

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

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

Councilors Excused: None

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

CHANGES TO THE AGENDA

City Manager Estes requested the addition of Regular Agenda Item: Intergovernmental Agreement (IGA) with Clatsop County.

The agenda was approved with changes.

REGULAR AGENDA ITEMS

Item 4(a): Authorization to Award Construction Contract for the 2018 Paving Project

The 2018 Paving Project will include asphalt pavement overlay, asphalt grinding, ADA ramp upgrades, road base reconstruction, curb repair, striping and other associated improvements. Work was planned for the following locations.

| Road Description | From | To |
|-------------------------|-------------------|-------------------|
| 15th Street Duane | Street | Franklin Avenue |
| 14 th Street | Marine Drive | Commercial |
| 11th Street | Duane Street | Exchange Street |
| Franklin Avenue | 10th Street | 12th Street |
| West Bond Street | West Marine Drive | Hume Avenue |
| West Grand Avenue | Elsie Avenue | Lincoln Street |
| Denver Street | Florence Avenue | West Marine Drive |
| 4th Street | Niagara Avenue | Cul-de-sac |
| 5th Street | McClure Avenue | Nehalem Avenue |
| Irving Avenue | 16th Street | 18th Street |
| Cedar Street | 47th Street | 51st Street |
| Birch Street | 51st Street | 53rd Street |
| 51st Street | Cedar Street | Birch Street |
| 53rd Street | Birch Street | Ash Street |

On June 18, 2018, City Council authorized staff to solicit bids for the project. The following competitive bids were received:

| Contractor | Total Bid |
|----------------------------|-------------|
| Bayview Transit Mix, Inc. | \$752,070 |
| Granite Construction, Inc. | \$1,129,129 |

The lowest responsible bid was received from Bayview Transit Mix, Inc. for \$752,070. This exceeds the City's construction estimate of \$600,000. The higher than anticipated amount may be partially due to volatile material pricing and high demand for construction services.

City staff negotiated with Bayview Transit Mix, Inc. per Oregon Revised Statute 279C - 340 "Contract Negotiations" to modify scope and value engineer items to bring the contract within the City's project budget.

As a result, three locations were removed for the project. These include 14th Street, West Bond Street and Denver Street (locations are crossed out above).

The removal of 14th Street and West Bond Street will also allow time to coordinate with ODOT regarding needed ADA ramp upgrades on the State Highway adjacent to the proposed paving limits. The extent of this coordination was not fully realized at the time of solicitation. All three locations will be considered in the next paving project.

Funding for this project is available in the Astoria Road District Fund (Local Fuel Tax Fund). The City Attorney has reviewed the attached contract and has approved it as to Form.

It is recommended that City Council authorize award of a construction contract to Bayview Transit Mix, Inc. in the amount of \$555,292.50 for the 2018 Paving Project.

City Council Action: Councilor Price moved to authorize award of a construction contract to Bayview Transit Mix, Inc. in the amount of \$555,292.50 for the 2018 Paving Project; seconded by Councilor Nemlowill. Motion was approved unanimously. Ayes: Councilors Jones, Brownson, Nemlowill, Price, and Mayor LaMear. Nays: None.

Item 4: Intergovernmental Agreement (IGA) with Clatsop County for Commercial Plan Review and Inspections

This item was added to the agenda during Item 3: Changes to the Agenda.

The memorandum on the IGA was available at the dais.

City Manager Estes explained that the agreement contained a typographical error when City Council approved it at their July 2nd meeting. The purpose of the agreement is to compensate the County for plan reviews and revenue sharing. The agreement erroneously stated it was the County's obligation to provide the revenue sharing and should have stated that obligation was the City's. It is recommended that City Council authorize the City Manager to sign the revised IGA.

City Council Action: Councilor Nemlowill moved to authorize the City Manager to sign the revised IGA with Clatsop County; seconded by Councilor Brownson. Motion was approved unanimously. Ayes: Councilors Jones, Brownson, Nemlowill, Price, and Mayor LaMear. Nays: None.

Item 4(b): Public Hearing on Appeal 18-02 by Barbara Bower, Cheryl Storey, and John Ryan of Design Review Request 17-03 at 2350 Marine Drive

On May 3, 2018, the Design Review Committee (DRC) held a public hearing and reviewed a request to construct a commercial facility for the Astoria Co-Op Grocery at 2350 Marine Drive. The location is within both the Civic Greenway and Gateway Overlay Zones, requiring review by DRC. The goal of the design review is to carry out broad design objectives of the Gateway Overlay Zone in an effort to unify the Gateway Area and encourage building styles characteristic of Uppertown's historic building types. Guidelines the DRC must follow appear in Sections 14.020 through 14.030 of the City's Development Code.

A public hearing on the DRC Appeal has been advertised and is scheduled for the July 30, 2018 City Council meeting. Oregon's "120-day Rule" required that this land use decision be completed by August 31, 2018.

The Notice of Appeal was submitted by Barbara Bower, Cheryl Storey and John Ryan on June 25, 2018. With their appeal, the Appellants submitted an additional narrative (attached). The appeal asks that the DRC decision be overturned based on the following issues:

- | | |
|------------------------------------------------|----------------------------------------|
| 1. Traffic impacts, driveways, and circulation | 5. Pedestrian-oriented design |
| 2. Vehicular access and egress | 6. Minimum building height |
| 3. Parking lot design | 7. Consistency with Comprehensive Plan |
| 4. Building orientation | |

Although the Appellants have standing to appeal, items 1 and 2 are not criteria subject to design review and are not subject to review in this appeal. Following DRC review, traffic impacts and vehicular access will be reviewed by Public Works and Community Development Departments prior to issuance of a building permit. The Oregon Department of Transportation (ODOT) may also provide comments prior to issuance of a building permit. The City continues to coordinate with the developer and ODOT regarding the proposed traffic impacts. However, as traffic matters are outside the purview of the DRC, no further comments or findings on this subject have been provided by Staff.

In a similar vein, Mill Pond Homeowner's Association Architectural Guidelines are mentioned by the Appellants in their materials, but provide no authority for your consideration in this appeal. The HOA Architectural Guidelines are administered by the Mill Pond HOA Architectural Review Committee. The City has no authority to enforce those guidelines in this appeal.

Items 3 – 7 of the Appellants' submissions are properly subject to your review and are addressed in the Supplemental Findings of Fact contained in the Staff report.

It is recommended that the City Council hold a public hearing on the appeal, review new testimony, and consider the Design Review Committee decision to approve the construction request. Regardless of the direction, the City Council will need to adopt applicable Findings of Fact which have the basis of their decision.

Planner Ferber provided details of the appeal and presented the findings and conclusions contained in the Staff report. Public comments received as of 4:30 pm that day were available at the dais. The supplemental Findings of Fact contained issues raised by the Appellants.

Mayor LaMear asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. She asked if any member of the City Council had any conflicts of interest or ex parte contacts to declare.

Councilor Nemlowill declared that she was the marketing director for the Astoria Co-Op. She recused herself from the hearing.

Mayor LaMear opened the public hearing at 6:11 pm. She explained the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria were available from Staff. She called for the Appellant's testimony.

Carrie Richter, Attorney representing the Appellants, said that before the hearing was opened, she wanted to ask if any of the Councilors had visited the site, had any ex parte contacts, or read any newspaper articles about the application.

Mayor LaMear confirmed she had read newspaper articles on this issue.

Ms. Richter requested that the newspaper articles be added to the record.

Councilor Price stated she had been by the site many times, but had no ex parte contacts. She had read every newspaper article and had heard from many people about this appeal.

Councilor Jones confirmed he had read all of the local media articles and drove through the area regularly. He had been approached by Mr. Ryan last year after a City Council meeting, but he told Mr. Ryan he was not able to discuss this with him.

Councilor Brownson said he had read all of the articles and drove by the property all the time. He had avoided ex parte contacts and believed he could be fair.

Cheryl Storey, 2605 Mill Pond Lane, Astoria, Board President, Mill Pond Homeowner's Association (HOA), said the Mill Pond residents filed the appeal on June 7th, appealing the Design Review Committee's (DRC) decision because of the orientation of the building and the location of the building on the lot. Access to the Co-Op parking lot is on Steam Whistle Way, which is a narrow road alley way with access for local traffic. The Mill Pond residents have been asking for access to the Co-Op parking lot to be via 23rd Street to keep traffic off Steam

Whistle. They had previously asked for the DRC to consider Option B as designed by the developer, but other options may be available to allow access to the Co-Op via 23rd Street. The documents she provided with the appeal were on Pages 29 – 34 of the agenda packet and included references to Astoria Traffic Codes, City Development Codes, and Astoria's Comprehensive Plan Policy. She asked the City to hear and understand her concerns with the Co-Op parking lot access via Steam Whistle Way. The residents of Mill Pond are concerned about the increased traffic issue that would impact the safety in Mill Pond and for the low-income senior apartment complex. It seemed that the most important issue to the City was that the parking lot be hidden in some fashion from the main arterial, in accordance with City Development Codes. However, this priority conflicted with other City development, street, and engineering codes related to the Mill Pond development area. Therefore, she believed the orientation of the Co-Op building could be achieved with access to the parking lot via 23rd and still have a reasonably well-hidden parking lot. She asked City Council to request that the developer revise the plans to achieve the goals of appropriate access to the parking lot and access via 23rd. Pages 11 – 18 of the agenda packet discussed the smart development and vision of Mill Pond. Page 13 discusses street designs as skinny streets and parking. The skinny street alleys were essential to the pedestrian oriented design. Using a skinny street to access the Co-Op parking lot was contradictory to pedestrian oriented design.

John Ryan, 2495 Mill Pond Lane, Astoria, stated his garage was opposite one of the exits from the parking lot on the approved plan. On August 15, 2017, he met with eight other members of the Mill Pond Architectural Review Committee (ARC), and the homeowners met with the property owner and Matt Stanley. Going into the meeting, they did not have any real knowledge of what would happen, and they believed they would just be discussing the Co-Op. They were surprised to be presented with architectural plans. They were advised that the Co-Op had been working with the City and that the location was preferred by the City and the occupant. That was strange to him because it was the first time he had heard of the project. Mill Pond residents zeroed in on Steam Whistle Way and wondered how it had gotten to the point where Steam Whistle Way would be used as the major access to the property. They began to discuss alternate locations and orientations of the building. There are four obvious places to put the building. The building could be placed where it is currently planned. It could also be placed to the north against Steam Whistle Way, to the east, which is known as Option B, or adjacent to Marine Drive with the entrance on Marine Drive and parking to the back. Discussing the options was unacceptable to the owner because he had an obsession to use Steam Whistle Way. There was no discussion of any zoning change or divided lots. He knew there was another part of the lot, but no one knew what would go on there or how it would be accessed. As it turned out, Steam Whistle Way is the only way to get in and out of the property since the lot was divided. This revised plan now includes several new windows on the west elevation. The stairs and ramp off 23rd are supposed to make the project pedestrian friendly, which he did not understand. Landscaping has evolved. Increasing the width of Steam Whistle by four feet was an attempt to appeal to Mill Pond residents. That would not do anything for anyone, except it would make the area more accessible for people to drive by and increase traffic. The Applicants have not given any solution for Steam Whistle Way, to use it to enter their property or the adjacent property. They have not resolved Code issues complementing the downtown area by placing the back of the building facing downtown. He did not believe this was complementary to the City of Astoria. Walking down 23rd Street, pedestrians will see a 24-foot high metal building on the right with one little entrance. He did not know if that entrance would be handicap accessible. There would also be several windows and some little trees. This is supposed to be pedestrian friendly, but that was not his opinion. The façade would not face 23rd Street. It would face Portland. He did not care about what they did in Portland. He cared about Astoria. He was really upset because at first, he thought this was a Steam Whistle deal. When he started looking into the project, he believed it was not good for Astoria. Astoria did not need the back of a building facing downtown and the residents on the west side of the project. There is some sort of mandate by the Applicant and the owner to have the back of the building against 23rd and use Steam Whistle Way. He wanted City Council to approve the appeal.

Barbara Bower, 2405 Mill Pond Lane, Astoria, cited the following excerpts from the transcript of the ~~March 3rd~~ March 5th City Council meeting, as follows:

- Councilor Price said the traffic study did not consider the traffic impact on Steam Whistle Way, which would be huge.
- Councilor Brownson said he wanted to hear from the homeowner's association. City Council needs to consider the real potential impact. He understood why the people who had houses there were concerned; they would be directly impacted.
- City Engineer Crater stated, "Steam Whistle Way is an alley and did not have pedestrian improvements."
- Mayor LaMear stated she was "very concerned about the traffic implications. Steam Whistle does not have enough room for two cars to pass. It does not make sense to have two entrances on Steam Whistle

because it is an alley. It would be a nightmare for the people who live there.” She also said that she understood this application was about zoning, not transportation impacts. However, the traffic impact would be huge. She was undecided, but did not want the access off Steam Whistle Way.

- Mayor LaMear also stated she was not voting against the Co-Op, but was voting against the zone change because she believed the transportation issues needed to be addressed.
- At the close of that meeting, she had inquired as to the appropriate next steps for challenging. She was advised verbally and in writing that the DRC would review the request and if their decision was appealed, she would have the opportunity to pursue further discussions with City Council. Approximately 14 years ago, she and her friends began looking for an ideal environment for their retirement years. After exploring several coastal communities, they discovered Mill Pond. They educated themselves with the available marketing materials, the Vision, the Gateway and Greenway Plans; they read up on the revitalization efforts, and long and short term objectives of the community. They were attracted by the waterfront and purchased land 12 years ago in May with the knowledge that due to their professions that they would not be able to build for eight to ten years. However, her building plans were approved five years ago and were reapproved in February 2017. Comprehensive Plan Section 0.358 was created to enhance the livability of Astoria neighborhoods. Policy 1 protects residential neighborhoods from excessive through traffic. Policy 5 enhances the quality of life in all neighborhoods. The Smart Development Plan from Mill Pond addresses street design elements specifically speaking to skinny streets and alleys essential to the pedestrian-oriented design. All of the Mill Pond homes have garages accessed from alleys. This parking design allows for ample vehicle space while maintaining pedestrian friendliness. She was not against the Co-Op, but was simply against the traffic issues. She hoped the community was not giving up commerce and profit in lieu of safety. She would like to know when she would be allowed to live the life she was promised when she purchased her property, to enter and exit her garage safely and without fear, and to take a long leisurely stroll.

Carrie Richter, Batement Sidell Law Firm, said she represented Barbara Bower. The DRC's approval, if affirmed, would allow the Applicants to realize all of the benefits of developing the property as an intensive retail commercial use while forcing all of the negative externalities of the development on to a few residential property owners, particularly her client who had a good faith belief that the local service alley would remain as such. She had submitted a letter from 2007 in which the City Engineer had stated that Steam Whistle Way was not recommended for future development. This was not just about an inconvenience. A licensed and experienced traffic engineer identified site distance and spacing conflicts increasing the likelihood of collisions. These safety concerns are real and cannot be alleviated by widening the road.

- At about 5:00 pm today, she sent Planner Ferber a letter dated July 30, 2018, from her traffic engineer, Rick Nyes. She understood the City was having email problems, so she read the letter into the record as follows:
 - [The letter] stated he has reviewed the revised site plan. She noted the Applicant included a revised site plan on Friday showing a single entrance on Steam Whistle Way. She continued, “The proposed site access to offset from the access to the north side of Steam Whistle Way remains at less than 25 feet. Therefore, the proposed access to Steam Whistle Way violates City access spacing requirements of Astoria Development Code (ADC) 3.008.”
- She continued, saying that the location of the driveways on Steam Whistle Way make the alley suitable only for a very small volume of cars; only the residents who live on the street, and potentially a very low impact commercial development, not a retail development that would generate 1200 cars per day. The Applicant and the City argue this is only about design and the look of the development. Nothing else could be further from the truth. ADC 14.030 Other Applicable Use Standards was included in her handouts. All parties seemed to agree that this chapter of the Code applied to this project. It includes topics such as building orientation, access and parking design. This is a clear acknowledgement that placement of the building on the site, the building size, the location of the parking lot, and vehicle circulation patterns resulting from the design fall expressly within the purview of the DRC and City Council when reviewing this matter. The subsection on access and parking design indicates that all uses served by an alley, local street, or collector street should have alley or street vehicular access and egress. This suggests a proportional relationship between the uses served and the access points. It would not make sense for the users of a facility coming from the city to access the site from a local alley intended only to serve residences.
 - The standard also says parking lots should be on the interior of blocks or behind buildings and should be designed to be as unobtrusive as possible. In this case, the parking lot was not behind the building. It was at the front of the building and was not as unobtrusive as possible. An unobtrusive parking lot would be one that did not force all of the traffic impacts from a development serving the whole city on to a

single street. Parking lots are to be on the interior or behind buildings. This is not interior; it is fully visible from Marine Drive.

- The second criterion under parking and access requires building facades and trees to face the adjacent street. Main entrances should face a connecting walkway with direct pedestrian connections to the street without requiring pedestrians to walk through parking lots or access driveways. The primary building façade does not face the adjacent street. Even the Applicant concedes to this. Page three of the appeal letter states, "The main building entrance does not face on any of the directly adjacent streets." The back and sides of the building face the street, so this criterion is not satisfied.
- The third criterion states parking areas should be shared among various uses where the development or block is planned as a whole. On-street parking on internal streets may be counted towards off-street parking. This encourages shared parking.
- Her letter pointed out that this plan provides for a swale dividing the proposed part of the property to be developed from the vacant part. This makes it impossible for the vacant part to be developed with access anywhere other than Steam Whistle Way. Not only does this design put 1200 vehicles per day on Steam Whistle Way, it also ensures that any commercial or retail use, a high traffic generator, could go on the property and generate as much or more traffic. And it would all funnel through to Steam Whistle Way. Yet, the Applicant has made no effort to acknowledge that is the case. If parking areas are encouraged to be shared, then City Council needs to consider how this development land locks the vacant parcel and creates even greater impacts on Steam Whistle Way. The criteria are not satisfied with commercial scale parking lots taking access from a residential alley that was never conceived to accommodate this traffic. This approach is an obvious violation of design standards that talk about compatibility.
- The Applicant suggests that this design is the best that could be done given the constraints of the site. She questioned what the constraints of the site were. The Applicant has 77,000 square feet of property available to build an 11,000 square foot building. The property is flat and has road access. There are a ton of options on this site. The option she believed would satisfy the DRC's concerns and the safety concerns would be to turn the building so that it fronted Marine Drive. All of the design review examples and standards have buildings that face the street. This building should face the street and the parking lot should be behind it.
 - Access should be off 23rd, which would allow for continued access into a parking lot on the adjacent property. 23rd Street is 36-feet wide, which is wide enough to accommodate commercial scale traffic. The Applicant's attorney says nothing suggests that a curb opening on Steam Whistle should be discouraged. That is not true. The Mill Pond Village Plan indicates the houses are to be served by alleys that encourage a pedestrian design. The Mill Pond plat that she attached to her letter showed Steam Whistle had 16 to 18 feet of improved pavement right now. The proposal is to widen it to 22 to 24 feet. 23rd Street is 12-feet wider, but all of the traffic would go on Steam Whistle. This suggests that access to a resource that will serve the city as a whole should have a commensurately scaled street to serve this development. 23rd Street is a true local street.
- The design review standards relate to use as they are affected by design. If the function of a use, as impacted by its form, is not considered part of this design review, there is no forum to review these matters because this question will be resolved. When the Applicant files a building permit, the City Engineer identifies the [inaudible] and the Applicant will say the design review was approved by City Council and noting can be done. Her client should have the opportunity to weigh in and challenge a decision to allow vehicle use at intensities of scale upon a road that was never designed to accommodate these uses. It will create safety hazards for which no mitigation is available.
- She asked City Council to reject the proposal. It is a clear attempt to value profits over safety of the residents. She asked that City Council interpret the design review criteria to include the traffic concerns by denying the proposal because it fails to satisfy relevant building orientation, access, and parking circulation standards, or extend the decision making deadline and send the matter back to the DRC to consider a design that provides the residents along Steam Whistle with protection from the obtrusive impacts of the design.

Mayor LaMear called for testimony in favor of the appeal.

Gary Aspino, 371 W Grand, Astoria, said he was selling his mother's house at 2705 Mill Pond Lane to settle her estate. Steam Whistle Way is the access to her garage. He was not concerned about the Co-Op building until he was notified that a potential buyer had contacted the City to find out if the proposal for the Co-Op building would impact the value of the houses. This is affecting the resale of the houses in Mill Pond.

Silvia Davis, 2775 Steam Whistle Way, Astoria, stated she would like for the Co-Op to be located in the proposed location. However, the potential entrances on Marine Drive, 23rd Street, and Steam Whistle Way were ridiculous. Cars can barely pass side by side. Cars exiting the Co-Op could turn right on 23rd Street and go by City Lumber, or turn left and go through Mill Pond to the light by the fire and police stations. They would not appreciate the additional traffic. This is very inconvenient; having of those cars on Steam Whistle Way is ridiculous.

Mary Walther, 2775 Steam Whistle Way, Apt. 102, Astoria, said she was a senior on a fixed income. A number of people in her building have scooters or wheelchairs. A few people in the building to the east of hers had the same situation. There are also people with mobility and health issues. There is no sidewalk for them to walk on. If they do not want to get wet and they want to go to the mini market or do their laundry, they need to go on Steam Whistle Way. Without a sidewalk, they walk near the driveways. If someone backs up, there is hardly any room. If there is hardly room for a car and someone walking, there won't be room for pickup trucks and delivery trucks. She was concerned about public safety and said she had a real heart for people with mobility issues. She did not want to see anyone get run over. Therefore, she believed 23rd Street should be used.

Arlee Jensen, 1885 Huckleberry Drive, Seaside, said she owned Lots 17 and 18, which are on the corner of 23rd Street and Steam Whistle Way. She would be the most impacted of anyone by every car that comes by their home. She was a huge advocate for the Co-Op. Her family has lived in the area for 100 years and she loved Astoria. She also loved what the Co-Op brings to the area. Her grandmother was a maid at the Flavel House. She was coming into this as a retiree. She had known all along that she would be pushing 65 or 70 when she got here. She was aware that other people in the complex were all in her age group. Her husband is committed to a wheelchair or a scooter. They intentionally selected a location where he would be able to have mobility to the Riverwalk, Safeway, and the hospital because all of those things were incredibly important. There is not another option and her husband cannot come down the front stairs. The idea of 1,000 plus cars coming by on a daily basis did not make her feel comfortable. This is an enormous challenge to her, the senior living facility, and the low income housing. It would impact the quality of their lives and impact their safety. She also believed the Co-Op would impact the value of their properties when people look at that opportunity, particularly since people who want to live there are probably in her age group. The Co-Op needs to be in a position that faces the community so people can enjoy it, look at the building, and see it as a prized possession of Astoria without impacting the people who live there.

Gary Huffman, 2405 Mill Pond Lane, Astoria, said he owned Lots 18 and 19. When the Mill Pond development was created in 1999, it was inspired by a pedestrian friendly fishing village. In the original concept, Steam Whistle Way was a pedestrian path. But, in the final approval of Mill Pond, it was designated as an alley/driveway with alley load lot garages. He purchased his property in Mill Pond in 2006. In 2007, City Council designated Steam Whistle Way as a minor residential street below City minimum street codes requiring 28 feet. At this time, the City Engineer, Carol Richardson, stated in a letter that Steam Whistle Way was, "not recommended for further development." City Council deferred the traffic issue to the DRC. He attended both DRC hearings and it was apparent to him that the DRC was not informed by Staff that the Gateway provisions provided flexibility to allow them to consider traffic impacts to Steam Whistle if they desired to do so. He believed that if the DRC had been given that opportunity, several of the Commissioners would have voted against the current proposal with great confidence. There is a chain letter from the Oregon Department of Transportation (ODOT) recommending Steam Whistle Way. In his opinion, that chain letter is invalid because ODOT has no jurisdiction over Steam Whistle. Their opinion is irrelevant to this situation and to the use of Steam Whistle. The Applicants made one proposal for the DRC to review. The Applicants misled the DRC, making them think they had no control over or a vested interest in the other portion of the property that is undivided. To this day, the property is still undivided. The Applicants should be required to come up with an alternative design. He believed a different design that does not have such a dramatic impact on Steam Whistle is possible. He did not believe anyone was against the Co-Op. He was against the use of Steam Whistle Way for safety issues.

Tom Buckingham, 400 Avenue P., Seaside, said the people on Steam Whistle bought, built on, or were about to build on their properties under the premise that Steam Whistle was a low density residential road. All of the Councilors had commented that they had driven down Steam Whistle. He challenged the Councilors to drive into several of the garages and back out of them before making a decision that would affect the residents' safety. Once the request is approved, he assumed another retail area could be built, which would be more than 1,200 cars. Right now, the street is low density because there are hardly any cars on Steam Whistle. He wanted the Councilors to try backing out after there are 1,200 cars on Steam Whistle. He stood in the garage on the very

southern end and simulated in his mind what it would be like to back out in his car. He would not be able to see to the right or the left until the car was out in Steam Whistle. People are not against the Co-Op. If he lived in the area, he would walk across the street and shop. He was concerned about the safety. He would not want to back out with 1,200 cars coming by him. Mr. Ryan, whose property is opposite the entrance, will have to sit and wait for cars to go by, in and out of the Co-Op while trying to get out of his garage. The garage is close to Steam Whistle on purpose. It was designed that way years ago as a pedestrian area.

Mayor LaMear called for the Applicant's testimony.

Renee France, 111 SW Columbia Street, Suite 700, Portland, said she was a land use attorney with Radler, White, Parks, and Alexander and she represented Astor Ventures. The Applicants and the Co-Op have worked diligently with the City and the Mill Pond HOA on this case to develop a site plan and building design consistent with all of the applicable Gateway design review guidelines at 14.025 and the other applicable land use standards at 14.030. Through the process, the Applicants have made numerous changes in response to the City, HOA, and the DRC to produce a site plan and building design that provides a high-quality building with pedestrian amenities and features that meet the applicable guidelines and standards to arrive at site plan and building design that will truly be an asset for the city.

- As discussed in detail in a letter she submitted last week, she agreed with the City Manager's assessment that pursuant to the Astoria Development Code, the DRC's purview is strictly limited to the Gateway design guidelines and standards. The traffic specific evaluation that would be done under Article 3 is not within the City Council's purview for the purposes of this appeal. There are some design guidelines and standards that relate to parking location and building location and orientation. Those are addressed in detail in the letter she had provided. They are also addressed in detail in a letter she provided that day. In contrast with the limitation that the DRC has on their jurisdiction, the City has appropriately delegated the decision-making authority related to the technical traffic access standards that are included in Article 3 to the City Engineer. That process has moved forward concurrently with the design review process and consistent with the City Engineer's authority. He has requested a single access point on Steam Whistle Way.
- The site plan was attached to her letter. Without the ability to review the traffic engineer's comment on the spacing standard, she could not respond to it. However, that would be reviewed by Public Works. If there are slight modifications to the location of the access point, the Applicants would accommodate the changes. While the traffic issues are not directly relevant to the design review criteria, as noted in the DRC meetings, it was important to note that the Applicants were responsive to the traffic concerns identified by proponents of the appeal. In addition to having a single access point that would limit the points of entry on to Steam Whistle, the street would be widened by four feet, a new sidewalk would be installed, and turning opportunities would be limited to exiting via left turn only to focus the traffic at the west end of Steam Whistle.
- She also submitted a letter that morning to Staff, notifying Council of what appeared to be an oversight related to the Findings for Section 14.030(c) through (3). The standards were addressed in the application and were identified by the Applicants as applicable standards at both DRC hearings. The opponents raised Section 14.030(c)(1) and (2) in their appeal statements and the appeal issues were addressed in the memorandum by the City Manager. However, because the Findings adopted by the DRC did not specifically address those standards, the letter also provided narrative that does address those standards. She requested that City Council specifically consider that group of standards that was omitted from the Findings and adopt Findings specifically related to those standards in the final decision.
- Her written materials from last week noted that, often, when citing applicable standards, especially as they relate to parking and building orientation, bit and pieces of those standards were cited by the Appellants. It is critical that the decision makers evaluate the standards in their entirety. Those standards were provided in the City Manager's letter and in the letter she provided. In 14.030(c)(1), which was referenced by the Appellant's attorney, says the parking lot should be on the interior of the lot or behind the building. In this case, there are three street frontages, Marine Drive, 23rd Street, and Steam Whistle Way. The parking lot is located on the interior of the block. The Applicant is not required to place the parking both behind the building and on the interior of the block.
- There is a reference to the access points on an alley, local street, or collector street. She believed counsel for the Appellant was reading a portion of a standard that did not exist. Both 23rd and Steam Whistle are public local streets and are identically identified in the Transportation System Plan (TSP). Standard 14.030(c)(2) states building facades and entries should face the adjacent street. In this case, the southern facade has the design elements included on the eastern facing facade, which has the main entry. It talks

about separate facades. There are multiple facades on this building, an eastern facing façade, and a façade along Marine Drive that has all of the design elements that are included on the front of the building.

- One critical standard that has not been referenced is the provision that there be no vehicle area between the building faces and the street. That standard is a significant challenge for this development with three street frontages. The location of the parking is the only option that does not locate the parking between the building frontage and the street. There is a reference to the middle property being landlocked. It is certainly not landlocked in the traditional sense because it has frontage on Steam Whistle Way.
- The Comprehensive Plan goals and policies are not directly applicable. They serve to provide guidance and are implemented through the Development Code. There was discussion about the width on 23rd Street. There is also on-street parking on 23rd Street, which narrows the width of the street. The design issues should be the focus of this hearing.

Don Vallaster, 711 SW Alder, Portland, said he purchased the property 12 years ago. At that time, Wauna Bank had proposed a project. He spoke with Staff, who assured that Steam Whistle was an appropriate street for access to the site. The Wauna project would have two curb cuts on Steam Whistle and one on 23rd Street. A fair amount of daily traffic had been presumed to come down 23rd, turn right on Steam Whistle, entering the driveway, going through the teller window, and exiting back on to 23rd. The discussion that there was never any intention to have access on Steam Whistle was erroneous.

- He displayed the original site plan, which was presented to the HOA in August 2017. The basic elements of that site plan remain in the final version of the plan. The loading bay is important to the Co-Op because they have a lot of material coming in and garbage going out on a daily basis. Having good access to 23rd for those activities makes a lot of sense and takes deliveries off of Steam Whistle Way, leaving Steam Whistle exclusively for car use and going in and out of the parking lot.
- There were a lot of comments at the HOA meeting about the width of Steam Whistle, so he made a couple of changes in response. At the request of the HOA, he would widen Steam Whistle by four feet, which would make a 22-foot right-of-way. Even if a foot on either side is used for curbs, the street would still be 20-foot wide. The average vehicle, like a Ford F-150, is 6'8" wide, so there would be ample room for cars to pass each other.
 - The HOA also requested that he tried to hide and screen the loading bay. So, he lowered the fence height from 10 feet to 8 feet, put in a lot of vegetation to hide the bay, and set it five feet back from the sidewalk.
- There would also be a continuous sidewalk through the Co-Op site for pedestrians. Pedestrian access would be from the parking lot and from the corner of Marine Drive and 23rd Street. He displayed that site plan that was presented at the first DRC hearing. The DRC requested that he accentuate the entry from the west, so he broadened the sidewalk access to the west and added an arbor. He displayed his original plan for the north side of the building and the revised plan with additional landscaping.
- The DRC also requested that he add more activities and make the west side of the building more pedestrian friendly. So, he added espalier trees where there are no windows because there would be a walk-in refrigerator and hood in that area. He added four additional windows and made the other windows high so that pedestrians walking by could look into the kitchen prep area. Other windows were raised to bring more light in and make the transition along 23rd Street more pedestrian friendly. They also have a 5-foot setback with planters that would grow different foods at different times of the year. He displayed the south side and said the request was to make it feel more like the front of the building, which he did by extending the arbor all the way out to the west end of the building to make it more of an entry. He decided to grow vines on a portion of it. He also raised all of the windows to 12 feet. He displayed the original plan alongside the current plan to show the changes. The planters and trees would be part of an educational process to show how food is raised. He showed examples of the trees, planters, and wisteria that would grow on the entry arbor. At the request of the DRC, he would put a shroud around some of the smaller windows to differentiate them from some of the other windows. At the request of the City Engineer, he would have a single entry/exit of 30 feet. John Ryan's garage would be to the east of the entry.

Mayor LaMear asked where the loading bay would be located.

Mr. Vallaster displayed the loading bay on the screen and said the idea was to isolate all of the loading activities in one location so that the street would not have to be used. He pointed out the pedestrian entrance along Marine Drive and doors on the building and gate to the loading bay.

Mayor LaMear confirmed that trucks would back into the loading bay from 23rd Street. She noted Page 79 refers to problems with materials around the loading bay and states the delivery yard fencing would match the building siding.

Mr. Vallaster said he wanted to keep the materials the same.

Ms. Frantz stated the Appellants entered a traffic study into the record on Friday. Her traffic engineer did not have sufficient time to respond. She did not believe a response was necessary because she believed the traffic issues identified in the study were outside of the purview of City Council for this decision. However, if City Council disagreed and wanted to expand its purview beyond what is identified in the applicable criteria and standards in Article 14, she would request a continuance to allow time to prepare a rebuttal of the technical traffic information or that the record be left open so she could provide a written response and an updated traffic study. She did provide in her written materials an updated traffic study directly to the Public Works Department, which she believed was the appropriate forum for that material. She could enter that into the record in addition to a rebuttal.

Mayor LaMear called for testimony opposed to the appeal.

Matt Stanley, 463 Jerome Avenue, Astoria, said there was a lot on the record regarding the long process the Co-Op has followed to get here. Finding a site that met their needs, raising capital, connecting with the developer and partner who would invest a lot of money, and navigating what has now become a lengthy public approval process, has not been easy. They have overwhelming community support for the Co-Op's greater positive impact that would result from the expansion, but now the Co-Op would potentially be restricted from using a local public street. The Co-Op and their customers are being portrayed as a bad neighbor, but this is not the case. They have continued to make accommodations to mitigate any negative impacts to their new neighbors, the latest being a move to a single curb cut on Steam Whistle Way. They will continue to work through the access process with the City Engineer to confirm that the project meets driveway standards and make the project a success for Mill Pond and the greater Astoria community. One of the neatest things on record is a letter from former City Manager Paul Benoit in which he confirms that the Co-Op plans for this site align very well with Art Demuro's plan and vision for this particular corner of Mill Pond. Mr. Demuro wanted something that served and reflected the local community, a commercial use that lived up to the vision of new urbanism, homes close together with minimal setbacks, and mixed uses. We would all be hard pressed to find a better use for this part of the gateway to the city. If there was another orientation that met the criteria and worked for the Co-Op, they would not be here tonight. The Appellants are part of an area of town that is supposed to be bustling. It is one block from a State highway and has always included the potential for commercial uses. Before the zone change, three or four 6,000 square foot retail uses could have been developed on the property and they probably would have had to use Steam Whistle in order to make it work. Until now, the level of traffic and activity in the area has been limited and change could be difficult. But the development was always intended to be a mix of residential and commercial uses that would inevitably increase traffic. He believed the Appellants would find joy in having a fine natural food store next door. It will become a hub for the greater Astoria area and the Mill Pond residents. He urged Council to let the Co-Op move forward tonight with a project that adds value to the region and to the gateway of the city by sticking to the relevant criteria.

Cathy Cruikshank, 1025 Franklin, Astoria, said she supported the Co-Op and opposed the appeal of the DRC decision. She asked City Council to approve and affirm the thoughtful decision of the DRC. The Appellants would like to see a change in the orientation of the building and parking lot area. This would mean that the view from Highway 30 looking west into the city would be a big parking lot. It would be just like the view from Enson heading towards Highway 101 past the enormous parking lot to the right of Costco and to the left of Walmart. The design of the Co-Op building as approved by the DRC avoids this suburban wasteland and should be approved. She walks down 23rd Street often to access the Riverwalk. The Co-Op's proposal as approved by the DRC would break up the line of the building with pedestrian access points, windows, and vegetation. The edible gardens are remarkable and are a happy teaching point for the community. This is clearly a design that is compatible with the Comprehensive Plan and it should be approved. The anticipated use of the lot has been commercial and a compatible commercial use has been approved by the DRC. The Applicant is an existing successful commercial enterprise used by the citizens of Astoria and beyond. It is not too far-fetched to assert that this commercial enterprise is a beloved local institution. It is the perfect compatible use of this commercial space and the DRC's approval should be affirmed by City Council.

Mary Blake, 1668 Whispering Pines Drive, Seaside, said she encouraged City Council to approve the Co-Op's building plan for a new 11,580 square foot building at the corner of 23rd and Marine Drive. The Co-Op has followed the process and done its due diligence with the City and community. It has met the planning requirements and has Staff's support, as well as the support of the police and fire departments. She moved to the area in 1984 and was hired as general manager of the Sunset Empire Parks and Recreation District in Seaside. When she started looking for a community in the area, she discovered the community store. It was formed in 1974 as a buyer's club in Astoria and the store was open to everyone. She loved the people, their mission, their good food, and true sense of community among the people. She shopped and grew with the store's effort. She became a Co-Op member and owner in 2004. She is 117 out of 4,172 members and owners. In the past, she served as a board member and helped hire the current general manager, Matt Stanley, in 2008. The store grew in 2008, when it moved from a small store to its current location. They did such extensive research and studies that guided their strategic plan for their first move. They have experienced strong steady successful growth that has led to the proposed plan. The community engagement at all levels was most impressive to her. It included board leadership, administration, operations, local purveyors, owners, shoppers, partnerships, the community at large, and the national relations with other co-ops. The Co-Op represents the community's uniqueness and diversity and is one of the driving forces in the quality of life in this area. The vision and economic impact the Co-Op has had can be measured and felt in the professional and quality services provided to the region. With City Council's approval, the new store would continue to grow the economy and improve the quality of life.

Allisa Evans, 388 Exchange Street, Astoria, said she was on the board of directors for the Co-Op, so she had seen the past seven-year process of the daydream coming into actuality. She felt like they were at a point where they did not know what would happen. Everyone can go back and forth about what happens if the building is turned to have a parking lot between the building and the sidewalk or turn to have the back of the building to the highway. She believed the real question at hand was would the Co-Op have an impact. Of course it would and she hoped it would have a great impact on the community and the economy. The Co-Op would have an impact on traffic because they are putting a building in a place that is an empty lot right now. Does that mean the DRC's decision was not in accordance with the guidelines? In her opinion, no. She believed the Co-Op put their trust in the DRC to make a decision. They've hashed it all out and at this point, it felt a little like chasing her own tail. They made a decision and at some point, the City has to ask if it needs more information. If they need to know more about traffic, which doesn't fall in the question at hand, then the City gets the information and goes with it. At some point, the Co-Op can trouble shoot and make adjustments. Consider the traffic, access points and cars going in and out of the Co-Op's current location. It is definitely far from ideal, but not all of the under 500 cars come in at the same time. Twelve hundred cars is throughout a day, but not all at once. She urged City Council to trust the power of the DRC and their decision.

Steve Duckworth, 1137 Franklin Avenue, Astoria, said he looked for a retirement home in a wide area of the U.S. and ended up in Astoria. When he came to Astoria, he looked seriously at Mill Pond. If the Co-Op had been there with the facility that is going to be built, he would have looked much more seriously at Mill Pond because one of his criteria was having a facility where he could shop and spend time that was within walking distance. As a developer in Florida, which is a state that is known for a lot of development, he believed this was exactly what was happening to affluent vibrant retirement communities in Florida. They are putting in retail facilities with amenities. He believed the developers and the Co-Op had taken great pains to make this facility as much of a community magnet as possible.

Kris Haefker, 687 12th Street, Astoria, said for ten years before moving to Astoria, he lived next door to a grocery store, which he enjoyed. The store was nothing like the Co-Op and was open late. He believed everyone was experiencing growing pains in Astoria. All of the neighborhoods would experience this in one way or another. The Co-Op in this location is ideal. He did not think it would really have a negative impact on property values in the long term. He believed that whole section of Astoria would prosper and homeowners would benefit greatly and enjoy the experience of walking to the grocery store or riding their bike.

Edith Fromwiller, 239 Kensington Avenue, Astoria, asked City Council to uphold the DRC's decision. The Co-Op worked really hard to meet all of the criteria. She felt like the Co-Op had gone above and beyond to meet the criteria and made several changes and accommodations. The road in question is a City street. She heard talk of a skinny street. She did not know of many streets in Astoria that were not skinny. If she had a garage, she would be really happy backing out. Most of the houses in her neighborhood do not have garages, but the ones that do must back out on to the street. She believed the changes and growing pains were in the right direction. The Co-

Op was working really hard with two overlay zones and they continue to make adjustments. She hoped City Council would uphold the DRC's decision. She realized it would be impactful for a few, but it would be for the good of many and the overall good of the community.

Misha Cameron-Lattek, 1820 SE 3rd Street, Astoria, asked City Council to consider the lengthy process this project has been in and the overall distribution of the back and forth between what has been considered and for how long as a result of due diligence. In January, this issue was before the Planning Commission, who approved the zone change application so that the Co-Op could build an 11,500 square foot unit instead of two 6,000 square foot units. The DRC approved the application by the Co-Op and none of these were controversial decisions. They were all decided with one vote against by the Planning Commission and DRC. At this point, the question is what can be reasonably asked of a private business asking to access a public road in Astoria. The Co-Op has done more than any other business he could imagine would be financially able to do in order to demonstrate they are willing to be a good neighbor. The City approved widening Steam Whistle to make it easier for people to get in and out, not to make it possible. It is a public road. F-150s go up and down that road every day and they pass each other. Some people have tried to portray that it is impossible to drive on that road, but people do it all the time. He asked what else the neighbors would like to see from the Co-Op that had not already been done and could be reasonably asked of the Co-Op. The Co-Op has agreed to provide a six-figure investment on top of the investment that they were willing to make in the community to demonstrate that they are willing to be good neighbors, not because otherwise this would not be possible, but just to be good neighbors. They are willing to put money behind that promise. He hoped that City Council would uphold the DRC's decision because any further deliberations or concessions towards the neighbors would mean that the community who owns the Co-Op would have to pay more to make the Co-Op prettier or more easily accessible from one way or another that is not in line with the Comprehensive Plan or any other relevant document. The City has the voices of some neighbors who are not happy with having a neighbor. That is all. This is not being appealed by the HOA, this is appealed by individuals that have been dragging the process out way to long by filing letters on the afternoon of the last day they can file.

Sari Vladimir Hartman, 35393 Mud Lane, Astoria, said she was a 46-year resident of Astoria and a shareholder of the Co-Op. She was also a shareholder of Astoria Plywood Corporation, where these homes now sit. She supported the Co-Op and felt they had really tried to be a good neighbor and be extremely respectful to the concerns of the people who live there. Change is not easy and living in this community for 46 years she had seen a lot of change. At some point, someone will be in that space and the community needs to look at what that might look like if the City does not allow this or cannot come together. This community has seen a lot of rebirths and she felt this was a good solution. She hoped City Council would consider this now. She and her husband own a construction company that has employed a lot of CDL drivers over the last 16 years. That loading situation is a walk in the park for people who do that for a living. They will be in and out of there like thieves in the night, so she did not think it should be a concern for people who do that professionally.

Mayor LaMear called for the Appellant's rebuttal.

Ms. Richter said this would be a handsome building. She did not think anyone was disputing that it is a handsome building and that it would be a benefit to the Mill Pond residents. That is what they have testified to uniformly. However, an expert traffic engineer has reviewed this proposal and it does not meet the City's 25-foot spacing requirements. Access ways are supposed to be 25 feet apart from each other. As everyone testified, Mr. Ryan's driveway is just slightly to the east if not right across the street. The Bower's driveway is going to be to the west within 25 feet. So, this driveway location does not solve anything and conflicts with sight distances. The Applicant continuously maintains that this is an engineering problem that can be resolved later. She encouraged City Council to acknowledge that there are a number of criteria that talk about things like compatibility and unobtrusive parking design. Imposing all of the traffic impacts from this development on seven or eight residents is not unobtrusive and is not compatible. This is not something that can be resolved by widening the street. The problem is that the driveways are very close to the roadway. A car has to be out in the street in order to see to the left or right. The Applicant has argued that access would be limited to left turns only. She understood that people who want to turn east would turn right out of the driveway because there is a light. There is no light for those turning to the west as proposed. She questioned whether or not that is even enforceable, and it is another reason why this whole discussion needed to be fully vetted right now. She would not have known about the left turn proposal if it had not been brought up here.

- The Applicant claims this design allows for the parking to be to the interior of the block. She asked Council to consider what traffic along Marine Drive traveling west would see. They would see a parking lot and they

would see it for a very long time if the Applicant does not identify a use for the neighboring lot. If they went with Option B, traffic traveling east would see the parking lot. The parking lot is only interior in an east/west direction, but not in a north/west direction.

- The Applicant continuously maintains that 23rd Street and Steam Whistle Way are public local streets, so they have a right to use them. There is no question these are public streets and open to the public to use, but a quick glance at the site plan shows that Steam Whistle Way is not even comparable to 23rd Street. There is probably a reason why all of the site plans do not show that 23rd is significantly wider. It is a local street in name only at best. It was designed and has operated as an alley. The houses around it were approved to use an alley. The Bower's have a design review plan approved residence to the west that will be adversely affected by this left in/left out. The driveway will exit on to Steam Whistle Way and they will have the same backing issues the existing houses have.
- The Applicant spoke about how the Comprehensive Plan goals and policies were not applicable. She agreed with that, but the Comprehensive Plan goals and policies come into play when the City has to make discretionary decisions, like the decision that needs to be made here. The Council has to decide what compatibility and unobtrusive means, and they are supposed to use context. Context comes from documents surrounding a development.
 - The context for the Gateway Overlay is a pedestrian friendly environment through careful siting of buildings and parking lots. A careful siting of parking lots would include a shared loading access where the cars could enter from 23rd through the loading bay. The Co-Op would lose one or two parking spots. At night, trucks could unload with no problems and cars could access there. A driveway could be installed where the swale is located, leaving a planned connection for someday. If there was a condition of approval that provided for a planned connection between the parking lot and the developed property, the building would not have to be redesigned. This could be resolved just by sharing the loading access on 23rd.
- A number of people who testified talked about all of the things that have been done to appease the neighborhood. She believed a number of those things were done to appease the DRC. The building will be beautiful and will have amenities that you would not find in a Safeway. But, the Appellant's should not have to shoulder the traffic burden. They bought their properties knowing there was a curb cut in the middle where the loading dock is and they expected the property to develop. But they expected the development of a credit union that would not generate the traffic that the grocery store would. The Applicant could say it could be developed with two 6,000 square foot uses and this is one 11,000 square foot use, so it would be about the same amount of traffic. That would be the case if the property to the east was not going to be developed, but we know it will be developed and the amount of traffic will be significant.
- She did not believe the record contained any statements about police and fire concerns with this. If the record remains open, she urged City Council to ask the Police and Fire Departments about their thoughts on this use. She had no opposition to the Applicant's request for a continuance, but asked for a formal opportunity to respond to any new evidence they place in the record. She asked Council to uphold the appeal and deny the application or allow the Applicant additional time to redesign the building to protect the residents on Steam Whistle from an undue burden.

Mayor LaMear called for the Applicant's rebuttal.

Ms. Frantz urged City Council to consider what was under their jurisdiction in this review and carefully consider the full wording of the applicable standards that directly apply to the DRC's decision. The words compatibility and unobtrusive have been used multiple times, but the full text of those standards make it clear that this design best meets the standards in terms of parking location in relation to the surrounding neighborhood and the streets. The concept of a shared loading area is easy to point to on a screen, but in reality, it would create conflict between safety and loading needs of the grocery store. The changes that have been made were done so in good faith and under the direction of the City Engineer to mitigate the impacts on the road. It is a public local street and there was access on to that street when the plan was originally made. Council's focus is on the orientation of the parking in relation to the building and how that meets the standards.

Mayor LaMear closed the public hearing at 7:48 pm and called for Council discussion and deliberation.

Councilor Jones said the briefing indicated that vehicular access and egress, driveways, and traffic were not grounds for appeal. Two attorneys, one representing the Applicant and one representing the Appellant, gave different interpretations of whether traffic, driveways, and vehicular access were grounds for appeal. Are the

Councilors to interpret that on their own? City Attorney Henningsgaard replied the standards that City Council is required to consider are in Chapter 14.030. Two standards deal with traffic, one considering the orientation of the building and pedestrian access, and the other dealing with parking areas being shared. Traffic counts are not part of the design review unless Council can make a finding that the traffic effect is somehow involved with the design of the building under the standards in Chapter 14. Before the record was closed, there was a request that the *Daily Astorian* newspaper articles be added to part of the record. City Council would need to rule on that request. There was also a request to keep the record open for 14 days. At that point, it would not be appropriate for Council to make a decision until everything else being entered into the record is considered.

Ms. Frantz clarified that she had requested the opportunity to rebut the Appellant's traffic study if City Council considers the information in the traffic study and makes a decision based on information in that traffic study. She did not request that the record be left open for 14 days. That would have been appropriate for the initial evidentiary hearing. She needed a preliminary decision from City Council on their jurisdiction, authority, and what they would consider as part of their decision.

City Manager Estes said City Council needed to determine where they were headed. If some of the traffic related items are going to be part of the decision, the Applicant has requested the hearing be held open. And the City Attorney has stated that because the Appellants have noted that Councilors read the newspaper articles about this matter as potential ex parte contact, they have requested that the articles be included in the record.

City Attorney Henningsgaard said he had not yet seen the traffic study that was submitted, but it is part of the record at this point. City Council must decide what evidentiary value that study has with respect to their decision. There is no procedural way for Council to look at the study and then say they would not consider it because it is already part of the record.

Ms. Richter said the Applicant did not have any statutory right to a continuance. That is what Ms. Frantz meant when she said she was not asking for 14 days. She provided the traffic analysis on Friday, which provided plenty of time for Ms. Frantz to review it. So, the decision about whether to extend time is within City Council's purview and not any mandatory requirement in order to comply with any rule.

Mayor LaMear asked the Councilors if they wanted to consider traffic matters.

Councilor Jones said based on the advice of the City Manager and the memorandum, Planner Ferber's briefing, and City Attorney Henningsgaard's advice, he did not want to consider the traffic issues.

Mayor LaMear understood that the Council's job is just to deny or uphold the DRC's decision, not to consider traffic impacts, driveways, circulation and vehicular access. She asked if these items had been reviewed in the past and by whom. She also wanted to know if the Mill Pond residents had any input. City Manager Estes clarified that City Council must determine whether the traffic and other items factor into the approval criteria like building orientation. He explained that, as stated in the minutes of the zone change hearing, the traffic issues would be reviewed by the Public Works Department. City Engineer Crater had stated that it would be reviewed as part of his internal design review process. As the appeal process has moved forward, Public Works Staff has continued to review the issues in order to ensure compliance with City statutes.

Councilor Price believed that City Council was the ultimate arbitrator of development in the City. Traffic is such an essential issue in this case, so it made no sense that the public would not have input. She believed the Mayor asked a good question. She asked when the Council and the public had input. City Manager Estes said according to City Codes, that is a Staff decision.

Councilor Price stated the Code needed to be changed. She believed orientation and parking design played into the traffic issues and the impact on Steam Whistle Way. Unfortunately, it was during the rezoning process that the City ceded its right to discuss traffic. The Mayor was the only person who voted against the rezone and Councilor Price now wished she had as well. Of the alternate site plans, Option B is the only one that avoids using Steam Whistle Way in a big way. The building would be on the east side of the property and there would be no way to get to the east side of the property without using Steam Whistle. She was interested in the traffic because traffic would be impacted. The building is beautiful, but she was concerned about the traffic. She did not believe the plan met the Development Code Section 14.030 or the Comprehensive Plan Section 0.015. The Comprehensive Plan says new development should make an equitable contribution to the future upgrading of

public facilities and services. She did not look up the definitions, but was concerned about 23rd and Marine. She read all of the emails, but it was not clear to her whether ODOT actually understood that there was no left turn from Marine Drive to 23rd, nor was there any room to pass on the right. She was sure that during any time of day, traffic is backed up to about 10th Street when a driver attempts to make that left turn. There would be 600 hospital employees crossing at that intersection. If the City did not have the Applicant pay for or contribute to some sort of traffic signal at that intersection during the permitting process, the City could not go back to Applicant later when problems start to occur. The problems would then be the City's issue. She believed the DRC and Planning Department did a great job. She noted that 1/12 of the building was allowed to fulfill the minimum height requirement. If someone wanted to extend their height requirement beyond the maximum by 1/12, what would be the limit to that portion that can be above or below the maximum or minimum? The City needed to be very careful with that.

Mayor LaMear noted that Page 36 of the Staff report, in the memorandum by Bateman-Seidel, said the "transportation impact analysis completed as part of the zone change focused on street capacity and did not consider safety conflicts with the adjacent cottage homes that rely solely on Steam Whistle for access. Streets must be designed to comply with the TSP identified design standards, particularly Standard 15(d). When this concern was raised during the proceedings on the zone change, Staff's response was that these issues would be considered in conjunction with design review. The Appellant complied with these instructions and cannot be deprived of seeking review of these issues in this, the appropriate time to seek review."

City Manager Estes confirmed his last statement was referring to those comments. The minutes state the Design Review Committee would not be looking at the traffic issues because they would be reviewed by Staff. There was a statement by the City Engineer, who used the term "design review". It is unfortunate that term was used in reference to a Staff level review, but the minutes clearly indicate that the traffic matters would be reviewed by Staff and the Design Review Committee would review the architecture.

Councilor Brownson said he spent a lot of time going through all of the material and made copious notes with references to certain issues. They all pertain to the findings of the DRC, not traffic. Therefore, he was not prepared to talk about traffic. He had made statements about traffic during the zoning procedures, but he was told that traffic was not relevant to this appeal. Therefore, he did not take traffic into consideration. At this point, he was not willing consider traffic because the case had not been made that parking and building orientation would have any direct implications to traffic issues. This was discussed during the zoning process, at which time he made it clear that no matter what the City did with this project, traffic would be an issue in that whole area. More commercial traffic will be going into the area and it will have to be dealt with. The City has limited ability to deal with traffic at 23rd and Marine because it is an ODOT matter, but not at 23rd and Steam Whistle. Site Plan B was recommended by the Appellant on a regular basis through this entire process, but the Co-Op has chosen not to discuss it. The Design Review criteria that is being appealed is a matter of opinion and a case could be made for facing the building in any direction. Therefore, he wanted to know why the Co-Op had not chosen Plan B. He would be fine with strictly considering the Design Review criteria and the DRC's recommendation. However, if the rest of the Council wanted to consider traffic, he would do so as well, but was not prepared to at that time.

Councilor Price believed Councilor Brownson was right. City Council ceded the traffic issues during the rezoning process. Perhaps that was because Council believed they would have the opportunity to talk about traffic at a later time, but that is not the case. She did not believe any of the options available for the site would make less of an impact on the residents of Steam Whistle. Option B would be make a slightly less impact, but the eastern portion of the parcel would still be developed with access on Steam Whistle. City Council could tell the Co-Op to reduce the footprint of the building to allow access on the south or north side so that future development to the east would not have access on Steam Whistle. However, she did not believe that City Council or the DRC would provide that direction.

Councilor Brownson said if Council argues about Steam Whistle, noting would ever be developed in that area. The issue will keep coming back to Council. The Wauna development would have added traffic and the homeowners with garages on Steam Whistle would have a problem with that. But that was part of the plan for commercial development of that area and the homeowners should have known that. The HOA should have made that clear when properties were purchased. Everyone agreed that the Co-Op is a great feature. He would live in the neighborhood if the Co-Op were there because he could walk to it.

Councilor Price stated she could only find one issue that City Council had purview on, which were the height requirements. She asked what else Councilor Brownson had been able to find.

Councilor Brownson said he was curious about the minimum height as well because he did not understand the criteria. Planner Ferber explained that usually, the City must consider maximums, not minimums. In this case, Staff found a Code provision after the DRC's review that exempts the minimum height requirement. The Gateway Overlay overrides the Civic Greenway, so only the maximum is set by the zone. Therefore, the minimum is not applicable to this particular property because it resides in both the Gateway and Greenway areas. City Manager Estes added that when the Riverfront Vision Plan was implemented for this area, there were height restrictions that were reduced. The Planning Commission believed the apartment complexes were too tall and created a canyon effect along Marine Drive.

Councilor Brownson said it sounded like a lot of vehicles would be coming and going. He asked Staff to comment on the discussion between the Co-Op and the HOA about using Steam Whistle. He wanted to know how the agreement to widen the street came about. The Co-Op believes they have cooperated by agreeing to widen the street by four feet and he assumed Public Works agreed that would help alleviate the traffic situation and provide more clearance for the homeowners to back out of their driveways. Public Works Director Harrington clarified that concept behind a pedestrian friendly alley way was that alleys would be created to back feed the homes so that the sidewalks in front of the homes could be pedestrian friendly. On traditional streets, the sidewalks have driveway approaches. The idea was that back feeding the homes would make the sidewalks more pedestrian friendly because vehicles would not conflict with them. It was never conceived that massive homes would be built on those lots. The concept plan for the neighborhood showed smaller homes that what was built and the neighborhood was supposed to be a community based residential area. The larger homes pushed the garages closer to the alley, which was never part of the concept. The alley was never intended to be any kind of a pedestrian way. The letter from former City Engineer Carol Richardson, which commented that the alley was not recommended for future development, was taken out of context. She was referring to the aprons that front the alleys, which were put in as part of a plan to guide the pedestrians to crosswalks at intersections and to provide more visibility for vehicles. The entire subdivision was designed to ADA standards and as level as possible on the grade differences in that area. The existing curb cut was just a construction access. Wauna Credit Union had proposed two accesses. The building was going to be their headquarters and a local branch, so it would have been a high volume commercial use.

City Engineer Crater said he understood that when the Applicants met with the HOA, they felt widening the street would alleviate some concerns. Public Works was currently reviewing that as new information was still coming in to Staff. Currently, Staff did not have any concerns with the proposal to widen the street.

Councilor Brownson stated he was not clear on the best ADA access for the apartment residents. Regardless of the original intent of the back alley, it has become a pathway to the laundry mat. But he assumed the sidewalk along Marine Drive could be used as well.

Councilor Price added that she understood the Co-Op would install a sidewalk on the north side of the building, so people could cross to the south side of Steam Whistle and get on to that sidewalk. The sidewalk would provide access to 23rd Street, the mini mart, and the laundry mat.

Councilor Brownson believed the problem would be getting off Steam Whistle and crossing the cars going in and out of the parking lot to get to that sidewalk. However, a crosswalk would take care of that.

Councilor Jones stated most of the two front rows of the audience were residents who were directly impacted, where as everyone else were indirectly impacted by the proposal. Residents spoke forcefully and eloquently over many months, in some cases with emails and letters in addition to the testimony given tonight. This represents a significant change to those who live on Steam Whistle. City Council would not be having this conversation if commercial buildings were on those lots when the residential development was built. Over time, all of the commercial development proposals have collapsed and those lots have sat empty for many years. The residents and owners of lots who intend to build have grown accustomed to the empty lot and a relative quite through street. Now, the inevitable development upon us promises commotion, noise and activity, which is the opposite of what homeowners on Steam Whistle have grown accustomed to over the years. He thought quite a bit about what this proposal would do to the quality of life of the community. When he first moved to Astoria in 2011, he had a long conversation with Paul Benoit about Mill Pond. He was excited when Mr. Benoit explained the

concept of the community as a new urbanist European style community that included apartments, senior living, single-family homes, all packed tightly together in close proximity. The first time he walked his dog through Mill Pond and the Riverwalk, he was struck by how the rear entries and the unbroken sidewalks in the front were really unique. The large houses do not leave much of a front yard, just a little bit of landscaping. The homes on Steam Whistle have front porches and magnificent views of the river. In Europe, these types of communities are areas where houses are tightly packed together at the street, without any sidewalk or front yard, and cars, people, commercial establishments, dining establishments, workplaces, and homes all co-exist together. Mill Pond was an attempt to capture that. He agreed with Director Harrington that the Mill Pond prospectus clearly indicated that ample sidewalks would encourage walking within the development and that locating alleys behind the houses would keep sidewalks free of car traffic entering and leaving driveways. The alleys were never intended to be pedestrian oriented. Livability for pedestrians was all about the sidewalks because the alleys were designed for cars. He disagreed that adding traffic to the alley would impact the pedestrian nature of the community. Whether or not the Co-Op is located there, all of the residents would still be able to walk on foot or by wheelchair to the Riverwalk just as they do today. He was sympathetic to the proposal's impact to residents on Steam Whistle. He went through the entire Agenda packet several times and believed that overall, this project would provide a net benefit to the community. If the Co-Op is built, the vast majority of Mill Pond residents would be thrilled to walk to a wonderful grocery store. Once construction is complete, he believed people would desire the urban style living with a beautiful view of the river and walking distance to the Co-Op.

Mayor LaMear noted that the Applicant had said something else would be built on the lot to the east and the entrance and egress would be on Steam Whistle. When she delivered for Meals on Wheels, it was difficult enough just to drive forward out of that parking lot to go along Steam Whistle because it was so narrow. She believed City Council would be terribly remiss if they did not consider the plot to the east. If entrance and egress to that lot is also on Steam Whistle, it would destroy the neighborhood. She loved the Co-Op and the design of the building, but there has to be some other way to get cars in and out, like Plan B.

Councilor Price stated Plan B would not solve the problem because the building takes up the entire east side. Unless the footprint of the building is reduced, there is not enough room on the sides of the building to have access from 23rd Street to the eastern portion of the parcel.

Councilor Brownson said he was surprised that the Co-Op had not discussed access to that lot. Access via Steam Whistle would limit what could go on that lot.

Councilor Price noted that City Council was considering the current residents who are affected by this development as well as residents who are further east and the traffic. Astoria is changing and this area was going to be commercially developed. There is a big difference between a grocery store and a bank headquarters, but the Co-Op has done a good job of mitigating the business of having a big grocery store. Mill Pond residents would end up liking the Co-Op and the development would work out. Every time she goes to Portland in her Dodge Dakota, she feels like she is in a giant vehicle because the streets are so narrow and have parking on both sides. This is happening to Astoria. The city does not have land. She preferred that the Co-Op had chosen to go into the sentry, but something would go there anyway. Mr. Vallaster will find someone to build on that lot and develop the lot in a high-density way because it is located in the Mill Pond area. The Co-Op would continue to be a community partner and to mitigate, and Public Works would continue to work with ODOT to make the egress and entrance as good as it could be. It does not make sense to send the Co-Op and architect back to the drawing board because eight residents would be affected. She did not believe the project would destroy the Mill Pond area in any way.

Mayor LaMear believed more than eight residents would be impacted. All of the people to the east would be affected as well because there will be no other way to get in to the lot.

Councilor Price stated that lot was always going to be developed commercially and Steam Whistle was never meant to be a pedestrian street. Sidewalks line the neighborhoods pedestrian areas. People purchased homes on Mill Pond Lane with caution and knowing that something would be built on that lot, that they would lose some sunlight, and gain some traffic.

Councilor Brownson said when he bought a lot in Gearhart, it was nice for the first two years and then people started building houses around it. He was upset that it was no longer the same place he had enjoyed, but he knows that would happen. He had looked through the materials and tried to figure out a better way than the Co-

Op could have managed this and he believed they did the best they could. He could see how an entrance on 23rd could kind of mitigate temporarily, but access to the back lot would still be an issue and Steam Whistle would still be impacted.

Mayor LaMear asked Council to consider reopening the hearing so they could hear from Mr. Vallaster about Plan B. Councilor Jones requested a recess prior to taking additional testimony. Mayor LaMear called for a recess at 8:36 pm.

The City Council meeting reconvened at 8:41 pm. Mayor LaMear reopened the public hearing at 8:42 pm and asked Mr. Vallaster to comment on Site Plan Option B.

Mr. Vallaster he had developed four or five different layouts and the building always worked best when located on the lot as proposed. One of the difficulties with the location in Plan B is that it voids the guideline regarding parking spaces between the building and the street. Locating the building as proposed avoids have parking between the building and all three streets. Another issue with Plan B is that delivery trucks would have to back a significant distance into the site, which would conflict with traffic and access to the site. He used a graphic displayed on the screen to explain how trucks would have to back all the way down 23rd Street while vehicle traffic was trying to go in and out of the lot. One more issue with Plan B is that pedestrians walking from the west would not have direct access to the store from Marine Drive and 23rd Street, which is less convenient. The proposed location of the building works better for Co-Op operations and for patrons coming to the Co-Op. Two entrances into the parking area would create problems with distance between parking. Lastly, the site is narrower on one end, so the loading bay would have to be quite a bit smaller and the outdoor seating would be squeezed in.

Councilor Brownson believed the discussions had indicated deliveries would be made during off hours so there would be less competition with people coming and going. He believed CDL drivers could navigate the extra length, so that would not be an issue. He appreciated that Development Code issues would occur with respect to the location of the parking lot. However, he believed the City could work past that. Pedestrian access would only be an extra half block along Marine Drive instead of underneath a nice trellis.

Mr. Vallaster said there is urban context where the building is at the corner rather than the parking lot. Hopefully, at some point, the parking lot across the street on 23rd would revert to buildings also and this would become more of an urban streetscape of the European model that was initially intended.

Councilor Brownson explained he appreciated that, but he was trying to balance safety issues with design issues. He asked what was wrong with Plan B besides all of the little issues.

Mr. Vallaster said the layout would subtly different and fairly similar. The patio would be smaller and squeezed up against Marine Drive. The loading area would be quite a bit smaller and right up against the sidewalk on Steam Whistle. The ideal place to put the building is on the corner of 23rd and Marine.

Mayor LaMear called for the Appellant's rebuttal.

Ms. Richter said she understood that Option B allowed greater mobility for truck traffic because they would not be stuck in one narrow alley and could use the parking lot at night to get around. The land has not been partitioned, so the building could be made narrower and pushed out to provide more room for outdoor seating. All of the shortcomings the Applicants have identified about the site could be resolved, even with the same amount of square footage. Option B is a good one because it puts the cars as far away from the intersection of Marine Drive and 23rd Street as possible, which is one of ODOT's concerns. It also lines up the entrance way pretty closely with Napa across the street. It is good to have driveways line up because cars turning at 90 degrees allows drivers to see oncoming traffic. She also advocated for Option C, which eliminates the sidewalks, because City Council has decided the area is not a pedestrian area. Putting a drive aisle where the sidewalk is could connect all the way to the vacant lot and would not require the building to be redesigned. This would allow the entire property to be serviced along 23rd.

- She explained the details of Option C using the proposed site plan displayed on the screen. A shared loading bay and drive aisle could work because deliveries would be made during off hours. And if the area is not pedestrian, what would be the point of a sidewalk? She suggested getting rid of the sidewalk and make the driveway go clear across to serve both properties.

Unknown stated that is pure speculation.

Councilor Brownson asked if there was room for two lanes.

Ms. Richter said there could be room for two lanes, but she was not a traffic engineer.

Councilor Price said if City Council was going to continue with this discussion, she believed the hearing should be continued. City Council cannot make a decision on alternate site plans right now, which would have to go back to DRC with new findings and a new design by the Co-Op.

Councilor Brownson did not want to see the Co-Op go through another three months of work trying to get things started. City Manager Estes reminded Council they had until the end of August to make a decision.

Councilor Price said that unless Council asks the Co-Op to change their design, alternative options would still use Steam Whistle for access.

Mayor LaMear closed the public hearing at 8:57 pm.

City Council Action: Councilor Jones moved to tentatively deny Appeal 18-02 of Design Review Request 17-03 by Barbara Bower, Cheryl Storey, and John Ryan; adopt the Findings of Fact contained in the Staff report approved by the Design Review Committee as well as the Supplemental Findings; and direct Staff to prepare revised findings in support of denial based on testimony for Council to approve at the next City Council meeting; seconded by Councilor Price.

Councilor Price asked what would happen if the vote were tied. City Attorney Henningsgaard stated he would recommend a new motion to accept the appeal. If the new motion were tied as well, the request would fail to pass.

Motion was approved 3 to 1. Ayes: Councilors Jones, Brownson, and Price. Nays: Mayor LaMear.

City Manager Estes confirmed Staff would revise the findings to capture tonight's discussions and present them to City Council for final review and deliberation at their next meeting.

NEW BUSINESS, MISCELLANEOUS, AND PUBLIC COMMENTS

There were none.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 pm.

ATTEST:



Finance Director

APPROVED:



City Manager

