White noted that the use of a gasoline power washer cannot be completed indoors and that the noise and runoff from this activity is not suitable for a neighborhood.

FINDING: The City finds that due to the documented noise associated with this business this standard is not met.

10. *No more than one truck, associated with the home occupation, may be parked at the site. Parking must be off-street. The maximum size of the truck allowed on site is a one ton truck. Extended or prolonged idling of vehicles, or maintenance or repair of vehicles on adjacent streets is prohibited.*

Mr. and Ms. Larson request that all client parking occur at 3349 Irving ONLY.

FINDING: The neighbors report client cars parked on street, therefore, the City finds that this activity does not meet this standard.

11. *Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00 a.m. and 6:00 p.m. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.*

FINDING: The City finds that the applicant states no truck deliveries or pick-ups are associated with this business.

12. *The dwelling and site must remain residential in appearance and character. Internal or external changes, which will make the dwelling appear less residential in nature or function, are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.”*

FINDING: The City finds that the applicant has not proposed exterior alterations.

- D. ADC §7.100 requires two off-street parking spaces for a single-family dwelling.

Finding: There is a single-family residence that would require two off-street parking spaces which are provided in the garage.

VI. ADMINISTRATIVE PROCEDURES

A. Administrative Permit Appeals.

ADC §3.095(B.4) states that the decision of the Community Development Director may be appealed to the Planning Commission in accordance with ADC §9.040. ADC §9.040(A) states that “A decision on the issuance of an administrative permit or action concerning a land use matter may be appealed to the Commission by the applicant or by a party who responded in writing to the notice of the proposed development by filing an appeal with the Community Development Director within 15 days of the mailing of the decision Order. The notice of appeal that is filed with the City shall indicate the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.”

A copy of the application, all documents and evidence relied upon by the applicant, the exhibits, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

B. Time Limit on a Permit.

ADC §9.100 states that “Authorization of a permit shall be void after one year unless substantial construction or use pursuant thereto has taken place. However, the Commission may, at its discretion, extend authorization for an additional period up to one year on request.”

VII. CONCLUSION

Based on the findings above, the application as proposed does not meet the standards and criteria, therefore; this proposed Home Occupation is denied. Should any activity occur at this residence associated with the proposal, City Staff shall proceed with Code Enforcement action.



Barbara Fryer
City Planner

November 20, 2020
Date

Anne L. Odom, MSW
Mediator

975 34th Street
Astoria, OR 97103
503-440-9712
anneodom975@gmail.com

October 31, 2020

Community Development
1095 Duane St.
Astoria, OR 97103



Re: Miscellaneous Review (MR20-02)

To whom it may concern:

I do not object to the Indoor Auto Detailing business as long as the current stipulations remain in place.

- Work is done inside the garage with the door closed unless it is to wash the vehicles.
- Any work done outside the garage is done after 9am and before 6 pm.

Background:

When the business started this year I assumed the noise was from home remodeling that was occurring. It wasn't until a customer stopped me to ask where the business was located that I heard about the business. Shortly after that, I talked to Will about the noise. He was very considerate and willing to cooperate to address the problem. He even went so far as to purchase quieter tools and to stop work by 6:00 pm. Since that time it has been much quieter.

Currently:

Since receiving the notice for application of a permit I have been talking with Will.

On Saturday, October 31, 2020, I asked Will do perform a "noise" test. I stood on my deck from which I can see his garage and driveway. His parking area and garage are a few feet away from the end of my driveway. He ran a compressor, commercial vacuum, and pressure washer from inside the garage with the door closed. We kept the phone line open and I could hear the noise through his phone from inside the garage. But no sound at all just standing on my deck. When he ran the pressure washer outside the garage I could hear it but it basically sounded like a powerful hose and was not constant. I didn't find this as loud as a weedeater or lawnmower and certainly not as loud as a leaf blower. As long as pressure washing doesn't continue all day, I don't think it would be a problem. I didn't hear it at all when it was inside the garage with the door closed

My other concerns were:

- If this is approved as things are now and it should get louder or any changes of that sort, do we have recourse to address any new problems?
- Does this set a precedent for other businesses of this type to be at this location?

Ms. Fryer in Community Development addressed these issues and they no longer are a concern to me.

Sincerely,
Anne L. Odom, MSW
Mediator

Tiffany Taylor

From: Barbara Fryer
Sent: Monday, November 2, 2020 4:32 AM
To: Tiffany Taylor
Subject: FW: Will Gutierrez permit application 20-02



For the file

From: Furniture Restoration Center [mailto:restorationsupplies@yahoo.com]
Sent: Sunday, November 1, 2020 2:42 PM
To: Barbara Fryer <BFryer@astoria.or.us>
Subject: Will Gutierrez permit application 20-02

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

To whom it may concern--regarding the permit application to operate an indoor auto detailing business from 3349 Irving Ave, we would like to make the following stipulations.

We own a house at 3391 Irving Ave. We are next door and downhill from the shop operated by Mr. Gutierrez. We are sensitive to that fact that he is trying to support his family. However, that section of Irving is a very pleasant and quiet neighborhood and needs to remain that way.

We would be in favor of the permit being granted with the following conditions:

- 1-no equipment shall be operated before 8 AM or after 6 PM
- 2-all work shall be performed indoors, as stipulated by the permit
- 3-on-site clients shall be limited to 3 per week as stated in the permit
- 4-client parking is permitted at 3349 Irving Ave, ONLY.

As long as these conditions apply, we see no reason why the neighborhood wouldn't remain as people are accustomed too.

Steve & Janis Larson

Furniture Restoration Center of Oregon

www.RestorationSupplies.com

PO Box 331

1321 Main St.

Philomath, OR 97370

(541) 929-6681

Tiffany Taylor

From: Fred White <fnmwhite@q.com>
Sent: Thursday, October 29, 2020 1:17 PM
To: Tiffany Taylor
Subject: Re: Auto detailing at 3349 Irving Ave.

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

I generally approve of home businesses, especially during this pandemic.

However, if this business were proposed in my immediate neighborhood, I would have comments and questions that are not addressed or answered sufficiently in the application.

1. The business of car care, in general, can involve the use of toxic chemicals. Will there be toxic substances used, including consumer commodity products, with fumes which will be vented to the exterior of the shop, potentially impacting the residents of neighboring homes?
2. Will there be routine use of a gasoline power washer to prep vehicles for detailing? This could not be done indoors, and power washers generate excessive noise. If used, will the run-off include toxic substances such as oil and lubricants? Will the run-off flow into the storm drain system?
3. Will permitting this business set a precedent for allowing such businesses in other residential neighborhoods in Astoria?

I would approve of such a business if I were assured that there would be no impact from noise, toxic fumes, or toxic run-off.

Fred White
2011 Irving Ave.
Astoria, Oregon

From: Tiffany Taylor
Sent: Friday, October 23, 2020 3:59 PM
To: Fred White
Subject: RE: Auto detailing at 3349 Irving Ave.

Thank you for your email. I have attached a copy of the application for your review. Once the Public Comment period has ended (Nov. 2nd), the city planner will consider all of the evidence and render a final decision.

If you have any further questions, please don't hesitate to contact our office.

Regards,
Tiffany



TIFFANY TAYLOR
ADMINISTRATIVE ASSISTANT
COMMUNITY DEVELOPMENT DEPARTMENT
1095 Duane Street Astoria OR 97103
ttaylor@astoria.or.us
503-338-5183 (phone)
503-338-6538 (fax)

From: Stephen C. Fulton [mailto:steve@scfulton.com]

Sent: Sunday, October 25, 2020 7:06 PM

To: Tiffany Taylor <ttaylor@astoria.or.us>

Cc: Barbara Fryer <BFryer@astoria.or.us>; saraeforr@comcast.net

Subject: MR20-02, Class "B" Home Occupation application by Mr. Will Gutierrez, 3349 Irving Avenue

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

October 25, 2020

City of Astoria Community Development Department:

Regarding MR20-02, Class "B" Home Occupation application by Mr. Will Gutierrez, 3349 Irving Avenue.

I live in the property located at 1050-34th Street, near the site of the proposed home occupation under consideration.

This letter is to notify the City that I am opposed to the Community Development Director approving this application based on the impact it will have on the livability of the adjacent area and the proposed home business (auto detailing/cleaning) is clearly not compliant with City of Astoria Development Code, 3.095, Home Occupation Standards, C.3, C.7 and C.9.

My concerns are as follows:

1. 3349 Irving Avenue is accessed via 34th Street, South of Irving Avenue. This portion of 34th Street is a privately maintained City ROW. The neighborhood residents have in previously proportionally paid to have 200' of 34th Street paved. At the time the neighbors informally made this agreement to pay for the street surfacing, there were no home business in the neighborhood. Obviously, this is patently unfair to allowing a non-property owner increase the traffic on a privately maintained street.
2. During the Covid lock-down, it first became apparent to me that there was a commercial auto detailing operation taking place at 3349 Irving. The noise from the equipment was persistent and very noticeable from first thing in the morning until approaching 10 PM.
3. The runoff from the power washing of the vehicles seems to run down the 3349 rock driveway onto 34th Street and into the catch basin on Irving Avenue. The company (Vanguard Auto Detailing) was not registered with the State of Oregon Corporations Division when I checked, consequently its vehicle washing runoff is most likely not being handled in compliance with Oregon DEQ "RECOMMENDED BEST MANAGEMENT PRACTICES FOR WASHING ACTIVITIES."
4. Standard C.3, states the on-site repair of vehicles is prohibited. Obviously, auto detailing is a form of auto/vehicle repair. The applicant is not in compliance with Standard C.3.
5. Standard C.7, states all activities must be indoors. Previously the activities associated with the auto detailing at 3449 Irving were outside and it seems to be impossible that 100% of the vehicles serviced by the proposed operation will be stored inside. The applicant is not in compliance with this Standard C.7.
6. Standard C.9, states that noise, odor, vibration, lighting glare, dust and other nuisances shall be contained on site. See concerns 2 and 3 above, the application is not in compliance with Standard C.9.

Thank you for giving me this opportunity to comment on this application, the City of Astoria should help find a location for this business in a properly zoned area, but an auto detailing business does not belong in a residential neighborhood.

Thank You,

Stephen C. Fulton
1050-34th Street, Astoria, Oregon 97103



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • COMMUNITY DEVELOPMENT

DATE: October 19, 2020
TO: Barbara Fryer, City Planner
FROM: Tiffany Taylor
SUBJECT: PUBLIC COMMENT RE: APPLICATION MR20-02

Don Heiner called the Community Development Dept. today to express his views on application request MR20-02 to locate an auto detailing business at 3349 Irving.

Mr. Heiner is against the request and believes it to be too noisy. His neighbor has been running this type of business off-and-on over the years and he does not like to hear the loud air compressors, etc.

He would like his verbal comments documented as he does not have access to a computer or email.

Contact info:

Don Heiner
948 34th Street
Astoria, OR 97103
PH: (503) 468-8847



County Of Clatsop } ss.

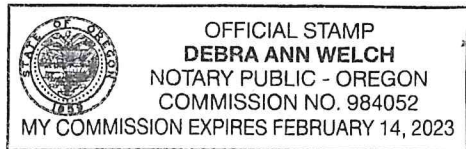
Affidavit of PUBLICATION

I, Lauren McLean, being duly sworn, depose and say that I am the principal clerk of the manager of THE ASTORIAN, a newspaper of general circulation, as defined by section ORS 193.010 and 193.020 Oregon Compiled Laws, Annotated, printed and published tri-weekly at Astoria in the aforesaid county and state; the Legal Notice: AB7957 Public Notice printed copy of which is hereto attached, was published in the entire issue of said newspaper One successive and consecutive time(s) in the following issues: October 15th, 2020.

[Handwritten signature]

Signed and attested before me on the 16th day of October, 2020 by:

[Handwritten signature: Debra Ann Welch]



Notary Public for the State of Oregon, Residing at Astoria, Oregon, Clatsop County.

AB7957
CITY OF ASTORIA
PUBLIC NOTICE

Notice is hereby given that the Astoria Community Development Department has received the following request:

- Miscellaneous Review (MR20-02) by Will Gutierrez for a Class "B" Home Occupation to operate an indoor auto detailing/cleaning business at 3349 Irving Ave., (Map T8N R9W Section 09CA, Tax Lot 10900, Lot 3, Block 65, Adair's Upper) in the R-2 (Medium Residential) Zone. Development Code Standards 2.060-2.095 (R-2 Zoning), 3.095 (Home Occupation), and Article 9 (Administrative), and Comprehensive Plan Sections CP.005-CP.025 (General Development), CP.070-CP.075 (Uppertown) and CP.190-.210 (Economic Element) are applicable to the request.

In accordance with Astoria Development Code Articles 2, 3, & 9, a decision on the request will be processed administratively by the Community Development Department. Materials pertinent to the request are available for review at the Community Development Department, Astoria City Hall, 1095 Duane Street, or may be obtained by sending an email request to ttaylor@astoria.or.us or by calling 503-338-5183. All interested parties are invited to express their opinion for or against the request by letter addressed to the Community Development Dept., 1095 Duane St., Astoria, OR 97103, or by email submission. Comments from interested parties must be received within 15 days of the date this notice is published. Only those parties who comment in writing on the proposed development will receive first class mailed notice of the decision on the permit. The Community Development Director reserves the right to modify the proposal, no further public notice will be provided.

THE CITY OF ASTORIA
Tiffany Taylor, Administrative Assistant
Published: October 15, 2020.



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

1095 Duane Street • Astoria, OR 97103 • Phone 503-338-5183 • www.astoria.or.us • ttaylor@astoria.or.us

Mail	10-12-20
Email	10-13-20
Web	10-13-20
Pub	10-15-20

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

CITY OF ASTORIA NOTICE OF PUBLIC HEARING

Notice is hereby given that the Astoria Community Development Department has received the following request:

1. Miscellaneous Review (MR20-02) by Will Gutierrez for a Class "B" Home Occupation to operate an indoor auto detailing/cleaning business at 3349 Irving Ave., (Map T8N R9W Section 09CA, Tax Lot 10900, Lot 3, Block 65, Adair's Upper) in the R-2 (Medium Residential) Zone. Development Code Standards 2.060-2.095 (R-2 Zoning), 3.095 (Home Occupation), and Article 9 (Administrative), and Comprehensive Plan Sections CP.005-CP.025 (General Development), CP.070-CP.075 (Uppertown) and CP.190-210 (Economic Element) are applicable to the request.

In accordance with Astoria Development Code Articles 2, 3, & 9, a decision on the request(s) will be processed administratively by the Community Development Department.

A copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria 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. Contact the Community Development at (503) 338-5183 for additional information.

All interested persons are invited to express their opinion for or against the request(s) by letter addressed to the Community Development Department, 1095 Duane St., Astoria OR 97103. Comments 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 Community Development Department and the parties an opportunity to respond to the issue precludes an appeal based on that issue. Comments from interested parties must be received within 20 days of the date this notice is mailed. Only those parties who comment in writing on the proposed development will receive mailed notice of the decision on the request.

The Community Development Department's decision may be appealed by the applicant, a party who responded in writing, by filing a Notice of Appeal within 15 days after the written 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 Community Development Department shall be final.

The Community Development Department reserves the right to modify the proposal, and no further public notice will be provided.

THE CITY OF ASTORIA

Tiffany Taylor
Administrative Assistant

MAIL: October 12, 2020

(MR20-02: Applicant)
Gutierrez, Will
3349 Irving Ave
Astoria, OR 97103

(MR20-02: Property Owner)
Ferguson Debora
3359 Irving Ave
Astoria, OR 97103-2632

(MR20-02)
Astoria City Of

(MR20-02)
Carl William/Abraham Carol
3393 Harrison Ave
Astoria, OR 97103-2623

(MR20-02)
Clatsop County
Community Development Dept.
800 Exchange St. #100
Astoria, OR 97103

(MR20-02)
Fremstad Melissa/Erik
3388 Irving Ave
Astoria, OR 97103

(MR20-02)
Fremstad Trust
93052 Knappa Dock Rd
Astoria, OR 97103

(MR20-02)
G & L Trust
2912 28th Ave W
Seattle, WA 98199

(MR20-02)
Heiner Josephine
948 34th St
Astoria, OR 97103-2611

(MR20-02)
Landwehr Lynne / Alfred
735 Florence Ave
Astoria, OR 97103

(MR20-02)
Lapham Sarah / Bocci Julia
1700 SE Ladd Ave
Portland, OR 97214

(MR20-02)
Larson Steven / Janis
PO Box 331
Philomath, OR 97370

(MR20-02)
Longhorn Edward R
PO Box 303
Echo, OR 97826

(MR20-02)
Odom Anne L
975 34th St
Astoria, OR 97103-2600

(MR20-02)
Orlando Cynthia L
PO Box 212
Naalehu, HI 96772-0212

(MR20-02)
Taylor Barbara
Jones Thomas/Kristi
40334 Hunt Ln
Astoria, OR 97103-8218

(MR20-02)
West Donald / Wendy
3361 Harrison Ave
Astoria, OR 97103

(MR20-02)
West Jessamyn / Nystrom Graham
3409 Irving Ave
Astoria, OR 97103



CITY OF ASTORIA
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COMMUNITY DEVELOPMENT

BUILDING CODES

SEP 25 2020

check # 1486

Fee Paid Date 9/24/2020 By

MR 20-02

Fee: \$200.00

MISCELLANEOUS REVIEW - CLASS "B" HOME OCCUPATION

Property Address: 3349 Irving Ave Astoria Oregon
(Not sure of these numbers - but listed as 3359/3349 Irving - some tax lot)

Lot 3 Block 65 Subdivision Adair's Upper

Map 8.9.9CA Tax Lot 80909CA10900 Zone R2

Applicant Name: Will Gutierrez

Mailing Address: 3349 Irving Ave Astoria OR

Phone: 503.741.1034 Business Phone: 503.741.1034 Email:

Property Owner's Name: Debora Ferguson

Mailing Address: 3359 Irving Ave Astoria Oregon

Business Name (if applicable): Vanguard Auto Detailing

Signature of Applicant: [Signature]

Signature of Property Owner: [Signature]

Proposed Construction / Use: Indoor Auto detail/cleaning - mobile Detailing base

For office use only:

Application Complete:	9/29/2020	Permit Info Into D-Base:	9-29-20
Labels Prepared:	PN mailed 10-12-20	Tentative APC Meeting Date:	
120 Days:	1/20/2021	Admin	

Miscellaneous Review - Class "B" Home Occupation

Briefly address each of the following standards and how the proposed use complies:

1. Clients or customers may visit the site only between the hours of 7:00 a.m. to 6:00 p.m. (Identify days of the week and hours business will operate at site; number of customers per day; approximate length of stay of individual customers.) *(by appointment only)*
Monday thru Sunday 7am to 6pm 0-1 (3 per week) ^{Approx} Length of stay 10 minutes
2. Retail sales of goods on site must be entirely accessory to any services provided on the site. (List the types of any goods provided for sale.)
none
3. On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.
none
4. Dispatch centers or headquarters where employees come to the site and are dispatched to other locations are prohibited.
none
5. More than one Class B home occupation is not allowed in one residence. (Please note any other uses other than single-family residence at this location.)
none
6. Signs shall be in accordance with Article 8. (Please submit plan for any proposed signage.)
none
7. All activities must be indoors. Exterior storage or display of goods is prohibited.
All activities are indoors
8. Outdoor storage of associated solid waste is limited to an area of 100 square feet and must be screened from view with fencing or vegetation. (Provide plan for screened area if applicable.)
NONE
9. Noise, odor, vibration, lighting glare, dust, and other nuisances shall be contained on site. Hazardous substances are prohibited, except at the consumer commodity level.
none

10. No more than one truck, associated with the home occupation, may be parked at the site. Parking must be off-street. The maximum size of the truck allowed on site is a one ton truck. Extended or prolonged idling of vehicles, or maintenance or repair of vehicles on adjacent streets is prohibited. (Provide a site plan indicating the required parking spaces and dimensions.)

none

11. Truck deliveries or pick-ups of supplies or products associated with business activities, are allowed at the home only between 7:00 a.m. and 6:00 p.m. Delivery vehicles are limited to 20,000 pounds gross vehicle weight.

none to exceed requirement

12. The dwelling and site must remain residential in appearance and character. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting. (Provide plans for any exterior alterations.)

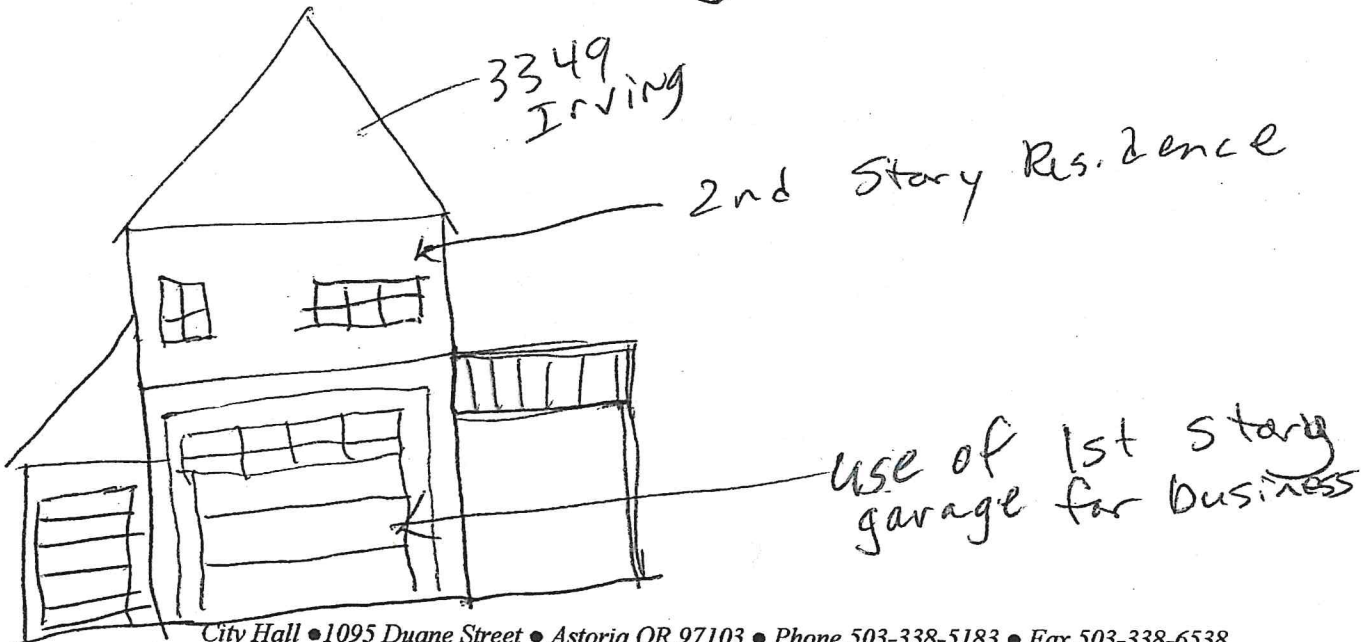
no changes - Residential appearance

13. A Class B Home Occupation allows one non-resident to be employed. (Indicate the number of people involved with the Home Occupation and whether they reside at this location.)

one only which is the resident

14. A Class B Home Occupation allows the home occupation to be conducted in an adjacent structure. (Provide a site plan showing the location and size of the adjacent structure.)

No use of a adjacent structure



City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538

planning@astoria.or.us • www.astoria.or.us