

Modification to Conditional Use Permit 12-002

Project Narrative and Proposed Findings of Compliance

APN: 28S-15W-25AD Tax Lot 1000

ADDRESS: 250 First Street SW, Bandon, OR 97411

OWNER: Port of Bandon
P.O. Box 206
Bandon, OR 97411

APPLICANT'S REPRESENTATIVE:
Coos Curry Consulting (Sheri McGrath)
PO Box 1548
Bandon, OR 97411

PROJECT NARRATIVE

The subject property is located in the C-3 Zone, adjacent to the Coquille River waterfront. It includes a two story structure that contains a Seasonal Market for artisan products, crafts and farm sourced produce permitted in 2012 through the conditional use permit process. A portion of the structure contains a Fish Processing Market known as Farm and Sea which is permitted outright in this zone. The Port of Bandon is seeking City approval to allow us to meet the local demand for year round product availability and we are requesting a Modification to the previously approved Conditional Use Permit to allow the sales of products year round with regular business hours.

The reason for the modification is to allow for the growth of the Seasonal Market into a thriving location for start-up artisans to produce and sell year round to form a synergistic marketplace for small, independent businesses. The concept is to create year round vendor spaces that can be delineated and secured during off hours. A portion of the building will be dedicated to seasonal or occasional vendors as it is now. Those open spaces for the seasonal market will continue to be available for special events, community festivals and music in the off season and other available times of the week. There are current vendors who have asked for the option to sell year round, and our desire is to assist them in that growth while retaining space for seasonal vendors and farmers as well. The Seasonal vendors are not being eliminated.

The American Planning Association (APA) recognizes that Public Markets, Farmer's Markets and Year Round Food Hubs add vibrancy and character to a community. *"Public markets increase access to healthy foods, honor historical legacies, and highlight the local culture of the communities in which they are found. These markets bring together community members, local business leaders, and visitors to celebrate and recognize the importance of these Great Public Spaces, and their roles in helping to create communities of lasting value"* (APA American Planning Association article [The Role of Public Markets in Community Building](#)).

The Port of Bandon is interested in combining all uses within the building under the Marketplace Conditional Use Permit. Farm and Sea (a current occupant of part of the space) will become covered under the conditional use permit of the Marketplace. All new and existing businesses will be under the management of the Marketplace and subject to the conditional use approval that the Port of Bandon currently has for this location. This will eliminate any confusion of what is allowed under which permit as well as who the permit holder is. The entire building will be under one permit and subject to those conditions of approval. To further the compliance step and eliminate confusion, a new parking count is being submitted showing the total required parking for all uses in the building.

There will be a greater focus on the waterfront and our ocean resources by providing an Aquarium and Aquaculture Tanks. These will add to the ambiance of the space and provide access to sea life that is not typically accessible by the local resident or visitor to Bandon. These items will be a collaboration with other organizations such as the local tribes and the aquaculture sectors in our area, yet maintained by the Port of Bandon. These attractions to the waterfront will be educational and enjoyable to every visitor and will increase the likelihood of success at this location for all of the small business vendors. The general public will have access to these amenities during business hours.

We are requesting this modification, so that further development of the concept will continue to be supported by the City of Bandon, and that efforts towards improvements are not in vain. It will take resources to realize the vision of a year round Marketplace in its full potential. The first step is to secure clearance to proceed. There are several interested parties, and with the support of the City we are confident that the growth of the market will proceed in a timely manner and benefit the entire community within a short time period, and will continue well into the future.

We recognize that there may be times when a permanent aspect of the plan requires a building permit. At that time, a Zoning Compliance Application will be submitted for review by the city as required by the local Building Code Division. We recognize that additional permits for future work, such as installing signs, building exterior modifications, etc. may be required. We will apply for, and comply with such permit requirements at such time as they become necessary.

As required by the City of Bandon, compliance with each of the approval standards of

BMC 16.12 is required for approval of this request. The following findings outline how the proposed modification complies with all of those approval standards and how this is a beneficial proposal for the entire community of Bandon.

**COMPLIANCE WITH APPROVAL STANDARDS FOR CONDITIONAL USES
(BMC 16.12)**

- .010** *“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.”*

The proposed use is identical to what exists now- a Marketplace which offers produce, meat, artisan products, and specialty food, except that the days of operation will be expanded. The size and height of the structure are not changing. The location is appropriate, desirable, convenient and was approved through the public hearing process in 2012.

Foot traffic and vehicle traffic patterns will change for the betterment of the Old Town area. The seasonal market has received an abundance of support from the community with visitation reaching up to 1000 people on some Saturdays alone. Opening the market seven days per week will stagger visitation throughout the week and people can shop at their own convenience. We are confident that the change in hours will greatly reduce the traffic and parking problems that currently occur on Friday and Saturday.

This proposal better serves full-time residents, seasonal residents and tourists alike. To start, the benefit to the Seasonal Market is that the customer base remains intact year round, and little effort is needed to entice people to visit seasonally. It is well known that building and rental costs in Bandon are particularly high, and are becoming increasingly out of reach for many small business owners. The benefit of the Port’s proposal to the year round vendor or startup business is that they can grow their business with reasonably low overhead and create a year round income source, while still allowing part time vendors as well. For local year round residents, the expanded hours will allow for continued and increased support of these businesses because it will be more convenient to visit the market.

- .020** *“In approving an application for a conditional use or the modification of 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.”

The conditional use permit was approved by the City of Bandon in 2012 when all uses were found to be compatible.

.040 *“The approval of all conditional uses shall be consistent with:”*

A. The Comprehensive Plan.

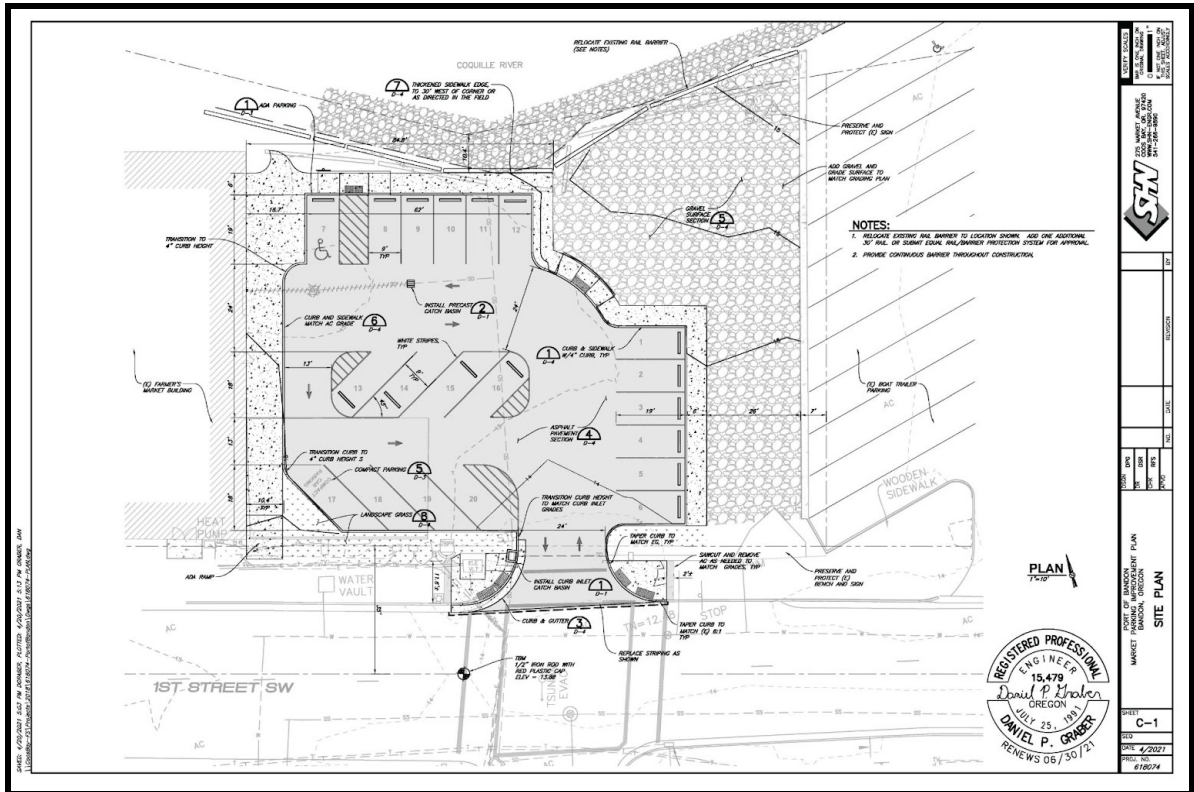
The Comprehensive Plan describes the purpose of Marine Commercial as “This classification is to provide areas suitable for uses which are associated with or benefitted by being near water. Appropriate Areas. The Marine Commercial area is best suited for areas adjacent to the estuary. Access to water 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 non water-dependent/non water-related uses. Only those areas with good water access and adequate space for future development are designated as ‘ESWD’ in the Plan.”

Page 199 of the Plan goes on to state that the areas North of First Street are zoned Marine Commercial and fall in the Shoreland Overlay and are designated as 3E for ESWD. The ESWD boundary starts at the west end of the subject site and is for the length of the boat basin to the east. The existing Seasonal Market has already gained clearance under the conditional use permit process to operate as a retail sales operation. Approval of this modification does not negate the findings for the use when permitted in 2012. The modification will assist the Port of Bandon in bringing the property into greater compliance by incorporating an aquarium and aquaculture tanks.

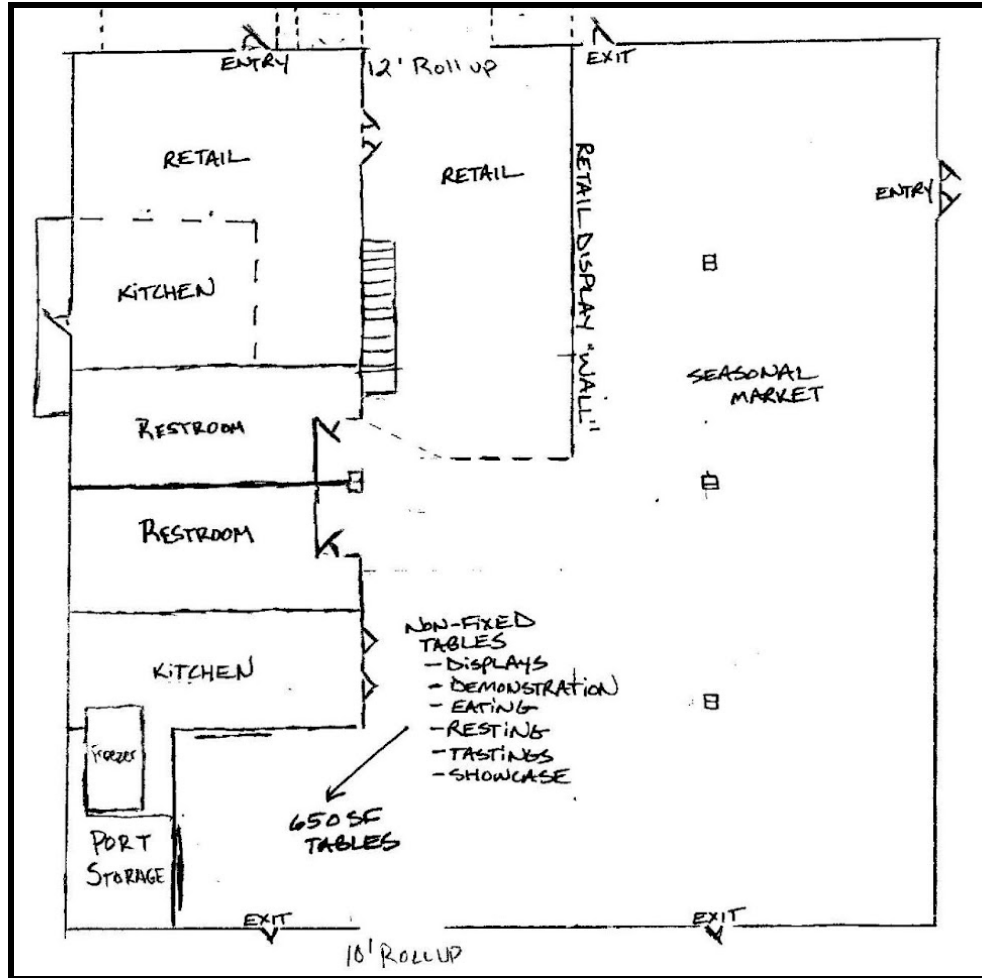
The Port of Bandon currently has 155 parking spaces, 103 of which are allocated per the City staff report 21-038 and include 21 spaces allocated to the Seasonal Farmer’s Market. There is a surplus of parking according to BMC Table 17.96.020 which lists the required parking spaces per use. 10,000sf for retail / 400sf = 25 spaces and 650sf for dining / 200sf = 3.25 for a total requirement of 29 spaces. In 1992, the City of Bandon determined that the fish market parking was grandfathered in and was not to be included in the parking requirement. Other parts of the ordinance allow for shared parking due to overlapping hours of operation. All of this being true, the Port of Bandon is nonetheless willing to

comply with the full parking requirements and is therefore proposing a total of 29 parking spaces. As shown on the illustration below, a new parking lot is proposed to be constructed which will include 20 paved, permanently striped parking spaces, immediately adjacent to the Fisheries Building. The west side of the property has parking availability for vendors to load, unload and park as needed. These are not delineated parking spaces for the general public, though we offer this information to show that the site can meet the entire parking requirements listed. There is a surplus of 44 parking spaces throughout the Port properties that serve the existing and continued use of the Marketplace.

The proposed parking lot allows for rotating/seasonal vendors along the east side of the property between the parking lot and the high dock parking area. This is reserved for the outdoor sales aspect of the Marketplace.



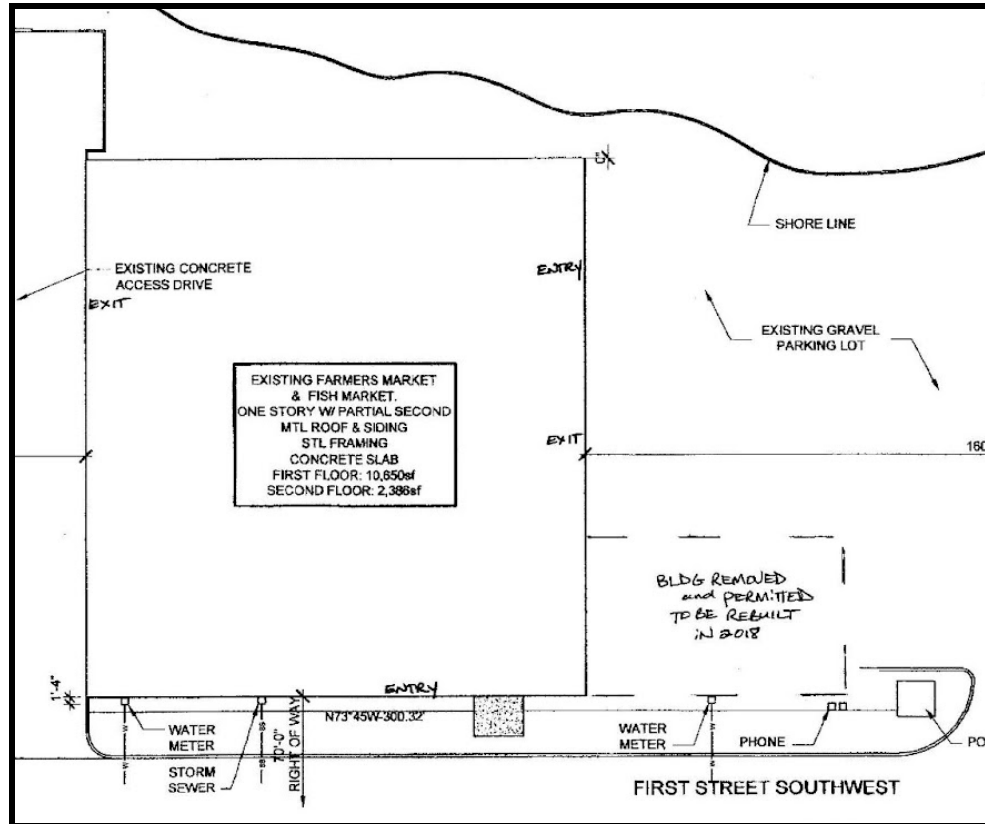
PROPOSED PARKING LOT



FLOOR PLAN SHOWING EXISTING DELINEATED USES

The Plan lists this specific area of Bandon under Policy 5, which reads: *“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.”*

The scenic views and waterfront access on this site were improved with the demolition of the annex building in 2018. That portion of the site is now open space, commonly used for parking, yet provides water views that were blocked for several years. Though approved by the city to rebuild, the Port of Bandon has determined the highest and best use of the property is to utilize the existing structure and create a year round marketplace.



PLOT PLAN SHOWING BUILDING THAT WAS REMOVED AND PERMITTED TO BE REBUILT IN 2018

The modification to the conditional use permit does not require changes to the exterior features of the site. Therefore, the scenic values are protected and enhanced with better access granted through implementation of the parking lot plan and the provision of new walkways. The economic development impact of the expansion of services to a year round marketplace will benefit the small business owner at this location and throughout all of Old Town. A survey by the nonprofit organization Project for Public Places showed that visitors to a public market were 60% more likely to shop surrounding businesses on the same day. Supporting local businesses has a local economic multiplier effect resulting in a local recirculation of revenue of 48% vs 13% when shopping at a chain store (*American Independent Business Alliance "The Local Multiplier Effect"*).

The existing use and the growth of that use falls under the economic development part of Policy 5. A growing business creates jobs and keeps currency within our community.

In regard to allowing non water-dependent uses in the ESWD, the Plan states: *"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.”

The Port’s long term vision is to have the site ultimately used or developed for water-dependent purposes. The Port is committed to providing space for any such use that it finds is feasible and appropriate for being located on this property. Meanwhile, until such water dependent uses and their funding sources can be identified, the Port is proposing to expand the hours of operation of the marketplace from occasional to year round. The modification of the Conditional Use Permit does not further reduce the possibility or likelihood of future ESWD uses on the property as the market is temporary in nature. No new construction is proposed to support this use.

The existing use was deemed appropriate for this location by the Planning Commission in 2012. The Comprehensive Plan and ESWD designation has not changed from that time, and the proposal for a year round market will not preempt the ultimate use of the property for water-dependent development. The proposal is to include additional water related businesses such as kayak rentals. The addition of an Aquarium and Aquaculture tanks further prove that the building is being used for water related uses and is in compliance with the Plan.

There has been an outstanding response from the community, vendors and the fish market to provide year round services at this location which benefits everyone involved and provides access to a waterfront property that would otherwise be considered trespassing. There are other waterfront properties that have greater access to the water, and are better suited for ESWD. The Plan defines the existing use as Commercial Retail which is allowed in the Marine Commercial zone and the Shoreland Overlay. The existing and continued use is in compliance with the Plan.

B. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit.

The Bandon Municipal Code Zoning Ordinance (BMC 17.48.010) states, *“The purpose of the C-3 (Marine Commercial) 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.”*

The most viable and desirable locations for a public market, specialty foods market, fish market and gathering place in Bandon are those along the waterfront. The building is located along the Coquille River waterfront. The

nature and scale of the existing land and building have been approved by the City of Bandon, and no modifications of the dimensional standards of the C-3 zone are being proposed. The use of the structure as a year round marketplace will remain in compliance with the purpose and dimensional standards of the C-3 zone.



LOCATED ON THE WATERFRONT IN OLD TOWN

C. That the site size and dimensions provide adequate area for the needs of the proposed use.

The site size and dimensions have been found to be adequate to meet the needs of Fish Market and a Seasonal Market. This proposal is to retain the market nature of the building and property, but to expand the property's use from strictly a Fish Market and a Seasonal Market to offer year round availability of all products. Otherwise, no changes to the site use, size, or dimensions are being proposed.

D. That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effects from the use of surrounding properties and uses.

No changes to the exterior design of the building are being proposed. The exterior paint color, wall mural and signage have been permitted through earlier applications. Allowing the use to evolve into a year round marketplace will ensure its continued economic viability as an integral part of Old Town Bandon.

E. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features.

The characteristics of the site, including size, shape, location, topography and natural features have proven suitable for the use to date. No changes to these site characteristics are being proposed that have not been previously approved (parking lot improvements).

F. All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant.

The existing structure has been connected to the City of Bandon water, sewer, and electric utilities for many years, and no capacity problems or issues have been encountered. Utilization of the property for year round retail purposes will not increase the demand on public facilities or services beyond that currently placed upon them. By spreading out the customer foot traffic over a week's time, a reduction in the demand on the public sewer system is anticipated.

G. 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.

Surrounding uses are equally tourist and/or marine commercial in nature and will benefit from a year round market by bringing local foot traffic to an area of town that has a strong reliance on tourism. This will also significantly help to further the goals of the Bandon Chamber of Commerce related to their continuing program and campaign to encourage residents to "Shop Local." The nearby residential and vacation rental properties will benefit from the year round market being within walking distance to their homes, something that is now limited to seasonal and weekends only. There are no changes to the design or use of the property that would alter the character of the surrounding area. The uses have not, and will not, limit, impair, or preclude the use of surrounding properties for the permitted uses in the underlying C-3 zoning district.

H. All other requirements of this title that apply.

This section of Bandon is located in the Architectural Review (AR) Overlay zone. The uses and building have been found by the City to be in compliance with the AR regulations, and will continue to comply with all other requirements of the Bandon Municipal Code. Findings for this section are listed below.

.050 *“Conditional use cannot grant variances:”*

A variance is not required for the minor modification to the existing use.

.070A *An applicant may request approval of a modification to an approved plan by providing a narrative addressing the proposed changes as listed in subsection B of this section.*

The City Manager/Planning Director has determined that this request is a major modification of the previously approved Conditional Use Permit.

.070B *The director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:*

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

The applicant is requesting a change to the hours of operations from the currently approved seasonal market to a year round market.

**COMPLIANCE WITH APPROVAL STANDARDS FOR AR Overlay Zone
(BMC 17.84)**

The AR Zone is intended to promote *“the general welfare of the public through the preservation, restoration, protection and regulation of the buildings, structures, appurtenances, sites, places and elements of Old Town Bandon, and to achieve a visual atmosphere of a coastal village of long ago. Specifically this chapter is meant to aid in the following:”*

1. Stabilize and improve property values in the district;

The expansion of an existing business is crucial to stabilizing and improving values in any district and on any property in Bandon and beyond. It is a common practice to expand services, products, and/or hours and days of operation for businesses and markets to build a strong foundation to build from and rely on. The goals of a Farmers Market are focused on growing into a permanent location with anchor stores and offerings similar to a mall. A true shopping experience provides for anchor stores on each side of the market, a central food court and restrooms. Music, tables and a circular path are considered optimal for the customer experience and investment into the local financial and social economy.

2. Foster civic pride in the beauty and accomplishments of both the past and present;

The Fisheries Building, in which Farm and Sea and the Seasonal Market are located, is part of Bandon history. In or around 1978 Bandon Fisheries moved to this current location after the business outgrew their original location on the High Dock. The expansion was significant to their growing business, and the site operated exclusively as a fish market for several years. After years of little to no activity, a new generation of fish market entrepreneurs tried to establish a thriving market at this location. The need to expand offerings became clear early on, and all of the recent Fish Markets at this location expanded offerings to draw more customers to their site, and to remain relevant to the changing fishing industry. The seasonal market has revitalized the Fish Market history, and the expansion of offerings is in direct demand from our community to have a year round marketplace at this location.

We are a community that wants to celebrate the past and present accomplishments of the businesses who have weathered the economic changes. The year round market is a step into our future as a sustainable waterfront community offering a variety of options to our residents and visitors and providing space for a small business venture to begin and grow without the risk of financial loss with a brick and mortar venture.

3. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry;

The City of Bandon authorized the Seasonal Market to operate in this location in 2012. There was an existing fish market at that time, and the city acknowledged the need to promote tourism and to support business and industry. Both Farm and Sea and the Seasonal Market have benefited from that decision, and both are undergoing growing pains. As in all business, growth requires changes in permits and expansion of allowed uses at times. The expansion of the Seasonal Market to a year round venture will support and stimulate the business of Farm and Sea and others that become involved in this expansion effort because of steady foot traffic, shared marketing efforts, waterfront activity and comradery among small business owners.

4. Strengthen the economy of the city;

Growing businesses have choices to make during expansion- reapply for necessary permits for expansion or relocate to an area that can support the expansion. It is in the best interest of the City of Bandon to encourage economic development by assisting existing businesses in their growth steps. By supporting local commerce, we are guaranteeing a recirculation of funds within our community.

5. Promote the use of the historical district, its landmarks and scenic areas for the education, pleasure and welfare of Bandon citizens.

The Fisheries Building is a landmark in historic Old Town Bandon, a place that provides scenic views not accessible elsewhere. Both Farm and Sea and the Seasonal Market provide for education, pleasure and welfare of the citizens by offering workshops, tastings, live music, and access to the waterfront. The addition of an aquarium and aquaculture tanks will provide even more education and pleasure to our citizens.