

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

Councilors Present: Brownson, Rocka, Herman, West, and Mayor Jones.

Councilors Excused: None

Staff Present: City Manager Estes, Contract Planner Johnson, Parks and Recreation Interim Director Dart McLean, Parks Maintenance Supervisor Dart-McLean, Finance Director Brooks, Fire Chief Crutchfield, Police Chief Spalding, Deputy Chief Halverson, Public Works Director Harrington, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

Item 3(a): **Councilor Herman** reported she was glad to see a large audience. She thanked everyone for attending and for caring about the community.

Item 3(b): **Councilor Brownson** reported that he attended the mini-boat launching at the Columbia River Maritime Museum (CRMM). Fifth graders from Vancouver, Columbia City, and Warrenton built five-foot-long sail boats that will float to Japan. The boats have tracking devices and they can be followed online at crmm.org. Pacific Power supported the program. He reported that Pacific Power also gave a grant to the Co-op for rooftop photovoltaics.

Item 3(c): **Councilor West** reported that Clatsop Community College would be hosting a talk on solar power on Thursday, January 23, 2010 at 7:00 pm. She also reported on the Council's last work session to discuss banning formula restaurants and hotels. She and Councilor Herman spoke at the Indivisible North Coast Summit to people who wanted to know how they could get more involved at the political level.

Item 3(d): **Councilor Rocka** reported that he volunteered at the Warming Center.

Item 3(e): **Mayor Jones** reported that he attended an Astoria School Board meeting, where he read a proclamation in honor of school board members. He also spoke at a memorial service for Coast Guard Aviators and Boat Crew who's lives have been lost in the Pacific North West over the last 60 years. He thanked Councilor Brownson for mentioning the educational programming at the museum. He hosted Senator Betsy Johnson, Representative Tiffany Mitchell, and Pacific Power CEO Stefan Bird at the youth education event. He announced that he has appointed Dave Kroening to fill the vacancy on the Astoria Planning Commission.

CHANGES TO AGENDA

No changes.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 5(a) City Council Work Session Minutes of December 12, 2019
- 5(b) City Council Meeting Minutes of December 16, 2019
- 5(c) Library Advisory Board Minutes of December 3, 2019
- 5(d) Design Review Commission Minutes of December 5, 2019
- 5(e) Planning Commission Minutes of December 10, 2019
- 5(f) Historic Landmarks Commission Minutes of December 17, 2019
- 5(g) Liquor License Application from Mac's Deli LLC, doing business as Peter Pan Market, located at 712 Niagara Avenue, for a Limited On-Premises and Off-Premises Sales License

City Council Action: Motion made by Councilor Rocka, seconded by Councilor Brownson, to approve the Consent Calendar. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

REGULAR AGENDA ITEMS

Item 6(a): Second Reading and Adoption of Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2019 Legislature

A public hearing and first reading on this matter was held at the January 6, 2020 City Council meeting. The 2019 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2020. Many of our City ordinances refer to or incorporate state statutes. Every year, the City routinely re-adopts all referenced ORS sections to pick up any changes made by the legislature. This is done by a "global re-adoption", which is the technique recommended by the League of Oregon Cities. The City is legally unable to prospectively adopt Oregon legislative changes, that is, we cannot adopt a state statute "as it now exists and is from time to time amended."

It is recommended that Council conduct the second reading and adopt the proposed ordinance.

Director Brooks conducted the second reading.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman, to adopt the ordinance readopting certain State statutes to reflect changes made by the 2019 Legislature. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(b): Second Reading and Adoption of Amendment Request (A18-01) for Urban Core Overlay Riverfront Vision Codes

In 2008- 2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Leif Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. City Council directed further amendments to Bridge Vista in 2019. Those subsequent amendments were adopted on October 21, 2019. The current proposed amendment would implement the codes for the final section of the Riverfront in the Urban Core area.

Proposed code text amendments will include a new Urban Core Overlay Zone to address the standards for over-water, waterfront development, and land-side development including building height, building mass, width of structures, allowable uses, landscaping, new design standards, and public access to the water, etc. Proposed map amendments will include the creation of an Urban Core Overlay Zone and rezone of the area north of Marine Drive from the tourist-oriented commercial and shoreland zoning to C-3 (General Commercial) and C-4 (Central Commercial) zones similar to those south of Marine Drive.

The Planning Commission held a public hearing on October 22, 2019 and November 26, 2019. The APC recommends that the City Council adopt the proposed amendments (A18-01) for the Urban Core Overlay Area. The proposed ordinance has been reviewed and approved as to form by the City Attorney. The consultant team and staff made a presentation at the City Council meeting on January 6, 2020. At that meeting, the Council held a public hearing and first reading of the ordinances.

If the draft code meets Council's expectations, it would be in order for Council to conduct a second reading and adoption of the two ordinances for the Urban Core Area amendments.

Director Brooks conducted the second reading of both ordinances.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman, to adopt the Findings and Conclusions contained in the Staff report for Amendment Request A18-01 by the Community Development Director, and adopt the ordinance amending the Astoria Development Code. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman, to adopt the Findings and Conclusions contained in the Staff report for Amendment Request A18-01 by the Community Development Director, and adopt the ordinance amending the Zoning Map. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Mayor Jones read the rules of appeal into the record.

Item 6(c): Public Hearing: Appeal (AP19-03) by MMCG GOI Astoria LLC (Grocery Outlet) on Design Review Request (DR19-03) by MMCG GOI Astoria LLC for 2190 Marine Drive

The proposal is to construct a one story, 16,000 square foot Grocery Outlet retail store was submitted in July 2019. The site is within the LS Zone (Local Service), GOZ (Gateway Overlay Zone), and CGO (Civic Greenway Overlay Zone). The applicable criteria, including design aesthetics and orientation of the building are reviewed by the Design Review Commission. Other zoning code requirements are reviewed administratively by the Planner. Traffic, driveway design, utilities, Public Works standards, and other site design issues are reviewed by the City Engineering Division. Those additional reviews would be completed after the DRC decision and when the appropriate applications have been submitted to the departments. Building Codes issues would be addressed by the Building Official at the time of a building permit application. It needs to be clear that the DRC and City Council review of the Design Review Request is not a decision on any of these other permits or issues.

The Design Review Commission held a public hearing on August 1, 2019 and September 5, 2019. The record remained open to September 12, 2019 for the applicant's rebuttal submittal. The Design Review Commission made a final decision on the request at their October 3, 2019 meeting and denied the request.

The applicant appealed that decision on October 23, 2019. The appellant cited several issues concerning the Design Review Commission decision. The complete list of issues appealed can be found in the Appeal of Decision document from the applicant's attorney in the attached Record.

At the request of the appellant/applicant, at its November 4, 2019 meeting, the Council agreed to hold a de novo hearing on the appeal. That is, new testimony may be presented. With the decision to allow a de novo hearing, Grocery Outlet has submitted a revised site plan and building design changes for Council consideration. The major changes are in the location of the Marine Drive access, on-site pedestrian walkways, windows on the south elevation, and the monument sign design. The revised plans and a revised staff report addressing these changes is attached for Council consideration. The appellant's attorney has also submitted a letter dated October 23, 2019 addressing the issues appealed. Staff has addressed those issues but has not made any recommendations in the staff report or completed the "Findings of Fact" on each of the new design issues as the City Council will need to provide direction on the final decision language. Some sections of the staff report will need statements on the Council's findings and are noted as "Conclusion" indicating that findings need to be added.

A complete Record of all submittals, correspondence, minutes, public notices, and Orders are attached. The Design Review Commission denied the request and their Findings of Fact are attached as part of the Record. Any additional documents or comments received after the DRC decision and filing of the appeal are attached to the staff memo.

It would be in order for the City Council to hold a public hearing on the appeal and provide direction to staff on how they wish to proceed to the appeal. The Council has several options: 1) Uphold the DRC decision to deny the request, possibly with revised Findings of Fact; 2) Reverse the DRC decision and approve the request pending adoption of revised Findings of Fact; or 3) Remand the issue back to the DRC for reconsideration. It should be noted that a remand to the DRC would be heard by the DRC tentatively on March 5, 2020 (should that decision be made at the January 21, 2020 meeting) and if their decision was appealed, it would not be

heard by the City Council until tentatively April 20, 2020, which is after the end of the extended 120 Days (April 10, 2020). The applicant is not required to extend the 120 Day period.

Planner Johnson presented the written Staff report, which included a revised site plan showing a shared access to Marine Drive. Correspondence from the public was included in the Agenda packet. All written testimony submitted to Staff since the Agenda was published was available at the dais, which included written versions of verbal testimony that would be given during the public hearing.

Mayor Jones asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. He asked if any member of the City Council had a conflict of interest or ex parte contact to declare.

Councilor Brownson declared that he spoke with Jeff at City Lumber about his concerns before this project was reviewed by the Design Review Commission (DRC). Those concerns were included in the written testimony Jeff submitted. The conversation would have no impact on his ability to make a fair judgement.

Councilor Herman declared that she read newspaper articles and social media posts about this project. However, that would not impact her decision or her ability to make a fair and objective decision.

Councilor Rocka declared he had read newspaper articles about the project, but that would not have any effect on his decision.

Councilor Brownson noted that one of the *Daily Astorian's* articles on this project had been submitted as testimony.

Councilor West declared that all communication that she received about this project was forwarded to Staff and has been included in the Agenda packet.

Mayor Jones declared that he had also read some newspaper articles about the project. He opened the public hearing at 7:32 pm. He explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff. Mayor Jones called for the Appellant's testimony.

Dan Dover 6600 Paige Road, The Colony, TX, Main and Main Capital Group (MMCG), requested the site plan be displayed on the screen. He stated the access points from 23rd Street to Commercial along Marine Drive have been reduced from four to three. The spirit of the overlay zone is to reduce the number of access points, which was done through an agreement with the neighbor. The location of the approach and the way it has been situated allows for more pedestrian friendly access off of Marine Drive. The access is protected all the way through the middle of the parking lot between curbs and bumpers to the front door. The narrative he had previously provided showed the original site plan and the existing site plan. Originally, trucks would access off of 23rd Street and now that is internal. The front door has been moved to make it more accessible to Commercial. There would be landscaping around the building. They have done their best to comply with every bit of direction received from Staff and the Commission. The truck dock on the south elevation was outstanding and no treatments had been done to it because the gas station is located in front of it. Glazing on that side could be a long-term maintenance issue. However, the new site plan is in compliance with new glazing on the south elevation. Originally, the plan called for channeling cabinet letters on the signage. The plan now proposes neon with acrylic overlay to better maintain the neon in the sign. However, it sounds like acrylic is an issue so they would be happy to remove it. They had started with a 10-foot monument sign with a slender middle, but the Commission required the sign be straightened from top to bottom. However, the Commission then decided the sign was not acceptable. Therefore, they have agreed to reduce the monument sign to five-feet with external illumination. The pedestrian friendly nature of the development was constantly brought up. That is subjective and they have not received much direction on exactly how to address those issues. Therefore, they hired a PhD and American Institute of Certified Planners (AICP) planner to review the site plan and make a determination. He provided copies of the planner's determination to Staff to be entered into the record, which were made available to the Councilors at the dais. They need direction on how to work with the City on the design of the site. The proposal is for an allowed use in the zone and they are doing their best to conform to what the City wants. They need specific direction on how to accomplish that. Every bit of direction received so far they have complied with only to have the DRC deny their request.

Mayor Jones called for testimony in favor of the appeal.

Mike Grungier, Marketing Agent for Wise Real Estate Advisors said in July, he placed his sign on the property along the highway and commenced marketing efforts. He thought maybe the hospital would be an interested party, but they were not. After 17 months, in November 2016, the property went under contract to a developer. After encountering a lot of hurdles, the buyer became frustrated. After 15 months, in January 2018, they terminated the contract. Ten months later, in 2018, the property was under contract again. Main and Main Capital Group develops sites for Grocery Outlet franchises. Over 15 months, they worked to fit this concept in the area with architectural design. The buyer has shown willingness to meet guidelines set by the City, revising their design at considerable expense several times. Over the past several months, they have heard about what people in Astoria envision, possibly something historic, smaller, local, mom and pop, storefronts operated by local people. Here were are 47 months later and no buyer has expressed interest in such a development. As a lead marketing person on this property, for six years he has talked to national tenants, local tenants, interested parties, and done due diligence on the property. He can confirm there is no serious buyers that have evolved. If City Council passes on this proposal, the next opportunity for this site would probably be decades away. The owners are left with no other choice but to lease the former Napa building to whoever brings a good deal. The property owners are required to pay taxes and have for decades, which requires income. The property will continue to look as it does now, run down, pot-holed, with trailers parked all over the place. This is a very visible site coming into Astoria. He would think the City wanted it to be something different with a higher and better use. The choice is the unattractive status quo with the potential for an undesirable tenant or an attractive new development that creates jobs and serves the community.

Bill Hestand 1400 Vibar Cove, Round Rock, TX, representing the property owner The Hestand Family LLC, said he had flown up from Austin to testify, but the testimony he had prepared was not on point. Therefore, he wanted to acknowledge that his brother drove down from Seattle, his sister drove in from Gresham, and the Hestand family wants a good and productive use of the property. However, they have been left with a very difficult and unpalatable choice for the City and for themselves. If this buyer does not get approved, the property will stay as it is and they will not put it back on the market for sale. They will put it up for lease and they cannot say what kind of lessee would take the building. The building is not pretty. He drove around it today. There are freight trucks stacked everywhere out into Commercial Street. The trucks drive in and out. His father ran the truck line from the mid 60s to the late 70s. The renters have been truck lines. Beyond the design review process, the Council must look at what is good for the City of Astoria. If the City does not approve a development of the property, it will continue to look the way it does. The developers working with the City now have put tons of money into this project to try to make it equitable and meet the City's needs. Every time they were directed to make changes, they hired professionals who were very expensive to do a design they believed the City wanted. Then, the Design Review Commission would say that was not what they meant. This has been a shell game for the developers. He has to either find a buyer that is a legitimate developer who has the capability to turn the site into something good for Astoria. Between 25 and 35 jobs will be created by this project and the owner of the store is local. This is not a franchise run by a corporate entity.

Paul Davis 33 Auburn Avenue, Astoria, encouraged the City Council to vote in favor of the appeal. He testified at the DRC hearing. It has been very obvious that the developer has tried to meet all of the requirements that the DRC requested. The changes seen tonight include improved pedestrian access and an almost unnoticeable sign. Currently, the property is ugly and does not add to the city. However, the building is old and boarded up, which adds to the historic charm. The store will be completely hidden by the Co-op and the Mini Mart when driving into Astoria from that end of town. Drivers will see through the open parking lot and have a prominent view of City Lumber. When leaving town, the development will be obvious. He believed this was an improvement to the area. He had not heard from anyone in Astoria who wanted to put their own money into developing the property because it is ugly. This is a great use for the property that adds to the city and will remove a terrible eyesore. The parking lot will provide some nice open space. He looked forward to having a low-cost grocery alternative for the people in the community who do not have that option now. He asked that City Council vote in favor of the appeal.

Mayor Jones called for testimony opposed to the appeal.

Matt Stanley, 463 Jerome Avenue, Astoria, said he was present with the Co-op and an attorney. The Co-op also invested in a traffic analysis because they have invested heavily in the gateway to town. The Co-op has been in

Astoria for 45 years and he had been working and living in town for 12 years. The Co-op designed a beautiful building that is really engaging at the pedestrian level. People can see into the production kitchen and sales floor from three sides of the building. That will not be the case with Grocery Outlet. Even though they added windows, they will be blocked with shelving. Additionally, the proposed design puts people in danger. Access for drivers and pedestrians is a serious consideration. There are sound legal reasons why the project does not meet the design standards. City Council only needs one, but there are several standards not met. He spoke to Mr. Greene years ago about developing this property because it was a site the Co-op wanted to look at. At that time, the owners were not interested in developing and just wanted to sell. It is not entirely genuine that they want to see this property developed into something. This is an important part of town that he wants to be proud of. Real estate is a long game and he did not believe 48 months was a long time. The Co-op is located in that area now, the hospital is growing and Walt Postlewait's new development is coming. It will not be very long before a more appropriate design proposal for this site comes along. It is not a good argument that the community would have to stare at ugliness forever.

Ty Wyman 851 SW 6th Avenue, Suite 1500, Portland, Attorney for the Astoria Co-Op Grocery, said the Co-op recognized that the Councilors had a very tall stack of paper to review, so they asked him to summarize the record, which he did in his memorandum. The Gateway Overlay set a high bar of thresholds and standards. His experience is that when the City receives a record of this volume, the process can be lost. There are some design criteria that pertain to vehicle and pedestrian flow. The burden of proof is clearly on the developer. The developer had the choice to have this hearing on the record, where the Council would review the DRC's decision directly, but they chose not to. The developer chose to have the Council make a de novo decision, which keeps the burden of proof on them. "The proposal must be supported by proof that it conforms to the application provisions of this Code." (Astoria Development Code 9.030(c)) The applicant might be subject to a high bar, but nothing in the latest design suggests a different decision from the one the DRC made. The City Council's decision could be appealed to the State Land Use Board of Appeals (LUBA). Should the City Council deny the appeal and the case is appealed to LUBA, the Co-op will join in the defense of the decision. The new site plan shows the developer has expanded the site to the south, which expands the area subject to be noticed under Oregon Revised Statute 197.763. He believed the DRC made the right decision.

Rick Nyes Principle Traffic Engineer with Greenlight Engineering, said he submitted a new report. He is a licensed professional engineer registered in Oregon and he was asked by the Co-op to address transportation related issues. Even with a revised site plan and the new traffic study the applicant submitted, there are still significant issues with the project. The project fails to meet the intent of the Gateway Master Plan. The applicant spoke about the spirit of the plan with access reduction to Marine Drive. The Gateway Plan is clear in its spirit and intent that there be no access to Marine Drive. The Astoria Development Commission (ADC) also supports denying access to Marine Drive. The proposal to remove one of the gas station driveways would trade a low-volume driveway for a high-volume driveway. That is not a good trade. Additionally, the Marine Drive access would fail to meet Oregon Department of Transportation (ODOT) standards for access spacing and sight distance. The applicant has not provided any tangible evidence that there is a need for the Marine Drive access, but they do elude to safety and congestion issues that might be resolved. Their analysis continues to be based only on the Marine Drive access and has never shown an alternative. The Marine Drive access also creates conflicts with the pedestrian environment, which the DRC was focused on. The new site plan illustrates pedestrian access to the west of the Marine Drive driveway. He failed to see how this would be an improvement. It still involves pedestrians crossing a busy drive aisle. With the removal of the Marine Drive access, it would be far easier to achieve a pedestrian oriented environment. He recently discovered Transportation System Plan (TSP) Project D.6 and this project would be in direct conflict with the ability to construct that project. That project involved realigning 23rd Street into Exchange Street.

Andrea Larson Perez 115 Skyline Avenue, Astoria, President of the Astoria Co-op Board, said she represented the nearly 4,000 owners and the community that has supported the Co-op for 45 years. Their owners have invested over \$2 million of their private funds in the Co-op's project. The issue is whether or not the applicant meets the Codes. The Co-op's representatives have spent a lot of time to provide information showing the City Council that there is adequate evidence to deny the project based on the existing Codes and the intent of the Gateway Overlay project. Pedestrian safety and access is an issue and is the underlying intent of the vision for that end of town. She believed the Council had what they needed to deny the appeal.

Julia Stavenhagen Box 184, Hammond, said she just moved here in October 2019. The Co-op gave her a living piece of ownership in property here. She believed resources would be better spent as a community in working

on a footprint that helps the carbon footprint and helps the populous adopt a new greener way of living, which she believed was vitally important. She was one of the undesirable tenants being spoken about. She is from Texas. She was born in Galveston and moved here to escape suburban sprawl. She hoped people would pull together to support an organization like Astoria Co-op instead of inviting a business that brings a lot of Texas sized problems.

John Ryan 2495 Mill Pond Lane, Astoria, said he supported the DRC decision. He objected to some of the mitigations provided to satisfy criteria because he did not believe they were significant to the approval of the plan. Changes to the site plan are irrelevant and add to an unsustainable situation at Marine Drive. The shared entrance with the Mini Mart is ridiculous. Moving an unused curb cut as a solution to a major entrance is not satisfactory. They will still have the Marine Drive access and the pedestrians will still be a problem. There will be no Marine Drive frontage for the design of the building. No one has said anything about the size of the building. The building will be one-third larger than the Co-op. The footprint will be a square sprawling structure not per the criteria. The design is cheap and Astoria is not getting the best of their selected designs. He did not know how one could say this would not be in conflict with similar uses, which is one of the criteria in the zoning. This is grocery store retail. The customer base has been defined as dissimilar, but that is not for the City or anyone else to decide and it does not mitigate the criteria. This project is wrong for the City, for Astoria, and the community of Mill Pond. Everyone has to live with this 16,000 square foot box at the corner.

George Garcia 4784 Birch Street, Astoria, said many people see this area as the gateway to the community and have invested money in their properties to beautify them. The owners have stated theirs is an ugly site. He asked why there were no sidewalks around the property. People wish there were sidewalks in that area. There is an increase in pedestrians. He asked that the owners beautify their property to make it more palatable to people who might be interested in purchasing it. Making the property more palatable might make the property more profitable. Sidewalks would be great. He asked why the store has not proposed to finance the sidewalks. Many safety crossings with flashing lights have been put in Portland and speed limits have been reduced. He asked why the Applicants had not proposed to pick up the tab for making the crossing safer.

Zetty Nemlowill, 478 Kensington, Astoria, said she was concerned about pedestrian safety in the area, which she believed pertained to the design criteria for building orientation and access. There is a crosswalk in proximity to the new Co-op, which is used by all kinds of people, people who ride the bus and people who come from Columbia Memorial Hospital. She spoke with shareholders, the hospital, Mill Pond Homeowner's Association, and Mini Mart, who all have a collective concern and desire to see enhancements at that crosswalk. Talking with City and Oregon Department of Transportation (ODOT) representatives, unfortunately, she discovered that any enhancements would be cost prohibitive in that area. There is no crash data to support enhancements to the crosswalk. She understood the constraints of government and wished Astoria could do something in that area. However, the Co-Op's traffic engineer stated in documents he submitted as testimony that the proximity of the Marine Drive access shifts the problem from the west to the east. Pedestrians will have to cross an area of conflict with vehicles that have just turned from either direction of Marine Drive along with exiting vehicles that are stacked across or near the crosswalk, limiting visibility of pedestrians for drivers entering from Marine Drive. The immediate proximity and conflicts of the crosswalk may be surprising to drivers. Grocery Outlet developers have had a long time to hire a PhD and anyone else to say that the Co-op's argument about pedestrian safety stinks. The City and ODOT cannot afford to do anything to enhance the pedestrian crosswalk right now. She asked the Council to do everything possible to protect the area. Any development that could come in does not need Marine Drive access. She urged the Council to deny the application.

Kris Haefeker 687 12th Street, Astoria, said he was concerned about the façade and how it collaborates with the adjoining buildings and supports the traditional building styles of that district. He asked Staff to display the proposed sign on the screen. Most of Astoria's neon sign inventory is in the downtown area and those signs were put on those buildings because they built in the 1920s. In the gateway, there is a large inventory of historic buildings that predate neon signs. There are a few buildings in the area that have neon signs, but obviously they came when neon signs were popular. He believed the neon sign was not attractive or collaborates with adjoining properties. He wanted to see the façade treatment have a little more attention and historic nature that predates the neon era with some downcast lighting, something flatter, and not so glaring.

Brad Cabellas 235 23rd Street, Astoria, said since the Co-op has opened, parking has gone from the neighborhood. The site being proposed to build on usually has 10 to 25 cars parked on it. He submitted photographs into the record and said the Napa parking lot is full in the middle of the afternoon with overflow

parking from the Co-op and hospital. The proposal is to put a big building on a small site with a limited number of parking spaces. The developer is counting on off-street parking. He had a problem with the City preaching about preserving river views. This building turns its back to those views. The developer has the ability to turn the building 90 degrees to face the river, but they did not want to step away from their stamped footprint and design with the site.

Karen Haines 2505 Mill Pond Lane, Astoria, stated this was a de novo hearing of an appeal by the applicant. She believed the changes to the proposal represented a new application and that the applicant should follow City code and submit this application to the DRC for consideration. Absent Council support for that, she recommended that the Council uphold the DRC decision to deny the application because it does not adequately address pedestrian access, orientation, safety, and neighborhood impacts. The site is in a historic urban setting. It is a highly visible site in the gateway to the community and it is adjacent to a single-family neighborhood on two sides. While grocery stores are an allowed use for this property, this applicant has overloaded the site with a 16,000 square foot facility that is 40 percent larger than the neighboring Co-op. The applicant could put a smaller footprint on the site and improve the pedestrian access and safety and neighborhood impacts. The design creates off-site impacts that need to be addressed, impacts on neighborhood traffic patterns, off-site parking demands, pedestrian safety issues, and signal and intersection improvements on Highway 30. Since the Co-op has moved in, she had the opportunity to see some of the neighborhood impacts with a grocery store in the area. The Co-op is a wonderful neighbor, but there is more traffic on the neighborhood streets. The traffic of most concern is the truck traffic. More truck traffic in the area is using the traffic signal at 30th Street. This will be exacerbated with a much larger grocery store in the area and that needs to be addressed. She urged City Council to send this to the DRC or uphold their denial. If the Council approves this development, she asked that they consider protecting livability in the neighborhood which will be compromised by the scale of the development. She asked that the Council restrict through traffic on Mill Pond Lane, and restrict employee parking on 23rd Street and Mill Pond.

Mayor Jones called for any testimony impartial to the appeal. Seeing none, he called for a recess at 8:24 pm. The meeting reconvened at 8:36 pm.

Mayor Jones called for the Appellant's rebuttal.

Mike Ard, no address stated, traffic engineer representing the Applicant, said his traffic impact study was included in the record. The study was first done for the original project and has been redone for this hearing because a substantial change was made to the site plan by combining two driveways. Under the prior site plan with four accesses along Marine Drive, the project fell under a discretionary section of ODOT's Code, Division 51 Rules for Access. Those rules allow ODOT to grant a waiver to the access spacing standards and other criteria on the basis of a net benefit to the highway system and because the accesses were already existing. The new plan, which combines accesses and reduces the number of accesses on Marine Drive, falls under a different provision of the Division 51 rules, Section 734.051-3020 Approval Criteria, "The department shall approve an application for a State highway approach that does not pose a safety or highway operations concern as set forth," in another section under Condition B, which states, "The department and the applicant reach agreement that the application moves in the direction of conforming to approach road spacing, channelization, and site distance standards." When the number of accesses to a site is reduced, the developer falls under this provision that says ODOT shall, rather than may, approve the access. This project is no longer under a discretionary decision by ODOT and access will be granted by ODOT. The intent has been to develop the site in a way that makes sense and conforms to City Code, which is very difficult to do. The Applicants have sought direction from Staff and the DRC about how to best meet the intent of the Code and provide the City with a good project that will meet their needs. He asked that the Council approve the project and provide him with conditions of approval to allow him to meet the intent of the Code. He asked Staff to display the site plan on the screen. He wanted to make decisions that benefit public safety. The site plan shows a pedestrian walkway from Marine Drive that is centered in the drive aisle and connects to the store. A parking lot naturally has people walking to and from their cars and the store. There will always be pedestrian conflicts in a parking lot. However, there is also the need to connect the sidewalk to the front of the store. The sidewalk was located in an area accessible by people in the parking lot and pedestrians from Marine Drive. Grocery stores do not attract a lot of pedestrians who intend to carry home groceries. However, the safe sidewalk facility will be available to all parties. If the Council believes the sidewalk should be located elsewhere, let him know through a condition of approval and he would be happy to comply. He believed the site should be developable as it sits. Testimony has been provided about a road that would sweep through the back side of the building and mow through the middle of the gas

station to the south. If it is the Council's intent to condemn the property and the adjacent property to build such a road, let him know. However, that would be a taking. He was operating under the rules as they exist right now. The site layout provided is his absolute best shot at making this work in a way that is safe and efficient for everyone. The access to Marine Drive is intended to allow safe access in and out of the building. Without that driveway, traffic will go down to 23rd Street. At the Marine Drive access, there is a center median that allows cars to turn into a safe spot where they can stop without interrupting the flow of traffic while waiting to turn in. Cars can also turn out into the median and make a two-stage left turn. Those opportunities are not available at 23rd Street, which creates far more congestion. The Greenlight Engineering materials reference a City Code that says, "Marine Drive, as a State highway and primary arterial roadway through the city, needs to be designed to minimize congestion," through removing driveways. However, in this case, if the Marine Drive driveway is not there, traffic will need to stop as cars try to turn on to 23rd and congestion will increase.

Mayor Jones called for comments from Staff.

Planner Johnson clarified that Staff always sends public notices to an area larger than required and the reconfiguration of the parcel did not change the area required to be noticed. She reiterated that the Council was not being asked to approve the design of the walkway or the location of the driveway because those must be reviewed and approved by the Engineering Department and ODOT. The Staff report states that according to City Code, a new use in the Gateway will not conflict with the downtown and there are no grocery stores in the downtown. Therefore, the findings note that this use will not be in conflict with businesses in the downtown. The Council is only considering the design and approval of the design does not mean the traffic issues would be approved. The Applicants have worked with Staff on the design issues and from day one, Staff has told the Applicants that the Marine Drive access and the pedestrian orientation of the building were critical. While the Applicants did propose a lot of changes, the Marine Drive access and pedestrian orientation are still a concern for Staff.

City Manager Estes reminded the Council that the Applicants have not waived their right to final written arguments. The Council may ask the Applicants and Staff clarifying questions, continue the public hearing to February 23rd, or close the public hearing except for final written arguments. The final written arguments would be due to Staff by 5:00 pm January 28, 2020 and the City Council would reconvene on February 3, 2020 to deliberate.

Mayor Jones said this hearing had been highly publicized, so he recommended the public hearing be closed so that Council could deliberate at the next meeting. Councilors Herman and Brownson stated they agreed.

City Manager Estes reminded Councilors about ex parte contact requirements.

Mayor Jones closed the public hearing except for final written rebuttal by the Appellant, due to Staff by 5:00 pm January 28, 2020.

City Council Action: Motion made by Mayor Jones, seconded by Councilor Rocka to reconvene on February 3, 2020 at 7:00 pm for final deliberation of Appeal (AP19-03) by MMCG GOI Astoria LLC (Grocery Outlet) on Design Review Request (DR19-03) by MMCG GOI Astoria LLC. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(d): Resolution to Transfer Appropriations within Fiscal Year 2019-20 Budget for Capital Improvement Fund #102

ORS 294.463(2) provides guidance for the transfer of general operating contingency appropriations that in aggregate during the fiscal year are less than 15 percent of the total fund appropriations may be authorized by resolution of the governing body.

At the time the Capital Improvement Fund # 102 budget was prepared, amounts were set for anticipated debt service on leases to purchase two new police vehicles. When new vehicles were reviewed it was determined hybrid vehicles were and this option was more than anticipated in the budget. A transfer in the amount of \$2,510 from Contingency to Debt Service is required to provide sufficient appropriations for the initial lease payment. The transfer amount represents .24 percent, in aggregate, of the total fund budgeted appropriations.

A resolution is attached for consideration and approval.

It is recommended that City Council consider the resolution to approve transfer of \$ 2,510 from Capital Improvement Fund # 102 Contingency to Debt Service.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor West to adopt the resolution approving the transfer of \$2,510 from Capital Improvement Fund # 102 Contingency to Debt Service. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

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

There was none.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:56 pm.

ATTEST:



Finance Director

APPROVED:



City Manager