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PLANNING COMMISSION PUBLIC HEARING MINUTES

Wednesday, May 13, 2020, 6:30 p.m.

Meeting via Zoom

I. CALL TO ORDER

Commissioner Nathan Findling called the Planning Commission Public Hearing to order at 6:33 p.m. Present were Commissioners Karna Inman, Nathan Findling, James A. Buker, Judith Parker and Roger Cooper. City Manager, Geoff Wullschlager and City Recorder, Laura Schmidt were also present.

Public present on record: Katie Findling and others were present but did not identify themselves.

Paul Daniels was present representing the applicant. Walt Wendolowski was present as the contract planner.

Findling took a moment to acknowledge the passing of Virginia Underhill, a prior planning commissioner.

II. PLEDGE OF ALLEGIANCE

III. PUBLIC HEARING – Conditional Use Application – Paul Daniels (CU-2020-01)

Chair Findling read aloud the following statement: “This is a quasi-judicial hearing of the Garibaldi Planning Commission to consider an application for a conditional use of the R-1 and C-1 Zones within the City of Garibaldi. The decision that will be made here tonight is going to be whether or not the Planning Commission should approve the requested conditional use.”

“A copy of the staff report describing the proposed use has been available to the public since May 6th, 2020, and City staff has been available for questions and comments regarding the proposed use since that time. Notice of the hearing tonight has been provided to the public through publication in the Headlight Herald on April 22, 2020, and through public posting at various locations in town on May 6th, 2020. Notice was provided to property owners within 250 feet of the location of the proposed use by posted mail in conformance with the City’s municipal code on April 21, 2020. Notice of this hearing was publicly posted at various locations throughout town prior to this meeting.

“This hearing is an opportunity for the public to comment on the proposed use. I would like to ask those present if there is any objection to the jurisdiction of this commission or any of its members? This question is specific to the authority of the Garibaldi City Planning Commission in approving or denying a request for conditional use within the City of Garibaldi.”

Wullschlager suggests to Findling that he may want to ask people to raise their virtual hand if they have any objects and explain how to do so. Both explain steps to do so. It is noted there is

a hand raised by citizen, Carl Kopacek. Mr. Wullschlager unmutes him to speak. Mr. Kopacek expressed his objection to the conditional use permit. Mr. Wullschlager explains this portion is to determine the authority of the Planning Commission to hear this application and that testimony is not being taken at that time. After further discussion and a bit of confusion, it is determined that Mr. Kopacek does not have an objection to the Planning Commission having authority to hear this matter, but that he does request to keep the record open for 7-14 days.

Chair Findling explains to Mr. Daniels how to raise hand during the meeting.

Hearing no official objections, Chair Findling asked if any Commissioners had a declared conflict of interest or bias regarding the matter before the commission tonight. Mr. Wullschlager asks if anyone has had ex parte contact or other conflicts of interest. Chair Findling stated that he had gotten multiple ex parte communications, two from Mr. Kopacek. One was his written testimony and the other was his attorney's letter, the third letter was from Carolee North. He mentions he also received a letter from Jean Shattuck. He notes that despite receiving these letters they would not affect his objectivity.

Findling asks the other commissioners if they have received any ex parte communication and they all replied that they had not.

Findling confirms that "the job is the job" and this information would not create any bias.

Chair Findling read the following statement: "At this time I'll have Mr. Wendolowski summarize the Planner's staff report."

Mr. Wendolowski introduced himself for the record as a principal planner at Morgan CPS Group out of the Salem area. He notes that in the planning commission packet there was a staff report which provided a detailed analysis of criteria along with recommended development conditions. He asked if acceptable to the commission, he would just summarize his report focusing on the relevant criteria.

Chair Findling questions whether Mr. Wendolowski is able to share his screen or not. Mr. Wullschlager states he will scroll to the staff report and share it on the screen for all to see. The document took some time to load as it was over 300 pages.

Mr. Wendolowski suggest it may be helpful for the Commissioner's to use their packets as a reference as his presentation was only a summary of the material. All commissioners, except Judith Parker, state they have a copy handy. Commissioner Parker states she does not have a hard copy but is able to go back and forth on her computer if necessary and that she had read it previously.

Mr. Daniels confirms he also had a paper copy to referenced until the digital copy loaded.

Mr. Wendolowski begins again. He states he is available to answer any questions with regard to the staff report but noted that any questions regarding the engineering and public works will be addressed by city staff. Mr. Wendolowski summarized the Planner's staff report and read aloud the relevant sections of the Garibaldi Municipal Code. In conclusion of his summary he states that the proposal complies with criteria for a conditional use and meets the design requirements with regard to zoning, multi-family development, hillside development, parking standards and related matters. He stated that recommendations are included in the staff report and concluded his presentation.

There were no questions for the Planner following the presentation of the Staff Report.

Chair Findling then stated: "At this time, I'll have the City Manager relay any correspondence and written testimony or inquiry received to date since the notice of the public hearing."

City Manager Geoff Wullschlager states there were several written correspondences received, including two that were received after the final packet was created therefore they were not included in the packet.

He begins with written correspondence in support of the proposal. He reads a letter in support from Dale and Lauri Norman, 605 Evergreen Avenue, dated May 9, 2020 into the record.

He then moves on to read the following written correspondence in opposition of the proposal into the record:

- letter from Linda Shattuck, 207 Birch Avenue, dated May 5, 2020;
- letter from Paula Tucker, dated May 2, 2020; (Mr. Wullschlager noted that the letter was addressed to Mayor Riggs and City Council as well as the Planning Commission and that it was inappropriate at this time for them to receive a copy, as they are appeals body to the Planning Commission. As such, the letter was only distributed to the Planning Commission by the City but was aware that this letter had also been distributed by others to many members of the community in their PO Box.)
- letter from Tom and Carolee North, dated May 11, 2020.

Mr. Wullschlager asked if any members of the Planning Commission or any one in attendance of the hearing had any questions for the Contract Planner. Out of respect for his time if there were no questions for him there would be no need for him to remain on for the rest of the meeting. Chair Findling states he would like to hold all his questions until the end. Mr. Wullschlager informs that there has already been a request to keep the record open and if there are any questions for Mr. Wendolowski it would be recorded, and he could address any specific

questions during the continuation hearing. Commissioner Parker asked for clarification regarding the record staying open and who had made the request. Mr. Wullschlager confirmed that Mr. Kopacek had made the request and there was written request to keep the record open. Everyone agrees that Mr. Wendolowski could leave the meeting and questions would be addressed at the continued hearing.

Mr. Wullschlager states that he had received two written correspondence after the final packet was created. One was from John Shoemaker with no address and he reads his letter in opposition of the proposal into the record.

Next he reads into the record a letter from Mr. Kopacek's attorney Sean T. Malone.

Finally, he reads written correspondence from Linda Bade, 103 Halverson Lane, dated May 12, 2020 which is neither in support or opposition of the proposal.

Wullschlager informs the Commissioners that anything that is not directly related to the criteria used to measure the application against should have no barring on any decision that they make. Particularly, any criticisms or critical positions of city staff has no barring on the application. The application stands on its own. As far as any interest or concerns of city staff that is for the city council to answer not for the Commissioners to consider. Also to note, any accusations put forth in these letters can and will be refuted through the city council so as to continue to have faith in city staff to handle business of the city without any bias or indiscretion.

Chair Findling then stated the following: "The decision that will be made tonight is whether or not the Planning Commission will approve of the requested use. The decision to approve or deny the use will be adopted through a final order that staff will prepare after the meeting tonight (If there is no continuance requested by a party to the hearing or the Planning Commission itself). Any appeal to the decision made here tonight must be submitted to the City Recorder within ten days of the date that the final order is signed. Once staff has prepared the final order and I have signed it, the applicant will be notified along with anyone else that requests or is required to be notified. Notification will be provided within five days of the date that the order is signed. Are there any questions about this process?"

Mr. Wullschlager states that this is the time for anyone in attendance to ask questions. Chair Findling states they can press the raise hand button if they have a question.

Commissioner Parker asks if we will still hear from Mr. Daniels and if these questions now are to be directed at Mr. Wullschlager. He explains that these questions now are to be directed to Chair Findling in regard to the process. Commissioner Parker expresses that she now understands.

Chair Findling then stated: "The Planning Commission now calls for the applicant to present any

testimony regarding their application.” He then gives to the floor to Mr. Daniels.

Mr. Daniels states he would like to clear up a few as he called them “house-keeping details”. He references the letter by Paula Tucker that stated:

- Item 1 - the City had not been compensated for the use of City staff and resources. He states that when an application is made, city time is pre-paid for, and therefore that statement is incorrect.
- Item 2 – the full incremental amount for the SDCs under the terms of the loan agreement with the City have not been paid timely. He responds by referencing Item 6 on his contract with the City and quotes “Owner understands and agrees that the first installment payment, plus recording fees in an amount of \$8,424.00, is due one year from the date of this agreement, on January 13, 2018, and that future payments are due on or before the first day of October, in each year thereafter...” He continues by saying the first payment on invoice was paid per agreed on February 18, second payment due October 1, 2019 was paid on February 19 which was 8 months in advance, the third payment due October 1, 2020 was paid on March 20 which was 6 months in advance. All the talk of payments not being paid on time are bogus he said.
- Item 3 - SDCs should be in full disclosure. Mr. Daniels states there will be no problem with that.
- Item 4 – regarding high rent. Mr. Daniels states that this apartment complex is being built for working people. A person making \$15/hour will be able to afford either a studio apartment or a 1-bedroom apartment. People making \$18-19/hour will be able to afford a 2-bedroom apartment. Therefore, that statement is not correct, these are for the lower range working people of this County.
- Refers to last sentence which reads “problems with geo-tech, stormwater, traffic, high rents”. Mr. Daniels states there is a geo-tech report in this application, there is a stormwater plan in this application and also, he has gone as far to get a stormwater permit approved by DEQ, there is a traffic report in this application and there is no problems with the traffic and high rents has been discussed.

Mr. Daniels states that it is his understand that by law the Planning Commission is not allowed to say yes or no in la muse manner, they have to say why they said yes or no.

Mr. Daniels states his proposal follows the Comprehensive Plan of the City as it is written today and also follows the Garibaldi Municipal Code. He then proceeds to reads his proposal verbatim.

Chair Findling interrupts as Mr. Daniels finished reading page 12 of his 38 page proposal. Chair Findling states that Commissioner Parker has her hand raised, she states it has been up for quite a while and wanted to suggest that Mr. Daniels filter through the remaining pages. Mr. Wullschlager states for the purpose of the procedure that Mr. Daniels can take the request under advisement but as the applicant he can decide how he would like to proceed. Mr. Daniels

states there are numerous items that are not applicable, but the items that are applicable to this project need to be brought up to the Planning Commission and the Planning Commission needs to understand that the requirements of Garibaldi Municipal Code (herein after referred to as "GMC") are being met and that is why he was taking the time and the detail to go through them and will do the same when it comes to the plans.

Chair Findling states it is understood and that he believes Mr. Daniels and Commissioner Parker are on the same page.

Mr. Daniels continues to summarize his proposal. In response to GMC 18.15.040:

Item (C): Mr. Daniels points out the mathematical formula for the R-1 zone allows for 79 units, but the proposal is only requesting 48 units and concludes this standard has been satisfied.

Item (D): The minimum lot width shall be 30 feet. Mr. Daniels reads his response: "There are no changes to the lot width proposed with this application; this standard does not apply" and notes he wanted to bring that up because the standard has been met on the sides of at least 10 feet and on the North and South ends of the project of at least 15 feet and mentioned he will go over that in detail later in his summary.

Item (F): The minimum rear yard shall be five feet. Mr. Daniels explains that there will be over 200+ feet from the last building to the property line.

Item (G): The side yards need to be 10 feet because of the multi-story structures, and these are going to be seen. Mr. Daniels states this can be seen on the plans page C-4.0 and ask if it can be pulled up. Mr. Wullschlager brings it up on the shared screen for all to see. Mr. Daniels go on to explain that on the West side of the project you can see the distances from the building is noted at 10 feet plus which is what the GMC requires. Also, on the East side building number 3 is 10 feet which is required by the GMC, building number 5 is considerably more than that and on the South side of the project building number 1 is 88 feet from the property line and from building number 6 to the back of the property line is in excess of 200 feet, he states he believes it is close to 220 or 230 feet and that this is really important information, and hoped everyone was clear on that and that the criteria had been met.

Item (H): Mr. Daniels goes on to discuss GMC 18.05.030 and reads the response from the proposal. He referenced the table shown on the proposal and expressed that all height requirements for each building have been met. He states that there are several pages on the plans that define the height criteria of each building.

Item (I): Mr. Daniels reads response from proposal and then notes this information can be found in the Geotechnical report.

Mr. Daniels moves on to the next section of the proposal “Chapter 18.25 – Commercial Zone (C-1)”.

18.25.020 Uses permitted outright. He states that sections A-T do not apply and continues to read the written response to this section. He goes on to explain that under items A-T the multi-family housing units do not qualify and that it has to come under a conditional use, therefore this proposal is seeking just that, a conditional use within the C-1 zone.

18.25.030 Conditional uses permitted. Mr. Daniels reads response from proposal.

Mr. Daniels pauses to mention he will try to speed things up. Chair Findling tells him not to feel rushed. Mr. Wullschlager makes the recommendation and explains that he does not need to cite each code since the application has already been compared to the code by the contract planner, so it is known that the citations are correct, therefore he can skip all the numbers. Mr. Daniels thanks him.

Mr. Daniels goes on to continue reading the proposal at page 17 of 38.

Chair Findling mentions a break could be taken at any time. Mr. Daniels continues to power through reading his proposal as written. At page 21 of 38, Mr. Daniels notes that not mentioned in response to 18.80.050 Development and use criteria, Section(A)(3) that in addition to the grading/erosion control plan included in the plan set as sheet C8.0, there is also the DEQ’s 1200c permit which has been approved the erosion control plan for stormwater and for grading. Mr. Daniels continues to read and summarize each section. He gets to section (B)(3) and repeats this section after reading it. Which reads “As grading is proposed on the site, the geotechnical report has addressed any potential concerns related to the site’s grading”. In regard to section (B)(4) Mr. Daniels states that neither geologist or civil engineer has no financial interest in the property to be developed.

Chair Findling asks Mr. Daniels to confirm that he is going on record say that. Mr. Daniels confirms.

As Mr. Daniels continues to summarize his proposal, he stops at section (C)(1) and (2) to states that the two professional companies worked together in the design of the site. Section (D), Mr. Daniels notes there were a lot of complaints regarding trash that goes into the bay and states that all of the catch-basins for the project are a special kind that have a filter that does not allow any trash to go into the bay. All the drainage will come out to the same place, and he notes that he is currently working with ODOT on a hydrology study, as required by ODOT, and will be designing how to get the stormwater across the 101 to the bay, and that getting it under the railroad tracks is not an issue.

Mr. Daniels continues to summarize the proposal. At page 25 of 38, explaining 18.110.010 Multifamily or apartment siting criteria. Section (B), he states that the egress/ingress will be reduced to one side and it has been approved by ODOT. Mr. Daniels states the requirements for site distance have been met, and in fact are way over on the requirements. He goes on to states he would like to talk about the fences, and says he has reached an agreement with the adjacent owner, Mr. Schreiber, to construct a 6-ft high chain length fence with posts buried 3 feet deep in concrete with brown slats in them. He explains the reason for using these is because the area is very susceptible to wind loads and this will handle them the best. There will be a pipe on top of fence. It is also proposed to use the same fencing all around the project because it is easy to maintain, and be sprayed. From experience on another project he mentions that the good-neighbor wooden fences don't handle the wind load well and are not easy to maintain.

Mr. Daniels goes on to discuss "Chapter 18.125 – Automobile Parking Standards". The proposed development includes construction of 95 stall parking areas, the code only requires 69, they are exceeding the parking requirements. There will be no requirements for off-site parking, as there will be plenty of parking on-site and all parking is 90 degrees and there is no parallel parking. ADA compliance has also exceeded the requirements.

Mr. Daniels moves on to "Article III. Bicycle Parking Requirements" at page 33 of 38. All bicycle parking is going to be in the stairwell area, which is covered and on a concrete slab and have security with a lockable device and well as signage. He states there will be 3 to 4 times the required amount of bicycle parking. The criteria for location has been met as these will be 15 feet from the door and the requirement is 50 feet.

Chair Findling suggests a break be taken at the end of this section, before starting in on "Chapter 18.210 – Administrative Provisions". Mr. Daniels states he is done with the bicycle section and he would be okay taking a break at this point. Mr. Wullschlager states that there are only about 4 pages left. It is decided to take a break and return at 9:05 p.m.

Once everyone returns, Mr. Daniels begins at page 36 of 38, "Chapter 18.210 – Administrative Provisions", Section (D) Traffic Impact Study Requirements. He states this site will result in 441 additional daily trips to the site, thus requiring a traffic study. A traffic study was done by DKS Associates and their conclusion was that there would be very little impact on Highway 101 and no side street will be impacted as they are not being used, so no impact to the City, and that there is no left hand turn lane required.

Mr. Daniels concludes the summary of his 38 page report. He begins discussing the geotechnical report provided by Redmond Geotechnical Services, specifically page 85 and 90 of the packet. He mentioned he wanted to discuss these as there has been a lot of analysis done on the soils on this site. Mr. Daniels explains Figure No. 3 on page 85 and states that everyone acknowledges

the site has groundwater and it is not an issue. Figure No. 3 is labeled as a "TYPICAL FILL SLOPE DETAIL" which shows the piping and how the stormwater will be handled and notes this is a construction practice that has been out there forever. He then goes on to discuss Figure No. 4 on page 90 stating this is the design for handling groundwater around building footings, underneath the footings and slabs. He notes on his other two projects, especially Creekside project, there is considerably more water than on this current project for the new development and by utilizing these characteristics and footing design shown in this figure the groundwater was able to be controlled with no problems. It was designed very carefully by the engineers and installed correctly.

Mr. Daniels then goes back to Exhibit 5 on page 69 of the packet and reads the letter from the City.

Mr. Daniels finally concludes with reading his conclusion statement: "As is demonstrated throughout this application and the supporting materials, the proposed development complies with the conditional use permit approval criteria established in the Garibaldi Municipal Code. Further, the proposed development complies with the applicable development standards. As such, the applicant respectfully requests that the Garibaldi Planning Commission approves this request" and states he is now open for questions.

Mr. Wullschlager states to Chair Findling that this is now the time for any members of the Planning Commission to ask any questions of Mr. Daniels. He also states he will unmute everyone on the Planning Commission so they can comment.

Commissioner Buker comments he has no questions.

Commissioner Inman asks about the soil testing done by the geotechnical company hired and if it was done in September of the previous year, Mr. Daniels replies that is correct. She goes on to ask if it is known how well the soil drains at the site or if that is part of the hydrology test. Mr. Daniels states that is a good question and clarifies that what she is asking about is in regard to laminar flow in the soils and a drawdown curve in the soils. He says he knows the soil perk laminar flow, but he was not familiar with the drawdown curve. However, he states there are structures in place to pickup the sub-surface water.

Mr. Wullschlager interjects a point of order and asks Mr. Daniels to explain for those in attendance what laminar flow is. Mr. Daniels explains it as when the water flows and rushes over the rocks causing white water it is known as turbulent flow, and when the turbulent flow ceases and the water become still and moves slowly down the river, that is known as laminar flow.

Commissioner Inman states she has one other question and asks if the grading plan is approved by the State, and Mr. Daniels states that it is not, it is approved locally by the City and the County. He then mentions the stormwater drainage plan is approved by the State DEQ, the DEQ also controls the cuts and the filling process of the existing soils onsite. He restates that he has the 1200-c permit from DEQ. Therefore, all the cuts, fill, and the erosion control, etc. has all been approved by the State. He mentions included with the erosion control approval comes a monitoring plan which will be implemented upon approval of the development.

Chair Findling asks Mr. Daniels what he is waiting to hear from ODOT, he replies that upon approval of the Planning Commission ODOT will require a hydrology study for the 1.45 acres of covered areas. ODOT will then work with our engineers on designing how to get the water off the site, but that process does not start prior to approval.

Chair Findling requests for more clarification with regards to ODOT and the frontage of the property. Mr. Daniels explains that ODOT does not respond until there is approval, they want to know that the work they do has value. Chair Findling goes on to say that it has been stated the line of sight has been approved, but if changes are made to the frontage that it may cause issues with the line of sight. Mr. Daniels responds stating that the surveyors have run the line of sight and there is approximately 700 feet going West and about 900 feet going East and that the requirement for this project is only 350, so there is way more than required. Chair Findling states according to the map, it looks as if the playground was pretty close to the road and he wanted to make sure any landscape done in the future will not impede that line of sight.

Commissioner Parker has concern with the West side of the property and states that she understands there will be a retaining wall at various heights, but notes the application does not give any information regarding constructions of that wall, the look of the wall, etc. She asks what will be sitting there and what it will look like and also questions what will be on the East side as there are no retention walls shown on the plans even though the slope is just as great if not greater than the other side. Mr. Daniels responds that the West side will be a combination of retaining walls incorporated into the building walls and then past the walls it will be blocks on top of each other. He states he has worked out an agreement with the property owner to the West for a temporary easement there and will build a fence. As for the East side, Mr. Daniels states he would have to get with the structural engineers to find out exactly what type of stem wall he would be using, but that is a part of the engineer drawings and he did not have those, as all that is required now is a drawing showing the offset of 10 feet from the property line. He cannot say what the height of the retaining wall will be because that comes in the engineering drawings which happens after approval from the Planning Commission. Only preliminary engineering is required for the Planning Commission.

Mr. Daniels asks if he answered the question and Commissioner Parker states that it did not and she feels it is an important piece of information needed at this time and should be included in the application. Mr. Daniels states he is unsure how to answer the question as it is not required by the GMC for this part of the project. Commissioner Parker states she has a problem not knowing what it looks like for this project. She compares past project aesthetics and notes people do not like the looks of those, as they are very unattractive. She mentions she would like to be shown where this issue does not need to be addressed.

Mr. Wullschlager steps in for a point of order and states that there are usually two choices when it comes to aesthetics in development in any zone, typically they apply to commercial zones, but can be applied to residential zones as well. The two choices are that jurisdictions can be a design review community or a non-design review community. Design review means standards such as siding, color, shape, overall curb appeal does fall to the decisions making of a Planning Commission, but cities that do not have design review cannot impose standards of appeal. The zoning process in a non-design review community is only required to make sure setbacks are maintained, that heights are not exceeded, except in the case of variance, in addition to the parking standards, bicycle parking standards and things like that in a multi-family housing development are adhered to. Mr. Wullschlager goes on to say the Planning Commission can impose conditions of approval as long as they do not exceed the legal limitations of what the Code allows. For example, requesting cedar or good neighbor fencing or the like would be acceptable, but when it comes to a structural element such as a retaining wall, that falls to the County as the law is written.

Commissioner Parker questions again, despite what it looks like, what the East side of the project will look like is not shown or explained. Mr. Daniels states that there will be a footing and a stem wall and the stem wall will go up to the building height. Mr. Wullschlager asks for clarification. Mr. Daniels states the stem walls will come up to the finished floor. Commissioner Parker states a stem wall is not going to work on the East side, she directs all to look at the drawings C3.0 and C5.0 to understand what she is trying to get at.

Mr. Daniels suggests taking a look at the grading plan on buildings 3 and 5 and it can be seen that they will be in a cut, meaning the grade is going to be lowered before the building gets put in and there will be no reason for a retaining wall back there. It will just be the footing which will be backfilled and the stem wall. He mentions there is a cut of about 6 or 8 feet at building 3. Mr. Daniels states there is no room there for a retaining wall. He mentions they could put something like mosaics on the stem walls or paint them, and that there will be landscaping there, but there will not be a retaining wall as it is not required. Building number 5 is the same.

Chair Findling asks for a reminder of where building 3 and 5 drains in to. Mr. Daniels states it goes into the footing drains, as shown on the Redmond geological report.

Commissioner Parker states she is done.

Chair Findling questioned attachment A, the traffic study. He notes the dates of the studies were December 19 and March 4. Mr. Daniels states that was because there was a change from 64 to 66 apartments. Chair Findling mentioned his concern that these studies were not done during peak times or peak season. He also refers to the erosion study being done in the summer as opposed to rainy season. He requests traffic studies be done during peak times.

Mr. Daniels asks Chair Findling if he could structure his question in a way that it can forwarded on to his people to get an answer. Specifically, when would the study be done.

Mr. Wullschlager mentions that the both Commissioner Buker and Parker both had their hands raised. Chair Findling states he will get back to Mr. Daniels regarding his request and calls on whichever Commissioner was first.

Commissioner Parker states she has unraised her hand.

Commissioner Buker states he agrees with Chair Findling's point and wanted to acknowledge that this means pushing back the approval date 365 days due to what we are experiencing now, referencing COVID-19. Mr. Daniels states he doesn't understand what he is saying in regard to pushing approval back 365 days. Commissioner Buker replies that in order to get a realistic study we would have to wait until there is a vaccine for COVID-19 and conditions are normalized again. He was clarifying what Chair Findling was saying in regard to having a traffic study done during the summer to get a baseline. Since, it is not likely to be a normal scenario, he states he thinks the earliest possible acceptance would be next summer not this summer. Chair Findling responds by saying he had not thought about it that way, but it was a valid thought. He mentions looking to see if there is historical data from a previous ODOT study, but if none is found that there would have to be a discussion regarding Commissioner Buker's suggestion.

Mr. Wullschlager mentions Commissioner Inman had her hand raise, but before addressing her he wanted to inform the Planning Commission of the two resolutions that Tillamook County passed earlier today lifting the restrictions on transient lodging on the 29th of May and the City of Garibaldi was poised to raise their restrictions on the 28th of May. He also stated that this will bring an influx of people at the end of May and early June as everyone had been homebound. It may be indicative of a realistic expectation of what would be normal traffic, although not scientific. He goes on to state that in regard to the criteria asked for in the GMC, the applicant has submitted a report that does meet that criteria, and to keep that in mind.

Chair Findling responds stating that dates in May or June may possible be okay, he would like to find historical data as well, to expedite this.

Mr. Daniels asks if he could provide historical data from day in the summer, if that would suffice. Chair Findling states it likely would depending on what could be found. Commission Buker states he thinks they are looking to see a study on a weekend summer day.

Mr. Wullschlager asks if Commissioner Inman still had her hand raised, she responded that he had already mentioned what she was going to bring up regarding the County passing the two resolutions.

Commissioner Parker mentions she does not particular care for having just one days worth of data and felt it should be more than one. She states finding historical data for a date in summer and in fishing season near September. Chair Findling mentions Labor Day weekend would be good. There is discussion had on various times of years, seasons, etc.

Mr. Wullschlager suggests that unless there are questions with regard to criteria, to respect participants time, the hearing should move forward to testimony as it was nearing 10pm.

Chair Findling ask Mr. Daniels if he has a rebuttal or anything he would like to mention. Mr. Daniels again requests that there be a direct question that he can forward to the company to do a scientific analysis of that question and report an answer. He cannot tell the company what to do, he needs to have a question for them to answer.

Chair Findling moves into public comment section of the hearing and reads the following ““The Planning Commission will now call for public testimony. The City Administration also called for participants to submit written testimony in the public notice as posted on April 22nd, 2020, if they could not participate electronically this evening. This testimony will be taken electronically through our zoom platform. First, we will hear from Proponents, then Opponents, then the neutral parties.” He explains how they can virtually raise their hands.

Mr. Wullschlager states that this would be the time for Proponents testimony. Chair Findling states he needs to read a disclaimer first. He goes on to read the statement “If there are any comments on the proposed use, please keep those comments brief and to the point. If there is an objection to a proposed use, the objection needs to address relevant facts or information from the City’s municipal code, the City’s comprehensive plan, the Planner’s staff report or relevant State law. Any material produced in relation to, support or opposition of, the proposed use must be submitted to the Recorder to be included in the record. Failure to address a pertinent criterion at this hearing will preclude an appeal based on that criterion. Any party may request that the record for this hearing be held open for at least seven days; however, this

request must be made prior to the close of this hearing, and is subject to the requirements of ORS 227.178 which requires the governing body of a city or its designee to take final action on an application for a permit, including resolution of all appeals within 120 days (July 3rd) after the application is deemed complete. The City received and deemed the application complete on March 6th, 2020.

Comments are limited to three minutes. Persons wishing to speak must first be recognized by the chair and the meeting administrator and must state their name and address. If you are representing another person or entity, please state who that is and what your connection to that person or entity is. I will be calling for public comment.”

Chair Findling noticed Commissioner Cooper had his virtual hand raised and ask him to speak. Commissioner Cooper states his question was from a back during the traffic study discussion and he wanted to know what time of year the traffic study for lowering the speed limit was done. Mr. Wullschlager states the City originally spoke to ODOT in the Fall of 2018 and the study was believed to have been done December 2018 and April of 2019, and the results were received in June or July of 2019.

Chair Findling moves on to Opponents Testimony. Reminder given regarding the time limit of 3 minutes.

Mr. Wullschlager states to please raise virtual hand if you have any comments in opposition of the proposed application.

Mr. Kopacek voices concerns over the number of apartments previously approved which was 42 and with 66 more the total would be 108 and mentions in addition 30 single family home permits have been issued, but stated there has been no opposition to those homes. He mentions concern with the orderly development under Chapter 18.05.020 which states “to prevent undue concentration of population”.

Chair Findling confirms Mr. Kopacek has finished. Mr. Wullschlager states the Applicant now has a chance for a rebuttal.

Mr. Daniels responds by saying “All I did was follow the GMC and the Code allows for the proposed development and he has every right to his opinion”.

Chair Findling ask Mr. Kopacek if he has anything additional to add and he responds that the only other additional information to add was previously sent by an email to Mr. Wullschlager dated May 11, 2020. He states that the letter was not posted for the hearing.

Mr. Wullschlager responds by saying, the letter must not have mentioned that it was to be read as testimony in the hearing. Mr. Kopacek confirms that he is correct. Mr. Wullschlager states he can have it included as new testimony for the extension hearing. Mr. Kopacek responds with, "please do, thank you".

Chair Findling asks for any neutral testimony. Mr. Wullschlager states for the record that he had unmuted everyone and this would be the time for anyone wanting to participate to speak, and if they do not, he had not restricted anyone an opportunity to make a public comment.

Chair Findling asks the Commissioners if they had anything they wanted to add or question. Commissioner Parker mentions that there had been multiple mentions of the Tillamook County housing needs analysis of December 2019, and that she wanted a copy and wondered if any other Commissioners wanted a copy of it. Chair Findling states he has a copy and he would forward the link to Mr. Wullschlager to forward on. Mr. Wullschlager states he will forward the link on the following day.

Chair Findling notes there have been several requests to keep the record open and the need to schedule the continuance. Discussion regarding scheduling was had. Mr. Wullschlager reminds the Commissioners that the "drop-dead" date for this application was July 4 and that the statute regarding keeping the record open was a minimum of 7 days.

Commissioner Parker questions how long virtual meetings will be required. Chair Findling states it will be required until September as far as he knew. Mr. Wullschlager states language from the Governor states gatherings must be 25 people or less, discussion on this was had. Commissioner Cooper suggests having "training" before the next meeting. Mr. Wullschlager states he thinks it is a fantastic suggestion and goes on to say that the City is stuck between two rocks, on the one hand there is a 120 day clock that cannot be deviated from and on the other hand the Governor has mandated that we hold these meetings "by any technical means necessary", so there is no wiggle room. He continues by saying he has to ensure that there is no inequity and equal opportunity for all to attend the meeting and if that cannot be done then he would be opening the City up to liability. Mr. Wullschlager states he will post YouTube videos on the Facebook page and the City website on how Zoom works, which will be accessible to all.

Chair Findling suggests extending the hearing to June 10 at 6:30 p.m. and leaving the record open until the right before the meeting.

Chair Findling closed the hearing at 10:19 p.m. and reconvened the special meeting of the Garibaldi Planning Commission.

Mr. Daniels reminds Chair Findling to get his question regarding the traffic study over to him as soon as possible. Mr. Wullschlager states that if any of the Commissioner have any questions for the Applicant to make sure they are sent to the City and not directly to the Applicant as that is part of the process and they should not be having direct contact with the Applicant.

Chair Findling closed the hearing at 7:30 p.m. and reconvened the special meeting of the Garibaldi Planning Commission

IV. OLD BUSINESS: NONE

V. NEW BUSINESS

A. Consideration of Conditional Use Application – Paul Daniels (CU-2020-01)

Hearing continued to June 10, 2020 at 6:30 p.m.

B. Appointment of Planning Commission Member to the Garibaldi Budget Committee

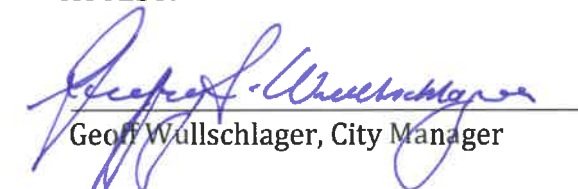
Chair Findling moves into new business matter Item B regarding budget committee. Commissioner Cooper volunteers to be the representative from the Planning Commission.

MOTION made to approve Commissioner Cooper AYES: All. NAYS: None. ABSENT: Commissioner Inman. Motion PASSED unanimously.

VI. ADJOURNMENT: Findling adjourned the Planning Commission Special Meeting at 10:24 p.m.


Nathan Findling, Chair

ATTEST:


Geoff Wullschlager, City Manager

Transcription: Laura Schmidt