

**Remand Hearing Staff Report and Draft Final Order**  
**City Council of the City of Garibaldi**  
**LUBA No. 2020-094– Planning File No. CU 2020-01**

**I. BACKGROUND INFORMATION**

- A. APPLICANT: Coastal Housing Solutions (Paul A. Daniels).
- B. PROPERTY LOCATION: The site is located on the north side of East Garibaldi Avenue, approximately midway between Nelson Lane and Martin Smith Lane. The property address is 501 East Garibaldi Avenue and the Tillamook County Assessor places the land within Township 1 North; Range 10 West; Section 22BB, Tax Lot 100.
- C. PARCEL SIZE: The overall site is approximately 3.62 acres.
- D. PLAN/ZONE: The property is split zoned with the southern 0.76 acres zoned C-1 (Commercial) and the northern 2.86 acres zoned R-1 (Medium Density Residential).
- E. EXISTING DEVELOPMENT: The parcel contains a single-family home, accessory building, manufactured home and a billboard located on the southeast corner. The parcel fronts on East Garibaldi Avenue with two access points to the property. Portions of the site are located within the Hillside Overlay Zone. Finally, public sewer, storm sewer and water facilities are available to serve the site.
- F. ADJACENT ZONING: Land to the east and west is also split-zoned C-1 and R-1. Development on east includes an RV park and single-family home while the parcel to the west is vacant. Vacant R-1 zone is located to the north while a scrap yard is located to the south, across East Garibaldi Avenue, on land zoned General Industrial.
- G. REQUEST: On January 29, 2020, the applicant submitted its request for a Conditional Use to construct a 66-unit apartment complex. Following LUBA’s remand in *Kopacek v. City of Garibaldi* (LUBA No. 2020-094), on April 9, 2021, the applicant requested that the City proceed with remand proceedings.
- H. DECISION CRITERIA: Approval or denial of this request will be based on compliance with the decision criteria in Garibaldi Municipal Code: Chapter 18.15, Medium Density Residential Zone; Chapter 18.25 Commercial Zone, Chapter 18.110 Multifamily or Apartment Siting Criteria; Chapter 18.125 Automobile Parking Standards, Chapter 18.185 Conditional Uses, Chapter 18.80 Hillside Overlay Zone; and, the Garibaldi Comprehensive Plan.

## II. APPLICATION SUMMARY

- A. The applicant originally requested approval to construct a 64-unit apartment complex on the site. Upon examination, it was determined the layout did not comply with the design provisions of the C-1 zone. As a result, the applicant submitted a revised plan and narrative to create a 66-unit complex, which is the subject of these findings. The proposed project will feature the following improvements:
1. The site will contain six buildings with the following apartment mix:
    - a. Building #1 – 18 studio units
    - b. Building #2 – 12 one-bedroom units
    - c. Building #3 – 7 one-bedroom units; 1 two-bedroom unit
    - d. Building #4 – 12 one-bedroom units
    - e. Building #5 - 4 two-bedroom units
    - f. Building #6 – 6 studio units; 6 one-bedroom units
  2. Building #1 is located in the C-1 zone, the remaining five building are located in the R-1 zone.
  3. A total of 95 vehicle parking spaces are planned, spread over six distinct parking pods. Bicycle parking will also be provided at each building.
  4. A playground area will be located at the south end of the site, adjacent to Building #1.
  5. There will be a single access point to East Garibaldi located at the southeast corner of the site. The second access driveway will be closed.
  6. The site may contain possible wetlands located along US Highway 101. The applicant acknowledged permits may be required from the Oregon Department of State Lands.
  7. Areas not improved upon will be landscaped or remain in natural vegetative cover. Prior to development, all existing structures and improvements will be removed.
- B. Neither the C-1 nor R-1 zone allows multi-family development as a permitted use. However, both the R-1 zone (Section 18.15.030.A.) and the C-1 zone (Section 18.25.030.G.) allow multi-family development through an approved conditional use permit. The conditional use must comply with provisions in Chapter 18.185 and is subject to a public hearing before the Planning Commission.
- C. The City Engineer and Public Works reviewed the application regarding public facility improvements. No capacity issues were identified, although improvements will be necessary to meet all facility requirements. Their comments are part of the

official record, and where applicable, comments and recommendations will be incorporated within the findings. The Garibaldi Fire Chief reviewed the application and stated the proposed use meets the requirements of the Oregon Fire Code.

- D. The Oregon Department of Transportation (ODOT) was notified on the request, but did not submit comments as of the date of the original Commission hearing. Based on subsequent discussions, only a single access to US Highway 101 (E. Garibaldi Avenue) will be allowed and a permit is also required. In a further communication, ODOT questioned whether frontage improvements are required and expressed concerns regarding potential storm drainage impacts.
- E. The Planning Commission held a hearing on May 13, 2020 to consider this case. Notice of the public hearing was published on April 20, 2020 in the *Tillamook Headlight Herald*. The hearing was continued to June 10, 2020 whereby the Commission voted 3-2 to deny the request. The final order was signed by the Commission Chair on June 25, 2020 and subsequently appealed by the applicant on June 26, 2020.
- F. The Garibaldi City Council heard the appeal on July 21, 2020. In a special meeting held on August 24, 2020, the Council voted 3-2 to reverse the Commission decision and approve the application subject to conditions. The Mayor signed the order on September 1, 2020 and an appeal was subsequently filed to the Land Use Board of Appeals (LUBA) by the opponents. In its decision dated February 11, 2021, LUBA remanded the application to the City to adopt a decision that identifies applicable criteria and is supported by requisite findings.

## II. CONDITIONAL USE – CRITERIA AND FINDINGS

- A. Chapter 18.185 contains the Conditional Uses provisions and decision criteria. The Planning Commission is authorized to conduct a hearing and decide upon a request (Section 18.185.010). In permitting a conditional use or the modification of a conditional use other than a housing type (e.g., multifamily structure, manufactured dwelling park), the Planning Commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which are necessary to protect adjacent property, an identified resource, or the city as a whole. As this application is being considered on remand, these provisions apply to the City Council.
- B. The specific conditional use decision criteria are contained in Section 18.185.020. The criteria and findings are noted below:
  - 1. Section 18.185.020A. The proposed use is consistent with the policies of the comprehensive plan.

FINDINGS: The applicant responded to the criterion by addressing applicable Comprehensive plan policies. The Council finds the identified

policies applicable to the request and notes the following:

*Community Development* – Policies B and C identify the importance of site design that avoids hazardous areas, protects open space, and proposes density on sites that have adequate capacity to serve said density. Overall, the project clusters development toward the south end of site, occupying some 40% of the property with impervious surfaces. The entire project establishes 66 apartment units which is well below the potential development of 97 units. The northern area of the site contains steep slopes. Areas not developed will either be landscaped or remain in natural vegetative cover. On balance, the Council finds the project avoids hazardous areas, protects open space, and has a density well within the capacity of the site.

*Housing* – Goal A, Policies A and B express a need for a variety of housing that is affordable and accounts for the needs of future residents. This request increases the housing supply and addresses the identified need for 172 additional units in the C-1 and R-1 zones (Garibaldi Comprehensive Plan – Chapter VI). Further, a significant percentage of the Tillamook County workforce commutes 50 miles to work (or 100 miles per day), indicating housing needs are not just localized but are a county-wide issue. This project therefore meets both local and county-wide housing needs by supplying additional housing.

Opposition testimony identified concerns regarding the project's number of dwelling units. It was stated that while Table 6 of Comprehensive Plan, Chapter VI anticipates a need for an additional 172 dwelling units in both zones, only 23 units will need to be multi-family. As previous development met that multi-family need, additional units are unnecessary and therefore violate Plan provisions. Testimony supported the development of other types of housing – e.g., townhomes, cottages, duplexes – to meet identified needs as expressed by the Policies.

The aforementioned Table 6 does not regulate or limit the types or number of homes that can be constructed. The City Planner stated that meeting some anticipated number for a certain type of housing does not put the brakes on further development as housing needs change over the 20-year time period. The Table is merely a worksheet to analyze future land needs of the City to ensure there is sufficient land available to meet the housing needs of the community. The Council notes testimony at the hearing by a School Board member identified a high-rate of homelessness for elementary school children and difficulty in finding affordable housing for staff. There is an apparent need for new housing regardless of type.

Section 18.185.020(A) requires the application to be consistent with the City's housing goals and policies - and effectively - the purpose of Goal 10.

The Council recognizes the Plan is a guidance document and is not intended to establish minimum or maximum numbers or hard and fast rules prohibiting additional development. Otherwise, using the Plan to limit new residential development directly contradicts the purpose of Goal 10, which supports the creation of housing to meet the needs of Oregon households. While other types of homes may be preferred, the type of use before the Council is conditionally permitted in the respective zones. Therefore, the Council finds the project is consistent with the Plan's Housing policies as the project adds to the existing housing stock to meet the needs of the community.

2. Section 18.185.020.B. - The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties.

FINDINGS: Per the application, there are a number of factors that address this criterion. A combination of a privacy fence and Buildings #3 and #5 will screen the parking area from adjacent residences to the east. Building colors will be neutral to avoid visual conflicts. There is a single access and vehicle circulation is limited to the site's interior; traffic will not be directed through adjacent residential streets. In addition, all setbacks will meet, and in some cases, greatly exceed the minimum requirements of the respective zones and provisions for multi-family development. The Council finds the development satisfies this criterion.

3. Section 18.185.020.C. - 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.

FINDINGS: The applicant submitted a Traffic Impact Study (TIS), which is included in the packet. The study estimated the project generates approximately 483 average daily trips - 30 are AM peak trips, and 37 are PM peak trips. The mixed zoning of the site could allow intensive commercial uses on the C-1 portion located along East Garibaldi, thereby potentially exceeding the anticipated daily trips generated by the project. Further, addressing the volume-to-capacity ratio, the maximum allowable v/c for East Garibaldi is 0.85; with the additional traffic the v/c will only increase from 0.27 to 0.28. Based on the analysis, turn-lanes will likely be unnecessary.

Opponents questioned the analysis, noting the Traffic Impact Study was not completed during peak times along Highway 101 and requested an updated study to include historical data to address impacts. A question also arose as to whether the line-of-sight along East Garibaldi was sufficient given ODOT may alter the proposed access location.

It was noted by the applicant that the traffic engineer did not conduct traffic counts but relied on ODOT accepted methodology using historic data. This methodology factored in traffic volumes during peak periods, and peak travel times, using data from both ODOT and the recent Garibaldi TSP. Based on this information, the applicant's traffic engineer concluded East Garibaldi has more than adequate capacity to accommodate traffic generated by the project. Further, the line-of-sight at the proposed driveway intersection runs 700 to the west and 900 feet to east, both dimensions exceeding the 350-foot minimum standard.

The City Engineer stated that the Highway has capacity for 13,000 to 14,000 vehicles – the addition of 483 more vehicles will have virtually no impact on the Highway's capacity. The Engineer ultimately supported the technical analysis and conclusions of the Traffic Impact Study. The Council therefore finds the traffic impact will be insignificant as East Garibaldi retains significantly more capacity to accommodate traffic.

Regarding traffic safety, all parties recognized the lack of pedestrian facilities along this portion of East Garibaldi. The Council requested, and the applicant agreed to, the construction of a bus turnout to accommodate any school children. Any such improvements must be approved by ODOT as to design and location.

Therefore, based on the submitted information, the Council finds this criterion is satisfied.

4. Section 18.185.020.D. Public facilities and services are adequate to accommodate the proposed use.

FINDINGS: The City of Garibaldi (see applicant Attachment "B") confirmed adequate utility capacity for the proposed use. Further, as previously noted, there is adequate capacity on East Garibaldi Avenue to accommodate the additional traffic. The Council finds the application satisfies this criterion.

5. Section 18.185.020.E. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use.

FINDINGS: The primary physical issue is the slope located on the north side of the site and associated soils. The applicant submitted a geotechnical assessment conducted by a professional engineer (applicant's Attachment "C"). Geotechnical evidence submitted by the applicant indicates the land is suitable to accommodate the proposed project. Further, the geotechnical investigation includes recommendations related to site preparation, foundation support, floor slab support, retaining/below grade walls, pavements, excavations/slopes, surface drainage/groundwater, seismic

design considerations, stormwater infiltration, and erosion control. The site grading was designed by a licensed Professional Engineer with these recommendations in mind. In summary, based on both field work and laboratory testing and engineering analysis, the site is presently stable and generally suitable for the apartment complex. Compliance with these provisions will be determined through the engineering and building permit processes. Finally, the applicant stated that the State Department of Environmental Quality (DEQ) approved the storm water plan.

Written and verbal testimony submitted by an area land owner raised concerns over possible landslides resulting from sub-surface water. The comments specifically called the submitted geotechnical report inadequate and requested additional information. Also, questions were raised as to the height of retaining walls and various improvements, noting this information should be provided.

While the Council does not wish to diminish these concerns, the written and verbal material did not provide new evidence from a qualified individual to counter the applicant's engineering report. As stated, the applicant was well-aware of potential construction challenges associated with the property and identified a significant list of planned improvements to meet these challenges. Retaining wall or stem wall height is a function of the improvement requirements and therefore can vary depending on specific conditions. According to the City Engineer, under no circumstances will grading occur on adjacent property and any groundwater impacts are limited to the immediate vicinity of the project development.

The Council finds all engineering and building plans are required to address drainage, and hillside development impacts, consistent with the requirements of the Garibaldi Zoning Ordinance and adopted public works and engineering requirements. Without approved plans, the project cannot proceed. The Council finds the application satisfies this criterion.

6. Section 18.185.020.F. 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 areas, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by city ordinances or desired by the applicant.

**FINDINGS:** The site contains approximately 40% impervious surface, still providing sufficient area for on-site drives, vehicle/pedestrian circulation, playground areas, open space, building setbacks, and utilities. Those areas not built upon will either be landscaped or remain in natural vegetation. Based on the submitted development plans, the Council finds the 3.62-acre site is entirely capable of accommodating the proposed use.

C. Section 18.185.030 establishes the conditional use application and approval procedures. As previously noted, the Planning Commission heard the original request, which was denied; the decision was appealed to the City Council and approved with conditions; their decision was appealed to LUBA and eventually remanded to the City. The Council hearing is consistent with the current remand.

D. Section 18.185.040 identifies specific standards that must be addressed; each is reviewed in the following sections:

1. Section 18.185.040 A. Non-water-dependent or water-related uses in the WD zone shall be permitted only where the finding is made that such uses will not preclude the allocation of water-dependent uses, that sufficient land and water area exists for water-dependent uses, that public access and riparian vegetation (where applicable) will be maintained or provided, and that such uses will not cause the filling of the estuary or other adverse water quality impact.

FINDINGS: The subject site is not located within the WD zone; therefore, these provisions do not apply to the application.

2. Section 18.185.040 B. Additional Standards for Non-Water-Dependent and Non-Water-Related Commercial Uses. Non-water-dependent and non-water-related commercial uses in the WD zone may be permitted when the following standards are met: [ . . . ]

FINDINGS: The subject site is not located within the NWD zone; these standards do not apply to the application.

3. Section 18.185.040 C. Telecommunication facilities are allowed under the criteria of GMC 18.185.020 and when they meet the height limitation criteria of the zone.

FINDINGS: The proposed development does not include a telecommunication facility and is therefore not subject to these provisions.

E. 18.185.050 Conditional uses and criteria for certain transportation facilities and improvements.

- A. *Development of certain transportation facilities and improvements that are subject to conditional use approval shall satisfy all of the following criteria: [...]*

FINDINGS: The proposed development does not include the construction of a transportation facility; therefore, these standards do not apply.

### III. APPLICABLE DEVELOPMENT REQUIREMENTS

A. Standards applicable to the Medium Density Residential Zone (R-1) are contained in Chapter 18.15. Applicable provisions regarding the 48-units located within the R-1 zone are reviewed in the following subsections.

1. 18.15.010 Purpose. The R-1 zone is intended to provide an area of primarily single-family homes, duplexes and manufactured homes, with apartments allowed as a conditional use.

FINDINGS: A portion of the proposed project is located within the R-1 zone and is therefore permitted subject to the approval of a conditional use.

2. 18.15.020 Uses permitted outright are identified in this Section.

FINDINGS: As noted, apartments are not permitted outright but subject to conditional use review.

3. 18.15.030 Conditional uses permitted. Subsection A. identifies “Multifamily dwellings” subject to GMC 18.110.010.

FINDINGS: The proposed 48-unit apartment portion of the proposed complex is identified as a multifamily residential development and, therefore, requires a conditional use permit.

4. 18.15.040 Standards and criteria. This Section contains specific standards and criteria applicable to all development in the R-1 zone. Each subsection is reviewed below.

- a. 18.15.040.A. The minimum lot size for single-family dwellings, modular housing and manufactured dwellings shall be 5,000 square feet.

FINDINGS: This standard does not apply to the request.

- b. 18.15.040.B. The minimum lot size for duplexes shall be 7,500 square feet.

FINDINGS: This standard does not apply to the request.

- c. 18.15.040.C. The minimum lot size for a triplex shall be 10,000 square feet. The minimum lot size for multifamily dwellings, structures containing four or more dwelling units shall be 10,000 square feet for the first three dwelling units and 1,500 square feet for each dwelling unit thereafter.

FINDINGS: The R-1 zoned portion of the site contains approximately 124,581 square feet (sf) in area. Per calculations in this section, the site can support up to 79 dwelling units:  $124,581 \text{ sf} - 10,000 \text{ sf} (3 \text{ units}) = 114,581 \text{ sf} / 1,500 \text{ sf/additional unit} = 76 \text{ additional units}$ ;  $3 \text{ units} + 76 \text{ units} = 79 \text{ units}$ . The proposal calls for 48 units in the R-1 zone which is less than the maximum allowed. The Council finds the application satisfies this criterion.

- d. 18.15.040.D. The minimum lot width shall be 30 feet.

FINDINGS: The property is approximately 200-feet in width, thereby exceeding the minimum width requirement. The Council finds the application satisfies this criterion.

- e. 18.15.040.E. The minimum front yard shall be 10 feet.

FINDINGS: The R-1 zoned portion of the site is located on the north end of the property and does not abut the front lot line of a street; therefore, this provision does not directly apply.

- f. 18.15.040.F. The minimum rear yard shall be five feet.

FINDINGS: In this case, multifamily development siting provisions in GMC 18.110.010.E. apply: a rear yard requirement of 10 feet for one-story structures and 15 feet for two-story structures. The closest structure in the R-1 zone is some 200+-feet from the rear property line, thereby exceeding the minimum requirements. The Council finds the application satisfies this criterion.

- g. 18.15.040.G. The minimum side yard shall be five feet, except on a street side it shall be 10 feet.

FINDINGS: As noted, the proposal is subject to provisions in GMC 18.110.010.E. This section requires a side yard 5 feet for one-story structures and 10 feet for two-story structures. The structure closest to either side property line is 10-feet from the eastern property line. The Council finds the application satisfies this criterion.

- h. 18.15.040.H. The maximum building height shall be 24 feet.

FINDINGS: This height limitation applies only to Buildings #2 to #6. Based on submitted calculations, no building exceeds the 24-foot height limitation as defined by Section GMC 18.05.030. The Council finds the application satisfies this criterion.

- i. 18.15.040.I. The total amount of the lot on which structures and other impervious surfaces may be constructed shall not exceed 50 percent.

FINDINGS: The R-1 zoned portion of the site contains 2.86 acres. Based on the submitted site plan and supporting calculations, the impervious surface is significantly below the 50% threshold. The Council finds the proposal complies with this requirement.

- j. 18.15.040.J. Manufactured dwellings shall meet the requirements of GMC 18.155.010.

FINDINGS: As the project does not contain manufactured dwellings, this standard does not apply.

- k. 18.15.040.K. Parking requirements of Chapter 18.125 GMC shall be adhered to.

FINDINGS: The parking requirements are addressed elsewhere in this report. For the purpose of this section, the Council finds the layout exceeds minimum requirements.

- l. 18.15.040.L. A clear vision area on corner lots shall be provided and maintained pursuant to GMC 18.95.010.

FINDINGS: Since the site is not a corner lot, the provisions do not apply.

- m. 18.15.040.M. Accessory uses and structures shall comply with GMC 18.135.010.

FINDINGS: There are no accessory uses or structures located in the R-1 portion.

- B. Standards applicable to the Commercial Zone (C-1) are contained in Chapter 18.15. Applicable provisions regarding the 18-units located within the C-1 zone are reviewed in the following subsections.

- 1. 18.25.020 Uses permitted outright are identified in this Section.

FINDINGS: As noted, apartments are not permitted outright but subject to conditional use review.

- 2. 18.25.030 Conditional uses permitted. Subsection G. identifies “multifamily dwellings” subject to provisions in GMC 18.110.010.

FINDINGS: The proposed apartment complex is a multifamily residential development and, therefore, requires a conditional use permit.

3. 18.25.040 Standards and criteria. This Section contains specific standards and criteria applicable to all development in the C-1 zone. Each subsection is reviewed below.

- a. 18.25.040.A. Minimum lot size: none.

FINDINGS: The parcel complies with the standard.

- b. 18.25.040.B. Yards and Setbacks. For residential uses, the requirements shall be the same as in the R-1. The minimum yard depth for portions of the property abutting a residential zone will be 15 feet.

FINDINGS: Structures in the C-1 zone are setback approximately 75-feet to the front property line, thereby exceeding the minimum 10-foot requirement. Based on the submitted site plan and prior comments in items A.4.f. and g., above, the proposal complies with the minimum side and rear yard setback requirements. The Council finds the application satisfies this criterion.

- c. 18.25.040.C. Building Height. Maximum building height shall be 30 feet. Maximum building height allowed outright shall be 30 feet. Any building exceeding 30 feet in height shall be reviewed following the standards and procedures for conditional uses under Chapter 18.185.

FINDINGS: This height limitation applies only to Building #1. Based on submitted calculations, the building will not exceed the 30-foot height limitation as defined by Section GMC 18.05.030. The Council finds the application satisfies this criterion. In addition, regarding buildings and improvements, there is no maximum impervious surface requirements. However, based on the submitted site plan and supporting calculations, the improvements do not exceed 40% of the 0.76-acre C-1 zoned portion of the site.

- d. 18.25.040.D. Outdoor sales and service areas not requiring conditional use approval shall be approved by the Planning Commission.

FINDINGS: This subsection does not apply as the proposed residential development does not include outdoor sales and service areas.

- e. 18.25.040.E. All uses shall meet the parking and sign requirements of this title.

FINDINGS: The parking requirements are addressed elsewhere in this report. For the purpose of this section, the Council finds the layout exceeds minimum requirements. Signs must comply with provisions in GMC 18.120 and are subject to a separate review process.

- f. 18.25.040.F. The minimum lot size for a triplex shall be 10,000 square feet. The minimum lot size for multifamily dwellings (four dwelling units or more) shall be 10,000 for the first three units and 1,500 for each unit thereafter. The planning commission may allow up to 50 percent additional dwelling units (up to 39 dwelling units per acre) for senior citizen or adult disabled housing.

FINDINGS: The C-1 zoned portion of the site contains approximately 33,106 square feet (sf) in area. Per calculations in this section, the site can support up to 18 dwelling units:  $33,106 \text{ sf} - 10,000 \text{ sf} (3 \text{ units}) = 23,106 \text{ sf} / 1,500 \text{ sf/additional unit} = 15 \text{ additional units}$ ;  $3 \text{ units} + 15 \text{ units} = 18 \text{ units}$ . The proposal calls for 18 units in the C-1 zone which does not exceed the maximum number allowed. The Council finds the application satisfies this criterion.

- g. 18.25.040.G. There shall be no minimum yard requirements for housing developments in the C-1 zone. Senior citizens and/or adult disabled housing shall provide a minimum of 10 percent of the lot area in maintained landscaping. Family-oriented housing developments shall provide a minimum of 20 percent of the lot area in maintained landscaping. In addition, such developments shall provide a fenced playground which, in the view of the planning commission, is capable of serving the number of projected children.

FINDINGS: The layout includes an enclosed playground adjacent to Building #1, at the south end of the site. A dedicated pedestrian walkway will serve this area (see Sheet C3.0).

Comments made during the hearing expressed concern as to the location of the playground near the Highway. For the record, the play area is located some 55-feet to the front property line and approximately 70-feet to the paved Highway surface. The Council finds that, in combination with fencing, this distance appears more than adequate to maintain play area safety and thereby satisfies the criterion.

C. The northern portion of the site contains steep slopes and is subject to provisions in Chapter 18.80 – Hillside Overlay Zone (HOZ). Compliance with the applicable provisions is reviewed in the following subsections. Testimony at the May Commission hearing indicated a portion in the southeast corner of the site may also be subject to the Overlay Zone provisions.

1. Section 18.80.010 Purpose. The purpose of the hillside overlay zone. Provisions apply to all areas of the city where the slope of the land is 20 percent or greater. The intent of the zone is to establish special criteria and procedures for development in a way that the potential for property damage and adverse impacts on the natural environment are reduced.

FINDINGS: Since the slopes on portions of the property exceeds 20%, the proposed development is, therefore, subject to provisions in Chapter 18.80.

2. 18.80.020 Area affected. Areas of land with a slope of more than 20 percent are identified on a map titled “Slope, Garibaldi, Oregon” which is contained in the comprehensive plan of the city of Garibaldi.

FINDINGS: Again, as portions of the subject site exceed 20% in slope, the overlay zone provisions apply.

3. 18.80.030 Development and uses permitted. Any use permitted outright or conditional use permitted in the underlying zone may be permitted within the boundaries of the hillside overlay zone.

FINDINGS: The applicant is seeking approval of a conditional use permit to construct the proposed multifamily development.

4. 18.80.040 Procedure. The requirements of the hillside overlay zone shall be met prior to the issuance of a building permit. The requirements of this section shall also be met in conjunction with any request for approval of a subdivision, or a major or minor partition, or planned unit development.

FINDINGS: These are administrative provisions that apply to the project, and, if approved, the developer is required to comply with the requirements. These requirements apply to all parts of the property that contain slopes exceeding 20%.

5. 18.80.050 Development and use criteria. Provisions in this section apply to the entire site and are reviewed below:

- a. 18.80.050.A. The city planner, at the direction of the city council, shall require the following reports be provided by an applicant who proposes to develop land within the hillside overlay zone. The cost of all reports shall be borne by the applicant.

1. Geologic Site Investigation.
2. Grading Plan. This plan shall include the following information:
3. Erosion Control Plan. This plan shall describe measures to be taken to stabilize slopes and minimize soil erosion during construction.

FINDINGS: A licensed Professional Engineer prepared a geotechnical report (applicant Attachment C). As previously noted, the report finds the topography and soil composition can accommodate the proposed development. In addition, the engineer prepared a grading and erosion control plan submitted as sheet C8.0. Additional reports may be required to address additional hillside areas.

Again, provisions in Chapter 18.80 apply to the newly identified hillside area. Consistent with requirements in Section 18.80.040, the applicant shall submit the information required by this Chapter prior to the City issuing a building permit. Provided this occurs, the Council finds the application satisfies this criterion.

- b. 18.80.050.B. The following requirements are applicable to geologic site investigations:
  1. The burden of proof shall be upon the applicant to show construction feasibility in hazardous areas.
  2. Where a site investigation report concludes that an engineering solution will solve an indicated problem, the building official shall require that the additional standards and requirements set forth in the geologic hazard report be a requirement of the building permit.
  3. Where the proposed development includes grading, the site investigation report shall include conclusions and recommendations concerning grading procedures as well as conclusions and recommendations concerning the adequacy of sites and streets to be developed by the proposed grading.
  4. The city planner may recommend to the city council/planning commission an independent review of the site report, particularly where the geologist or engineer has a financial interest in the property to be developed. The council/commission may require the preparation of such a report prior to issuance of a building permit. The cost of the independent review shall be borne by the property owner or developer.
  5. The degree of protection from problems caused by geologic

hazards required by this section is considered reasonable for regulatory purposes.

FINDINGS: The site grading was designed to mitigate any potential hazards associated with the development, including addressing potential concerns related to the site's grading. The applicant acknowledged the City may require additional site-specific investigations as part of the building permit process and that the material may be reviewed by other professionals. For the record, these are administrative procedures related to the development. The Council finds the application satisfies this criterion.

- c. 18.80.050.C. The following requirements are applicable to activities undertaken in conjunction with a grading plan:
  1. Cuts.
    - a. The slope of cut surfaces shall be not steeper than is safe for intended use and shall be not steeper than two horizontal to one vertical unless the applicant submits a geologic site investigation report stating the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.
    - b. Cuts shall not remove the toe of any slope where a potential landslide or erosion hazard exists.
  2. Fills.
    - a. Fill slopes shall not be constructed on natural slopes steeper than two horizontals to one vertical.
    - b. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill and, where slopes are steeper than five to one and the height is greater than five feet, by benching into sound bedrock or other competent materials as determined by a soils engineer.
    - c. Detrimental amounts of organic material shall not be permitted in structural fills. No rock or similar material greater than 12 inches in diameter shall be placed in a structural fill. The building official may permit placement of larger rock if a soils engineer designs a method of placement, continually inspects the placement and certifies the stability of the fill.
    - d. Fills will be compacted to a minimum of 90 percent of maximum density as determined by Uniform Building Code Standard No. 70-1. An engineer shall certify all structural fill as meeting minimum bearing capacity for

the intended use.

FINDINGS: The geotechnical report indicates the proposed grading is safe for the intended use. Further, the earthwork was designed to comply with these standards. This material will be reviewed further when final engineering and building plans are submitted. With these additional reviews, the Council finds the application satisfies this criterion.

d. 18.80.050.D. The following requirements are applicable to drainage facilities:

1. All cut and fill slopes shall be provided with subsurface drainage as is necessary for stability.
2. All roof and foundation drainage must be collected, controlled, and directed to either a city street, a storm drain or to a natural drainageway if it is acceptable to the public works director.
3. Other alternative methods of storm water disposal may be approved by the public works director.

FINDINGS: The on-site stormwater conveyance and drainage system was designed by a licensed professional to comply with City stormwater management standards. While this criterion is satisfied, based upon the submitted application materials, compliance will be confirmed when engineering plans are submitted prior to receiving a building g permit.

e. 18.80.050.E. Erosion Control Measures. The following standards are a minimum requirement for the purposes of minimizing soil erosion. The final program for soil stabilization may vary as site conditions and development programs warrant. These minimum guidelines are not intended to resolve all project soil erosion conditions. The applicant is responsible for containing all soil on the project site.

1. Prior to approval of building permit, only the removal of existing vegetation may be carried out for surveying or planning of structures. Cutting of deciduous trees over six inches in diameter and conifers over four inches at a height of four and one-half feet above ground level shall only be carried out after the approval of the building permit.
2. If topsoil is to remain stockpiled during a rainy season, seeding or other stabilization measures are required.
3. All areas that will, by necessity, be left bare after September 30th shall be seeded to a cover crop (i.e., cereal rye, annual rye grass, perennial rye grass). Mulching is an alternative to seeding.

4. Means shall be devised to prevent sediment laden water from entering any storm sewer facilities.
5. Vegetation shall be established as soon as possible after completion of grading. The building official may require the use of matting prior to seeding on certain slopes.

FINDINGS: These are management requirements related to the development of site; the developer must comply with these provisions.

- f. 18.80.050.F. Minimum Lot Size. The minimum lot size for any structure in the hillside overlay zone shall be 8,000 square feet. Where the property proposed for development consists of smaller contiguous lots, such lots shall be aggregated to meet this minimum lot size.

FINDINGS: The Council finds the application satisfies this criterion as the 3.62-acre parcel exceeds the minimum area requirement.

- g. 18.80.050G. Maximum Lot Coverage. The total amount of the lot on which structures and other impervious surfaces may be constructed shall not exceed 40 percent.

FINDINGS: The site is 3.62 acres, of which 1.45 acres are proposed to be impervious surface. This works out to 40.05% of the site's surface  $(1.45/3.62) \times 100 = 0.4005$ ). Testimony indicated removal of two parking spaces would ensure compliance with Section 18.80.050.G. Given the calculations are based on preliminary information where exact measurements may not be available, the Council finds it appropriate to allow the developer an option to either eliminate two parking spaces, or provide calculations during through the permitting process that show the development will not exceed the 40% threshold. Provided the developer exercises one the two options, the Council finds the application satisfies this criterion. As a further note, for the primarily affected area in the R-1 zone, the submitted site plan and calculations show the impervious surface is well below the 40% maximum.

- h. 18.80.050.H. Yard Requirements. The minimum yard requirement for the yard abutting a street or vehicular access way is five feet. Where this standard is used, the minimum rear yard, or yard opposite the yard abutting the street or vehicular access way, shall be 30 feet. The minimum side yard shall be 10 feet.

FINDINGS: The front yard abutting East Garibaldi Avenue is over 80-feet in depth, thereby exceeding the requirement. Further, based on

the submitted site plan and information, the Council finds the application satisfies this criterion as the buildings meet or exceed the identified minimum setback requirements.

- i. 18.80.050.I. Building Height. Within the hillside overlay zone, building heights of structures other than accessory buildings shall be as follows:
  - 1. Structures which are located below or downslope from the street, road, or vehicular access way shall have a maximum height of 16 feet above the centerline of the adjacent street, road or access way.
  - 2. Structures other than those described in subsection (I)(1) of this section shall adhere to the height requirements of the underlying zone.
  - 3. Upon completion of construction of structures 16 feet or higher, the applicant shall submit to the city's planner an elevation certificate affirming the height standard.

FINDINGS: The structures are not proposed to be located below or downslope from the street. As previously noted, the structures do not exceed the height limitations in their respective zones.

- j. 18.80.050.J. Uncovered vehicle access structures such as bridges may be located in the front yard setback.

FINDINGS: The development does not include uncovered vehicle access structure.

- D. Chapter 18.110 addresses specific multifamily or apartment siting criteria. Section 18.110.010 notes that in any zone where a multifamily dwelling, condominium or apartment structure is proposed, the Planning Commission shall review the plans under the following criteria:

- 1. 18.110.010.A. The placement of the structure takes advantage of natural features such as streams, shorelines, or hillsides. Existing trees are retained whenever feasible.

FINDINGS: Based on material submitted by the applicant, the existing vegetation will be retained and incorporated into the site design wherever feasible. It is also noted the improvements are clustered to maximize the available open space and will maintain at least a 15-foot setback from on-site drainages. To ensure existing trees will remain (where feasible), the Council finds the developer will be required to submit a landscaping plan along with the engineering and building plans.

2. 18.110.010.B. Ingress and egress points shall be located so as to minimize impact on any adjacent residential uses. In the downtown area, access shall be limited wherever possible to side streets, rather than Garibaldi Avenue.

FINDINGS: There is a single point of ingress/egress from East Garibaldi Avenue; adjacent residential streets will not be used. The Council finds the application satisfies this criterion.

3. 18.110.010.C. Parking areas are located to minimize impact on any adjacent residential uses. Parking areas that provide for eight or more vehicles shall be screened from adjacent residential uses by means of a fence or sight-obscuring hedge.

FINDINGS: The parking area is located interior to the site and is separated from the adjacent residential developments to the east by Building #3 and Building #5. Additionally, there will be sight-obscuring privacy fences installed along the perimeter will provide additional screening, especially to reduce vehicle headlight glare. The Council finds the application satisfies this criterion.

4. 18.110.010.D. In the R-1 zone, a minimum of 25 percent of the lot area shall be devoted to natural open space or landscaping. In the C-1 zone, a minimum of 20 percent of the lot area shall be devoted to natural open space or landscaping for family-oriented developments, and 10 percent of the lot area shall be devoted to natural open space or landscaping for senior citizen/adult handicapped housing. A fenced playground shall be provided for all family-oriented developments.

FINDINGS: The property's R-1 zoned portion contains approximately 124,581 square feet of area while the C-1 portion contains approximately 33,106 square feet. The site consists of approximately 40% impervious surface with the remaining area in natural open space, recreation area, or landscaping. The Council finds the application satisfies this criterion as this area exceeds the minimum standards.

5. 18.110.010.E. Where the proposed structure is located in a residential zone or abuts a residential zone, the following setbacks shall be met:

E.1. Front yard: one-story structure, 10 feet; two-story structure, 15 feet;

FINDINGS: Front yard is defined as a yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or other structure. Any yard meeting this definition and abutting a street shall be considered a front yard. The R-1 zoned portion of the subject site does not abut the front lot line or the street.

However, the front yard standard in GMC 18.110.010.E.1 also applies to structures that abut residential zones. The structures in the C-1 zoned portion of the site maintain a 75-foot setback from the street, thereby exceeding the 15-foot minimum requirement. The Council finds the application satisfies this criterion.

E.2. Rear yard: one-story structure, 10 feet; two-story structure, 15 feet;

FINDINGS: The structure closest to the rear property line within the R-1 zone is the enclosed recreation area which is over 200-feet from the rear property line. This standard is satisfied.

E.3. Side yard: one-story structure, five feet; two-story structure, 10 feet.

FINDINGS: The structure closest to either of the two side property lines within the R-1 zone is 10'-0" feet from the property line. This standard is satisfied.

6. 18.110.010.F. In the downtown core area, multifamily or apartment complexes shall include a commercial use with frontage on U.S. 101.

FINDINGS: The subject site is not located within the downtown core area; this standard does not apply.

7. 18.110.010.G. Vegetation that attains a mature height of six feet may be required in order to screen the development from adjacent dwellings.

FINDINGS: The applicant will install a sight-obscuring fence. The Council finds no additional screening is required.

E. Chapter 18.125 contains the automobile parking standards. The purpose of this Chapter (18.125.010) is to provide basic and flexible standards for the development of vehicle and bicycle parking. Each applicable subsection is reviewed below:

1. 18.125.020 Applicability. All development subject to review including development of parking facilities, shall comply with the provisions of this chapter.

FINDINGS: The proposed development includes the construction of a 95-stall parking area. Therefore, the development standards established in GMC 18.125 apply.

2. 18.125.030 Vehicle parking - Minimum standards by use. Table 18.125.030, establishes the Minimum Required Parking by Use. For multi-

family projects the standards are: 1 space per studio or 1-bedroom unit; 1.5 spaces/unit per 2-bedroom unit; and, 2 spaces/ per 3-bedroom or larger unit

FINDINGS: The proposed project contains 24 studio units, 37 one-bedroom units, and 5 two-bedroom units. Per the parking requirements in Table 18.125.030, a total of 69 spaces are required. The site plan (sheet C3.0) includes 95 parking spaces which exceeds the minimum requirement. Even if two spaces are eliminated to meet the impervious surface area requirement, the 93-space parking area still exceeds the minimum requirement. The Council finds the application satisfies this criterion.

3. Section 18.125.040 identifies minimum accessible parking requirements. The applicable subsections are reviewed, below:

- a. 18.125.040 A. Accessible parking shall be provided for all uses in accordance with the standards in Table 18.125.030; parking spaces used to meet the standards in Table 18.125.040, Minimum Number of Accessible Parking Spaces, shall be counted toward meeting off-street parking requirements in Table 18.125.030;

FINDINGS: The proposed site contains 95 parking stalls. Per Table 18.125.040, a total of four ADA-compliant parking stalls are required. Three of these stalls need to be accessible stalls with access aisles, and one needs to be a van accessible stall. As shown on the attached site plan (sheet C3.0), the applicant is proposing to install a total of 11 ADA-compliant parking stalls. Of these 11 stalls, five are van accessible. The Council finds the application satisfies this criterion.

- b. 18.125.040 B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;

FINDINGS: ADA-compliant parking stalls will be located at each building (sheet C3.0). All but one of the ADA-compliant stalls are proposed in pairs of two that are served by a dedicated pathway from the parking stalls to the building entrance. The Council finds the application satisfies this criterion.

- c. 18.125.040 C. Accessible spaces shall be grouped in pairs where possible;

FINDINGS: All of the accessible spaces are proposed to be clustered around the site in groups of two stalls. The one exception is the accessible stall serving Building #3. On balance, The Council finds the application satisfies this criterion.

- d. 18.125.040 D. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;

FINDINGS: The site does not include covered parking.

- e. 18.125.040 E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

FINDINGS: Appropriate signs and markings, conforming with these standards, will be placed at each accessible parking space. This is a requirement and reviewed when building plans are submitted.

- 4. 18.125.050 establishes standards for on-street parking. For the record, there is no on-street parking proposed.
- 5. 18.125.060 Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap.

FINDINGS: The project does not include shared parking as there is only a single use on site.

- 6. 18.125.070 Off-site parking. Except for single-family dwellings, the vehicle parking spaces required by this section may be located on another parcel of land, provided the parcel is within 500 feet of the use it serves and the city has approved the off-site parking through land use review.

FINDINGS: Off-site parking is not proposed or necessary.

- 7. 18.125.080 General parking standards. General standards are reviewed in the following sections:
  - a. 18.125.080.A. Location. Parking is allowed only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this code. Street parking spaces shall not include space in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pedestrian accessway, landscape, or other undesignated area.

FINDINGS: All parking will be located on site and not use the adjacent right-of-way. The parking area has been designed by a licensed Professional Engineer to satisfy the applicable provisions of the code established in the Garibaldi Municipal Code. The Council finds the application satisfies this criterion.

- b. 18.125.080.B. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day).

FINDINGS: Mixed use provisions do not apply as the project involves a single use.

- c. 18.125.080.C. Availability of Facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers, and/or employees. Signs shall conform to the standards of Chapter 18.120 GMC.

FINDINGS: This is an option for the developer and can be reviewed when building plans are submitted.

- d. 18.125.080.D. Lighting. Parking areas shall have lighting to provide at least two foot-candles of illumination over parking spaces and walkways. Light standards shall be directed downward only and shielded to prevent lighting spillover into any adjacent residential district or use.

FINDINGS: The Council finds the application can satisfy this criterion as compliance with this development requirement will be reviewed when building and/or engineering plans are submitted.

- e. 18.125.080.E. Screening of Parking Areas. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses.

FINDINGS: Single family homes are located to the east. The Council finds a combination of buildings and fencing provide necessary screening.

- 8. 18.125.090 Parking stall design and minimum dimensions. All off-street parking spaces are subject to the following:

- a. 18.125.090.A. Motor vehicle parking spaces shall measure eight feet, six inches wide by 18 feet long or by 16 feet long, with not more than a two-foot overhang when allowed;

FINDINGS: The Council finds all of the proposed parking stalls are 90-degree stalls that measure 18'-0" long and 8'-6" wide.

- b. 18.125.090.B. All parallel motor vehicle parking spaces shall measure eight feet, six inches by 22 feet;

FINDINGS: There site does not include parallel parking spaces.

- c. 18.125.090.C. Parking area layout shall conform to the dimensions in Figures 18.125.090(1) and (2), and Table 18.125.090, Parking Area Layout.

FINDINGS: As indicated on the submitted site plan, the layout complies with the stall dimensions and exceeds the aisle width requirements (see also sheet C4.0). This criterion is satisfied.

- d. 18.125.090.D. Parking areas shall conform to Americans with Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to federal ADA guidelines; and

FINDINGS: Parking for ADA standards was previously addressed and found to exceed minimum requirements. In addition, conformance with these requirements is also addressed and verified when the developer submits building plans.

- e. 18.125.090.E. Bicycle parking shall be on a two-foot by six-foot minimum concrete pad per bike, or within a garage or patio of residential use.

FINDINGS: The bicycle parking is to be installed underneath the staircases for each building on a concrete pad. Review of the building plans determines compliance with these requirements.

- 9. 18.125.120 Minimum required bicycle parking spaces. Uses shall provide long- and short-term bicycle parking spaces, as designated in Table 18.125.120. Where two options are provided (e.g., two spaces, or one per eight bedrooms), the option resulting in more bicycle parking is used.

FINDINGS: The site consists of 66 units, thereby requiring 17 bicycle parking stalls per the standard established in Table 18.125.120. To comply

with this requirement, the applicant is proposing to install bicycle parking under the stairs adjacent to the entrances for each building.

10. 18.125.140 Location and design. Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or 50 feet, whichever is less. Long-term (i.e., covered) bicycle parking should be incorporated whenever possible into building design. Short-term bicycle parking, when allowed within a public right-of-way, should be coordinated with the design of street furniture, as applicable.

FINDINGS: All bicycle parking will be located adjacent to a building entrance, underneath the proposed stairwells. This provides security, cover, lighting, and accessibility from the unit entrances. The Council finds the application satisfies this criterion.

11. 18.125.150 Visibility and security. Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.

FINDINGS: As noted, bicycle parking will be located at the building entrance.

12. 18.125.160 Options for storage. Long-term bicycle parking requirements for multiple family uses and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.

FINDINGS: The long-term bicycle parking will be provided via ground-mounted racks where bicycles can be securely attached. This criterion is satisfied.

13. 18.125.170 Lighting. For security, bicycle parking shall be at least as well-lit as vehicle parking.

FINDINGS: The bicycle parking will be illuminated via the building lighting at the building entrances.

14. 18.125.180 Reserved areas. Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

FINDINGS: The area provided for bicycle parking is only intended to be used for bicycle parking. Appropriate signage can be installed.

15. 18.125.190 Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

FINDINGS: Bicycle parking spaces are located underneath stairwells in areas are not used for pedestrian circulation. The Council finds this location does not create any hazards or impede pedestrians.

F. Administrative provisions implementing provisions of Section 660-012-0045(2)(e) of the State Transportation Planning Rule are located in Chapter 18.210. The City must adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a traffic impact study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a traffic impact study; and who is qualified to prepare the study. The relevant provisions are reviewed in the following sections.

1. Chapter 18.210.B. Typical Average Daily Trips. Standards by which to gauge average daily vehicle trips include: 10 trips per day per single-family household, five trips per day per apartment; and 30 trips per day per 1,000 square feet of gross floor area such as a new supermarket or other retail development.

FINDINGS: The traffic study (Attachment A) anticipates the project will generate 483 additional daily trips to the site.

2. Chapter 18.210.C. When Required. A traffic impact study may be required to be submitted to the city and ODOT with a land use application when the following conditions apply:

C.1. The development application involves one or more of the following actions:

- a. A change in zoning or a plan amendment designation;
- b. Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway;
- c. The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation Manual, and information and studies provided by the local reviewing jurisdiction and/or ODOT:
  - i. An increase in site traffic volume generation by 150 average daily trips (ADT) or more; or
  - ii. An increase in ADT hour volume of a particular movement to and from the state highway by 20 percent or more; or

- iii. An increase in use of adjacent streets by vehicles exceeding the 20,000-pound gross vehicle weights by 10 vehicles or more per day; or
- iv. The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the state highway, creating a safety hazard; or
- v. A change in internal traffic patterns that may cause safety problems, such as backup onto the highway or traffic crashes in the approach area.

C2. As requested by the planning commission, acting on the recommendation of city staff.

FINDINGS: The project will generate more than 150 average daily trips; therefore, a traffic study is required (GMC 18.210.C.1.c.i.). The traffic study is included with the application at Attachment A.

3. Chapter 18.210.D. Traffic Impact Study Requirements.

D.1. Preparation. A traffic impact study shall be prepared by a professional engineer in accordance with OAR 734-051-180.

FINDINGS: The traffic impact study has been prepared by a licensed Professional Engineer with DKS Associates.

D.2. Review of Plan and Land Use Regulation Amendments for Effect on Transportation Facilities. Where and when required, a traffic impact study shall review a proposed plan or land use regulation amendment for its effect upon transportation facilities, pursuant to GMC 18.200.060.

FINDINGS: There is no change in the comprehensive plan designation or land use designation; this standard does not apply.

4. Chapter 18.210.E. Approval Criteria.

E.1. Criteria. When a traffic impact study is required, approval of the development proposal requires satisfaction of the following criteria:

- a. The traffic impact study was prepared by a professional engineer in accordance with OAR 734-051-180; and

FINDINGS: The traffic study was prepared by a licensed Professional Engineer with DKS Associates (applicants Attachment

A).

- b. If the proposed development shall cause one or more of the effects in subsection (C)(1)(c) of this section, or other traffic hazard or negative impact to a transportation facility, the traffic impact study shall include mitigation measures satisfactory to the city of Garibaldi, and ODOT when applicable; and

FINDINGS: The estimated 483 daily trips exceed the threshold established in subsection (C)(1)(c). The following mitigation measures were proposed in the traffic study.

- *“One existing driveway to the highway is proposed to be closed, improving the existing substandard spacing of driveways. This closure would bring the connection closer to conformity with access spacing standards as specified in OAR 734-051-3020 (8).”*
- *“Prior to occupancy, sight distance at the project driveway will need to be verified, documented, and stamped by a registered Civil or Traffic Engineer licensed in the State of Oregon.”*

The proposed development will close an existing driveway and utilize only one access for the site, with the sight distances verified prior to construction. ODOT will also review the access location and improvements to ensure conformance with State requirements. The recommendations have been included in the proposed development; this criterion is satisfied.

- c. The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
- i. Have the least negative impact on all applicable transportation facilities; and

FINDINGS: The proposed ingress/egress does not interfere with existing residential streets or access points for existing residential development. As is demonstrated in the TIS, East Garibaldi Avenue has more than adequate capacity for the estimated trip generation from the proposed development. The Council finds the application satisfies this criterion.

- ii. Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and

FINDINGS: Site improvements include bicycle parking spaces, and attendant safe and secure storage, ultimately promoting the use of bicycles. Further, a pedestrian network connects parking areas, buildings, and recreation areas where practicable. This criterion is satisfied.

- iii. Make the most efficient use of land and public facilities as practicable; and

FINDINGS: The site has been designed to consolidate the circulation system and cluster the buildings to the front of the site in an effort to efficiently use the land within the constraints of the topography. This criterion is satisfied.

- iv. Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and

FINDINGS: As noted, a pedestrian network connects parking areas, buildings, and recreation areas where practicable.

- v. Comply with the performance standards as described in the TSP and/or the Oregon Highway Plan (whichever is applicable); and

FINDINGS: There are no changes proposed to the performance standards or functional classification East Garibaldi Avenue. East Garibaldi retains more than sufficient capacity to accommodate the minor traffic increase.

- vi. Otherwise comply with applicable requirements of this title and subdivision and land partitioning procedures.

FINDINGS: The Council finds the on-site circulation complies with the applicable requirements GMC Chapter 18.125.

#### IV. SUMMARY COMMENTS

- A. Concerns were raised as to design and aesthetic components of the project. Provisions in Section 18.05.020 were referenced noting the project was not consistent with the “orderly development of the city” or “provide(d) adequate light and air” or “protect and enhance the appearance of the city”. References were made to the City’s moto of Garibaldi being an authentic fishing village, questioning how an apartment complex is consistent with statement.
- B. The Council recognizes these concerns and does not want to diminish their importance. However, the Council recognizes these introductory provisions to the

Ordinance are aspirational and not part of the review criteria. The City Zoning Ordinance does not contain design standards that would apply to this or any similar request. Further, as discussed in earlier findings, while alternate housing types might be preferable and even desirable, the Council is limited to looking at this request solely based on existing criteria. The above findings indicate the proposal either complies, or can comply though the application of suitable conditions, with the relevant decision criteria to establish the 66-unit apartment complex.

## V. CONCLUSION AND CONDITIONS OF APPROVAL

The City Council finds the Conditional Use is in compliance with the Garibaldi Zoning Ordinance criteria provided certain conditions apply. The Council hereby APPROVES the application subject to the following Conditions of Approval:

- A. The Conditional Use shall be limited to the proposed 66-unit complex as submitted and approved by the City Council. The applicant is advised that any change in use, modification or other departure from the approval may require additional land use applications and approvals.
- B. Prior to development, the applicant shall:
  - 1. Participate in a pre-engineering conference with the applicable public and private facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings.
  - 2. Apply for and receive approval of an access permit from the Oregon Department of Transportation. In addition, the permit application shall include plans for the installation of a school bus turn-out.
  - 3. Apply for and receive approval of a fill/removal permit from the Department of State Lands.
- C. The applicant shall submit an engineering plan for the entire development to the Garibaldi Public Works Department for review and approval. The plan shall include information concerning storm water, street frontage improvements, easements, sewer, water, fire hydrants and other information as necessary to indicate conformance with Garibaldi Public Works Standards, consistent with the development proposal and requirements contained in Condition of Approval "F."
- D. Once engineering plans are approved and a final site plan accepted, the developer shall then be permitted to apply for and receive a building permit. The plans shall be subject to the following:
  - 1. The building permit plans for the proposed buildings shall conform to the approved final site plan.
  - 2. The developer shall have the option of removing two parking spaces, or, submit new calculations indicating the site does not exceed the 40%

- impervious surface standard.
3. The building plans shall include a landscaping plan.
  4. Parking improvements shall include a lighting plan. Light standards shall be directed downward only and shielded to prevent lighting spillover into any adjacent residential district or use.
  5. Building permits may be submitted concurrent with engineering plans; however, building shall not proceed until such time engineering plans, including applicable Oregon Department of Transportation and Department of State Lands permits, are approved.
- E. Prior to obtaining an occupancy permit the applicant shall complete the following:
1. The applicant shall extend or install sanitary sewer, water and storm drainage facilities to serve the entire development. The improvements shall comply with the approved engineering plans and the applicable requirements identified in item "F." of this Section.
  2. Landscaping, fencing, walkways and required screening shall be installed in compliance with the approved final site plan.
  3. All parking improvements, including paving, stripping, lighting, driveways and other requirements, shall be installed in compliance with the parking layout on the approved final site plan.
  4. The applicant shall install a site obscuring fence conforming to the approved building and site plans.
  5. Frontage improvements along East Garibaldi Avenue (Highway 101) shall be installed per approved ODOT plans. This shall include the school bus turnout if approved by ODOT.
- F. Public facility and street design, constructions and maintenance shall be subject to the following:
1. All public utility installations shall conform to the City's facilities master plans. No building permits will be issued until all public utilities, including sanitary sewer are available to serve the development. The applicant shall pay plan review, inspection, and permit fees as determined by the Public Works Director.
  2. All improvements shall comply with the standards and requirements of the Garibaldi Public Works Department. Adequate bonding, or other financial instrument acceptable to the City, shall be obtained to complete any street and facility improvements. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges.
  3. Building permits for the work on the buildings and construction permits for the site and utility work required shall not be issued until after the developer has received final approval of site and utility construction drawings, a Developer-City construction agreement has been executed, and a performance security satisfactory to the City has been submitted guaranteeing that all

improvements will be completed in accordance with the approved drawings and City Standards within the specified time period. The site construction drawings shall include all required site and utility improvements, including (as applicable) street improvements/repairs, sidewalks, water, sanitary sewer, storm drainage, access driveways and on-site parking, grading and irrigation/landscaping plans for the development.

4. Prior to final plan approval by the City, written approval of construction drawings must be received from ODOT for any work within the ODOT right-of-way or affecting ODOT roads or utility systems.
  5. All parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material. The applicant shall stripe the proposed parking spaces per State of Oregon (ORS 447.233) and the Americans with Disabilities Act.
  6. A contaminated media management plan (CMMP) shall be completed for the project site and approved by DEQ prior to development at the site. The CMMP should be used during development to handle any potentially contaminated media encountered during development activities.
  7. Engineering plans shall provide sufficient information to comply with provisions in the Hillside Overlay Zone. This requirement shall apply to all affected areas of the subject parcel exceeding a 20% slope.
  8. All new utility lines for future development shall be placed underground.
  9. All landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.
- G. Unless otherwise modified by this decision, the project shall comply with applicable provisions of the Garibaldi Development Code, the Garibaldi Public Works design and construction standards, and other agency standards. Compliance with these Conditions of Approval shall be the responsibility of the applicant.