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PUBLIC HEARING AND SPECIAL PLANNING COMMISSION MEETING MINUTES

Wednesday, May 27, 2020, 6:30 p.m.
Zoom Meeting

I. CALL TO ORDER

Planning Commission Chair Nathan Findling called the Public Hearing and special Planning Commission meeting to order and opened the Public Hearing for an application for a conditional use permit in the R-1 Zone by Nea-Kah-Nie School District #56. at 6:30 p.m. Present were Commissioners Nathan Findling, Karna Inman, James Buker, and Roger Cooper, City Manager Geoff Wullschlager, City Engineer/Planner Pro-Tem Blake Lettenmaier, Administrative Assistant II Laura Schmidt. Citizens present were Melissa Elmore, Whitey Forseman, Janmaire Nugent, and Paul Erlebach. Others were present but did not identify themselves. James Fanjoy (Architect) was present representing the applicant.

II. PUBLIC HEARING - PUBLIC HEARING OF AN APPLICATION FOR CONDITIONAL USE IN THE R-1 ZONE BY NEA-KAH-NIE SCHOOL DISTRICT #56.

Chair Findling read aloud the following statement: *"This is a quasi-judicial continuance of the public hearing of the Garibaldi Planning Commission originally opened on May 20th, 2020, to consider an application for a conditional use in the R-1 Zone within the City of Garibaldi. This continuance was granted in accordance with a request for persons to present and rebut new evidence, arguments or testimony regarding the application. 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 13th, 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 29th, 2020, and through public posting at various locations in town on May 15th, 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 2th, 2020. Notice of this continuance was publicly posted at various locations throughout town prior to this meeting.

"This continuance of 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." Hearing no objections, Chair Findling asked if any commissioners had a declared conflict of interest or bias regarding the matter before the commission tonight. Chair Findling notes that nothing had changed in a week.

Chair Findling read the following statement: *“At this time, I’ll ask the members of the Planning Commission if they would like the City Planner Pro-Tem and the City Manager to summarize, clarify, or revisit any part of the Planner’s staff report that was delivered on originally on May 20th, 2020”*

Chair Findling confirms with City Manager that the Architect’s rebuttal will be read into the record later during the hearing and decides to hold any questions until then.

Chair Findling continues by reading the script as follows: *“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. 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?”*

APPLICANTS TESTIMONY - *“The Planning Commission now calls for the applicant to present any new testimony regarding their application. Please keep in mind, that the commission may ask questions of the applicant, but members of the public in attendance should save any testimony for public testimony.”*

Architect Fanjoy discussed the height of the proposed structure which was suggested as a condition of approval to be 21.9 feet and requested the full amount of height allowed of 24 feet.

Chair Findling asks City Planner Lettenmaier to explain how he came to the conclusion of 21.9 feet. Lettenmaier stated he came up with that specific number from the Applicant’s plans and agrees that it’s normal for things to change during construction and he recommended to change the proposed condition of approval to allow up to 23 feet to minimize any obstructed views.

Cm. Inman questions whether the allowance of additional feet would obstruct the view of the residences. Architect Fanjoy confirms it would.

PUBLIC COMMENT - *“The Planning Commission will now call for any new public testimony. 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 for a second extension of hearing; however, this request must be made prior to the close of this hearing, and is subject to the requirements of ORS 227.178, and ORS 197.763 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 after the application is deemed complete, and limits a second extension to the purview of the presiding body, the Garibaldi Planning Commission. The City received and deemed the application complete on May 2nd, 2020.*

Comments are limited to three minutes. Persons wishing to speak must first be recognized by the chair 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 take any Proponents' testimony first."

City Manager Wullschlager read written testimony in support of the application into the record from Ms. Michele Aeder (previously read into the record on May 20th, 2020) and Ms. Catherine, Jason and Ethan Louis. The testimony submitted highlighted the benefits to the community, the children attending the school, and the increased opportunities that the structure would provide during inclement weather which is currently restricted to the gymnasium. They also discussed how the new structure would open opportunities for other activities within the gym such as physical education and music study and that the project would add needed parking for the school. There were no commissioner comments regarding the written testimony.

Chair Findling asked for any new oral public testimony in support of the application. Neah-Kah-Nie Superintendent Paul Erlibach offered testimony highlighting the importance of the project; in that it will assist the school district in delivering recreational opportunities during inclement weather, reduce interference with curriculum, and that it will provide the community with an asset for public enjoyment.

"I will now take any Opponents testimony. Please keep in mind that the applicant gets three minutes to respond to each opponent. If the applicant gives any new information during their rebuttal, the opponent in turn gets an additional three minutes to respond."

City Manager Wullschlager read written testimony in opposition to the application into the record from Ms. Melissa Elmore and Mr. Gaylord (Whitey) and Mrs. Melissa Forsman. These written submissions highlighted the position that the application, as submitted, does not meet Goal 3. - Community Development Pattern, of the Garibaldi Comprehensive Plan and asked how the Planning Commission would ensure this requirement would be met. They also asked for bicycle parking as suggested by the City Planner, a traffic study per the potentiality of increased traffic, private property security, site security, line of sight mitigation for scenic views of adjoining properties, stormwater management, engineering study/report for stability of adjoining upslope properties, adherence to CDC ventilation standards, noise mitigation, shading of adjoining properties mitigation, and color schemes that would not generate increased reflection of light on adjoining properties.

Chair Findling asked for any new oral public testimony in opposition of the application. Ms. Elmore provided testimony stating that she felt the application as presented was missing some of the elements needed for conformance with the Garibaldi Municipal Code (GMC), and asked how the application would meet Goal 3 of the Garibaldi Comprehensive Plan by protecting adjacent properties. She also stated that her testimony was not in complete opposition to the plan. She asked if any studies had been done to ensure this, and while she supports children having alternatives for recreation during inclement weather, she would like her concerns addressed.

Mr. Forsman reiterated what Ms. Elmore had discussed regarding the impact to adjacent properties, as well as his concern regarding the height and noise.

Chair Findling stated that the Planning Commission would then start with rebuttal testimony and reminded those in attendance that the height standard being suggested would mitigate for height by not allowing a maximum building height of 24' as allowed for the zone.

City Manager Wullschlager read the rebuttal testimony into the record from applicants' representative, Jim Fanjoy. This rebuttal stated that it would comply with conditions of approval as follows:

- Legally combining the two lots.
- Installing compact car parking signage (for newly generated parking areas).
- Installing bicycle parking as suggested.
- All retaining walls comply with the Oregon Structural Specialty Code.
- All outdoor lighting will be dark sky friendly.
- The project does not impact clear vision areas
- Parking arrangement as posited complies with the GMC parking standards for R-1 zoning.
- The school will provide adequate supervision during school hours to protect children with respect to new parking areas and clear vision.
- The school district will make the playground area available to the community during non-school hours.
- There is no planned increase for enrollment, and after-hours use is projected to be but a small percentage of use with regards to increased foot traffic.
- A traffic impact analysis is not required.
- No foot traffic will be routed through adjacent properties.
- Security cameras will be installed on the structure.
- The retaining wall will hold back the hillside but is not designed to offer visual separation.
- Current drainage will be served by foundation and surface drainage. A stormwater study was conducted by a civil engineer.
- All plans have been reviewed by a civil engineer and are in compliance with provision of ASCE7 and the Oregon specialty code with regards to seismic events.
- No sound study has been performed, but sound will be mitigated by current design of the school building and ongoing playground sounds have been a part of the area for almost a century.
- The structure will not shade adjoining properties through a computerized solar model.
- The zoning provisions of GMC provide for regulating development and provides for multiple types of developments. View rights are not protected, and the applicant will make concessions for harmonious development with neighboring properties.

Chair Findling called for rebuttal from any person in opposition to the application. Mr. Gaylord (Whitey) Forsman stated that he would like to see where there is an accommodation with respect to height level. Mr. Jim Fanjoy stated that they are accommodating by only building to 23' not 24' as is conditionally allowed in the code. He went on to state that nowhere in the GMC is it stated what level an accommodation must meet, in rebuttal to Mr. Forsman's statement.

Ms. Elmore stated that it appears that security cameras would be installed and asked if these were on the current site plans. She also referenced that within the current siting, and with the proposed retaining wall, that there is access to her property, in addition to asking to see the current solar model. Mr. Fanjoy stated that the cameras are indicated on sheet E-1. Mr. Fanjoy further stated that he could add this to the record.

With regards to people entering the property from the north, the district may be persuaded to pledge to put up certain amount of cedar fencing or up to a certain dollar amount for the security of neighboring properties. Ms. Elmore asked if there would be a railing put along the retaining wall. Mr. Fanjoy submitted that the retaining walls that are put in will have a guardrail wherever there is a drop, in excess of 30", to ensure that no-one falls into the play area. This was concluded by Mr. Fanjoy stating that the applicant wanted to be accommodating to needs such as this.

Mr. Forsman requested to know what color the roof was going to be. Mr. Fanjoy stated that it has not been chosen yet, but they would pick a color that coordinates with the existing color scheme of the school. Mr. Forsman requests that it not be white or silver.

City Manager Wullschlager asks City Planner Lettenmaier if the conditions of approval discussed between Ms. Elmore and Mr. Fanjoy was clear and if he was comfortable with it. Lettenmaier confirms he agrees and is comfortable with it and can include it in the Final Order.

Chair Findling pauses the hearing to take a quick break. Hearing is resumed at 7:48 p.m.

Mr. Fanjoy explained sun shadows during winter months. Ms. Elmore receives confirmation that she will contact Superintendent Erlebach regarding the fencing.

Chair Findling requests neutral testimony and hearing none moves forward with the hearing and asks, "*Are there any questions from the commission about comments received at this time?*".

Lettenmaier states that citizen comments with regard to sight distance and traffic caused city staff to take a deeper look at this. He notes that although the application meets the requirement in the code as it pertains to sight distance, he suggests a stop sign shall be installed on 8th street at Cypress Avenue and the installation of a School Zone speed reduction signs of 20 mph on 6th, 7th and 8th Streets near Cypress Avenue and on 6th Street near Driftwood Avenue.

Chair Findling questioned Mr. Fanjoy about what will be underneath the structure and he confirms it will just be the playground, noting they will not be adding bleachers or a stage or anything that would promote additional use other than school events. He then questions the type of cameras that will be used, and Mr. Fanjoy states the IT guy would be the best to answer that question and provide specific information. Janmaire Nugent, Principal of Garibaldi Grade School, states that the cameras will be hard wired and will be on the districts network just as the ones currently installed are.

Chair Findling moves the hearing forward and asks, "*Is there a request to keep the record open?*". Discussion is had regarding procedure on keeping the record open. Chair Findling closed the public hearing at 8:04 p.m. and reconvened the special meeting of the Garibaldi Planning Commission at 8:05 p.m.

IV. NEW BUSINESS

A. Consideration of Conditional Use Application - Neah-Kah-Nie School District #56 (CU-2020-02)

Consideration of application CU 2020-02 was discussed.

A vote was taking regarding the installation of a School Zone speed reduction signs of 20 mph on 6th, 7th and 8th Streets near Cypress Avenue and on 6th Street near Driftwood Avenue.

AYES: Findling, Cooper and Buker; NAYS: Inman; ABSENT: Parker.

A vote was taking regarding the installation of a stop sign on 8th street at Cypress Avenue.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

A vote was taken regarding the Applicant providing up to \$2,000.00 of pedestrian prohibitive barrier improvements to the owner of lot identified on Tillamook County Map # 1N 10W 21AB lot 08600.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

A vote was taken regarding the maximum building height being limited to 23'-0" above the existing playground asphalt elevation.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

Discussion was had in regard to Garibaldi not being a design review community, as it pertained to the color of the proposed roof.

A vote was taken as a recommendation of approval that Neah-Kah-Nie School District # 56 not select colors that are reflective such as silver or white on the structure roof.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

Chair Findling motions to take a vote to approve the remaining conditions of approval on page 15 of the hearing packet. Cm. Inman seconds.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

Cm. Buker motions to approve application CU 2020-02. Cm. Inman seconds.
Cm. Buker votes to approve the application as he believes it meets the criteria.
Cm. Cooper votes to approve the application based on the current conditions and staff reporting.
Cm. Inman votes to approve the application based on the information provided by the contractor Mr. Fanjoy and the City staff.
Chair Findling votes to approve the application based on the criteria, the architects, the rebuttals, the affirmation on drainage calculations and the like.

AYES: Findling, Cooper, Inman and Buker; NAYS: None; ABSENT: Parker.

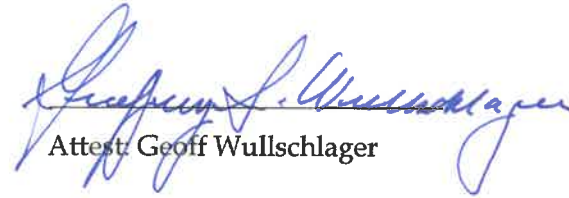
City Manager Wullschlager explained the Final Order process and the process of appeal.

V. ADJOURNMENT

Chair Findling adjourned the meeting at 8:32 p.m.



Chair: Nathan Findling



Attest: Geoff Wullschlager

Transcription: Laura Schmidt

