



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## AMENDED NOTICE OF ADOPTED AMENDMENT

January 30, 2008

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Astoria Plan Amendment  
DLCD File Number 001-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 19, 2008**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Laren Woolley, DLCD Regional Representative  
Rosemary Johnson, City of Astoria

<paa> ya

**FORM 2**

**DLCD NOTICE OF ADOPTION**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18

(See second page for submittal requirements)

**DEPT OF**

**JAN 29 2008**

**LAND CONSERVATION  
AND DEVELOPMENT**

Local File No.: A07-01

(If no

Jurisdiction: City of Astoria

number, use none)

Date of Adoption: 1-22-08  
(Must be filled in)

Date Mailed: 1-28-08  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 9-21-07

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other:

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Rezone an area from S-1 Zone (Marine Industrial Shoreland) to S-2A (Tourist-Oriented Shoreland) for the area between 38th and 39th Streets and between Lief Erikson Drive on the south and the Trolley Line on the north within the City limits of Astoria.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A".

Area to be rezoned reduced from 5 acres to 3.26 acres.

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: S-1 (Marine Industrial Shoreland) to: S-2A  
(Tourist-Oriented Shoreland)

Location: Area south of the former railroad right-of-way and north of Lief Erikson Drive between 38th and 39th Street; Map T8N R9W Section 9AA, Tax Lots 100 & 300; Section 9AD, Tax Lots 100, 200, 201, 501, 600, 601, 700, and vacated portions of 38th and 39th Streets

Acres Involved: 3.26 acres

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goal 5, Goal 7, Goal 8, Goal 9, Goal 10, Goal 16, Goal 17

Was an Exception Adopted? Yes:  No:

Does Adopted Amendment affect the areas in unincorporated Multnomah County where the Portland

**DLCD# 001-07 (16416)**

Zoning Code applies? Yes  No

DLCD File No.:

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: ODOT, Port of Astoria, CREST, Division of State Lands

Local Contact: Rosemary Johnson, Planner  
338-5183

Area Code + Phone Number: 503-

Address: 1095 Duane Street

City: Astoria

Zip Code+4: OR 97103

Email Address: rjohnson@astoria.or.us

### **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

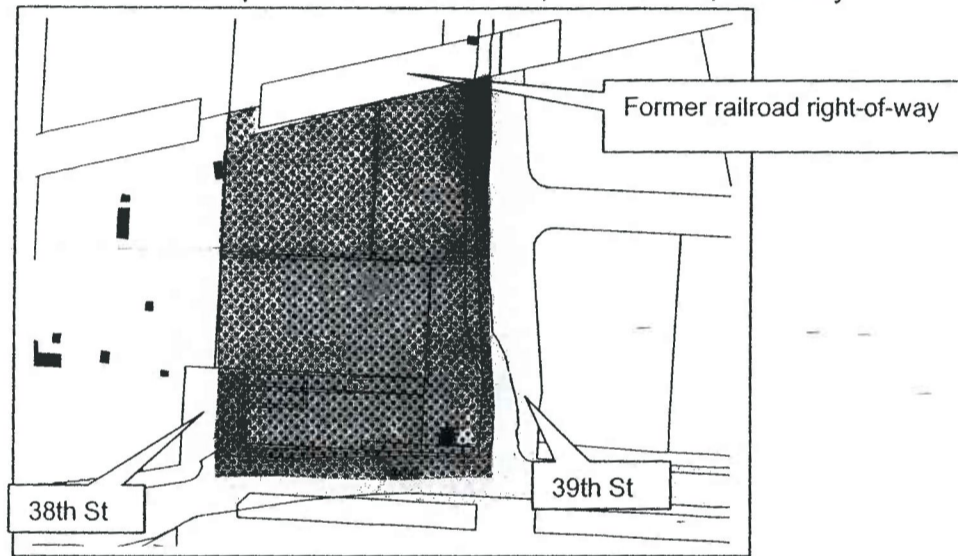
ORDINANCE NO. 08- 01

AN ORDINANCE AMENDING THE ASTORIA LAND USE AND ZONING MAP BY REZONING THE AREA FROM 38TH TO 39TH STREET AND LIEF ERIKSON DRIVE TO THE TROLLEY LINE FROM S-1 ZONE (MARINE INDUSTRIAL SHORELAND) TO S-2A (TOURIST-ORIENTED SHORELAND)

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. The 1992 Astoria Land Use and Zoning Map is amended to rezone the following area from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist-Oriented Shoreland) as indicated on the map:

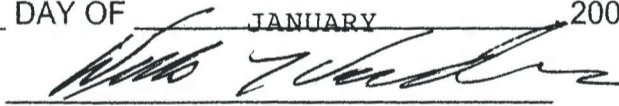
The property lying between the centerline of 38th Street to the centerline of 39th Street, and area south of Lief Erikson Drive north to the former railroad right-of-way; Map T8N-R9W, Section 9AA, Tax Lots 100 & 300; Section 9AD, Tax Lots 100, 200, 201, 501, 600, 601, 700; Lots fronting Block 2, and all of Block 2, excluding the south 30' Lots 5, 6, 7, 8, Adairs Port of Upper Astoria, and vacated portions of 38th Street, 39th Street, and alley.



Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS 22ND DAY OF JANUARY, 2008.

APPROVED BY THE MAYOR THIS 22ND DAY OF JANUARY, 2008.

  
Mayor

ATTEST:

  
Paul Benoit, City Manager

ROLL CALL ON ADOPTION:		YEA	NAY	ABSENT
Commissioner	Compere	X		
	Roscoe	X		
	Henningsgaard	X		
	Warr	X		
Mayor Van Dusen		X		

mailed 1-24-08

BEFORE THE CITY COUNCIL  
OF THE CITY OF ASTORIA

IN THE MATTER OF AN AMENDMENT REQUEST )  
 )  
 FOR THE FOLLOWING: AREA FROM 38TH TO 39TH STREET )  
 AND LIEF ERIKSON DRIVE TO THE TROLLEY LINE; MAP )  
 T8N-R9W SECTION 9AA, TAX LOTS 100 & 300; SECTION 9AD, )  
 TAX LOTS 100, 200, 201, 501, 600, 601, 700; LOTS FRONTING )  
 BLOCK 2, AND ALL OF BLOCK 2, EXCLUDING THE SOUTH 30' )  
 LOTS 5, 6, 7, 8, ADAIRS PORT OF UPPER ASTORIA, AND )  
 VACATED PORTIONS OF 38TH STREET, 39TH STREET, AND )  
 ALLEY; ASTORIA OR 97103 ) ORDER NO. A07-01  
 )  
 CURRENT ZONE: S-1 (MARINE INDUSTRIAL SHORELAND) )  
 PROPOSED ZONE: S-2A (TOURIST-ORIENTED SHORELAND) )  
 )  
 APPLICANT: PIER 38 MARINA LLC, 100 39TH STREET, )  
 ASTORIA, OREGON 97103 )

The above named applicant filed a Request to amend the Astoria Land Use and Zoning Map to rezone an area from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist-Oriented Shoreland) for the area between 38th and 39th Streets and between Lief Erikson Drive on the south and the Trolley Line on the north within the City limits of Astoria, Oregon.

A public hearing on the above entitled matter was held before the Planning Commission on November 6, 2007, and the Planning Commission closed the public hearing at the November 6, 2007 meeting and recommended that the City Council approve the request.

A public hearing on the above entitled matter was held before the Astoria City Council and the public hearing was closed at the January 7, 2008 meeting; and the Astoria City Council rendered a decision at the January 22, 2008 meeting.


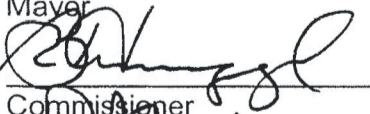
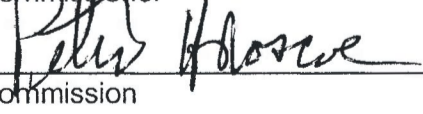
The City Council found the proposed amendment to be necessary and orders that this application for an Amendment (A07-01) is approved and adopts the findings and conclusions of law attached hereto.

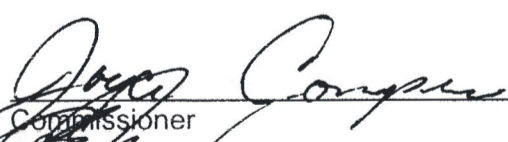

The effective date of this approval is 15 days following the signing of this order, subject to any attached conditions. *A copy of the application, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*

This decision may be appealed to the Land Use Board of Appeals (LUBA) by the applicant, party to the hearing, or a party who responded in writing by filing a Notice of Intent to Appeal with LUBA within 21 days after the land use decision becomes final as described by OAR 661-010-0010(3).

DATE SIGNED: JANUARY 22, 2008

DATE MAILED: 1/24/08

ASTORIA CITY COUNCIL  
  
 \_\_\_\_\_  
 Mayor  
  
 \_\_\_\_\_  
 Commissioner  
  
 \_\_\_\_\_  
 Commission

  
 \_\_\_\_\_  
 Commissioner  
  
 \_\_\_\_\_  
 Commissioner

BEFORE THE PLANNING COMMISSION  
OF THE CITY OF ASTORIA

IN THE MATTER OF AN AMENDMENT REQUEST )  
)  
FOR THE FOLLOWING: MAP T8N-R9W SECTION 9AA, )  
TAX LOTS 100 & 300; SECTION 9AD, TAX LOTS 100, )  
200, 201, 501, 600, 601, 700, AND VACATED PORTIONS )  
OF 38<sup>TH</sup> AND 39<sup>TH</sup> STREETS, ASTORIA, OREGON 97103 ) ORDER NO. A07-01  
)  
APPLICANT: Pier 38 Marina LLC, 100 39th Street, )  
ASTORIA, OREGON 97103 )


The above named applicant filed a request to amend the Land Use and Zoning Map to rezone the area south of the former railroad right-of-way (trolley line) to Lief Erikson Drive between 38<sup>th</sup> and 39<sup>th</sup> Streets from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist-Oriented Shoreland) within the City limits of Astoria, Oregon.

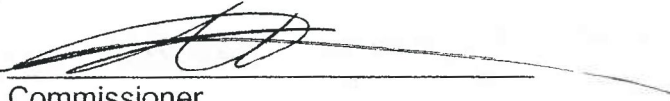
A public hearing on the above entitled matter was held before the Planning Commission on November 6, 2007; and the Planning Commission closed the public hearing and rendered a decision at the November 6, 2007 meeting.

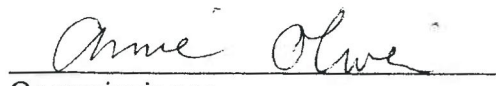
The Planning Commission found the proposed amendment to be necessary and recommends to the Astoria City Council that the proposed amendment be approved. *A copy of the application, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*

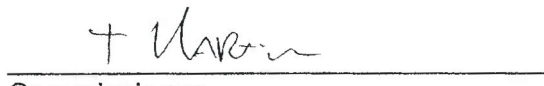
DATE SIGNED: NOVEMBER 6, 2007 DATE MAILED: 11-9-07

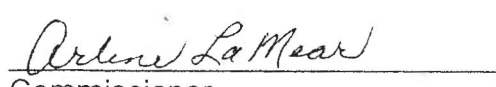
CITY OF ASTORIA PLANNING COMMISSION

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

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Commissioner

  
\_\_\_\_\_  
Commissioner

## **STAFF REPORT AND FINDINGS OF FACT - ADDENDUM**

November 6, 2007

TO: ASTORIA PLANNING COMMISSION

FROM:  BRETT ESTES, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: Amendment Request (A07-01) by Pier 38 Marina LLC to amend the Land Use and Zoning Map to rezone the area south of the former railroad right-of-way (trolley line) to Lief Erikson Drive between 38th and 39th Streets from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist-Oriented Shoreland)

### **PUBLIC REVIEW AND COMMENT**

Since distribution of the October 30, 2007 staff report, two items of written testimony have been submitted as follows:

- Letter from McLaren Innes dated November 1, 2007
- Letter from Ingrid Weisenbach, Area 1 Transportation Planner for ODOT dated November 5, 2007

Any subsequent written testimony received will be forwarded to the Commission at their November 6<sup>th</sup> meeting.

### **MODIFICATIONS TO FINDINGS OF FACT AND CONCLUSION AND RECOMMENDATION**

#### **Background**

Item IV.B.2 beginning on Page 8 is replaced to read as follows. Item V on Page 11 is also replaced as follows.

#### **Page 8**

#### **IV. FINDINGS OF FACT**

- B. 2. Section 10.070(B.2) requires that *"The amendment will:*
- a. *Satisfy land and water use needs; or*
  - b. *Meet transportation demands; or*
  - c. *Provide community facilities and services.*

**Finding:** As shown in the attached Goal 17 analysis prepared by CREST in 2001, the proposed amendment to the zone map will not negatively impact the City's ability to satisfy land and water use needs. The suggested Comprehensive Plan amendment protecting the minimum 125 acres of ESWD land was adopted May 20, 2002. This request will

reduce the existing 173.5 acres to 170.24 acres while providing additional development opportunities within the proposed 3.26 acre site.

The site is accessed from Lief Erikson Drive (Highway 30) with one intersection at 39th Street with no traffic lights. In accordance with Statewide Planning Goal 12 concerning Transportation, and the Transportation Planning Rule (OAR 660-12-060), any plan amendment having a significant effect on a transportation facility (i.e. Highway 30) must assure that the allowed land uses are consistent with the function, capacity, and level of service of the facility. In addition, OAR 734-051-0080, and OAR 734-051-0100 state that a proposed development or land use action where an on-site review indicates that operational or safety concerns may be present requires a Traffic Impact Study.

In February 2007, the City Council adopted the East Gateway Transportation System Plan. This Plan was conducted by the City of Astoria in conjunction with the Oregon Department of Transportation (ODOT) and studied the existing and forecasted transportation needs in this area. In a letter dated November 5, 2007, ODOT staff has stated that following review of the East Gateway Transportation System Plan, they believe the proposed zone change would comply with the provisions contained in the Transportation Planning Rule.

Furthermore, ODOT staff stated that the East Gateway Transportation System Plan recommends a new road connection between 36<sup>th</sup> and 39<sup>th</sup> Streets in order to improve safety and operational issues. A citation from the East Gateway Transportation System Plan describing the connection in more detail has been provided in ODOT's November 5<sup>th</sup> letter. ODOT staff states that from their assessment, there is capacity at the Highway 30 / 39<sup>th</sup> Street intersection provided the parallel road is developed between 38<sup>th</sup> and 39<sup>th</sup> Streets to accommodate the zone change.

In their letter ODOT has also requested that development of future site plans be coordinated with their agency's staff in order to address access issues onto Highway 30.

The following is a comparison of some of the uses for both the existing and proposed zones.

Uses	S-1		S-2A	
	Outright	CU	Outright	CU
Water-dependent industrial use.	X			
Seafood receiving and processing.			X	
Small boat building and repair.			X	
Water-dependent commercial use.	X			
Boat and/or marine equipment sales.			X	



Water-dependent recreational facility, including boat ramp, dock, moorage and marina for commercial and recreational marine craft.	X			
Other water-dependent commercial and recreational uses.	X			
Water-related commercial and industrial use.	X			
Specialized food store, such as bakery, delicatessen and seafood market			X	
Retail trade facility for the sale of products such as ice, bait, tackle, charts, gasoline or other products incidental to, or used in conjunction with a water-dependent use.		X		
Tourist oriented retail sales establishment.			X	
Non-tourist oriented retail sales establishment.				X
Navigational aide.	X		X	
Shoreline stabilization.	X		X	
Temporary dike for emergency flood protection limited to 60 days, subject to State and Federal regulations.	X			
Eating and drinking establishment which provides a view of the waterfront, and which is in conjunction with a water-dependent use such as a marina or seafood processing plant.		X		
Eating, drinking and entertainment establishment without drive-through facility			X	
Water-related recreational use.		X		
Aquaculture facility.		X		
Non-water-dependent and non-water-related use which is accessory to and in conjunction with permitted water-dependent and water-related use.		X		
Non-water dependent and non-water related uses may be located in existing, under-utilized buildings provided the use does not preclude future water-dependent or water related uses.		X		
Park and museum.			X	
Arts and crafts studio.				X
Commercial or public parking lot.				X
Repair service establishment, not including automotive, heavy equipment, or other major repair service.				X
Professional and business office.				X
Temporary use meeting the requirements of Section 3.240				X
Hotel, motel, inn, bed and breakfast			X	
Service facility which provides personal services in conjunction with and incidental to a hotel, motel, inn, bed and breakfast			X	

Theater			X	
Conference Center			X	
Public or semi-public use appropriate to and compatible with the district.				X
Multi-family dwelling				X

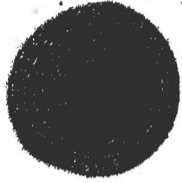
The zone change to S-2A will provide for a wider variety of uses within the 3.26 acre site, while continuing to allow outright water-dependent and water-related commercial and industrial type uses. All City utility services are available to the area.

Page 11

**V. CONCLUSION AND RECOMMENDATION**

The request is consistent with the Comprehensive Plan and Development Code, and staff recommends that the Planning Commission recommend to the City Council that the proposed amendment to the Land Use and Zoning Map be adopted. Staff also recommends that the following conditions be applied to the zone change to address transportation issues in relation to the East Gateway Transportation Plan:

1. The site design for future development(s) on the subject properties shall provide for a new local roadway parallel to Highway 30. The specific alignment and design shall be reviewed and approved by the Community Development Director and City Engineer prior to the issuance of any building permits and required improvements shall be constructed by the developer of said project. The determination of the specific improvements to be dedicated and constructed shall be made by the Community Development Director and City Engineer, based on the level of impact of the proposed use(s).
2. The applicant should coordinate with ODOT prior to and during conditional use and/or building permit review, as applicable, to address access issues onto Highway 30.



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Region 2

350 West Marine Drive

Astoria, OR 97103

Telephone (503) 325-5281

November 5, 2007

Community Development Dept.

Ms. Rosemary Johnson, Planner  
City of Astoria  
1095 Duane Street  
Astoria, OR 97103

NOV - 5 2007

**RE: Amendment Request (A07-01) by Pier 38 Marine LLC to rezone the area from 38<sup>th</sup> to 39<sup>th</sup> Street and Lief Erikson Drive on the south to the trolley line on the north (Map T8N-R9W Section 9AA, Tax Lots 100 & 300; Section 9AD, Tax Lots 100, 200, 201, 501, 600, 601, 700 and vacated portions of 38<sup>th</sup> & 39<sup>th</sup> Streets) from S-1 (Marine Industrial Shoreland) to S-2A (Tourist-Oriented Shoreland). Development Code Sections 2.65 to 2.665, 2.700 to 2.715, Articles 4, 5, 9 & 10, and Comprehensive Plan Sections CP.005 to CP.025, CP.070 to CP.075, CP.130 to CP.186, CP.190 to CP.210, CP.345 to CP.370 are applicable to the request.**

Dear Ms. Johnson:

Thank you for providing the public notice mailed October 17, 2007 for the land use proposal cited above. The Oregon Department of Transportation (ODOT) appreciates the opportunity to review and comment on the proposed zone change to S-2A (Tourist-Oriented Shoreland). The subject site is located south of U.S. Highway 30, an ODOT facility. Please provide the following for consideration by the Planning Commission at their November 6, 2007 meeting.

Based on requirements outlined in the Transportation Planning Rule (TPR, OAR 660-012-0060), this proposal must address whether the amendment would significantly affect an existing or planned transportation facility. In reviewing the City's transportation plan, we believe this proposal does not reduce or worsen the performance of the highway if certain conditions, as outlined in the City's plan, are implemented at the time of development.

As stated in the adopted *East Gateway Transportation Plan*, the mobility standard for this stretch of highway is 0.75 V/C. In 2004, the intersection of U.S. Highway 30 was 0.38 V/C. The plan projected the future condition of the intersection, taking into account a possible change in zoning from marine industrial to mix use. The future 2024 V/C is estimated to be 0.57.

In addition, the plan recommends projects to improve safety and operational issues. One project identified in the plan outlines a new road connection between 36<sup>th</sup> & 39<sup>th</sup> Streets. This project was ranked highest of 5 projects for the category Industrial/Commercial. The project is described as:

"(R) In conjunction with the new developments between 36<sup>th</sup> and 39<sup>th</sup> Streets, construct a parallel local roadway to accommodate trips within the mixed use areas. The roadway will relieve congestion on U.S. Highway 30 within the study area, and encourage shorter trips between the new residential, commercial and industrial developments. The roadway may also serve as an alternate route to U.S. Highway 30 in case of an emergency."

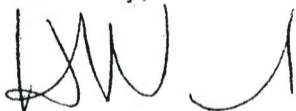
From this information, we believe that there is capacity at U.S. Highway 30/39<sup>th</sup> Street, providing the parallel road is developed between 38<sup>th</sup> and 39<sup>th</sup> Streets, to accommodate this zone change.

As a final matter, ODOT's records indicate that 38<sup>th</sup> and 39<sup>th</sup> Streets do not have valid approach permits. Prior to development, the applicant must apply for a valid approach permit for these approaches. ODOT may require the applicant to provide a Traffic Impact Analysis to determine if any highway road improvements are needed as part of the development.

ODOT requests to be included in the site plan approval for this proposal if approved. This will allow ODOT to work with the applicant and the City regarding access issues.

This letter should be included in the record as ODOT testimony. ODOT should be considered a party to the hearing and be entitled to notices of future hearings, or hearing continuances or extensions. Please provide me with a copy of the City's decision, including findings and conditions of approval.

Sincerely,



Ingrid Weisenbach  
Area 1 Transportation Planner

cc: David Warren, Region Access Management Engineer  
Cynthia Buswell, Development Review Coordinator

**STAFF REPORT AND FINDINGS OF FACT**

October 30, 2007

**TO: ASTORIA PLANNING COMMISSION**

**FROM: ROSEMARY JOHNSON, PLANNER**

**SUBJECT: Amendment Request (A07-01) by Pier 38 Marina LLC to amend the Land Use and Zoning Map to rezone the area south of the former railroad right-of-way (trolley line) to Lief Erikson Drive between 38th and 39th Streets from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist-Oriented Shoreland)**

**I. BACKGROUND SUMMARY**

- A. Applicant: Pier 38 Marina LLC  
100 39th Street  
Astoria OR 97103
- B. Owner: Pier 38 Marina LLC (Map 9AA, Tax Lots 100 & 300; Map 9AD, Tax  
100 39th Street Lots 200, 201, 500, 600)  
Astoria OR 97103
- City of Astoria (Map 9AD, Tax Lots 100 & 700)  
1095 Duane Street  
Astoria OR 97103
- Oregon Department of Transportation (Map AD, Tax Lots 501 & 601)
- C. Request: Change the Land Use and Zoning Map to rezone the area south of  
the former railroad right-of-way and north of Lief Erikson Drive  
between 38th and 39th Streets from S-1 Zone (Marine Industrial  
Shoreland) to S-2A Zone (Tourist-Oriented Shoreland)
- D. Location: The area south of the former railroad right-of-way and north of Lief  
Erikson Drive between 38th and 39th Streets; Map T8N-R9W  
Section 9AA, Tax Lots 100 & 300; Section 9AD, Tax Lots 100, 200,  
201, 501, 600, 601, 700, and vacated portions of 38th and 39th  
Streets
- E. Current Zone: S-1 (Marine Industrial Shoreland)
- Proposed Zone: S-2A (Tourist-Oriented Shoreland)

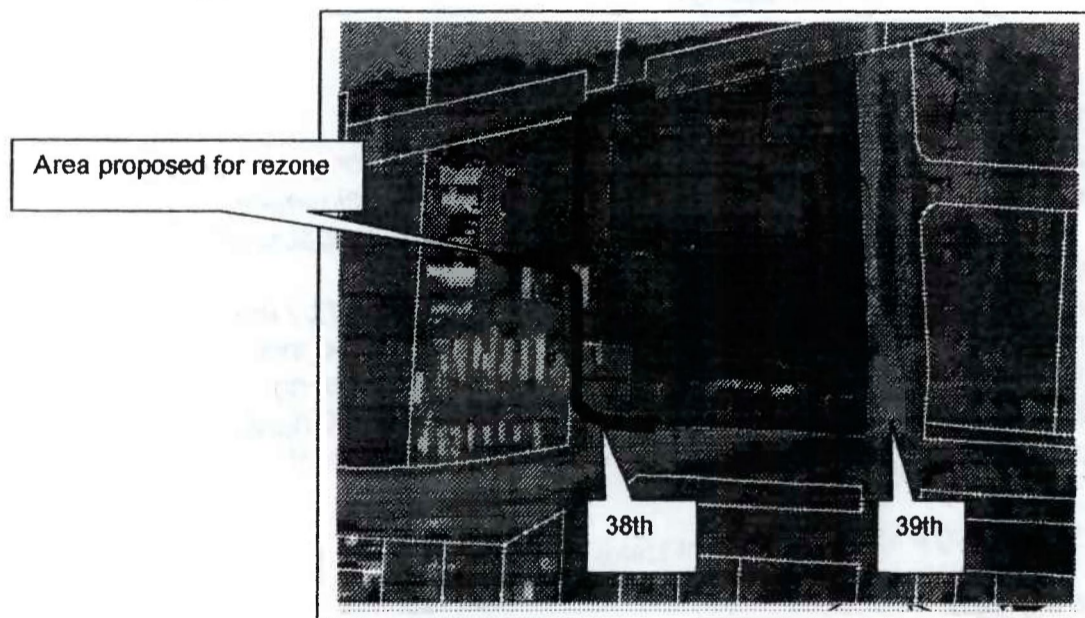
## II. BACKGROUND

### Subject Site:

Staff notes that the application materials reference a larger 5.23 acre zone change site which included area west of 38<sup>th</sup> Street. After filing the zone change request, the applicant reduced the area proposed for rezoning to properties located between 38th and 39th Streets, north of Lief Erikson Drive. The revised area for consideration is approximately 3.26 acres (approximately 425' x 335') and is currently zoned S-1 (Marine Industrial Shoreland) which is limited in the variety of commercial uses allowed and mainly focuses on water-dependent and water-related industrial and commercial uses. The proposed S-2A Zone (Tourist-Oriented Shoreland) would allow more flexibility in the range of commercial and tourist uses allowed.

The current S-1 Zone includes properties within the City's inventory of Goal 17 shorelands, or those lands which are Especially Suited for Water Dependent (ESWD) uses. Several years ago, the City and the Columbia River Estuary Study Taskforce (CREST) conducted an analysis of ESWD land required by OAR 660-37-0050. An amendment to the Comprehensive Plan, which included updated figures and policies, was adopted in May 2002. Staff notes that this issue is addressed in the findings below.

The applicant proposes to potentially redevelop the property. No development application has been submitted or should be considered as a part of this zone amendment request.



The site is relatively flat situated slightly below the level of the Lief Erikson right-of-way. There are four small parcels owned by the City of Astoria and Oregon Department of Transportation (ODOT) that are being included in the request to avoid small pockets of

property in a separate zone designation. The City Council approved inclusion of the City-owned parcels at their September 4, 2007 meeting.

**Neighborhood:**

To the west is the former Lovvold Trailer Court, Port property, OSU property, and East Mooring Basin parking area. The land area to the west is zoned S-1 (Marine Industrial Shoreland). Properties to the east are zoned GI Zone (General Industrial) and are currently developed with industrial buildings on the south of Abbey Lane and mixed industrial / condominium building north of Abbey Lane. Two additional mixed industrial / condominium buildings are proposed for this location. To the north is the East End Mooring Basin, water area leased by the applicant, and the Pier 39 mixed use building with restaurant, offices, transient lodging, and various water-related uses such as boat storage and scuba shop. To the south directly across Lief Erikson Drive right-of-way is a forested hillside owned by the City, and to the southwest is a mixed residential and small neighborhood commercial development.

**III. PUBLIC REVIEW AND COMMENT**

A public notice was mailed to all property owners within 100 feet, pursuant to Section 9.020 on October 17, 2007. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on October 30, 2007. Any comments received will be made available at the Planning Commission meeting.

**IV. FINDINGS OF FACT**

- A. Section 10.020(B) states that *"An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed."*

Finding: The proposed amendment to the zone boundary is being initiated by the property owner. The City of Astoria owns two small parcels and the City Council approved inclusion of the City-owned parcels at its September 4, 2007 meeting. The ODOT parcels, which are adjacent and associated with the Highway 30 right-of-way, are being included at the direction of the City to avoid small pockets of property in a separate zone designation.

- B. Section 10.070(B) concerning a Map Amendment states that *"Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

1. *"The amendment be consistent with the Comprehensive Plan."*

Finding: The amendment is relevant to a number of sections of the Comprehensive Plan.

- a. CP.010(2) concerning General Development Policies for Natural Features states that *"The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged."*

Finding: At the time development application(s) are submitted for review by the City, issues such as site design will be addressed. No site design issues are being considered as a part of this request.

- b. CP.015(4) concerning General Land and Water Use Goals states that *"Because of the City's strong water orientation, the Plan supports continuing regional efforts to manage the Columbia River estuary and shorelands. The City's land use controls, within this regional context, will be aimed at protecting the estuary environment and at promoting the best use of the City's shorelands."*

Finding: The City will continue regional efforts to manage the Columbia River estuary and shorelands regardless of the zone change request. The proposed zone would retain and take advantage of the working waterfront character of the area because of its proximity to the East End Mooring Basin.

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

Finding: The property is currently vacant and while capable of being served by public facilities, the actual demand on those services and ability to serve the increased demand cannot be determined until the actual use is proposed. The change in allowable uses could add a variety of commercial, tourist-oriented, and residential uses to the industrial, warehousing, light manufacturing, and other water-related uses. It is anticipated that public facilities may be able to serve expanded uses in this area.

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

Finding: Removing this 3.26 acre parcel from the S-1 Zone (Marine Industrial Shoreland) and rezoning it S-2A (Tourist-Oriented



Shoreland) will allow for an increased variety of uses to potentially occur on this property. This will allow for the redevelopment of the site in a flexible manner and allow for multiple uses.

- e. CP.025(4) concerning Policies Pertaining to Land Use Categories and Density Requirements states that *"For areas determined to be Especially Suited for Water Dependent (ESWD) uses, the following policies shall apply City-wide:*
  - a. *As of February 28, 2002, there were 186.5 acres of estuary shoreland planned and zoned for water dependent use in the City of Astoria.*
  - b. *It has been determined that 125 acres are the minimum amount of acreage required to be protected for water dependent use within the estuary shoreland units within the City of Astoria.*
  - c. *A request to redesignate or rezone shoreland designated for water dependent use within the portions of the Astoria (Columbia River) estuary will require a demonstration by the applicant that at least the minimum acreage of 125 acres will remain designated for water dependent use."*

Finding: Over the years, the City has approved zone changes from S-1 (Marine Industrial Shoreland) to S-2 (General Development Shoreland) which reduced the ESWD property from 186.5 acres to 173.5 acres. The proposed zone change will reduce this number by 3.26 acres leaving 170.24 acres which is still above the minimum required 125 acres for ESWD. The applicant included a calculation of ESWD properties in their narrative. The total acreage provided in the narrative has been updated in this report. This updated figure reflects the applicant-proposed reduction in area proposed for the zone change.

- f. CP.175(E, Paragraphs 1, 2 & 3) concerning Uppertown/Alderbrook Subarea Plan Issues states that *"Shorelands in this subarea do not have direct access to deep water. The ship channel is 2,000 to 4,000 feet from the shoreline, though several ship anchorages are south of the channel.*

*The Corps of Engineers has completed improvements to the East End Mooring Basin breakwaters that correct the surge problem. Eliminating the surge opens the basin to a large number of vessels and increase the need for dredging and for backup land to support basin operations. Vacant shorelands should be reserved for support uses.*

*Most of the subarea shorelands are already developed and there are no large vacant parcels. Between 35th and 41st Streets, however, is mostly vacant land with the potential to support water-dependent and water-related uses associated with the boat basin."*

**Finding:** The S-2A zone would include uses which would support the East Moorage Basin. Because of increased usage of the Basin, vehicles park on the Port overflow area and there is limited upland area to support the mooring basin.

- g. CP.185(L.3) concerning Public Access Policies states that *"Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreline access to areas traditionally used for fishing, hunting, or other shoreline activities."*

**Finding:** At the time development applications are submitted to the City for review, shoreline access issues will need to be addressed by the applicant. No specific development proposal is under consideration as a part of this zone change request.

- h. CP.185(R.1) concerning Water-Dependent Development Area Policies states that *"Shorelands designated Marine Industrial Shorelands shall be protected for water-dependent uses. Temporary uses which involve minimal capital investment and no permanent structures, and uses in conjunction with and incidental to a water-dependent use, may also be permitted in these areas."*

**Finding:** The proposed request is not for a temporary use but for a change in zoning to the S-2A zone designation.

- i. CP.185(R.2) concerning Water-Dependent Development Area Policies states that *"Shorelands especially suited for water-dependent recreational, commercial, and industrial uses shall be placed Marine Industrial Shorelands. Some factors which contribute to this special suitability are:*
- (a) Deep water close to shore;*
  - (b) Supporting land transport facilities compatible with ship and barge facilities;*
  - (c) Potential for aquaculture;*
  - (d) Protected areas subject to scour which would require little dredging for use as marinas;*
  - (e) Potential for recreational utilization of the estuary or riparian areas."*

**Finding:** As previously stated, the site's shoreline does not have direct access to deep water as is located within 2,000 to 4,000 feet from the shoreline in the Uppertown/Alderbrook Subarea. Land transport facilities would not be appropriate for this area due to

potential conflicts with existing development in the area. An analysis of Especially Suited for Water Dependent (ESWD) uses is included in this report and a zone change to the S-2A designation would not negatively impact the City's ability to satisfy land and water use needs.

- j. CP.200(3) concerning Economic Development Goals states that *"The City of Astoria will: Encourage the broadening of the economy, particularly in areas which help balance the seasonal nature of existing industries."*

Finding: In addition to some marine-oriented uses, the S-2A zone would permit other uses outright such as tourist-oriented retail, hotels, and restaurants. The S-2A zone would allow uses to develop which would support the existing mooring basin.

- k. CP.200(4) concerning Economic Development Goals states that *"The City of Astoria will: Continue to encourage water-dependent industries to locate where there is deep water, adequate back-up space, and adequate public facilities."*

Finding: The shoreland adjacent to this site does not have direct access to deep water and the ship channel is 2,000 to 4,000 feet from the shoreline.

- l. CP.200(5) concerning Economic Development Goals states that *"The City of Astoria will: Zone areas of the City in order to provide sufficient land for water dependent as well as non-water dependent industries."*

Finding: A zone change to the S-2A designation would provide for 170.24 acres of land for Especially Suited for Water Development (ESWD) uses. This figure is above the minimum City-wide requirement of 125 acres for ESWD. The subject change does not reduce area allocated for non-water dependent industry.

- m. CP.210(1) concerning Economic Development Recommendations states that *"The City should reevaluate its Plan and zoning designation for its waterfront in light of the decline of the fishing industry. The reevaluation should focus on the waterfront's potential for tourist-oriented development. Plan policies and implementing measures should be developed to encourage and promote tourist oriented development of the waterfront. Possible rezonings should include the A-1 area between 6th and 10th Streets, and in the vicinity of the Samuel Elmore Cannery."*

Finding: The East Mooring Basin is used for smaller fishing operations as well as recreational fishing operations. The S-2A zone

would allow for more tourist-based uses to develop on the site which would take advantage of the character of the adjacent working waterfront and historic Pier 39 development.

- n. CP.360(9) concerning Transportation Policies states that *"The shorelands and estuary use designations will take into account those areas that are especially suitable for water-dependent activities, such as port areas. Deep water channels are considered a valuable transportation facility that must be protected."*

Finding: The closest deep water channel is 2,000 to 4,000 feet from the shoreline adjacent to the site.

2. Section 10.070(B.2) requires that *"The amendment will:*
- a. *Satisfy land and water use needs; or*
  - b. *Meet transportation demands; or*
  - c. *Provide community facilities and services.*

Finding: As shown in the attached Goal 17 analysis prepared by CREST in 2001, the proposed amendment to the zone map will not negatively impact the City's ability to satisfy land and water use needs. The suggested Comprehensive Plan amendment protecting the minimum 125 acres of ESWD land was adopted May 20, 2002. This request will reduce the existing 173.5 acres to 170.24 acres while providing additional development opportunities within the proposed 3.26 acre site.

The site is accessed from Lief Erikson Drive (Highway 30) with one intersection at 39th Street with no traffic lights and with a potential second intersection at 38th Street which is an unregulated intersection. In accordance with Statewide Planning Goal 12 concerning Transportation, and the Transportation Planning Rule (OAR 660-12-060), any plan amendment having a significant effect on a transportation facility (i.e. Highway 30) must assure that the allowed land uses are consistent with the function, capacity, and level of service of the facility. In addition, OAR 734-051-0080, and OAR 734-051-0100 state that a proposed development or land use action where an on-site review indicates that operational or safety concerns may be present requires a Traffic Impact Study.

In order to address the Transportation Planning Rule (TPR), a trip cap on the number of trips will need to be established. The traffic impact of each proposed use on the existing transportation system will be addressed at the time of a future conditional use or building permit application. Staff proposes that the trip cap be set to the allowable outright and conditional uses of the S-1 zone.

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11-6-07  
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The following is a comparison of some of the uses for both the existing and proposed zones.

Uses	S-1		S-2A	
	Outright	CU	Outright	CU
Water-dependent industrial use.	X			
Seafood receiving and processing.			X	
Small boat building and repair.			X	
Water-dependent commercial use.	X			
Boat and/or marine equipment sales.			X	
Water-dependent recreational facility, including boat ramp, dock, moorage and marina for commercial and recreational marine craft.	X			
Other water-dependent commercial and recreational uses.	X			
Water-related commercial and industrial use.	X			
Specialized food store, such as bakery, delicatessen and seafood market			X	
Retail trade facility for the sale of products such as ice, bait, tackle, charts, gasoline or other products incidental to, or used in conjunction with a water-dependent use.		X		
Tourist oriented retail sales establishment.			X	
Non-tourist oriented retail sales establishment.				X
Navigational aide.	X		X	
Shoreline stabilization.	X		X	
Temporary dike for emergency flood protection limited to 60 days, subject to State and Federal regulations.	X			
Eating and drinking establishment which provides a view of the waterfront, and which is in conjunction with a water-dependent use such as a marina or seafood processing plant.		X		
Eating, drinking and entertainment establishment without drive-through facility			X	
Water-related recreational use.		X		
Aquaculture facility		X		
Non-water-dependent and non-water-related use which is accessory to and in conjunction with permitted water-dependent and water-related use.		X		
Non-water dependent and non-water related uses may be located in existing, under-utilized buildings provided the use does not preclude future water-dependent or water related uses.		X		
Park and museum.			X	
Arts and crafts studio.				X
Commercial or public parking lot.				X

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Repair service establishment, not including automotive, heavy equipment, or other major repair service.				X
Professional and business office.				X
Temporary use meeting the requirements of Section 3.240				X
Hotel, motel, inn, bed and breakfast			X	
Service facility which provides personal services in conjunction with and incidental to a hotel, motel, inn, bed and breakfast			X	
Theater			X	
Conference Center			X	
Public or semi-public use appropriate to and compatible with the district.				X
Multi-family dwelling				X

retail  
11-6-07

The zone change to S-2A will provide for a wider variety of uses within the 3.26 acre site, while continuing to allow outright water-dependent and water-related commercial and industrial type uses. All City utility services are available to the area.

- C. Section 10.070(B)(3) requires that *"the land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations."*

Finding: The location of this land is parallel to the former railroad right-of-way (current trolley line). The site is slightly below the grade of Highway 30 road improvements and is relatively flat.

The land area is in flood Zone C "Area of Minimal Flooding" and the river is located within flood hazard Zone A2 "Area of 100 Year Flooding", as determined by the National Flood Insurance Program Flood Insurance Rate Map (community panel number 410028 0005 B, effective August 1, 1978). In some flood hazard zones, new construction is required to meet first-floor elevation standards, as set by the National Flood Insurance Program; however, the land area is not within a flood zone requiring this construction standard. The site is not located within a Tsunami Inundation Zone as determined by the Oregon Department of Geology and Mineral Industries (map publication IMS-11) and governed by rules contained in Oregon Administrative Rules 632-005 et seq.

The subject property is adjacent to an area of known geologic instability. The Development Code requires new construction within 100' of a known geologic hazard to obtain and submit a geological hazard report to the City for review and approval prior to construction.

- D. Section 10.070(B.4) requires that *"resource lands, such as wetlands, are protected."*

Finding: There are no known wetlands on the site.

- E. Section 10.070(B.5) requires that *"the amendment is compatible with the land use development pattern in the vicinity of the request."*

Finding: The applicant has asserted in the application narrative that "while not precluding marine-dependent and marine-related uses, the S-2A Zone is a more appropriate designation for the subject properties." Furthermore, staff notes that Section 2.700 of the Development Code includes the purpose statement for the S-2A zone. This section states that the S-2A district "is intended to provide for mixed-use tourist oriented development that retains and takes advantage of the working waterfront character of the area."

The general vicinity is developed with the East Mooring Basin, a parking lot, trolley line, industrial buildings, condominiums, and a non-conforming trailer park and the Pier 39 mixed-use development which includes a recreational watercraft dock. Across the Lief Erikson Drive right-of-way is a forested hillside and residential with some neighborhood commercial development. The vicinity is effectively bordered to the south by Lief Erikson Drive and the north by the Columbia River.

~~V. CONCLUSION AND RECOMMENDATION~~

~~The request is consistent with the Comprehensive Plan and Development Code, and staff recommends that the Planning Commission recommend to the City Council that the proposed amendment to the Land Use and Zoning Map be adopted. Staff also recommends that the following condition be applied to the zone change to address the Transportation Planning Rule:~~

- ~~1. A trip cap shall be established for the subject site and shall be set relative to the allowable outright and conditional uses of the S-1 zone prior to the zone change approval. Any new use which would generate additional trips shall provide a traffic letter or report, as applicable, demonstrating that the trip cap has not been exceeded. When required, the traffic report or letter shall be submitted in association with a conditional use permit application for conditional uses or in association with a building permit application for uses permitted outright.~~

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11-7-07*



**CITY OF ASTORIA**  
 1095 Duane Street  
 Astoria OR 97103  
 503-338-5183

Community Development Dept.

AUG 27 2007

*[Handwritten signature]*

A 07-01

Fee: \$400.00

**AMENDMENT** *Zone Change Request AS MODIFIED 8/27/07*

Property Location: Address 3738 - 3800 BLOCK LEIF ERICKSON DR.  
 Lot/Block/Subdivision 8-9-9AA100+300; 8-9-9AC200; 8-9-9AD200, 201, 500+600  
 Map/Tax Lot: MAP-80909AA-20, 80909-AB-100 Zone: S-1  
80909AC-20  
 Code or Map to be Amended: ~~S-1 to CONTRACT ZONING~~  
S-1 to S-2A

Applicant Name: PIER 38 MARINA, LLC.  
 Mailing Address: 100 39TH ST. ASTORIA, OREGON  
 Phone: 503-325-2502 Business Phone: 503-325-2502  
 Property Owner's Name: PIER 38 MARINA RV PARK, LLC  
 Mailing Address: 100 39TH ST.  
 Business Name (if applicable): PIER 38 MARINA  
 Signature of Applicant: *[Handwritten Signature]*  
 Signature of Property Owner: *[Handwritten Signature]*

Proposed Amendment ~~CONTRACT ZONING~~ Planned Development  
~~INCORPORATION WITH PLANNED DEVELOPMENT: INTEGRATED UNRESTRICTED~~  
~~HEIGHT SO DEVELOPER MUST ANALYZE THAT SO~~  
Zone Change Request for subject properties from S-1 to S-2A

**FILING INFORMATION:** Astoria Planning Commission meets at 7:00 pm on the fourth Tuesday of each month. Applications must be received by the 20<sup>th</sup> of the month to be on the next month's agenda. A pre-application meeting with the Planner is required prior to the acceptance of the application as complete. Only complete applications will be scheduled on the agenda. Your attendance at the Planning Commission is recommended.

Community Development Dept.

APR 20 2007



c. Provide community facilities and services:

~~NO~~ SEE ATTACHED FINDINGS DATED 8/27/07

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.

~~NO~~ SEE ATTACHED FINDINGS DATED 8/27/07

4. Resource lands, such as wetlands are protected.

~~NO~~ SEE ATTACHED FINDINGS DATED 8/27/07

5. The amendment is compatible with the land use development pattern in the vicinity of the request.

~~NO~~ SEE ATTACHED FINDINGS DATED 8/27/07

**PLANS:** A site plan indicating location of any proposed zone change is required.

~~X ATTACHED SITE PLAN SHOWS ZONE CHANGE~~  
~~CONFLICTS WITH RESOLUTIONS~~  
~~AS SHOWN ON MAP NOT HIGHER THAN~~  
~~5.0'~~

Community Development Dept.  
AUG 27 2007

Community Development Dept.  
APR 20 2007

Briefly address each of the Amendment Criteria and state why this request should be approved.  
(Use additional sheets if necessary.)

A. Text Amendment (Please provide draft language of proposed text amendment)

Before an amendment to the text of the Code is approved, findings will be made that the following criteria are satisfied.

1. The amendment is consistent with the Comprehensive Plan.

~~CBP~~ MA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The amendment will not adversely affect the ability of the City to satisfy land and water use needs.

~~CBP~~ MA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Map Amendment (Please provide a map showing the proposed area to be amended.)

— Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the Comprehensive Plan:

~~CBP~~ See attached findings dated 8/27/07  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The amendment will:

- a. Satisfy land and water use needs; or

~~CBP~~ See Attached findings dated 8/27/07  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b. Meet transportation demands; or

~~CBP~~ See Attached findings dated 8/27/07  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Community Development Dept.  
AUG 27 2007

Community Development Dept.

APR 20 2007



September 14, 2007

Community Development Dept.  
SEP 14 2007

**TO:** Community Development Department-City of Astoria  
**FROM:** Beth La Fleur, Planning Consultant  
**RE:** ESWD Analysis prepared for Pier 38 Marina & RV Park LLC Zone Change Application

Issue

Pier 38 Marina and RV Park, LLC currently has a Zone Change request under review with the Community Development Department (CDD) to change property it holds from S-1 (Marine Industrial Shoreland) to S-2A (Tourist Oriented Shorelands). The CDD has informed Pier 38 Marina and RV Park, LLC that an update to the Goal 17 Analysis of Especially Suited for Water Dependent (ESWD) uses land acreage calculations is necessary.

Analysis

Pier 38 Marina and RV Park, LLC is proposing to rezone 5.23 acres of land it currently holds title to. These parcels are located south of the River Walk, north of Lief Erickson Drive, west of 39<sup>th</sup> Street, and east of the ½ block east of 37<sup>th</sup> Street (i.e. the ½ block just west of 38<sup>th</sup> Street).

Map	Tax lot ID	Acreage
8-9-9 AC	200	2.08
8-9-9 AA	100	.77
8-9-9 AA	300	.62
8-9-9 AD	200	.07
8-9-9 AD	201	.84
8-9-9 AD	500	.54
8-9-9 AD	600	.31
		5.23 Acres Total
Source: <a href="http://maps.co.clatsop.or.us">http://maps.co.clatsop.or.us</a>		

The Astoria Comprehensive Plan requires that within the City, a minimum of 125 acres needs to remain in S-1 zoning (CP.025(4)). 125 acres are the minimum amount of acreage to be protected for water dependent use within the estuary shoreland units within the City of Astoria.

In a memo (attached) dated May 10, 2005 addressed to the Astoria Planning Commission, Rosemary Johnson, Planner describes the then current ESWD situation and S-1 acreage numbers available for rezoning. As described within the memo, the current S-1 zone acreage is 173.5 acres, which leaves 48.5 acres available for potential rezoning (173.5 minus 48.5 = 125 minimum).

Pier 38 Marina and RV Park, LLC is proposing to rezone 5.23 acres, which when subtracted from 48.5 leaves a remainder of 43.27 acres available for potential rezoning in the future while not dropping below the required 125 acres minimum.

Conclusion

The zone change request by Pier 38 Marina and RV Park, LLC will not cause the available S-1 zone acreage amount to dip below the required 125 acres minimum. This request to rezone 5.23 acres from S-1 to S-2A is in compliance with Comprehensive Plan Section CP.025(4).

May 10, 2005

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER

SUBJECT: ESWD UPDATE - ESPECIALLY SUITED FOR WATER DEPENDENT USE

At its March 22, 2005 meeting, the APC considered a zone change from S-1 (Marine Industrial Shoreland) to S-2 (General Development Shoreland) and raised a question as to the status of the ESWD zone (Especially Suited for Water Dependent uses). In 2002, the City had CREST do a Goal 17 analysis of land available for ESWD uses. Of the land area zones, the S-1 zone is the only zone that is considered as ESWD. The analysis indicated that there were 186.5 acres of property zoned S-1 at that time. The following is a list of those properties:

Port Docks	64 acres	Port (now reduced to 51 acres)
East Basin	10.5 acres	Port & Private
Coast Guard	8 acres	USCG
North Tongue Point	49 acres	Private & DSL
South Tongue Point	55 acres	DSL

The analysis also indicated that there was currently or historically 125 acres of land which was used for ESWD uses, regardless of the zone designation. The following is a list of those properties included:

Port Docks	46 acres	Port
City waterfront	1 acre	City
Astoria Warehousing	7.5 acres	Private
East Basin	2 acres	Port
Coast Guard	8 acres	USCG
North Tongue Point	49 acres	Private & DSL
NTP Job Corps	9.5 acres	Job Corps
South Tongue Point	1.5 acres	Corps of Engineers & DSL
Yacht Club / Bumble Bee	.5 acres	City

As a result, it was determined, and approved by the Department of Land Conservation and Development (DLCD), that the minimum acreage that should be maintained for ESWD uses was 125 acres. Therefore, with discretion, the APC and City Council could consider rezoning some of the 186.5 acres as needed without objection from DLCD. A Comprehensive Plan amendment was adopted in 2002 establishing the 125 acre minimum.

Of the 186.5 acres zoned S-1 for ESWD uses in 2002, only 5.61 acres (3%) are in private ownership, 28 acres (15%) are owned by Washington Group, and the remaining acres are owned by City, County, State, Federal, OSU, and Port.

The current S-1 Zone area is 173.5 acres leaving 48.5 acres available for potential rezoning if the need arises.

August 27, 2007

**To:** Mike Morgan, Interim Community Development Director  
Rosemary Johnson, Planner

**From:** Floyd Holcom, Managing Director, Pier 38 Marina and RV Park, LLC

**Re:** Zone Change from S-1 (Shoreland Industrial) to S-2A (Tourist Oriented Shorelands)

**Subject Properties:** Tax Lots 8-9-9AA 100 & 300; 8-9-9AC 200; 8-9-9AD 200, 201, 500, & 600.

**Applicant and Property Owner:** Pier 38 Marina and RV Park, LLC  
100 39<sup>th</sup> Street  
Astoria, OR 97103

**Request:** Change zone designation of subject properties from S-1 Zone (Shoreland Industrial) to S-2A Zone (Tourist Oriented Shorelands).

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10.070 (B) Map Amendment.

Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

**1. The amendment is consistent with the Comprehensive Plan.**

**Finding:** The following Comprehensive Plan Sections are applicable to this request:

*CP.015 General Land and Water Use Goals*

- 1. It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area.*

The subject properties are currently zoned S-1 (Shoreland Industrial). The S-1 zone allows primarily water-dependent and water-related uses. Non-water related and non-water dependent uses are allowed conditionally in existing structures. In this three-block area, there is one existing structure which has been utilized for professional services for up to at least the past five years, a nonconforming trailer park, and a temporary coffee stand. The remainder of the area is vacant. These properties have been underutilized and have not supported the type of marine-related shore-side development which was anticipated for many years during and following the adoption of the Astoria Comprehensive Plan (1979)<sup>1</sup>. Changing the zoning to S-2A (Tourist Oriented Shorelands), will allow various mixed uses which are compatible with the surrounding developments of the area. The City will be encouraging compact yet compatible development of

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<sup>1</sup> Astoria Comprehensive Plan, CP.175 (E).

the waterfront areas, and will be promoting economic development opportunities to allow Astoria to be the commercial, industrial, tourist, and cultural center of the area.

*CP.058 Policies (Gateway Overlay Area)*

*(1)(f) Create investor interest by promoting complementary land uses and quality development in the surrounding area.*

The subject properties are part of, or an extension of, the surrounding area of the Gateway Overlay Zone (which ends at 29<sup>th</sup> Street). The land uses currently occurring between 29<sup>th</sup> Street and 36<sup>th</sup> Street, adjacent to the River Walk, include proposed residential town homes, professional offices, City Public Works shops, a lot with seemingly inactive use save for indeterminate heavy equipment storage, the new Safeway grocery store, gas station, and associated parking lot, the Comfort Suites Hotel, and a parking lot for the East End Mooring Basin. It seems natural to continue this momentum and mix of uses along the River Walk between 36<sup>th</sup> and 39<sup>th</sup> Streets.

As the text of the S-1 Zone currently allows, this will be impossible. For years the list of allowable uses has hampered conforming development of this 3-block area. If there was a market demand for the marine-related-industrial uses which the S-1 Zone currently allows, this area would have supported some level of marine industrial development over the past 25 years. Instead, it has sat relatively dormant, developed now with an office building, temporary coffee shed, and nonconforming trailer park. However, in surrounding zones, the cannery at Pier 39 has been transformed into a restaurant, lodging, and professional offices, and the plywood mill has transformed from a frue mill pond to high-end Mill Pond Village residential uses. Even the oldest independently owned grocery store west of the Mississippi (Hauke's Market) has become the new Safeway grocery and gas station. Significant investment has been made in the East Mooring Basin and Breakwater project and the River Walk. This momentum of development and redevelopment will continue to connect the waterfront areas as places where one can live, work, and play. While not precluding marine-dependent and marine-related uses, the S-2A Zone is a more appropriate designation for the subject properties.

*CP.070 Uppertown.*

*"Uppertown, traditionally the Norwegian, Swedish and Danish section of the city extends from 23<sup>rd</sup> Street to 40<sup>th</sup> Street, and from Irving Street to the pier head line."*

*CP.075 Policies*

- 1. Refer to policies regarding housing, parks and recreation, transportation, shorelands and estuary, and geologic hazards.*
- 2. The predominantly residential character of the area upland of Marine Drive/Lief Erikson Drive will be preserved.*

The subject properties are within the area referred to as Uppertown. The zone change will not impact the area upland of Marine Drive/Lief Erikson Drive; therefore the predominantly residential character of that area will be preserved.

*CP.130-CP.185 Shoreland and Estuary Section*

*CP 140 Development Shoreland areas are designated to provide for water-related and water-dependent development along the estuary's shoreline. Development shoreland areas include urban or developed shorelands with little or no natural resource value, and*

*shorelands with existing water development or water-related uses. These areas are in the General Development Shorelands Zone (S-2), or the Tourist-Oriented Shorelands Zone (S-2A). Some of these areas are in residential or commercial zones with a Shorelands Overlay Zone.*

*Water-Dependent Development Shoreland areas have unique characteristics that make them especially suited for water-dependent development. Characteristics that contribute to suitability for water-dependent development include:*

- *Deep water close to shore with supporting land transportation facilities suitable for ship and barge facilities;*
- *Potential for aquaculture;*
- *Protected areas subject to scour which would require little dredging for use as marinas;*
- *Potential for recreational utilization of coastal waters or riparian resources.*

*These areas are managed for water-dependent recreational, commercial and industrial uses. These areas are in the Marine Industrial Shorelands Zone (S-1).*

It is appropriate at this time to change the zoning on the subject properties from S-1 to S-2A to allow for more flexibility of land uses, while maintaining the original intent and uses of the marine shorelands designation. Certain S-1 Zone properties within the City which were anticipated to benefit and flourish under the S-1 Zone designation have not and it is time to allow realistic private investment and development of these underutilized lands, while not relinquishing the option of marine-related industrial development.

It is probable that at the time of zoning, the subject properties were anticipated to benefit under the S-1 zone and had attributes more similar to the Water-Dependent Shoreland Areas rather than Development Shoreland Areas. While the Port maintains an active commercial and recreational moorage facility at the East Mooring Basin at 36<sup>th</sup> Street, almost 15 years after the last Comprehensive Plan amendments relating to the Shoreland and Estuary section and in light of state and federal regulations, these Water-Dependent Development Shoreland characteristics stated in the Comprehensive Plan are not as applicable to the subject properties as they once were. As outlined in the Comprehensive Plan, the subject properties more closely resemble the description of those areas that should be zoned S-2 or S-2A, than those areas described as being zoned S-1.

*CP 185 (as amended)*

*(H) Land Transportation System Policies*

1. *New non-water-dependent uses in aquatic areas or in Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.*

*(M) Recreation and Tourism Policies*

1. *New non-water-dependent uses in aquatic areas or in areas zoned Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.*

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2. *Recreation uses in waterfront areas shall take maximum advantage of their proximity to the water by: providing water access points or waterfront viewing areas; and building designs that are visually compatible with the waterfront.*

*(N) Residential, Commercial and Industrial Development Policies*

1. *New non-water-dependent uses in aquatic areas and in Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.*

*(R) Water-Dependent Development Area Policies*

1. *Shorelands designated Marine Industrial Shorelands shall be protected for water-dependent uses. Temporary uses which involve minimal capital investment and no permanent structures, and uses in conjunction with and incidental to a water-dependent use, may also be permitted in these areas.*

Changing the zone designation of the subject properties from S-1 to S-2A is not anticipated to preclude or pose any significant conflicts with existing, proposed, or probable future water-dependent uses. Many of the areas which are zoned S-1 have been vacant or underutilized for many years, as Astoria has evolved from a resource-based economy to one which is based more on tourism and supporting professional and personal services for the resident community. This zone change will continue the development of an east end node of community commercial type activity, allowing for residential and tourist uses, and water-based recreational opportunities, where one may truly live, work, and play.

The zone change from S-1 to S-2A does not preclude or eliminate any of the water-dependent or water-related uses allowed either outright or conditionally. Shorelands will continue to be protected for water-dependent and water-related uses.

*CP.200 Economic Development Goals*

*The City of Astoria will.*

1. *Work toward the improvement and diversification of the area's economy and to increase local employment opportunities. The city will coordinate its efforts with the Astoria Downtown Development Association, Clatsop Economic Development Committee, the Port of Astoria, the Chamber of Commerce and other groups involved in economic development.*
3. *Encourage the broadening of the economy, particularly in areas which help balance the seasonal nature of existing industries.*
4. *Continue to encourage water-dependent industries to locate where there is deep water, adequate back-up space, and adequate public facilities.*

The proposed zone change will allow compatible and appropriate private investment opportunities to continue to improve and diversify the area's economy. Over the years Astoria's economy has evolved from one based on natural resources to one of tourism and supporting professional and personal services to the resident population. The proposed zone change will allow new economic opportunities for properties which have been underutilized.

There are certain areas which are zoned S-1 that are more appropriate than the subject properties, for supporting water-dependent or water-related industries as envisioned in the Comprehensive  
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Plan, in light of current regulatory frameworks and economic realities. There is not adjacent deep water, adequate back-up space, and the adequacy of public facilities to support water-dependent industrial development between the shoreline and Lief Erikson Drive is questionable. S-1 areas such as this should have an opportunity to evolve with the growing positive development momentum north of the Lief Erikson Drive, and south of the River Walk. Areas such as this should be designed in a way which is compatible to and complimentary with the evolving development in the vicinity and the River Walk. By changing the zone to S-2A, development standards to dictate building orientation and preservation of views are required by the Development Code and will apply to the properties. As the properties are currently zoned, there is no height limit and there are not any provisions for design standards in the S-1 zone text. The proposed zone change from S-1 to S-2A will allow investment opportunity while not precluding water-dependent and water-related usage of the land.

*CP.205 Economic Development Policies*

*5. The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.*

The S-1 Zone is extremely limiting in what non-water dependent and non-water related land uses are allowed to occur. The proposed zone change will allow for more mixed use development opportunities (i.e. tourist-oriented, residential and supporting professional and personal services for visitors and the resident population) to occur on the subject properties. With the completion of the East Mooring Basin pile wall and newly completed kayak/recreational watercraft dock at Pier 39, water-based recreational opportunities are anticipated within the subject area. The S-2A zone contains design review development standards by which all new development must abide. The zone change will facilitate water-oriented opportunities and will provide a context by which the City can promote sound and compatible economic development opportunities for the community.

**Finding:** Overall, the proposed Zone Change is consistent with the Comprehensive Plan. This criterion is met.

**2. The amendment will:**

- a. Satisfy land and water use needs; or**
- b. Meet transportation demands; or**
- c. Provide community facilities and services.**

**Finding:** The request is not removing acreage from areas determined to be Especially Suited for Water Dependent (ESWD) uses. It is only proposing to redesignate the subject area into a more appropriate shoreland zone designation. The zone change is not expected to adversely affect the ability of the City to satisfy land and water use needs, as the rezone to S-2A will not preclude development of the subject area for water-dependent or water-related uses. Any proposed conditional uses will be required to be reviewed under the conditional use review criteria and will be subject to public hearings and compatibility and appropriateness with the surrounding area. This criterion is met.

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**3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.**

**Finding:** The subject area is north of Leif Erikson Drive, and south of the River Walk, between 39<sup>th</sup> Street and 37<sup>th</sup> Street. It is relatively flat, with very little slope. There is an area of known geologic instability to the south of Lief Erikson Drive, in this general vicinity. Should any development be proposed within 100' of known geologic hazard areas, a geologic hazard report may be required by the City, prior to any development occurring at the site. The area is not known to be within a flood hazard area or a hazard area with circumstances which are beyond mitigation measures. This criterion is met.

**4. Resource lands, such as wetlands are protected.**

**Finding:** There are no known wetlands on-site. However, should there be resource lands such as wetlands discovered on-site, applicable local, state, and federal regulations are anticipated to ensure protection of such resource lands. This criterion is met.

**5. The amendment is compatible with the land use development pattern in the vicinity of the request.**

**Finding:** The subject property has been zoned S-1 since at least the last Comprehensive Plan was adopted (1979). At that time, it was anticipated that the Port and the East End Mooring Basin would play a substantial role in import and export of goods on Port property and that this area would prosper under the S-1 zone. In recent, the surrounding area has been redeveloped for more commercial and tourist facilities, including the new Safeway grocery and gas station, Comfort Suites Hotel, and the eating and drinking establishments and professional offices at Pier 39, and mixed-use condominiums at the foot of 39<sup>th</sup> Street. The subject properties have not been intentionally utilized for marine industrial activities and development as originally envisioned. Although the Port maintains a commercial and recreational moorage facility and breakwater at the East Mooring Basing at the foot of 36<sup>th</sup> Street, the Port's main water-dependent and water-related land-side economic development projects have occurred at Port properties on the west end of town, and at the West Mooring Basin, on the main portion of the Port's property.

Other uses in the vicinity of the subject property include coffee businesses, on either side of Lief Erikson Drive and 37<sup>th</sup> Street, professional office space on either side of the foot of 36<sup>th</sup> Street, a non-conforming residential trailer park, a parking lot to serve the boat ramp at the East Mooring Basin at 36<sup>th</sup> Street, and a restaurant at 37<sup>th</sup> and Lief Erikson Drive. The current mix of uses is residential, tourist-oriented and professional office and personal services uses which are supported by both visitors and the resident community. The S-1 Zone does not provide these types of uses, whereas the S-2A Zone, while not precluding water-dependent and water-related uses, provides an array of uses which are similar and compatible with the existing uses currently allowed and occurring in the immediate area. This criterion is met.

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August 27, 2007

**TO:** Mike Morgan, Interim Community Development Director  
Rosemary Johnson, Planner

**FROM:** Floyd Holcom, Managing Director, Pier 38 Marina and RV Park, LLC

**RE:** Pier 38 Marina and RV Park, LLC: Application for Zone Change to S-2A

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Please accept the enclosed completed application for a Zone Change (Amendment) from S-1 (Marine Industrial Shoreland) to S-2A (Tourist Oriented Shoreland), for the properties owned by Pier 38 Marina and RV Park, LLC, as described within the application. Initially we considered applying for a zone change from S-1 to S-2 (General Development Shoreland), however as recommended by the Community Development Department, we are applying for a zone change to S-2A.

Zone Change (Amendment)

Pier 38 Marina and RV Park, LLC is the owner of the properties listed in the enclosed application. These properties make up the majority of the land area currently zoned S-1, between the 35<sup>th</sup> and 39<sup>th</sup> Street rights-of-ways, between the waterfront and Lief Erikson Drive. Pier 38 Marina and RV Park, LLC is proposing to rezone their properties from S-1 to S-2A. Under the existing zoning, ownership, and geo-spatial conditions, this would not constitute spot-zoning.

Pier 38 Marina and RV Park, LLC is requesting a zone change only for the properties which it owns. Other property owners of S-1 zoned land in this immediate area include the Port of Astoria, ODOT, and the City of Astoria. Should the Community Development Department expand the geographic scope of our request, we request our application be considered primarily, and fairly, and not unnecessarily encumbered or over-complicated by the inclusion of other properties as initiated by the Department.

Under Article 10.050, Pier 38 Marina and RV Park, LLC requests that this zone change request be processed as a quasi-judicial matter. The zone change request applies to one property owner, is of limited scope, does not have broad public policy implications (Shoreland designation to remain), and it "affects a limited area or a limited number of property owners."

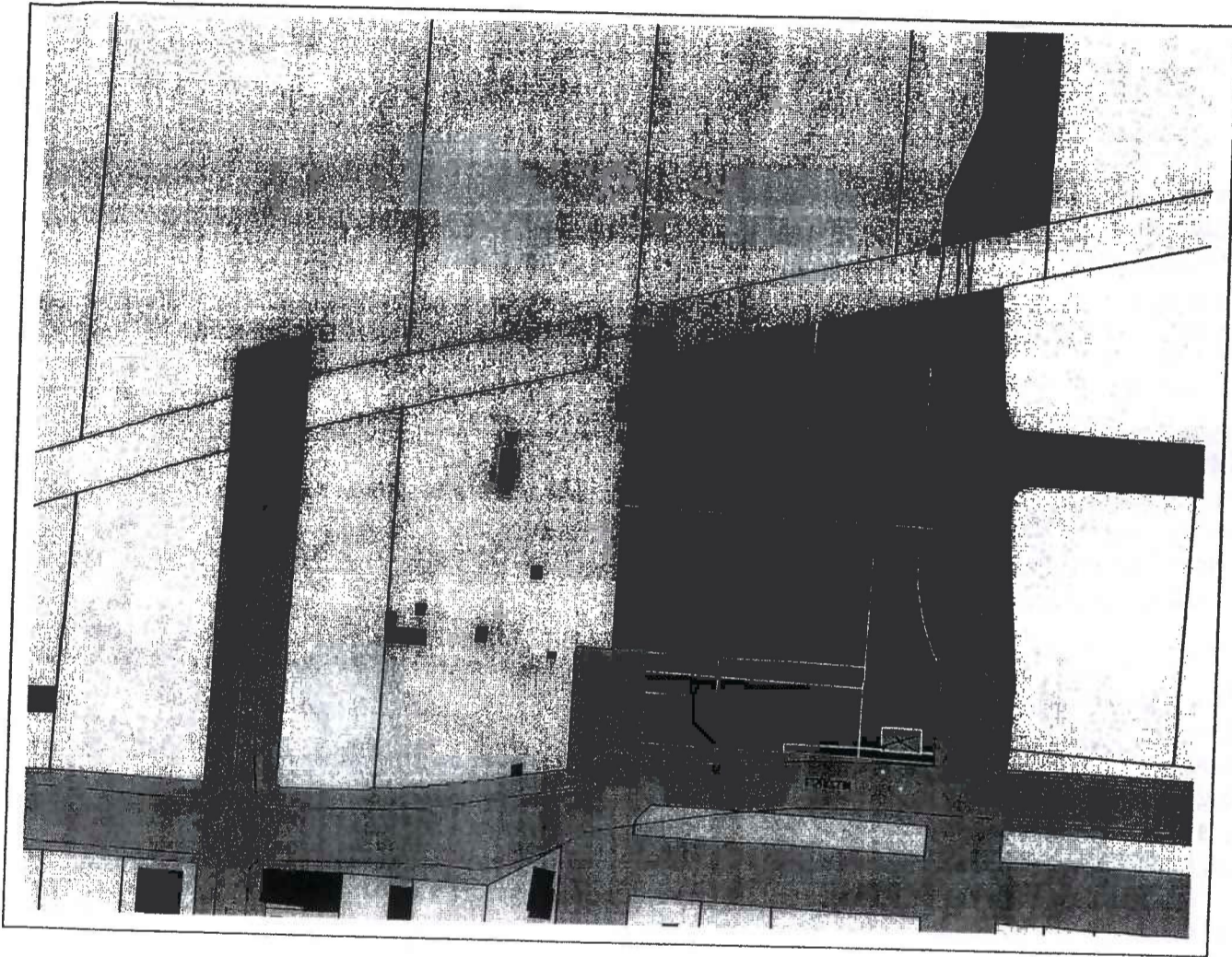
We look forward to working closely with the City and community on this proposal. Please do not hesitate to contact me at 325-2502 should you need more information or have any questions.

Attach: Tax lot maps of subject properties  
Article 10, Astoria Development Code  
Zone Change (S-1 to S-2A) applicant findings of fact report

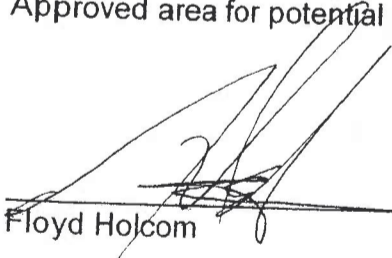
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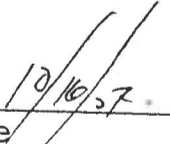
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Proposed Area for Rezone



Approved area for potential rezone:

  
Floyd Holcom

  
Date

Community Development Dept.

OCT 16 2007

Development Dept  
ia  
Street  
97103



049J82020107  
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