



# AGENDA

**Port of Bandon**  
 Regular Commission Meeting  
 May 27, 2021, 5:00pm  
 City Council Chambers  
 Coquille, OR & Zoom  
 (see instructions on front sheet)

## AGENDA TOPICS

	<b>Welcome</b>		
1	<b>Consent Calendar</b>		
2	April Work Session Minutes	Commissioners	A-B
3	April Minutes	Commissioners	C-D
4			
5	<b>Business Items</b>		
6	Budget Hearing & Resolution 2021-02	Commissioners	1
7	Port Commission Bylaw Review and Resolution 2021-03	Jeff/Commissioners	2-12
8	ADA Fishing Pier Update	Jeff/Commissioners	13
9	Marina Update	Jeff/Commissioners	Verbal
10	PB EDF Program Information	Jeff/Commissioners	14
11	Moorage Rate Review	Jeff/Commissioners	Handout
12	SLEF Grant Program	Jeff/Commissioners	15-16
13	C-3 Zone Text Amendment	Jeff/Commissioners	17-46
14	Coos County NHMP	Jeff/Commissioners	47
15			
16	<b>Staff Report</b>		
17	Manager	Jeff/Commissioners	Verbal
18	Harbormaster	Shawn/Commissioners	Verbal
19	Farmers Market	Peggi/Commissioners	Verbal
20			
21	<b>Public Comment</b>		
22			
23	<b>ADJOURN</b>		

NOTES:

Port of Bandon  
Work Session  
April 13, 2021 5:00pm  
Old Town Marketplace  
Bandon, OR

Commissioners Present: Wayne Butler, Reg Pullen, Donny Goddard, Harv Schubothe  
Staff: Jeff Griffin - Port Manager, Josh Adamson - Project Manager, Kathy Reed – Finance Director,  
Shawn Winchell - Harbormaster

Guests: John Towne, Melody Gillard-Juarez

Commissioner Pullen opened the meeting at 1:00pm

Commissioner Pullen opened the work session explaining the purpose was to discuss the marina then turned meeting over to Jeff.

A quick overview was given on the status of the Marina Redevelopment Project. Preliminary designs have been completed moving forward with the design option chosen by Commissioners. All permitting from interested agencies has been acquired. Mitigation standards have been approved by agencies which will include the removal of certain piles left from the Moore Mill Truck Shop area and light penetration in the new docks.

Preliminary cost estimates range from approximately \$5 to \$6 million depending on contingency factors and project / construction phasing. Commissioner Goddard asked about dredging opportunities while the basin was being redeveloped. Jeff stated that dredging the basin would be ideal if permitting and funding lined up.

FY2021 budget was discussed with \$480,000 currently in Reserve increasing to \$650,000 this FY. Business Oregon may be able to offer a Port Revolving Loan program at 2.26% interest. The Port is reviewing and seeking additional grant funding from local (Wild Rivers Coast Alliance), state (legislative funds), and federal (congressionally directed) sources.

Commissioner Goddard asked about yearly moorage income to pay back potential loans each month.

Commissioner Pullen reminded the board there are other factors to consider. The Coquille River could be closing this year to salmon sport fishing and there might be a loss in moorage for the next few years.

Jeff introduced Melody Gillard-Juarez who explained the formation of the Economic Fund, what it has done since its inception and where it stands today in loans out and repayments back to the fund. Commissioner Pullen stated that although he sees the rebuild of the marina as a financial loss, we owe it to our constituents, the town and visitors to upkeep the visual aesthetics of the waterfront in Bandon. With Kathy's help to determine risk factors in applying for loans, the Port will have to be careful in

planning the funding for the project. Dissolving the Economic Fund is not an option. The fund was designed to help locals in the district with establishing small business loans and it has been successful for the past 26 years.

After deliberation, **Commissioner Schubothe made a motion to apply for \$750,000 with the State of Oregon's Port Revolving Loan Fund. Commissioner Goddard seconded. Motion passes unanimously.**

Commissioners discussed applying for a loan with the Economic Development Fund in the amount of \$250,000 and a discussed interest rate with the Economic Development Board.

**Commissioner Butler made a motion to make a request to the Port of Bandon Economic Development Fund for a loan of \$250,000 at an interest level that satisfies costs of management to the loan. Commissioner Schubothe seconded. Motion passes unanimously.**

Jeff stated that all requests for the State, Wild Rivers, and others needed to be sent the next day.

Public Comment: None

Commissioner Pullen adjourned the meeting at 1:56pm.

Respectfully submitted,

Joshua Adamson

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Port of Bandon  
Budget Committee Hearing &  
Regular Commission Meeting  
April 22, 2021 5:00pm  
Via ZOOM

Commissioners Present: Wayne Butler, Reg Pullen, Donny Goddard, Rick Goche and Harv Schubothe  
Budget Committee Present: Roger Straus

Budget Committee Absent: Don Starbuck, Bob Wirsing

Staff: Jeff Griffin - Port Manager, Josh Adamson - Project Manager, Peggi Towne – Farmers Market Manager, Shawn Winchell – Harbormaster, Kathy Reed – Finance Director

Guests: John Towne, Lori Osborne

Commissioner Pullen opened the meeting at 5:08pm

Commissioner Pullen asked for a motion to approve the consent calendar. **A motion was made by Commissioner Butler. Motion was seconded by Commissioner Schubothe. Motion passes unanimously.**

Commissioner Pullen opened the Budget Committee Hearing. **Commissioner Pullen made a motion to appoint Roger Straus as Chair for the Budget Committee. Commissioner Goddard seconded. Motion passes unanimously.**

Roger called on Jeff to read the budget message. Jeff thanked Kathy Reed for help in preparing the budget. Roger asked if there were any questions. There was no public comment. Roger asked about moorage rates to which Jeff stated that was a separate business item that will be discussed later in the meeting.

**Roger Straus made a motion that the Budget Committee for the Port of Bandon approve the budget as presented for the 2021-2022 fiscal year, for appropriations totaling \$9,545,869. Commissioner Schubothe seconded. Motion passes unanimously.**

**Roger Straus made a motion that the Budget Committee for the Port of Bandon approve property taxes for the 2021-2022 fiscal year at the rate of \$0.3249 per \$1,000 of assessed value for the permanent rate levy. Commissioner Schubothe seconded. Motion passes unanimously.**

Commissioner Pullen closed the Budget Committee Hearing, thanked Roger, and continued with Regular Meeting Agenda.

Resolution 2016-02 that increased moorage for 3% during the next 5 years is final in June of 2021. Jeff presented a moorage rate study created by Joshua and Kathy along with the current rates and a tentative schedule showing the rates increasing 3%. The rate study shows comparable rates from similar

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Ports on the Oregon Coast and shows the Port of Bandon being in the middle for most rates. Jeff informed Commissioners that this information was just for discussion. Jeff recommended that the Port possibly change the monthly, Semi-annual, and annual rates to better reflect other Ports but leave the daily and weekly rate as it. The Port has a significant discount between the monthly, semi-annual, and annual rates. Commissioner Goche asked Josh to look at other ports discounts between rates as a comparison and report data by next meeting. Commissioners discussed not changing the daily and weekly rates except add a 3% increase then look at Josh's data to increase the others to a higher and comparable rate, and consider our low winter use given bar restrictions.

Jeff has submitted all requests and letters of support for State and Federal earmarked money to help in funding the Marina Redevelopment Project. Commissioner Goche stated he spoke with OR Rep. David Brock Smith who recommended the Port ask for \$2.8 million from the State of Oregon. Jeff and Commissioner Goche discussed using some funds to replace the loan amount from the Economic Development Fund to gain more for the Port than the cap of \$250,000.

Jeff would like to start with the bid process for the ADA Fishing Pier by getting the documents out next month.

Port staff gave updates to current grants being used for projects including the ADA Fishing Pier, restoring the garage bay doors on the Historic Coast Guard Building, the benches for the amphitheater and annual cormorant hazing.

#### Staff Report

The Port has joined a cybersecurity program with Banner Bank called Positive Pay. This program validates checks with the Port before funds are given from the account. This program will prevent fraud and cybersecurity attacks.

Curry County Commissioner Court Boice is starting a Jet Boat tour guide business and has reached out to Port staff and Commissioners to join in a complimentary one hour tour up the Coquille River.

Commissioner Goche asked about the Marina Redevelopment Project if engineers accounted for the sea level rise in base flood elevation with final design.

Peggi gave an update to the market. Waiting for May 4<sup>th</sup> to see where Oregon OSHA Temporary Workplace Rules put the market.

Public Comment: None

Commissioner Pullen adjourned the meeting at 5:50pm.

Respectfully submitted,

Joshua Adamson

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# PORT OF BANDON

390 FIRST ST SW ♦ BANDON, OREGON 97411 ♦ PHONE (541) 347-3206

## Resolution No. 2021 –02 2021–2022 ANNUAL BUDGET ADOPTION

### RESOLUTION ADOPTING THE BUDGET

BE IT RESOLVED that the Board of Directors of the Port of Bandon hereby adopts the budget for the fiscal year 2021-2022 in the total amount of \$9,545,869. This budget is now on file at the office of the Port of Bandon.

### RESOLUTION MAKING APPROPRIATIONS

BE IT RESOLVED that the amounts shown below are hereby appropriated for the fiscal year beginning July 1, 2021 for the following purposes:

<u>General Fund</u>		<u>Capital Projects Fund</u>		<u>Reserve Fund</u>	
Personnel Services	440,000	Material & Services	40,000	Materials & Services	965,000
Materials & Services	343,700	Capital Outlay	6,194,700	Capital Outlay	1,000,000
Capital Outlay	154,478	Transfers	20,000		
Transfers	317,991				
Contingency	70,000				
<b>Total</b>	<b>1,326,169</b>	<b>Total</b>	<b>6,254,700</b>	<b>Total</b>	<b>1,965,000</b>

Total APPROPRIATIONS, All Funds:	\$9,545,869
TOTAL ADOPTED Budget	\$9,545,869

### RESOLUTION IMPOSING THE TAX

BE IT RESOLVED that the following ad valorem property taxes are hereby imposed upon the assessed value of all taxable property within the district for the tax year 2021-2022:

1. In the amount of \$0.3249 per \$1,000 of assessed value for permanent tax rate.

### RESOLUTION CATEGORIZING THE TAX

BE IT RESOLVED that the taxes imposed are hereby categorized for purposes of Article XI section 11b as:

#### General Government Limitation

Permanent Rate Tax \$0.3249 per \$1,000

The above resolution statements were approved and declared adopted on May 27, 2021.

\_\_\_\_\_  
Reg Pullen, President

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Donny Goddard, Vice President



# PORT OF BANDON

390 FIRST ST SW ♦ BANDON, OREGON 97411 ♦ PHONE (541) 347-3206

## RESOLUTION NO. 2021-03

### A RESOLUTION PROVIDING UPDATES TO RULES AND PROCEDURES FOR PORT OF BANDON COMMISSION MEETINGS

**WHEREAS**, the duly elected commissioners of the Port of Bandon desire to conduct commission business in an orderly, businesslike, and efficient manner as well as provide adequate public input;

**WHEREAS**, on May 24, 2001, the Port's Board of Commissioners ("Commission") adopted Resolution No. 2001-03, adopting Rules and Procedures for Port of Bandon Commission Meetings; and

**WHEREAS**, the present Commission desires to review, update, and revise Resolution 2001-03 to clarify certain procedures;

**NOW, THEREFORE, BE IT RESOLVED**, that the Port of Bandon hereby adopts the following amended rules of procedure shown in Exhibit A

**APPROVED AND ADOPTED** by a majority vote of the Port of Bandon Board of Commissioners this 27<sup>th</sup> day of May, 2021.

**APPROVED:**

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Reg Pullen, Commission President

**ATTEST:**

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Donny Goddard, Vice President

# EXHIBIT A



## PORT OF BANDON

P.O. BOX 206 • BANDON, OR 97411 • (541) 347-3206 • FAX (541) 347-4645

### RESOLUTION NO. 2001-03

#### A RESOLUTION PROVIDING RULES AND PROCEDURES FOR PORT OF BANDON COMMISSION MEETINGS

**WHEREAS**, the duly elected commissioners of the Port of Bandon desire to conduct commission business in an orderly, businesslike, and efficient manner as well as provide adequate public input;

**NOW, THEREFORE, BE IT RESOLVED**, that the Port of Bandon hereby adopts the following rules of procedure:

#### **SECTION 1. COMMISSION MEETINGS.**

(1) **Regular Council Meetings.** The Commission shall hold one regular meeting on the fourth Thursday of each month, except in those cases where the Commission finds it necessary to designate another date due to conflicts. Regular meetings shall be convened one month at the Bandon Public Library ~~Port of Bandon office currently located at the old Coast Guard Building~~ in Bandon and on alternate months at City Hall ~~Washington School~~ in Coquille, Oregon. As necessary, the Port of Bandon may designate another location for its regular meetings after adequate notice to the public.

(2) **Executive Sessions.** Executive sessions may be called by the President of the Commission, any two members of the Commission, or the Port Manager. Only Commission members, the Port Manager, and persons specifically invited by the Commission or the Port Manager shall be allowed to attend executive sessions. Representatives of recognized news media may attend executive sessions. No matter discussed during executive session may be disclosed by any person present during such session, except as provided for by State law.



# EXHIBIT A

(3) **Special Meetings.** Special meetings may be called by the Commission President, by request of any three Commissioners, or by the Port Manager. Written notice of all special meetings shall be given at least twenty-four hours in advance of the scheduled meetings. Notice shall be given to each Commissioner, the Port Manager, and the business office of each local newspaper and radio and television station which has on file a written request for notice of special meetings, and may be delivered by mail, electronic facsimile (fax), or by personal delivery.

(4) **Emergency Meetings.** Emergency meetings may be called by the Commission President, by request of any three Commissioners, or by the Port Manager. In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24-hours notice.

(5) **Public Attendance.** All regular, special, and emergency meetings shall be open to the public.

## SECTION 2. THE PRESIDING OFFICERS

### (1) **The President, Officers**

(a) The Commission President shall preside at all regular, special, and emergency meetings and executive sessions of the Commission and shall be the recognized head of the Port of Bandon for all ceremonial purposes. The President shall have all the duties and privileges of any Commissioner and shall not be denied any right or privilege by reason of his or her position as presiding officer.

(b) At the first meeting after each general biennial election, the Commission shall ~~by ballot~~ elect a officers president from its membership.

(c) In the President's absence from any Commission meeting, the Vice President shall act as the presiding officer.

## SECTION 3. EMPLOYEE DUTIES.

(1) **Port Manager.** The Port Manager shall attend all meetings of the Commission unless excused by the Commission. He or she shall make recommendations to the Commission and shall take part in all discussions concerning the welfare of the Port.

(2) **Port Employee.** Any member of the Commission may request that the Port Manager direct any employee to attend regular, special, emergency, or executive session meetings.

# EXHIBIT A

~~3 — **Port Attorney.** The Port Manager shall have the authority to require that the Port attorney attend any Port meeting. Any member of the Commission may, at any time, call upon the Port attorney for an informal oral opinion. The Port attorney, when present, shall be the Parliamentarian, and shall advise the Presiding Officer on any questions of order. When the Port attorney is not present, the Port Secretary shall be the Parliamentarian.~~

## SECTION 4. DECORUM AND ORDER.

(1) **Presiding Officer.** The presiding officer shall preserve decorum and decide all points of order, subject to appeal to the Commission.

(2) **Commissioners.** During Commission meetings, the Commissioners shall preserve order and decorum and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the presiding officer or the rules of the Commission.

(3) **Staff and Public.** Members of the administrative staff, employees of the Port and other persons attending Commission meetings shall observe the same rules of procedure, decorum, and good conduct applicable to the members of the Commission.

(4) **Removal of Any Person.** Any person who makes personal, impertinent, slanderous, or unauthorized remarks or who becomes boisterous while addressing the Commission or attending a Commission meeting shall be removed from the room if the presiding officer so directs. In case the presiding officer fails to act, any member of the Commission may obtain the floor and move to require enforcement of this rule; upon affirmative vote of a majority of the Commission present, the presiding officer, or his or her designee, shall be authorized to remove the person or persons. Such person or persons may be barred from further audience before the Commission and, in aggravated cases, an appropriate complaint shall be issued by the presiding officer and the person or persons prosecuted.

## SECTION 5. CENSURE.

(1) The Commission has the inherent right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies. Should any Commissioner act in any manner constituting a substantial violation of these rules or other general laws, the Commission, acting as a whole, may discipline that Commissioner to the extent provided by law, including public reprimand.

(2) To exercise such inherent right, the Commission has the right to investigate the actions of any member of the Commission. Such investigation shall be referred to a Committee of the Whole, which shall consist of no less than three Commissioners, upon a finding that a reasonable ground exists that a substantial violation has occurred.

# EXHIBIT A

(3) . The Committee of the Whole shall investigate the actions in executive session and present a report to the Commission in executive session. Neither the Committee of the Whole nor the Commission or any member thereof shall have the right to make public any information obtained through such investigation.

(4) Any member accused of a substantial violation of Commission rules or any other general law shall have the right to present a defense to the allegations, including the right to present rebuttal evidence, and to have representation by counsel. Upon finding, by a moral certainty, that a substantial violation has occurred, and that such violation affects the Commissioner's ability to represent the interests of the Port as a whole, the Commission may, upon unanimous vote of the Commissioners other than the Commissioner subject to censure proceedings, impose a proper sanction.

## **SECTION 6. DUTIES AND PRIVILEGES OF MEMBERS.**

(1) **Code of Ethics.** Commissioners shall conduct themselves so as to bring credit upon the Port as a whole and to set an example of good ethical conduct for all citizens of the community. Commissioners should constantly bear in mind these responsibilities to the entire electorate, and refrain from actions benefitting any individual or special interest group at the expense of the Port as a whole. Commissioners should likewise do everything in their power to insure impartial application of the law to all citizens, and equal treatment of each citizen before the law, without regard to race, national origin, sex, social station, or economic position.

### (2) **Debate.**

(a) Any Commissioner who has the floor shall confine himself or herself to the question under debate, avoid personalities and refrain from impugning the motives of any member's argument or vote. No member shall address the chair or demand the floor while any vote is being taken.

(b) Commissioners shall limit their remarks on a subject to five minutes unless granted additional time by the presiding officer. No Commissioner shall be allowed to speak more than once upon any one subject until every other member choosing to speak thereon has spoken.

(c) A Commissioner, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer or unless a point of order is raised by a Commissioner while he or she is speaking. In such a case, the Commissioner speaking shall cease speaking immediately until the point is determined. If ruled to be in order, he or she shall be permitted to proceed; if ruled to be out of order, he or she shall remain silent or shall alter his or her remarks as to comply with the ruling.

(3) **Right to Appeal.** Any Commissioner may appeal to the Commission from a  
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# EXHIBIT A

ruling of the presiding officer and if the appeal is seconded, the Commissioner making the appeal may briefly state his or her reason for the appeal. The presiding officer may briefly explain his or her ruling, but there shall be no debate on the appeal and no other Commissioner shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the presiding officer stand as the decision of the Commission?" If the majority of the Commissioners present vote "Aye", the ruling of the presiding officer shall be sustained; otherwise it shall be overruled.

(4) **Dissent and Protest.** Any Commissioner shall have the right to express dissent from or protest against any ordinance, resolution or decision of the Commission and have his or her reason therefore entered upon the Commission minutes. Such dissent or protest must be filed in writing, couched in respectful language, and presented to the Commission not later than the next regular meeting following the date of passage of the ordinance, resolution or decision objected to.

(5) **Excusal During the Meeting.** No member may leave any Commission meeting while it is in session without permission from the presiding officer.

(6) **Personal Privilege.** The right of a Commissioner to address the Commission on a question of personal privilege shall be limited to cases in which his or her integrity, character or motives are assailed, questioned, or impugned.

## SECTION 7. ORDER OF BUSINESS AND AGENDA.

(1) **Order of Business.** The business of all regular meetings of the Commission shall be transacted as follows; provided, however, that when it appears to be in the best interest of the public and of the Commission, the presiding officer may change the order of business.

- (a) Consent Calendar
  - (i) Approval of Previous Meetings' Minutes
  - (ii) Approval of monthly financial statements ~~Payment of Port Bills~~ ~~Payment of Per bills~~
  - ~~(iii) Other Routine Agenda Items~~ ~~(iii) Other Routine Agenda Items~~
- \*(b) Public Comments not on the Agenda
- \*(c) Presiding Officer and Commissioners Comments
- (d) Ordinances and Resolutions
- (e) Public Contracts and Purchasing
- \*(f) Public Hearings
- (g) Port Manager's Report
- (h) Port Staff Reports
- (i) Executive Session
- ~~(k) Informational Materials~~ ~~Informational Materials~~
- (l) Other Miscellaneous Matters
- (m) Adjournment

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(2) **Agendas.** Port staff shall prepare an agenda for every regular, and if requested, for every special or emergency Commission meeting. Any person may place items on the agenda, but such items shall be presented to the Port Manager in writing at least five (5) days prior to the meeting at which they are to be discussed. Upon approval by the presiding officer, Port Manager or any member of the Commission, the item shall be placed on the agenda for consideration. Agendas and information material for regular meetings shall be distributed to the Commissioners at least four (4) days before a meeting. New business brought before the Commission in a meeting may be referred to the Port Manager for a report at a future Commission meeting.

(3) **Additions to the Agenda.** A request to add an item to the Commission agenda for Commission consideration may be presented at the Commission meeting, but shall require a majority concurrence of the members present before it can be added. ~~**Special Orders of Business.** Agenda items that are of special importance to the Commission may be treated as Special Orders of Business. Special Orders of Business agenda items take precedence over all other items.~~

(4) **Consent Calendar.** The approval of minutes and other routine agenda items may be placed on the consent calendar. Discussion of the consent calendar shall be limited to five minutes. Any item on the consent calendar may be removed from it and placed in its otherwise appropriate position in the order of business at the request of the presiding officer or of any two members of the Commission.

## SECTION 8. CONSIDERATION OF BUSINESS.

(1) **Quorum.** A majority of the Commission shall constitute a quorum to conduct business. A lesser number may meet and adjourn from time to time and compel the attendance of absent members.

(2) **Voting.** Unless otherwise provided by statute, ordinance or resolution, all votes shall be taken by voice; provided, however, upon demand by any member of the Commission, a roll call vote shall be made upon any question before the Commission. No Commissioner may explain the reasons for his or her vote during the roll call.

(3) **Procedure Generally.** When the question has been called for, the presiding officer shall first ask for the ayes followed by the noes. After a vote has been taken, the presiding officer shall announce the results of the vote.

(4) **Voting Required.** Every member present when a question is called shall vote either aye or no unless the Commission, by unanimous consent, excuses a member for a special reason or unless a member has a conflict of interest under applicable law. In that case, no consent is required. There shall be no debate on such a request. ~~If any member declines to vote, and the result of such action would be to create a tie, that member's vote shall be counted as an aye; in all other situations, that member's vote shall be counted with the majority.~~

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(5) **Minimum Votes Required in Certain Situations.** The passage of any ordinance shall require the affirmative vote of at least a majority of the whole membership of the Commission.

(6) **Ayes and Noes.** On the passage of every ordinance, the vote shall be taken by ayes and noes and entered upon the record.

(7) **Tie Vote.** In case of a tie in votes of any proposal, the proposal shall be considered lost.

## SECTION 9. PUBLIC COMMENT.

(1) **Policy.** The Commission recognizes that public input into the governmental process is an invaluable aid to informed decision making. Therefore, it is the policy of the Commission that all citizens shall have the right to speak before the Commission on matters of public concern, but each citizen shall be responsible for abuse of such right. Consequently, to ensure that the greater public interest is fostered, each citizen or group of citizens who desire(s) to speak before the Commission shall have the duty to exercise this right in a manner which furthers the greater public interest.

### (2) **Public Comment Generally.**

(a) Any member of the general public wishing to address the Commission on a matter of public concern may do so at the time set for public comments during each regular session of the Commission. Any member of the general public so addressing the Commission shall be limited to a period of three (3) minutes within which to make themselves heard. The Commission, in its sole discretion, may extend this time or may request that further information be presented to the Commission on such date and in such manner as the Commission deems appropriate.

(b) Public comment is encouraged on any topic before the Commission; however, in order for the Commissioners to have an adequate and efficient discussion regarding the topic before it, once a motion is made and seconded by the Commission, further discussion of the topic before the Commission is limited to discussion by and between the Commissioners. Nevertheless, the Commission, in its sole discretion, may address further public comment after a motion is made and seconded if it deems further public comment would be helpful.

(3) **Persons Sharing Common Concerns.** If any group of three or more persons sharing a common viewpoint on any subject wishes to address the Commission

# EXHIBIT A

during the time for public comment, the group shall select a spokesperson who shall present the views of the group to the Commission. The Commission, in its sole discretion, may request to hear the views of additional speakers of the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., may be presented to the Commission for consideration at the conclusion of the spokesperson's remarks.

(4) **Roster.** All persons or groups wishing to address the Commission during the time set for public comment shall, prior to the Commission convening the meeting, sign the roster provided by Port staff. Any person signing the roster shall indicate their name, residence address and the subject of public concern on which the persons or groups wish to address the Commission.

(5) **Complaints and Suggestions to the Commission.** When any citizen brings a complaint before or makes a suggestion to the Commission, other than for items already on the agenda, the Commission, by a majority vote, may refer the matter to the Port attorney, Port staff, a committee, Port Manager or the Committee of the Whole for study and recommendation and report.

## SECTION 10. PROCEDURE FOR COMMISSION MEETINGS.

(1) **Rules of Order.** Unless otherwise provided by law or by these rules, the Commission rules of procedure will generally be governed by Robert's Rules of Order, 9<sup>th</sup> Edition. These rules shall not be binding upon the Commission; rather, they are intended to provide guidance.

(2) **Convening the Meeting.** At the time appointed, the presiding officer shall immediately call the members of the Commission to order. The Port minute recorder shall enter in the minutes of the meeting the names of the members present.

(3) **Recognition.** Every Commissioner wishing to speak shall first address the presiding officer and wait until he or she is recognized and has obtained the floor. No persons other than members of the Commission and the person having the floor shall enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer.

(4) **Requirement of a Second Before Debate.** No motion shall be debated until it has been seconded and the second has been announced by the presiding officer.

(5) **Motions Reduced to Writing.** Any Commissioner may request that a motion be reduced to writing and read by the Port's recorder of the minutes.

(6) **Commission Questions to Staff.** Every Commissioner wishing to question the administrative staff shall address his or her question to the Port Manager who shall be entitled to either answer the inquiry or designate some member of the staff for that purpose.

# EXHIBIT A

(7) **Public Participation.** Any member of the general public wishing to address the Commission shall first be recognized by the presiding officer and shall limit his or her remarks to the question then under discussion.

(8) **Motions to be Stated by Presiding Officer/Withdrawal.** When a motion is made and seconded, it shall be stated by the originator or the presiding officer before debate. A motion may not be withdrawn without the consent of the member seconding it.

## SECTION 11. COMMISSION COMMITTEES.

(1) **Creation and Termination.** Commission committees may be created at any time by resolution or motion. All Commission committees shall have a chairperson and secretary which may be either appointed by the presiding officer or by a majority vote of the members of the committee in the absence of such appointment. Such committees shall report to the Commission without unnecessary delay upon matters referred to it. All Commission committees so created shall terminate at the end of its mission; but, in all events, shall be reviewed at the end of a period of three (3) years from the date of initial creation, at the end of each subsequent three (3) year period after reauthorization and at such time shall either be reauthorized or terminated permanently.

(2) **Membership.** Membership on such Commission committees shall include only sitting Commissioners who shall be appointed by the presiding officer, subject to confirmation by the Commission. Commission committee appointments shall be for a term of one (1) year. Committee members may be reappointed for an indefinite number of rms.

(3) **Meetings.** Commission committee meetings may be called by the committee chairperson or by any two members. A majority of the committee members appointed shall constitute a quorum to conduct business.

~~(4) **Committee of the Whole.** There shall be one standing committee of the Commission which shall be known as the Committee of the Whole. This committee shall sit as a body for investigation or study as needed. The committee shall not take any official action while in committee but shall make findings, which shall be the basis for further Commission action.~~

(5) **Meetings Subject to Oregon Open Meetings Law.** All meetings of any Commission committees shall be subject to and comply with the Oregon Public Meetings law pursuant to ORS 192.610-192.710.

(6) **Registry.** The designated administrative staff of the Port shall prepare, keep current and retain on file in the office of the Port of Bandon a list of all appointees to all Commission committees, the date of their appointment, the length of their unexpired term



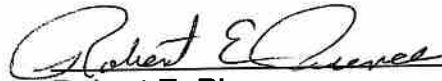
this list at least once yearly or upon any substantial change in membership of any Commission committee.

**SECTION 11. MISCELLANEOUS.**

(1) **Amendments to Commission Rules.** Amendments to these rules shall be made by resolution.

(2) **Anonymous Communication.** Anonymous and unsigned communications shall not be introduced in Commission meetings.

**Passed** May 24, 2001.



Robert E. Pierce  
President

ATTEST:



Harry Slack Jr.  
Secretary



# Invitation to Bid for ADA Fishing Pier

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**Bid/RFP Due Date:**

Wednesday, June 9, 2021 - 2:00pm

**Bid/RFP Status:**

Open - accepting bids and proposals

**Bid/RFP Reference Number:**

ADA Fishing Pier

Sealed Competitive Bids to provide construction services for the Port of Bandon ("Port") will be received at the Port office, 390 1st Street SW, Bandon, OR 97411, until 2 p.m. on June 9, 2021. Any Bids received after the specified time will not be considered.

Bids will be for the construction of a concrete, steel and FRP fishing pier on the Coquille River, near the Bandon Boat Basin in Bandon, Oregon. The project will consist of a single component with two additive alternates. Bidders must bid on all base items and all additive alternates to be considered responsive.

Bid and construction documents can be obtained by telephone at (541) 347-3206; or at the Port office, 390 1st Street SW, Bandon, OR 97411, or on the Port website at <https://www.portofbandon.com/rfps>.

Payment of Oregon prevailing wages effective January 1, 2021 for Region 7 (Curry and Coos counties) is required. Prevailing wages can be found at <https://www.oregon.gov/boli/employers/Pages/which-prevailing-wage-rate-a....>

Direct questions to Jeff Griffin by email at [portmanager@portofbandon.com](mailto:portmanager@portofbandon.com); by telephone at (541) 347-3206.

## Supporting Documents

 Bid Documents for Fishing Pier (5 MB)

 Addendum 1 - Clarification #1 (46 KB)



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540 Anderson Avenue  
Coos Bay, OR 97420

(541) 756-4101 Phone  
(541) 756-1167 Fax

May 12, 2021

**TO: Jeff Griffin**  
**Port Manager, Port of Bandon**

**FROM: Michele Laird**  
**Loan Officer**

**RE: Additional PBEDF Program Information**

Jeff,

Per your request during our Zoom meeting last week, below is additional information on the PBEDF program.

**Fund Balance as of 3/31/2021:**

- \$1,551,402.67

**Balances owed to USDA as of 3/31/2021:**

- \$198,776.49 (1MM Loan) – Maturity November 2025
- \$201,235.79 (5M Loan) – Maturity March 2030

**If above USDA loans were paid off, approximate funds left available:**

- \$230,348.00

**Outstanding loan balances owed in order of maturity dates** (highlighted are loans we believe could be eligible to refinance, paying off before maturity):

- \$49,865.35 – 8/1/2027
- \$86,427.47 – 11/1/2027
- \$89,165.79 – 10/1/2028
- \$232,360.53 – 5/1/2037
- \$101,286.54 – 4/1/2038
- \$245,583.78 – 1/1/2040
- \$112,818.53 – 9/1/2040

We previously discussed the option for Port of Bandon or Port of Bandon Economic Development Fund applying for a new USDA IRP loan. **Attached is the application from USDA.**

Thank you.

*Mission Statement*

*Encourage economic development, diversify local economies, support industry and enhance quality of life for all in the region.*



STAY HOME. SAVE LIVES.

**Coronavirus Information for DSL Customers** (<https://www.oregon.gov/dsl/Documents/DSLCOVID19Response.pdf>). For the latest information on the coronavirus in Oregon, visit the Oregon Health Authority (<https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/DISEASESAZ/Pages/emerging-respiratory-infections.aspx>).

☰ Site Navigation

## Submerged Lands Enhancement Fund Grant Program

Projects to enhance state-owned submerged and submersible lands may be funded through a grant program managed by the Department of State Lands, known as the Submerged Lands Enhancement Fund. The program, approved by the Oregon Legislature in 2017, focuses on projects that improve water quality, improve recreational access and make other waterway improvements. Eligible projects specifically include:

- Removal, salvage, storage and disposal of abandoned or derelict structures
- Removal and disposal of marine debris
- Assistance with the salvage, towing, storage and disposal of abandoned or derelict vessels pursuant to ORS 830.908 to 830.944
- Engagement in activities to improve water quality, watershed enhancement and fish and wildlife habitat on submerged and submersible lands

Compensatory mitigation projects are not eligible.

Eligible applicants include state agencies, cities, counties, water improvement districts, watershed councils, parks and recreation districts, port districts, nonprofit organizations or federally recognized Indian tribes.

In 2018, DSL funded a total of \$100,000 in projects through the SLEF.

**Coming Soon! Watch this space for information on the next round of SLEF project funding!**

Click here to view the 2017-19 Application  
(/dsl/WW/Documents/Submerged\_Lands\_Enhancement\_Fund\_Grant\_Application\_2019.pdf)

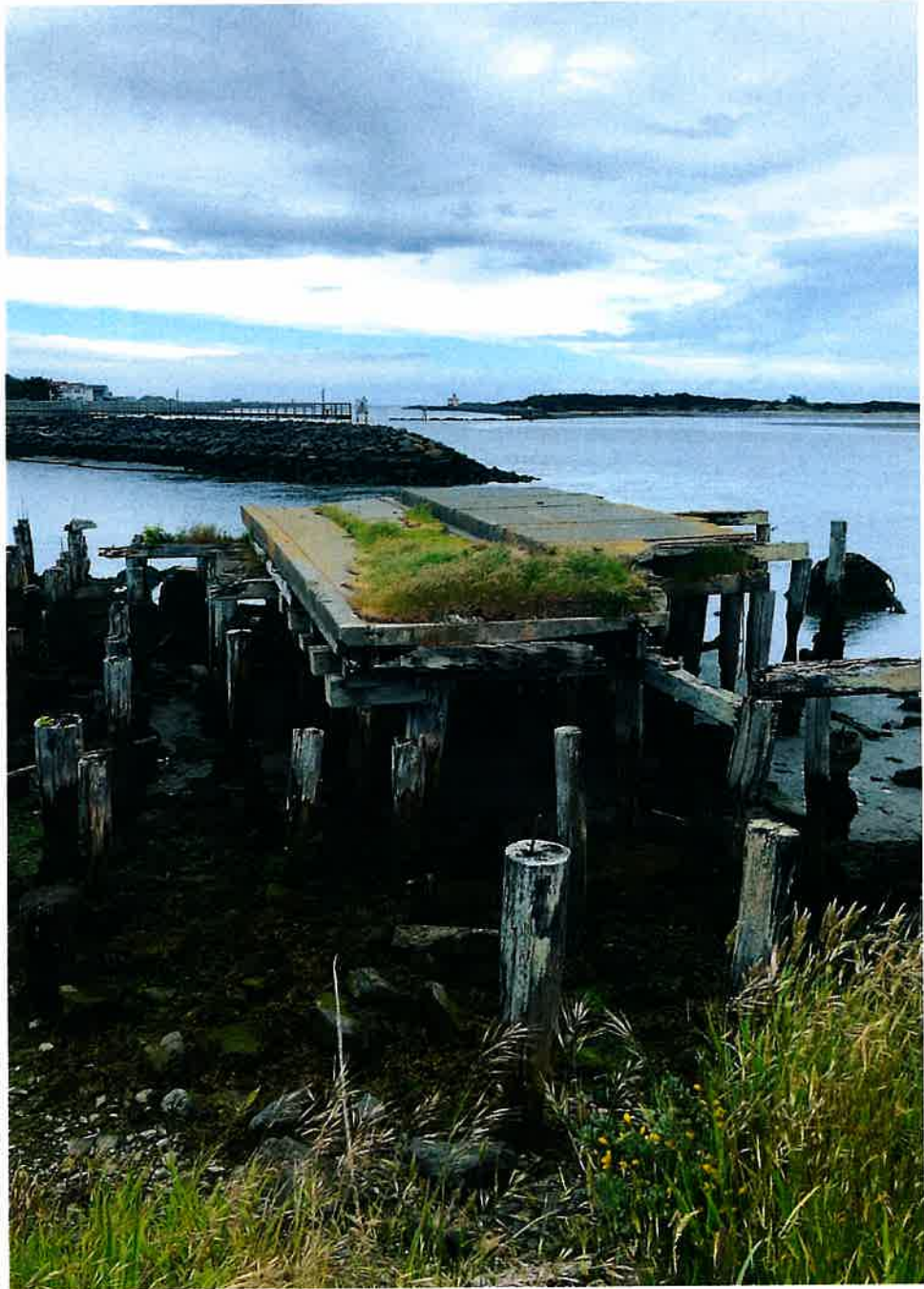
## Contact

Patricia Fox  
SLEF Grant Coordinator  
Phone: 503-986-5233  
[Patricia.Fox@dsl.state.or.us](mailto:patricia.fox@dsl.state.or.us) (mailto:patricia.fox@dsl.state.or.us)

🗨️ Help us improve! Was this page helpful?

Yes	No
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# Planning Permit Application

CITY OF BANDON PLANNING  
 P.O. BOX 67  
 555 HWY 101  
 BANDON, OR 97411  
 P:(541) 347-2437  
 F:(541)347-1415

**Permit Number:**

<b>APPLICATION TYPE (select all that apply)</b>		
<input type="checkbox"/> Annexation*	<input type="checkbox"/> Land Use Review*	<input type="checkbox"/> Subdivision*
<input type="checkbox"/> Certificate of Appropriateness (CoA)*	<input type="checkbox"/> Partition*	<input type="checkbox"/> Vacation*
<input checked="" type="checkbox"/> Comprehensive Plan or Zone Amendment*	<input type="checkbox"/> Plan Review (PR)	<input type="checkbox"/> Variance*
<input type="checkbox"/> Conditional Use Permit (CUP)*	<input type="checkbox"/> Planned Unit Development (PUD)*	<input type="checkbox"/> Zoning Compliance (ZC)
<input type="checkbox"/> Floodplain Development*	<input type="checkbox"/> Property Line Adjustment (PLA)*	<input type="checkbox"/> Other _____*
* Pre-application required		Total Fees: \$

<b>I. PROJECT LOCATION</b>		
Street Address: Marine Commercial (C3) Zone		
Map Number / Tax Lot(s):	/	Zone: C3 Floodplain: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No


<b>II. APPLICANT'S INFORMATION</b> (applicant is the primary party responsible for development)	
Applicant's Name: Port of Bandon	Phone: (541) 347-3206 E-Mail: portmanager@portofbandon.com
Applicant's Mailing Address: 390 1st Street SW, Bandon	

<b>III. PROPERTY OWNER'S INFORMATION</b>	
Property Owner's Name: Port of Bandon	Phone: (541) 347-3206 E-mail: portmanager@portofbandon.com
Mailing Address: 390 1st Street SW, Bandon	

<b>IV. OTHER INFORMATION (APPLICANT'S REP, SURVEYOR, ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, ETC)</b>	
Title: Representative / Consultant	Name: Hailey Sheldon, Sheldon Planning LLC
Email: hailey@sheldonplanning.com	Phone: (541) 968-4686
Title:	Name:
Email:	Phone:
Title:	Name:
Email:	Phone:

<b>V. PROJECT DESCRIPTION</b>	
Use: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Other <u>Text Amendment</u>	
*Please <b>attach</b> a short narrative that describes your proposed project and indicates the proposed use. Amendment to Chapter 17.48 Marine Commercial (C-3) Zone, to add the following uses to 17.48.020 Permitted uses, and subtract them from 17.48.030 Conditional uses: A. Eating and drinking establishments; B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products.	

<b>VI. SITE PLAN:</b> Please see our "How to Create a Site Plan" and sample site plan document for requirements and tips on how to create your site plan. Plans must be drawn to scale and may be submitted electronically; <b>printed copies must be submitted on 11x17, ledger size paper (larger or smaller paper sizes will not be accepted).</b>
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VII. PROPERTY OWNER SIGNATURE/AUTHORIZATION	
<ul style="list-style-type: none"> <li>I have read the application and the attached documentation and I understand that my application may be delayed or deemed incomplete if I have provided insufficient information and documentation to allow for approval.</li> <li>I certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my knowledge.</li> <li>I understand and agree that all required inspections will be requested 2 business days in advance, and it is the applicant's responsibility to ensure required inspections have been requested, completed, and approved.</li> <li>I authorize the City of Bandon or its acting agent, to enter onto the subject property, as described in section "I. Project location".</li> <li>I authorize the following party(s) to act as applicant in regard to the attached application for the subject property described above.</li> </ul>	
<b>X Applicant's Signature:</b> 	<b>Date:</b> 4-19-2021
<i>Property owner's signature required if applicant is not the property owner</i>	
<b>X Property Owner's Signature:</b>	<b>Date:</b>

### Development Disclosure

The City of Bandon is obligated to report all ground disturbances within the City of Bandon to the Coquille Indian Tribe. Property owners and applicants must adhere to all conditions and requirements set out by the Coquille Indian Tribe, State Historic Preservation Office (SHPO) or both if required. Please be aware that state statutes and federal law govern how archaeological sites are to be managed. ORS 97.745 prohibits the willful removal, mutilation, defacing, injury, or destruction of any cairn, burial, human remains, funerary objects, or objects of cultural patrimony of a Native Indian. ORS 358.920 prohibits excavation, injury, destruction, or alteration of an archaeological site or object, or removal of an archaeological object from public or private lands.

It is the property owner and applicant's responsibility to determine if additional permits from other agencies will be required, including but not limited to: Oregon State Building Codes, Oregon State Department of Environmental Quality, FEMA, Oregon State Fish and Wildlife and U.S. Fish and Wildlife. If additional permits are required, it is the responsibility of the property owner/applicant to obtain such permits and comply with their conditions of approval.

It is the property owner/applicant's responsibility to provide the City of Bandon all necessary legal documentation related to the property, including but not limited to: proof of ownership, receipts, deed restrictions, vacation records, easement records, etc.

<b>I acknowledge, understand, and agree, that all relevant documentation will be provided to the City of Bandon, and that all required permits and consent will be obtained prior to the start of construction, with all conditions of approval adhered to.</b>	
<b>X</b> 	4-19-2021
<i>Property Owner's Signature (Property owner's signature required if applicant is not the property owner)</i>	<b>Date</b>
<b>X</b>	
<i>Applicant's Signature</i>	<b>Date</b>

Staff's Signature of Intake: \_\_\_\_\_ Date: \_\_\_\_\_

Staff's Signature of Completeness: \_\_\_\_\_ Date: \_\_\_\_\_

Staff's Signature of Approval: \_\_\_\_\_ Date: \_\_\_\_\_

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## OVERVIEW

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The proposed text amendment would re-classify two uses in the Marine Commercial (C3) zone from “conditionally permitted” to “permitted”: A. Eating and drinking establishments; B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products.

The purpose of this text amendment is to simplify and standardize the permitting process for restaurants and shops in the Marine Commercial zone. It would not increase or potentially increase the number, size, or intensity of restaurants and shops in the zone. Nor will it change any of the development standards which apply to restaurants and shops in the zone.

In the case of the Marine Commercial zone: there is about as much development in the zone as can fit, with the existing development standards. The Port has identified a total of two potential building sites in the zone, taking into account the parking, height, density, and setback standards which limit development (one on the high dock and adjacent to the fisheries building). This proposal won't change that. That same development code will apply and is not being proposed to change; the parking, height, setback, density and other standards are not proposed to change. The proposal will simplify and standardize the permitting process for restaurants and shops in the Marine Commercial zone by removing an old requirement which was put in place prior to commercial use being allowed in much of the zone.

An example of the problem this amendment seeks to solve: occupying (renting or buying) an existing structure on the boardwalk. If a new restaurant wants to occupy an existing structure on the boardwalk, the property owner is required to obtain a conditional use permit. All existing code applies to the review, plus: the restaurant proposal is heard by the Planning Commission in a public hearing, wherein (1) conditions of approval may be added to the permit (in addition to the requirements of the code), and (2) in the future, if the restaurant wants to modify their permit (change the menu, for example), they are required to make a new application to the Planning Department to modify their permit.

After the proposed change: the owner would be required to obtain a zoning compliance determination from the Planning Department staff. All existing local, state, and federal rules apply to the review, but no additional Planning Commission review would be required. The zoning compliance review checks all existing code, including parking, height, setbacks, and whether or not the use meets the purpose of the zone which is, “to provide areas suitable for uses which depend upon, or are benefitted by, a waterfront location, and to retain adequate areas for these uses.”

The conditional use review process is intended for unique proposals which don't fit in to the existing codes.<sup>1</sup> Back when much of the majority of the zone was designated as “Especially Suited for Water Dependent Use,” this was warranted. But not only has the actual use of the zone changed, the Comprehensive Plan's shoreland management plan was changed in 1993 to outright permit marine commercial uses, including restaurants and shops.<sup>2</sup> However, despite the change, the conditional use

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<sup>1</sup> “Conditional uses are those which may be appropriate, desirable, convenient or necessary in the zoning district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. Applications for uses designated in this title as conditional uses may be granted, granted with modifications or denied by the planning commission in accordance with the standards and procedures set forth in this chapter.” 17.92.010 Authorization to grant or deny conditional uses.

<sup>2</sup> In 1993, the City passed Ordinance 1320, amending the comprehensive plan "Shoreland Management" designation to re-classify the majority of the C3 zone from 3E to 3A. Ordinance 1320's reclassification of properties within the C3 zone from ESWD to Marine Commercial expanded the permitted uses of those properties to include water dependent, water related, non dependent or related, and water oriented, as described in Table 17.76.130 Shoreland Uses/Activities Matrix.

designation remains. It was useful for a time. But since the boardwalk has been developed this review process has become unnecessary and is now counter-productive.

The findings of this report provide evidence that the existing standards within Bandon's municipal code provide a sufficient framework within which to review land use applications for restaurants and shops in the C3 zone, and that the additional level of review the conditional use process provides is unnecessary, counterproductive, and not consistent with the Comprehensive Plan and Coquille River Estuary Management Plan.

The basis for the proposed amendment is that the Bandon Comprehensive Plan and Coquille River Estuary Management Plan prescribe certain uses to the area which is today the Marine Commercial zone. Specifically, "Not water dependent or related" uses are Permitted within Shoreland Management Unit 3A, which overlays a majority of the C3 zone.

The applicant contends that as long as the restaurant or shop meets the standards for the Shoreland Management Unit, the underlying C3 zone, the municipal code, and all other applicable local, state, and federal rules, it ought be permitted without additional discretionary-level review.

**Chapter 17.48 Marine Commercial (C-3) Zone**

**17.48.010 Purpose.**

*The purpose of the C-3 zone is to provide areas suitable for uses which depend upon, or are benefitted by, a waterfront location, and to retain adequate areas for these uses.*

**17.48.020 Permitted uses.**

*In the C-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:*

- A. Boat basins;*
- B. Piers, docks and bulkheads;*
- C. Seafood processing, storage and sales;*
- D. Marinas and boat services;*
- E. Boat storage, manufacturing, maintenance, repair and moorage;*
- F. Fishing supply sales, manufacturing and storage;*
- G. Dredging, filling and channel maintenance;*
- H. Governmental services and offices which relate to marine activities;*
- I. Aquaculture and accessory facilities;*
- J. Public utilities, including service structures.*

**17.48.030 Conditional uses.**

*In the C-3 zone, the following uses and their accessory uses may be allowed when in accordance with Chapter 17.92 and when it is found that the proposed use would be benefitted by a waterfront location:*

- A. Eating and drinking establishments;*
- B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products;*
- C. Governmental building or use;*
- D. Public utility or service building;*
- E. Park or recreation facility;*
- F. Business or professional offices;*
- G. Single-family dwellings and other dwelling units intended for single-family occupancy, provided they are in a non-ESWD (especially water-dependent) area;*
- H. Vacation rental dwelling.*

**17.48.040 Limitations on uses.**

*In the C-3 zone, the following conditions and limitations shall apply:*

- I. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.*
- J. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or*

*the effects of vehicular traffic.*

*K. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.*

*L. Drive-up uses are prohibited.*

*M. The planning commission may establish a maximum percentage of a land parcel or a building devoted to one or more conditional uses to ensure that the purpose of this zone is achieved.*

**17.48.050 Signs.**

*See Chapter 17.90 Signs*

**17.48.060 Lot size.**

*In the C-3 zone, lot size shall have no requirements.*

**17.48.070 Yards.**

*Except as provided in Section 17.104.060, in the C-3 zone minimum yards shall be as follows:*

*A. In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.*

*B. The rear yard shall meet the same requirements as a side yard.*

*C. On the High Dock, structures exceeding five (5) feet in height shall be separated horizontally from each other by a minimum of fifteen (15) feet.*

**17.48.080 Height of building.**

*In the C-3 zone, no building containing a permitted use shall exceed a height of twenty-eight (28) feet, and no building containing a conditional use shall exceed a height of twenty (20) feet.*

**17.48.090 Lot coverage.**

*In the C-3 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.*

**17.48.100 Outside sales area.**

*In the C-3 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.*

**The applicant proposes to:**

**1) add the following uses to 17.48.020 Permitted uses, and subtract them from 17.48.030 Conditional uses: A. Eating and drinking establishments; B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products**

**2) change 17.48.080 Height of building to read: "In the C-3 zone, no building containing a permitted use shall exceed a height of twenty-eight (28) feet, and no building containing a conditional use, eating or drinking establishment, or gift, art, craft, novelty or specialty shops, shall exceed a height of twenty (20) feet.**

**No other amendments are proposed.**

**The findings in this report address the proposed amendment's adherence to the Bandon Comprehensive Plan and Oregon Statewide Planning Goals.**

## Chapter 17.116 Zone Changes and Amendments

### **17.116.010 Authorization to initiate amendments.**

*An amendment to the text or the zoning map of this title or the comprehensive plan may be initiated by the city council, by the planning commission, or by a property owner or his or her authorized agent. The planning commission shall hold a hearing and recommend to the city council to approve, approve with conditions, or deny the proposed amendment. The city council may hold a public hearing (public hearings shall occur in accordance with Section 17.120.080). Amendments shall be adopted by ordinance.*

### **17.116.020 Application and fee.**

*An application for zoning ordinance or comprehensive plan amendment by a property owner or their authorized agent shall be filed with the city. A fee shall accompany the application. If a form is not provided, such as in the case of a plan amendment, the application shall be reviewed by the planning director, who shall respond in writing within ten (10) days on whether the application is complete or, if it is not, what additional information will be necessary to be supplied by the applicant to render the application complete. The planning director shall review proposed zone changes or amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city's or the developer's ability to satisfy land use, transportation and utility, service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands and other relevant hazard or resource considerations.*

**The Port of Bandon, a property owner, has initiated these proposed text amendments.**

### **17.116.030 Conditional zone amendment.**

*The purpose of the conditional zone amendment provision is to enable the city council to attach specific conditions to a request for a zone boundary change where it finds that such conditions are necessary to achieve a stated public purpose.*

[...]

**The applicant is not requesting a zone boundary change.**

## Chapter 17.76 Shoreland Overlay (SO) Zone

### **17.76.010 Purpose**

*The purpose of the shoreland overlay zone is to implement the provisions of the shoreland management units adopted in the city's comprehensive plan. The uses for each shoreland management unit are shown in Table 17.76.130, Shoreland Uses/Activities Matrix. These management units are shown on the city's zoning map.*

*The requirements of this overlay zone are applied in addition to the requirements of the underlying zone. In cases where the requirements of this zone overlap or conflict with the requirements of the underlying zone, the more restrictive shall apply.*

### **17.76.020 Permitted uses and activities**

*Permitted uses and activities are designated for each management unit in Table 17.76.130, Shoreland Uses/Activities Matrix. To resolve possible conflicts, the following rules shall apply:*

*1. Uses permitted in the shoreland overlay zone but conditional uses in the underlying zone shall be conditional uses.*

2. Uses permitted in the shoreland overlay zone but not permitted in the underlying zone shall not be permitted.

3. Activities not listed in the underlying zone shall be permitted or not permitted according to this overlay zone.

#### **17.76.030 Conditional uses and activities**

The conditional uses listed in Table 17.76.130, Shoreland Uses/Activities Matrix, may be allowed when in accordance with Chapter 17.92, applicable conditions of approval listed as footnotes on the table, and applicable policies of the comprehensive plan. Plan estuary Policies "A" through "U" are included herein by reference and made a part of this title.

#### **17.76.040 Correspondence with underlying zone.**

Specific uses listed in the underlying zone but not listed in this overlay zone shall be considered under the general category of use which corresponds to the specific use.

**No change to the uses and activities permitted/conditionally permitted/not permitted within the Shoreland Overlay Zone is proposed.**

**No change to the development standards for uses and activities within the Shoreland Overlay Zone is proposed.**

**The proposed text amendment would reclassify two uses in the underlying Marine Commercial zone as “permitted” instead of “conditionally permitted.” The review process contained in this Chapter 17.76 will continue to apply, and produce the same result.**

#### **17.76.50 Special provisions.**

All uses and activities, whether permitted or conditional, must conform to the standards listed below and the shoreland uses/activities matrix, appearing as Table 17.76.130 in this chapter. These standards are applicable to wetlands shown on the National Wetlands Inventory Map and other inventory maps of the city.

A. Dredged Material Disposal (DMD), Restoration (R), or Mitigation (M) Sites. Uses otherwise permitted by this title but proposed within a designated DMD, R or M site shall be permitted only upon satisfying all of the following criteria:

1. The proposed use must not entail substantial structural or capital improvements, such as roads, permanent structural or capital improvements, such as roads, permanent buildings, or non-temporary water and sewer connections;
2. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site, such as extensive site grading/excavation or elevation from fill;
3. The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat.

B. Significant Wildlife Habitat. These sites are limited to uses and activities which are consistent with the protection of natural values. Such uses may include harvesting wild crops and low-intensity recreational and educational activities not requiring developed facilities.

C. Riparian Vegetation. Riparian vegetation shall be protected as per Section 17.104.100, and by requiring a site plan showing (as applicable):

1. The shoreline;
2. The shorelands plan boundary;
3. The extent of riparian vegetation;

4. *The details of proposed construction or access and any proposed vegetation removal;*
5. *The above shall be shown for an area within fifty (50) feet horizontal distance from the line of non-aquatic vegetation.*

*D. Areas Especially Suited for Water-Dependent Uses (ESWD). Any use proposed for a site designated as ESWD on the special features map must be found to be consistent with comprehensive plan Policy "L."*

*E. Historic Structures and Sites. The Breuer Building, the Bandon Lighthouse, the Old Coast Guard Building and the Moore Mill Truck Shop are protected by the historic-cultural overlay zone (HC), and all uses shall be consistent with comprehensive plan Policy 2--Historical and Archaeological Preservation.*

**The special provisions contained in this section apply to all uses, permitted and conditionally permitted, within the Shoreland Overlay zone; no change to these standards or the application of these standards is proposed.**

***17.76.060 Supplemental provisions for estuarine and shoreland uses/activities--pre- application conference.***

*The following provisions shall be applied as applicable to implement Chapter 17.64:*

*A. The applicant may request a pre-application conference which will be held within ten (10) days of the request.*

*B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this title and the comprehensive plan, provide for an exchange of information regarding applicable elements of the comprehensive plan and city ordinances, determine what technical and design assistance will be needed to aid the applicant, identify previously approved development proposals of a similar nature into conformance with necessary state and/or federal permit requirements, indicate what information will be required to review the application, and otherwise identify policies and requirements of this title that create opportunities or pose constraints for the proposed development.*

***17.76.70 Notification of public agencies.***

*For conditional uses within the shoreland overlay zone, the following agencies shall be notified by mail according to the notice provisions as stated in Section 17.120.090:*

*A. State agencies:*

- 1. Division of State Lands,*
- 2. Department of Fish and Wildlife,*
- 3. Department of Environmental Quality;*

*B. Federal agencies:*

- 1. Army Corps of Engineers,*
- 2. National Marine Fisheries Service,*
- 3. U.S. Fish and Wildlife Service;*

*C. Other notification (where applicable):*

- 1. State Water Resource Department (uses including appropriation for water only),*
- 2. State Department of Geology and Mineral Industries (mining and mineral extraction only),*

3. *State Department of Energy (generating and other energy facilities only),*
4. *Department of Economic Development (docks, industrial and port facilities and marinas, only).*

**17.76.080 Information to be provided.**

*In addition to the information listed in Chapter 17.92 and in the underlying zone and in other parts of this title, the following information may be required, as applicable:*

- A. *Identification of resources existing at the site;*
- B. *Description of the types of alteration to occur, if any, including information detailing the extent of the alteration, such as:*
  1. *Area measurement,*
  2. *Site coverage,*
  3. *Depth to which alterations will extend,*
  4. *Volume of material removed or placed as fill;*
- C. *Effects of the proposed use on physical characteristics of the estuary and the proposed site, such as:*
  1. *Flushing,*
  2. *Patterns of circulation and other hydraulic factors,*
  3. *Erosion and accretion patterns,*
  4. *Salinity, temperature and dissolved oxygen,*
  5. *Biological and chemical oxygen demand,*
  6. *Turbidity and salinity characteristics of the water;*
- D. *Effects of the proposed use on biological characteristics of the estuary and shorelands such as:*
  1. *Benthic habitats and communities,*
  2. *Anadromous fish migration routes,*
  3. *Fish and shellfish spawning and rearing areas,*
  4. *Primary productivity, resting, feeding and nesting areas for migratory and resident shorebirds, wading birds and other waterfowl,*
  5. *Riparian vegetation,*
  6. *Wildlife habitat;*
- E. *Effects of the proposed use on other established uses in the area;*
- F. *Impacts of the proposed use on navigation and public access to shoreland or estuarine areas;*
- G. *Assurance that structures have been properly engineered;*
- H. *Alternative project designs and/or locations which have been considered in order to minimize preventable adverse impacts;*
- I. *Steps which have been taken to minimize or avoid adverse impacts;*
- J. *If application has been made to the Corps of Engineers of Oregon Division of State Lands for permit approval, applications for local approval shall include the federal/state permit application and information submitted with that request;*



*K. A set of findings which demonstrate compliance with the applicable policies, standards, the criteria required by the comprehensive plan and this title;*

*L. Maps, photographs, or other descriptive materials showing how the siting, design, operation and maintenance chosen by the applicant meets the policies, standards and criteria of the comprehensive plan and this title.*

**No changes to the pre-application conference, notification, and information required for land use applications within the Shoreland Overlay are proposed. This overlay-specific review process, coupled with the standards contained in 17.120 Administrative Enforcement provide a framework within which to evaluate land-use applications for restaurants and shops in the C3 zone, without discretion.**

***17.76.090 Resource capabilities test.***

*Certain uses in estuarine areas require findings of consistency with the resource capabilities of the area. For uses and activities requiring the resource capabilities test, a special condition is noted in the applicable subdistrict. Other uses either do not require the test or adequate findings are already included in the comprehensive plan. The provisions of this section apply only to those uses and activities for which the resource capabilities test is required as a special condition.*

*A. A determination of consistency with resource capabilities shall be based on:*

- 1. Identification of resources existing at the site, including environmental (e.g., aquatic life and habitat present, benthic populations, migration routes) and social and economic factors (navigation channels, public access facilities, areas especially suited for water-dependent use);*
- 2. Evaluation of impacts on those resources by the proposed use;*
- 3. Determination of whether the resources can continue to achieve the purpose of the management unit if the use is approved.*

*B. In determining consistency of a proposed use with the resource capabilities of the area, the city shall rely on federal or state resource agencies for regulated activities in estuarine areas. Findings must show that the proposed use is consistent with the permits approved for that area. The city may submit proposed findings to the permit-issuing agency as a part of the local review and comment process. (Amended during 2000 codification)*

***17.76.100 Dredge, fill, or other significant reductions or degradations.***

*Uses and activities which involve dredge, fill or other significant reductions or degradations of natural estuarine values are allowed in the respective management units only if such actions are found to be consistent with comprehensive plan Policy "E." For the purpose of this requirement, "significant" shall be determined by:*

- A. The U.S. Army Corps of Engineers through its Section 10 and 404 permit processes; or*
- B. The Department of Environmental Quality for approvals of new aquatic log storage areas only; or*
- C. The Department of Fish and Wildlife for new aquaculture proposals only. (Amended during 2000 codification)*

***17.76.110 Impact assessment.***

*Findings for uses in Sections 17.76.090 and 17.76.100 shall be made according to comprehensive plan Policy "E." Findings need not be lengthy or complex, but it shall provide a clear understanding of the impacts to be expected.*

***17.76.120 Coordination with Division of State Lands (DSL) state/federal waterway permit reviews.***

If the city is notified by DSL that a state or federal permit has been requested for a use or activity which is permitted outright or permitted with standards, the following provisions shall apply:

A. No application to the city is necessary for uses or activities which do not require local approval. Local input shall be provided to permit granting agencies in response to public notice provisions of their application procedures.

B. The fact that a use or activity is permitted, permitted conditionally or not permitted shall be reported to the permit granting agency within three working days of a public notice or other request for such information. The report shall contain a statement of what, if any, standards and conditions must be applied if the permit is granted, and the need, if any, for other local permits for uses associated with the regulated activities. Also, the city may submit proposed findings to the permit agency as a part of the local review and comment process.

**17.76.130 Shoreland uses/activities matrix.**

Shoreland uses/activities in the SO zone are shown in the following table:

**Table 17.76.130: SHORELAND USES/ACTIVITIES MATRIX**

Shorelands Mgmt Unit No. Plan Designation Uses	1 PF	2 CD	3A MC	3E ESWD	4 PF	5 UR	6 OTC	7 OS	8 CD	9 PF	10 NR	11 NR	12 CD
Aquaculture	NP	NP	P	P	NP	P	NP	NP	NP	NP	CU	CU	NP
<b>Commercial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	CU	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Water oriented	NP	CU	P	NP	NP	NP	P	NP	P	NP	NP	NP	NP
<b>Industrial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	NP	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Log Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Marinas (shore facilities)	NP	NP	NP	P	NP	NP	NP	NP	CU	NP	NP	NP	NP
<b>Recreational Uses</b>													
Water-dependent	P	CU	P	P	P	P	NP	NP	NP	P	P1	P1	P1
Water-related	NP	CU	P	CU*	P	P	P	NP	CU	NP	P1	P1	P1
Not dependent or related	NP	CU	P	NP	P	P	P	P	P	NP	P1	P1	P1
Residential	NP	CU	P	NP	NP	P	P	NP	P	NP	NP	NP	CU6
Utilities	P	P	P	CU*	P	CU	P	P	P	P	CU	CU	P
Parks and Sanctuary	P	CU	CU	NP	CU	CU	P	P	CU	P	P	P	CU

Shorelands Mgmt Unit No. Plan Designation Uses	1	2	3A	3E	4	5	6	7	8	9	10	11	12
	PF	CD	MC	ESWD	PF	UR	OTC	OS	CD	PF	NR	NR	CD
Harvest Wild Crops	P	P	NP	NP	NP	P	NP	P	NP	P	P	P	P
Pub. Use Structure including Recreational	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
Historical Struc. including Rehab.	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
<b>Forest Products</b>													
Propagation & selective harvest	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	NP
Grazing	NP	NP	NP	NP	NP	NP	NP	CU	NP	NP	CU	CU	NP
<b>Dredged Material</b>													
Disposal	NP	NP	NP	NP	NP	NP	NP	NP	CU 2,3,5	NP	CU 2,3,5	NP	NP
<b>Dune Stabilization and Restoration</b>													
Active	NP	CU	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	CU
Passive	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P
Fill	P	P7	P	P	P	P	P	P	P	P	P	P	P
Land Division	NP	P	P	P	NP	P	P	P	P	NP	CU	CU	CU
Mitigation	NP	P	NP	NP	NP	NP	NP	NP	P	NP	P	P	CU
<b>Shoreline Stabilization</b>													
Structural	CU 4	CU4	CU4	CU4	CU4	NP	CU4	NP	CU4	CU4	CU4	CU4	CU4
Nonstructural	P	P	P	P	P	P	P	P	P	P	P	P	P

- |     |                        |    |   |
|-----|------------------------|----|---|
| PF  | Public Facilities      | P  | Permitted   |
| CD  | Controlled Development | CU | Conditional Use                                   |
| MC  | Marine Commercial      | NP | Not Permitted                                     |
| UR  | Urban Residential      | *  | Must be in conjunction with a water-dependent use |
| OTC | Old Town Commercial    |    |   |
| OS  | Open Space             |    |   |
| I   | Industrial             |    |   |
| NR  | Natural Resource       |    |   |

**Endnotes**

1. Low intensity uses only
2. In designated site only
3. Dredged material disposal (DMD) must include stabilization measures to control runoff and prevent sloughing
4. Subject to comprehensive plan policy "I"
5. Subject to comprehensive plan policy "N"
6. See Bandon comprehensive plan, Part V, Land Use Classifications, Public and Environmental Areas, Natural Resource Areas
7. Fill subject to specific requirements of the CD-2 zone Chapter 17.24.110

**Comprehensive Plan Policies & Inventories re: Coastal Resources**

**Chapter 13/14: Estuary Management**

**> Identification of the Coastal Shoreland Boundary**

*Goal 17 (Coastal Shorelands) requires land contiguous with the ocean, estuaries, and coastal lakes to be identified as coastal shorelands. The location of the coastal shorelands boundary (CSB) in Bandon has been identified by applying the seven identification criteria in Goal 17. The specific application of each of these criteria is described below; the CSB is shown on maps CSB-1 and CSB-2.*

[...]

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**> 3.0 Analysis of Compliance with Coastal Shorelands Goal (#17) and Beaches and Dunes Goal (#18) by "Shoreland Management Unit"**

**3.1 Introduction**

*The Coastal Shorelands Goal (#17) sets priorities for shoreland uses, requiring that preference be given in appropriate locations to water-dependent or water-related uses and activities. It also requires a high degree of protection for certain important natural resources (e.g. major marshes, significant wildlife habitats) and distinguishes between the uses allowed in cities and urban growth areas and those allowed in rural areas. The Beaches and Dunes Goal 18 also applies wherever dunes fall within the Coastal Shore lands Boundary.*

*The following sections deal with the rationale behind certain of the Management Unit decisions, where it is not self-evident, so as to explain more fully how the Plan complies with Goal #17.*

**3.2 Justification of Designations for Shore land Management Units**

**3.2.1 Especially Suited for Water Dependent Use sites in Shoreland Management Units within the City and Urban Growth Areas**

*Management Unit # 3: The Bandon Waterfront: Marine Commercial (C-3) designation. This area has a shallow draft channel close to shore with supporting land facilities." Protected areas are available which are subject to scour by the current of the river as it bends west toward the mouth. There are also outstanding water-dependent recreational opportunities at the boat basin. The Marine Commercial (C-3) zoning designation reserves specified ESWD sites for water-dependent or water-related uses as the highest priorities, consistent with the "Priority" requirements of Goal 117. These sites begin at the west end of the Bandon Fisheries Building and extend up to the High Dock, where there exists a fish buying station and the remainder of the jetty that protects the boat basin.*

*Other sites in the C-3 zone which do not have ESWD qualities are afforded a broader range of uses, mostly as conditional uses, though they still retain the C-3 Marine Commercial designation. These sites include the remainder of the C-3 properties west of the Bandon Fisheries building, the new port office and the remainder of the high dock facility which, for various reasons, cannot be used for or do not have the essential characteristics of ESWD sites. [...]*

**3.2.4 Consistency Determination**

*The Matrix, together with the findings in the above explanatory narrative, have established that the use designations for each of the Shoreland Management Units are consistent with the requirements of the Goals. This process also deals with the Goal requirements relating to several types of uses and activities, and the conditions under which some of them may be permitted. These requirements are embodied in the Shore lands Uses/Activities Matrix of the zoning Ordinance.*

### 3.3 Justification of Shorelands Uses/Activities Matrix and Goal 18

#### 3.3.1 Introduction

*Uses and activities permitted in each of the Shoreland Management Units are laid out in the matrix of the Zoning Ordinance. The uses and activities permitted are to a large degree determined by the Coastal Shorelands Goal. Areas within the Shoreland Overlay Zone of the Zoning Ordinance are subject to compliance with both the underlying zone and the matrix. In cases where the requirements of the Shorelands Overlay Zone conflict with the requirements of the underlying zone, the more restrictive shall apply.*

*As with the Estuarine Management Units, reference is made to specific Policies which provide policy statements on conditions which shall apply to uses/activities. Footnotes are also used for the same purpose, where no formal Policy is necessary.*

#### 3.3.3 Segments in Urban/Urbanizable Areas.

*Sites in these areas which are found to be ESWD are to be protected for water-dependent industrial, commercial and recreational uses. Such sites are found in Management Units #1, #3, #8, #9 and #10 and are reserved for a narrow range of uses, as appropriate. All other sites in these areas are not considered ESWD and are designated for non-water-dependent uses, based primarily on existing use patterns.*

**The Shoreland Overlay, adopted via the Coquille River Estuary Management Plan, overlays the entire C3 zone. The Shoreland Overlay is split into Management Units. Each management unit is described in the Estuary Management Plan, including the uses permitted/conditionally permitted/not permitted. (See Table 17.76.130 Shoreland Uses/Activities Matrix, above.)**

**The majority of the C3 zone is overlaid by Shoreland Management Unit 3, which is split into two sub-units: 3A which is Marine Commercial and 3E which is Especially Suited for Water Dependent Use (ESWD).**

**Today, most of the C3 zone is overlaid by the 3A Marine Commercial Shoreland Management Unit.<sup>3</sup> The exceptions are (generally) the areas over water: the area extending beyond the concrete of the High Dock and the boat ramp. See the arrows on the Shoreland Overlay map below, indicating the 3E area.**

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<sup>3</sup> In 1993, the City passed Ordinance 1320, amending the comprehensive plan "Shoreland Management" designation to re-classify the majority of the C3 zone from 3E to 3A. Ordinance 1320's reclassification of properties within the C3 zone from ESWD to Marine Commercial expanded the permitted uses of those properties to include water dependent, water related, non dependent or related, and water oriented, as described in Table 17.76.130 Shoreland Uses/Activities Matrix.



Presently, when the City receives a land use application for a restaurant or shop in the C3 zone: the Planning Department determines if it meets the standards for the Shoreland Management Unit, the underlying C3 zone, the municipal code, and all other applicable local, state, and federal rules, and if it does, the Planning Commission may approve it, deny it, or approve it with conditions. The proposed text amendment will remove the requirement for Planning Commission approval.

The applicant's proposal will not alter or diminish the development standards which apply restaurants and shops in the C3 zone.

No discretion is required in applying these standards. Where there is, the Municipal Code contains a provision wherein the Planning Director may submit applications that normally could be approved administratively to the Planning Commission (17.120.050.C. Administrative Review and Approval Process).

***Plan Policy: Coastal Resources***

***> Protection of Sites Especially Suited to Water-Dependent Uses – Policy L***

*The City shall manage urban and urbanizable shorelands which are especially suited for water-dependent (ESWD) uses so as to protect these important areas for water-dependent (ESWD) commercial, recreational and industrial uses.*

*This Policy is implemented through appropriate land use designations in this Plan which provide for water-dependent uses within areas that are "especially suited" for such uses.*

*This Policy is based upon recognition that ESWD areas are given priority consideration because of their unique attributes, which include:*

- 1. deep water close to shore with supporting land transport facilities suitable for ship and barge facilities;*
- 2. potential for aquaculture;*
- 3. protected areas subject to scour which would require little dredging for use as marinas; and*
- 4. potential for recreational utilization of coastal water or riparian resources.*

*Unless otherwise allowed through an Exception, the City shall allow new non-water-dependent uses in Management Units which are “especially suited for water-dependent uses” (ESWD) only if it is established prior to permitting such uses that:*

- 1. the proposed use or activity is temporary in nature (such as storage, etc);*
- 2. the proposed use would not preempt the ultimate use of the property for water-dependent development;*
- 3. no immediate and economically viable demand exists to enable use of the site for water- dependent development;*
- 4. the site is committed to long term water-dependent use or development by the landowner.*

*This Policy shall be implemented through provisions in ordinance measures that require the above findings made prior to approval of proposed activities.*

*This Policy, is based on the recognition that sites which are “Especially Suited for Water-dependent uses” must be protected for such, but that temporarily allowing non-preemptory, non-water-dependent uses is not inconsistent with that overriding objective.*

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**The proposed text amendment is consistent with Policy L. No change to the administration of the Especially Suited for Water-Dependent Uses areas are proposed. No change to the administration of the Shoreland Overlay Management Units, as described in the Estuary Management Plan, are proposed.**

**> *Redevelopment of Waterfront Areas - Policy S.***

*The City shall determine whether there are any existing, developed commercial/industrial waterfront areas which are suitable for redevelopment which are not designated as especially suited for water-dependent uses. Plans shall be prepared for these areas which allow for a mix of water-dependent, water-related, and water oriented nondependent uses and shall provide for public access to the shoreline.*

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**The proposed text amendment supports Policy S. The Port has worked to develop areas of the Marine Commercial zone marine-themed restaurants and shops which are benefitted by, a waterfront location and contribute to the City’s goals for the boardwalk area. See also the findings in this report under Chapter 7 Socioeconomic Analysis.**

## Comprehensive Plan Policies & Inventories re: Land Use

### **Plan Policy: Land Use**

*It is the City's policy to provide appropriate, well-integrated, non-conflicting and orderly areas to accommodate present and future needs of the community.*

[...]

*Marine Commercial Activity. To provide areas appropriate for commercial uses which are benefitted by a waterfront location. These areas will be provided at the discretion of the Bandon Planning Commission after consideration of critical relationships between coastal shorelands and resources of coastal waters; and geologic and hydrologic hazards associated with coastal shore lands.*

[...]

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### **Chapter 3: Land Use**

#### **> Land Use Classifications**

##### *Introduction*

*The Bandon 1990 comprehensive Plan contains thirteen broad land use classifications. They are listed below, followed by a brief description of each classification.*

##### *Residential Areas*

- 1. Urban Residential*
- 2. Mobile Home Residential*
- 3. Planned Residential*

##### *Commercial Areas*

- 1. Tourist Commercial*
- 2. General Commercial*
- 3. Marine Commercial*

##### *Industrial Areas*

- 1. Light Industrial*
- 2. Heavy Industrial*

##### *Public and Environmental Areas*

- 1. Controlled Development Areas*
- 2. Public Facilities*
- 3. Open Space*
- 4. Natural Resource Areas*
- 5. Marine Activity Areas*

##### *Commercial Areas*



*Three types of commercial areas have been designated to achieve the commercial development objectives. These classifications generally recognize the difference between tourist, general and marine commercial uses and seek to locate these uses so as to maximize their efficiency of operation, ensure compatibility with neighboring uses, and reduce commercial strip development.*

*Tourist Commercial.*

*Purpose: This classification is to designate areas for commercial activities which are especially orientated toward tourists and travelers. Examples of such activities include motels, restaurants, gift shops and similar uses.*

*Appropriate Areas. The Tourist Commercial Classification is best suited for areas near major highways and at points along scenic routes. It is particularly appropriate for areas having existing tourist commercial development, such as the Old Town area.*

*Purpose: This classification provides areas suitable for the continuance or expansion of full range commercial activities to meet the overall shopping needs of Bandon's residents and visitors.*

*Appropriate Areas. Bandon's existing commercial centers and are adjacent to these centers are appropriate for the General Commercial Classification. Availability of public utilities, accessibility to large volumes of traffic, adequate parking, and access for pedestrians are important considerations in making these areas ideal for continued commercial development.*

*Marine Commercial.*

*Purpose: This classification is to provide areas suitable for uses which are associated with or benefitted by being near water.*

*Appropriate Areas. The Marine Commercial area is best suited for areas adjacent to the estuary. Access to water is important, but back-up space is also important. Availability of parking, utilities, dock space and transportation are considerations which should be addressed when designating processing, retail and wholesale activities for the Marine Commercial area. Some areas that are adjacent to water might not be usable for water-related or water—dependent uses because of exposure to rough water conditions, existing development, or inadequate space for development. Those areas are not considered "especially suited for water—dependent development" (ESWD) in the Estuary Management Plan and may be considered for nonwater-dependent/nonwater related uses. Only those areas with good water access and adequate space for future development are designated as "ESWD" in the Plan.*

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**The proposed text amendment is consistent with the Comprehensive Plan's land use classifications. The Marine Commercial (C3) zone overlaid by Management Unit 3A is not considered ESWD and may be considered for nonwater-dependent/nonwater related uses.**

## Comprehensive Plan Policies & Inventories re: Economic Development

### **Plan Policy: Economic Development**

*The city will actively promote the health of its economy by encouraging economic development that is compatible with the city's infrastructure, service provision capabilities, environment and the community's high standards for quality of life.*

*The city supports growth management and the planning of development to protect resources and maximize its economic assets and advantages. Where appropriate, the city also supports amendments to the urban growth boundary to supply needed public facilities for development of key industrial, commercial and residential areas.*

*It is the policy of the City to enhance the economic well-being of the residents of Bandon by encouraging the expansion and diversification of the city's economy through the following actions:*

- 1. Tourism. Guard the scenic appeal and character of Bandon by the careful development of tourist facilities.*
- 2. Shipping. Increase the maritime commerce of the Port of Bandon by encouraging the deepening of the channel and maintaining the greatest possible depth of the harbor.*

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### **Chapter 7: Socio-Economic Analysis**

#### **> Economic Characteristics**

*The economic functions of the City of Bandon are diverse for a city of its size, and the city is dependent on a variety of different sources of income. The major economic functions of the city area are listed below:*

- 1. A small lumber and wood products processing "center".*
- 2. A service and processing center for the surrounding agricultural area.*
- 3. The home of a small commercial fishing fleet and processing plant.*
- 4. A retail service center for the South Coast of Coos County. A growing tourism, retirement, and recreational center.*

*[...]*

#### *Tourism, Recreation and Retirement*

*The newest but fastest growing of Bandon's economic functions are those related to tourism, recreation and retirement. The scenic beauty of Bandon, enhanced by the city's location on a bluff overlooking the Pacific Ocean and the Coquille River, makes the city ideally attractive for these activities. This attractiveness is further enhanced by the city's location on Hwy 101 (cited as one of the most scenic highways of its kind anywhere in the world) and by the location of a several major city, county, state and federal parks.*

*These attractions bring numerous visitors to the city each summer. Within the city this activity is largely focused Hwy 101, the Old Town area, the south jetty and the beach. Visitors support numerous businesses located along Hwy 101, the Hwy 101/42 intersection, in Old Town, in the Woodland Addition, and at the Jetty and along Beach Loop.*

*Much of this tourist activity is not "destination" oriented, but is "drive through", made up of people stopping at Bandon while visiting several places on the coast. Consequently, the plans of the city to*

*become more of a destination point will benefit this sector. The ability of the city to capture the "drive through" business is related to its ability to induce people to stop while travelling through.*

*In addition to tourism, an increasing number of people are attracted to the area for summer or retirement homes. The same factors that attract the tourist are attracting these people. However, the economic impact of second-home and retired people is substantially different. Neither of these groups need to be attracted to business in the same manner as the tourist.*

*The second-home resident would generally use the same services as the full-time resident (though earning their income from another area) and so would the retired person. The retired person, however, would tend to keep purchases more on the necessity level or for things uniquely related to that age group.*

*The fixed income of the retired person and the partial income of the second-home resident both produce less of a "multiplier effect" for each person than does the income of the full-time working resident, while the demand for most city services would be largely similar (except for the demand for schools, of course).*

*Because Bandon is the only significant service center for Southwest Coos County, most of the income generated to the area from tourists, second-home residents and retired persons is generated within the city, although numerous businesses are located along Hwy 101 to the south.*

[...]

#### *Economic Trends and Planning Considerations*

[...]

#### *Tourism and Recreation*

*Aside from retirement and transfer payments, the most rapidly increasing economic sector on the Oregon Coast is tourism and recreation. Improvements in transportation, an increase in leisure time, and rising personal income in the nation have led to the rapid expansion of recreational activity. Places of outstanding scenic beauty, such as the Bandon area, have become a major focus of this activity. Most projections have indicated that recreational activity will continue to increase.*

*Since Bandon is one of the few places in Coos County with excellent access to the ocean beaches, the area can be expected to retain its role as a major focus of tourism in the county. In conjunction with this rise in tourism, it may be anticipated that second-home residential growth and retirement growth will continue at approximately its current pace.*

*In the future, the improved facilities planned for the U.S Fish and Wildlife National Wildlife Refuges at Coquille Point, Bandon Marsh and the Oregon Islands will also provide tourism opportunities associated with the expanding national interest in wildlife viewing.*

[...]

#### *Tourism.*

*The tourism market is based on drive-through traffic, though the city has made progress in becoming more of a destination in recent years. This dependence on fuel makes the sector very sensitive to gas and oil prices. The fact that there is no public transportation to the Bandon area coupled with increases in gas and oil prices could have a chilling effect on the tourism industry.*

*For Bandon to retain its share of recreational activity, the city should consider additional steps to make itself a desirable destination rather than a drive-through area. In order to do this, the city must develop its unique qualities, allow for expansion of overnight services, increase its range of*

*recreational services to provide a wider variety of recreational experiences, and consider ways to recruit tourists.*

*The impact of the cost of energy on second-home residents is less clear. While it will reduce the ability of people to go to their second homes, it may also increase the demand for second homes, since second homes are a form of destination tourism.*

*Factors that may work in favor of continued present patterns are the increasing fuel efficiency of newer cars and the possible introduction of alternative fuels.*

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**The proposed text amendment supports the Comprehensive Plan’s economic development policies.**

**The Comprehensive Plan acknowledges that:**

*“The newest but fastest growing of Bandon's economic functions are those related to tourism, recreation and retirement [...]*

*“Aside from retirement and transfer payments, the most rapidly increasing economic sector on the Oregon Coast is tourism and recreation.”*

**When the framers of the Comprehensive Plan, zoning map, and the Estuary Management Plan laid out future uses of the now Marine Commercial zone, their vision was towards the Port’s existing uses of the property – for marine related shops, restaurants, and markets.**

**These proposed text amendments support these uses, by holding them to the development standards which apply to the zone – and not identifying them as conditional uses, which require additional discretion to apply special use standards. These are not special uses, but the uses intended for and allowed in the zone by the Comprehensive Plan.**

## Comprehensive Plan Policies & Inventories re: Open Space, Scenic, Historic, and Natural Resources

### *Plan Policy: Open Space, Scenic, Historic Areas and Natural Resources*

#### *> Scenic Resources*

##### *Policy 5*

*The City shall coordinate with the Port of Bandon and other affected agencies to ensure that the property between Ferry Creek west to the Fisheries building is developed in an appropriate manner taking into account scenic resource preservation, marine uses, and economic development.*

##### *Implementation Measure*

*1. The City shall periodically review height, setback, and horizontal building separation requirements on the waterfront to determine the adequacy of current regulations and make such changes as may be necessary.*

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#### *> Historical and Archaeological Preservation*

*1. The City shall protect and provide for the historical heritage of the City of Bandon by protecting structures identified in the Historic/Cultural Overlay Zone. [...]*

*2. The City shall provide special protection to historic and archaeological sites identified in the inventory section. This policy shall be implemented by requiring review of all development proposals involving an archaeological or historical site to determine whether the project as proposed would protect the historical and archaeological values of the site. The development proposal, when submitted, shall include a site development plan showing, at a minimum, all areas proposed for excavation, clearing and construction. [...]*

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### **Chapter 12: Scenic Resources**

#### **> Ranking of Scenic Resources**

[ ] *Insert Table*

#### **> Methods for Conserving Viewsheds and Access to Viewsheds**

*Regulatory- To limit or prohibit certain uses or activities and to regulate the physical characteristics of allowed uses or activities is accomplished through zoning regulations.*

*Purchase/Acquisition of Property- The acquisition of property by the City or another entity for the purpose of protecting the property from future development. Considerations: costs involved, source of funds, grant opportunities, identification of properties for acquisition, etc.*

*Easements- Easements for view access are usually voluntary and may occur between private parties or between a private party and government agency or nonprofit group. May have financial benefits for grantor.*

*Government Agency Coordination/Cooperation- This approach entails strengthening communication and coordination of government agencies that own or manage property in the viewshed areas.*

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**The standards within the City's municipal code which govern height, setback, notification of Tribal agencies of development, and other existing requirements will not be altered by the text amendment. These standards are designed to protect the atmosphere of the Marine Commercial zone, and will not be affected by the proposed amendments.**

**The proposed text amendment maintains the 20 foot height standard for restaurants and shops within the Marine Commercial zone, through the proposed amendment to 17.48.080 Height of Building.**

**The proposed text amendment will not permit a greater number or intensity of commercial uses in the Marine Commercial zone.**

**Chapter 17.92 Conditional Uses**

**17.92.010 Authorization to grant or deny conditional uses.**

*Conditional uses are those which may be appropriate, desirable, convenient or necessary in the zoning district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. Applications for uses designated in this title as conditional uses may be granted, granted with modifications or denied by the planning commission in accordance with the standards and procedures set forth in this chapter.)*

**Restaurants and shops were listed as conditional uses in the C3 zone when the majority of the zone was designated as ESWD; post the 1993 re-classification, these uses don't meet this definition. Their height, bulk, parking, and access is stipulated and controlled by the standards within the municipal code and present no adverse conditions which may be injurious to the public safety, welfare, comfort, or convenience.**

**17.92.020 Authorization to impose conditions.**

*In approving an application for a conditional use or the modification an existing and functioning conditional use, the city may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which the city considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole. These conditions may include but are not limited to:*

- A. Changing the required lot size or yard dimensions;*
- B. Limiting the height of the building(s);*
- C. Controlling the location and number of vehicle access points;*
- D. Requiring additional right-of-way areas or changing the street width;*
- E. Requiring public improvements, including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths;*
- F. Changing the number of off-street parking and loading spaces required;*
- G. Limiting the number, size and location of signs;*
- H. Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property;*
- I. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;*
- J. Limiting the hours, days, place and manner of operations;*
- K. Limiting or setting standards for the location and intensity of outdoor lighting;*
- L. Setting requirements on the number, size, location, height and lighting of signs;*
- M. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.*

Should an application be filed for a use which the Planning Director deems requires the application of special conditions, they may refer that application to the Planning Commission.<sup>4</sup>

While the authorization to impose the conditions listed above is beneficial in the case of unique land use applications which “may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed” – in the case of the restaurants and shops in the C3 zone – it results in unpredictability that is unproductive and does not benefit the public.

**17.92.030 Existing uses.**

*In the case of a use existing prior to the effective date of the ordinance codified in this title and which is classified in this title as a conditional use, any alteration of the structure shall conform with the requirements dealing with conditional uses.*

**17.92.040 Approval standards for conditional uses.**

*The approval of all conditional uses shall be consistent with:*

- 1. The comprehensive plan;*
- 2. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;*
- 3. That the site size and dimensions provide adequate area for the needs of the proposed use;*
- 4. That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effect from the use of surrounding properties and uses;*
- 5. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;*
- 6. All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant;*
- 7. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district;*
- 8. All other requirements of this title that apply.*

**The requirements of this title, the remainder of Bandon’s municipal code, state building codes, and state and federal land use regulations – cover these standards in their entirety. And in the case of uses which do not require additional discretionary standards: these standards are redundant.**

**17.92.050 Conditional use cannot grant variances.**

*A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application may be filed in conjunction with the conditional use permit by filing an application with the city using forms prescribed for that purpose.*

**Any application for a variance to any standard in the C3 zone will continue to require a variance application be filed and heard by the Planning Commission, per Chapter 17.112.**

**17.92.060 Application for a conditional use.**

*The applicant for a conditional use proposal shall be the recorded owner of the property or an agent authorized in writing by the owner. They may initiate a request for a conditional use permit or the*

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<sup>4</sup> “The planning director may submit applications that normally could be approved administratively to the planning commission.” 17.120.050.C Administrative Review and Approval Process.



*modification of an existing, functioning conditional use permit by filing an application with the city using forms prescribed for that purpose.*

*In addition, the following shall be supplied by the applicant:*

*A. Twelve (12) copies of the site development plan(s) drawn to scale and necessary data or narrative which explains how the development conforms to the standards;*

*B. The required fee;*

*C. The conditional use plan, data and narrative shall include the following:*

*1. Existing site conditions,*

*2. A site plan for all proposed improvements,*

*3. A grading plan,*

*4. A landscape plan,*

*5. Architectural elevations of all structures,*

*6. A sign plan,*

*7. A copy of all existing and proposed restrictions or covenants;*

*D. In the case where any or all of the above are unnecessary, as in the case of a change of use in an existing structure, the planning director shall determine which items in subsection (C)(1) through (7) of this section will not be required for application. The planning commission may request additional items if they determine that these additional items are necessary to understand and make a decision on the application.*

**The application submission requirements are the same for permitted and conditional uses. Should restaurants and shops be re-classified as permitted uses in the C3 zone, they will be required to submit the documentation listed in 17.92.060 with their applications to the Planning Department for a zoning compliance determination.**

***17.92.070 Major modifications to approved plans.***

*A. An applicant may request approval of a modification to an approved plan by:*

*1. Providing the planning director (director) with five copies of the proposed modified conditional use plan;*

*2. For all exhibits larger than eleven (11) inches by seventeen (17) inches, twelve (12) copies are required;*

*3. Providing a narrative addressing the proposed changes as listed in subsection B of this section;*

*B. The director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:*

*1. A change in land use;*

*2. An increase in dwelling unit density;*

*3. A ten (10) percent change in the ratio of the different types of dwelling units to the number of units;*

*4. A change in the type of commercial or industrial structures;*

*5. A change in the type and location of access ways and parking areas where off- site traffic would be affected;*

6. An increase in the floor area proposed for nonresidential use by more than ten (10) percent where previously specified;

7. A reduction of more than ten (10) percent of the area reserved for common space and/or usable open space;

8. A reduction of specified setback requirements by more than twenty (20) percent;

9. An elimination of project amenities by more than ten (10) percent where the plan specified they were to be provided, such as:

a. Recreational facilities,

b. Screening, or

c. Landscaping provisions;

10. A ten (10) percent increase in the approved density; or

11. Any modification to conditions imposed at the time of the approval of the conditional use permit.

C. Upon the director's determination that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for a conditional use permit.

D. The director's decision may be appealed as per Section 17.124.010.

**17.92.080 Minor modification(s) of a conditional use permit.**

A. Any modification that is not within the description of a major modification as provided in Section 17.92.070(B) shall be considered a minor modification.

B. A minor modification shall be approved, approved with conditions or denied following the director's review based on the findings that:

1. No provisions of this title will be violated; and

2. The modification is not a major modification.

C. Procedures for the notice of the director's decision and the appeal process are contained in the zoning ordinance. The decision may be appealed as per Section 17.124.010. (Amended during 2000 codification.)

**Any modification to a restaurant or shop's conditional use permit requires, at the least, an application to the Planning Department. A menu change, for example, may trigger the requirement for a request for modification. This is an undue burden on these businesses and does no more to prohibit the modification of a land use approval than does the existing municipal code. For example, if a permitted use expands occupancy beyond what was permitted via their zoning compliance determination, and therefore no longer offers sufficient parking:**

**17.96.040.A General provisions for off-street parking and loading, stipulates: "No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off- street parking or loading requirements are complied with."**

[...]

*17.92.100 Time limitation*

*A. A conditional use permit shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.*

*B. The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this title.*

*C. A conditional use permit shall become void if the use is discontinued for a period of one year.*

**This time limit also applies to zoning compliance determinations for permitted uses.<sup>5</sup> As such, the only criteria of this subsection that would not apply to a permitted use is that which voids a conditional use permit if it is discontinued for a year.**

*17.92.110 Violation of conditions*

*The Planning Commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Sections 17.120.080 through 17.120.160. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit.*

**The findings in this report conclude that no condition or standard which could reasonably be applied to an application for a conditional use permit for a restaurant or shop in the C3 zone – is already contained in the code which would be applied to these uses were they to be permitted outright. Any violation of those standards would be considered a code violation, and be remedied to the same end as a violation of a condition of approval of the conditional use.**

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<sup>5</sup> 17.04.040.D Compliance with Provisions Required: “A zoning compliance is valid for a period of one (1) year from the date of issuance. If the certificate of occupancy and/or letter of completion has not been issued within this period, the zoning compliance becomes null and void without further proceedings. The applicant may request one six (6) month extension prior to the expiration of the zoning compliance. The Planning Department may grant the extension for good cause as demonstrated by the applicant. Once a zoning compliance is determined to be null and void, an applicant must make a new application to the City, and is responsible for the payment of all applicable fees.”



# Natural Hazard Mitigation Plan Update

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## Natural Hazard Mitigation Plan UPDATE

The Port of Bandon in conjunction with Coos County, the Department of Land Conservation and Development (DLCD), two Port Districts, one Hospital, one Drainage District, and seven cities are working on the multi-jurisdictional plan update.

The intent is to include natural hazards and all possible risks for the county, in an attempt to permanently reduce or alleviate the loss of life or property. Hazards include coastal erosion, drought, earthquake, flood, landslide, tsunami, wildfire, windstorm, winter storm, and volcanic ash. Mitigation actions usually include improving infrastructure such as bridges or critical facilities.

The planning and documentation of the project is ongoing, and should conclude with an updated plan in March of 2022.

Please visit the project's website at: <https://www.co.coos.or.us/sheriff/page/natural-hazards-mitigation-plan> for additional information and to stay informed as the project progresses.

You can email ideas or input to [EmergencyManagement@co.coos.or.us](mailto:EmergencyManagement@co.coos.or.us).

### NEW! Survey Opportunity

The Coos County Natural Hazards Mitigation Plan (NHMP) update Steering Committee is seeking feedback from Coos County Citizens on hazards and how they affect homes and livelihoods. This information will be used to guide the current plan update.

Please fill out the survey no later than June 1st by clicking on this link: <https://www.surveymonkey.com/r/ZMDD7NP>.

