



CITY COUNCIL MEETING MINUTES

Vancouver City Hall | Council Chambers | 415 W. 6th St.
PO Box 1995 | Vancouver, WA 98668-1995
www.cityofvancouver.us

Anne McEnery-Ogle, Mayor

Bart Hansen • Ty Stober • Erik Paulsen • Sarah J. Fox • Diana H. Perez • Kim D. Harless

October 9, 2023

WORKSHOPS

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

Workshops were conducted in person in the Council Chambers of City Hall. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, or www.facebook.com/VancouverUS.

View the CVTV video recording, including presentations and discussion, for workshops at:

https://www.cvtv.org/vid_link/35949?startStreamAt=0&stopStreamAt=2347

5:00-6:00 p.m. Transportation System Plan Draft Plan Overview

*Kate Drennan, Principal Transportation Planner, 360-487-7959;
Rebecca Kennedy, Deputy Community Development Director, 360-487-7896*

Summary

Staff led Council through a discussion of the Transportation System Plan Draft Plan Overview.

COUNCIL DINNER/ADMINISTRATIVE UPDATES

COUNCIL REGULAR MEETING

This meeting was conducted as a hybrid meeting with in person and remote viewing and participation over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda items and under the Community Forum were also facilitated in person and via the GoToMeeting conference call.

Vancouver City Council meeting minutes are a record of the action taken by Council. To view the CVTV video recording, including presentations, testimony and discussion, for this meeting please visit: https://www.cvtv.org/vid_link/35951?startStreamAt=0&stopStreamAt=8170

Electronic audio recording of City Council meetings are kept on file in the office of the City Clerk for a period of six years.

Pledge of Allegiance

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor Pro-Tem Stober. This meeting was conducted as a hybrid meeting, including both in person and remotely over video conference.

Present: Councilmembers Perez, Fox, Paulsen, Stober, and Hansen

Absent: Councilmember Harless and Mayor McEnerny-Ogle

Motion by Councilmember Hansen, seconded by Councilmember Paulsen, and carried unanimously to excuse Councilmember Harless and Mayor McEnerny-Ogle.

Proclamations: White Cane Awareness Day; Indigenous Peoples Day

Mayor Pro-Tem Stober read and presented a proclamation to Diane Cavanaugh, Member of the Fort Vancouver Lions Club, as well as other Fort Vancouver Lion's Club members, proclaiming October 15, 2023, as White Cane Awareness Day.

Mayor Pro-Tem Stober read and presented a proclamation to Duana Johnson, Colville/Lakes Tribal Member and MMIWUSA and her children Abaigeal

Nolan and Arlin Ricks, Colville/Lakes Descendants, Elder Victor Mandan, Mand of the Three Affiliated Tribes of the Fort Berthold Reservation - Mandan, Hidatsa and Arikara, and Elder Dianne Mandan, Iroquois Confederacy - Mohawk Descendant, proclaiming the second Monday in October as Indigenous Peoples' Day.

Community Communications

Mayor Pro-Tem Stober opened Community Communication and received testimony from the following community members regarding any matter on the agenda not scheduled for a Public Hearing:

- Kimberlee Goheen Elbon, La Center, WA
- Ann Donnelly, Vancouver

There being no further testimony, Mayor Pro-Tem Stober closed Community Communication.

Consent Agenda (Items 1-3)

Motion by Councilmember Hansen, seconded by Councilmember Perez, and carried unanimously to approve items 1-3 on the Consent Agenda.

1. **34th Street Safety and Mobility Project Endorsement of Final Design**

Staff Report: 183-23

A RESOLUTION endorsing the Complete Streets final design to improve safety, equity, and mobility in coordination with upcoming pavement work on SE 34th Street, between 162nd and 192nd avenues.

In November 2021 the City kicked off the SE 34th Street Safety and Mobility Project to analyze options for increasing multimodal access, safety and connectivity for all roadway users on SE 34th Street between 162nd and 192nd Avenues. Today, SE 34th Street is a four-lane roadway that prioritizes auto travel. Between SE 192nd and SE 164th Avenues, there are no facilities for people biking or using small mobility devices. West of SE 164th Avenue, there is an on-street mobility lane in the westbound direction that connects people biking or using small mobility devices to SE 162nd Avenue, but eastbound bicyclists and small mobility users must use the vehicle travel lane. Sidewalks on both sides of the corridor provide space for people walking; however, sidewalks are located next to vehicle lanes where nearly 55 percent of drivers are going between 36 and 45 miles per hour (mph). This section of SE 34th Street also represents a large gap in the City's major east-west multi-modal corridor. Implementing complete streets facilities in this section will close this gap and better connect

Downtown Vancouver to the eastside of the City.

The Project evaluated repurposing a travel lane in each direction to add dedicated space for people walking, biking, using mobility devices, and accessing transit, and other safety improvements for all users, including drivers.

In addition to the Complete Streets policy goals, several corridor specific goals have been identified for the SE 34th Street Project and are being used to align potential changes to the corridor with desired outcomes. The specific goals for the project are:

- 1. Improve comfort and mobility for all users, regardless of how they choose to travel.*
- 2. Prioritize safety for all users.*
- 3. Make improvements quickly and efficiently.*

Analysis Summary

To understand how repurposing a travel lane would change conditions for people driving on SE 34th Street, a traffic analysis has been completed for near-term (2022), mid-term (2027), and long-term (2040) scenarios. Traffic analysis findings indicate that under the near-term and mid-term scenarios, the project goals can be achieved without substantially increasing travel time or delay experienced by people driving. Under the long-term scenario, improvements may be needed at SE 164th and SE 192nd Avenues to maintain continued safety at those intersections.

In 2023, the Vancouver Innovation Center (VIC) team submitted an application for a revised master plan that refines the previous version including adjustments to the mix of uses and updates to the development schedule but does not substantially deviate from the overall vision established by the original plan. In order to ensure that the proposed roadway reconfiguration of SE 34th Street is fully integrated with master plan refinements, updates were made to the Project's traffic analysis in coordination with the VIC redevelopment team. This included looking at how trip generation estimates will change due to changes in use allocations included in the proposed master plan, and incorporating the following infrastructure improvements that will be made by the VIC and that are likely to change how people travel to and from the VIC site and between 164th and 192nd Avenues:

- Improvements on SE 29th Street, including operational improvements at the SE 164th intersection.*
- Construction of a roundabout at SE 29th Street and SE 176th Avenue.*
- Connecting SE 29th Street from SE 176th Avenue to SE 192nd Avenue.*

Changes to the traffic analysis to incorporate these planned improvements and new use allocations were not found to change the forecast opening-

year, mid-term or long-term traffic conditions on the corridor, nor necessitate changes to the proposed design or recommendation from the project team from the proposed design.

Video: Complete Streets - SE 34th Street Safety and Mobility Project Intersection Turning Movement Video (December 2022): <https://youtu.be/7GB7nFhHCuw>

Community Engagement Summary

The planning process included three main engagement touchpoints to understand the community's use and concerns on SE 34th Street. In May 2022 and early September 2022, postcards and yard signs reached 10,000 households to learn about the project on Be Head Vancouver, take two surveys (on their use of the corridor and on safety design elements), and provide an opportunity for community members to share safety concerns. Three focus groups were held in late September 2022 with neighborhood associations, schools, and developers to share about and hear their feedback on the project. The project team also attended community events like the Downtown Vancouver Farmers Market and Multicultural Resource Fair to share about the project and hear safety concerns on the corridor from the community.

Recommendation

Based on these findings, the project team recommends a final design that will achieve the project goals of enhancing safety and mobility for all users while minimizing the increase in delay experienced by drivers where possible. The design will provide one vehicle travel lane and a mobility lane with a buffer separating the two lanes in each direction. The design will also include a HAWK signal at the intersection of SE 162nd Avenue and Cascade Park Drive and off-street path between SE 162nd Avenue and SE 164th Avenue, connecting to on-street mobility lanes between SE 164th and 192nd Avenues.

Request: Adopt a resolution confirming the recommended design related to repurposing a travel lane on SE 34th St to increase safety and mobility for all users.

Emily Benoit, Senior Planner, 360-487-7944; Kate Drennan, Principal Planner, 360-487-7959; Rebecca Kennedy, Deputy Community Development Director, 360-487-7896

Motion approved the request.

2. Banking services agreement amendment with JP Morgan Chase, N.A.

Staff Report: 184-23

On December 1, 2020, the City issued a Banking Services and Merchant

Services Request for Proposals (RFP). The proposers had the option to only propose on banking services, or merchant services, or both. Council approved award of the banking services agreements to JP Morgan Chase Bank (JPM) from July 1, 2021, through December 31, 2026, for an amount not to exceed \$500,000. These services did not contemplate JPM providing merchant services, however it was an option in the RFP and JPM's response that JPM would be able to provide all banking and merchant services.

In addition, Council approved award of a merchant services agreement to Paymentus from July 26, 2021, through July 25, 2026. The estimated cost over the life of the five-year contract was \$9,000,000. This contract included interchange fees charged by the various credit/debit card providers such as Visa, MasterCard, Discover, AmEx, etc. on payments to the City. In Paymentus' response, the company had built a platform and had a partnership with Selectron, the company the City uses for utility and permit customers. This allowed improved payment processing functions for these specific payment types.

During the implementation period with Paymentus, it was determined that the company did not have the on-line payment platform built to work with other accounts receivable systems the City uses for Parking, Fire Inspections, Police Alarms, walk-in customer payments, etc. Because of this, the City amended the banking services contract with JPM September 2022 to implement merchant services for these other accounts receivable systems but did not increase the overall contract amount with JPM.

Staff recommends Council approve 1) the amendment to the JPM banking services contract to amend the language in the Statement of Work in the original contract to include merchant services with Paymentech LLC which is a subsidiary company of JPM; and 2) to approve a \$2,000,000 increase in the contract amount for a grand total of \$2,500,000.

Request: On Monday, October 9, 2023, authorize the City Manager or designee to sign banking services agreement amendment with JP Morgan Chase Bank, NA.

Anthony Glenn, Treasurer, 360-487-8493

Motion approved the request.

3. Approval of Claim Vouchers

Request: Approve claim vouchers for October 9, 2023.

Motion approved claim vouchers in the amount of \$8,305,029.07.

Public Hearings (Items 4-5)

4. **Waterfront Gateway Disposition and Development Agreement**

Staff Report: 185-23

A RESOLUTION relating to the approval of a disposition and development agreement between the City of Vancouver and LPC West, Inc.; establishing the terms and conditions under which the Waterfront Gateway Site may be leased and conveyed by the City to LPC West; and authorizing the City Manager to execute the disposition and development agreement.

Waterfront Gateway is a 6.4-acre City owned site located at the vacant lot south of City Hall and the City Hall parking lot, zoned CX, City Center.

In November 2019, the CCRA entered into a Memorandum of Understanding (MOU) with the City of Vancouver authorizing the CCRA to lead the development of the Waterfront Gateway site.

The project started with community visioning workshops to review, comment, and build upon concepts the project team pulled from successful downtowns and districts around the country. Opportunities were offered online through the project's BeHeard page as well as in person workshops. The community input was consolidated into a list of goals and design considerations that were articulated in the Master Developer Request for Qualifications (RFQ). Key elements of the vision were a mixed-use development with mixed income housing, retail and office; active ground floor uses and outdoor public spaces and amenities to encourage year-round activity; a publicly accessible visitor attraction; reinforce pedestrian and bicycle connections to and from the site; and to create a unique district that becomes a destination unto itself. The feedback received from the visioning workshops helped frame the RFQ.

The project was paused over 2020 and the first quarter of 2021 due to the COVID-19 pandemic. The RFQ was then issued in March 2021. In November 2021, LPC West, the west coast arm of national real estate firm Lincoln Property Company, was selected as the partner and master developer of the site. Thereafter, the CCRA entered into an Exclusive Negotiation Agreement (ENA) with LPC West that set forth that the parties will collaborate on a master plan for the site and negotiate the terms of a Disposition and Development Agreement (DDA) for the site's development.

The proposed development is described as follows:

- 95-unit affordable housing building with 100% of units at or below 60% Area Median Income*
- 2 market rate residential buildings with approximately 340 units total*
- Approximately 35,000 square feet of ground floor retail*
- Approximately 100,000 square feet 8-story cross laminate timber officer building*

- 510 parking spaces across a 6-story parking garage for private and public parking and underground parking below the market rate apartment building known as Building 1
- Approximately 2 acres of open space

Substantive elements negotiated by the CCRA and City staff included in the DDA are as follows:

- *Disposition of all parcels except for the affordable housing parcel will be through a ground lease for 50 years with two 15-year extensions. The affordable housing parcel will be sold to LPC West for \$1 with a 50-year permanently affordable covenant attached to the land. In the event the affordable housing parcel is not developed for the purposes of affordable housing, or the construction of the project does not commence within 90 days from the sale date, the City has the right to take back the property, and the Initial Deposit of \$100,000 will be released to the City and nonrefundable.*
- *Target date for draft form of ground lease and purchase and sale agreement for Council's approval is within 90 days of execution of the DDA.*
- *LPC West has an option to develop an office building on the site. The City instructed an independent economic analysis of the office financing market that verified the economic uncertainty of the office financing market that justified this option right. In the event LPC West cannot secure debt and equity financing for the office within 33 months from the DDA Effective Date, and in this event only, both parties can discuss the option of extending the option period. LPC West has full intention of developing the office building when the office capital markets stabilize.*
- *Closing date of all parcels except the office parcel is no later than 33 months from the DDA Effective Date with 3 months to start construction. Closing date of the office parcel must occur no later than 36 months after the DDA Effective date, subject to LPC West exercising the office option.*
- *Public benefits of the project include:*
 - *Affordable housing with 100% of the units at or below 60% AMI*
 - *Contracting opportunities for black, indigenous and people of color and women owned subcontractors. Colas Construction, an 100% black owned general contractor is the selected contractor for the project. Targets have been set that a minimum of 20% of subcontractor contracts are awarded to black, minority, women-owned or emerging small businesses and a minimum of 20% of apprentices are hired.*
 - *2 acres of open space including public plazas for year-round events. The design of the Block Y plaza and the plaza adjacent to City Hall will be subject to the City's public design process that involves community input and the review and approval of*

the Parks and Recreation Advisory Commission. An operations and maintenance agreement will be entered into at a later date that will govern the open space.

- *Green building elements that are equivalent to LEED Gold certification and meet the City's Interim Green Building Policy.*
- *Opportunities for small businesses in Makers Alley. Makers Alley is located on the eastern edge of Building 1, approximately 6,700 square feet. Local, small businesses have a right of first refusal to lease the space and rigorous outreach and marketing plan for local, small businesses will be conducted. The space will be flexibly designed with shared facilities to be more accessible for local, small businesses.*
- *LPC West applied for the market rate 8-year property tax exemption under the previous Multi-Family Tax Exemption Program (MFTE) contributing public benefits that exceed the required \$1,179,250 in the form of enhanced improvements to the public plaza on Block Y. City Council approval of LPC West's MFTE application is included in the DDA.*
- *The City has agreed to share 90% of the incremental costs associated with the removal of the contaminated soils across the site but the City's liability is capped at \$2.4M.*
- *Contractually construction must commence no later than July 2026 and finish no later than July 2029. However, LPC West projects to start construction in Spring 2025 and finish in Summer 2027.*

Substantive elements which will be in a forthcoming ground lease agreement (to be approved separately by City Council) are as follows;

- *50-year term with two 15-year extensions with the buildings and improvements reverting to the City at the end of the lease term.*
- *Rent is calculated by multiplying the appraised value of the property (using the value set forth in the February 28, 2023, appraisal prepared for the City by Colliers International) by the square footage of each parcel and then multiplying the allocated value of each parcel by 6% cap rate.*
- *Rent is adjusted annually using Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue MSA and the CPI is capped at 5.5% with a floor of 2.5%. The rent will reset every 20 years by virtue of an appraisal but shall not exceed 10% of the rent from the preceding year. The rent will be adjusted at the closing dates.*
- *Rent will be abated during first 2 years of the lease term during construction and is discounted during the first 7 years of the lease term.*

Separate approvals that will be needed for the project to move forward include:

- *City Council's approval of the form of ground lease and purchase and sale agreement*

- *City's regulatory approval of land use/design review, engineering and building permits.*

Request: Adopt a resolution approving the Disposition and Development Agreement between the City of Vancouver and LPC West (DDA) and authorizing the City Manager or designee to execute the agreement, related implementation documents and certain amendments to the DDA.

Amy Zoltie, Real Estate Project Manager, 360-305-1909

Amy Zoltie, Real Estate Project Manager, provided an overview of the Waterfront Gateway Disposition and Development Agreement.

Council discussed the item briefly with staff.

Mayor Pro-Tem Stober opened the public hearing and received testimony from the following community members:

- Peter Fels, Vancouver
- Richard Baranzaxo, Portland, OR
- Kimberlee Goheen, La Center, WA

There being no further testimony, Mayor Pro-Tem Stober closed the public hearing.

Motion by Councilmember Paulsen, seconded by Councilmember Fox, and carried unanimously to approve Resolution M-4248.

5. Columbia Mental Health CUP Appeal

Staff Report: 186-23

On August 11, 2023, an appeal of the Final Order was submitted by the Appellant with Foster Garvey PC representing Sonesta International Hotels Corporation.

An appeal of the Hearing Examiner decision is processed pursuant to VMC 20.220.030. The appeal was submitted on time by a party withstanding under VMC20.210.130.B.3. The hearing date for the appeal was set upon mutual agreement of the Appellant, the Applicant, and the planning official, in accordance with VMC 20.210.130(C). Under Table 20.210.130-1 of VMC 20.210.130(C)(3), the appeal hearing must be conducted on a closed record. A closed-record appeal hearing is limited to argument from the appellant, the applicant and city staff, and deliberation by the City Council. Argument and deliberation shall be limited to the record established at the original open-record hearing. The record shall consist of testimony and deliberation at the original hearing as recorded by an audio/visual tape or transcript certified as accurate and complete, any other materials submitted

into the record, and the final order being appealed. VMC 20.210.130C.3.b.

Basis of Appeal

The Appellant submitted an appeal objecting to the findings, conclusions, and decision of the Vancouver Hearing Examiner. A summary of the Appellant's statements and claims from the appeal are as follows:

Errors of fact

a. The proposed CUP would increase problems related to homelessness and criminal activity are necessarily speculative.

Staff's Response: *As mentioned in the July 6th Memorandum to Hearings Examiner Rice, staff acknowledges and is aware of these concerns. During the June 6th hearing, city staff recommended an additional condition of approval be added to the building permit process for the applicant to submit a security and maintenance plan to the city. The approval criteria for a CUP cannot account for any criminal activity since they are illegal in nature. The impact of human behavior and illegal conduct is addressed through other departments and programs.*

As for homelessness, the City does have resources outside of the Community Development Department who are trained to respond to issues related to homelessness around the city.

b. The proposed condition contains no provision for incorporating any public input or substantive standards for the security plan.

Staff's Response: *The security plan staff recommended is intended to have on record the security measures that will be on site, a means to address the concerns of the public, and to provide the appropriate contact information in the event of an emergency or general inquiries about the facility. Incorporating public input or substantive standards would be random in nature. Staff would be opposed to creating specific standards and protocols for a single private property that has not otherwise been practiced and applied elsewhere. As previously mentioned, the approval criteria for a CUP cannot account for any criminal activity since they are illegal in nature.*

c. The proposal represents a significant expansion of CRMH services.

Staff's Response: *The review of a CUP and the appropriate approval criteria is associated with the specific parcel and not the company as a whole. According to the applicant, the property will not function the same as the existing facility located on a separate parcel of land.*

d. The decision implying that Sonesta or other parties seek to punish or penalize the applicant.

Staff's Response: *Staff has no comment nor takes any position on this matter.*

Error of law

a. Fails to require the Applicant to comply with the essential public facility criteria and decision procedures.

Staff's Response: *As mentioned in Staff's Memorandum to Hearings Examiner Rice dated July 6, 2023, Staff determined the facility specific to this proposal would not qualify as an Essential Public Facility (VMC 20.855 Essential Public Facilities) based on the definition listed in VMC 20.150.040(B). More specifically, the applicant proposed no overnight stays or inpatient treatment, limited hours of operation and limited business days. The proposed office will not have the same types of activities as the main campus.*

b . Stating that Sonesta's requested conditions of approval are unreasonable and the CUP application does not satisfy VMC 20.245.040(A) which requires identification and mitigation of off-site impact.

Staff's Response: *Though part of the approval criteria is to mitigate off site impacts, it has not been our practice to require mitigation on neighboring properties. The codes are intended to promote public health, safety, and welfare, it is through the built environment and mitigation of development on the physical aspect of the surrounding area. The impact of human behavior and illegal conduct is addressed through other departments and programs.*

c. The identified impacts on adjacent properties, surrounding uses and public facilities would be adequately mitigated.

Staff's Response: *As previously mentioned, mitigation is specific to the physical aspect of the site. The applicant proposes no physical changes to the site and has agreed to the condition of approval that includes providing staff with a security plan that includes hours of operation, explanation of security measures and contact information for the general public. Criminal activity is illegal and based on public testimony from the night of the June 6, 2023, hearing is already existent in the area. These concerns should be brought to the appropriate law enforcement authorities.*

d. The final decision is not supported by substantial evidence and

contains paragraphs labeled "Findings" that are legally inadequate.

Staff's Response: *Staff contracts with the Hearings Examiner to issue decisions on land use applications. Community Development Staff does not issue recommendations or decisions on the legal adequacy of terms.*

e. *Wrongful conclusion that adverse impacts to property values are speculative.*

Staff's Response: *City staff does not assess or assign property values.*

f. *Failure to condition an ending of medication dispensing by 3:00 p.m.*

Staff's Response: *As indicated in Conclusion No. 2 of the Hearing Examiner's Decision, the Hearing Examiner's approval of the CUP requires the Applicant to end dispensing of medication by 3:00 pm.*

g. *No sworn declaration or testimony by City staff determining the essential public facility requirement did not apply was provided for cross examination by Sonesta and their representative.*

Staff's Response: *The land use review process does not require a sworn declaration or testimony by City Staff when it comes to use interpretations to be sent to the legal counsel of interested parties for cross examination. The public hearing process for land use is the appropriate time that allows for public testimony on proposed development projects. The final decision is issued by the Hearings Examiner.*

h. *The decision failed to grant Sonesta's motion to strike the Applicant's speculative claim "it would venture to guess" at a level of criminal activity at other properties.*

Staff's Response: *The decision was issued by the Hearings Examiner.*

i. *Sonesta was deprived of lengthy advanced written notice of the application provided to other adjacent property owners because staff mailed notice not to Sonesta's address at 7301 NE 41st Street but instead to 7600 NE 41 Street Unit A195.*

Staff's Response: *As mentioned in the memorandum sent to Hearings Examiner Rice, Staff followed the notice procedures listed in VMC 20.210.060 for both hearings. The methods included mailing*

notices, physically posting the site and listed in the hearing information on the City's Website. The mailing list provided by the applicant was certified by Clark County, Washington and notices were sent out accordingly. As mentioned in Sonesta's Open Record Response (Exhibit 12) under Due Process Violations section 1, the mailing list provided by the applicant did include notice to the taxpayer of record and that Sonesta is the owner of the hotel and not of the underlying real property.

Request: Staff's position is the Applicant request for a CUP demonstrates compliance with all applicable codes and land use requirements. More specifically, the approval criteria for a CUP listed in VMC 20.245.040(A).

City staff must apply the code as written and cannot deviate from the code based on the requests of individual citizens.

Concerns raised by Sonesta specific to staff's procedures and interpretations of code are listed in Staff's response to Sonesta's written testimony (Exhibit 14). There was an additional item introduced in the appeal regarding the elements of the security plan. The security plan was listed as a condition of approval in response to public testimony the evening of the June 6th hearing. The security plan is subject to condition of approval number 1 listed in the Hearing Examiner Decision (Exhibit 15).

Staff recommends DENIAL of the appeal upholding the decision by the City of Vancouver Hearing Examiner as detailed in the Findings, Conclusion and Decisions dated July 28, 2023.

Kristian Corbin, Senior Planner, 360-487-7818

Councilmember Hansen excused himself from the City Council Meeting.

Motion by Councilmember Paulsen, seconded by Councilmember Fox, and carried unanimously to excuse Councilmember Hansen.

Mayor Pro-Tem Stober opened the Quasi-Judicial Hearing for the Columbia Mental Health CUP Appeal.

Jonathan Young, City Attorney, provided an overview of the Appeal and explained the guidelines of conducting the hearing invoking the Appearance of Fairness Doctrine. Mr. Young stated the Council would be asked to disclose any ex parte communication or other Appearance of Fairness issues pertaining to the matter.

Mr. Young then asked each member of the Council to disclose any direct or

indirect financial benefit they could derive from the decision to affirm or reverse the Hearing Examiners decision and determined there were no messages requiring disclosure.

All of the Councilmembers reported nothing to disclose.

Kristian Corbin, Senior Planner, provided an overview of the Columbia Mental Health CUP Appeal. Time was provided to the Applicant and the Appellant.

Mayor Pro-Tem Stober opened the public testimony and received testimony from the following community members:

- Mark Jolgen, Vancouver

There being no further testimony, Mayor Pro-Tem Stober closed the public testimony.

Motion by Councilmember Paulsen, seconded by Councilmember Perez, and approved unanimously to uphold the original decision and deny the appeal.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

Urban Forestry Management Plan

Eric Holmes, City Manager, provided an update to the Urban Forestry Management Plan.

Adjournment

8:45 p.m.

DocuSigned by:
Anne McEnerny-Ogle
6C89D9089EC5424...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF6734E48E94AE...

Natasha Ramras, City Clerk

The written comments below are those of the submitter alone and are not representative of the views of CVTV or the City of Vancouver, its elected or appointed officials, or its employees.

From: [Corbin, Kristian](#)
To: [Dollar, Sarah](#); [Delapena, Amanda](#)
Cc: [Young, Jonathan](#); [Gigler, Philip](#)
Subject: CRMH Appellant's Powerpoint
Date: Monday, October 9, 2023 11:56:50 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[Oral Arg on Appeal of CUP for Columbia River Mental Hea\(101963253.1\)\(101989665.1\).pptx](#)
[image007.png](#)

Good morning:

The Appellant (Bob Sterbank on behalf of Sonesta) has submitted their PowerPoint presentation. Please see attached. Let me know if you have any questions.

Take care,

Kristian Corbin, Senior Planner
CITY OF VANCOUVER, WASHINGTON
Community Development Department
415 W 6th St. | Vancouver, Washington 98668
P: 360-487-7818 | TTY: 360-487-8602
www.cityofvancouver.us



NEW PERMIT CENTER HOURS:

- 9 a.m. – 4 p.m. Monday, Wednesday, Friday
- Virtual Appointments Available Tuesday & Thursday
- Closed 12:30 – 1:30 p.m. daily

Online Anytime: TO LEARN MORE ABOUT building & pERMITTING SERVICES CLICK HERE

From: Bob C. Sterbank <Bob.Sterbank@Foster.com>
Sent: Monday, October 9, 2023 11:50 AM
To: Corbin, Kristian <Kristian.Corbin@cityofvancouver.us>
Cc: Gigler, Philip <Philip.Gigler@cityofvancouver.us>; Bigelow, Megan <[REDACTED]>; Rise, Carla <[REDACTED]>; Christine Harlan <[REDACTED]>
Subject: RE: Land Use Hearing Comments

Hello, Mr. Corbin,

Per your request, please see attached. Please let me know if you have any difficulty receiving or opening. I will also bring it with me on a flash drive.

Will there be a laser pointer available for use during counsel's presentations?

Kind regards,

Bob C. Sterbank
Of Counsel

Foster Garvey PC

Tel: [REDACTED]
[REDACTED]

From: Corbin, Kristian <Kristian.Corbin@cityofvancouver.us>

Sent: Friday, October 6, 2023 10:48 AM

To: Bob C. Sterbank [REDACTED]

Cc: Gigler, Philip <Philip.Gigler@cityofvancouver.us>

Subject: FW: Land Use Hearing Comments

Good morning Bob:

I am sending you a reminder that we will need your power point by **Noon on Monday**. After speaking with our attorney, it is recommended if you as the appellant would like the City Council to read and consider the materials in advance of the hearing. Materials submitted after that time may not be considered as part of the hearing.

If you have any questions, let me know.

Take care,

Kristian Corbin, Senior Planner
CITY OF VANCOUVER, WASHINGTON
Community Development Department
415 W 6th St. | Vancouver, Washington 98668
P: 360-487-7818 | TTY: 360-487-8602
www.cityofvancouver.us



NEW PERMIT CENTER HOURS:

- 9 a.m. – 4 p.m. Monday, Wednesday, Friday
- [Virtual Appointments](#) Available Tuesday & Thursday
- Closed 12:30 – 1:30 p.m. daily

[Online Anytime: TO LEARN MORE ABOUT building & PERMITTING SERVICES CLICK HERE](#)

From: Corbin, Kristian
Sent: Friday, September 29, 2023 2:26 PM
To: Bob C. Sterbank [REDACTED]
Subject: RE: Land Use Hearing Comments

Good afternoon Bob:

Just wanted to give you a heads up for the Power Point presentation. Would you be willing to send over the power point file by noon on the day of the hearing? That will give us enough time to put the file on our computers to display the content for anyone who attends the virtual rooms for the hearing.

Let me know if you have any questions.

Take care,

Kristian Corbin, Senior Planner
CITY OF VANCOUVER, WASHINGTON
Community Development Department
415 W 6th St. | Vancouver, Washington 98668
P: 360-487-7818 | TTY: 360-487-8602
www.cityofvancouver.us



NEW PERMIT CENTER HOURS:

- 9 a.m. – 4 p.m. Monday, Wednesday, Friday
- [Virtual Appointments](#) Available Tuesday & Thursday
- Closed 12:30 – 1:30 p.m. daily

[Online Anytime: TO LEARN MORE ABOUT building & PERMITTING SERVICES CLICK HERE](#)

From: Bob C. Sterbank [REDACTED]
Sent: Tuesday, September 19, 2023 2:21 PM
To: Corbin, Kristian <Kristian.Corbin@cityofvancouver.us>
Subject: FW: Land Use Hearing Comments

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see e-mail below, and attachments.

Bob C. Sterbank
Of Counsel

Foster Garvey PC

Tel: [REDACTED]
[REDACTED]

From: Rise, Carla [REDACTED] >

Sent: Wednesday, June 7, 2023 12:29 PM

To: clarissa.bowen@cityofvancouver.us

Subject: Fw: Land Use Hearing Comments

Clarissa,

Forwarding you my email from last night.

Thank you,

Carla



CARLA RISE

SONESTA | AREA DIRECTOR OF OPERATIONS

P: [REDACTED] | sonesta.com



From: Rise, Carla

Sent: Tuesday, June 6, 2023 9:45 PM

To: kristian.corbin@cityofvancouver.us <kristian.corbin@cityofvancouver.us>

Cc: Bob C. Sterbank <[REDACTED]>

Subject: Land Use Hearing Comments

Good Evening,

Attached are my comments and documents.

Thank you,

Carla



CARLA RISE

SONESTA | AREA DIRECTOR OF OPERATIONS

P: [REDACTED] | sonesta.com



Foster
Garvey

Appeal of Conditional Use Permit for Columbia River Mental Health Methadone Clinic

Sonesta International Hotels

Presented by Bob Sterbank
October 9, 2023



Introduction: What Sonesta's Argument Will Cover

- What Is a Quasi-Judicial Land Use Appeal, and What Rules Govern?
- What is the Proposal, and What Laws (City Code Sections) Apply?
- "Essential Public Facility" Definition and Statutory Requirements -- --RCW 36.70A.200(1)(a)
- "Essential Public Facility" Definition, Purpose and Code Requirements – VMC 20.150.040(B) and 20.855.010 - .020
- Conditional Use Permit Code Requirements -- VMC 20.245.040(A)
- What Does the Evidence Show Are the Documented Impacts of the Proposal?
- Why Does the Hearing Examiner's Decision Fail to Require Adequate Mitigation?
- Relief Requested – How Should the City Council Fix It?

Key Principles:

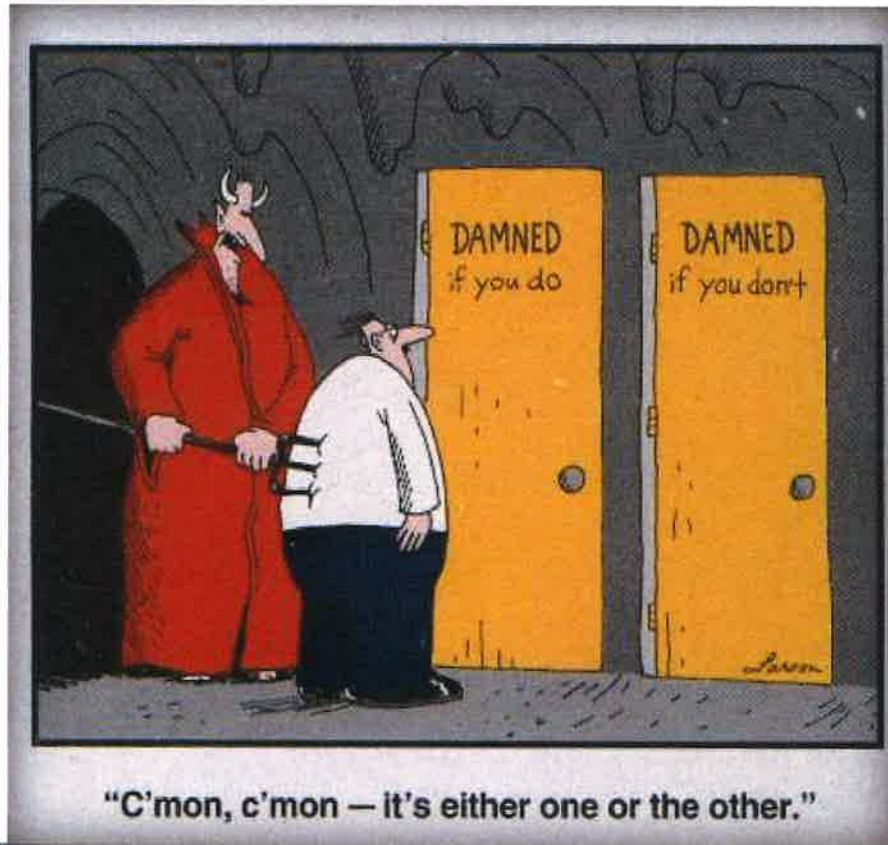
Two things can be true at once:

- (1) Opioid treatment facilities may be needed; *AND*
- (2) They are accompanied by significant, adverse impacts to neighboring people and property

The Applicant and the City can do two things at the same time:

- (1) Comply with City code procedures for essential public facilities and conditional uses; *AND*
- (2) Adequately mitigate documented impacts to neighboring property owners like Sonesta and other hotels.

Not This:



But This:



Foster
Garvey

Quasi-Judicial Land Use Appeals:

“Quasi-judicial actions. . .are those actions of the legislative body. . . which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.” RCW 42.36.010.

Courts look at, among other things:

(1) whether the action involves the application of existing law to past or present facts; and (2) whether the action resembles the ordinary business of courts as opposed to that of legislators or administrators.

Chaussee v. Snohomish Cy. Council, 38 Wn.App. 630, 634–35, 689 P.2d 1084 (1984).



Quasi-Judicial Land Use Rules:

Closed record: the Council considers only the Hearing Examiner's record, which includes the testimony and exhibits admitted by the Examiner.

The Council's decision must:

not be an erroneous interpretation of the law, or a clearly erroneous application of the law to the facts

be supported by "substantial evidence in the record," meaning "evidence that would persuade a fair-minded person of the truth of the statement asserted"; and

Not be based on an unlawful process or procedure.

RCW 36.70C.130.



Two Main Reasons Why the Hearing Examiner's Decision is Wrong:

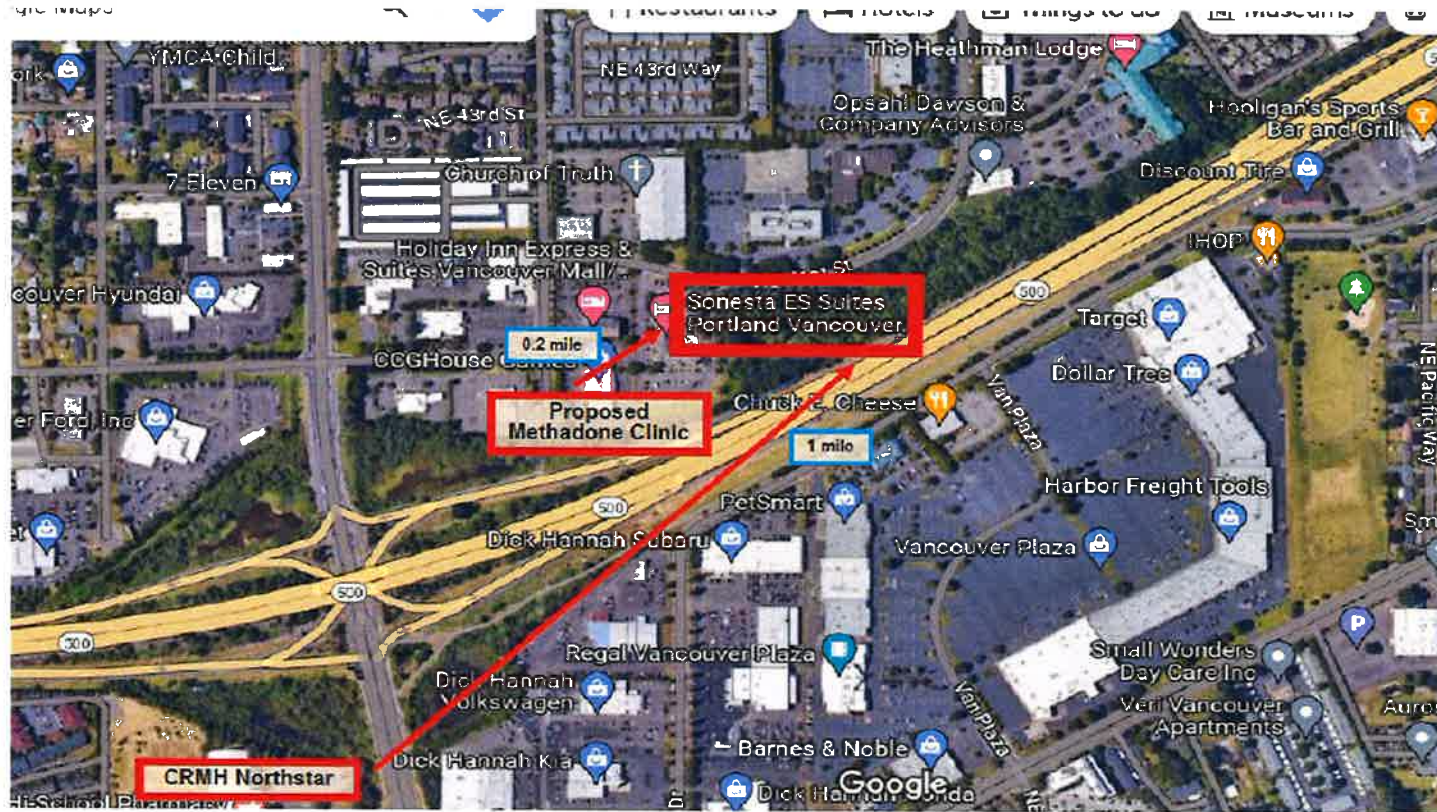
Examiner committed error of law, and endorsed unlawful procedures, by excusing Applicant from Essential Public Facility process and requirements; and

Examiner ignored substantial evidence of significant impacts to Sonesta, and failed to impose conditions to adequately mitigate those impacts.

The Proposal: Relocate Expanded CRMH Northstar to 7105 NE 40th

1. 8,000 (approx.) square foot facility
2. 18 treatment rooms
3. Serve more than 600 patients
4. Expansion needed because “we’ve outgrown our space,” despite expanding hours and walk-in appointments, because “clinic census doubled 2019-2022.”
Dr. Fischer presentation, Sterbank Decl., Ex. D, p. 12.

Vicinity Map



What's Involved in the Proposal?

Ex. D to Sterbank Declaration

*Presenting to Clark County Council
NorthStar Clinic
Expanding to Serve Clark County*



Kevin Fischer, MD
Chief Medical Officer
November 30, 2022

What's Involved in the Proposal?

Ex. D to Sterbank Declaration

November 30th Clark County, Washington Council Meeting:

Present: Councilmembers Bowerman, Medvigy, Rylander, Olson

Others: Rebecca Messinger, county residents, Sheriff elect Horch, Mitchell Kelly

Presenters: Dr. Fischer – Medical Director for CRMHS

- **PowerPoint Presentation attached. General information provided about the opioid epidemic, MAT services available, methadone, suboxone/bup benefits and risks.**

services and developing treatment plans with the client to define success. Dr. Fischer also explained that many clients come to agency homeless and without employment a

Impacts of the Proposal

Ex. D to Sterbank Declaration

Clark County: Fentanyl Use & Treatment Observations

- Generic Suboxone®: more complicated to start, some patients report less effective than past experiencing stopping heroin or Rx opioid use
- Methadone treatment still effective, patients at higher doses
- Patients early in treatment observationally more unstable
 - Milieu challenges
 - Anger
 - Threats of violence
 - Actual violence



Fentanyl exacts tragic toll in Clark County

REPORTS BY LEE GARDNER, CLARK COUNTY JOURNAL

The Phillips knows too well the pain and pull of addiction.

WEST GUYTON

Garvey

Impacts of the Proposal

Ex. D to Sterbank Declaration

Addiction is a Chronic Disease of the Brain

- Long term, progressive & relapsing disease of the brain
- Marked by stages of progress and regression
- Relapse and related behaviors are a feature of the illness rather than an indication of failure of the treatment plan or patient-effort
- With treatment, success rates for recovery from SUD are similar to other chronic diseases like Type II Diabetes and congestive heart failure
- Disease model approaches equal better outcomes



Hearing Examiner Error No. 1:

1. The Examiner failed to require the Applicant to comply with Vancouver's Essential Public Facility ("EPF") siting requirements, in VMC Section 20.855.020
2. Is it UNDISPUTED that City staff required CRMH to follow EPF siting requirements for the existing Northstar facility (Sterbank Decl., Ex. S), but did NOT require CRMH to do so for its proposed Northstar relocation to 7105 NE 40th Street.

What is an EPF and Where Do They Come From?

Statutory Requirements in the GMA, RCW 36.70A.200

City comprehensive plan and development regulations must “include a process for identifying and siting essential public facilities.”

“No local comprehensive plan or development regulation may preclude the siting of essential public facilities.”

Essential public facilities *include those facilities that are typically difficult to site*. They include but are not limited to: airports, state education facilities, state or regional transportation facilities, prisons, jails, other correctional facilities, solid waste handling facilities, *opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites*

- *Focus is on whether the use is difficult to site..*
- Opioid treatment programs and related expressly included, in 2023 legislative amendment.

Vancouver Code Definition of “Essential Public Facility” - VMC 20.150.040

Public facilities and privately-owned or operated facilities *serving a public purpose that are typically difficult to site*. They include but are not limited to: airports, state education facilities, state or regional transportation facilities, prisons, jails, other correctional facilities, and solid waste handling facilities.

- Vancouver’s code, adopted in 2004, focuses on whether the use is *difficult to site, and regional significance* of the use or service.
- *The definition does not address the “size” of the facility*, contrary to Applicant’s misquotation on Slide 6 of its argument.
- Purpose of VMC EPF provisions “is to fulfill the requirements of the Growth Management Act by accommodating Essential Public Facilities. . . .” VMC 20.855.010.

What Are Vancouver EPF siting requirements? - VMC 20.855.020(5): early notice to affected citizens, plus

5. Applicants for such a facility shall provide an analysis of the alternative sites considered for the proposed facility. This analysis shall include the following:

- a. A justification of the need for the proposed facility in the proposed location. The applicant shall demonstrate that less impacting alternatives have been considered and found not to be feasible.
- b. The applicant shall also describe the process used to identify and evaluate alternative sites.
- c. An evaluation of the sites' capability to meet basic siting criteria for the proposed facility, such as size, physical characteristics, access, and availability of necessary utilities and support services.
- d. The sites' relationship to the service area and the distribution of other similar public facilities within the service area or jurisdiction, whichever is larger.
- e. A description of the relative environmental, traffic and social impacts associated with locating the proposed facility at the alternative sites that meet the applicant's basic siting criteria. The applicant shall also identify proposed mitigation measures to alleviate or minimize adverse impacts

Why the Examiner Was Wrong:

- The GMA (RCW 36.70A.200(1)) *expressly* defines an EPF to include “*opioid treatment programs including. . .fixed-site medication sites.*” This state law provisions applies today, and the City Council must apply it.
- VMC EPF provisions were adopted “to fulfill the requirements of the Growth Management Act. . . .” VMC 20.855.010.
- It is irrelevant that GMA amendment was not yet effective at the time of Examiner’s decision. It applied to CRMH Northstar relocation proposal because it was curative, remedial, and retroactive, similar to SeaTac Third Runway case. *Des Moines v. Puget Sound Regional Council*, 98 Wn.App. 23 (Div. I 1999), *quoting Tomlinson v. Clarke*, 118 Wash.2d 498, 510–11, 825 P.2d 706 (1992).
- EPFs include both existing facilities, as well as expansions of existing EPFs. WAC 365–196-550(1)(c). The existing Northstar was permitted as an EPF (Sterbank Decl. Ex. S); the proposed Northstar relocation is an expansion. Examiner Decision at Finding 4; Sterbank Ex. D. at 12.

Why the Examiner was wrong cont'd.

- Northstar facility relocation is / was an EPF under Dept. of Commerce regulations, even in absence of 2023 GMA amendment, because “the major component in the identification of an essential public facility is whether it provides or is necessary to provide a public service and whether it is difficult to site.” See WAC 365-196-550(1)(f) and (2).
- CRMH is *not vested* to pre-amendment of RCW 36.70A.200(1). There is no vesting to local ordinances adopted to comply with state law. *Snohomish County v. Pollution Control Hr'ngs Bd.*, 187 Wn.2d 346, 386 P.3d 1064 (2016).
- Examiner wrongly relied on claim that City staff had determined EPF did not apply because Northstar relocation does not propose overnight stays. *No such determination or decision is in the record*, because none exists.

Hearing Examiner Error No. 2

- The Hearing Examiner ignored substantial evidence in the record of significant impacts to Sonesta, and failed to require CRMH to adequately mitigate those impacts.
- Why is that important? Because the City's Conditional Use Permit code ***requires*** it. Why?
- **VMC 20.245.010** **Purpose.**

General. In many zones there are uses that may be compatible but because of their size, *operating characteristics and/or potential off-site impacts warrant review on a case-by-case basis*. The purpose of the conditional use review process is to determine *if such a use is appropriate at the proposed location and, if appropriate, to identify any additional conditions of approval necessary to mitigate potentially adverse impacts*. (Italics added).

Vancouver CUP Permit Criteria

VMC 20.245.040. Approval Criteria.

A. Approval standards. The Hearings Examiner shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

1. The site size and dimensions provide adequate area for the needs of the proposed use;
2. The *impacts of the proposed use of the site can be accommodated* considering size, shape, location, topography and natural features;
- * * *
4. The applicable requirements of the zoning district, and other applicable documents are met except as amended by the conditional use permit or variances requested pursuant to Chapter 20.290 VMC; and
5. *Identified impacts on adjacent properties, surrounding uses and public facilities have been adequately mitigated.*

Why the Examiner Was Wrong:

- The Examiner completely ignored evidence in the form of Dr. Fischer's candid PowerPoint presentation (Sterbank Decl. Ex. D). Dr. Fischer admits that CRMH Northstar clients are "observationally unstable," prone to "anger, threats of violence [and] actual violence," and whose recurring relapses and reversion to "related behavior" (anger, threats of violence and actual violence) is a "feature" of their condition.
- The Examiner improperly discounted journal-published research documenting that Opioid Medication Maintenance Treatment ("OMMT") facilities cause a significant increase in violent crime and drug-related crime within 200 meters (approx. 700 feet). Sonesta is within this distance of the proposed relocated Northstar facility.
- The Examiner improperly discounted Vancouver Police Department reports documenting anger, threats of violence and actual violent crimes, as well as drug and property crimes, associated with the existing Northstar facility. Sterbank Decl. Ex. F.

Why the Examiner Was Wrong:

- The Examiner wrongly treated the number of criminal incidents at Northstar as “relatively small,” and “penalizing” CRMH staff for reporting the crimes. The Examiner should have imposed conditions to protect Sonesta and the public from those crimes at the new location, rather than minimize them CRMH staff for reporting them.
- The Examiner improperly refused to consider evidence of increased crime near OMMT facilities in other cities (Everett, WA and New Haven, CT). Sterbank Decl. Ex. C and T. That evidence is consistent with Dr. Fischer’s statements, documented research, and VPD incident reports at the existing CRMH Northstar facility, and must be considered as part of the record as a whole.
- Examiner was wrong to consider Sonesta’s exhibits in isolation, rather than cumulatively as a whole.
- $1 + 1 + 1 + 1 = 4$.

Hearing Examiner Error No. 2, cont.

- The Examiner failed to impose conditions to address potential impacts to Sonesta.
- Listed conditions primarily address only physical conditions on Applicant's site.
- The requirement to submit a "security plan" does nothing for potentially adverse impacts to adjacent and nearby properties.
- Security "plan" condition imposes no minimum security personnel requirements;
- Conditions of approval impose no limitation on hours of operation or medication dispensing. Conclusion 2 mentions a 3:00 p.m. limitation, but no condition of approval imposes that or any other limit.
- To the extent any security plan requirement even mentions adjacent or nearby properties, the condition only that CRMH's "plan" describe CRMH's *policy* towards those properties – the condition does not require CRMH to *do anything* about impacts to Sonesta or others.

Relief Requested

Reverse Hearing Examiner and remand to staff; OR in the alternative,

- Require application be processed as EPF in accordance with VMC Ch. 20.855
- Require early notice to public (including Sonesta), disclosure and evaluation of alternative sites and impacts
- CUP hearing and decision process only after EPF requirements followed.

Reverse Hearing Examiner and deny CUP due to unmitigated impacts; or

- If relocated Northstar is not an EPF, City may deny.

IF Council decides to affirm CUP permit, reverse Examiner findings/conclusions and impose conditions to mitigate impacts to Sonesta.

Requested Conditions:

- Limit the hours of operation, to conclude methadone distribution by no later than 3 p.m. earlier in the day before drug dealers and drug users are active on the street and vicinity;
- Require that the relocated Northstar clinic be staffed by three security guards at all hours of operation: the same staffing level at the existing Northstar facility.
- Require security guards to regularly patrol both interior and exterior of the CRMH property, and prevent clients or others from loitering on the site or adjacent sidewalks or property.
- Limit clinic use to appointment only; require that early morning clients be only those verified as having employment and needing to obtain medication early.
- Require clinic clients to come to the facility, receive medication / services and leave, without congregating in parking lot or on nearby sidewalks, rights-of-way or adjacent properties.

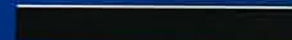
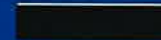
Requested Conditions –Improvements and Financial guarantees:

- Require CRMH to install 6-foot wood fencing between its property and the encampment adjacent to SR 500, and pay for similar fencing around Sonesta and between it and encampment on City detention pond property east of Sonesta parking lot.
- Require CRMH to pay the costs of installation of exterior security cameras covering clinic entrances/exits and parking areas, and entrance/exits and parking areas at Sonesta Hotel.
- CRMH to execute a No Protest Agreement for formation of a parking / business improvement area and imposition of special assessments pursuant to Ch. 35.87A RCW, to fund additional maintenance and security.
- Require CRMH to post a bond of sufficient size be posted to cover potential crimes and/or property damage to other nearby persons or businesses by clinic users or associates.

Thank you.



Bob Sterbank
OF COUNSEL



From: [City Council](#)
To: [Dollar, Sarah](#)
Subject: FW: Urban Forestry and Environmental Terrorism along BBC - Comments Council Meeting Oct 9,2023
Date: Monday, October 9, 2023 10:34:34 AM
Attachments: [image001.png](#)
[PeterBracchi Urban Forestry Mar 15 2023.pdf](#)

Written comments for 10/9

From: [REDACTED] <[REDACTED]>
Sent: Monday, October 9, 2023 10:25 AM
To: City Council <council@cityofvancouver.us>
Subject: Urban Forestry and Environmental Terrorism along BBC - Comments Council Meeting Oct 9,2023

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

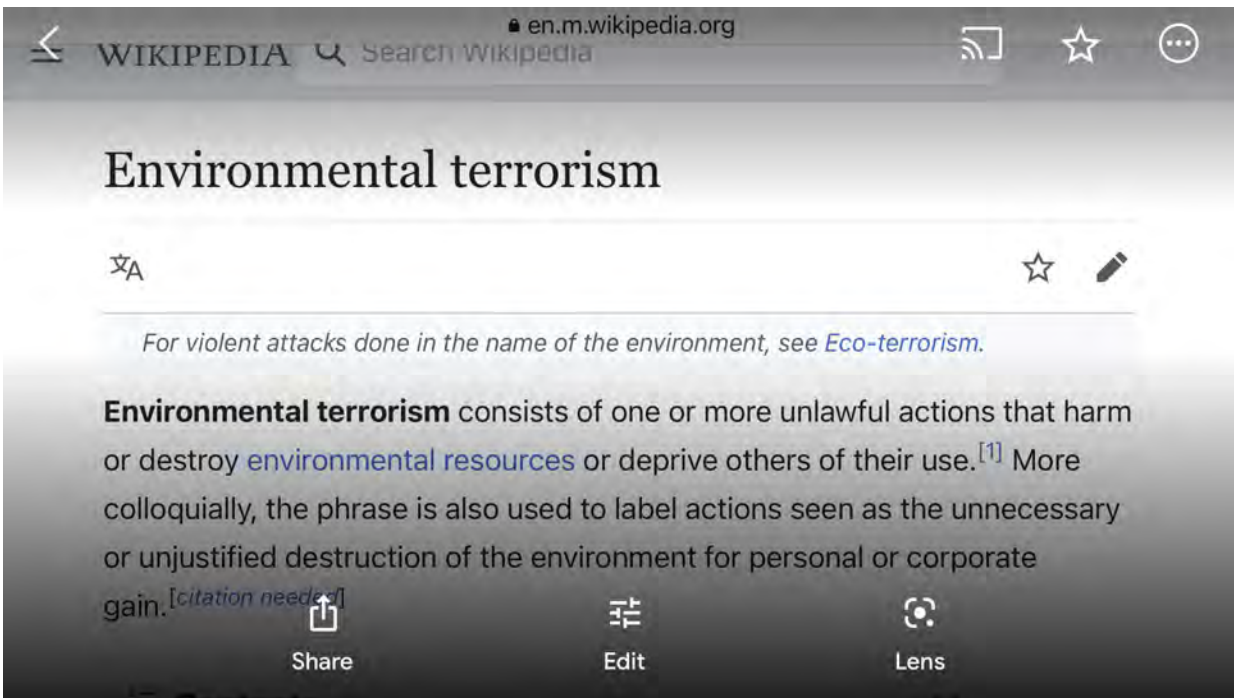
Dear Mayor and City Council

Tonight the City Manager will address you on the topic of Urban Forestry

I would like you to be aware of an witness the Environmental Terrorism occurring along Burnt Bridge Creek over the last 6 years.

I approve the Funding of Urban Forestry with the request that the Environmental Terrorism occurring along Burnt Bridge Creek be stopped.

Please see the attached document the show Examples of Environmental Terrorism along Burnt Bridge Creek.



What is the difference between eco terrorism and environmental terrorism?
More concisely, environmental terrorism involves targeting natural resources. Eco-terrorism involves targeting the built environment such as roads, buildings and trucks, in defense of natural resources. Other analysts may fail to distinguish between these different threats.

Peter Bracchi

March 15, 2023

Urban Forestry Meeting

Subject: Trees Cut Down by the Unhoused along Burnt Bridge Creek Jun 22, 2022 – Mar 6, 2023

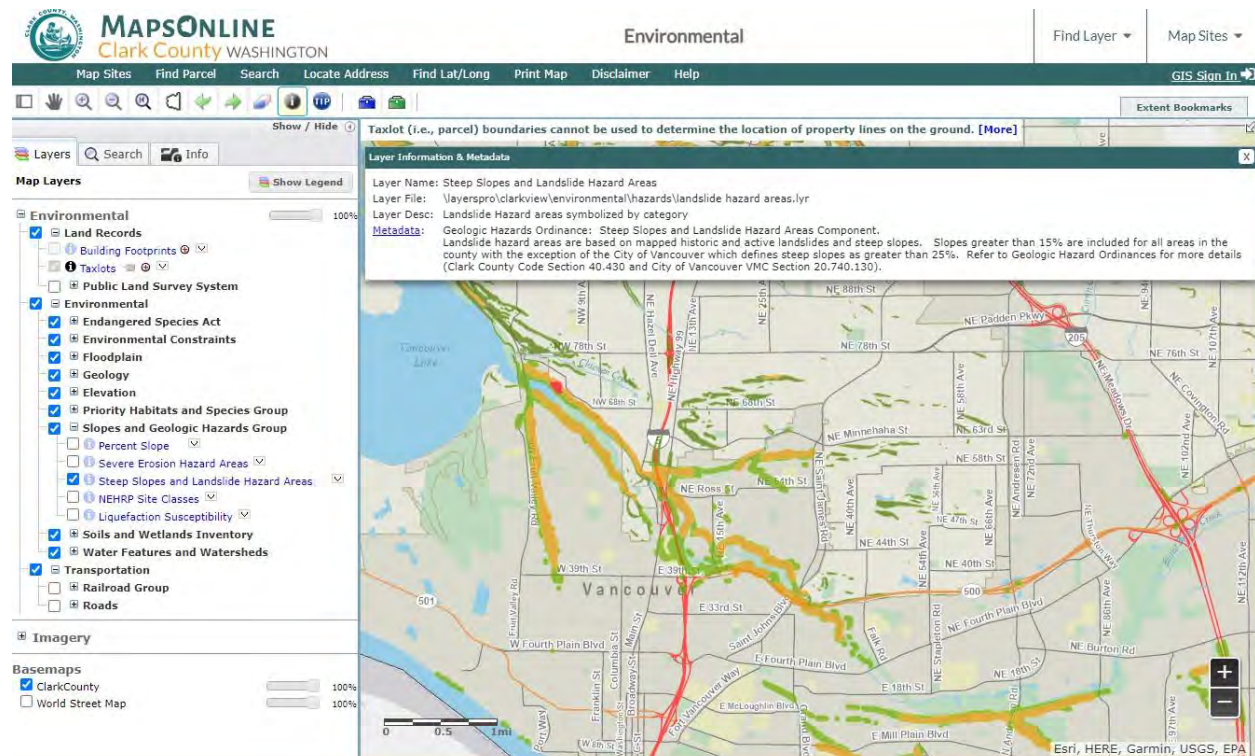
Burnt Bridge Creek is lined by Steep Slopes and Landslide Hazards Areas

Trees and Ground Vegetation helps stabilize forested slopes by providing root strength and by modifying the saturated soil water regime. Plant roots can anchor through the soil mass into fractures in bedrock, can cross zones of weakness to more stable soil, and can provide interlocking long fibrous binders within a weak soil mass.

Landslide frequency can increase after trees are removed from forested slopes.

Here is a Map of the Area and Photos of recent destruction of Urban Forests by the Unhouse Cutting down of Trees and Ground Vegetation so they can Live on the Land in our Urban Forests.

What can be done to Stop the Unhouse from Cutting of Trees?































From: [Corbin, Kristian](#)
To: [Delapena, Amanda](#); [Dollar, Sarah](#)
Cc: [Gigler, Philip](#); [Young, Jonathan](#)
Subject: RE: NorthStar 2.0 LLC Appeal Hearing
Date: Monday, October 9, 2023 8:48:34 AM
Attachments: [LT Mayor and City Council re NorthStar 2.0 LLC Appeal Hearing 9.11.23.pdf](#)
[image001.png](#)
[image003.png](#)
[image005.png](#)

Good morning:

I received an email this morning from the Applicant wanting to know if we could include the correspondence mentioned below in the Council items? It was sent via email in September as a response to the Appellant's appeal. I didn't add it to the exhibit list but since this is a closed record, would this be permitted? Do we need to since it was already sent to the Council?

Thank you for your time,

Kristian Corbin, Senior Planner
CITY OF VANCOUVER, WASHINGTON
Community Development Department
415 W 6th St. | Vancouver, Washington 98668
P: 360-487-7818 | TTY: 360-487-8602
www.cityofvancouver.us



NEW PERMIT CENTER HOURS:

- 9 a.m. – 4 p.m. Monday, Wednesday, Friday
- **Virtual Appointments** Available Tuesday & Thursday
- Closed 12:30 – 1:30 p.m. daily

Online Anytime: [TO LEARN MORE ABOUT building & pERMITTING SERVICES CLICK HERE](#)

From: Delapena, Amanda <Amanda.Delapena@cityofvancouver.us>
Sent: Tuesday, September 19, 2023 1:44 PM
To: Julie A. Stenberg <[REDACTED]>; City Council <council@cityofvancouver.us>
Cc: [REDACTED]; Corbin, Kristian <Kristian.Corbin@cityofvancouver.us>; Gigler, Philip <Philip.Gigler@cityofvancouver.us>; James D. Howsley <[REDACTED]>; Ezra L. Hammer <[REDACTED]>; Darlene Ferretti <[REDACTED]>
Subject: RE: NorthStar 2.0 LLC Appeal Hearing

Thank you for your email. The correspondence has been delivered to the Mayor and City Council for their consideration.

Amanda Delapena | Executive Assistant to the Mayor and City Manager
Pronouns: She/Her/Hers



CITY OF VANCOUVER, WASHINGTON

Mayor/City Manager's Office

P: (360) 487-8605

www.cityofvancouver.us | www.cityofvancouver.us/socialmedia



From: Julie A. Stenberg <[REDACTED]>

Sent: Tuesday, September 19, 2023 12:06 PM

To: City Council <council@cityofvancouver.us>

Cc: [REDACTED]; Corbin, Kristian <Kristian.Corbin@cityofvancouver.us>; Gigler, Philip <Philip.Gigler@cityofvancouver.us>; James D. Howsley <[REDACTED]>; Ezra L. Hammer <[REDACTED]>; Darlene Ferretti <[REDACTED]>

Subject: NorthStar 2.0 LLC Appeal Hearing

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor McEnerny-Ogle and City Councilmembers,

Sent on behalf of Jamie Howsley, attached please find correspondence in the above-referenced matter.

Sincerely,

Julie A. Stenberg | Legal Assistant

Direct: ([REDACTED])

JORDAN  **RAMIS**

1211 SW Fifth Ave, Suite 2700

Portland OR 97204

[REDACTED] | [REDACTED]
Portland | Bend | Vancouver WA



DISCLAIMER: This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

September 19, 2023

VIA EMAIL ONLY

Mayor McEnerny-Ogle and
City Councilmembers
Vancouver City Hall
415 W 6th Street
Vancouver WA

E-Mail: council@cityofvancouver.us

Re: ***NorthStar 2.0 LLC Appeal Hearing***
Our File No. 56470-81229

Dear Mayor McEnerny-Ogle and City Councilmembers,

We represent NorthStar 2.0 LLC (the “Applicant”) who is seeking to build a medical facility for the purpose of providing lifesaving addiction treatment services (the “Project”) at 7105 NE 40th Street in Vancouver (the “Property”). As part of the Project, Applicant received approval for a conditional use permit (the “CUP”) from the City. Despite our repeated attempts to work collaboratively with our neighbor, Sonesta International Hotels Corporation (the “Project Opponent”), it has continued to rebuff our attempts and oppose the Project.

This letter addresses the issues Project Opponent raises in its appeal of the CUP and demonstrates that said issues fail to create any grounds for overturning the approved CUP. Despite Project Opponent’s argument otherwise, the City Hearing Examiner’s findings are correct, and the City Council should affirm the findings and deny the appeal in full.

1. The Project Will Neither Increase Homelessness nor Criminal Activity on Adjacent Properties to the Degree that Warrants Denial of the Project and the Project Adequately Mitigates all Identified Impacts.

As is required to approve the CUP, the Hearing Examiner found that, pursuant to VMC 20.245.040.A.5, “Identified impacts on adjacent properties, surrounding uses and public facilities have been adequately mitigated.” As discussed below, the CUP findings require adequate mitigation of identified impacts on adjacent properties. It does not, as Project Opponent insinuates, require the complete absence of any potential impact, or the complete absence of issues that could potentially lead to impacts. Every land use generates some impacts, and Project Opponent would impose an unworkable standard that is far too onerous and unworkable for any proposed conditional use to satisfy. It would effectively bar all conditional uses everywhere and render the City’s CUP process itself moot, as there are scores of conceivable potential impacts in any given situation and each one may have many potential triggering events or underlying causes.

As part of their testimony before the Hearing Examiner, Applicant acknowledged that, due to their addictions, some of the Project clients may demonstrate anti-social behavior when visiting the Property. Based on their experience with facilities similar to the Project, it is expected that this behavior will be limited to the Property itself. Further testimony and evidence before the Hearing Examiner identified existing problems within the Project area that are wholly unrelated to the Project because the Project has not commenced operation. The Hearing Examiner correctly noted that the criminal activity in the vicinity of the Property is a preexisting condition and unrelated to the Project itself.

Project Opponent submitted police reports into the record in an effort to demonstrate that the Project will become a locus of criminal activity. However, these reports merely show that an existing facility that Applicant runs is situated in an area that has a certain level of crime, not that their facility itself is the cause of that crime. Project Opponent has completely failed to establish a causal link that demonstrates that the presence of crime is the result of drug addiction treatment facilities, rather than the countless host of societal factors that are widely understood to cause crime. In failing to do so, the assertion that the Project would increase or cause criminal activity is necessarily speculative.

As the Hearing Examiner correctly points out, Applicant should not be penalized because their facility, employees, and clients have been victims of property crimes over the years at a different location and that they have reported these incidents to law enforcement. Indeed, the fact that Applicant and their employees work closely with law enforcement should be commended, rather than punished. Additionally, as attested to during public comment, other businesses surrounding Applicant's existing facilities (including a convenience store, dental office, and insurance office) have also experienced property crime, yet no one is arguing that they should be prohibited from continuing to conduct business or expanding their existing services merely because they are victims of that crime.

As Applicant stated in their testimony before the Hearing Examiner, some of the clients that the Project will serve are homeless and face housing insecurity. Project Opponent conflates this with the idea that the Project itself will enhance homelessness nearby the Property. However, this leap in logic leaves much to be desired and fails the smell test. The mere presence of a facility that serves a target population does not, in and of itself, lead to the proliferation of the challenges that impact this population. Importantly, Project Opponent has presented no evidence as to this fact. Conflating the presence of people who suffer from homelessness with the creation of homelessness itself is disingenuous and – if this argument is allowed to stand – would effectively prohibit the placement of critical lifesaving services throughout most of the City.

Project Opponent requested, and the Hearing Examiner rejected, a proposal that the Project police adjoining properties and public right-of-way and that Applicant should be financially responsible for off-site criminal activities. In seeking to add significant and unprecedented cost and liability to the Project and Applicant, Project Opponent misreads VMC 20.245.040.A.5 to require unlimited and complete mitigation of all conceivable risks. However, as stated above, the Vancouver Municipal Code requires adequate, not complete, or total, mitigation. Mitigation is warranted only when sufficient evidence of an issue is present, not in response to mere speculation.

Project Opponent contends that the Hearing Examiner failed to make appropriate findings regarding potential impacts and associated mitigation. It argues that the approval merely reiterated the

positions of the parties, summarized the evidence presented, and crafted findings with an indefinite, uncertain, determinative narration of general conditions and events. Nothing could be farther from the truth. The Hearing Examiner provided over ten single-spaced pages of review and analysis specifically regarding the issues that Project Opponent raised during the CUP review process. Not only did the approval documents address all arguments raised, but it also went so far as to address the underlying studies and evidence used to support the arguments. As an outcome of this analysis, and due to the very arguments that Project Opponent states were simply ignored, the Hearing Examiner conditioned the Project above and beyond the requirements that exist in the Vancouver Municipal Code.

It is true that the Hearing Examiner did not agree with every argument that Project Opponent raised or concur with their view of every potential Project impact. However, this disagreement does not demonstrate a lack of analysis and thorough consideration. As evident in the CUP approval, each argument was examined and weighed for its value. Additionally, as discussed below, the Hearing Examiner required Applicant to revise the Project's hours of operation and receive City approval of an enhanced security plan to address many of the concerns that Project Opponent raised. Certainly, Project Opponent cannot seriously believe that a lack of analysis of their arguments occurred when the Project is in fact now conditioned in a manner wholly due to their very arguments.

In approving the CUP based on the Project materials and the substantial testimony and evidence in the record, the Hearing Examiner found that the Project would adequately mitigate all identified impacts on adjacent properties, surrounding uses, and public facilities. Project Opponent failed to provide substantive evidence to the contrary. As such, the City Council should concur with the Hearing Examiner and find that the Project will neither increase homelessness nor criminal activity on adjacent properties to the degree that warrants denial of the CUP.

2. The Project Security Plan Fully Satisfies the Conditions of Approval and Will Provide an Opportunity for Neighbors to Identify Issues of Concern as they Arise.

In its appeal, Project Opponent argues that the CUP approval should be overturned because the Project security plan, which the Hearing Examiner required as a condition of approval, is deficient. Project Opponent misunderstands the nature of the CUP approval. Because the Hearing Examiner conditioned the Project to include a security plan, rather than approving the Project following a review and analysis of said plan, the remedy for any deficiency with the security plan would be modification of the plan, not – as Project Opponent wishes – overturning approval of the CUP. Regardless of this fact, and viewed in the most favorable light possible, Project Opponent argues that the security plan is deficient in that it does not provide a means for neighbors to identify issues of concern with the Project as they arise. Simply put, this assertion is unsupported by substantial evidence.

The Hearing Examiner conditioned the Project to include a security plan that includes 1) hours of operation, including hours of medication dispensing; 2) the number and qualifications of security personnel intended to be onsite during and after business hours, and their expected duties; 3) the policy for addressing loitering, car camping, and other encampments on and adjacent to the subject property; 4) emergency management plan detailing policies and procedures for responding to violence and threats of violence by and/or against clients, guests, and staff; and 5) 24-hour contact information to be made available to the public for reporting issues arising from activities onsite. The

condition requires Applicant to submit this plan to the Community Development and Planning Department for review and approval. Following approval, the City will keep the plan on file and make it available, upon request, to members of the public.

Applicant has fully complied with this condition of approval. On August 8, 2023, they submitted the security plan (attached hereto as Exhibit A) to the relevant City personnel. The City approved the plan, incorporating it into the Project and satisfying the condition of approval. The requirements for the security plan itself was the result of Project Opponents' concerns as raised during the public comment processes. Therefore, it is self-evident that public participation played a significant role in the security plan.

Project Opponent argues that the Hearing Examiner failed to properly include a condition of approval that the Project must cease dispensing medication at 3:00 p.m. daily. However, as stated above, the Hearing Examiner conditioned the project to develop a publicly available security plan that includes hours of operations. Upon inspection of this plan, it is clear that the Project dispensary will only be open until 3:00 p.m. on Monday through Friday and until noon on Saturday. As such, the Project is properly conditioned pursuant to the Hearing Examiner's direction. For the forgoing reason, the City Council should reject the arguments that the security plan and conditions of approval are deficient and reaffirm the Hearing Examiner's determination and approval of the Project.

3. City Staff Properly Applied the Vancouver Municipal Code and Correctly Determined that the Project is not an Essential Public Facility.

Project Opponent contends that the Hearing Examiner incorrectly determined that the Project is a "satellite operation" of Applicant's existing facilities. Project Opponent further argues that, in doing so, the Hearing Examiner erroneously failed to find that the Project is an Essential Public Facility ("EPF") according to VMC 20.150.040.B and Revised Code of Washington 36.70A.200. EPFs trigger heightened notice requirements and consideration of alternative locations pursuant to VMC 20.855.020. However, the determination of whether or not the Project is a "satellite facility" is wholly immaterial to this determination as each project is reviewed on an individual basis. Based on a review of the Project application, City staff correctly determined that the Project was not an EPF. In doing so, City staff dutifully applied VMC 20.150.040.B, which defines an Essential Public Facility as,

"Public facilities and privately-owned or operated facilities serving a public purpose that are typically difficult to site. They include but are not limited to: airports, state education facilities, state or regional transportation facilities, prisons, jails, other correctional facilities, and solid waste handling facilities. These facilities are of state-wide and regional significance, as opposed to facilities which only serve Clark County. Therefore, local transit service is not considered an essential public facility. Essential public facilities will be allowed in locations appropriate for the services provided and the people served."

Here, the Project is not difficult to site. Its size permits its location throughout much of Vancouver where average-sized commercial and industrial buildings are located. It is not one of the delineated facilities listed in VMC 20.150.040.B. It is also not a facility of statewide concern and due to its size, is

intended to serve only the residents of Vancouver and Clark County. There is nothing about the Project that indicates it is of such size and scale that it is difficult to site and thus should be considered an EPF.

Project Opponent points to an unrelated application for a completely different project to demonstrate that the Project is an EPF. However, the Hearing Examiner correctly notes that other land use applications that propose completely different projects are immaterial to the determination of whether or not the Project is an EPF. Project Opponent further argues that staff is incorrect in their EPF determination and points to RCW 36.70A.200.1.a, which states:

“The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020” (emphasis added).

RCW 36.70A.200.1.a was amended in May of 2023 to add the underlined language above. It is possible that the City will revise VMC 20.150.040.B in the future to address this change. However, the Project is fully vested under the current version of VMC 20.150.040.B. VMC 20.210.110.A states that, “Type I, II, or III applications shall be considered under this chapter and the zoning, development and other land use control ordinances contained in the VMC, and any uncoded ordinances modifying the same, in effect on the date a fully complete application is filed with the city.” The Project requires Type III approval, the Project application was submitted on January 1, 2023, and the City deemed the Project application fully complete on February 14, 2023. Therefore, the Project has vested rights and VMC 20.150.040.B fully controls as written. RCW 36.70A.200.1.a as revised is inapplicable to the Project, and the City staff correctly determined that the Project is not an EPF.

Project Opponent also contends that it was unable to cross-examine City staff regarding the determination that the Project was not an EPF under the Vancouver Municipal Code and that this inability is somehow grounds for overturning the Project approval. However as evidenced above, the Project does not fit within the criteria of an EPF as delineated in VMC 20.150.040B. Because of the clarity of the code, City staff did not use any subjective analysis in making their determination that the Project was not an EPF. As such, cross-examination would provide no value to the Hearing Examiner in their decision-making process and any failure to grant cross-examination constitutes a harmless error. However, this point is fully moot.

Project Opponent did not raise the issue of cross-examination in time for the Hearing Examiner to act on the request. Rather, they raise the issue after the conclusion of the public hearing, such that it would not be possible to provide the requested relief. Therefore, Project Opponent's argument that the lack of cross-examination is grounds for overturning the CUP approval is lacking. Even if the

Mayor McEnerny-Ogle and City Councilmembers
September 19, 2023
Page 6

Hearing Examiner should have granted the ability to cross-examine City staff, Project Opponent raised the issue at an improper time, mooting the issue completely. Therefore, the City Council should concur with City staff that the Project is not an EPF under the Vancouver Municipal Code, find that the question of whether the Hearing Examiner should have permitted cross-examination of City staff as to this issue is moot, affirm the Project approvals, and deny the appeal in full.

4. Conclusion.

Project Opponent has raised many issues with the Project. They provided a proliferation of written material and reiterated their concerns with the Project at the public hearing before the Hearing Examiner. The Hearing Examiner dutifully reviewed and analyzed each argument and weighed them against the characteristics of the Project and the requirements of the Vancouver Municipal Code. Following this analysis, the Hearing Examiner issued a thoroughly detailed approval, with conditions to address many of the concerns that Project Opponent raised.

This is exactly what the Hearing Examiner is obligated to do. The CUP approval process served the vital City interests of 1) separating the land use regulatory function from the land use planning process; 2) ensuring procedural due process and appearance of fairness in land use and other regulatory and enforcement hearings; and 3) providing an efficient and effective land use and other regulatory system which integrates the public hearing and decision-making processes for land use and other regulatory and enforcement matters. The Hearing Examiner weighed all available facts and evidence and crafted a decision that balanced the City's need to ensure that those suffering from addiction have access to life-saving services while at the same time appropriately mitigating potential impacts on the surrounding community.

While Project Opponent is dissatisfied with the Hearing Examiner's determination, they raise no issue that constitutes grounds for reversing the approval of the Project's CUP. Rather, they merely reiterate previously raised concerns related to homelessness and criminal activity and argue that the City erred in a black and white interpretation of its own code.

Applicant remains committed to working in a collaborative manner with the City and its neighbors in order to ensure that the Project is successful. Despite Project Opponent's continued opposition, Applicant continues with the sincere hope that through a neighborly dialogue the parties can come together and serve neighborhood and community needs. Applicant thanks the City staff and Hearing Examiner for their time and effort working on the Project. They diligently applied the Vancouver Municipal Code in a fair and equitable manner. For the above reasons, we respectfully request that the City Council concur with their analysis, deny the appeal, and affirm the approval of the Project.

Very truly yours,

JORDAN RAMIS PC



Jamie D. Howsley
Admitted in Oregon and Washington

Mayor McEnerny-Ogle and City Councilmembers
September 19, 2023
Page 7

Attachment

cc: Michael Graves, MikeG@crmhs.org
Kristian Corbin, Kristian.Corbin@cityofvancouver.us
Philip Gigler, Philip.Gigler@cityofvancouver.us

NORTHSTAR 2.0

an Opiate Treatment Facility and Substance Use Disorder Clinic

[REDACTED]
Vancouver, WA 98661
[REDACTED]

PREMISES SECURITY PLAN

HOURS OF OPERATION

Upon opening for business, the hours of operation shall be: *(see Footnote 1)*

Dispensary

Monday through Friday: 5:30am – 3:00pm

Saturday: 7:00am – 12:00 Noon

Sunday: closed

Counseling Services

Monday through Friday: 6:00am – 5:00pm

Saturday: By Appointment

Sunday: closed

Business Office

Monday through Friday: 8:00am – 5:00pm

Saturday: closed

Sunday: closed

SITE SECURITY SERVICES

Onsite security services shall be provided 24/7/365 *(see Footnote 2)*

- During all hours when open for business, an appropriate number of security officers will be on the property, inside and outside, without interruption.
 - Their primary duties shall include appropriate deterrence and intervention, when necessary, to prevent physical harm to others as well as property damage or other criminal activities. *(see Footnote 3)*

- During those times when the facility is closed for business, random vehicular and foot patrols shall be conducted as required to effectively deter all illegal activities including, but not limited to, unlawful encampments, loitering, and property crimes.
- Columbia River Mental Health Services and NorthStar make it their practice to work collaboratively with all neighbors willing to do so, recognizing their may be limits and restrictions on the scope of collaboration, such as:
 - CRMHS employees and contractors may not dictate activities on any adjacent properties, unless there is a written “Good Neighbor Agreement” or equivalent that specifically describes the scope of collaboration and all behavioral boundaries.
 - Verbal or written names of people that are known patients of CRMHS and NorthStar cannot be disclosed to others.
 - Illegal activities or other serious concerns observed on public properties shall immediately be reported to law enforcement.
 - Illegal activities observed on private properties shall immediately be reported to law enforcement and, immediately following that notification, the appropriate property owner or tenant shall also be notified.
 - Less serious activities observed shall immediately be reported to the appropriate property owner or tenant.
- The minimum demonstrated qualifications for all Site Security personnel are:
 - Be at least 21-years of age and able to work in the State of Washington.
 - Be able to communicate, both written and orally, in the English language.
 - Be willing to fully participate in training provided by CRMHS in the following:
 - De-Escalation Techniques
 - Maintaining Personal and Property Safety
 - Emergency Preparedness Protocol
 - HIPPA and the Protection of PHI
 - Applicable sections of the Vancouver Municipal Code
 - Within 90-days of assignment, successfully complete Basic Training Certification administered by IAHS (International Association for Healthcare Security and Safety)
- CRMHS and NorthStar maintain the very highest regard for the safety and protection of human life. Site Security staff do not use lethal force or deadly weapons of any kind, including tasers.

EMERGENCY CONTACT INFORMATION

- Following is contact information for emergencies, and, non-emergent events and notifications:
 - **911** for all life-threatening emergencies

- o **360.993.3040** Columbia River Mental Health Services – Facilities Department
- o **360.993.3030** Columbia River Mental Health Services – Facilities Manager
- o **360.993.3000** Columbia River Mental Health Services – Main Switchboard

FOOTNOTES

1. Hours of operation are subject to change due to circumstances that are often beyond the control of Columbia River Mental Health Services such as inclement weather, public emergencies, market conditions, and changes mandated by regulatory oversight agencies. When it becomes known that the hours of operation will be changing, every effort will be made to immediately inform all adjacent neighbors as well as the community at large.
2. Columbia River Mental Health Services and NorthStar maintain site security staffing levels that are determined by current threat assessments in the community, volume of patients being seen on any given day, and the acuity of the overall environment. If an immediate need arises requiring additional security resources, they will be provided immediately. At no time will site security levels be below the established threshold identified in the Premises Security Plan.
3. Columbia River Mental Health Services and NorthStar maintain extensive policies and procedures directly relevant to the Premises Security Plan for all their facilities. In addition, Post Orders are assigned to every member of the Security team and describe specific duties to be performed. Training is ongoing and frequently enhanced. Policies and procedures are reviewed regularly so as to remain accurate and relevant.

From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: Watch "MUST WATCH About Vaccine Injuries! Dr. Peter McCullough Testifies In Pennsylvania Senate" on YouTube
Date: Tuesday, October 3, 2023 2:07:53 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

<https://youtu.be/XoMAR9rOCrk?si=jUDRynr1BP7rsdDP>. Please send to council members and MELNECK. Put on public record and confirm that you did. Thanks from Wynn. It would be nice for our health board comment on this.

From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: Dr. DAVID Martin at the EU covid summit September 13, 2023
Date: Tuesday, October 3, 2023 2:11:39 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

https://x.com/Restitutor_/status/1701994591728066983?s=20 .send to council members and MELNECK. Put on public record and confirm that you did. Thanks from Wynn. The health board should comment on this and put this on the agenda at the next council meeting or health board meeting.

From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: Watch "Health: The UN's Path To Global Control w/ Reggie Littlejohn, Dr. Makis & Dr. Victory – Ask Dr. Drew" on YouTube
Date: Wednesday, October 4, 2023 12:16:55 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

<https://www.youtube.com/live/VSSGzCUL4qE?si=rMVdkWT87Q2MdfnV> .Please send to council members and MELNECK. Put on public record and confirm that you did. Thanks from Wynn

From: [Wynn Grcich](#)
To: [Dollar, Sarah](#); [Rebecca Messinger](#)
Subject: Fwd: Police Detective: 50% of Sudden Infant Deaths Happened Within 48 Hours of Vaccination — But No One Is Allowed to Say It
Date: Wednesday, October 4, 2023 12:26:31 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Send to council members and MELNECK. Put on public record and confirm that you did.
Thanks from Wynn

----- Forwarded message -----

From: Laurie Pascual [REDACTED] >
Date: Tue, Oct 3, 2023, 4:11 PM
Subject: Police Detective: 50% of Sudden Infant Deaths Happened Within 48 Hours of Vaccination — But No One Is Allowed to Say It
To: [REDACTED]

<https://childrenshealthdefense.org/defender/sudden-infant-deaths-vaccination/>

From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: covid jabs
Date: Thursday, October 5, 2023 3:47:00 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[COVID-19 Vaccine Found in Dead People: Study | The Epoch Times](#)

Send to council members and Melneck. Put on public record and confirm that you did. Thanks from Wynn

From: [Wynn Grich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: Fwd: Pseudouridine: What is it and Why Should you Care?
Date: Thursday, October 5, 2023 3:51:07 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded message -----

From: Robert W Malone MD from "Who is Robert Malone"

[REDACTED]

Date: Thu, Oct 5, 2023 at 8:54 AM

Subject: Pseudouridine: What is it and Why Should you Care?

To: [REDACTED]

Send to council members and Melneck. Put on public record and confirm that you did.

Thanks from Wynn

Forwarded this email? [Subscribe here](#) for more

Upgrade to paid

Pseudouridine: What is it and Why Should you Care?

The Nobel Prize in Physiology or Medicine was awarded for discovering use of Pseudouridine to suppress immune responses to synthetic mRNA, and use of that discovery in COVID-19 mRNA vaccines.

ROBERT W MALONE MD, MS

OCT 5



READ IN APP



Uridine, one of the four key components of natural RNA and mRNA (A, U, G, C),

shown together with the structures of Pseudouridine and N1-methyl-Pseudouridine

Background

Natural RNA, including mRNA, consists of a polymerized string of four different compounds - A, U, G, C. U = Uridine. There are many different natural forms of RNA in cells, but in general, DNA makes mRNA, and mRNA makes protein (polypeptide).



In cells after polymerization, in some mRNA there are precisely controlled modifications to the “U” compounds (bases) to convert them to a different compound, called pseudouridine. The presence of such precise pseudouridine modifications regulate many aspects of mRNA biology, including how long it persists in the cell before being degraded, the structures that it forms when folding, how efficiently it is turned into protein (translated), and the response of certain cell types containing this modified mRNA to respond to inflammation. Pseudouridine messages an anti-inflammatory (which is to say immunosuppressive) signal to cells.

Kariko and Weissman recently received the Nobel Prize in Physiology or Medicine for their discovery that replacement of synthetic pseudouridine for uridine throughout synthetic mRNA reduces the inflammation triggered when this synthetic mRNA is delivered into the cells of animals using self-assembling cationic lipid delivery particles, and specifically the use of that discovery to enable the rapid development of the Pfizer/BioNTech and Moderna COVID-19 mRNA “vaccines” that have been deployed throughout the world.

In a break with standard regulatory practice, under the EUA process the FDA did not require rigorous assessment of the pharmacology, pharmacokinetics, safety, toxicity, reproductive toxicity or any other aspect of synthetic mRNA incorporating pseudouridine for human (or animal) use. Furthermore, the synthetic pseudo-mRNA

(which is very different in many ways from naturally produced mRNA) manufactured and dosed into humans throughout the globe does not even contain pseudouridine. Instead, it incorporates a synthetic molecule which is even more potent than naturally occurring pseudouridine, called N1 Methyl pseudouridine, which is structurally more closely related to the molecule Thymidine, which is found in DNA (not RNA).



Chemical structure of Thymidine, one of the four key components of DNA (A, T, G, C)

As a consequence of this decision by FDA, which was then followed by the European Medicines Agency and regulatory agencies across the world, the effects of injection of these highly modified synthetic pseudo-mRNA have not been adequately investigated. This includes effects on human immunology, autoimmunity, toxicity, pharmacokinetics (how long an active drug stays in the body), pharmacodynamics (study of the biochemical and physiologic effects of drugs), pharmacodistribution (where a drug goes in the body) and clearance (how long and by what mechanisms a drug takes to be broken down and removed from the body).



The willful avoidance and ignorance by FDA and Pharma concerning these key parameters is what underlies the misinformation propagated by FDA, Pharma, and mRNA vaccine advocates concerning where these molecules go in the body, how long they last, and how they are eliminated from the body. All of these issues have become common questions and concerns asked by patients to physicians and other allied health practitioners. But there are no solid, rigorous, methodical prospective study data to which health practitioners can refer to when answering their patient's questions. All that is available are general platitudes promoted as propaganda by Pharma, the Government, and academic stakeholders such as Drs. Kariko and

Weissman (and the Nobel Prize Selection Committee) who have repeatedly, and incorrectly asserted that these synthetic foreign pseudo-mRNA are rapidly degraded in the body after injection. Subsequent research by laboratories from all over the world have demonstrated that this is a false statement - mis- or dis-information - and that these synthetic molecules persist in the bodies of injected persons for weeks to months, rather than the hours originally asserted.

The inconvenient truth in this matter is that current scientific understanding of the molecular biology, immunology and toxicology of both Pseudouridine - modified mRNA as well as N1-methyl-Pseudouridine - modified mRNA is still in development. In plain words, not well understood at this point. What is clear is that these modified pseudo-mRNA have a wide range of biological effects, including immunosuppression. Which can be a good thing for overcoming one barrier (inflammatory response) to the medical administration of synthetic mRNA formulated into self-assembling lipid particles. But may well be a bad thing for things like autoimmune disease and the ability of the immune system to control other infectious disease and cancer.

Of additional relevance is that these pseudouridine and N1-methyl-pseudouridine modifications of synthetic mRNA are not necessary for eliciting an immune response to the protein encoded by such synthetic mRNA. This is clearly demonstrated in the initial reduction to practice (in mice) demonstrated by myself and others at the La Jolla startup biotech company Vical in 1990, and in the context of COVID-19 mRNA vaccine development by the initial clinical trial results of the European biotech startup CureVac. The pseudouridine (or N1-methyl-Pseudouridine) may make synthetic mRNA-based drugs and vaccines more potent on a comparative dose-by-dose basis, but it is not necessary and this effect may be overcome by increasing the dose of non-pseudouridine modified synthetic mRNA.

What is clear is that, for some reason, the FDA suspended its normal processes and procedures which would typically require that a biologically active new chemical entity be thoroughly investigated prior to use in humans. The reason and logic behind this gross negligence should be thoroughly investigated and disclosed to the public.

Both those who have received these poorly characterized products, often after being subjected to a wide range of psychological manipulation, propaganda, compulsion

and coercion (mandates), and all too often with dosing-associated adverse events (including severe AE including death) deserve to know what happened and why.

Pseudouridine Facts

- Pseudouridine is a modified nucleotide mRNA subunit that is prevalent in natural human mRNAs
- The biologic significance and regulation of the pseudouridine modification process is still being determined and understood.
- This modification occurs naturally in the cells of our body, in a highly regulated manner. This is in sharp contrast to the random incorporation of synthetic pseudouridine which occurs with the manufacturing process used for producing the Moderna and Pfizer/BioNTech (but not CureVac) COVID-19 “mRNA” vaccines.**
- These modifications occur at locations associated with alternatively spliced RNA regions, are enriched near splice sites, and overlap with hundreds of binding sites for RNA-binding proteins.
- pre-mRNA pseudouridylation is used by human cells to regulate human gene expression *via* alternative pre-mRNA processing
- mRNA pseudouridylation may control mRNA metabolism in response to changing cellular conditions**
- Incorporating RNA modifications, including pseudouridine, in foreign RNA allows for escape from innate immune detection
- Presence of modified nucleosides in viral genomic RNA could contribute to immune evasion during infection
- In vitro transcribed RNA is immunostimulatory when transfected into HEK293 cells engineered to express either TLRs and inclusion of Ψ in the RNA suppressed this response (most pronounced for TLR7 and TLR8).

- Inclusion of Ψ in a 5'-triphosphate capped RNA abolishes activation of RIG-I, providing another mechanism for pseudouridine-mediated suppression of innate immune activation.
 - Pseudouridine likely affects multiple facets of mRNA function, including reduced immune stimulation by several mechanisms, prolonged half-life of pseudouridine-containing RNA, as well as potentially deleterious effects of Ψ on translation fidelity and efficiency.
-

Who is Robert Malone is a reader-supported publication.
To receive new posts and support my work, consider
becoming a free or paid subscriber.

Upgrade to paid

For more detailed information and documentation relevant to the above discussion, please see the following peer-reviewed academic publications:

1. **N1-methyl-pseudouridine in mRNA enhances translation through eIF2 α -dependent and independent mechanisms by increasing ribosome density**
Yuri V. Svitkin, Yi Min Cheng, Tirtha Chakraborty, Vladimir Presnyak, Matthias John, Nahum Sonenberg
Nucleic Acids Res. 2017 Jun 2; 45(10): 6023–6036. Published online 2017 Feb 23.
2. **N¹-Methylpseudouridine substitution enhances the performance of synthetic mRNA switches in cells**
Callum J C Parr, Shunsuke Wada, Kenjiro Kotake, Shigetoshi Kameda, Satoshi

Matsuura, Souhei Sakashita, Soyoung Park, Hiroshi Sugiyama, Yi Kuang, Hirohide Saito
Nucleic Acids Res. 2020 Apr 6; 48(6): e35. Published online 2020 Feb 24.

3. Incorporation of **pseudouridine** into **mRNA** yields superior nonimmunogenic vector with increased translational capacity and biological stability.
Karikó K, Muramatsu H, Welsh FA, Ludwig J, Kato H, Akira S, Weissman D. Mol Ther. 2008 Nov;16(11):1833-40. doi: 10.1038/mt.2008.200. Epub 2008 Sep 16.
4. **Pseudouridine** synthases modify human pre-**mRNA** co-transcriptionally and affect pre-**mRNA** processing.
Martinez NM, Su A, Burns MC, Nussbacher JK, Schaening C, Sathe S, Yeo GW, Gilbert WV. Mol Cell. 2022 Feb 3;82(3):645-659.e9. doi: 10.1016/j.molcel.2021.12.023. Epub 2022 Jan 19.
5. **Regulation** and **Function** of RNA Pseudouridylation in Human Cells.
Borchardt EK, Martinez NM, Gilbert WV. Annu Rev Genet. 2020 Nov 23;54:309-336. doi: 10.1146/annurev-genet-112618-043830. Epub 2020 Sep 1. PMID: 32870730
6. Post-transcriptional gene **regulation** by mRNA modifications.
Zhao BS, Roundtree IA, He C. Nat Rev Mol Cell Biol. 2017 Jan;18(1):31-42. doi: 10.1038/nrm.2016.132. Epub 2016 Nov 3.
7. The epitranscriptome beyond m⁶A.
Wiener D, Schwartz S. Nat Rev Genet. 2021 Feb;22(2):119-131. doi: 10.1038/s41576-020-00295-8. Epub 2020 Nov 13.
8. RNA modifications: importance in immune cell biology and related diseases.
Cui L, Ma R, Cai J, Guo C, Chen Z, Yao L, Wang Y, Fan R, Wang X, Shi Y. Signal Transduct Target Ther. 2022 Sep 22;7(1):334. doi: 10.1038/s41392-022-01175-9.
9. The emerging role of RNA modifications in the **regulation** of mRNA stability.
Boo SH, Kim YK. Exp Mol Med. 2020 Mar;52(3):400-408. doi: 10.1038/s12276-020-0407-z. Epub 2020 Mar 24.
10. RNA modifications and cancer.
Haruehanroengra P, Zheng YY, Zhou Y, Huang Y, Sheng J. RNA Biol. 2020

Nov;17(11):1560-1575. doi: 10.1080/15476286.2020.1722449. Epub 2020 Feb 7.

11. Role of main RNA modifications in cancer: N⁶-methyladenosine, 5-methylcytosine, and pseudouridine.

Xue C, Chu Q, Zheng Q, Jiang S, Bao Z, Su Y, Lu J, Li L. Signal Transduct Target Ther. 2022 Apr 28;7(1):142. doi: 10.1038/s41392-022-01003-0.

Front Cell Dev Biol. 2021 Nov 4;9:789427.

doi: 10.3389/fcell.2021.789427. eCollection 2021.

The Critical Contribution of Pseudouridine to mRNA COVID-19 Vaccines

Pedro Morais¹, Hironori Adachi², Yi-Tao Yu²

Free PMC article

Abstract

The current COVID-19 pandemic is a massive source of global disruption, having led so far to two hundred and fifty million COVID-19 cases and almost five million deaths worldwide. It was recognized in the beginning that only an effective vaccine could lead to a way out of the pandemic, and therefore the race for the COVID-19 vaccine started immediately, boosted by the availability of the viral sequence data. Two novel vaccine platforms, based on mRNA technology, were developed in 2020 by Pfizer-BioNTech and Moderna Therapeutics (comirnaty® and spikevax®, respectively), and were the first ones presenting efficacies higher than 90%. Both consisted of N1-methyl-pseudouridine-modified mRNA encoding the SARS-COVID-19 Spike protein and were delivered with a lipid nanoparticle (LNP) formulation. Because the delivery problem of ribonucleic acids had been known for

decades, the success of LNPs was quickly hailed by many as the unsung hero of COVID-19 mRNA vaccines. **However, the clinical trial efficacy results of the Curevac mRNA vaccine (CVnCoV) suggested that the delivery system was not the only key to the success. CVnCoV consisted of an unmodified mRNA (encoding the same spike protein as Moderna and Pfizer-BioNTech's mRNA vaccines) and was formulated with the same LNP as Pfizer-BioNTech's vaccine (Acuitas ALC-0315). However, its efficacy was only 48%.** This striking difference in efficacy could be attributed to the presence of a critical RNA modification (N1-methyl-pseudouridine) in the Pfizer-BioNTech and Moderna's mRNA vaccines (but not in CVnCoV). Here we highlight the features of N1-methyl-pseudouridine and its contributions to mRNA vaccines.

<Note that the dose of CVnCoV used in these studies was lower than that of either comirnaty® and spikevax®>

Share

Give a gift subscription

Thank you for reading Who is Robert Malone. This post is public so feel free to share it.

Share

You're currently a free subscriber to Who is Robert Malone. For the full experience, [upgrade your subscription](#).

Upgrade to paid



 LIKE

 COMMENT

 RESTACK

© 2023 Robert W Malone, MD
Virginia
[Unsubscribe](#)



From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: Watch "Doctors Sue Biden & Fauci For Censoring Speech on Social Media w/ Dr. Jay Bhattacharya – Ask Dr Drew" on YouTube
Date: Thursday, October 5, 2023 6:33:41 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

https://www.youtube.com/live/r8N43gFwYHw?si=9_tkPYlNyLKrXngO . Please send to council members and MELNECK. Put on public record and confirm that you did. Thanks from Wynn

From: [Wynn Grcich](#)
To: [Rebecca Messinger](#); [Dollar, Sarah](#)
Subject: contamination in covid boosters
Date: Friday, October 6, 2023 1:25:25 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Alarming COVID Jab Contamination Shocks Scientists \(needtoknow.news\)](#)

Send to council members and Melneck. Please put on public record and confirm that you did.
Thanks from Wynn

From: [Wynn Grcich](#)
To: [Dollar, Sarah](#); [Rebecca Messinger](#)
Subject: covid deaths in babies
Date: Friday, October 6, 2023 1:27:45 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Nobel Peace Prize For Vax Shot that Killed Over A Hundred Thousand American Children \(needtoknow.news\)](#)

Please send it to council members and Melneck. Put on public record and confirm that you did. Thanks, from Wynn

From: [Wynn Gould](#)
To: [Rebecca Mowbray](#); [Dalel Szeidl](#)
Subject: sent to council members and put on public record, confirm that you did. Thanks from Wynn
Date: Saturday, October 7, 2023 5:06:57 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[The Pharos Chronicle – Jacob Nordangård, PhD](#)

Subscribe



**Why the President of the Club of Rome tried
to stop the approval of my dissertation**

A brief history of the club, their vision of a technocratic dictatorship, and tight
connections to the elites of the world



[JACOB NORDANGÅRD](#)
OCT 7, 2023