

**TO:** Garibaldi City Council  
**FROM:** Walt Wendolowski, Contract Planner  
**SUBJECT:** LUBA No. 2020-094 - Remand  
Conditional Use 2020-01; Coastal Housing Solutions

### I. BACKGROUND INFORMATION

- A. **APPLICANT:** Coastal Housing Solutions (Paul A. Daniels).
- B. **PROPERTY LOCATION:** The site is located on the north side of East Garibaldi Avenue, approximately midway between Nelson Lane and Martin Smith Lane. The property address is 501 East Garibaldi Avenue and the Tillamook County Assessor places the land within Township 1 North; Range 10 West; Section 22BB, Tax Lot 100.
- C. **PARCEL SIZE:** The overall site is approximately 3.62 acres.
- D. **PLAN/ZONE:** The property is split zoned with the southern 0.76 acres zoned C-1 (Commercial) and the northern 2.86 acres zoned R-1 (Medium Density Residential).
- E. **REQUEST:** The applicant is requesting approval of a Conditional Use to construct a 66-unit apartment complex.

### II. REMAND BEFORE COUNCIL

- A. The applicant requested approval to construct a 66-unit apartment complex on the site. Both the R-1 zone (Section 18.15.030.A.) and the C-1 zone (Section 18.25.030.G.) allow multi-family development with an approved conditional use permit. The conditional use must comply with provisions in Chapter 18.185 and is subject to a public hearing.
- B. The Planning Commission held a hearing on May 13, 2020 to consider this case. Notice of the public hearing was published on April 20, 2020 in the *Tillamook Headlight Herald*. The hearing was continued to June 10, 2020 whereby the Commission voted 3-2 to deny the request. The final order was signed by the Commission Chair on June 25, 2020 and subsequently appealed to the City Council by the applicant on June 26, 2020.
- C. The Garibaldi City Council heard the appeal on July 21, 2020. In a special meeting held on August 24, 2020, the Council voted 3-2 to reverse the Commission decision and approve the application subject to conditions. The Mayor signed the order on September 1, 2020 and an appeal was subsequently filed to the Land Use Board of Appeals (LUBA) by the opponents. In its decision dated February 11,

2021, LUBA remanded the application to the City to adopt a decision that identifies applicable criteria and is supported by requisite findings.

- D. On May 17, 2021, the City Council considered the LUBA remand and voted to hear the case solely on the record and not accept new testimony. After subsequent discussions with staff, the Council agreed to conduct the remand hearing at a special June 16, 2021 meeting.
- E. **As this hearing is held on the record, the City Council cannot accept or consider any new testimony. In addition, the Council cannot ask questions that effectively elicits new testimony. The only material for the Council's consideration is the material that is part of the official record of this case.**
- F. Prior to the LUBA appeal, the City Council voted to approve the application with conditions. While LUBA did not reject the Council's decision, the agency concluded certain findings in support of the application were deficient. Solely based on the record submitted to LUBA, staff prepared findings to address these deficiencies.
- G. Conversely, the Council has the option to reverse their previous decision and deny the application. However, in doing so, the Council **must specifically state** where the application fails to comply with the identified decision criteria. Regardless of the Council's decision, the final decision must be based on factual evidence as contained in the existing record.

### III. CITY COUNCIL ACTION

- A. The City Council has the following options:
  - 1. Approve the application, adopting findings and conditions contained in the submitted Final Order and Findings on Remand;
  - 2. Approve the application, adopting modified findings and/or conditions from those contained in the Final Order and Findings on Remand; or,
  - 3. Deny the application, clearly establishing findings based solely on the existing record as to why the application fails to comply with the decision criteria.
- B. Staff will prepare the appropriate final document.