

## DESIGN REVIEW COMMISSION

### Astoria City Hall

September 5, 2019

#### CALL TO ORDER:

President Rickenbach called the meeting to order at 5:35 p.m.

#### ROLL CALL – ITEM 2:

Commissioners Present: President Jared Rickenbach, Vice President Ian Sisson, Bob Levine, Hilarie Phelps and Sarah Jane Bardy.

Staff Present: City Manager Brett Estes, Contract Planner Rosemary Johnson and City Planner Barbara Fryer (arrived later). The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

#### APPROVAL OF MINUTES – ITEM 3:

President Rickenbach called for approval of the minutes of the August 1, 2019 meeting.

Commissioner Bardy moved to approve the August 1, 2019 minutes as presented; seconded by Commissioner Levine. Motion passed unanimously.

#### PUBLIC HEARINGS:

President Rickenbach explained the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria were available from Staff.

#### ITEM 4(a):

DR19-03      *\*Continued from August 1, 2019\** Design Review DR19-03 by MMCG GOI Astoria LLC to construct a 16,000 square foot Grocery Outlet structure at 2190 Marine Drive in the LS (Local Service) Zone, GOZ (Gateway Overlay Zone), and CGO (Civic Greenway Overlay Zone).

President Rickenbach asked if anyone objected to the jurisdiction of the Design Review Commission to hear this matter at this time. There were no objections. He asked if any member of the Design Review Commission had any conflicts of interest or ex parte contacts to declare.

Commissioner Levine declared ex parte contact. He had asked a resident for their opinion of the Grocery Outlet and their response was that they were more concerned about building on the water area of the pond. The resident did not say anything about the Grocery Outlet.

President Rickenbach declared a potential conflict of interest, as he was a general contractor. However, he had not been consulted on this project.

President Rickenbach called for a presentation of the Staff report.

Planner Johnson reviewed the Findings and Conditions contained in the Staff Report via Power Point. She also provided clarification about some procedural issues and reviewed the role and jurisdiction of the DRC. All documentation and correspondence that had been received was part of the public record. Staff recommended approval with conditions.

Following are ADDITIONS to the September 5, 2019 transcribed minutes as per the DRC's review at the October 3, 2019 meeting:

Planner Johnson noted Staff had made a correction to the Staff Report that was not included in the minutes, and needed to be added to Page 1, Item 4(a), 5<sup>th</sup> Paragraph as follows:

- Condition 10 had been corrected to state, “Buffer the parking lot from view”.
- Condition 13 had been corrected to include, “~~facilities~~ utilities” and to add “as allowed” to the end of that sentence.

Commissioner Levine said Staff needed to add language to the Staff report ensuring that utilities could be screened. Planner Johnson stated a fire hydrant could not be screened from view, but the Staff report could be amended to say “and shall be screened from view as allowed.”

Commissioner Phelps asked if 10 feet was the maximum height for a monument sign. Planner Johnson said yes and noted that some zones have a lower maximum.

Commissioner Levine stated enclosing a neon sign with a glass cover turns the sign into a can sign. Planner Johnson explained that a can sign has an internally lit cabinet. Neon signs are allowed to have a glass cover to protect the lights from weather.

All Commissioners confirmed they had read the testimony provided that day.

President Rickenbach opened the public hearing and called for testimony from the Applicant.

Michael Robinson, 1211 SW 5<sup>th</sup> Avenue, Suite 1900, Portland, said he agreed with the conditions of approval as written, including the modifications to Conditions 10 and 13. All of the conditions are feasible and can be achieved. The conditions make sense and he was comfortable with them. He also agreed with Staff’s analysis and Findings. The Staff report was laid out in a way that made sense and identified changes he had made in response to the comments and testimony. Staff did a nice job of highlighting the issues. The guidelines are not prescriptive standards and the Code is not clear and objective with numbers and precision. Everything he has proposed falls within the elements encouraged by the Code. That is a change from last time. He asked the DRC to keep in mind the triangular shape of the site. The site is not easy to develop, but that does not mean approval should not be granted. The DRC is tasked with determining whether the project has met the guidelines in the context of the site. He had been conscious about how to accommodate pedestrian access, the buildings, and other things the Code looks for. There are two existing driveways. For design purposes, the driveway on Marine Drive could not be allowed. However, the reason for two driveways is to minimize traffic congestion. The word “should” indicates a mandatory standard, but allows the DRC not to apply something if it is unreasonable, impractical, or unfeasible. In his letter dated August 26, 2019, he identified the guidelines that might be unreasonable, impractical or unfeasible. Page 8 of the Staff report does a nice job of explaining why competition is not part of the approval criteria. He was not discounting how people feel about the Co-op, but it just does not have a place in this hearing. He wanted to exercise his right to final written arguments, which is a statutory right Applicants have. After the hearing and record is closed to everyone else, he has a minimum of seven days to submit final written arguments with no new evidence to answer everything. The DRC received two fairly long letters from other attorneys and he had not yet had time to respond to those. He would send final written arguments to Staff by 4:00 pm on September 12, 2019 and the Commission would deliberate on October 3, 2019. He extended the 120-day clock by another 64 days to give the DRC plenty of time to decide.

Commissioner Levine stated Mr. Robinson’s proposal for final written arguments would only be allowed if the Commission agreed with it.

Mr. Robinson clarified that final written arguments were a mandatory requirement.

Staff confirmed this and added that the Astoria Development Code specifically states that if requested, a seven-day period must be granted.

Mr. Robinson stated he was not trying to be aggressive. He liked final written arguments because they would help the Commission and the public. He could not cover everything that was submitted, but the Commission would like to hear the Applicant’s perspective on what has come in.

Dan Dover, Main and Main Capital Group, 6600 Paige Road, The Colony, TX, said he had gone through the conditions provided by Staff. Planner Johnson did a great job with the amendments in the Staff report. He was in complete agreement with the recommendations. At the last hearing, there was quite a bit of discussion about the access, so the site plan was updated with the current location. There was also discussion about pedestrian, so pedestrian access has been added to the property from Commercial and Marine. All of the comments about the



elevation were adopted and he had provided a photometric. He talked with Staff when the initial photometric came out, which was included in the agenda packet. The photometric has been modified based on Staff's recommendations, which was submitted to Commissioners. The landscaping plan has been fully designed with all species. Staff recommended non-fruit-bearing trees, which he was fine with. The south elevation shows the shadow depth of the windows, which will not be flush with the building. He was indifferent on the signage and would do whatever suited the Commission. The property owner requested he address a few items. He read directly from a letter that had already been submitted to the Commission as follows:

"The City's decision should evaluate these questions – Is the intended development allowable within the current regulatory standards? Does the City wish the property to stand as it is today or does the City wish to have a vibrant retailer, developed land, attractive jobs, and a tax-producing status? Understanding that framework, which outcome does the City want? It is not a choice between a hypothetical and an ideal. It is a choice between two factual outcomes, what exists or what is proposed. The property has a truck terminal, which will continue to stand there as long as a viable project is not allowed to redevelop the location. It has the former Napa building. Both structures stand ready to accept tenants. We ask for consideration to be given to this practical reality. If this development fails for years to come, Astorians and visitors may wonder why this property remains ugly and without an attractive appearance. The reality is you can look to this time and date and know the reason. We, as the owners, will have no choice but to lease the building to any business wanting the space. The land has automatic rights for retail and trucking and that is what will continue."

Mike Ard, ARD Engineering, 17790 SW Dodson Dr., Sherwood, OR, said Rick Nyes from Greenlight Engineering had submitted opposing testimony into the record, which indicated access to Oregon Department of Transportation (ODOT) facilities was generally discouraged and that the access standard of 500 feet had not been met by this project. He had not disputed that. However, the Division 51 rules of ODOT are not summed up by one table. There are 47 pages of relevant documentation regarding when and what access is allowed. An application of a standard that requires 500 feet of spacing would actually prohibit many of the local street connections and would not allow a new access unless there was 1000 feet between driveways. The existing driveways are evidence that ODOT routinely deviates from that standard. He had provided logic and reasons as to why that deviation is appropriate and beneficial for this project and for the public. Mr. Nyes had also stated the need for a left turn lane is not supported by evidence in the record. That is untrue. He provided an analysis showing the intersection of 23<sup>rd</sup> and Marine will meet left turn lane warrants in the future with or without this development primarily as a result of the Co-op. Under existing conditions, there are 12 vehicles that make the eastbound left turn on to 23<sup>rd</sup> during the peak hour. With the Co-op in place, there will be 37 vehicles making the turn, which is far beyond the threshold at which Texas Transportation Institute has shown there is a significant operational and safety benefit associated with providing a left turn lane. That is not evidenced in the crash history because those trips are not there yet. He did not want to add to existing problems at the time of project completion. If he does not have the access it is very unlikely that people unfamiliar with the area will turn into the gas station's westerly driveway thinking that will provide access to Grocery Outlet. Any reroute will be worse than the direct access. He was trying to make the most efficient solution that addresses community concerns about getting out of the site. There were questions regarding the scoping of the project. He printed and would submit into the record 17 pages of discussions he had with ODOT and the City regarding the scoping, which took place for over a month. The engineering questions are not intended to be decided by a lay body and they need to be decided by engineers. That process will start following the completion of this. Once the DRC gives their approval, ODOT will evaluate the access, the City engineer will address issues regarding on site circulation and alignment of access. The DRC is not tasked with trying to do an in-depth detailed engineering analysis. All the DRC needs to do is determine whether it is reasonable to allow an access to this site.

President Rickenbach noted that some of the testimony given prior revolved around things outside of what the Commission could look at. He reminded the public to speak to the criteria applicable to the DRC's review guidelines. He called for testimony in favor of or impartial to the application. There were none. He called for testimony opposed to the application.

Carrie Richter, 888 SW 5<sup>th</sup> Ave, Suite 1250, Portland, attorney representing the Astoria Co-op, asked for additional time to speak.

The Commission agreed all individuals would have three minutes to speak.

Ms. Richter stated she had submitted a letter that morning outlining her opposition. She continued to be concerned that the revised proposal did not satisfy the design guidelines for the Gateway Overlay. The existing Marine Drive access is 60 feet wide, which is significantly wider than any access on Marine Drive. Staff has recommended narrowing it. Nothing in the Astoria Development Code Section 14.030 (c) says curve openings on Marine Drive are discouraged and distinguishes between new and existing curb cuts. The Gateway plan says there will be no curb cuts to parking lots. The idea that additional access points will reduce congestion is not the standard that the DRC is dealing with. The standard is to reduce curb cuts because the City is trying to encourage pedestrian accessibility. The curb cuts require people to walk pass where vehicles are traveling. The Applicant's modified site plan does not show the landscaping. The landscaping plan does not show the driveway. A person walking along Marine Drive has to cross along a 60-foot-wide driveway where cars will be coming and going. The landscaping will make it even more difficult to see pedestrians. The Gateway Overlay objective is pedestrian use and accessibility. Assuming a pedestrian gets safely across the driveway, they will then have to walk into the parking lot. Mr. Nyes testimony was that five cars would queue there at PM peak times. Pedestrians will have to walk through that area, which is not safe and is inconsistent with the design standards that prohibit walkways through driveways. She urged the Commission to deny the application.

Matt Stanley, 463 Jerome, Astoria, representing Astoria Co-op, said the Co-op has invested heavily in the gateway to the town. The Co-op has an outdoor covered patio area, edible gardens, an outdoor seating area, and windows that look into the activity of the store. None of their windows will be blocked by shelves and that should be an approval criterion. Windows will be on all sides of the building. The Co-op provides exclusive pedestrian access to the building from 23<sup>rd</sup> Street so pedestrians do not have to walk through the parking lot. He was concerned about his customers who would be walking in the area and driving to the store because the grocery outlet's proposal is inadequate. The Co-op's trucks will not move all over the parking area. Semi-trucks going in and out will interfere with people walking in the parking lot. The Co-op was clearly instructed by the City Staff that no Marine Drive access would be permitted, so he was confused about why Staff would allow it now. The Co-op listened to the community and avoided Steamwhistle Way. The Co-op raised over \$2 million in local investments to build their store. The Applicants had an opportunity to do the same thing after hearing from the community, but they did not. He has provided legal reasons to deny this application. His wife and three-year-old will have to walk past the drive aisle when they come to the Co-op. He should not have to strategize about how to safely walk around the community. The Applicants know Marine Drive is a valid concern or they would not have moved it again. The Staff report says the current design does not promote a pedestrian oriented street front and that this is a low pedestrian area. The new Co-op will add 60 new staff. The museum and hospital are growing. There is also Mill Pond, the senior housing and the Riverwalk in the area. There is no reason to say the area is low pedestrian. The *Daily Astorian* has said this store does not fit here.

Jan Faber, 3015 Harrison, Astoria, said it was sad that the Applicant chose this site for this project. He had never seen a more agreeable and cooperative Applicant. He did not believe this project belonged here. The Applicant's attorney stated the Code provisions were not requirements but were considerations. That does not mean the DRC cannot use them to do the right thing. Attorney Richter's letter contains various criteria the DRC can use to deny the application. The location of the driveway is in the DRC's purview. The suggestion that the driveway is going to alleviate congestion is ridiculous. Coming out from City Lumber, drivers cannot see around the curve. Customers coming out of a driveway right in the middle of the curve will have to look left and right. Amidst all of that, there will be pedestrians. He did not believe this situation would be better for pedestrians than the regular corners. He believed the project and the Applicants were great, but it was just the wrong location. He urged the DRC to deny the application.

Paul Haines, 2505 Mill Pond Lane, Astoria, said he was pleased that Astoria was a place commerce wants to come to. Astoria has codes and standards that are contemporary and are actually written to accommodate development. The City should hold on to those standards and codes and make them work. In this case, when "should" is not enforced, it creates non-mitigated adverse effects on many things. There are many sites in the traffic study that talk about progression on Highway 30 being 35 miles an hour. Maintaining that is important for commerce and arterial passage. Without the arterial passage, traffic will find its way through streets that are not designed as collectors to deal with impatient drivers. He was not convinced that access on Marine Drive could accommodate a 30-mile-an-hour turn. The site plan hopes the "shoulds" can be mitigated by arguments related to certain access points as opposed to powerful arguments on the high value to the community of consolidating access points. An access point on 23<sup>rd</sup> would completely change how the site should look and the architectural design. Code Section 14.030 indicates the City will have to soften its stance on "should" to accommodate this development. The DRC should harden its stance because there are solutions which are better for the

neighborhood, the community, for traffic, for safety, and for the hospital. Access off Marine Drive is imperative. He hoped the developer was not looking ahead to try to avoid participation in a traffic signal at 23<sup>rd</sup>. By not having access on 23<sup>rd</sup>, it is arguable that they would not have any assessed need to participate in a traffic signal. Access on Marine Drive is not a commerce access. He hoped the DRC's findings would reflect that the Applicants have not complied with the should in Section 14.030 and that they need to, including visibility of the parking lot.

Kris Haefker, 687 12<sup>th</sup> Street, Astoria, appreciated the revised lighting plan, their collaboration with Staff, and the revised window plan. He strongly disagreed with fake windows and wanted to see something nicer than bare shelving on the opposite side of the windows. He had a hard time looking at the landscaping plan. He believed mature plants would be used. Signage needed work. He was concerned about seeing a neon sign on the building from Marine Drive. That would be more monumental than a sign on the street. He wanted something more historic with softer lights on a painted metal sign with a frame. He was concerned about pedestrian access. He did not want to walk down Marine across a large driveway. He wanted a friendly pedestrian walkway along Marine.

Mari-Anna Redburn, 24613 J Place, Ocean Park, WA, said she was the Co-op's human resources manager. She deals with human factors every day. The site plan she saw now was the not the site plan she reviewed before coming to the meeting. She was shocked at the traffic flow in and out of the property on the new site plan, which puts their customers and employees at risk. Employees will have to cross over paths that semi-trucks will pass through. She would not want to work in that building knowing that the safety of employees was at risk. The traffic going in and out is a dangerous situation. The Co-op plans to hire 20 to 25 employees who will come and go throughout the day to work various shifts. The Applicant's employees will do the same. Every time employees leave, they will be at risk. Many of the Co-op employees walk or ride their bikes to work. She has dealt with death in the workplace and hoped she would not have to do that again. She asked the Commission to consider human factors when making a decision.

Zetty Nemlowill, 478 Kensington, Astoria, Marketing Director, Astoria Co-op, said two grocery stores back to back with parking lots on opposite sides does not make any sense from a design or planning standpoint. This proposal should be denied because of the Marine Drive access issues. The Co-op invested in hiring an attorney and a traffic engineer to review this proposal because of its proximity to their new store, and they have found some grave concerns with the Marine Drive access issues. It is very close to a pedestrian crosswalk, which is the only way to get across Marine Drive at 23<sup>rd</sup> Street. The crosswalk is just to the east of the proposed site and will be used by all the hospital employees. She has heard a community concern about people not feeling safe getting across Marine Drive. There are 10,000 to 20,000 cars driving by the site at certain times of the year. She contacted Columbia Memorial Hospital (CMH), Mini Mart, Mill Pond Homeowner's Association and found this was a collective concern. There is a desire to see enhanced pedestrian safety in the area, particularly at the crosswalk. She had some good discussions with ODOT and City officials about enhancing the crosswalk. Maybe the City could install a rapid flashing beacon, which would cost about \$50,000. ODOT said if the City did install a rapid flashing beacon, the City would also have to install a pedestrian island. Initial estimates for this are \$300,000. She met with ODOT and City officials and was told that the area is not a priority because there is no crash data to support any crosswalk enhancements even though there is a collective concern from nearby businesses and residents. The money will not flow until someone gets hurt. She understood the City's budget constraints very well. The City cannot just spend \$300,000 to improve the crosswalk, but the City does have the power to do everything it can to stick up for pedestrian safety. It takes a lot of courage to stand up for the community.

Barbara Rasmussen, 1020 Grand Avenue, Astoria, stated Page 3 of the August 29<sup>th</sup> Staff report read, "The close proximity of this project to the Mill Pond residential development warrants strict compliance with the requirements of the design review areas." She challenged the Commission to hold the Applicant to the strictest of standards and not just allow them to get by.

Brad Kobielsuz, 235 23<sup>rd</sup> Street, Astoria, said the traffic pattern of the trucks inside the parking lot would be awkward and difficult for deliveries. This is not a low pedestrian count area between 7:00 am and 8:00 am and between 4:00 pm and 5:00 pm. Most of the buildings in the area face the street and have parking on the side or in the back, but this building seems to be getting a free pass. He would have to go through the parking lot to get to the front door, which is unique to anything that has been built.

Michael Cameron-Latte, 1820 SE 3<sup>rd</sup> Street, Astoria, said from a design review perspective, two grocery stores next to each other with completely different layouts, parking lots, and accesses did not make sense. Just a year and a half ago, the Co-op was told no curb cuts on Marine Drive. They spent a lot of time and money on coming up with something that would allow pedestrian access, keep the neighbors happy, and allow cars into the parking lot. This traffic impact study is sketchy and does not take into consideration the fact that ODOT does not want anymore curb cuts on Marine Drive. This is unfair to a competing local business that has done everything right by involving the public to create maximum transparency. All of the stakeholders and interested parties had a chance to be heard and their interests respected but throwing this cookie cutter building right next to the Co-op would look terrible, would be unsafe, and would not meet a lot of the necessary requirements. He encouraged the Commission to reject the proposal because it is unfair and does not hold up to legal scrutiny.

Andrea Perez, 115 Skyline Avenue, Astoria, said she was a member of the volunteer board of directors for the Co-op during the five-year expansion effort. The Co-op has considered every detail of this project and willingly worked within the bounds and respected the intention of the Gateway Overlay Zone, the Civic Greenway Overlay, and the Local Service Zone. The team never relied on whether a requirement was a "should" or a "shall". Their proactive approach to good neighbor relations when concerns arose was another example of how cooperative the endeavor was. The Co-op did not consider using Marine Drive because it was discouraged. Even if the low pedestrian count is true, she did not believe it was a goal of the overlay zones. Pedestrian traffic should be encouraged in the area. As a representative of the Co-op owners and the board, she believed competition should be discussed. The Co-op has spent a significant amount of time in the community, 45 years building their business. The Co-op is a hub of commerce, community and education in a healthy and accessible regional food movement. The owners have invested over \$2 million of their own cash, home equity, and retirement accounts in the expansion project. With their encouragement and approval, some of those dollars have been redirected towards attorney fees and other experts asking for the Commission's clear application of Codes and guidelines as they pertain to the grocery outlet application. Since the last meeting, there has been very little change in the details or approach. The guidelines are open to interpretation and the Co-op believes the project does not meet the Code. The basis for denial is clear.

President Rickenbach called for rebuttal testimony from the Applicant.

Mr. Robinson stated that while several people said they saw no significant changes, he believed significant changes had been made. He was sorry that was not translated well to everyone. When the DRC judges the criteria, they will find the project meets the approval criteria. He was sure the Co-op was a great community institution and it looked like it would be a great store. However, the land use Codes do not protect investments and are not set up to favor one business over another. The DRC must apply the laws fairly. He was not asking the Commission to show favoritism towards one business. The Applicants have the burden of proof and if the DRC believes they have not met an approval criterion that could be satisfied with a condition, then the application should be denied. If the Commission goes through the Staff report and looks at the evidence submitted, they will find the project meets all of the approval criteria. The store does not need a 60-foot driveway and that is why they have agreed with Condition of Approval 10, which requires it to be narrowed. The narrowing would be done in conjunction with the Public Works Department and ODOT. The record reflects that both the City and ODOT tentatively approve the driveway and they cannot make a final approval until the DRC has made a decision. The Gateway plan is not approval criteria. Page 3 of the minutes of the August 1<sup>st</sup> meeting says the City Attorney had advised the DRC to only apply applicable approval criteria to this decision. Ms. Richter, who is not a traffic engineer, argued that people walking past the driveway would be in danger because of traffic. If that were true, the driveway would not be approved by Public Works and ODOT. The Code requires clear windows, not fake windows. However, the Code does not dictate what must be seen behind the windows. The windows would not be covered on the exterior, but given the interior design of the store, which not something being reviewed by the Commission, the racks will be seen. He was happy to provide clear windows which meet the Code. The interior might be able to be modified in some way that does not affect the floor plan. They moved the driveway, not because it could not be approved, but because it seemed to be a concern of the Commission. They would be happy to move it back. The DRC can tell the Applicants where they want the driveway, which will ultimately be approved or denied by ODOT and Public Works. Every indication exists that a narrow driveway is appropriate in that location. The landscaping will appropriate for sight distances and the sight distance standard for driveways will be met. Some of the testimony did not reflect the criteria. The Code should be followed and the proposal meets all of the guidelines and encouraged standards. Page 23 of the Staff report indicates that signage requirements are met. The site plan shows the vestibule would be on the west side of the building and entries would be on the north and south sides of the building. The Code requires entries to face the street. The entries

do face the street, but because of the triangular shape of the lot, they added a walkway. He encouraged the Commission to read Page 25 of the Staff report, which states, "The design and orientation of the buildings takes more advantage of vehicular access from the parking lot. There is a proposed pedestrian pathway from Marine Drive just southeast of the driveway through the parking lot to the front entry. The plan also includes pedestrian access from the walkway on to Commercial Street." This is a difficult site and the City wants a good building on it. The Code gives the Commission the flexibility to do what they have proposed, which is a variety of ways to get pedestrians safely and adequately through the parking lot from Commercial and Marine. If the DRC believes there is a better way to design the site, he would like for Commissioners to say so they could respond. The triangular site has been appropriately designed and provides entries per the Code. They continued the hearing because the site is a challenge. They have changed the lighting, signs, windows, landscaping, and agreed to all conditions of approval. The Staff report and application materials show they intend to meet the Code. He asked the Commission to approve the application after seeing final written arguments.

President Rickenbach called for closing remarks from Staff.

Planner Johnson stated the Applicant has submitted the locations of public benches into the record. Staff believed the locations were not good for pedestrians and have recommended other locations as a condition of approval. Many of the comments indicated that the Co-op was told from the beginning they could not have access on Marine Drive. Staff did advise the grocery outlet from the beginning that the Marine Drive access was discouraged. After lengthy discussions, Staff advised the Applicants that they would have to justify why they were asking for an exception. The record will remain open for seven days, so the public hearing will be closed after Staff's comments. The Commission cannot deliberate tonight and must wait to hear the Applicants closing remarks. However, the Commission can provide feedback to the Applicants for preparation of their final arguments. Deliberations will be conducted on October 3<sup>rd</sup>. No additional public comments can be received between the closing of the public hearing and October 3<sup>rd</sup>. If Staff receives emails or letters during that time, they cannot be provided to the Commission. If Commissioners receive emails, they should not be opened but forwarded to Staff. Additionally, no ex parte contact is allowed.

Ms. Richter called for a point of order and clarified that the final written argument cannot include new facts. If Mr. Robinson changes the proposal, that will be considered new facts which will entitle the public an opportunity to respond to the revised proposal.

Mr. Robinson confirmed that he understood how the rules worked. If comments indicated a redesign was necessary, he would let Staff know they wanted to submit new evidence into the record.

President Rickenbach closed the public hearing.

Commissioner Phelps asked if the project would still be completed if there was no access on Marine Drive. She believed all of the truck traffic would be on 23<sup>rd</sup> coming off of Commercial. She wondered if the access on Marine Drive was necessary.

Commissioner Levine was concerned about traffic and access on Marine. The Co-op and the grocery outlet, if approved, will have created a huge traffic problem through Mill Pond to the stop light at the police station. The solution would be a traffic signal at 23<sup>rd</sup> Street. He disagreed with Staff on the canned lights. Covering neon lights with glass makes them look like canned lights. A metal or wood sign with lights shining up on to the sign would be better. The Gateway plan says there will be no curb cuts to parking lots. That is an issue on Marine Drive even though there is an existing curb cut.

Vice President Sisson appreciated the new lighting and landscaping plans. He also appreciated that the windows had been changed to clear but did not want to see them obstructed by shelving. He preferred the pilon sign over the full-width monument sign. The letter from Mr. Robinson addressed some comments made by Commissioners, noting that the Gateway Master Plan are not applicable review criteria. He agreed, however, when guidelines encourage or discourage aspects of a project, the Commission should consider those guidelines when making a decision because the Code language implements the master plan. The Marine Drive access is an issue and he did not believe a case has been made that adequately justifies it. He would need to see an argument that the project would not be feasible without that access point. The issue is not with the location or width of the access, but that it exists.

Ms. Richter raised a legal challenge, as it sounded like the Commission was deliberating. The Commission cannot deliberate until it has reviewed all of the testimony.

Commissioner Phelps said she appreciated the window changes, lighting, and landscaping clarifications. She envisioned the pedestrian access on 23<sup>rd</sup> rather than on Marine Drive.

Commissioner Bardy stated she appreciated the changes to the lighting plan, however, she wanted to see the specific foot candles for each area. She wanted to clarify what she said at the last meeting about the difficulty of building on the site. She believed good design was both aesthetically pleasing and purposeful and this lot might make that impossible for this type of store. The lot could be developed, but she did not believe it could be developed with good design for 16,000 square foot grocery store. She appreciated how agreeable the Applicants had been to change things. The DRC also made many suggestions for the Co-op and they were also very agreeable. Their design changed significantly from the beginning. She preferred that the monument sign have a gooseneck light rather than an LED light bar. The Staff report says monotony in design is discouraged and this design with the parapet and the canopies look like the Co-op and Safeway were put together. This is difficult because the design Codes also say the building should be rectangular and industrial.

President Rickenbach moved the Astoria Design Review Commission leave the written record open for Design Review DR19-03 by MMCG GOI Astoria LLC until 4:00 pm on September 12, 2019 as suggested by the applicant's attorney, and continue the Commission's deliberation to October 3, 2019 at 5:30 pm; seconded by Vice President Sisson. Motion passed unanimously. Ayes: President Rickenbach, Vice President Sisson, Commissioners Phelps, Bardy, and Levine. Nays: None.

President Rickenbach called for a recess at 7:24 pm. The meeting reconvened at 7:30 pm.

#### ITEM 4(b):

DR19-04            Design Review DR19-04 by Richard and Candace White to construct a single-family dwelling at 230 23<sup>rd</sup> Street in the AH-MP (Attached Housing-Mill Pond) Zone, GOZ (Gateway Overlay Zone), and CGO (Civic Greenway Overlay Zone).

President Rickenbach asked if anyone objected to the jurisdiction of the Design Review Commission to hear this matter at this time. There were no objections. He asked if any member of the Design Review Commission had any conflicts of interest or ex parte contacts to declare.

President Rickenbach declared a potential conflict of interest as he was a general contractor. However, he did not have any involvement in this project.

President Rickenbach called for a presentation of the Staff report.

Planner Fryer reviewed the Findings and Conditions contained in the Staff report via PowerPoint. She noted that no doors had been proposed for the north elevation of the building, but Page 3 of the Staff report indicated there would be. Staff recommended approval with conditions.

Commissioner Levine said the drawings made the garage door look like they would be at the same height as the windows.

Planner Fryer suggested Commissioner Levine ask the Applicant about the height of the garage door. She confirmed that the Gateway Overlay required garages to be a maximum of 10 feet wide and seven feet high.

President Rickenbach opened the public hearing and called for testimony from the Applicant.

Richard White, 13817 SW Benchview Terrace, Tigard, said this would be their second home and they planned to move to Astoria in the long term. He was a custom home designer in Portland and it is unusual that he did not know what he was getting into when he purchased the lot. Page 3 of the Staff report specifies 13 windows on the south side; however, there would be 14 windows. The Staff report also says there would be six windows on the north side, but there would be seven. Instead of casement windows as the Staff report states, they would be awning windows. Page 9 of the Staff reports says all windows would be vinyl clad wood and/or fixed casement.



However, the windows would be vinyl with grids and patterns applied to the exterior. The Staff report says windows at the rear would have banks of four windows above, but only one would have the bank of four windows above. The north window would actually be a window, not a door. The garage door glazing could be omitted. In his current home, he has a seven-foot garage door because he could not fit a full eight-foot door. While a seven-foot door is acceptable, it would allow four inches of clearance between the standard off-the-shelf Yukon Denali to the door threshold. He would not be able to park with anything on the luggage rack on top of the vehicle. Proportionally, a 7½ foot door would align better. The homeowner's association has fully approved his plans. He proposed a Breckenridge re-sawn sheathing. This would not be a repetitive groove system like T-111. It is a highly refined, Class A product. He also proposed 1 X 3 batten strips. There are a number of homes in Mill Pond that have textured sheathing. Historically, Mill Pond was a private mill and fish box factory. It is important to display the quality of plywood if smooth sheathing is required. When painted, it becomes shiny with no personality. He was just asking for a little bit of texture to show what plywood sheathing could really be about. Exterior lighting would have diffused lighting with a full goose neck shrouded fixture. He proposed a diffused bulb rather than another type of fixture. First floor windows would all be 20 inches off the floor on the front end. He would make any changes demanded by the Commission and give them to the HOA for approval. After submitted the design to Staff, he learned that he was required to have two off-street parking spaces. The Code for the Gateway said he could go to the Community Development Director and ask for an exception for a single off-street parking space and use secondary on-street parking for the second space. He proposed that but was turned down. All of the houses on the pond have one off-street parking space and one secondary on-street parking space. He spoke to Contract Planner Morgan who said he believed the criteria had been met by his current proposal for parking. He only had one car and did not expect a lot of people to be coming and going.

Commissioner Phelps asked if the Applicant was clarifying his plans for the siding and windows or if he was proposed to change what was stated on the plans.

Mr. White confirmed he was clarifying what was on the plans submitted. The Breckenridge product tries to show off the quality one can get from good plywood sheathings as a base for board and batten system. Nothing had changed, but the Staff report said the sheathing had to be smooth.

President Rickenbach explained that smooth did not exclude Breckenridge but was referring to Hardi products that had an embossed fake wood look. The Breckenridge would be just fine.

Commissioner Phelps asked if the plans had been approved by the HOA.

Mr. White said yes, he believed he was required to get the HOA's approval first.

City Manager Estes explained that Staff was learning about some changes. Staff was unaware until this evening that the windows would be vinyl.

Mr. White stated vinyl windows were in the plans he submitted and all of the houses in Mill Pond had vinyl windows. He had not seen any wood windows.

City Manager Estes clarified that Staff was just learning of things they typically would have discussed prior to the meeting.

President Rickenbach said the Breckenridge product had the same texture as cedar trim.

City Manager Estes noted Section 14.025(g) states that plywood paneling is listed as a discouraged material. Therefore, Staff had recommended a condition that smooth siding be used.

Mr. White added that the plans state the windows would be a bronze colored Milgard vinyl Montecito window. The trim would be painted white. A sample of the bronze was submitted to Staff.

Planner Fryer said the windows were shown on Page 10 of the Staff report, but she had not received any physical samples. The windows shown in the Staff report were from an email submitted by the Applicant.

Commissioner Bardy stated the photograph was black and white.

Candace White said she had emailed a color photograph.

Planner Fryer confirmed she believed the windows would be vinyl clad.

City Manager Estes asked for some time to allow Staff to work with the Applicants and get some clarification.

President Rickenbach granted the request.

Planner Fryer stated on Page 9 the Findings should state vinyl window, not vinyl clad wood window. All of the remaining conditions and Findings were adequate. Also, some of the windows would be awning instead of fixed or casement.

President Rickenbach confirmed with the Applicant that all three types of windows would be used and when closed, the differences would not be noticeable.

Commissioner Levine said one of the renderings showed the majority of the roof would be composition and the roof over the front door would be metal. However, Staff's Findings say the roofing would all be composition.

Mr. White stated he just clarified with Staff that the accent metal would be used on the porch and shed.

Planner Fryer confirmed the Finding on Page 13 would be changed to reflect the correct roofing materials.

President Rickenbach asked what color the metal roofing would be.

Mrs. White said it would be weathered zinc.

Mr. White clarified he wanted the Staff report to reflect that low-profile standing seam metal roofing would be used.

Vice President Sisson asked if the mutttons had a profile.

Mr. White said yes, it would be applied to the outside of the glass.

Vice President Sisson said the rendering made the windows look very reflective.

Mr. White confirmed that the window would be clear with standard glazing.

Vice President Sisson asked if the Applicant had discussed the possibility of a variance for the garage door height. A garage door is required to have at least ten percent glazing.

Mr. White stated he was not aware of the requirement nor had he discussed a variance. The plywood was an important issue for him because of the quality of the material. The texture in the plywood is a Douglas fir sheet on the front and has the same texture as cedar shingles. The sheathing will be used as the sub-base for all of the 1 by 3 batten strips. The siding will be elegant and the plywood will be a backdrop to the siding.

Candace White, 13817 SW Benchview Terrace, Tigard, said she wanted windows in the garage. They will always park the car in the garage and will keep it clean. She asked that Commission not require Hardi on the house. There will be issues with Hardi because the area is wet.

President Rickenbach called for testimony in favor of the application.

Brad Mose, 1035 23<sup>rd</sup> Street, Astoria said he was on the architecture review committee for the HOA. He thought the design was nice and subtle. The committee easily approved it, although they had setback issues they referred to the City to deal with.

Diane Spalding, 225 23<sup>rd</sup>, Astoria, said she loved the proposal.

Bob Vetter, 15415 SE River Road, Oak Grove, said he would be building a house right next to this house. He supported the proposal as well.

President Rickenbach called for testimony impartial or opposed to the application. Hearing none, he called for closing remarks from Staff.

Planner Fryer said Page 12, Section 14.025(g) identifies the discouraged wall treatments, which includes plywood paneling. Since the material is discouraged, not prohibited, the condition of approval could be changed. On Page 13, the Findings should indicate that the roofing materials proposed are architectural composition roof shingles and metal sheeting, and that the garage door would have window panels that shall not be smoked, tinted, or frosted glass.

City Manager Estes noted that in this case, construction grade plywood paneling could be considered a discouraged material rather than a higher grade finished material. The Commission could recommend new language for the Findings.

Commissioner Phelps asked if the proposed Breckenridge plywood would comply with the Mill Pond guidelines.

City Manager Estes said it would comply with the HOA standards.

President Rickenbach closed the public hearing and called for Committee discussion and deliberation.

Vice President Sisson proposed that the Finding state the house would be clad in board and batten siding. The board is a plywood product designed for that purpose and is not plywood paneling. He was okay with what the Applicant had proposed.

President Rickenbach said he believed standing seam metal roofing was allowed with a maximum height on the seam, which should be included in the Findings for clarification.

Vice President Sisson asked if other Commissioners were open to allowing some type of privacy glass.

President Rickenbach noted that in the past, the Commission has encouraged interior treatments.

Planner Fryer confirmed the standing seam was limited to 1 ¼ inches high. She would add this to the Staff report as a condition of approval along with language stating it could not be a bright color.

Commissioner Levine said a couple of times he had voted against houses on double wide lots in Mill Pond. This is now the third house proposed on a double wide lot. Guidelines say the houses should take on the look of Mill Pond Village and the majority of houses are on single wide lots.

City Manager Estes confirmed that conditions were aligned to lot coverage not lot size or overall square footage. The entire neighborhood has a minimum density requirement which is factored in. However, the lot line adjustment was already approved.

Commissioner Bardy stated a seven-foot garage may force a future homeowner to park their large vehicle on the street and she did not believe the extra six inches was a big deal.

Commissioner Levine said the Code requires the opening to be no taller than seven feet.

Commissioner Phelps moved the Astoria Design Review Commission adopt the Findings and Conclusions contained in the Staff report and approve Design Review DR19-04 by Richard and Candace White, with the following corrections:

- Page 9 – All windows are vinyl and are fixed, casement, or awning style.
- Page 13 – The roofing materials are architectural composition roof shingles and metal sheeting. The proposed color is charcoal black which is a subdued color. The metal sheeting is proposed to be grey. This guideline is met. The high-profile seam roof shall be limited to ¼ by 1 ¼ height.

- Page 12 – The structure is proposed to be clad in board and batten cladding with Breckenridge plywood sheeting and 1 by 3 cedar batten strips at 16 inches on center. Eliminate the last three sentences of that finding and the corresponding condition of approval for smooth plywood sheeting.

Seconded by Commissioner Bardy. Motion passed unanimously. Ayes: President Rickenbach, Vice President Sisson, Commissioners Phelps, Bardy, and Levine. Nays: None.

President Rickenbach read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS – ITEM 5:

President Rickenbach reported that he had attended as many meetings as possible for the Uniontown Reborn Project and encouraged others to attend.

STAFF UPDATES/STATUS REPORTS – ITEM 6:

**Item 6(a): Save the Date**

Next DRC meeting: Thursday, October 3, 2019 at 5:30 pm

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:22 p.m.

**APPROVED:**

*[at the 10/3/2019 DRC meeting - with changes]*

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Community Development Director