

A special meeting of the Astoria Common Council was held at the above place at the hour of 6:00 pm.

Councilors Present: Nemlowill, Jones, Price, Brownson, and Mayor LaMear.

Councilors Excused: None

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

CHANGES TO AGENDA

There were none.

REGULAR AGENDA ITEMS

Item 4(a): Appeal 18-03 by Sam Mullen on behalf of Hollander Hospitality of the Design Review Committee decision to deny the request DR18-01 to construct a 29,782 square foot four story hotel at 1 2nd Street

Item 4(b): Appeal 18-04 by Sam Mullen on behalf of Hollander Hospitality of the Historic Landmarks Commission decision to deny New Construction request NC18-01 to construct a 29,782 square foot four story hotel at 1 2nd Street

On June 25, 2018, the Historic Landmarks Commission (HLC) and the Design Review Committee (DRC) held public hearings and reviewed a request to construct a four-story hotel at 1 2nd Street. The location is within the Bridge Vista Overlay zone, and adjacent to historically designated structures, which triggered review by both groups. The HLC and DRC both voted to tentatively deny the request at the June 25th meeting, and formally denied the proposal on July 10, 2018.

The denials have subsequently been appealed by the applicant. Revised findings of fact, as well as additional public comments are included in the packet. The HLC and DRC decisions will each have revised findings of fact addressing the appeal items. While there are two separate appeals, Mayor LaMear determined there will be a consolidated public hearing for the appeals. Ultimately, separate motions with separate findings of fact will need to be considered by City Council.

A public hearing on the HLC and DRC Appeals has been advertised and is scheduled for the August 23, 2018 special City Council meeting at 6 pm. Oregon's 120-day land use rule requires that a land use decision for both permit requests be completed by August 29, 2018.

The Notice of Appeal was submitted by Sam Mullen on behalf of Hollander Hospitality on July 25, 2018. With their appeal, the appellants submitted additional narrative, which is included in the Staff report. The appeal asks that the DRC decision be overturned based on several issues. Applicable items for review have been condensed into five sections and are addressed in the Supplemental Findings of Fact:

1. Applicability of the Riverfront Vision Plan and Articles 2, 3, 7, 8, and the Comprehensive Plan
2. Design standards for on-land development
3. Guidelines for scale and massing
4. Design standards for windows, awnings, roof, siding and wall treatments
5. Guidelines for additions to buildings

It is recommended that the City Council hold a public hearing on the appeals, review new testimony, and consider the Design Review Committee and Historic Landmarks Commission decisions denying the construction requests. The City Council will need to adopt applicable Findings of Fact, which include the basis of their decision. Should City Council deny the appeals, the supplemental findings of fact and the findings

adopted by the DRC and HLC may be adopted to support the decision. Should Council approve the appeals, Staff recommends continuing final deliberation so new findings can be prepared.

Planner Ferber reviewed the Staff report via Power Point. City Manager Estes provided recommendations on how to move forward once Council makes a decision on the appeals. He noted that earlier in the day, the Applicant submitted changes to their original proposal, which were not included in the Staff report and had not undergone any technical analysis. City Attorney Henningsgaard explained that Council could approve or deny the new proposal, continue the hearing and direct Staff to come back with recommendations on the new plans, or remand them back to the DRC and HLC. City Manager Estes reminded that the 120 days would end on August 29th.

Councilor Nemlowill asked what positions made up the DRC. City Manager Estes replied the zoning ordinance required the DRC to be comprised of one member of the HLC, one builder, one design professional, one business owner, and one member at large. The HLC does not have specified positions.

Mayor LaMear asked if anyone objected to the jurisdiction of the City Council to hear these matters at this time.

Jan Faber [18:55], 3015 Harrison Ave, Astoria, objected to the City Council's jurisdiction. He believed a new proposal, which the City and the public had not yet had the chance to review should be submitted to the City as a new application. He did not believe the City Council could have a public hearing on a proposal that no one had access to. New proposals could not be submitted as part of an appeal. This appeal can only review what was previously reviewed by the DRC and HLC.

City Manager Estes explained that this was a de novo hearing. Anyone in the public is able to participate, even if they did not participate in the initial hearings. Additionally, new testimony can be submitted.

City Attorney Henningsgaard confirmed there was no question that the City Council had jurisdiction to hear this matter.

Michael Miller stated he objected to the City Council's jurisdiction. New designs must go through the legal processes the City has set up.

Mayor LaMear explained that the Council needed to hear the new proposal in order to find out if the Applicant has made the changes that the DRC and HLC requested. City Council might not make a decision at this meeting.

Councilor Nemlowill stated she agreed with Mr. Faber's objection. She was frustrated that the new design was just submitted that afternoon. After spending hours reading through the Staff report, she received a text that a new design had come in. This is an issue that a lot of people care about and have commented on. People are here to comment tonight. The Council is not prepared to make a decision. Citizens are not prepared to provide input. Staff has not done a technical analysis. Therefore, she believed the issue should be remanded back to the DRC and HLC. The DRC is a citizen appointed review committee with specific expertise. The Council was supposed to be reviewing the appeal of a design that is much different than what has been presented.

Councilor Price said she agreed with Councilor Nemlowill. She asked that the Applicant extend the 120-day limit. She believed the City needed at least an additional 120 days to take public comments and allow Staff and Council to review the new plan. She recommended the issue be remanded back to the DRC and HLC. If the Applicant feels the design is worthy of being in Astoria, then it is worth going through the public process. She asked if she could make a motion.

City Attorney Henningsgaard explained that the Applicant had a right to be heard at this point.

Councilor Price asked if the Applicant had the right to testify on the new proposal or the appeal.

City Attorney Henningsgaard confirmed he did not know the status of the new proposal. He had not seen any new proposal or an application.

Councilor Brownson suggested the Council hear the new proposal as the Applicant's response to the appeal. He believed it was important to hear the Applicant's testimony and take public comment. Then, the Council can have a discussion. It would be premature to have a discussion without giving anyone the opportunity to respond to the appeal. There are very different issues between the HLC and DRC decisions being appealed and City needs more time to consider the new design. He believed the HLC appeal would be an extension of the Council's decision on the DRC appeal and the Council must make a decision based on the information presented at this hearing. If the Council must ask for an extension, they should give a good reason.

Councilor Jones believed the hearing should be conducted. He shared concerns about the lateness of the new design, but he believed the hearing should be held before Council made a decision.

Mayor LaMear asked if any member of the Council had any ex parte contacts or conflicts of interest to declare. There were one. She opened the public hearing at 6:28 pm [28:39] and explained the procedures governing the conduct of public hearings to the audience. She called for the Appellant's testimony.

Steve Holbrook, P.O. Box 2007, Bend, said he was the Appellant's attorney. He introduced Mark Hollander, owner of Hollander Properties, Sam Mullen, development manager, Craig Riegelneegg, architect, and Michelle Black. The design team believes the new design is consistent with the code and the concerns the team heard from the community, DRC, and HLC. They did not anticipate the Council to make a decision tonight on a redesign. They realized the material was submitted late. Under State law, the new design is new evidence and the public must have the opportunity to review everything. They want everyone to have the opportunity to look at the materials. Council has a six or seven-page letter he prepared, which includes a lot of legalese and discussion about why he did not believe the DRC or HLC properly applied the code. Reviewing the letter would not be a good use of time and he would rather focus on moving forward by discussing the new design. He needed direction on the historic review criteria. His letter included objections to what he believed were the approval criteria for the HLC and DRC reviews. Staff indicated that various elements of the Comprehensive Plan applied to both reviews and his letter explained why he disagreed. He had identified what he believed was the sole approval criteria in the code. He needed direction from Council on that regardless of their decision. His specific concerns about the HLC review criteria were as follows:

- The City and the public has deemed the site as adjacent to important historic artifacts. However, Staff has indicated that there are no buildings on that site, just a boiler, pilings, and ballasts. Those artifacts qualify as structures under the code, but they are not buildings. This makes it impossible to measure compliance with a piece of equipment sitting in the river. Instead of admitting that the criteria do not apply to this application because there are no buildings, Staff and the HLC applied the criteria to buildings that used to be on the site and are in the general vicinity.
- Provisions in the Comprehensive Plan and the Riverfront Vision Plan were applied, which simply do not apply to this application. State law is clear that in limited land use decisions, only the criteria in the Development Code can be applied to the proposal. Two of the HLC review criteria, which he outlined in his letter, are the only two criteria that can be considered for this application. The purpose and intent of those two standards is to make sure that new buildings are complementary to important historic buildings. There is no constitutional way for the City to apply the historic standards to a piece of equipment, pilings, and ballasts.
 - He needed some direction on that from the Council before moving forward with the new design. Appropriate direction from the Council would be that these criteria do not apply to this instance and the issuance of a Certificate of Appropriateness is the proper way to move forward. Regardless of any design, it would not make any difference to send this back to the HLC because they applied criteria that are not allowed by State law.

Councilor Price asked if the State law was part of his appeal.

Mr. Holbrook stated the State law was listed in the appeal notice and his letter. The law was ORS197.19.572. [36:51] Limited land use decisions are decisions that relate solely to the design or siting of a project. Only standards in the Comprehensive Plan that are specifically included in the code can be applied. Therefore, the Riverfront Vision Plan, Comprehensive Plan, or any other local provisions do not apply to the application. There are only two standards that can be applied.

Councilor Jones believed that if code changes were implemented as a direct result of the Riverfront Vision Plan, those code changes would provide the legal basis for consideration of the Plan.

City Manager Estes explained that the Riverfront Vision Plan includes directives for implementation. The Appellant's argument is that because the Plan was implemented through code amendments, that it is no longer applicable. It is standard practice for Staff to prepare Staff reports to address compliance with the Comprehensive Plan.

Mr. Holbrook noted that the purpose statement of the Bridge Vista Overlay (BVO) standards stated the purpose was to implement the Vision Plan. That does not mean the Plan applies. It means the City adopted standards meant to implement the Plan. You do not go back to a very broad vision for the area. You look to the very specific elements that the City actually adopted. The code makes it clear specifically which criteria apply for historic review and design review, without reference to anything else.

Michelle Black, Carleton Hart Architecture, 830 SW 10th Ave. Portland, said she appreciated Council looking at the new design. It was not meant to try to railroad the process and get Council to approve it tonight. The new design will show how much the Applicants listened during the previous reviews. They needed some direction on the code, what applies, and what does not. Additionally, they understand there are aesthetic needs that the HLC and DRC wanted changed. She gave a PowerPoint presentation on the changes made to their original proposal. The design team had originally looked at a wide variety of historic buildings in Astoria prior to the previous hearings. The focus of the new design has changed to specifically address the working waterfront, which is called out in the BVO. The previous design was a more contemporary version of a working waterfront building, but the new design had more traditional detailing. She displayed a Sanborn Map showing the footprint of the proposed building on the site and the previous White Star cannery. There's been a lot of discussion about the size, massing, height of the building, and how it's not appropriate in the historic context of working waterfront buildings. The building that Planner Ferber reviewed was 29,600 square feet and the new design remains the same, under the 30,000 square foot limitation in the BVO.

Craig Riegelneegg added that one could see the central form of the original Van Kamp seafood building with some additional aggregated one and two-story forms around it. Even the central form by itself scaled to about 150 percent the size of the entire proposed building.

Ms. Black continued by displaying a side of the Van Kamp seafood cannery. The floors were much taller than what they would use on a hotel or any modern building. In order to scale the building in place, it would be about 40 feet tall. There's been a lot of concern about how the proposed design reflects what is historically appropriate for the site. The other issue raised is that the orientation of the building is parallel to the river rather than perpendicular to or out over the river as some historic buildings were. However, their research into what is historically appropriate for the site shows buildings clearly built out over the river, but are of the same orientation, parallel to the water. The overland buildings tend to be parallel to the water and the overwater buildings are on piers similar to the condominium near the site. She displayed a four-story building of a scale larger than the proposed property.

Mr. Riegelneegg said there were three big issues raised at the DRC and HLC hearings, scale and mass, height, and orientation. The Van Kamp seafood building, which is the closest historic precedent that is claimed to have triggered the historic review, has a much larger footprint and is around or a little below the height of the proposed building. Up and down the river, he readily found historic precedent for taller buildings and that had the same east/west orientation. He believed the claim that he had not met the conformance requirements based on those historic precedents for height, orientation and massing were without merit. The letter sent by Mr. Holbrook went into detail on the specific findings. He addressed the findings as follows:

- The old elevation was a flat roof with a tall circulation tower. The Ship Inn was incorporated into the new building and reused. Window placement and detailing was contemporary. The new design includes a new structure in place of the Ship Inn. The height is 45 feet to the average roof elevation calculated per the Development Code, meeting the maximum height requirements and conforming with the historic precedent he had just discussed. They modified the framing style, pulled the building down, and pulled the floor lines down to accommodate the extra height created by the pitched roof. The elevator overrun could be dropped for the same reason. It would be 47 feet high, only slightly higher than the roof peak. There is an area with a mechanical rooftop unit that would be screened by the parapet wall, all of which would fit into the exceptions listed in Development Code Section 3.075. Therefore, Item B in the findings is satisfied.
- On the east side, the new structure replaces the Ship Inn, observes the setbacks required on the river side and in the view corridor, and responds to remarks from the DRC regarding incompatibility of the new

construction with the old Ship Inn. The new proposal is to build a new single-story entry and lobby that has more compatible detailing and matches the rest of the building. The nonconforming false mansard roof had been eliminated. Therefore, Item I in the findings was no longer an issue.

- Several items in the findings stemmed from interpreting the new construction as an addition. They now proposed completely new construction with everything else on the site being removed in order to have a completely new portion of the building. They would keep the single-story height to preserve the views along the 2nd Street corridor as much as possible.
- They revised the guest room windows and doors. The windows were recessed into openings as preferred in the Development Code. The trim detailing is more closely based on specific examples in the historic survey, such as the Calendar Navigation Company and the Union Fisherman's Co-op on 49th Street. Those concerns were reflected in Item M of the findings, but he believed those concerns had been satisfied.
- The PTHP mechanical grill was incorporated as an accent panel below the window. It's perfectly flush so it does not appear as a projecting mechanical unit. They added sloped water table stools to the window sills at the bottom of the trim assembly and crown molding on the head trim. There is a subtle compound detail with 1" by 6" trim and a sloped water table above that was drawn directly from the historic precedent he looked at.
- The old south elevation had a flat roof and a false mansard roof on the old Ship Inn that is now gone with the new portion of the building, which would have a simple awning and cornice design. The cladding was a synthetic wood product, called Resista. They now have completely new cladding, a V-groove panel drawn particularly from the Hanthorne Cannery.
- As far as massing, the primary wall planes are flat for conformance to historic context but softened by the more classic window and trim details, breaks in the roofline, and the cladding change in the southeast corner. The roof has been modified to a pitched 3:12 roof with a low profile standing seam roofing conformant with the code. The previous roof was drawn from more traditional downtown hotel types, but that was eliminated for the more working waterfront compatible style. The eave detail emphasizes the exposed rafter tails. The intermittent shed roof dormers break up the wall plane and roof line. The clearstory window on the lobby and entry form is north-facing and was pulled from the industrial working waterfront types. The awning on the lobby matches the roof. They believe the findings in Item O are addressed.
- Questions about the required mechanical screenings were mentioned in Item H of the findings. He believed the findings were satisfied and demonstrated clearly in the previous submittal. The requirements are maintained here as well. They have a pony wall where the small drop in the roof elevation can be seen. It conceals some RTU. And there is one more RTU on the top of the projecting tower form.
- The cladding is a seven-inch reveal painted grey to strike a balance between the historic precedent of white painted buildings and the grey they discussed with Staff as part of the previous design. The board and batten at the circulation area will be painted red. They got rid of the rust colored siding in response to the boiler. It was preferred they not go that direction, so they looked at the red that has a lot of precedent in town responding to the historic context. The trim is black and there is more classic detailing on the windows. He believed the concerns in Item N of the findings were satisfied by the cladding changes.
- The steel grates on the ground floor are repeated in a regular pattern matching the windows. The signage has been reduced. There's only one sign on the south side and lower on the building. The east and west elevations show glazing at the ground floor adopting a more traditional style with a number of intermediate mulleins closely spaced for more historic appearance. The trim detailing draws from the working waterfront and commercial detailing of a historic period. Multiple openings are captured with trimmed columns in between.
- The team will continue to look at storefront frame products that imitate a wet glazed appearance if they are allowed to continue and if the design develops. The storefront design will be more historic with operable lights and moveable panels worked into the configuration to connect the public exterior with the building's interior.
- The northeast perspective will have the clearstory glazing on the lobby and entry. There would be new construction in lieu of the Ship Inn. The distinct tower piece is gone and the elevator overrun is captured within the pitched roof. The massing is a simple central form with smaller low-lying building forms connected. The lobby and entry portion replace the Ship Inn. They'll have step down patios on the north side. The patios will be part of the hotel use, but the step-down forms reflect the aggregated massing of the smaller forms.
- The southeast perspective had a more generous and traditionally designed ground floor glazing, red board and batten siding at the lobby, entry, and circulation area, grey V-groove siding and black trim. The building is a larger central form with a few smaller lower forms added to the entry and lobby areas.

- The southwest perspective has an overhanging pitched roof with exposed outrigger details. The industrial looking stairs would be painted red to match the siding. A short awning on the south side would be as long as they could get it based on fire code regulations. It would be designed to match the standing seam roof.
- The northwest perspective looking down along the Riverwalk would have a roofline breaking into shed roof dormers to relieve the long north elevation. The decks would step back with a few longer accessible rooms bookending the building at the east and west ends. The building's scale is in keeping with the modern historic context.

Mark Hollander, Lyndon, WA, said he was the developer. He believed the proposal was organized and tried to meet the Code. He had a lot to try to balance, but he respected the public input and tried to make something the public would be happy with. His company was a family company, not Marriott. They've owned all of their properties for a long time and operate the properties themselves. He was an absentee owner but had great management and an amazing reputation in the industry and in customer satisfaction. His company runs great hotels and develops great hotels. He knew everyone was focused on what was on the outside, but in the long run, what is going on in the inside was very important. His company did an amazing job on the inside as well. He has a very successful hotel in Portland with great staff. He had been looking for real estate along the Oregon coast and in Astoria for about five years. He made offers on a lot of different sites. Some were not available and in general sites are quite small. It is difficult to develop a hotel because of size. Generally, at least 60 rooms make things efficient, especially in a branded environment. The hotels his company owns and operates are branded hotels, but they like to say their hotels feel boutique. His company cannot be like the Cannery Pier Hotel because there are a lot of parameters thrown at them by Marriott that would preclude that from happening. Branding creates a certain amount of standards imposed on a property, a developer and an operator which are important to the community. His company complies with those standards. It is unusual for a small developer operator like his company to also operate their own hotels. They make long term commitments and rarely sell their properties. They have owned properties for 30 years and are still at the top of the market in the hotels they build even though they are not the top brand. They want to do this project right and get constructive input. Some of the standards are quite frustrating and it has been hard to interpret the code as a designer and developer. It has also been hard to live within the size parameters. Thirty thousand square feet is not big for a hotel and he must scrimp and save everywhere. The exterior stairs are not included in the square footage of the 30,000 square feet. He would rather have the stairs inside, but the Code forces him to try and make things work. He would rather build a bigger hotel, have more rooms, and put the stairs inside. He wanted to build a hotel in Astoria and hoped this could be figured out soon. This is a legitimate proposal and the town needs this hotel. The existing hotels are busy and the Marriott brand brings additional business into Astoria. He was not looking for a decision today but wanted feedback on the new design.

Mayor LaMear called for testimony in favor of the appeal. Hearing none, she called for testimony against the appeal.

Jan Faber 3015 Harrison, Astoria, thanked the Appellants for making some accommodations to some of the issues that raised before the DRC. He hoped this would be remanded back to the DRC because they spent a lot of time and were very familiar with the code sections that they applied. They have an architect and did a lot of legwork. This is a withdrawal of the appeal originally presented to the City Council. It is not an appeal anymore, it is a new proposal. If the Appellants want to bring modifications to the DRC, that is where it should go. He urged Council to get the DRC's expertise. He appreciated that the developers wanted to maximize their profit. There are one, two, and three-story hotels that function well all over the world. But Astoria does not have to go along with that. The City can decide what it wants on that property. The most attractive views are not seen from the front or back of the building and the proposal does not show the impact it will have when walking on the river or driving through town. You cannot tell the front from the back and the building completely blocks views of the river. From the Riverwalk, the building blocks views of the hills and the sky. The building is massive and it is appropriate for the DRC to consider that along with other criteria. He urged Council to treat this as a withdrawal of the appeal that was originally presented and remand it back to the DRC.

Michael Miller said the individuals were not a lower board. They are a superior board. They are the board that is specifically set up with experts and people with knowledge. City Council would have to be as knowledgeable as the DRC in order to try to litigate all of the details. The Council's only role is to make sure that the law was applied fairly. The Appellants are saying the law was not applied fairly, but they did not mention those points because they wanted to talk about a new design. New designs must go through the legal process that the City

set up. The community has two boards that are good and decent and have put a lot of hard work into what they do. They deserve the respect and the authority they have been given.

Loretta Maxwell, 1574 Grand Ave., Astoria, said she did not think the proposal showed the real impact of a building in that area. She wanted to see how much the building would block the view from Marine Drive. The reference to the canneries, built decades ago is not relevant because those buildings are not there anymore. But she appreciated that the look of the building was changed on the third try so that it would be appropriate with what Astoria has had in the past. She did not understand why the Appellant had not tried to buy the Astoria Warehouse, which has a lot of room that could be leased out or have huge events. Windows could be put all over the back of that building and no one would care. The warehouse already goes with the neighborhood and it would give the Appellants a lot more opportunity to expand.

Elizabeth Menetrey, 3849 Grand Ave., Astoria, asked if the community was being told that the Riverfront Vision Plan did not apply to the appeal.

City Manager Estes confirmed the Appellants have argued that application of the Comprehensive Plan policies dealing with the Riverfront Vision Plan are not applicable.

Ms. Menetrey confirmed that the Riverfront Vision Plan was incorporated into the Development Code and the Development Code did apply.

City Manager Estes noted that the Appellants were not arguing that the Development Code did not apply, just that the Comprehensive Plan language dealing with the Riverfront Vision Plan was not applicable. One action item in the Riverfront Vision Plan was to update the Development Code to refer to and apply the Plan. He confirmed the Comprehensive Plan and the appeal packet that included the details of the proposal were available to the public online on the City's website.

Ms. Menetrey said she did not see the required view corridor in the proposal. The view corridors are very important whether driving or walking. That is one thing in the Development Code that this does not address.

Kris Haefker [1:15:20], 687 12th Street, Astoria, said he appreciated the new design. It looked like a lot of work went into it. It looks like the Appellants picked up on a lot of comments from the community and were paying respects to the historic aspects of town. It was made clear that if a new design was going to be submitted, it would have to go through a design review again. The appeal is based on what the DRC and HLC rejected. So, the fair process is to resubmit the designs back to the DRC and HLC and stop the discussion.

George Hauge, 1 3rd Street, Astoria, said he also recommended this be sent back to the committees who denied the original proposal because they should be giving Council input on this proposal. The public should have additional time to review the documents in order to give feedback. The Appellants say they are concerned and want to respect the city, but it is sad that the City had to send a formal letter to get the landscaping cleaned up along Marine Drive. Stephanie's Cabin and the Ship Inn are still a mess. Thirty thousand square feet may be too much for this site because it cannot handle the parking. Every square foot is being used now and the Appellants do not plan to bulldoze Stephanie's Cabin. Their plan is open that building and have additional parking across the street in the empty parking lot partially used by the Oregon Human Resources, which is expanding. He assumed they planned to have additional parking in that lot. Chevron is trying to clean up the area and they have come up with some nice proposals. In October, they plan to clean up some hot spots in the river and at some point, they might clean up the parking lot. Then, the present owner might have a better idea of what to use the land for. City Council needs to think about where parking would be if this hotel cannot use the empty lot.

Glen Boring [1:20:00], 1 3rd Street, Astoria, said he was at the first meeting on the red building when it was first presented and there was a lot of community input. He was also present during the preliminary votes and the final votes by both committees on this request. He believed City Council's task was to approve or deny the appeal. The new design has nothing to do with the appeal. He was impressed with the new design but wondered why it did not come up earlier, after all of the public meetings. People usually want to push limits and do not want to go any further than they have to. The Appellants anticipated a denial of the appeal, which is why the new proposal was presented. If their proposal is denied again, would another new proposal be presented for that location? The task is to deny the appeal because the Appellants did not address those things in this hearing. The focus of attention was on the new design, which must come through the other two groups before it comes to City Council.

The appeal should be denied. If the Appellants are really interested in developing the property with the input of the community, they should start over with a new design.

Mayor LaMear called for a recess at 7:23 pm. The meeting reconvened at 7:33 pm.

Mayor LaMear called for the Appellant's rebuttal.

Mr. Holbrook said he did not expect City Council to make a decision tonight on the new design. He wanted to focus on the historic review because the way the review criteria is interpreted will not change, regardless of what is built on the site. Those criteria cannot be applied to a building when there is no building to measure against. Therefore, he did want a decision on the historic tonight. The appeal and additional comments submitted that day did include their arguments, which were not new. Going back to the HLC would not make any difference in the design because the criteria are the same and they cannot be applied in a rational way. He believed it was likely that the Council would remand the design review appeal back to the DRC. They do have the expertise to measure designs. He believed 90 days would be an appropriate amount of time to submit anything Staff needs to add to the record. However, he would be willing to discuss the deadline. Comments were made that the building was too big or too tall, but the Code specifically allows buildings of the proposed size, orientation and height. Applicants have to live by the provisions in the Code and the design review is only about the design of the building. He respected the concerns in the community, but the City allows buildings of this size, orientation, height, and mass in this location. The issues of height and massing are not before the City Council or the DRC. Unless Council is willing to make a decision tonight, it would not be beneficial to talk about specific design elements or respond to concerns because he fully anticipates another public hearing before the DRC.

City Manager Estes reminded City Council of their options and recommended next steps for both appeals.

Councilor Nemlowill confirmed the Appellant had agreed to extend the 120-day time limit if Council remanded the issue back to the DRC. She disagreed with the Appellants claim that the historic review was not necessary due to a lack of buildings. She explained that Astoria had a proposal for a cell phone tower in a historic park and the City did not feel the tower was compatible in a historic place. The old boiler, pilings, and ballasts deserve development that is compatible. The new design is more traditional working waterfront and might be more historically compatible with the remnants of the cannery buildings that used to be adjacent to the proposed hotel. She would probably deny the appeal of the HLC decision based on the design previously submitted. She asked if the Appellant would have a denial of the appeal or have the HLC decision remanded back for a review of the new design.

Mr. Holbrook stated he never liked leaving a hearing with a denial. He needed direction from Council on the historic review because he did not believe there was any rational or constitutionally supported way to measure a building against a boiler. He believed the HLC applied standards that are not set forth in the Code and the proposal was measured against buildings that are no longer there, which is a direct violation of the Code.

Mayor LaMear said she agreed with the Appellant on the HLC's review and decision. There are no adjacent buildings and she did not believe a new building could be required to be compatible with what was there historically. The HLC minutes of June 25th stated, "The Applicant was directed to follow criteria for a working waterfront." She asked what those criteria were. No one understood what those criteria are or how a new building could be required to be compatible with buildings that were there historically.

Councilor Price stated she remembered when Mr. Hollander gave a presentation to the Port Commission four or five years ago, which was right around the time the BVO was enacted. Even though Mr. Hollander was denied by the Port, Councilor Price began to realize that the eastern part of Astoria would change drastically over the next few years because people are interested. Things that some people do not like are in the Code and are allowed. Unless the Code is revised, the community will just have to get with the progress. City Council has no interest in revising the Code at this time. She believed there were some problems with the Development Code and in too many cases it looks back, not forward. Astoria is stuck with this definition of working waterfront and criteria. There is room in Astoria for good design that goes beyond working waterfront, but that is not allowed. Mr. Hollander has a good reputation for running very good hotels and she had no problems with the Marriott brand. At first glance, the design is much improved and she found a lot of value in their presentation tonight. However, she still believed City Council should deny both appeals. Astoria is a working waterfront town and it is not up to

City Council to rewrite the Code. She asked that the Appellants extend the time limit for another 120 days and send the new proposal back to the DRC and HLC.

Councilor Jones asked if Council could remand the appeal of the previous design with guidance to review the new design. He believed that Council would make a decision on the appeal of the original design. City Manager Estes explained that Council was considering two items, the HLC's decision and the DRC's decision. The options apply to both cases.

City Attorney Henningsgaard recommended that Council consider each appeal one at a time. The HLC review would be the easiest to deal with. The Appellants have asked for some specific findings on the interpretation of the City Code, which can only come from the Council. Section 6070(b) Historic Landmarks Commission Historic Design Review Criteria deals specifically with the request to build a new structure and the compatibility of the new structure's design with the design of adjacent historic structures. Council must decide whether it is possible to design a building that is compatible with the design of a pile of rocks and a boiler in the water. If Council finds it is not possible, the appeal should be approved. That would require findings that define what it really means to have a structure compatible with a design of the historic structures. The other criteria is that the location and orientation of the new structure is consistent with the typical location and orientation of adjacent structures, both historic and non-historic. If there is an issue with that, the HLC could review those issues. The Council needs to make findings with respect to those two sections and he did not believe the Council could verbalize those tonight. In the second appeal of the DRC decision, the Appellant has shown that there is room for movement to address some of the questions raised by the DRC. They are saying the DRC incorrectly applied their criteria, but they have suggested ways that they are willing to modify their proposal irrespective of their disagreement with the original decision. He believed it was very appropriate to remand that decision back to the DRC. The Appellants have also raised questions about the DRC process. Does the BVO or the Riverfront Vision Plan control the interpretation, or do they apply? And does the Comprehensive Plan directly apply to this proposal? The Council should make findings on that to help guide the DRC.

Councilor Jones asked when the Appellants began working on the revised design. He wanted to know if they had it in their back pocket all along or truly began working on it once the previous design was denied.

Mr. Reigelneegg said the newest design was not in their back pocket. They began working on it after the denial.

Councilor Jones stated that based on the comments made at all the previous meetings, it was obvious that the first design was never going to be approved. He wanted to know why the Appellants did not submit a design that was more compatible with what the community had expressed through public comment and through the public's representatives on the DRC and the HLC.

Sam Mullen 119 N. Commercial, Bellingham, WA, said he was at the community outreach meetings and the public hearings. Mr. Reigelneegg was being truthful. This design was not in their back pocket. They attempted to respond to the feedback they received at the first community meeting. They tried really hard and believed they had done a good job. Of course, that was not the impression they had made. They had attempted to go through all of the changes they had made at the last public hearings. This new design is a radical departure. Initially, they were considering a construction method that required thicker floor plates. This new design is a reflection of changing the construction method of the building, but it is substantive. The difference of a few inches per floor allowed them to pull the building down. He understood the desire to go through the right process and the hesitancy of going against or back or questioning the DRC and the HLC. The HLC gave really good feedback at their hearings. They were having a lot of difficulty interpreting how the structure would apply to a boiler. He recalled that at end of their discussion, Commissioner Osterberg came to the conclusion that because the HLC had nothing to compare the new building to, in essence the HLC was advocating for a landmark building. He was saying the building just needed to be good. That commission found it difficult to apply the criteria. He believed sending the proposal back to the DRC would satisfy both committees.

Councilor Jones clarified he just wanted to ask the question and was not accusing anyone of giving an untruthful answer. He agreed with the Appellant that determining how to apply historic compatibility standards with that particular historic landmark is problematic. In retrospect, it would have been good for questions to be asked when that landmark was designated.

Councilor Brownson said he believed the new design was a good response to the feedback given to the Appellants at the previous hearings. Despite their disagreement with the findings, they have shown a great deal of respect and responded in a very positive way. Since the new design is a specific response to the DRC's decision, the issue should be remanded back.

Councilor Price recommended the Council make a decision on the HLC decision first, and then the DRC decision.

City Attorney Henningsgaard suggested that the Council make tentative decisions and direct Staff to come back with findings that address the questions. Findings would help direct deliberations of the remand.

Mayor LaMear closed the public hearing at 8:01 pm and asked the Council to deliberate on Appeal 18-04 of the HLC's decision on NC18-01 first.

Councilor Nemlowill said she believed the only fair thing to do would be to send the proposal back to the DRC and HLC in order to give Staff the opportunity to do a technical analysis and give the public the opportunity to respond to the new design.

Councilor Brownson believed sending it back to the DRC was appropriate, but he believed he could make a decision on the HLC review. It is difficult to juxtapose a brand new building against the historic structures. He would appreciate a nod to the history of the area and he believed that had been included in the new design. He would be happy to approve the appeal of the HLC decision because the discussion is really about what a building should look like compared to pilings, an old heating unit, and a couple of rocks. The City can require a nod to the historic neighborhood.

Councilor Nemlowill agreed that the new design was more compatible with a traditional working waterfront. Therefore, it might be more compatible from an HLC standpoint. New evidence has been submitted and the public needs an opportunity to review that. The Council would be making a decision on the old design. No one has had the opportunity to comment on whether they believed the new design is historically compatible, which does not seem fair.

Councilor Brownson said he would be happy to ignore the new design when it comes to the appeal of the HLC decision.

Mayor LaMear reminded that if the Council sends the proposal back to the HLC, they will have to give a reason and some direction on what they are to consider. However, there really are no guidelines in this case because there are no adjacent buildings.

Councilor Price stated she did not have a problem with the location, but there is a lot of criteria for the HLC to consider on the structure. She was not willing to seed those criteria on the new proposal. She understood the difficulty in designing a building around a boiler, but it is possible. She was concerned that the Council would be setting a precedent that some of the HLC criteria would not apply when new buildings are compared to historic structures that are not buildings.

Councilor Brownson did not believe the Council had the time or the ability to come up with new criteria. The HLC attempted to apply the existing criteria to their findings, but he believed they had failed.

Councilor Price said maybe the new design would pass and the HLC should be given the opportunity to decide. She wanted the new proposal to go through the public process.

Councilor Brownson noted that one of the main points was that the HLC considered what used to be there, not what is there now. He disagreed with that premise. A building could not be designed around a boiler.

Councilor Jones agreed with the Appellant on the size, height, and mass of the building. He did see how the Council could apply standards that were stricter than the Code; the presence of historic boiler remnants on the water behind the lot do not affect that in any way. If he were on the HLC, he would have argued that some architectural detail standards could be applied based on what was there. If this went back to the HLC, he would

recommend they focus on architectural detailing, not height, scale, orientation, or anything else having to do with the size of the building.

City Council Action: Motion made by Mayor LaMear, seconded by Councilor Brownson to tentatively approve Appeal 18-04 by Sam Mullen of NC18-01 and direct Staff to prepare findings of fact in support of the appeal to be reviewed and adopted at the City Council meeting on September 4, 2018, pending an extension of the 120-day time limit by the Appellants.

City Manager Estes noted that the City would prefer the Appellant's attorney also prepare findings to be incorporated with Staff's findings.

Mr. Holbrook confirmed he would have no problem preparing findings. However, he did not want a final decision by Council on the HLC appeal until after a final decision had been made by the DRC. That would avoid any confusion about what the Council was approving. If the DRC approves the new design, the Council could then use that evidence to make their final decision.

City Manager Estes further clarified that the Appellant's findings on the HLC appeal would not be presented to the City Council for final approval until after a final decision had been made on the DRC appeal. That would require an extension of the 120 days on the HLC decision, coterminous with what is decided on the DRC decision.

Councilor Nemlowill confirmed with City Attorney Henningsgaard that Mr. Holbrook's comments were procedural and not new testimony. However, she suggested the public hearing be reopened because she believed a member of the audience wanted to submit new testimony.

Mayor LaMear reopened the public hearing at 8:14 pm and called for public testimony.

Elizabeth Menetrey, 3849 Grand Ave, Astoria, said many people have very strong opinions about this and she believed the people and the committees were not being respected. She spent 11 years working on the waterfront and the Bridge Vista was very flawed. The Code allows buildings to be high and 30,000 square feet. The people of the city are being let down.

Kris Haefker, 687 12th Street, Astoria, said he thought it was a mistake to describe a landmark as a pile of rocks, a chunk of steel, and some sticks in the ground. That description could be used for many historic pieces of architecture around the world. The City should stick to its guns on the landmarks. He recommended that the code reference historic structures. Pilings are a structure and steel chunks are sculpture. A pile of rock can be designed in many different ways. He did not agree with the Council on how to come to an agreement on a design. He asked that Astoria's historic landmarks be respected because the city deserves landmark architecture.

Jan Faber, 3015 Harrison Ave, Astoria, asked what kind of precedent this would set for the HLC. If there are no considerations when there are no historic buildings nearby, someone could build a pyramid or a revolving Ferris wheel. The Council must at least allow the HLC to see the new design and if they deny it, the decision can be appealed. Then, the Council can decide that no criteria can be applied if no buildings are around. By pushing the issue aside, the Council would be saying the HLC has no function in this process. This is the Appellant's fault because they submitted a new proposal at the last minute. If the appeal is not remanded back to the HLC, the Council is approving the old design and the new design would not be reviewed by the HLC. Time will not be extended and the Council's ability to overturn the HLC's decision will not change.

George Hauge, 1 3rd Street, Astoria, said he hoped the Council would support what the people have said about denying the appeal and allowing the HLC to review the new design. He wanted to know what the Council would have thought if no new design was submitted. He believed the new design led some of the Councilors to want to deny the HLC's decision. The HLC deserves the opportunity to take another look at the proposal and they are the professionals that the Council should rely on.

Mayor LaMear called for the Appellant's rebuttal.

Mr. Holbrook said their argument is that the HLC criteria cannot be applied in the way that is constitutionally valid. The new design and the previous design do not matter because the HLC will not review the design. It is appropriate for the Council to hold their final decision until after the DRC's final decision. They have appealed the application of the criteria, not the HLC's vision of the design.

Mayor LaMear closed the public hearing at 8:22 pm and called for discussion on the motion on the table, which was to tentatively approve Appeal 18-04 by Sam Mullen of NC18-01 and direct Staff to prepare findings of fact in support of the appeal to be reviewed and adopted at the City Council meeting on September 4, 2018, pending an extension of the 120-day time limit by the Appellants.

Councilor Price said approving the appeal would devalue Astoria's historic landmarks and the HLC. It would also imply that the HLC was not in compliance with State law. The old proposal would also be approved. Therefore, she would vote no.

Councilor Brownson stated he respected the HLC. The HLC had a difficult challenge to try to apply their criteria to this particular proposal and they did the best they could. They had a reason for their denial. Before seeing the new design, he agreed with the Appellants that the criteria needed more work. This is an interesting situation and it would take some discussion. He believed this type of situation would come up again and this process would help inform everyone. The Riverfront Vision Plan is a reflection of what is in the Code. And when there is a question about what the Code means, the HLC refers back to other documents in order to understand what historic detail means. The Bridge Vista plan recommends that the City preserve sweeping open vistas, incorporate built elements that respect and complement the working riverfront character, and maximize open areas. The Bridge Vista Area is adjacent to Uniontown, so designs should be consistent with the character of the Uniontown Alameda Historic District. The design review guidelines in the Code promote architectural elements that unify the Gateway Area by encouraging styles characteristic of Astoria. The historic architecture of Astoria is represented by a variety of styles. Differences in details may be seen from one neighborhood to the next and the guidelines advocate for the simplicity of designs that are characteristic of Uppertown and the working waterfront. It is important to respect the Code when it is applied. The original design did not respect the Code whatsoever. The hotel/motel looked similar to what one would see anywhere else. During a work session on visioning for Astoria, Councilor Jones had said he would see a town that looked like any other town when driving into Astoria. He wanted Astoria to be something unique and the first design was not unique. He was pleased to see the new design. He was not disrespecting the HLC by disagreeing with their findings.

City Manager Estes restated the motion for clarification, as follows:

City Council Action: Motion made by Mayor LaMear, seconded by Councilor Brownson to tentatively approve Appeal 18-04 by Sam Mullen of NC18-01 and direct Staff to prepare findings of fact in support of the appeal to be reviewed and adopted at the City Council meeting on September 4, 2018, pending an extension of the 120-day time limit by the Appellants.

He recommended the motion be amended to stated that the Council would review the findings of fact and vote on final approval of the appeal after the DRC's decision has been finalized.

Councilor Nemlowill stated she was elected to represent the people and asked if it was fair to hold out on adopting findings for so long. If someone wanted to appeal to the Land Use Board of Appeals (LUBA) they would have to wait.

City Manager Estes explained that appeals can be filed after final decisions are made.

City Council Action: Minor amendment to the motion made by Mayor LaMear, seconded by Councilor Brownson to tentatively approve Appeal 18-04 by Sam Mullen of NC18-01 and direct Staff to prepare findings of fact in support of the appeal to be reviewed and adopted at a City Council meeting held after a final decision has been made by the DRC on Appeal 18-03 of DR18-01, pending an extension of the 120-day time limit by the Appellants. Motion carried 3 to 2. Ayes: Councilors Jones, Brownson, and Mayor LaMear; Nays: Councilors Nemlowill and Price.

City Manager Estes said if the Council wanted to remand the appeal back to the DRC, the Council would need to draft findings for them to consider. He wanted the opportunity to coordinate with the Appellant's attorney so that Staff had enough time to notice the hearing and, potentially, another appeal.

Councilor Brownson asked if City Council could simply direct the DRC to review the new design.

City Manager Estes said yes and reminded that the City Attorney had advised Council to adopt revised findings for the DRC to inform their review.

Councilor Price said this started out that Council would address the appeal that was presented to them. Now, the appeal has been split and the old design has been approved. She believed this appeal should be denied and require the DRC to review the new design. The Council just approved the old proposal which made some pretty serious accusations about how the HLC conducts itself. She believed the appeal should be addressed separate from the new proposal.

Councilor Nemlowill explained that if the Council denies the appeal, the new design cannot be remanded back to the DRC and the Appellant could appeal to LUBA.

Councilor Price said or the Appellant could just go back to the DRC with the new design.

Councilor Brownson stated the clear path would be to send this back to DRC with new information.

City Manager Estes noted that if Council simply wanted to remand the proposal back to the DRC, he wanted time to work through the 120-day rule with the Appellant. The Appellants will need to sign a document tonight in order to move forward. He requested a short recess.

Mayor LaMear called for a recess at 8:38 pm. The meeting reconvened at 8:49 pm.

City Council Action: Motion made by Councilor Price to deny Appeal 18-03 by Sam Mullen of DR18-01 and ask the Appellants to submit a new proposal for design review. Motion died for lack of a second.

Councilor Jones believed the Council agreed the new proposal should go through a design review and he wanted to know the mechanism that would allow that to happen.

Councilor Brownson explained that if the appeal is denied, the Appellants would have a choice. They could voluntarily submit their new design for a design review or they could appeal the existing design to LUBA.

City Attorney Henningsgaard stated that if the appeal is denied, the application is done and there is nothing to take back to the DRC. He confirmed with Planner Ferber that there was no waiting period for a similar application to be filed.

City Council Action: Motion made by Councilor Brownson seconded by Councilor Nemlowill to remand Appeal 18-03 by Sam Mullen of DR18-01 back to the DRC, pending an extension to the 120-day time limit by the Appellants. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

City Manager Estes confirmed that the Appellants had signed a waiver for a 120-day extension from August 23, 2018.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)

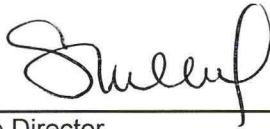
George Hague, 1 3rd Street, Astoria, confirmed the Councilors had received copies of a document he wanted to comment on. He had attended the Planning Commission and City Council meetings on the Urban Core. On Page 2 of 19 of his handout, there were straight yellow lines marking the river trail and the corridors that people would have to walk along in order to see the river. These corridors will not be like the corridors on 14th or 6th Streets. Buildings will be on either side of the corridors. The plan wants the City to get rid of the parking limitations, but the city does not have available parking to allow that to happen. Page 3 of 19 said physical and visual access to the water was to be promoted and that the river trail be enhanced. However, the plan does not do that in any way. Managed views of the river through building corridors should be allowed. Pages 13 and 14 contain slides that were used during the presentations given at the meetings. One slide kind of shows the managed views between buildings, but two of the slides give the impression that the view would be similar to the

view from 14th Street. The text says there will be structures on both sides. There are buildings along the south side of the trail, but not side-by-side on the north side of the trail, so, the slides are not accurate to the text. Page 16 contains slides that give the impression that buildings would only be on one side, but buildings would be on both sides of the Riverwalk between 2nd and 16th Streets. The slides do not depict what is written in the text and Council should not allow the slides to be shown on September 12th when the presentation is given to the public because they are misleading. On Page 17, roof mounted equipment on any buildings north of Marine Drive should be included in the height of the building. Currently, there are buildings 10 or 12 feet taller than the height limit. He referred to Page 18 and asked that the Council not allow inaccurate depictions to be presented to the public on September 12th. There is no parking available and if the structures that burned down were rebuilt, more parking would be used up. If the City did what ODOT required at intersections, Astoria would lose even more parking. He asked that Council not allow the plan to eliminate parking. He was also bothered by the designs that show balconies looking over the Riverwalk. Council should not allow structures to have balconies because it would drive people on the Riverwalk crazy.

ADJOURNMENT

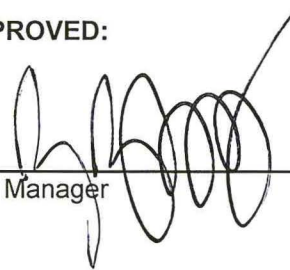
There being no further business, the meeting was adjourned at 9:02 pm.

ATTEST:



Finance Director

APPROVED:



City Manager