

GARIBALDI ORDINANCES
ORDINANCE NO. 170

AN ORDINANCE AMENDING THE GARIBALDI COMPREHENSIVE PLAN BACKGROUND REPORT, THE GARIBALDI COMPREHENSIVE PLAN, THE GARIBALDI ZONING ORDINANCE, GARIBALDI ORDINANCE NO. 146, REGULATORY DEVELOPMENT TO FLOOD HAZARD AREAS AND ADOPTING AN URBAN GROWTH BOUNDARY AREA JOINT MANAGEMENT AGREEMENT WITH TILLAMOOK COUNTY.

THE CITY OF GARIBALDI DOES ORDAIN AS FOLLOWS:

Section 1. The City of Garibaldi amends its currently adopted Comprehensive Plan Background Report by adopting the amendments described in Attachment A attached hereto and incorporated by reference herein.

Section 2. The City of Garibaldi amends its currently adopted Comprehensive Plan by adopting the amendments described in Attachment B attached hereto and incorporated by reference herein.

Section 3. The City of Garibaldi amends its currently adopted Zoning Ordinance by adopting the amendments described in Attachment C attached hereto and incorporated by reference herein.


Section 4. The City of Garibaldi amends Ordinance No. 146, Regulatory Development to Flood Hazard Areas, by adopting the amendments described in Attachment D attached hereto and incorporated by reference herein.

Section 5. The City of Garibaldi adopts the Urban Growth Boundary Area Joint Management Agreement with Tillamook County by adopting attachment E attached hereto and incorporated by reference herein.


Section 6. The City of Garibaldi adopts the attached City of Garibaldi - Final Order, as its findings in support of the comprehensive Plan Background Report, Comprehensive Plan, Zoning Ordinance and Ordinance No. 146 amendments that are adopted by this ordinance to meet the City's periodic review requirements mandated by the Oregon Land Conservation and Development Commission.

Section 7. The City of Garibaldi deems an emergency to exist since the City was originally required to have its periodic review completed by December 31, 1988. Therefore, this ordinance shall be in full force an effect upon its passage and signing by the Mayor.

Passed by the City Council and Approved by the Mayor This 13th
day of February 1990.


Dennis A. Welch, Mayor

ATTEST:


Sandra Jones, City Recorder

CITY OF GARIBALDI - FINAL ORDER

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INTRODUCTION

Legislation enacted by the 1981 Legislature requires cities to review their comprehensive plans periodically and make necessary changes for keeping plans updated and consistent with statewide planning goals. The State Land Conservation and Development Commission (LCDC) coordinates these reviews according to Oregon Administrative Rule 660, Division 19, "Periodic Review".

The regulations require local government to adopt findings responding to four periodic review factors and enact necessary measures to bring the comprehensive and land use regulations into compliance with these factors. This Final Review order provides the findings and recommend amendments to the Comprehensive Plan and Zoning Ordinance in order to satisfy the periodic review administrative rule (OAR 660-19), and on the periodic review notice provided to the City by the Department of Land Conservation and Development on June 30, 1988.

FINDINGS

I. Factor One: Substantial Change in Circumstances (OAR 660-19-055(2)(a))

A. "Major developments or events which have occurred that the acknowledged plan did not assume or anticipate or major developments or events which have not occurred that the acknowledged plan did assume or anticipate." (OAR 660-19-057(1)(a))

Response: The City has experienced no major developments or events that the acknowledged plan did not anticipate. There was no major development which was anticipated by the acknowledged plan but which did not occur. The development pattern since plan acknowledgment has been one of slow incremental growth that has occurred in a manner consistent with the acknowledged Comprehensive Plan.

B. "Cumulative effects resulting from plan and land use regulation amendments and implementation actions on the acknowledged plan's factual base, map designations, and policies which relate to statewide goal requirements." (OAR 660-19-057(1)(b))

Response: There have been no major amendments to the Comprehensive Plan Zoning Ordinance, or Subdivision ordinance since acknowledgment. The following minor amendments have been adopted.

ORDINANCE 163. Amendment concerning the City's provisions for mobile homes.

ORDINANCE 159. Establishing requirements for bed and breakfast establishments.

ORDINANCE 157. Amendment to Comprehensive Plan and Zoning Ordinance relating to the establishment of a hillside overlay zone.

ORDINANCE 156. Map amendment change from R-1 to C.

ORDINANCE 148. Establishing zoning ordinance standards for off-premise signs.

ORDINANCE 146. Adoption of amendments to City's flood hazard regulations.

ORDINANCE 142. Map amendment concerning the location of the boundary of the City's commercial zone.

ORDINANCE 138. Subdivision Fees.

ORDINANCE 135. Zoning ordinance requirement concerning recreational vehicle parks and mini-storage.

ORDINANCE 134. Map amendment from R-0 to R-1.

ORDINANCE 133. Map amendment from R-1 to C.

ORDINANCE 129. Amendment to Zoning ordinance penalties section.

The City concludes that no significant cumulative effects have resulted from these amendments and implementation actions.

C. "Oversight or decision by the local government to delay or not carry plan policies which relate to a statewide goal requirement." (OAR 660-19-057(1)(c))

Response: The Garibaldi periodic review notice listed the following plan policies which the City was required to address during its periodic review.

1. Plan Implementation Policy 5.

The City's response has been to amend this policy so that a review of the Comprehensive Plan and implementary measures will occur at the time of the State mandated periodic review. The reason for extending the period of review is that the modest level of growth in Garibaldi does not require more frequent review. (refer to Comprehensive Plan Amendment Procedural Policy 5 p. 1)

2. Community Pattern Policy 5.

The City is still considering the advisability of establishing various system development charges. The policy has been deleted.

3. Community Pattern Policy 9.

The City has adopted, by means of Ordinance 157, requirements that apply to development in areas with a slope of 20% or greater. Therefore this policy has been deleted.

4. Dredge Material Disposal Policy 7.

Tillamook County is adopting the dredge material disposal plan for Tillamook Bay. Garibaldi has incorporated the appropriate elements into its Comprehensive Plan Background Report. (refer to Background Report Amendments X, p 2-5)

5. Dredge Material Disposal Policy 12.

The City is no longer interested i Site 19 and 24 for dredge material disposal purposes. (refer to Background Report Amendment X, pp 2-5)

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6. Implementation Policy 5.

The City of Garibaldi cooperated with Tillamook County in its revisions to the Tillamook Bay Estuary Plan pursuant to the amended Coastal Goals adopted in 1985. The City is cooperating with Tillamook County in the updates of the dredge material disposal plan.

7. Water Quality Policy 2.

There are no plan elements that require specific action by the City. The City has complied with applicable provisions of the plan.

8. Parks and Open Space Policy 6.

The State Parks Division has abandoned plans to locate the Oregon Coast Trail in forest land to the north and west of the City. Therefore this policy is being deleted. (refer to Background Report Amendment XXXVIII, p54)

D. "Incorporation into the plan of new inventory material which relates to a statewide goal made available to the jurisdiction after acknowledgment." (OAR 660-19-057(1)(d))

1. Oregon Department of Transportation

a. 1983 SCORP Update

Response: Refer to Comprehensive Plan Background Report Amendment XXXII, pp 52-53.

b. State Parks System Plan and Individual State Parks Master Plans

Response: There are no state parks in Garibaldi.

c. Oregon Aviation System Plan and Individual Airport Master Plans.

Response: None. There are no existing or proposed airports in Garibaldi.

d. Highway Transportation Plan, Highway Preservation Study and Six-year Highway Improvement Program.

Response: The six year plan lists no project for Garibaldi. Reference has been made to the U.S. 101 Corridor Study. (refer to Comprehensive Background Report XXVI, p 49, XXVII, p 50)

2. Department of Environmental Quality

a. 1985 Atlas of Oregon Lakes\

Response: None. There are no lakes in Garibaldi.

b. Annual Air Quality Report

Response: None. Garibaldi is a Class II area with respect to the Clean Air Act. There have been no developments or actions in Garibaldi to change this status since the City was acknowledged.

c. Biennial Water Quality Assessment Reports

Response: None. These reports did not address the City of Garibaldi.

d. 1980 Major Water Table Aquifers with sensitive Areas Map

Response: The City has adopted a policy (refer to Comprehensive Plan amendments, Air and Water Quality Policy 6, p 3) to ensure the protection of its aquifers.

e. Hazardous and Solid Waste Report.

Response: The City has included information on solid waste in its Background Report (refer to L, p 62). Policies have been adopted on both hazardous and solid waste. (refer to Comprehensive Plan amendments Air and Water Quality Policy 4 and 5, p 2)

3. Economic Development Department

a. State and National Trend Information

Response: The City of Garibaldi Comprehensive Plan Background Report incorporates elements of this study (refer to Comprehensive Plan Background Report amendments XXVII, pp 37-48)

4. Portland State University

a. Annual Population Estimates

Response: Refer to Comprehensive Plan Background Report amendments XXIV p27

E. "Consistency of the plan and land use regulations with new or amended statutes adopted since acknowledgment." (OAR 660-19-957(1)(e))

1. ORS 179.010, Correction Facilities

ORS 179.010 authorizes correction facilities siting authority to make correction facility siting decisions subject to Governor's approval.

Response: No provisions of the Garibaldi Comprehensive Plan or Zoning Ordinance conflict with this statute.

2. ORS 197.020, Nondiscrimination

ORS 197.020 requires that age, gender or physical disability shall not be an adverse consideration for making a land use decision.

Response: No provisions of Garibaldi's Comprehensive Plan or Zoning Ordinance conflict with this statute.

3. ORS 197.295 - 197.313, Needed Housing, as amended by Oregon Laws 1989, Chapter 380.

ORS 197.303 elaborates on Goal 10 Housing by stating that "needed housing" also means: "(a) Housing that includes, but is not limited to attached and detached single-family housing and multiple family housing for both owner and renter occupancy and manufactured homes; (b) Government assisted housing." (The statute further exempts cities with a population of less than 2,500 (ORS 197.303(2)(a & d); (c) mobile home or manufactured dwelling parks; and (d) manufactured dwellings on individual lots planned and zoned for single family residential use.)

Response: The statutory requirements of 197.303(a) are not applicable to Garibaldi. However, the intent of this statute has been met (Comprehensive Plan Background Report amendment XXV, p 32). The City's Zoning Ordinance does not differentiate between government assisted housing and non-government assisted housing, or housing tenure. Therefore, the City meets the requirements of 197.303(b). The City has met 197.303(c) by making adequate provision for mobile home or manufactured dwelling parks (see discussion under ORS 197.480-490 below). ORS 197.303(2)(d) does not apply to the City. However, the City has made allowances for manufactured dwellings on individual lots (see Zoning Ordinance Amendment IV-VI, VIII-IX, XII, and IX and amendments to Section 4.105).

4. HB 2800. Manufactured Dwelling and Manufactured Dwelling Park Definition

HB 2800 amended statutes to substitute the term "manufactured dwelling" and "manufactured dwelling park" for the terms "mobile home" and "mobile home park".

Response: Garibaldi has amended its zoning ordinance to incorporate the amendments made by HB 2800. (See Zoning Ordinance Amendments I (Subsection (24) and (30), II (Subsection I), IV-VI, VIII, XII, XXX, LXIX, and amendments to Section 4.105.)

5. ORS 197.480 - .490, Mobile Home Parks

ORS 197.480 requires that Garibaldi provide for mobile home parks as an allowed use on buildable lands within its urban growth boundary. Sufficient land must be planned and zoned for a density of 6 to 12 units per acre to accommodate need. Need must include consideration of existing parks which may be displaced because they are located on industrial, commercial, or high density residential land. Criteria and standards for the placement and design of mobile home parks must be clear and objective. A public hearing may be required for approval of a mobile home park.

ORS 197.485 states that a jurisdiction may not prohibit placement of a mobile home, due solely of its age, in a mobile home park in a zone with a density of 8 to 12 units per acre. Reasonable safety and inspection requirements may be established for units which do not conform to the National Manufactured Home Construction and Safety Standards Act of 1974.

ORS 196.490 states that a mobile home park may not be established on land within an urban growth boundary which is planned or zoned for commercial use. Access is excepted, where no other access is available.

Response: The City makes adequate provision for mobile homes through its R-1 Zone (refer to Comprehensive Plan Background Report amendment XXV, p32). Garibaldi's Zoning Ordinance contains clear and objective standards for mobile home parks through its Conditional Use Standards (Zoning Ordinance amendments XXX, p 48-49). Mobile home parks are not permitted in commercial or industrial zones.

6. ORS 197.732, Goal Exceptions

ORS 197.732 revised the requirements in taking an exception to the statewide goals. These amended exception requirements were incorporated into Goal 2 and the Goal rule (OAR 660-04-000).

Response: See response to the Goal 2 amendments, Section LLA, p 11 of this order.

7. ORS 197.752, Lands Available for Urban Development

ORS 197.752(1) states that lands within urban growth boundaries shall be available for urban development concurrent with the provision of key urban facilities and services in concurrence with locally adopted development standards.

ORS 197.752(2) states that, notwithstanding ORS 197.752(1), lands not needed for urban uses during the planning period may be designated from agriculture forestry or other non-urban uses.

Response: There are no lands inside the Garibaldi Urban Growth Boundary which are zoned for agricultural, forestry, or other non-urban uses. All parcels designated for forest use have been excluded from the Urban Growth Boundary. (refer to Comprehensive Plan amendment, map amendment 2, p 7, Zoning Ordinance amendment LXXI(2) p 92)

8. ORS 197.767, Wetland Definition

ORS 197.767 establishes a wetland definition.

Response: The definition of wetlands in ORS 197.767 was repealed by 1989 Laws, Chapter 837 (SB 3).

9. ORS 227.175, Application fees for permit or zone change.

ORS 227.175(1) requires that a city "shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service."

Response: The City has established reasonable permit fees. (refer to Zoning Ordinance amendment LXX, p 90)

10. ORS 227.175(2) requires that a city establish a consolidated procedure for an applicant to apply at one time for permits needed for a development project and subject to the 120 day time limitation.

Response: See Zoning Ordinance amendment LXX p 89.

11. ORS 227.175(3)-(5) and HB 2288 deal with public hearings, requirements for approval and with decisions without public hearings.

Response: Garibaldi requires a public hearing on quasi-judicial land use matters. There are requirements that the applicant and interested parties be notified. Review criteria for quasi-judicial land use matter include conformance to the Comprehensive Plan. The City does not provide for administrative approval of quasi-judicial land use matters. (refer to Zoning Ordinance amendment LXX, p 79)

12. ORS 227.175(6), Public Use Airports

ORS 227.175(6) concerns public notices to airport owners.

Response: There are no airports in Garibaldi.

12A. ORS 227.175(8) concerns public notices to mobile home park tenants when a zone change affecting a mobile home park is proposed.

Response: See Zoning Ordinance amendment LXIX p. 77.

13. ORS 227.178, Final Action on Permit Application within 120 Days.

ORS 227.178 requires a city to take final action on a permit application or zone change within 120 days upon receipt of a complete application. This time requirement does not apply to an acknowledged comprehensive plan amendment or adoption of a new land use regulation. It also deals with procedures for incomplete applications.

Response: See Zoning Ordinance amendments LXX p. 89.

14. ORS 227.180, Review of Action on Permit Application

ORS 227.180 established the following requirements for appeals of actions by a hearings officer on a permit application to the Planning Commission or City Council.

ORS 227.180(1)(a)(A) establishes a minimum period for filing an appeal of seven days after the governing body mails or delivers the decision of the hearings officer.

ORS 227.180(a)(B and C) requires that a hearing on the appeal be held and that the record of the hearings officers action be considered.

ORS 227.180(1)(c) requires that fees for filing an appeal shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost or preparation of a written transcript.

ORS 227.180(1)(c) also requires that fees for preparation of written transcripts not exceed the actual cost of preparing the transcript, up to \$500, plus one half of the actual cost over \$500.

ORS 227.180(2) provides for Land Use Board of Appeals reviewing local decisions on discretionary permits or zone changes.

ORS 227.180(3) states that ex parte contacts with a member of the decision making body shall not invalidate a final decision or action of the decision making body, provided that the member receiving the ex parte contact places the substance of the content of the ex parte contact on the record of the hearing, makes a public announcement of the content of the ex parte contact, and grants parties the right to rebut the content at the first hearing following the ex parte contact where action will be considered or taken.

Response: ORS 227.180(1): None. The City does not have a hearings officer
ORS 227.180(2): No response required by the City. ORS 227.180(3): The City has established a process for handling ex parte contacts. (refer to the Zoning Ordinance amendments LXX, pp 81-84)

15. ORS 197.762 requires that the following shall apply to land use hearings on applications for development of property entirely within an urban growth boundary to be conducted by a local governing body:

1. An appeal procedure shall:

- A. Require an applicant or appellant to raise any issue before the local governing body with sufficient specificity so as to have afforded the governing body, and applicant, if appropriate, an adequate opportunity to respond to and resolve each issue.
 - B. Provide notice of the provisions of this section to:
 - a. The applicant, and
 - b. Other persons as otherwise provided by law.
 - C. The notice shall:
 - a. Describe in general terms the applicable criteria from the ordinance and the plan known to apply to the application at issue;
 - b. Set forth the street address or other easily understood geographical reference to the subject property;
 - c. State the date, time and location of the hearing;
 - d. State that failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criterion; and
 - e. Be mailed at least 10 days before the hearing or administrative decision on the application.
2. At the commencement of a hearing, a statement shall be made to those in attendance that:
- A. Describes the applicable substantive criteria;
 - B. Testimony and evidence must be directed toward the criteria described in paragraph A of this subsection; and
 - C. Failure to address a criterion precludes appeal based on that criterion.

Response: The City has adopted a process that meets this requirement (see Zoning Ordinance amendment LXX, pp 79,84-85,89).

16. ORS 284.010 -.060 relates to the "Oregon Comeback". The Governor may adopt proposed regional strategies. Local plans and land use regulations need to be consistent with the regional strategies. Local governments need to review the "list of actions to implement" adopted regional strategies.

Response: Garibaldi is located within the Oregon Tourism Alliance region; its regional strategy is tourism. (refer to Comprehensive Plan amendments, Economic Development Policy 8, p 8)

17. ORS 418.817, Family Day Care Providers

Section 12 of HB 2884 provides that a day care provider which accommodates fewer than 13 children in the provider's home is considered to be a residential use. Such a home is a permitted use in all residential and commercial zones. Conditions must be no more restrictive than those imposed on other residential dwellings in the same zone. Zoning provisions contrary to this law may not be adopted or enforced.

Response: The City of Garibaldi has amended its Zoning Ordinance to conform to this provision (refer to Zoning Ordinance amendments IV, p 7).

18. HB 2289

HB 2289 provides for the siting of residential facilities and residential homes.

HB 2289 repealed the existing statutes for residential homes, residential facilities and residential care facilities in ORS 443.510 to ORS 443.640.

HB 2289 amended ORS 197 to include amended siting requirements for residential homes and residential facilities. These amended siting requirements state that residential homes and residential facilities are a residential use of property for zoning purposes. Residential homes shall be an allowed use in any residential zone, including a residential zone which allows a single family dwelling, and in any commercial zone which allows a single family dwelling. Residential facilities shall be a permitted use in any zone where multifamily dwellings are a permitted use, and shall be a conditional use in any zone where multifamily dwellings are a conditional use.

Response: The City of Garibaldi has amended its zoning ordinance to conform to the statute requirements. See Zoning Ordinance Amendments II(7) and II(8) p. 3; IV p. 7; and V p. 8.

F. Other Issues

1. National Flood Insurance Program

Response: The City amended its flood hazard protection ordinance in 1987 (Ordinance 146) to conform to 1986 FEMA amended requirements. This ordinance was amended as part of periodic review to reflect additional changes.

II. Factor Two: New or Amended Goals or Rules Adopted Since Acknowledgment "Previously acknowledged provisions of the comprehensive plan or land use regulations do not comply with the goals because of goals subsequently adopted or statewide land use policies adopted as rules interpreting goals under ORS 197.040" (OAR 660-19-055(2)(b))

A. Goal 2, Land Use Planning

Goal 2, Land Use Planning Part II - Exception was amended in 1983 to provide revised criteria that an exception must meet. The urbanization goal states, in part, that "the results of the above considerations shall be included in the Comprehensive Plan. In the case of a change of a boundary, a governing body proposing such changes in the boundary separating urbanizable land from rural land shall follow the procedures and requirements set forth in the Land Use Planning Goal (Goal 2) for goal exceptions".

Response: The City has not taken any exceptions. The City's criteria for an amendment to the Urban Growth Boundary include the revised exception criteria (refer to Comprehensive Plan amendments, Urban Growth Boundary Policy 2, p 5).

B. Goal 16, Estuarine Resources

1. The Overall Statement of Goal 16 was amended to delete requirements for dredge and fill.

Response: The "four part test" in Goal 16 was made an "Implementation Requirement". Garibaldi amendments in response to this change are described below, under part B.15.

2. The Overall Statement of Goal 16 was amended to add general priorities for use of estuarine resources. These general priorities were deleted from the Priority section of Goal 16.

Response: See Comprehensive Plan Amendments, Industrial and Commercial uses Policy 5, p 26.

3. The Comprehensive Plan Requirements section of Goal 16 was amended to require that comprehensive plans consider and generally describe the potential cumulative impacts of the alterations and development activities envisioned in the plan.

Response: This goal requirement has been addressed by Tillamook County through the adoption of Goal 16 Comprehensive Plan element, section 27, description of cumulative impacts which discusses the cumulative impact of all development allowed in Tillamook Bay.

4. The description of Natural Management units in the Comprehensive Plan Requirements section of Goal 16 was amended to revise the description of permissible uses, and uses permitted where consistent with the resource capabilities as follows:

Permissible uses in natural management units shall include the following:

- A. Undeveloped low-intensity, water-dependent recreation;
- B. Research and educational observation;
- C. Navigation aides, such as beacons and buoys;
- D. Protection of habitat, nutrient, fish, wildlife and aesthetic resources
- E. Passive restoration measures;
- F. Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;
- G. Rip-rap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities; and
- H. Bridge crossings.

Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed:

- A. Aquaculture which does not involved dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
- B. Communication facilities;
- C. Active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
- D. Boat ramps for public use where no dredging or fill for navigational access is needed; and
- E. Pipelines, cables and utility crossings, including incidental dredging necessary for their installation;
- F. Installation of tidegates in existing functional dikes;
- G. Temporary alterations;
- H. Bridge crossing support structures and dredging necessary for their installation.

Response: See Comprehensive Plan amendments: Recreation Facility Policy 3, p 39; Aquaculture Policy 4, p 10; Boat Ramp Policy 6, p 13; Land Transportation Policy 12, p 29; Restoration Policy 7, p 42; Shoreline Stabilization Policy 5, p 46. See Zoning Ordinance amendments: XXV(3)(c), p 26; XXV, section 3.090, p 27-29; XXXI(G)(4), p 51; XIII, p 57; XLVII, p 58; LII(G), p 61.

5. The description of Natural management units under the Comprehensive Plan Requirements section of Goal 16 was amended to include the following definition of resource capability for Natural management units:

A use or activity is consistent with the resource capabilities of the area when wither the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

Response: See Zoning Ordinance amendments LIII(6), pp 63-64.

6. The description of Conservation Management units under the Comprehensive Plan Requirements section of Goal 16 was amended to include the following revised description of areas to be included within Conservation Management units:

"They shall include tracts of significant habitat smaller or of less biological importance than those in (1) above and recreational or commercial oyster and clam beds not included in (1) above. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification."

Response: See Comprehensive Plan amendments Natural Habitat Policy 2, p 33-34. See Zoning Ordinance amendments XXV, Section 3.106, p 30.

7. The description of Conservation management units under the Comprehensive Plan Requirements section of Goal 16 was amended to revise the description of permissible uses, and uses permitted where consistent with resource capabilities.

Response: See Comprehensive Plan amendments: Recreational Facilities Policy 4, p 40; Aquaculture Policy 7, p 11; Boat Ramps Policy 7, p 13; Land Transportation Policy 4, p 28; Navigational Structures Policy 1, p 36; Navigational Structures Policy 2, pp 36-37; Restoration Policy 7, pp 42-43; Shoreline Stabilization Policy 6. See Zoning Ordinance amendments XXV section 3.106(2), pp 30-32; XXV section 3.106(3) p 32; XXV section 3.108(2), pp 35-36; XXV section 3.108(3), pp 36-38; XXXI(G), p 51; XLVI, p 58; XLVII, pp 58-59.

8. The description of Conservation management units under the Comprehensive Plan Requirements section of Goal 16 was amended to include the following definition of resource capability for Conservation management units:

"A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

Response: See Zoning Ordinance amendments LII(6), pp 63-64.

9. The description of areas to be included within Development Management Units was amended to clarify that Development Management units may include "areas of minimal biological significance needed for uses requiring alteration of the estuary not included in Natural and Conservation Management Units."

Response: See Comprehensive Plan amendments, Natural Habitat Policy (2)(D), p 35. See Zoning Ordinance amendments XXV section 3.110, p 40.

10. The description of Development Management units under the Comprehensive Plan Requirements section of Goal 16 was amended to revise the description of permissible uses as follows:

Permissible uses in areas managed for water-dependent activities shall be navigation and water dependent commercial and industrial uses.

As appropriate, the following uses shall also be permissible in development management units:

- A. Dredge or fill, as allowed elsewhere in the goal;
- B. Navigation and water-dependent commercial enterprises and activities;
- C. Water transport channels where dredging may be necessary;
- D. Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
- E. Water storage areas where needed for products used in or resulting from industry, commerce, and recreation;
- F. Marinas.

Where consistent with the purposes of this management unit and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and non-dependent, non-related uses not requiring dredge or fill; mining and mineral extraction; and activities identified in (1) and (2) above shall also be appropriate.

Response: See Comprehensive Plan amendments, Aquaculture Policy 8, p 11; Restoration Policy 7, p 43; Dredge Material Disposal Policy 10, p 16. See Zoning Ordinance amendments XXV section 3.110(2), pp 41-42; XXV section 3.110(3), pp 42-45; XXXII, p 52.

11. The description of Development Management units under the Comprehensive Plan Requirements section of Goal 16 was amended to delete the requirement for a resource capability determination.

Response: See Comprehensive Plan amendments, Energy Policy 8, p 19; Industrial Uses Policy 12, p 27; Land Transportation Policy 5, p 28; Mining and Mineral Extraction Policy 5, p 29; Restoration Policy 7, p 43; Shallow Draft Policy 3, pp 43-44. See Zoning Ordinance amendments XLI, p 56; L, p 61; LII, p 62.

12. The Implementation section of Goal 16 was amended by revising Implementation Requirement 1 to delete the phrase "integrity of the estuarine ecosystem", and to delete the requirement for a determination of the public's gain when reviewing activities which could potentially alter the estuarine ecosystem.

Response: See Comprehensive Plan amendments, Implementation Policies, p 24. See Zoning Ordinance amendment LIII, p 62.

13. The Implementation section of Goal 16 was amended by revising Implementation Requirement 1 to define actions which could potentially alter the estuarine ecosystem as follows:

"Such activities include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flowlane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources."

Responses: See Comprehensive Plan amendments, Water Quality Policy 6, p 47; Implementation Policy 4, p 25.

14. The Implementation section of Goal 16 was amended by revising Implementation Requirement 1 to describe the information to be included in impact assessment. (Goal 16 Guideline E, Impact Assessment was deleted from the Goal.)

Response: The City is revising its Impact Assessment requirements. See the Zoning Ordinance amendments LIII 62-63.

15. The Implementation section of Goal 16 was amended to include the following new Implementation Requirement as Implementation Requirement 2:

2. Dredging and/or filling shall be allowed only:

- A. If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and
- B. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
- C. If no feasible alternative upland locations exist; and
- D. If adverse impacts are minimized.

Other uses and activities which could alter the estuary shall only be allowed if the requirements in (b), (c), and (d) are met. All portions of these requirements may be applied at the time of plan development for actions identified in the plan. Otherwise, they shall be applied at the time of permit review.

Response: See Comprehensive Plan amendments, Diking Policy 5, p 11; Energy Facilities Policy 4, p 19; Land Transportation Policy 3, p 28; Navigational Structure Policy 2, p 36-37; Dredging Policy 2,5,6,7, pp 16-18; Fill Policies 2,5,6,7,8, pp 20-22; Piling Policy 2,4, p 37; Implementation Policy 3, p 25; Natural Habitat Policy 2, p 36. See Zoning Ordinance amendments, XXV 3.090(4), p 28-29; 3.106(4) pp 32-34; 3.108(4) pp 38-40; 3.110(4) pp 45-47; XXXIII, p 52; XXXV, p 53; XXXVI, pp 54-55; XXXIX, p 55; LI, p 61; LIII, p 64.

16. The Implementation section of Goal 16 was amended by renumbering old Implementation Requirement 4 as number 5, and by rewording it as follows:

5. When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effects shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained. Comprehensive plans shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of intertidal area proposed for dredging or filling, or make findings demonstrating that it is not possible to do so.

Response: Garibaldi is adopting revised Mitigation and Restoration Policies (see Comprehensive Plan amendments, pp 30-32; 40-43) and Standards (see Zoning Ordinance amendments XLIV, p 52; XLVIII, pp 59-60).

17. The Goal 16 Guidelines section was amended by deleting Guideline D, Mitigation.

Response: See the response under part B.11 above.

18. The Guidelines section was amended by the addition of the following Guidelines D, Temporary Alterations.

The provision for temporary alterations in the Goal is intended to allow alterations to areas and resources that the Goal otherwise requires to be preserved or conserved. This exemption is limited to alterations in support of uses permitted by the Goal; it is not intended to allow uses which are not otherwise permitted by the Goal.

Application of the resource capabilities test to temporary alterations should ensure:

1. That the short-term damage to resources is consistent with resource capabilities of the area; and
2. That the area and affected resources can be restored to their original condition.

Response: See Zoning Ordinance amendments II(28) p 6. The City's zoning districts have also been amended to permit temporary alterations: XXV, pp 29,38,41,45.

19. The Guidelines section of Goal 16 was amended by deleting Guideline E, Impact Assessment.

Response: See response under part B.9 above.

20. The Statewide Planning Goal Glossary has been amended by the addition of the following definitions:

- Bridge crossing
- Bridge crossing support structure
- Estuarine enhancement
- Minor navigational improvements
- Mitigation

Response: These new and revised definitions are incorporated into the City's Zoning Ordinance. See the Zoning Ordinance Amendment II, pp 3-6a.

21. The definition of "restoration" in the Statewide Planning Goal glossary has been amended by the addition of the following:

"For the purpose of Goal 16, estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work begins."

Response: This definition is incorporated into the City's Zoning Ordinance. See Zoning Ordinance amendment, section II, subsection 21, p 5.

C. Goal 17, Coastal Shorelands

1. The Overall Statement of Goal 17 was amended to include the following general priorities for uses in coastal shorelands. (These priorities were deleted from the Coastal Shoreland Uses section of Goal 17):

General Priorities for the overall use of coastal shorelands (from highest to lowest) shall be to:

1. Promote uses which maintain the integrity of estuaries and coastal waters;
2. Provide for water-dependent uses;
3. Provide for water-related uses;
4. Provide for non-dependent, non-related uses which retain flexibility of future use and do not prematurely or unalterably commit shorelands to more intensive uses;
5. Provide for development, including non-dependent, non-related uses, in urban areas compatible with existing or committed uses;
6. Permit non-dependent, non-related uses which cause a permanent or long-term change in the features of coastal shorelands only upon a demonstration of public need.

Response: The City is deleting this priority list from the Comprehensive Plan. Uses allowed in the City's Shoreland Zones reflect these general priorities. (See the Comprehensive Plan amendments, Coastal Shorelands Policies, pp 6-7)

2. The Comprehensive Plan Requirements section of Goal 17 was revised to amend Coastal Shoreland Identification factors (1), (2), (4) and (5) as follows: (No amendments were made to factors 3, 6, and 7):

Lands contiguous with the ocean, estuaries, and coastal lakes shall be identified as coastal shorelands. The extent of shorelands shall include at least:

1. Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake;
2. Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body;
4. Areas of significant shoreland and wetland biological habitats whose habitat quality is primarily derived from or related to the association with coastal water areas;
5. Areas necessary for water-dependent and water-related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities, dredge material disposal and mitigation sites, and areas having characteristics suitable for aquaculture;

Response: The definition of Coastal Shorelands in the City's Comprehensive Plan Background Report is amended. (See section XVII, pp 11-14 of the Comprehensive Plan amendments, Background Report.

3. The Comprehensive Plan Requirements section of Goal 17 was revised to amend Coastal Shoreland Uses Requirement 1 to delete historic and archaeological sites from the list of significant shoreland resource areas which require protection, and to clarify that the requirement for protection of significant shoreland resource areas (major marshes, significant wildlife habitat, coastal headlands and exceptional aesthetic resources) applies only to those sites identified under the Identification section of Goal 17.

Response: See Comprehensive Plan Background Report, XVII, pp 8-14.

4. The Comprehensive Plan Requirements section of Goal 17 was revised to amend Coastal Shoreland Use Requirement 2 to require that areas especially suited for water-dependent uses in rural areas which are built upon or irrevocably committed to non-resource use be protected.

Response: There are no rural areas in Garibaldi.

5. The Comprehensive Plan Requirements section of Goal 17 was revised to amend Coastal Shoreland Use Requirement 2 to allow temporary uses which involve minimal capital investment and no permanent structures, or a use in conjunction with and incidental to a water-dependent use in shoreland areas which are especially suited for water-dependent development.

Response: Garibaldi's Zoning Ordinance is amended to reflect this change. (See the Zoning Ordinance amendment, Section XVII, (1) (K), pp 13).

6. The Coastal Shoreland Uses section of Goal 17 was amended by the addition of a new Coastal Shoreland Use Requirement 3, which reads as follows:

Local governments 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 non-dependent uses and shall provide for public access to the shoreline.

Response: See the Comprehensive Plan Background Report amendments, XVII, pp 12.

7. The Coastal Shoreland Uses section of Goal 17 was amended to revise Coastal Shoreland Use Requirement 4, dealing with uses in rural shorelands.

Response: There are no rural shorelands in Garibaldi.

8. The Implementation Requirements section of Goal 17 was revised to amend Implementation Requirement 1 to require the Department of Forestry, with other state and federal agencies, to develop forest management practices and policies to protect and maintain special shoreland values and forest uses, especially for natural shorelands and riparian vegetation.

Response: This amendment applies to the Department of Forestry.

9. The Implementation Requirements section of Goal 17 was revised by deleting former Goal 17 Implementation Requirement 2, regarding management of floodplain areas in coastal shorelands.

Response: References to this requirement are removed from the City's Comprehensive Plan Background Report.

10. The Implementation Requirements section of Goal 17 was revised by adding the following as Goal 17 Implementation Requirement 6.

6. Local government in coordination with the Parks and Recreation Division shall develop and implement a program to provide increased public access. Existing public ownerships, right-of-ways, and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Right-of-ways may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

Response: This requirement is incorporated into the City's Comprehensive Plan policies dealing with public access. (See Comprehensive Plan Amendments Coastal Shorelands Policy 7 & 8 pp 7 and Comprehensive Plan Background Report amendments, Section XVII pp 13-14).

E. Administrative Rule for Goal 2 (OAR Chapter 660, Division 4)

OAR 660-04-000 provides an overview of the exceptions process.

OAR 660-04-005 defines "exception", "resource land" and "non resource land".

OAR 660-04-010 describes the application of the exceptions process.

OAR 660-04-015 requires local governments adopting or denying a proposed exception to adopt findings of fact and a statement of reasons supported by substantial evidence demonstrating that the standards for an exception have or have not been met. Local governments adopting a proposed exception must adopt these findings of fact and statement of reasons as part of the comprehensive plan.

OAR 660-04-018 requires a new or modified exception in cases where jurisdictions are changing the types or intensities of uses or zones allowed in an acknowledged exception area, and where the new use or uses would have a substantial impact on adjacent uses. A new or modified exception is not required when the changed uses or zones were clearly identified and authorized by the previously acknowledged exception.

OAR 660-04-020 provides guidance on application of the four exceptions factors. The four factors for taking an exception are:

- a. Reasons justify why the state policy embodied in the applicable goals should not apply;
- b. Areas which do not require an exception cannot reasonably accommodate the use;
- c. The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception.
- d. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

OAR 660-04-022 establishes reasons which may be used to justify an exception.

OAR 660-04-025 establishes exception requirements for land physically developed to other uses.

OAR 660-04-038 establishes exception requirements for land irrevocably committed to other uses.

OAR 660-04-030 requires that notice of public hearings on proposed exceptions shall indicate that a goal exception is proposed and shall contain an understandable summary of the issues. OAR 660-04-030 also states that an exception takes effect upon adoption by the local governing body. Adopted exceptions are reviewed by the Commission during acknowledgment review, plan amendment review or periodic review.

OAR 660-04-035 establishes procedures for appeals of exceptions.

Response: Garibaldi has not taken any new exceptions.

F. Administrative Rule for Goal 4 (OAR Chapter 660, Division 6)

OAR 600-06-000 requires that the following be completed to accomplish the purpose of Goal 4 "to conserve forest land for forest uses":

- a. An inventory of lands suitable for forest uses and a determination and mapping of the productivity of these lands for commercial use.
- b. Designation of inventoried lands on the comprehensive plan map as forest lands; and
- c. Retention of forest uses on designated forest lands.

OAR 660-06-010 requires that the inventory of "lands suitable for forest uses" include forested lands in both commercial and noncommercial species, as well as non forested land suitable for forest use, unless the nonforested land is inventoried under Goal 4 or an exception to Goal 4 has been taken.

OAR 660-06-010 establishes the following inventory requirements:

- a. Outside UGB's, inventories shall include cubic foot site class mapping of the dominant commercial species in forest lands.
- b. Within UGB's, inventories shall include cubic foot site class, other productivity mapping, or its equivalent.
- c. Within city limits, cubic foot site class or other productivity mapping is not required.

OAR 660-06-015 requires that outside UGB's, inventoried lands suitable for forest uses be designated to retain forest uses, unless a Goal 4 exception is taken. The determination of "lands suitable for forest use" must consider all forest uses identified in Goal 4. If inventoried lands meet the definition of both agricultural and forest lands, the plans must document the factors that were used to select an agricultural, forest, agricultural/forest or other appropriate designations.

OAR 660-06-020 states that within UGB's Goal 4 compliance can be met through compliance with goals 5, 6, 7, 15, 17, and 18; retention of commercial forest uses is not required within UGB's.

OAR 660-06-030 state that the Forest Practices Act regulates forest operations on forest lands.

Response: There are no commercial forest lands in Garibaldi's Urban Growth Boundary.

G. Administrative Rule for Goal 5 (OAR Chapter 660, Division 16)

OAR 660-16-000 requires a detailed inventory of Goal 5 resources and provides a process for evaluating the economic, social, environmental and energy (ESEE) consequences of conflicting uses.

Response: Garibaldi is adopting a new Goal 5 element. The City has prepared a detailed inventory of the quality, quantity, and location of its Goal 5 resources, including a determination of potential conflicting uses and an analysis of the environmental, social, economic and energy consequences of permitting conflicting uses. Based on this analysis, the City has taken appropriate action for protecting Goal 5 resources. (Refer to Comprehensive Plan Background Report amendments XIX, pp 15-25.) Several amendments to the Comprehensive Plan and Zoning Ordinance have been adopted in order to protect certain Goal 5 resources. (Refer to Comprehensive Plan amendments, Recreation Open Space Resource Policies 3-8, p 3. Refer to Zoning Ordinance amendment XXIV, pp 23-24; LIV, pp 65-66.

H. Administrative rule for Goal 9 (OAR Chapter 660, Division 9)

OAR 660-09 requires update of economic elements of plans for areas within urban growth boundaries unless the existing plan meets the rule requirements. Plans must be updated based on new economic trend information to: (1) forecast needs for industrial and commercial land in several broad "site categories", (e.g. light industrial, heavy industrial, commercial office, commercial retail, etc.); (2) inventory sites currently designated for industrial or commercial use; (3) project community decisions about desired development. Based on this information, policies must be adopted stating the community's economic development objectives. Communities must designate land to meet forecasted needs. Plans for areas of 2,500 or more population must designate enough serviceable sites to meet needs of the next five years. Communities which seek industries with special site requirements must protect appropriate sites for such uses.

Response: See Comprehensive Plan Background Report amendment XXVII pp 37-48 for information on the availability of and need for sites for economic development. See Comprehensive Plan amendments, Economic Development Policies pp 7-8.

I. Administrative Rule Goal 10 (OAR Chapter 660, Division 8)

OAR 660-08-010 requires a housing need projection to determine mix and density of needed housing. Requires designation of sufficient buildable land to satisfy needs identified in the housing need projection. Requires documentation of amounts of land in each residential plan designation.

Response: See Comprehensive Plan Background Report amendments XXV, p 32.

OAR 660-08-015 requires clear and objective local approval standards, conditions and procedures for regulating the development of needed housing.

Response: See Zoning Ordinance amendments LVI, pp 67-68.

OAR 660-08-020 requires assignment of specific residential plan designations to all buildable lands to accommodate housing types and densities identified in the local housing needs projection, except under limited circumstances described in the rule.

Response: This requirement is met by the land use/zoning map and the uses it permits.

OAR 660-08-025 establishes standards for deferral of rezoning of land within a UGB to a maximum planned residential density.

OAR 660-08-030 requires regional coordination in determining allocation of housing types and densities.

OAR 660-08-035 establishes standards for taking a goal 2 exception to justify not providing for an identified needed housing type.

OAR 660-08-040 requires local governments that restrict construction of rental or owner occupied housing on or after their first periodic review to include a determination of housing need according to tenure as part of the local housing needs projection.

Response: Subsection 025 does not apply to the City as it has not deferred zoning in an Urban Growth Boundary areas. Garibaldi meets the requirements of Subsection 030 by making adequate provision for affordable housing types and in so doing is accepting its share of the regional housing demand. Subsection 035 is not applicable because the City is providing for needed housing types and no exceptions are being taken. the City does not regulate housing tenure, therefore, the requirements of Subsection 040 do not apply.

III. Factor Three: New State Agency Plans Adopted Since Acknowledgment

"The comprehensive plan or land use regulations are inconsistent with a state agency plan or program relating to land use that was not in effect at the time the local government's comprehensive plan was acknowledged, and the agency has demonstrated that the plan or program:

- a. Is mandated by state statute or federal law;
- b. Is consistent with goals; and
- c. Has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulations.: (OAR 660-19-055(2)(c))

A. Department of Environmental Quality

Air, Water, Solid and Hazardous Waste and Noise Regulations, adopted and amended 1978-1985.

Response: Air, water, solid waste and noise inventory information are contained in Comprehensive Plan Background Report amendments V p 1, VI p 1, VII p 2 , L p 62. the City has amended the Air, Land and Water Quality section of its Comprehensive Plan to contain coordinating policies for state and federal air, water, and noise regulation. See Comprehensive Plan amendments, Air and Water Quality Policies 1 and 3-5, p 2.

B. Department of Transportation (Parks Division)

State Parks Master Plans, on-going, ORS 390.180, OAR 736-18-000. Local governments must maintain an up-to-date inventory of state parks and assure that local plans are consistent and coordinated with State Park Master Plan.

Response: There are no state parks in Garibaldi.

C. Department of Transportation (Highway Division)

Six Year Highway Improvement Program 1984, ORS 184.618. Local governments must amend Goal 11 elements to inventory proposed highway improvements, and to adopt a policy to coordinate with ODOT in implementing its Improvement Program.

Response: The Six Year Highway Improvement Program lists no project for Garibaldi. Garibaldi has adopted a policy of coordination with ODOT in future highway improvement projects. (see Comprehensive Plan amendment, Transportation Policies 5-7, p 6.

IV. Factor Four - Additional Required Planning Tasks

"The city or county has not performed additional planning that:

- A. Was required in the comprehensive plan or land use regulations at the time of initial acknowledgment, or that was agreed to by the city or county in the receipt of state grant funds for review and update; and
 - B. Is necessary to make the comprehensive plan or land use regulations comply with the goals." (OAR 660-19-055(2)(d))
1. Goals 16 Estuarine Resources.

Response: The City has adopted an EN designation for Tillamook County Management Unit 8EN. Preference to the use of this site for dredge material disposal has been deleted. (see Comprehensive Plan amendment, Map amendment 5, p 48; Zoning Ordinance amendment LXXI, p 92)

2. Residential Uses in the Commercial Zone.

Response: The City has deleted residential uses from the Commercial Zone. (see Zoning Ordinance amendment VII, p 8)

3. Coordination with Tillamook County Overall Economic Development Program

Response: The City has adopted a coordination policy. (see Comprehensive Plan amendment, Economic Development Policy 7, p 8)

4. Shoreland Area Policies

Response: The City has deleted shoreland subaren designation. Thus the potential conflict has been eliminated.

ZONING MAP CHANGE: WD-1 to WD-2
SOUTHEASTERLY PORTION, OLD MILL MARINA RESORT

Purpose of the action: To allow continued development of the existing water recreation-related resort, specifically the future installation of additional recreational vehicle spaces and other support facilities for the existing marina and other water-dependent and water-related recreation activities.

Findings

1. State Planning Goal 17-Coastal Shorelands
 - a. Use priorities include provision for water-related uses; for non dependent, nonrelated uses which retain flexibility of future use and do not prematurely or inalterably commit shorelands to more intensive uses; and for development, including non-dependent, nonrelated uses, in urban areas compatible with existing or committed used.
 - b. The portion of the property to be added to the WD-2 zone is not especially suited for water-dependent uses because:
 - (1) It is not located adjacent to deep water close to shore. The shallow intertidal area adjacent to this parcel is zoned estuary conservation;
 - (2) There is no potential for aquaculture at this location;
 - (3) The shallow intertidal area of water adjacent to this parcel is not a protected area subject to scour which would require little dredging for use as a marina. It is in fact directly exposed to the prevailing southwesterly storms sweeping across Tillamook Bay. It is also subject to continuous deposition of material from the 5 river systems emptying into Tillamook Bay and would require constant dredging to maintain depths for navigation.
 - c. The suitable water frontage at the site is already being used for a water-dependent recreational use, a marina for use by small recreational boats.
2. State Planning Goal 16-Estuarine Resources
Use of the EC-2 area adjacent to the property would not be allowed for other water dependent uses requiring occupation of water surface area if dredging and/or filling were required.

3. City Planning and Zoning Ordinance

- a. All uses permitted in the WD1 water-dependent and water-related development zone are also permitted in the WD2 zone.
 - b. All uses permitted in the WD2 zone in addition to those permitted in the WD1 zone are conditional uses requiring City review, with approval only after a public hearing.
 - c. The conditional use specifically applying to continued development of the Old Mill Marina Resort is subsection 3.060.2.E. as follows: "Support activities and uses necessary for marine industry and for water-related recreation, including but not limited to:
 1. Recreation vehicle parking areas and campgrounds;
 2. Equipment, boat and trailer storage areas;
 3. Parking lots;
 4. Other accessory structures related to and necessary for operation of marine industrial and marine recreational uses."
4. Old Mill Marina expansion.
A protected area for marina expansion has been reserved in the EC-2 zoned waterfront area to the north of the existing marina fronting on Miami Cove.
 5. City Comprehensive Plan
This rezoning is consistent with the pending plan revision which will designate the formerly designated ED/DMD area of Miami Cove as estuary natural. This change will reflect federal and state agency requirements that most of Miami Cove be protected from any type of water-dependent development activity.

Conclusions

1. The site to be rezoned is not especially suited for water-dependent uses.
2. The continued development of the Old Mill Marina Resort with additional facilities of the type already established is a use compatible with statewide planning goal 17, coastal shorelands.
3. The rezoning is consistent with the city's comprehensive plan.

- April 26, 1989