

GARIBALDI CITY COUNCIL SPECIAL MEETING MINUTES

Thursday, July 1, 2021 - 5:00 p.m.

Community Hall, Garibaldi City Hall, 107 6th Street, Garibaldi, OR 97118 and via Zoom

- I. PLEDGE OF ALLEGIANCE
- II. CALL MEETING TO ORDER

Mayor Tim Hall called to order the Special City Council meeting at 5:00 p.m. Present were Council members Tim Hall, Judy Riggs, Whitey Forsman, Laurie Wandell and Katie Findling. City staff present were City Manager Juliet Hyams. Citizens present included Ric Newman, Susan Newman, Carolee North, Lois Daniels, Paul Daniels, Carl Kopacek, Bud Shattuck, Sandra Tyrer and Roland Sheldon.

- III. PUBLIC HEARING: None
- IV. CONSIDERATION OF DRAFT LUBA REMAND DECISION

Mayor Hall resumed the special meeting at 5:27 pm. He invited councilors' comments about the LUBA decision.

Cn Wandell cited the role of the comprehensive plan as the soul of the Garibaldi municipal code, essential to quality of life of our community:

- o GMC 18.185.020A states the proposed use is consistent with the comprehensive plan.
- o GMC 18.05.020 speaks to encouraging the orderly development of the city to promote appropriate uses of land to conserve and stabilize the value of property, to provide adequate light and air, to lessen congestion to prevent undue concentration of population, to facilitate adequate provisions for the community facilities such as water supply and sewage to protect and enhance the appearance of the city. And in general, it promotes the public health safety, convenience and general welfare. The staff report does not address these codes in spite of multiple references to them on the record.
- o 18.80.050 refers to the maximum lot coverage of the 40% rule.
- o 18.11 0.010 is the R1 zone minimum 25% requirements. The city should submit Planning Commissioner Nathan Findling's recalculations citing serious discrepancies, per a specific request from Luba. Support the Planning Commission ruling regarding the exceeded housing projections and agree that goal 10 does not apply nor is required to cities with less than 2500 people. We are not here to fill the needs of Tillamook County. These are not affordable.
- o The DOGAMI slide on maps used for the environmental assessment state that the northern part of the property is designated as a high landslide area. In the southern part of the properties, that designation is low to moderate slight

landslide possible to likely. Mr. Daniels' math addressed the upper corner bordering the creek. However, the assessment excluded the creek site. The geotech did not address it. I hope this information also reaches Luba as well as Commissioners' Findling's and Parker's explicit explanation of their initial does.

Cn Findling (see attachment to minutes):

1. Echoed Councilor Wandell's remarks about the comprehensive plan.
2. GMC 18.12.040 applicable documents say the Garibaldi comprehensive plan shall serve the urban area. And the Garibaldi zoning and subdivision ordinances shall provide the criteria for revising and acting on proposed land use actions in the urban area.
3. 18.185 conditional uses the 18.185.020 review criteria of which this application fell under: Before a conditional use is approved, findings must show compliance with the following standards:
 - o The proposed use is consistent with the policies of the comprehensive plan.
 - o The location, size, design and operating characteristics of the proposed use have a minimum impact on surrounding properties.
 - o The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated and public facilities and services are adequate to accommodate the proposed use, and the site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use.
 - o The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points on site drives, parking area, loading areas, storage facilities, and setbacks, buffers, utilities or other facilities which are required by city ordinances or desired by the applicant.
4. Chapter 18.8, with the Hillside Overlay Zone 18.80.050 development land use criteria: Concern about erosion control measures. And before approving a building permit, only removal of existing vegetation may be carried out for surveying or planning of structures and cutting deciduous trees over six inches in diameter and cleanup conifers over four inches at a height of four and one and a half feet above ground level shall only be carried out after the approval of the building permit. So, when the hillside overlay zone is not actually shown or identified in the proposal, as with the remand, the different zones and percentage calculations.

In the May 13, 2020 public hearing there was no estimate of acreage in the Hillside Overlay Zone but proposed buildings one brand five do lot lay within it. Cutting deciduous trees over six inches in diameter and the large conifer tree over four inches in diameter has already been done - although prohibited -- but under appeal.

The maximum lot coverage on which structures and other impervious surfaces may be constructed shall not exceed 40% per the remand; *substantial evidence* means evidence a reasonable person would rely upon to make a decision. The decision suggests that the 40% restriction is met if two parking spots are removed. Although condition J did remove two parking spots, per Luba, the record does not show that removing two spaces meets the 40% restriction. Luba agreed with the petitioner that there's not substantial evidence that this standard is satisfied or will be satisfied by conditions of approval. We also agree with the petitioner that the findings are inadequate. Findings must identify the relevant approval standards and explain how facts support compliance within the approval standard. The proposal's calculation was found incorrect by both Planning Commission and unable to be validated by Luba. C5.0 and 8.0 show the development area exceeds 40%. The applicant makes a lot of calculations and combines the R1 and C1 zones. The application did not provide calculations for the R1 zone; maximum dwelling calculations do not provide final square footage or impervious surface area totals and percentages. And buildable land - rather than the entire lot -- should have probably been used. We cannot confirm that it meets that 40% and (Planning) Commissioner Findling could not calculate it based upon these criteria.

Per GMC Chapter 18.110, multifamily dwellings, condominiums, or apartments must meet the following criteria:

- The placement of the structure takes advantage of natural features such as stream shorelines are hillsides, existing trees are retained wherever feasible. There are a perennial stream and an intermittent stream on the proposed site from the environmental report. The applicant stated that ODFW approved the setback for the perennial stream located in the southeast portion of the property. However, I didn't see any protection measures for stabilizing slopes. Safety is not addressed.
- In the shorelines, the Tillamook Bay tidal flats and estuary lands are south of the property. And the proposal is for the stormwater to drain through the industrial estuary, consisting of conservation to an estuary natural zone. For the hillsides, instead of taking advantage of the slope on the site, the proposal is to cut and fill it instead. Per Commissioner Parker, the ordinance takes advantage of natural features, which doesn't mean destroying them. They should minimize impact on adjacent residential uses.
- Parking must impact adjacent residential uses and for eight or more vehicles be screened by a fence or site-obscuring hedge. Where the proposed structure is located in a residential zone or abuts one, the following setbacks shall be met: front yard one story structure 10 feet; two story structure 15 feet rear yard one story structure 10 feet two story structure 15 feet side yard one story structure five feet two story structure 10 feet. The proposed six-foot Cyclone fence with slats -- which is concerning to not provide the screening required

- for the neighborhood residential -- is along the east side of the site and the neighbors to the northwest. Applicant said that panel fencing would provide better screening is not sturdy enough to handle wind. A site-obscuring hedge along the east side could be more appropriate. No landscaping plan was included in the proposal. This proposal doesn't address natural open space for landscaping or meet the setbacks requirement. Per the CU criteria, the location size, design and upper operating characteristics will have a minimum impact on surrounding properties. Under the city of Garibaldi comprehensive plan: Consider adoption of commercial and mixed-use design guidelines, or standards to ensure that new mixed-use development is consistent with community character and enhances Garibaldi. Garibaldi comprehensive plan 3, Community Development pattern, where new commercial uses abut a residential zone site design, measures must minimize potential adverse impacts on the residential zone, emphasizing traffic impacts. Ideally, the proposal would describe the quality of the construction, treatment of hillsides and landscaping. The setbacks and lack of front rear and side yards, fencing screens from impacting neighboring properties.
- o Precedent acknowledged the impact of the community development patterns. No multimodal access appears in the record. It's completely auto dependent, does not fit the comprehensive plan and presents safety hazards. The geotechnical report and environmental site assessment...physical characteristics in terms of topography, soils etc. suit the intended use. The maps, geotechnical investigation and consultation services conflict with the application, specifically regarding subsurface soil conditions. The landslide section conflicts with the environmental report, which says no ancient or active landslides were observed. It conflicts with the proposal found in the environmental report. Additionally, because the site grading plan was unavailable when the report was created (and the applicant was told it wasn't required), it still complicates decisions and neglects landslide debris by both DOGAMI and the environmental site assessment by environmental management systems. The reports lack sufficient data site prep and grading points to prove the site can be set stabilized. The examiners admitted this in the geotechnical report and the environmental site assessment; they conflict.
 - o Statewide Goal 10 doesn't support creating housing to meet the needs of Oregon households. It supports housing efficacy; the difference is it implies development as the primary influencer, while Goal 10 is a mechanism to determine viability and necessity. So, Garibaldi is required to meet it, but not required to fill the 2500 cap for certain requirements for the broad range of housing because - due to lack of population -- already have a broad range of housing. Our problem is almost the opposite because of the old mill Marina falling through and other uses like RVs now permitted. In addition, Garibaldi comprehensive plan 6: housing where adequate numbers of needed housing at price ranges and rent levels commensurate with the financial capabilities of

Oregon households. Comprehensive plan 6, Housing: B.4 goals provide opportunity for the development of housing in a range of types and price ranges to meet the needs of future residents, support maintenance and rehabilitation of the community's existing housing stock and support the efficient development of housing and land and minimize environmental impacts and provide public services in a cost-effective manner. Garibaldi comprehensive plan 6, housing B.5 policies, zone adequate land to meet identified future housings for a broad range of housing types including single family homes and attached homes, attached and detached homes, manufactured homes, duplexes and multi-family dwellings. B says to support efforts of public private and nonprofit entities to provide needed low- and moderate-income housing. Comprehensive plan 6 housing B.6 strategies examine the city's zoning ordinance and development regulations for adequate provisions to protect environmental resources, provide flexibility in developing unique sites, allow a broad range of housing types and do not create barriers to creating affordable housing. Under D, work with the development community to ensure new housing that means like densified future needs, and it's in the initial application this was billed as fitting the affordable housing needs per the comprehensive plan. Census.gov Tillamook County per capita data showed that the per capita was 27,122. And the Oregon Secretary of State LCD notes developing so that no more of 30% of the household's gross income will be spent on rent and utilities. Over 92% of this project does not fit the comprehensive plan's call for affordable housing. Under the staff report and proposal, the Tillamook County housing needs analysis is referred to here and the housing studies are recognized as reliable data as stated in this chapter and in the proposal. Compelling data in the THANA shows Garibaldi needs no additional housing of this type, now or in the future. The THA is the most reliable report. It has standing in the Garibaldi comprehensive plan. However, it was published before the local hardwood mill closed in Garibaldi, so the data should consider fewer people needing less housing than called for in Garibaldi. The report shows that communities other than Garibaldi are positioned for new development and have the land base to do so. Overall, this report ranks Garibaldi second from the bottom for new housing needs in the next 20, under 20 now years, Wheeler is at the bottom.

Councilor Forsman: The applicant meets the municipal code and the comprehensive plan is not relevant to conditional use. And the city is required to meet the criteria laid out in the peer volume and is called.

Cn Riggs: There's a problem with housing in our community. We are turning into a second-home community. We've lost school teachers and also have homeless children, because rental owners decided to sell to make a profit. Those tenants no

longer have a place to live. Michelle Aeder spoke to that in one of the hearings. If there's a conditional use application poses issues with zoning or geotech specs, can't we get a second opinion and add a condition of approval? Could the 66 units be scaled down? Is it all or nothing?

Councilor Wandell: Is LUBA aware of that? There is a human side of this. It isn't just about checking the boxes in the municipal code. The staff findings are lacking and the applicant was not listening.

Mayor Hall: On January 24, 2020. The applicant, Paul Daniel submitted a letter to the citizens of Garibaldi when he was running for city council. And I want to quote what he wrote here. "The recall is initiated by a very small group, probably less than 20. People who do not want your city council to follow the Garibaldi comprehensive plan, and the Garibaldi municipal code." Councilor Forsman says that it's not relevant, yet the applicant believes it is.

The issue is whether his housing is needed in Garibaldi. The County Commissioner Yamamoto in 2019 made it clear that the county commissioners do not expect Garibaldi to meet the county's needs for housing; only what our city can accommodate. We have only part-time law enforcement, only 40 hours a week. I saw a report of quite a number of calls to the apartment buildings. We have no medical facilities, aging water and wastewater structures. We have almost a million dollars in in projects to complete. We have no bank. We only have one industry. Public facilities under 18-185-020D: public facilities and services are adequate to accommodate the proposed use. I doubt that. I don't want the residents of Garibaldi have to fund the major expansion of our water and wastewater systems to accommodate 66 new units. Mr. Daniels' application to build 32 units on Halverson Lane met the criteria and approval of the Planning Commission. We want housing that actually fits our ability to keep this city running.

The requirement of the Hillside Overlay Zone shall be met. Some of those conditions were ignored historically. How do we monitor the construction of these properties? Ninety-three parking spaces with one exit is worrisome in case of a fire. The DKS Associates evaluation used a best-case scenario of no cars going down Highway 101. The application is for an apartment complex, not an apartment building. A projection of 10 left turns and 14 right turns by 93 vehicles concerns me, as do documents related to stormwater. The proposed redevelopment would close any existing driveway and use one access for the site with no sight distance verified prior to construction. The staff report did not take a close look at that. I would like information on the capacity of the city's water and wastewater system and a report from ODOT. It's not about who's going to be maybe coming from Garibaldi or going elsewhere outside 50 miles. It's about the people who live here and want to work here.

I agree with the findings of the Planning Commission and the information presented by Councilors Wandell and Findling. The applicant should reconsider the 66 units and how housing could maintain quality of life.

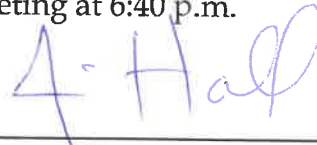
Councilor Findling: Like the idea of a reduced application, but the process precluded that. I would like to see something come in for this property that maybe is closer to the Halverson Lane development.

Ron Halter: Offer to instead build 18 one-bedroom units in the C1 zone, eliminate studios and offer lots for nine or 10 single-family homes on the upper parcel. The offer is conditioned on the city fast tracking approval so work can start this fall. CU-2020-01 is not withdrawn. The mayor agreed to fast track the application.

**MOTION by Cn Wandell deny application CU-2020-01. Second Cn Findling.
Ayes: Wandell, Findling and Hall. Nays: Riggs and Forsman. Motion passed.**

X. ADJOURNMENT

Mayor Hall adjourned the regular council meeting at 6:40 p.m.



Tim Hall, Mayor

ATTEST:



Juliet Hyams, City Manager