

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:00 pm.

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

Councilors Excused: None

Staff Present: City Manager Estes, Community Development Director Cronin, [Parks and Recreation Director Cosby](#), [Finance Director Brooks](#), [Fire Chief Ames](#), [Police Chief Johnston](#), Public Works Director Cook, [Library Director Pearson](#), and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

CHANGES TO AGENDA

CONSENT CALENDAR

REGULAR AGENDA ITEMS

Item 6(a): Ordinance and Public Hearing – Article 3: Accessory Dwelling Unit (ADU) (1st reading) (Community Development)

This Development Code update was initiated by the Community Development Department in January 2016 in response to an Affordable Housing Strategy endorsed by the City Council in November 2015. The City Council held a special work session on July 18, 2016 to discuss the strategy, which is part of implementing a FY14-15/15-16 Council goal. At the work session, Staff presented background information – including accessory dwelling units – as part of a larger Development Code amendment to increase the supply of housing options for all income levels. Subsequent to the work session, Staff scheduled a public hearing on September 27, 2016 with the Planning Commission to consider amendments to Article 3 – Accessory Dwelling Units. The other code amendments (Article 2 – Zoning Designations) were tabled until Staff received further direction from Council. The Planning Commission scheduled a work session for October 19, 2016 and continued the hearing until October 25, 2016. After considering the findings of fact and public testimony, the Planning Commission recommended approval to the City Council on October 25th. The full record for the plan amendment application (A16-02: Plan Amendment), including the findings of fact, is contained in the Staff report. A public hearing has been properly noticed for March 20, 2017. It is recommended that the City Council hold a public hearing, take public testimony, and hold a first reading of the proposed ordinance.

Mayor LaMear asked if anyone objected to the jurisdiction to hear this matter at this time. There were no objections. She asked if any Councilor had a conflict of interest or ex parte contact to declare. There were none. She 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.

City Manager Estes summarized the Staff report and noted that the Community Development Department was the Applicant.

Mayor LaMear opened the public hearing at [7:50 pm \[1:50:58\]](#) and called for the Applicant's testimony.

Director Cronin described the various types of ADUs, which would provide housing for singles, young couples, and single parents. Staff conducted considerable research that led to the proposal being presented. Ordinance amendments are recommended because the existing ordinance is not working and resolving the housing issue is a City Council goal. He presented the proposed ordinance amendments related to ADUs and displayed

diagrams and graphics from the Staff report. He reviewed lot and parking requirements, the design review process, and next steps.

Councilor Brownson said he wanted to make sure the City was separating ADUs from homestays and vacation rentals. He understood an ADU was a place for someone to live long term, not short term. He confirmed with Staff that ADUs had to be rented for at least 30 days minimum and could not be used as vacation rental units. Section 2(b): Single Service Utilities states the combined units would have single service utilities, which could be problematic for landlords who want renters to have their own separate meters. Director Cronin explained that ADUs could have sub meters that calculate what the tenant is using. City Manager Estes added that requiring single service utilities ensures that the ADUs are ancillary to the primary dwelling.

Councilor Brownson asked if property owners with ADUs would be able to rent a room in the main residence. Director Cronin explained that a property owner could live in the ADU and rent the main dwelling or rent out extra rooms in the main dwelling. There is no prohibition on renting long term. The ADUs provide more privacy because they have separate entrances.

Councilor Brownson said he heard many concerns about the off-street parking criteria, which requires one additional off-street parking space for the ADU, with the possibility of receiving credit. If two people were living in an ADU, they could each have a vehicle. The main dwelling could have a family of four with a teenager, which could mean an additional three cars. He was concerned about providing three parking spots for five cars, potentially. The City would have to deal with a build up of vehicles parked on the street. Traffic was already an issue and he was concerned that this would compound the problem. Director Cronin explained that ADUs on city-standard streets would get an on-street credit toward the one required off-street parking space. This proposal does not address traffic management.

Councilor Brownson said he wanted to make sure the impacts of additional on-street parking to the neighborhoods are being addressed. He also wanted to discuss the street parking credit and solid examples of the streets that fit the criteria. Director Cronin stated an inventory of the city-standard streets was not available at this time. He noted the Agenda packet contained a diagram from the Transportation System Plan (TSP) and explained that city-standard streets had parking on both sides. Streets like Franklin or Grand are built to city standards, but Floral, for example, is not built to city standards and does not have the ability to accommodate on-street parking.

Councilor Brownson confirmed he understood. He said he believed much of the discussion would be about impacts to the neighborhoods and design standards. It will be important for the City enforce historic design standards seriously.

Councilor Nemlowill confirmed that the distinction between ADUs and tiny homes is that tiny homes are built off site. She asked how the prohibition of homestays would be enforced. City Manager Estes stated he directed Director Cronin to refrain from working on homestay lodging Code amendments or enforcement in order to avoid a conflict of interest because he and his family have a homestay lodging at their residence. He said Staff would address enforcement actions just as they would any other Code violations that are turned into the Community Development Department. Planner Ferber would respond to Code violation reports and work with Code Enforcement Officer Small, who might have to issue citations.

Councilor Brownson said he wanted ADUs to be discussed separate from homestays. If City Council decides to allow homestays in some way or in a different way, enforcement must be discussed and addressed.

Councilor Price said she disagreed. Council was told there have been three applications for ADUs in 10 years, but there are 10 ADUs on Airbnb. She did not know how Staff could bring those into compliance and enforce a prohibition on ADU homestays.

Councilor Brownson said the City needs to find ways to enforce the laws, so a separate discussion about the issue is necessary. There is a very distinct difference between an ADU and an Airbnb. Airbnbs do not have kitchens and are not set up for people to live in long term.

Councilor Price asked Councilor Brownson if he had read and checked her spreadsheet against Airbnb; 68 percent of properties rented on Airbnb have kitchens. Councilor Brownson agreed this was a problem. Councilor Price said she believed the City had clear data showing ADUs and homestays were not separate issues.

Mayor LaMear called for any testimony in favor of the application.

[Fred Bone \[2:11:27\]](#), 824 35th Street, Astoria, said he has been trying for 22 years to get an occupancy permit for his coach house. Three units in ten years is a terrible quantity because people who work in this town cannot afford to live here. If City Council voted to direct the Community Development Department to come up with 500 units in the next year, the housing problem would be solved. There is precedent for this. The Environmental Protection Agency (EPA) says that car makers have to get 36 miles to the gallon by 2025. If the City held a public meeting, he believed many people would love to have a second unit. However, people have been intimidated by inspectors and regulations over the years. This can change as it did for him when [Jim Bierly \[2:12:58\]](#) presented him with options for his coach house. It took about a week to complete the work and [Mr. Bierly](#) signed off on it. [Mr. Bierly](#) is a great resource and if he could approve two units a day, it would not be too difficult to get an additional 500 units in the next year.

[Misha Cameron-Lattik \[2:13:48\]](#), 1820 SE 3rd Street, Astoria, said Astoria has a housing crisis and people who work here cannot afford to live here, particularly the people who are in large part responsible for Astoria's attractiveness to visitors. He believed ADUs were one possible solution to the housing crisis. ADUs are small and therefore, more affordable. Mostly single people, young people, and single parent families would live in ADUs and those are the people that have a really difficult time maintaining a lifestyle in Astoria. ADUs are not the only solution to the housing crisis and he recognized the potential problems with enforcement. However, this does not mean the City should not consider ADUs as a real option for people who want to live here and contribute to the community.

[Suzanna Gladwin \[2:15:35\]](#), 82316 Hwy. 103, Seaside, agreed there was a necessity for houses for the workers of Astoria. There are definitely ways to address the Airbnb issues, which cities all over the country are dealing with. She believed Portland had defined what was permissible, but she had heard there was no enforcement. Airbnb rentals are allowed as long as the dwelling has a permanent resident and off-street parking. She tried to get Director Cronin to explain Astoria's ordinance, but it never made sense to her. She has an 1880s house up on a hill with no way to have off-street parking. Lexington Street is skinny at the top of the hill. She has been unable to figure out the on-street parking credit, so it needs to be well defined. The ordinance will increase the population, so summer traffic needs to be considered. Years ago, she tried to get ODOT, the City, and the County to look at Wicks Road or find a way out of town to the east and she believed the County was still discussing this. An exit to the east should be discussed as part of this ordinance.

[Chris Hafeker \[2:17:47\]](#), 687 12th Street, Astoria, said he was in favor of ADUs and believed the City should relax the parking codes. He did not believe ADUs should have any parking requirements. On his street, only one house has a driveway and most of the homes have been turned into duplexes and triplexes. His neighborhood does not have a parking problem and many of the units in his neighborhood could be defined as ADUs. He did not believe homestays should be banned in ADUs. Many homeowners who are considering building an ADU have to consider the costs. He took an ADU class in Portland and learned they cost about \$100,000, especially if they are detached. If a homeowner is considering offsetting some of their housing costs, they might want the option to offer a homestay and monthly rentals. Many Airbnb renters in Astoria juggle the two types of rentals, not because it is fun, but out of necessity. If the City is going to force people into monthly rentals, Council should consider a requirement to take a landlord/tenant course. Landlord requirements are changing drastically and the City might not want to pigeon hole people in that direction.

Jennifer Cameron-Lattik, 1820 SE 3rd Street, Astoria, said she was generally in favor of ADUs as one tool for dealing with affordable housing. However, she was concerned about some of the standards for tiny homes and ADUs. Tiny homes could be built to codes for permanent structures or for temporary living quarters like recreational vehicles (RVs). It seems unsafe for the community to allow structures built to less secure and less safe codes. She was unsure of fire protections and would be concerned about having a small structure without smoke alarms next to large, old houses. Those designations are unclear in what has been presented so far.

Director Cronin explained that tiny homes must be built to RV standards, which are posted online. Housing and Urban Development (HUD) standards were also included because the City needs a set of third party standards

for tiny homes. Currently, the legislature is considering new standards and whatever is passed will replace the definition that Staff has proposed in this ordinance. The legislature is hearing about ordinances like this one from all over the state because there is so much interest in tiny homes. A new building code will be included through the State Building Codes Division if new codes are passed by the legislature.

Patrick Wingard, [no address given \[1:22:00\]](#) said he was Astoria's Northcoast Regional Representative with the Oregon Department of Land Conservation and Development (DLCD). He commended the City for the work they are doing because it is not easy or cheap. He was unable to attend the work session on the construction excise tax, but he was interested in learning how the conversation went. The City of Newport and Tillamook County are also considering this issue. He noted that Astoria's Comprehensive Plan is structured under acknowledgment through the State that is framed by 19 statewide planning goals. He read the following excerpt from Statewide Planning Goal 10:

"Building lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels that are commensurate with the financial capabilities of Oregon (or in this case, Astoria) households and allow for flexibility of housing location, type, and density."

He liked that the Staff report said ADUs are not the solution; they are just one of many ways to increase a range of housing options for Astorians. He complimented Staff. He has been watching this issue closely and said each municipality needs to find their own way to a solution. He strongly supported Astoria's approach to ADUs being offered an on-street credit when street conditions are appropriate. About 10 years ago, he worked with Chief Ames to adopt new street standards for the City of Warrenton. While Chief Ames has always supported planning departments, fire departments also have a job to do. As long as he knows City Council is working in concert with public services and emergency responders, he knows the City will land in a good spot. It is very important to take advantage of Astoria's infrastructure without excessively adding more impervious surfaces to the city's urban landscape. He and the DLCD support the work that Astoria is doing.

Mayor LaMear called for testimony opposed to the application.

[Doug Thompson \[2:25:16\]](#), 342 14th Street, Astoria, said he was speaking as a representative of the Lower Columbia Preservation Society (LCPS). The LCPS previously submitted written materials that are part of the record. Their objections and recommendations have not changed. He asked for more than three minutes to outline the objections and recommendations because the LCPS, as an organization, represents many voices. He read LCPS's position statements as follows:

1. The ordinance should support one ADU per lot, instead of one ADU per single-family lot.
 2. The LCPS supports internal conversions in all zones, provided all other criteria are met.
 3. They support the creation of new ADUs that extend beyond the existing envelope, like attached additions, subject to rigorous design review in all zones.
 4. The LCPS is concerned about Staff's assertion that the only area of town not covered by design review standards is the south slope, which is mostly Ward 2, Councilor Brownson's area. Alderbrook has never been inventoried and is not covered by design review standards. Astoria has not inventoried all of the neighborhoods and therefore, does not have historic resources inventoried, historic design review, or city-wide design review in residential areas. The City could implement a city-wide design review process for ADUs, but this proposed ordinance does not do that.
 5. The LCPS encourages restrictions on the siting of detached ADUs, such that they can only be located in rear or interior side yards and not adjacent to public rights-of-way.
 6. This ordinance continues to grandfather in existing homestays and short-term rentals, including those that people find egregious.
- If City Council approves this ordinance as proposed, the City will have created a double standard, which is inappropriate. The LCPS supports the development of ADUs with both city-wide conditions and conditions that are specific to certain neighborhoods. The Comprehensive Plan states the City should maintain neighborhood character and design review is the tool necessary for detached ADUs.

Mayor LaMear asked for clarification about the first position statement. Mr. Thompson explained that LCPS supports one ADU per lot regardless of zoning, but the current proposal only applies this limit to single-family lots. This infers multiple ADUs would be allowed on multi-family lots.

[Mike Sensenbach \[2:31:33\]](#), 110 Kensington, Astoria, said he supported LCPS's position. The Planning Commission's work session attempted to address the differences between the two sets of building codes that

apply to tiny homes, the RV standards and the International Building Codes. However, he believed many of the audience's questions have gone unanswered. Eric Schmidt, Gresham's Community Development Director and President of the Oregon Building Official's Association, stated in the *Daily Astorian*, "Allowing tiny homes to be built to a lesser standard and occupied on a permanent basis can be interpreted that it is acceptable for anyone who occupies them to have a lesser minimum standard for life safety than those that have a traditional home." He did not believe Astoria wanted to send this message to its citizens. He preferred tiny homes be removed from the ordinance and addressed as a separate issue at a later time. The State legislature is currently considering tiny homes and Astoria should not jump the gun. The only restriction on homestay lodgings is that they are prohibited in ADUs created after a certain date. This creates a big loop hole that allows people to claim ADUs were created prior to that date. Therefore, he would like the date removed from the ordinance and homestays prohibited in all ADUs. This would still allow a property owner to live in an ADU and offer a homestay in the primary residence.

Mayor LaMear called for the Applicant's rebuttal.

Director Cronin said the International Code Council (ICC) helps building officials deal with new codes and they are also considering tiny home standards. Other jurisdictions that have already permitted tiny homes are using the ICC standards, which include an appendix that facilitates the construction of tiny homes in a manner similar to site-built homes. Single-family lots must be at least 5,000 square feet and lots smaller than 10,000 square feet could only have one ADU. Lots larger than 10,000 square feet could have more than one ADU.

City Manager Estes asked if the City could pass an ordinance prohibiting the existing ADUs that are being legally operated as transient lodging.

City Attorney Henningsgaard said if the use is lawful, it can continue under both State and Constitutional Law. Property owners have a constitutional right to maintain a lawful use of their property, regardless of how zoning and codes change in the future. The City could not ban a lawful use, but restrictions could be imposed. The use must be lawful and maintained on a consistent basis.

Mayor LaMear said City Council has heard many criticisms of the proposed ordinance. She wanted more time to read through her notes and consider everything that has been presented before making a decision. She also wanted Council to give Staff direction.

Director Cronin confirmed that the City does not have inventories for Alderbrook or the south slope area and there are no plans to inventory these neighborhoods because resources are not available. He held a town hall meeting for Alderbrook about a year and a half ago and it was made clear to him that the neighborhood was opposed to additional property restrictions. He believed an inventory would be the wrong way to go in Alderbrook. However, if City Council directed Staff to inventory Alderbrook, the City would consider potential funding sources.

Councilor Jones confirmed that new non-historic homes adjacent to historic homes are subject to historic design review standards.

Staff noted that new construction requires a higher level of review than remodeling, so detached ADUs on adjacent non-historic lots and detached or attached ADUs on historic lots will have to be approved. However, existing detached buildings on adjacent non-historic lots would not require a design review when being converted to an ADU. Design reviews for structures that are historic or in historic districts are conducted by the Historic Landmarks Commission and structures within a design overlay district are reviewed by the Design Review Committee.

Councilor Jones agreed that enforcement of those who are cheating is a critical issue that the City must address. He hoped enforcement would be on the agenda in the near future because regardless of the ADU ordinance, the illegal uses still need to be addressed. He believed there was no single solution to affordable housing and the housing shortage. The City needs many types of tools. On one end of the spectrum, there are solutions like repurposing the Merwyn into 40 apartments. On the other end of the spectrum are the policy changes that could result in small or modest additions to the housing stock in Astoria. It is important for the City to pursue the entire spectrum from small to large changes. This proposal has been well thought out and is consistent with the Comprehensive Plan and Development Code. Mitigation is in place to protect Astoria's historic character and

neighborhoods, so he was satisfied with the ordinance at this time. However, if other Councilors wanted to wait to make a decision, he supported that as well.

Councilor Price said she fully supported LCPS's recommendations. She also believed City Council should delete tiny homes from the ordinance because the City has never had an in-depth discussion of how their standards are different from structures built on site. All ADUs should be subject to at least Type 2 review, but preferably Type 3. Overall, she has always had concerns about piecemeal development of the city. The ADU ordinance will come back at some point for additional revisions. Density will affect lot sizes. ADUs do not necessarily need to be limited to single-family homes because there could be duplexes and triplexes on large lots. She wanted more strategic planning on what the city should look like before City Council begins tip-toeing through the Development Code making changes one by one. When the next change comes, it will be very difficult to see where the city is at comprehensively. Many cities prepare maps and documents that show where existing and proposed development is located when they undertake these types of revisions.

Mayor LaMear confirmed that Councilor Price wanted LCPS's recommendations included in the ordinance. Councilor Price said she also wanted tiny homes removed and to require at least a Type 2 permit, if not Type 3. She fully supported Mayor LaMear's idea to table the discussion to a later date.

Mayor LaMear said she disagreed with LCPS's recommendation to refrain from grandfathering in the existing homestays. Property owners that are running homestays legally have a right to continue. Otherwise, she supported all other LCPS recommendations. She confirmed for Staff that she was fine with removing tiny homes from the ordinance at this time.

Councilor Nemlowill said now is the time to add housing units for Astorians and this proposal would ensure that these units would be for Astorians. The idea of the ordinance is to make it easier to build ADUs, not harder. She believed the intent of the LCPS was good, but their recommendations would make it too difficult to build anything. She is glad that design reviews would continue in historic areas, but she did not believe city-wide reviews were necessary. As written, the ordinance requires a review by the Planning Commission and City Council within a year of adoption, which she believed was a good idea. She was also concerned about tiny homes and was not compelled to include them in the Code. Concerns about standards and life safety are valid, so she agreed tiny homes should be removed. She agreed with [Mr. Sensenbach's](#) suggestion to change the language that referred to prohibiting homestay lodgings in ADUs by removing the date. Moving forward with the proposal as written would allow anyone with an ADU created prior to 2017 to obtain a homestay lodging permit.

Mayor LaMear asked if Councilor Nemlowill wanted to vote tonight. Councilor Nemlowill said she was eager to move forward because this process had been ongoing for a very long time. However, if the Mayor needs more time she would respect that.

City Attorney Henningsgaard reminded that this hearing was to consider the first reading of the ordinance and the public hearings can continue for as long as City Council wants. Because this is a legislative matter, City Council can conduct any investigations it wishes, independent of the first reading that has been scheduled for tonight.

Councilor Brownson believed existing homestays operating legally in an ADU should be grandfathered in, but existing ADUs not currently used as homestays should be prohibited from being used as homestays in the future. Councilor Nemlowill agreed. Councilor Brownson added that he agreed with everything else Councilor Price had said. Tiny homes can wait; they are new and Council can decide later how to ensure that safe units are installed.

City Manager Estes confirmed that the majority of Council preferred to add the LCPS's proposed amendments, with the exception of the design review recommendations.

Councilor Price said she would support the ordinance if homestays are prohibited, the grandfathering in works as Councilor Brownson described, all ADUs would be subject to at least a Type 2 review, tiny homes are removed, and that City Council reviews the ordinance in a year. She explained that the Type 2 review allows the opportunity to appeal and adjacent property owners are noticed.

City Manager Estes said Staff would need time to revise the language in the proposed ordinance in order to capture City Council's direction. He understood Council preferred tiny homes be removed, no homestay lodging date, inclusion of the LCPS recommendations, and accepting design review requirements citywide.

Mayor LaMear asked if Director Cronin disagreed with any of LCPS's recommendations. Director Cronin said he would look at the recommendations tomorrow and give Council a full and in-depth answer. Creating a Type 2 process will be problematic because ADUs are permitted outright in R-2 and R-3 zones. Changing that part of the Code was not noticed because it was not part of the proposal.

City Manager Estes requested that City Council continue the hearing to a date certain. Staff can be prepared by the next City Council meeting on April 3, 2017.

City Council Action: Motion made by Councilor Price, seconded by Councilor Jones, to continue the public hearing on the ordinance amending Astoria Development Code Article 3: Accessory Dwelling Units to April 3, 2017 date certain. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

Item 6(b): Ordinance and Public Hearing – Article 9: Procedures (1st reading) (Community Development)

Item 6(c): 2017 Trolley Trestle Repair Project – Authorization to Bid (Public Works)

Item 6(d): Waterfront Bridges Replacement Project (6th – 11th Streets) Update and Additional Funding Request (Public Works)

Item 6(e): Resolution to Update City Administration and Development Review Fees (Community Development/Public Works/Finance)

Item 6(f): Authorization to apply for an AmeriCorps RARE Service Grant with the University of Oregon (Finance)

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

ADJOURNMENT

ATTEST:

APPROVED:

Finance Director

City Manager