

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150 Salem, OR 97301-2540 (503) 373-0050

Director's Office Fax (503) 378-5518

Main Fax: (503) 378-6033

Web Address: http://www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

August 13, 2013

TO:

Subscribers to Notice of Adopted Plan

or Land Use Regulation Amendments

FROM:

Plan Amendment Program Specialist

SUBJECT: City of Garibaldi Plan Amendment

DLCD File Number 001-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. The submitted ordinance was adopted by City of Garibaldi on July 29, 2013, per ORS 197.615 (3) and DLCD did not notify within five working days of receipt, any persons who requested notification.

Appeal Procedures*

DLCD DEADLINE TO APPEAL:

Acknowledged under ORS Sections 197.615, 197.625, and 197.830 (9)

This amendment was submitted to DLCD for review with less than 35 prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE:

THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.

Cc:

Jay Sennewald, City of Garibaldi

Gordon Howard, DLCD Urban Planning Specialist Patrick Wingard, DLCD Regional Representative



DLCD file No.

E2 DLCD Notice of Adoption

This Form 2 must be mailed to DLCD within 20-Working Days after the Final

Ordinance is signed by the public Official Designated by the jurisdiction
and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mail	ed
A	
DEPT OF	
AUG 0 5 2013	
AND CONSERVATION SE ONLY	

and an other requirements of OKS 197.013 and OAK o	00-016-000
Jurisdiction: City of Garibaldi Date of Adoption: 29 July 2013 Was a Notice of Proposed Amendment (Form 1) ma Comprehensive Plan Text Amendment Land Use Regulation Amendment New Land Use Regulation	Local file number: ZC-2013-01 Date Mailed: 02 Aug 2013 ailed to DLCD? X Yes No Date: 12 June 2 X Comprehensive Plan Map Amendment X Zoning Map Amendment Other:
Summarize the adopted amendment. Do not use	
	July 2013, changes a 0.36 acre portion of Tillamook County Tax Assessor Map
	dependent) to Zone C-1 (commercial).
Door the Adention differ from proposal? Please s	coloct and
Does the Adoption differ from proposal? Please s	select one
Plan Map Changed from: water dependent	to: commercial
Zone Map Changed from: W	/D to: C-1
Location: 1N 10 21 AC 14127 (portion)	Acres Involved: 0.36
Specify Density: Previous: zero	New: 12 dwelling units / acre
Applicable statewide alegains apple:	
Applicable statewide planning goals.	
Applicable statewide planning goals: 1 2 3 4 5 6 7 8 9 10 1	11 12 13 14 15 16 17 18 19
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Please list all affected State or Federal Agencies, Local Governments or Special Districts: City of Garibaldi, Port of Garibaldi

Local Contact: Jay Sennewald Phone: (541 961 4072 Extension:

Address: PO Box 708 Fax Number: - -

City: Garibaldi OR Zip: 97118 E-mail Address: planner@ci.garibaldi.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

- 1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
- When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
- 3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
- Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
- 5. Deadline to appeals to LUBA is calculated **twenty-one** (21) days from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
- In addition to sending the Form 2 Notice of Adoption to DLCD, please also remember to notify persons who
 participated in the local hearing and requested notice of the final decision. (ORS 197.615).
- Submit one complete paper copy via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
- 8. Please mail the adopted amendment packet to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

Need More Copies? Please print forms on 8½ -1/2x11 green paper only if available. If you have any
questions or would like assistance, please contact your DLCD regional representative or contact the DLCD
Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

CITY OF GARIBALDI ORDINANCE NO. 320

AN ORDINANCE AMENDING THE GARIBALDI COMPREHENSIVE PLAN MAP AND THE GARIBALDI ZONING MAP TO CHANGE THE LAND ZONE DESIGNATION FOR A PORTION OF PROPERTY LOCATED AT TAX LOT 14127 OF TILLAMOOK COUNTY TAX ASSESSOR MAP 1N1021AC IN CONFORMANCE WITH THE GARIBALDI COMPREHENSIVE PLAN, GARIBALDI MUNICIPAL CODE TITLE 18, STATEWIDE PLANNING REGULATIONS, OREGON REVISED STATUTES (ORS) AND OREGON ADMINISTRATIVE RULES (OAR)

WHEREAS, the Garibaldi City Council has adopted a Comprehensive Land Use Plan and a Land Zoning Ordinance, most recently amended January 22, 2013, in conformance with Oregon Revised Statutes and Oregon Administrative Rules regulating Statewide Planning Goals; and,

WHEREAS, the Port of Garibaldi, owners of certain property located at Tax Lot 14127 of Tillamook County Tax Assessor Map 1N1021AC, have proposed to change the Comprehensive Plan and Garibaldi Zoning designation of a portion of the property from Water Dependent (WD) to Commercial (C-1); and,

WHEREAS, the Garibaldi Planning Commission held a duly noticed public hearing on June 24, 2013 on the proposed amendments; and,

WHEREAS, the Garibaldi Planning Commission has deliberated this proposal and has recommended that the Garibaldi City Council approve the proposed Comprehensive Land Use Plan and Zoning Map change by a 3-1 vote, with a the dissenting member recommending a that the change be made with the addition of a Limited Use Overlay Zone restricting outright uses to commercial car/boat wash facilities; and,

WHEREAS, the Garibaldi City Council held a duly noticed public hearing on July 29, 2013 on the proposed Comprehensive Land Use Plan and Zone Map amendment as recommended by the Garibaldi Planning Commission's Findings, Conclusions, and Recommendation attached to this Ordinance as Exhibit A; and,

1 - AN ORDINANCE AMENDING THE GARIBALDI COMPREHENSIVE PLAN MAP AND THE GARIBALDI ZONING MAP TO CHANGE THE LAND ZONE DESIGNATION FOR A PORTION OF PROPERTY LOCATED AT TAX LOT 14127 OF TILLAMOOK COUNTY TAX ASSESSOR MAP 1N1021AC IN CONFORMANCE WITH THE GARIBALDI COMPREHENSIVE PLAN, GARIBALDI MUNICIPAL CODE TITLE 18, STATEWIDE PLANNING REGULATIONS, OREGON REVISED STATUTES (ORS) AND OREGON ADMINISTRATIVE RULES (OAR) WHEREAS, following the public hearing, the Garibaldi City Council deliberated and found that the proposed changes met the relevant and required criteria and accepted the recommendation of the Garibaldi Planning Commission and its findings;

NOW, THEREFORE, THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:

Section 1. The City of Garibaldi Comprehensive Plan Map and Garibaldi Land Use Zoning Map as amended through Ordinance 319 shall be amended so that a portion of the property located at Tax Lot 14127 of Tillamook County Tax Assessor Map 1N1021AC, and as this portion is described in a certain survey document attached to this Ordinance as Exhibit B, formerly designated as Water Dependent (WD) will be changed to the designation of Commercial (C-1).

Section 2. The Planning Official shall make such changes to the City of Garibaldi Comprehensive Plan Map and the City of Garibaldi Zoning Map as are required to implement this amending ordinance.

Section 3. The Planning Official shall keep a record of this amendment in a place convenient to the public to memorialize this amending ordinance.

Section 4. Whereas, the peace, health and safety of the people of the City of Garibaldi is involved; therefore, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council and approval by the Mayor.

ADOPTED by the Council and APPROVED by the Mayor this 29th day of July, 2013.

Hon. Suzanne McCarthy, May or

ATTEST:

John Monry, City Manager/Recorder

2 - AN ORDINANCE AMENDING THE GARIBALDI COMPREHENSIVE PLAN MAP AND THE GARIBALDI ZONING MAP TO CHANGE THE LAND ZONE DESIGNATION FOR A PORTION OF PROPERTY LOCATED AT TAX LOT 14127 OF TILLAMOOK COUNTY TAX ASSESSOR MAP 1N1021AC IN CONFORMANCE WITH THE GARIBALDI COMPREHENSIVE PLAN, GARIBALDI MUNICIPAL CODE TITLE 18, STATEWIDE PLANNING REGULATIONS, OREGON REVISED STATUTES (ORS) AND OREGON ADMINISTRATIVE RULES (OAR)

CITY OF GARIBALDI PLANNING COMMISSION

IN THE MATTER OF		
)	FINDINGS, CONCLUSIONS, AND
A request from the Port of Garibaldi for a)	RECOMMENDATION
zone map amendment affecting)	
approximately .53 acre of land)	

NATURE OF THE REQUEST:

The City of Garibaldi Planning Commission has received and considered a request from the Port of Garibaldi, for a zone map amendment (zone change) from WD (Water-Dependent Development) and I-1 (Industrial), to C-1 (Commercial) on Port-owned property described below.

RELEVANT FACTS:

The following is a summary of the background and facts found to be relevant to this decision:

- A. On May 19, 2013 the City of Garibaldi received a completed application from the Port of Garibaldi, to request a zone change from Water Dependent Development (WD) and I-1 (Industrial), to Commercial (C-1) affecting approximately .53 acres. All application materials are a part of the record and incorporated into this document by reference.
- B. The subject property is described on a survey and legal description prepared by Onion Peak Design and dated March 14, 2011, which was included in the application materials. The surveyed land consists of a portion of tax Lot 14127 on Tillamook County Assessor's Map #1N 10 21 AC S1, and intended for lease by the Port of Garibaldi.
- C. The City provided both mailed and published notices of the public hearing to consider the proposed amendment, in accord with Oregon Revised Statutes Chapter 197 and Garibaldi Municipal Code Chapter 18.210.020.

- D. A staff report which provides details of the proposal was issued on June 12, 2013. The report provides an analysis of the proposal including the applicable criteria under review and staff comments to support findings in the event of approval by the Planning Commission. The staff report is a part of the record and incorporated into this document by reference.
- E. Further review by staff after its report was issued revealed that the subject property contains both I-1 Industrial and C-1 Commercial zoning. As proposed, the subject property contains approximately .53 acre, and of this total area approximately .3 acre is zoned WD and .23 acre zoned I-1.
- F. The Garibaldi Planning Commission held a public hearing to consider the proposed zone change on June 24, 2013. All interested parties were invited to attend and to provide testimony regarding the request.

G. Testimony Presented:

Proponents of the request provided testimony in support of the zone change. The proponents explained that if the request is approved, they planned to develop the property with a drive-through facility, where both boats and cars can be washed. Copies of the draft development plan were then provided to the Planning Commission to illustrate how the property was intended to be developed if the property was successfully zoned C-1. During further testimony, proponents explained that he current WD and I-1 Zones on which the property is situated do not allow for a car wash, but that the C-1 Zone specifically allows such a use.

Testimony emphasized that the proposed use would benefit the general public and also the users of the marina, by providing a place where boats can be washed in order to avoid the spread of invasive species in Oregon's waterways. Additional testimony stated that the closest existing car wash facility is located in the City of Tillamook, and those local residents needing or desiring to wash their vehicle in a developed car wash facility must travel there to wash their car. Other testimony indicated that a car wash would likely be popular with the owners of recreational vehicles who arrive in Garibaldi and want to wash their vehicles before checking in to the local RV parks.

Additionally, proponents claimed that the proposed use of a car wash is not incompatible with existing uses on surrounding lands zoned WD, WM (Waterfront Mixed-Use), or operations associated with the Port of Tillamook Bay and the Oregon Coast Scenic Railroad.

There was no testimony in opposition of the request.

SUBSTANTIVE CRITERIA:

a) Garibaldi Municipal Code Chapter 18.200, Land Use District Map and Text Amendments:

18.200.010 Amendments - Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this code and the land use district map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law. [Ord. 290 § 3(9.010), 2006.]

18.200.020 Legislative amendments.

Legislative amendments are policy decisions made by city council. They are reviewed by the planning commission and city council and shall conform to the Transportation Planning Rule provisions in GMC 18.200.060, as applicable. [Ord. 290 § 3(9.020), 2006.]

18.200.030 Quasi-judicial amendments.

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial district map amendments shall follow the public hearing procedure, as governed by the zoning ordinance. The approval authority shall be as follows:

- The planning commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;
- 2. The planning commission shall make a recommendation to the city council on an application for a comprehensive plan map amendment. The city council shall decide such applications; and

- The planning commission shall make a recommendation to the city council on a land use district change application that also involves a comprehensive plan map amendment application.
 The city council shall decide both applications.
- B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:
 - 1. Approval of the request is consistent with the statewide planning goals;
 - 2. Approval of the request is consistent with the comprehensive plan;
 - The property and affected area are presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period;
 - 4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and
 - The amendment conforms to the Transportation Planning Rule provisions under GMC 18.200.060. [Ord. 290 § 3(9.030), 2006.]

FINDINGS:

The Planning Commission finds:

- A. The requested Zone change from WD (Water Dependent Development) and I-1 (Industrial) to C-1 (Commercial) would reduce the existing .85 acre surplus of Goal 17 protected shorelands by approximately .3 acre but would still maintain a surplus of approximately .55 acre of the City's required inventory of such lands. Therefore the request is consistent with Goal 17 of the Statewide Planning Goals.
- B. The closest existing car wash facility is located in the City of Tillamook. The proposed zone map amendment would allow for the development of a car wash on the property which would serve the Garibaldi area, therefore eliminating the need for Garibaldi residents and visitors to travel to Tillamook for that purpose.

- C. If zoned C-1, the proposed use described by the applicant would also serve as a boat wash facility. The spread of invasive species by boats and trailers is an identified problem in the State of Oregon, and State officials have initiated a campaign to prevent or minimize the transport of invasive species from one location to another. Having a boat wash facility adjacent to the Port of Garibaldi Marina and boat ramp will provide an opportunity for boaters to clean their boats prior to transport, and therefore better avoid the spread of invasive species in accordance with State of Oregon goals, policies, and laws. The development of a boat wash helps to meet the need and responsibility of the public to avoid the spread of invasive species.
- D. Comments from the Garibaldi Public Works Director and included in the staff report indicate that the property and affected area are presently provided with adequate public facilities, services and transportation networks to support the use of the property as a car wash facility, and that the Transportation Planning Rule provisions under GMC 18.200.060 are satisfied. Those staff comments are adopted by reference as findings to support an approval of the request.
- E. Planning staff comments provided in the staff report address applicable Garibaldi Comprehensive Plan policies that support the request. Those staff comments are adopted by reference as findings to support an approval of the request.

CONCLUSIONS:

The Planning Commission concludes:

- A. The proposed amendment to the Garibaldi Zone Map is in the interest of the public, because it will allow needed development that is not currently available in the City of Garibaldi.
- B. The proposed zone map amendment is consistent with Statewide Planning Goal 17 because it maintains its minimum supply of water-dependent (WD-Zoned) shorelands.
- C. The proposed zone map amendment is consistent with the Garibaldi Comprehensive Plan Policies pertaining to Procedures and the Community Development Pattern.
- The proposed amendment satisfies the Garibaldi Municipal Code requirements for quasijudicial zone map amendments.

RECOMMENDATION:

Based on the Findings and Conclusions above, the Planning Commission recommends to the Garibaldi City Council that the proposed zone map amendment be approved, being a matter of public need and for orderly development within the City.

RECOMMENDATION APPROVED THIS 22nd DAY OF JULY, 2013.

	/ Emmy Lou Orahood /	
	Emmy Lou Orahood,	
ATTEST:	Planning Commission Chair	
/ John O'Leary /		
John O'Leary		
Garibaldi City Manager		

March 14, 2011

LEASE LEGAL DESCRIPTION FOR THE PORT OF GARIBALDI OF THE SOUTHEASTERLY PORTION OF TRACT 24-A

A tract of land located in Section 21, Township 1 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon, further described as follows:

Commencing at the Southwest corner of TRACT 24-A as adjusted on Map B-1865, Tillamook County Survey Records;

Thence North 03°44'42" East (GA 183°44'42") 158.05 feet;

Thence North 89°17'42" East (GA 269°17'42") 194.00 feet to the Point of Beginning;

Thence North 89°17'42" East (GA 269°17'42") 157.06 feet;

Thence South 03°44'42" West (GA 03°44'42") 146.93 feet;

Thence South 87°29'27" West (GA 87°29'27") 157.52 feet;

Thence North 03°44'42" East (GA 183°44'42") 151.90 feet to the Point of Beginning.

Containing 23,397 square feet.

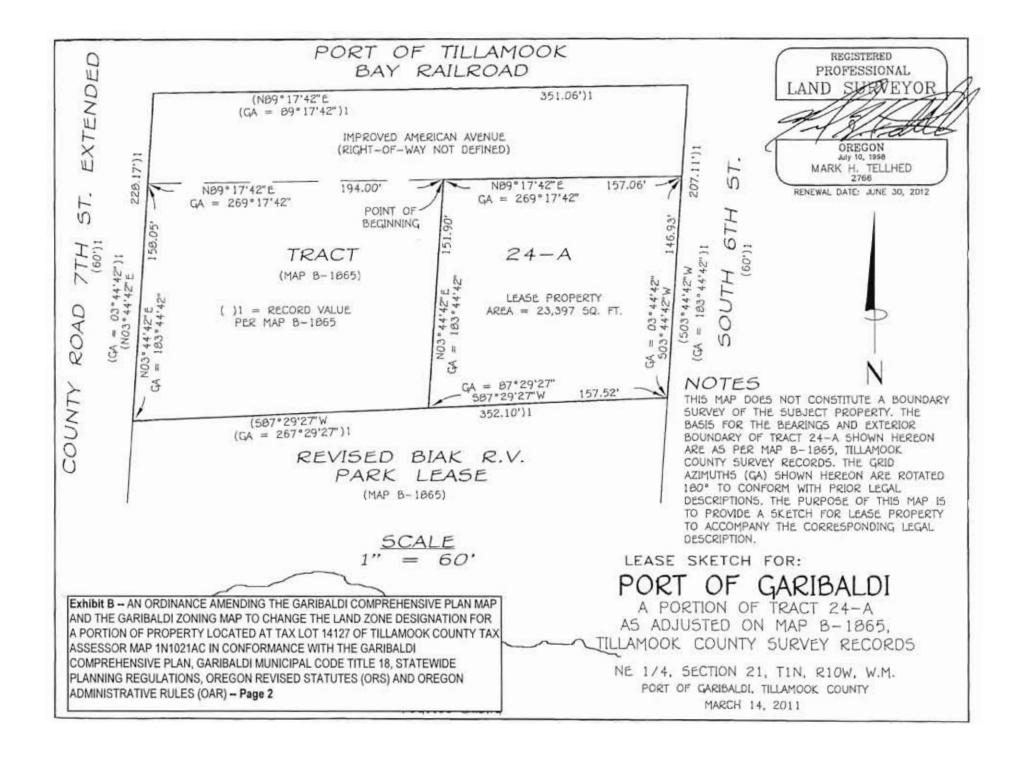
*Note: GA = Grid Azimuth, which are rotated 180° from North to match previous lease legal descriptions reportedly written by John Carlich to set them apart from other descriptions.

This legal description is to be used for lease purposes only and is not intended to adjust boundary lines or create a separate tax lot.

OREGON
JULY 10, 1928
MARK M. TELLHED
2766

Renewal 6/30/2012

PERMITTED







Attn: Plan Amendment Specialist Dept. of Land Conservation and Development 635 Capitol Street NE Ste 150 Salem OR 97301-2540