

**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.

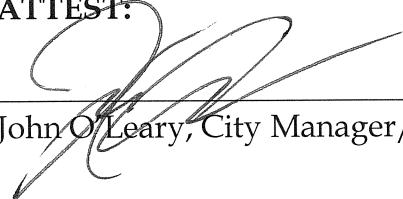
Section 4. Whereas, the peace, health and safety of the people of the City of Garibaldi is involved; therefore, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council and approval by the Mayor.

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



Hon. Suzanne McCarthy, Mayor

ATTEST:



John O'Leary, 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)

Exhibit A -- 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) – Page 1

**CITY OF GARIBALDI
PLANNING COMMISSION**

IN THE MATTER OF

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

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.

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- 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:

- 1. 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 the 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.

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2. 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:

1. 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

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3. 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;
3. 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
5. 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.

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- 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.
- D. The proposed amendment satisfies the Garibaldi Municipal Code requirements for quasi-judicial zone map amendments.

Exhibit B -- 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) -- Page 1

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.

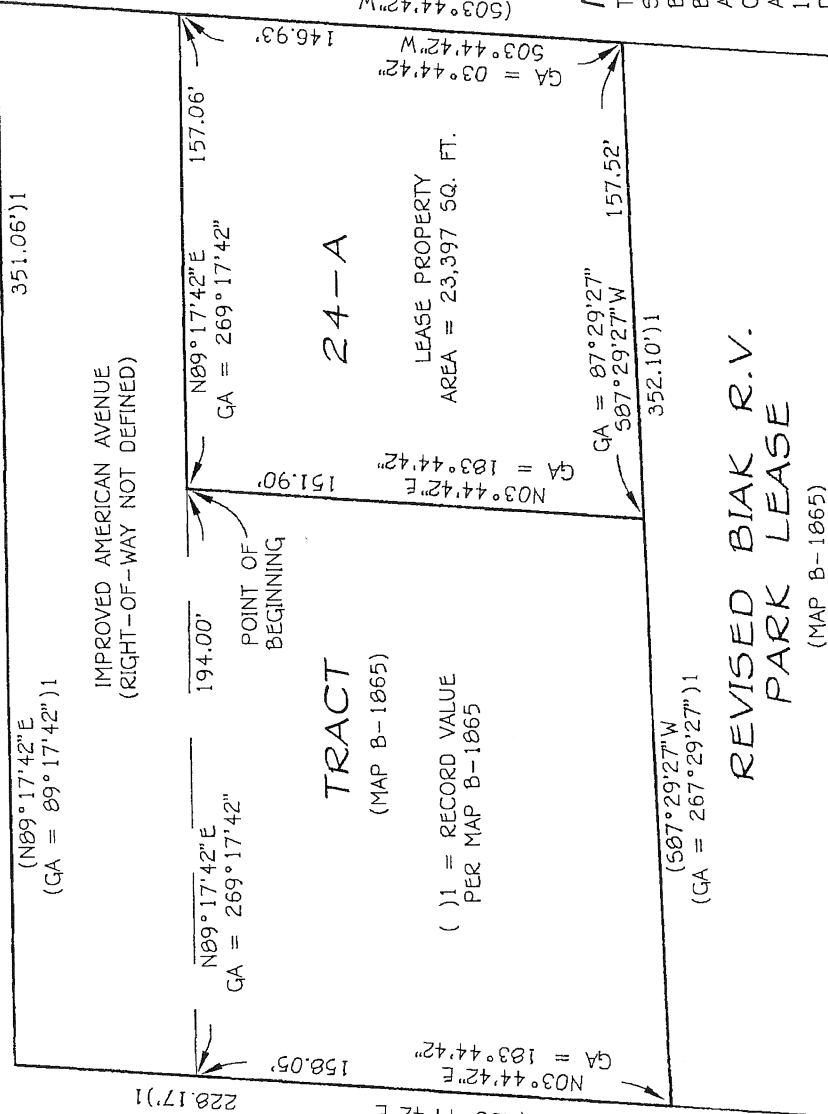
*Note: GA = Grid Azimuth, which are rotated 180° from North to match previous lease legal descriptions reportedly written by John Carlich to set them apart from other descriptions.

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.



Renewal 6/30/2012

PORT OF TILLAMOOK
BAY RAILROAD



TRACT
(MAP B-1865)
() 1 = RECORD VALUE
PER MAP B-1865

**REVISED BIAK R.V.
PARK LEASE**
(MAP B-1865)

SCALE
1" = 60'

Exhibit B -- 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 'N1021AC IN CONFORMANCE WITH THE GARIBALDI COMPREHENSIVE PLAN, GARIBALDI MUNICIPAL CODE TITLE 18, STATEWIDE PLANNING REGULATIONS, OREGON REVISED STATUTES (ORS) AND OREGON ADMINISTRATIVE RULES (OAR) -- Page 2

LEASE SKETCH FOR:
PORT OF GARIBALDI
A PORTION OF TRACT 24-A
AS ADJUSTED ON MAP B-1865,
TILLAMOOK COUNTY SURVEY RECORDS

NE 1/4, SECTION 21, T1N, R10W, W.M.
PORT OF GARIBALDI, TILLAMOOK COUNTY
MARCH 14, 2011

REGISTERED
**PROFESSIONAL
LAND SURVEYOR**
[Signature]
OREGON
July 10, 1988
MARK H. TELLHED
2766

RENEWAL DATE: JUNE 30, 2012



NOTES

THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE SUBJECT PROPERTY. THE BASIS FOR THE BEARINGS AND EXTERIOR BOUNDARY OF TRACT 24-A SHOWN HEREON ARE AS PER MAP B-1865, TILLAMOOK COUNTY SURVEY RECORDS. THE GRID AZIMUTHS (GA) SHOWN HEREON ARE ROTATED 180° TO CONFORM WITH PRIOR LEGAL DESCRIPTIONS. THE PURPOSE OF THIS MAP IS TO PROVIDE A SKETCH FOR LEASE PROPERTY TO ACCOMPANY THE CORRESPONDING LEGAL DESCRIPTION.

COUNTRY ROAD 7TH ST. EXTENDED (60') 1

SOUTH 6TH ST. (60') 1