

GARIBALDI ORDINANCES

ORDINANCE NO. 220

AN ORDINANCE AMENDING THE CITY OF GARIBALDI'S ZONING ORDINANCE TO PROVIDE FOR AN ON THE RECORD APPEAL TO THE CITY COUNCIL OF A DECISION BY THE PLANNING COMMISSION.

The City of Garibaldi does ordain as follows:

Section 1. 11.050(4) is amended to read as follows:

4. Scope of Review. The reviewing body may determine, as a nonpublic hearing item, that the scope of review, on appeal, will be one of the following:

- A. Restricted to the record made on the decision being appealed.
- B. Limited to the admission of additional evidence on such issues as the reviewing body determines for a proper resolution of the matter;
- C. Remand the matter to the hearing body for additional consideration;
- D. A de novo hearing on the merits.

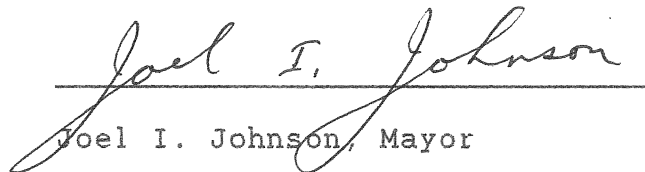
Section 2. Section 11.050 is amended to add the following:

5. Review On The Record.

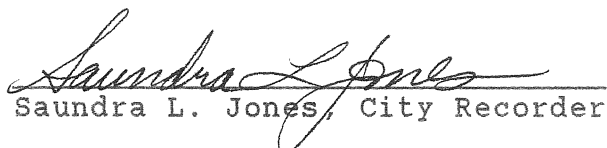
- A. Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:
 - 1. A factual report prepared by the city recorder;
 - 2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
 - 3. The final order and findings of fact adopted in support of the decision being appealed;
 - 4. The request for an appeal filed by the appellant;
 - 5. The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.
- B. All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.

- C. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.
- D. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.
- E. The appellant shall bear the burden of proof.
6. Review Consisting Of Additional Evidence Or De Novo Review.
- A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:
1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
 2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
 3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s) shall be conducted in accordance of Sections 11.040(1) through 11.040(8).
- C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

PASSED by the City Council and APPROVED by the Mayor the 11th day of March, 1996.


Joel I. Johnson, Mayor

ATTEST:


Saundra L. Jones, City Recorder