

**STAFF REPORT
OF THE PLANNING DEPARTMENT
FOR THE CITY OF BANDON, OREGON**



FILE NUMBER:	23-055, Heavy Industrial Code Amendment & Comprehensive Plan Update
REQUEST:	Amend regulations in Bandon Municipal Code Title 17.56, to allow for Aquaculture, Mariculture, and similar uses, as well as dwelling units in conjunction with permitted uses. Also, amend the Comprehensive Plan to be consistent with the newly proposed land use.
LEAD CITY STAFF:	Dana Nichols, Planning Director
PUBLIC HEARING DATE:	Planning Commission, January 25 th , 2024 at 7:00 PM City Council, March 4 th , 2024
NOTICING INFORMATION:	PAPA Notice Submitted to DLCD on September 27 th , 2023
APPLICABLE CRITERIA:	BMC (Bandon Municipal Code) Chapter 16.32, Zone Changes and Amendments

Purpose of Staff Report:

Staff reports provide the reviewing body and community members with information regarding current land use requests and the staff's analysis of the application. The staff report provides preliminary information and recommendations. The reviewing body will consider the staff report as well as public testimony and other materials submitted to the City in writing, when making decisions on the application.

I. Background

The Planning Department was approached by the Port of Bandon in 2021 to consider an amendment to allow for aquaculture on a property along the Coquille River (Moore Mill Log Yard). At the time, there was some confusion about the zoning of this property, as the City's Zoning map showed the Zoning as Controlled Development 1 (CD-1), however the Comprehensive Plan map showed it as Industrial. To further complicate things, the Comprehensive Plan text described this property as CD-1 and limited the area in which aquaculture would be allowed, despite aquaculture not being permitted at all in the CD zone. After research by both City staff and a private consultant hired by the Port, it was determined that the property zoning was never changed (through a legal process acknowledged by the State of Oregon),

so the prior zoning should apply. The history and decision of this matter is memorialized in Resolution 23-15.

Now that the zoning of this parcel is decidedly Heavy Industrial, the Planning Commission is asked to consider an amendment to the zoning code to allow aquaculture and their accessory uses. A proposed definition for aquaculture is *the cultivation of marine, estuarine, or freshwater aquatic organisms for commercial, recreational, restoration and/or scientific purposes*. Accessory uses would include any outbuildings necessary to complete the work (storage, refrigeration, etc.). Staff proposes allowing aquaculture outright in the Heavy Industrial zone at a smaller (less than 10 acre) scale and requiring a conditional use should the proposal exceed that. An analysis of the issues is provided below that explains why the Planning Commission might consider having a two-part pathway. The proposal also includes a recommendation to allow for housing as incidental to the permitted uses, and at a limited density.

Staff also recommends updating the City's Comprehensive Plan and the Shoreland Overlay Chapter of the Bandon Municipal Code to bring the language related to coastal shorelands into conformance with the code update. Currently, the Comprehensive Plan contains multiple mentions of the property as Controlled Development and a preclusion of the use of the property for aquaculture.

The code below has been recommended by the Planning Commission for approval.

II Proposed Ordinance Language

Amend 17.02 Definitions and the Comprehensive Plan to add and/or amend:

AQUACULTURE: Refers to the cultivation of marine, estuarine, or freshwater aquatic organisms for commercial, recreational, restoration and/or scientific purposes.

Amend 17.56 Heavy Industrial (HI) to include the following language (in bold):

17.56.020 Permitted uses.

In the HI zone, the following uses are permitted outright, along with their accessory uses, provided that the use promotes the purpose of the zone, and all other requirements of this title are met:

A. Public utilities, including service structures.

B. Aquaculture provided the total square footage of such use is smaller than 10 acres.

17.56.030 Conditional uses.

In the HI zone, the following uses and their accessory uses may be allowed in accordance with Chapter 16.12 and the provisions of this title:

A. Manufacturing, repairing, compounding, fabrication, processing, packing and storage;

B. Governmental building or use;

C. Sales of products manufactured on site;

D. Aquaculture uses more than 10 acres in size.

17.56.040 Limitations on uses.

1. 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.
2. Residential uses may be permitted as accessory uses with Aquaculture if:
 1. They are in conjunction with and incidental and subordinate to a permitted or conditional use on the same parcel or on contiguous property in the same ownership.
 2. A density of no more than one unit per two acres is maintained.
 3. The total square footage of such a unit must be less than 1000 square feet.

Amend Chapter 17.76, Shoreland Overlay, to amend the Uses/Activities Matrix (Changes in red, highlights are inconsistencies with Comprehensive Plan)

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	€ € I	PF	NR	NR	CD
Aquaculture	NP	NP	P	P	NP	P	NP	NP	NP P	NP	CU	CU	NP
Commercial Uses													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP P	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
Industrial Uses													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP P	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 P	NP	NP	NP	NP
Marinas (shore facilities)	NP	NP	NP	P	NP	NP	NP	NP	CU	NP	NP	NP	NP
Recreational Uses													
Water-dependent	P	CU	P	P	P	P	NP	NP	NP P	P	P1	P1	P1
Water-related	NP	CU	P	CU*	P	P	P	NP	NP CU	NP	P1	P1	P1
Not dependent or related	NP	CU	P	NP	P	P	P	P	P CU	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
Harvest Wild Crops	P	P	NP	NP	NP	P	NP	P	NP P	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

Amend Comprehensive Plan

- Amend the Uses/Activities Matrix found on page 49 to match the proposed changes to table in Chapter 17.76.
- Amend language on Page 70 in section regarding “Land Use Classifications” under industrial land to read as follows:

Bandon has six locations where industrial land uses are occurring,

 - Two locations along the waterfront, including Bandon Fisheries and the Moore Mill log yard*
 - The Woolen Mill Addition area, associated with the Bandon Cheese Factory*
 - The Douglas Pacific Veneer Mill at 11th and Fillmore (Portland Addition area)*
 - The Bandon Airport area*
 - The Ocean Spray Cranberry Facility*
 - The Airport area is viewed as the best site for future Industrial development, provided the majority land owner provides feasible development options. This area is adjacent to Highway 101 and the extension of the City water and sewer services is expected to occur in this planning cycle.*

~~*There is no demand for waterfront industrial land in Bandon. The Port of Coos Bay serves as the Industrial Port for this region (Ordinance 1326, 3-94).*~~
- Amend language on page 77 in a section regarding “Land Use Classifications” under Public and Environmental Areas to read as follows:

The purpose of these five classifications is to identify areas necessary to meet the future needs for public services, to protect amenities, to protect and develop resources, and to protect agriculture outside of the urban growth boundary. These classifications recognize the environmental goals of the city.

CONTROLLED DEVELOPMENT AREA (CDA).

Purpose: This special classification is intended to recognize the scenic and unique quality of Bandon’s ocean front and view areas and to maintain the quality of Bandon’s ocean front by carefully controlling the nature and scale of future development in the area. It is intended that a mix of uses would be permitted, including residential, tourist commercial, and recreational. Future development is to be controlled in order to enhance the area’s unique qualities.

APPROPRIATE AREAS. The CDA includes the south bank of the Coquille River west of the Robertson concrete plant (First and Edison) and from north of Moore Mill north, the jetty area, and all the ocean beaches within the city limits. The inland boundaries of the CDA are the bluff from Edison Avenue west to Newport Avenue, Newport Avenue from the bluff south to Tupper Creek, (including the portion of the city east of Tupper Creek) and the city limits extending from Tupper Creek to the Pacific Ocean. Some land adjacent to the water might not be usable for water related or water dependent uses. To maintain environmental quality amid a mix of uses, certain unique natural features will be conserved, for example, the south jetty's freshwater lagoon and the associated riparian vegetation.

4. Amend language on page 80 in a section regarding "land Use Classifications" under Industrial Development to read as follows:

At present there is no industrial development in Bandon Heights, although the old Moore Mill property, which is zoned CD-1, is located across Riverside Drive from the area.

5. Amend language on page 156 in a section regarding "Natural Resources" under Ecologically and Scientifically Significant Natural Areas to read as follows:

*In the past, the U.S. Army Corps of Engineers have been responsible for the dredging of the navigation channel, disposing of the spoils in a designated area of sea. Areas outside of the navigation channel have been dredged at the expense of private interests and the spoils have been deposited at upland sites. Currently an estuarine area just north of the old Moore Mill's upland log storage deck is zoned ~~CD-1~~ **Heavy Industrial**, but continuing north past the line of pilings, the zoning is Natural Resource. Development of the old Moore Mill area will not be allowed to impact negatively the Natural Resource zoned marsh area to the north.*

6. Amend language on page 175 in a section regarding "Scenic Resources" under Zoning and Ownership to read as follows:

The area encompassed by the viewshed includes a number of different zoning designations. South Jetty Park is zoned Public Facilities and Parks (PF), the area along Jetty Road is zoned CD-2 and CD-3, the area north of 1st Street is zoned Marine Commercial (C-3) with shoreland overlays, the Coast Guard Hill area is zoned CD-R2, the Moore Mill log yard is zoned ~~CD-1 HI~~, and the Bandon Cemetery is zoned R1. There are a number of private and public owners of property in the viewshed, with South Jetty Park, the Redmon Pond area, and the Waterfront and Boat Basin being examples of publicly owned properties.

7. Amend language on page 175 in a section regarding "Estuary Management Section 2" under Especially Sensitive for Water Dependent Use Sites in Shoreland Management Units within the City and Urban Growth Areas to read as follows:

MANAGEMENT UNIT # 8: MOORE MILL: A 50-foot strip adjacent to the channel is designated as ESWD. This area, earlier a mill designated as Heavy Industrial, has been rezoned to a Controlled Development zone.

III. Procedural – Required Burden of Proof

The proposed ordinance will amend the Bandon Municipal Code and the Comprehensive Plan. A legislative amendment is subject to Chapter 16.32.020 of the Bandon Municipal Code, which is as follows:

The Planning Commission (and ultimately the City Council) shall, *“review the proposed 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.”*

Staff finds that the proposed amendment is consistent with the City Comprehensive Plan and that the amendment will not adversely affect city development.

IV. Analysis of the Issues

Aquaculture V Mariculture: The City and Port discussed whether to allow for aquaculture, mariculture, or both in this update. Aquaculture appears to be the larger umbrella term used to describe any function of aquatic cultivation under controlled conditions¹, while mariculture is a specialized type of aquaculture that uses seawater (either in the open ocean or in tanks). If the Planning Commission wants to allow a broad array of options during development, the term aquaculture is likely the best option.

Housing in an Industrial Zone: The proposal includes an allowance for residential uses, as long as they are incidental to and in conjunction with a permitted or conditional aquaculture use, subject to certain limitations. Staff recommends that if residential uses are allowed that they remain subordinate and related to the use. By nature, heavy industrial land is generally set aside for uses that might be more offensive (by way of odor, noise, glare, etc.) and thus residential uses are usually protected or buffered from this zoning. In this case, the aquaculture use may be benefitted by limited on-site housing (a maximum of five units for an outright permitted development as proposed) to allow for researchers, on-site managers, and employees to monitor and maintain the site. The Planning Commission may choose to discuss the proposed allowance, proposed density, or proposed size limitation as part of their discussion.

Permitted or Conditional Uses: In the work session regarding this topic, the Planning Commission discussed the allowance of aquaculture as either an outright permitted or conditional use. Staff has proposed a two-part path that allows both, depending on the size of the proposed development. Aquaculture uses less than 10 acres in size may be outright permitted (Type I or Type II) and larger developments will require planning commission approval (Type III). The Planning Commission may

¹ <http://www.differencebetween.net/miscellaneous/difference-between-aquaculture-and-mariculture/>

choose to discuss whether the size proposed to delineate the two options is sufficient, whether the permitted uses should be allowed as a Type I or a Type II, and whether there should be any additional limitations on use or conditions required for the Type III application.

Shoreland Overlay: The Shoreland Overlay zone was developed to protect areas identified as coastal shorelands, which include areas in the floodplain, steep bluffs, riparian areas, shoreland and wetland habitats, especially suited for water dependent (ESWD) uses, and areas identified in the Coquille River Estuary as a visual resource. The proposed amendment changes Management Unit 8 (the Moore Mill Site) from Controlled Development to Industrial and proposes to allow a variety of outright permitted uses, provided they are water dependent. This remains in line with the Comprehensive Plan text that a 50-foot strip adjacent to the channel is designated as ESWD, which is not being modified through the amendment.

IV. Recommendations

Staff recommends that the Planning Commission review the materials provided and hold a public hearing regarding the proposed amendments. The Planning Commission may want to request additional information, modifications to the proposed language, or allow for additional public input by continuing the hearing. Otherwise, the Planning Commission may make a motion to recommend approval of the amendments as proposed for City Council consideration.