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## **PLANNING COMMISSION PUBLIC HEARING MINUTES**

Wednesday, May 20, 2020, 6:30 p.m.

Online meeting: Zoom ([zoom.us/join](https://zoom.us/join))

Meeting ID: 884 0760 0944

Meeting password: 507490

### **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 6:33 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 Forsman, Sandra Tyrer, 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 hearing of the Garibaldi Planning Commission to consider an application for a conditional use in the R-1 Zone 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.”

“This is a quasi-judicial of the public hearing of the Garibaldi Planning Commission to consider an application (PAGES 2. – 16.) for a conditional use in the R-1 Zone 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 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 27th, 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."

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 stated that his mother in law is a board member of the Neh-Kah-Nie school district but that this would not affect his objectivity. There were no objections.

Chair Findling read the following statement: "'At this time I'll have the City Planner Pro-Tem and the City Manager summarize the Planner's staff report and relay any correspondence or inquiry received to date."

Mr. Blake Lettenmaier summarized the Planner's staff report and read aloud the relevant sections of the Garibaldi Municipal Code. Lettenmaier commented that he would summarize the staff report and speak to some of the high points of the application and speak to the criteria not met. He stated that the application could be approved if the two lots are combined as one, due to impervious surface requirements, and other conditions of approval as contained within the staff report. If the lots are not combined the impervious surface of lot 8,300 would be at 70.1% which is non-conforming. The proposal increases the impervious area to 70.5% If the school district combines lots 8300 and 8700 legally the impervious surface would be 30.9%, and thus in conformance.

On street parking is adequately satisfied but staff recommended that each space be identified as "compact only" with appropriate signage.

He added that approval criteria for bicycle parking has not been met and recommended that the addition of one (1) space per classroom short term, and one (1) space per classroom long term be required of the applicant per Garibaldi municipal code table 18.125.124. He also stated that is per Conditional Use Review, which means that it is up to the Planning Commission if they want to make it a requirement of the applicant.

Mr. Lettenmaier went on to state, that the application, in an effort to meet "Community Development Pattern", under the Garibaldi Comprehensive Plan, must consider its impact on adjacent structures as it is a nonresidential use in a residential area. He also stated that the use has existed near the existing site since 1907 but that the proposed shelter may impact adjacent residential areas as it relates to scenic views. All retaining walls should have railings on top per Oregon State Building Code. Staff believes that the application demonstrated that the proposal is in conformance with the substantive criteria pertinent to the request should the proposed conditions of approval be executed via final order.

There were no questions of the City Planner Pro-Tem following the presentation of the Staff Report.

Chair Findling then stated: "At this time, I'll have the City Manager relay and correspondence and written testimony or inquiry received to date since the notice of the public hearing on April 29th, 2020."

City Manager Geoff Wullschlager read a letter of support from Michele Aeder dated May 17<sup>th</sup>, 2020 into the record.

“You can do this by raising your virtual hand in zoom:

During a meeting, click on the icon on your screen labeled ‘Participants’ at the bottom center of your PC or Mac screen.

At the bottom of your window on the right side of the screen, click the button labeled ‘Raise Hand’. Your digital hand is not raised.

Please only raise your hand for the group you are a part of, for example do not raise your hand to give a comment in support of the application if you are in opposition and vice versa”

Chair Findling then went on to state: “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 after the application is deemed complete. The City received and deemed the application complete on March 2nd, 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 take any Proponents’ testimony first.”

There was no oral testimony offered in support of the proposed application.

Chair Findling then stated: “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.”

There was no oral testimony offered in opposition to the proposed application.

Chair Findling then stated: “I will now take any Neutral testimony.”

Ms. Melissa Elmore identified herself as wanting to provide testimony and was recognized by Chair Findling. She was addressed as “Councilwoman” to which she replied she as participating in the meeting as a citizen, not a councilperson. Chair Findling stated that since she is on the Council that is why she was being recognized in this fashion. Ms. Elmore protested and stated that she was an individual citizen for the submission of her testimony.

Ms. Elmore presented several concerns regarding the application. With staff not having these in written format, and with problems with zoom buffering, it was hard to identify the specific criteria, but it appeared that her position was that the application did not

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?"

Ms. Melissa Elmore identified herself as a participant with a question. She wanted to offer her testimony. City Manager Wullschlager asked if she was attempting to offer her testimony, to which it was identified that she was. He went on to state the oral testimony needed to be presented at the appropriate time to which the participant was amenable. There were no questions as to the process.

Chair Findling then stated: "The Planning Commission now calls for the applicant to present any testimony regarding their application."

Mr. Jim Fanjoy responded and provided the application and its addressing of the pertinent criteria of the Garibaldi Municipal Code and Comprehensive Plan. City Manager placed the application up on the screen for those in attendance to view application elements as Mr. Fanjoy discussed them. He discussed the size, design, and tolerances of the building. He also expressed that the size of the building will not exceed the current footprint of the play area by much. He went on to stated that they will be moving the path a bit to make it ADA compliant. They are also going to put in some new retaining walls that are current with the required earthquake code. Mr. Fanjoy went on to describe the site characteristics and concluded his presentation.

At the end of the applicant's testimony Cm Inman had several questions for Mr. Fanjoy:

1. If the new structure was going to cover the area that the basketball courts are currently at, to which Mr. Fanjoy stated, "It is." and;
2. How tall would the structure be? Mr. Fanjoy pointed out that it would be 21.9 ft. at its peak, and 16ft. at the top of the roof line along the eaves of the building.

Cm Cooper followed up with the following inquiry:

1. What would be the proposed color of the roof of the structure. Mr. Fanjoy stated that "It was still under review."

The questions of the Planning Commission were then concluded and Chair Findling stated 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 29th, 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 people neither in support nor in opposition to the application."

Manager Wullschlager interjected and read the following process for public comment:

meet the "Community Development Pattern" of the Garibaldi Comprehensive Plan, as the application made a number of assertions that it would not have negative impacts on adjoining properties, without any measurements or presentations of how this was met.

Ms. Elmore continued to speak and was asked by Chair Findling to cease the offering of testimony as it had gone beyond the three-minute limit. Ms. Elmore stated that she did not have much more to submit and asked if she could finish to which Chair Findling allowed her to go forward.

Ms. Elmore offered an extension of her testimony further expressing her concern regarding the height of the building, and her properties exposure to the new structure with concerns regarding parking and foot traffic in her neighborhood, and people having access to her property.

Chair Findling asked Ms. Elmore to stop as she had exceeded the time that the Chair felt was appropriate. He did so by gaveling down the submission of further testimony.

Chair Findling asked why the testimony had not been submitted in writing before the hearing as it was lengthy. Ms. Elmore stated that she had not had the adequate preparation time to prepare a written document prior to the meeting. Chair Findling suggested that Ms. Elmore prepare her testimony in written form and submit it so that it could be considered as he said he had already planned to keep the record open for a minimum of fourteen (14) days. City Manager Wullschlager asked for a point of order and stated that the record is only required to be kept open for a minimum of seven (7) days. Chair Findling stated he was aware of this requirement but wanted to make space for an adequate amount of time for submission and review.

Cm Cooper stated that the presentation of evidence left him not hearing all the details, and he too would like to see it in document form.

Chair Findling stated: "Are there any questions from the commission about comments received at this time?", to which there were none.

Chair Findling then asked: "Is there a request to keep the record open?", to which Ms. Elmore asked for the record to remain open for at least seven days.

City Manager Geoff Wullschlager asked the Planning Commissioners present to deliberate on dates for the extension of the hearing. The Planning Commission concluded on a period of seven (7) days, and agreed to meet on May 27<sup>th</sup> at 6:30 p.m., on zoon thus meeting the time and place certain requirement for extensions of hearings under Oregon land use law.

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

#### IV. NEW BUSINESS

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

There was no further consideration of application CU 2020-02 as it there had been an extension to the hearing applied.

V. ADJOURMENT

Chair Findling adjourned the meeting at 7:32 p.m.

A handwritten signature in cursive script, appearing to read 'Nathan Findling', written over a horizontal line.

Chair: Nathan Findling

A handwritten signature in cursive script, appearing to read 'Leri Longpellow', written over a horizontal line.  
Attest: Geoff Wulfschlager