

**CITY OF MANZANITA CITY MANAGER  
FINDINGS OF FACT**

**Application:** Final Subdivision Plat Phase 1 in Pacific Dunes Unit No. 8  
**Location:** Classic Street and Nearney City Road  
**Assessor's Map:** 3N-10-29D, part of Tax Lot 100  
**Applicant:** Encore Investments, LLC (Jim Pentz and Rick Hinkes)  
**Owner:** Same as applicant  
**Zoning:** SR-R (Special Residential/Recreational)  
**Criteria:** This application will be evaluated against the criteria for subdivisions listed in Sections 30 through 51 of Ordinance 95-5 (Manzanita Subdivision and Land Partitioning Ordinance) and Section 3.030 of Ordinance 95-4 (Manzanita Zoning Ordinance).  
**Date of Hearing:** August 17, 2020

FINDINGS OF FACT

1. Applicant Encore Investments submitted an application and required application fee on July 14, 2020 for the above-mentioned subdivision plat. A copy of this application is included as Exhibit A of this report. The applicant addressed the criteria on the Tentative Plan.
2. A Notice of Public Hearing on the application was published in the (Tillamook) Headlight-Herald on July 29, 2020. Written notice of the public hearing on this application was also mailed to property owners of record within 250 feet of the subject property as required by Section 53(3) of Ordinance 95-5. Copies of the newspaper advertisement and notice to property owners were included in the file for this application. A public hearing will be conducted at the regular Planning Commission meeting of August 17, 2020.
3. Applicant wishes to create: Phase 1, 16 residential building lots ranging in size from 5,200 square feet to 8,873 square feet. Phase 2, the final 13 lots, completing the 29 lot Subdivision, will be finished within 2 years of the completion of Phase 1 but no later than July 2023, following the 4 year approval. The remainder of Tax Lot 100 may be done at a later time.
4. The subject property is wholly within the City limits of Manzanita and wholly within the SR-R (Special Residential/Recreational) zone. The regulations for the SR-R zone are described in Section 3.030 of Ordinance 95-4. The adjacent uses are residential properties and a golf course.
5. All 16 of the building lots are of a size suitable for single family or two-family residences. Two new streets were created for access into and through the Subdivision. Highlands Drive will extend from Classic Street to the east intersecting with Sea View Drive that will extend north accessing these 16 lots.
6. A copy of the tentative plan was distributed to City of Manzanita Police and Public

Works Departments, Nehalem Bay Wastewater Agency, and Nehalem Bay Fire District for their review and comments on the proposal. Their concerns have been incorporated into the findings listed in this report.

7. Section 3.030(4) of Manzanita Zoning Ordinance 95-4 state as follows

- (4) Standards. In the SR-R zone the following standards shall apply:
- (a) Overall density for the SR-R zone is 6.5 dwelling units per gross acre. Dwellings may be clustered on one portion of a site within the SR-R zone and achieve a maximum density of 13 dwellings per acre where at least 40% of the total lot or parcel area is reserved or dedicated as permanent open space as a public or private park area or golf course. The open space shall be so indicated on the Plan and zoning map, and deed restrictions to that effect shall be filed with the City.
  - (b) Standards other than density in the SR-R zone shall conform to those established in the R-3 zone (Section 3.020) except that the Planning Commission may authorize relaxation of these standards to permit flexibility in design such as cluster development, with respect to lot size, setbacks and lot coverage, but not use.
  - (c) The Planning Commission shall use the procedure set forth in Section 4.136 of this Ordinance (Planned Development) in order to evaluate development proposals in this area.
  - (d) The maximum lot coverage in the SR-R zone shall not exceed 40%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director. [Amended by Ord. 01-03, passed 8/27/01]
  - (e) In areas without a high-water table, a dry well capable of absorbing the storm runoff shall be provided in accordance with City standards.

**Findings:** The lots proposed in the tentative plan meet the standards set forth in Section 3.030 of Manzanita Zoning Ordinance 95-4. Item (c) does not apply to this application and the maximum lot coverage shall not exceed 40%. This standard is met.

8. Sections 14 through 23 Subdivision Plat of Manzanita Zoning Ordinance 95-5

*SECTION 14 - SUBMISSION OF SUBDIVISION PLAT*

*Within one year after approval of the tentative plan, the subdivider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the tentative plan as approved or conditionally approved. An original reproducible drawing and five (5) blue-line or blackline prints of the plat shall be submitted to the City Manager within one year after approval or conditional approval. The tracing and prints are in addition to those required by Oregon statutes. If the subdivider wishes to proceed with the subdivision after the expiration of the one-year period following the approval of the tentative plan, he or she must request an extension of the tentative plan approval from the Planning Commission. The Planning Commission may grant a one-year extension where it finds conditions have not changed from the time of the initial approval.*

**Findings:** This criteria has been met.

*SECTION 15 - FORM OF PLAT*

*The subdivision plat shall be prepared in accordance with the provisions of this ordinance and state laws, including but not limited to ORS 92.080. All tracings required shall be in accordance with the state standards, including but not limited to ORS 92.120.*

**Findings:** This criteria has been met.

*SECTION 16 - INFORMATION ON FINAL PLAT*

- 1. The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways and streets.*
- 2. Legal description of the subdivision boundaries.*
- 3. Reference and bearings, to adjoining surveys.*
- 4. The locations and descriptions of all monuments found, or set shall be carefully recorded upon all plats and the property courses and instances of all boundary lines shall be shown.*
- 5. Exact location and width of streets and easements intersecting the boundary of the subdivision.*
- 6. Subdivision block and lot boundary lines.  
Numbering of lots and blocks as follows:
  - a. Lot numbers beginning with the number "1" and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township.*
  - b. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed not to obliterate any figure, block and lot numbers, in addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.**
- 7. Acreage of each parcel.*
- 8. Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.*
- 9. The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.*
- 10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is*

*being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.*

*11. Locations and widths of drainage channels, railroad rights-of-ways, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.*

*12. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.*

*13. Any conditions specified by the City upon granting preliminary approval.*

*14. A statement of water rights noted on the subdivision plat.*

*15. Location of any dedicated open space or protected wetlands.*

**Findings:** This criteria has been met.

#### SECTION 17 - CERTIFICATIONS

*The following certificates shall appear on the plat as submitted. The certificates may be combined where appropriate.*

*1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and the recording of the plat.*

*2. A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants, and servants.*

*3. A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, to be accompanied by his seal.*

*4. Provisions for additional certificates and acknowledgements required by law.*

**Findings:** This criteria has been met.

#### SECTION 18 - SUPPLEMENTAL DATA

*At the time of the submission of the final plat, the subdivider shall also submit to the following:*

*1. A preliminary title report issued not more than 30 days in advance by a recognized title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.*

*2. Sheets and drawings showing the following:*

*a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, donation land claim corners, if any, or triangulation systems, and showing the error of closure, if any.*

*b. The computation of all distances, angles and courses shown on the final plat.*

*c. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.*

- d. Coordinates of all block corners and all street center points.*
- e. All areas subject to flooding.*

*3. A copy of any deed restrictions applicable to the subdivision.*

*4. A list of all taxes and assessments on the tract which have become a lien on the tract.*

*5. A copy of the acknowledgement from the State Water Resources Department under ORS 97.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision.*

**Findings:** This criteria has been met.

#### *SECTION 19 - TECHNICAL REVIEW*

*1. Upon receipt of the final plat and accompanying data, the staff of the City shall review the plat and pertinent documents to determine that it conforms with the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.*

*2. The City may contract with an independent engineer or surveyor to examine the plat for compliance with City and State requirements for accuracy and completeness. He may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the City Manager of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.*

*3. If the engineer or surveyor determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.*

**Findings:** Staff has reviewed the plat and pertinent documents.

#### *SECTION 20 - FINAL APPROVAL OF PLANNING COMMISSION*

*The Planning Commission shall examine the plat to determine whether it conforms with the tentative plan and with all changes permitted and all requirements imposed as a condition of its acceptance. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him an opportunity to make the same. If the Planning Commission determines that the plat conforms to all requirements, it shall approve the same, but before certifying its approval thereon, it shall require the subdivider to file the agreement and bond, or make the deposit, required in Sections 21 and 22, and when the agreement and bond have been filed and approved as prescribed, the Planning Commission's approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.*

**Findings:** Applicant has been made aware of this condition.

#### *SECTION 21 - AGREEMENT FOR IMPROVEMENTS*

*Before Planning Commission approval of a final plat, the subdivider shall either install required improvements and repair existing streets and other existing public facilities damaged in the development of the property or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be*

*completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for the construction of the required improvements in units and for an extension of time under the conditions therein specified.*

**Findings:** Applicant is currently working on this. Scheduled completion date is August 17, 2020. If not completed by this time bond will be paid by applicant amount determined by Public Works Director.

#### SECTION 22 - BOND

*1. The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following approved by the City Council:*

*a. A personal bond co-signed by at least one additional person who shall not be related to the subdivider. The subdivider and cosigner shall submit evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability of the subdivider to proceed in accordance with the agreement.*

*b. Cash.*

*2. The assurance of full and faithful performance shall be for a sum approved by the Planning Commission sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the city attorney as to form.*

*3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the city has to complete same, or if the subdivider fails to reimburse the city for the cost of inspections, engineering and incidental expenses, and to cover cost of replacement and repair of existing street or other improvements damaged in the development of the subdivision; the city shall call on the bond for reimbursement, or shall appropriate from any cash deposit funds for reimbursements. The city shall release the remainder of the personal bond or cash deposit. If the bond or cash deposit is less than the cost and expense incurred by the city, the subdivider shall be liable to the city for the difference.*

**Findings:** Refer to Section 21 findings.

#### SECTION 23 - FILING OF FINAL PLAT

*A subdivider shall, without delay, submit the plat for signatures of other public officials required by law.*

*1. The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92.100. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.*

*2. The subdivision is considered complete after the final plat is recorded by the County clerk.*

*3. The County Surveyor shall furnish the city with a copy of the recorded plat.*

**Findings:** Upon approval applicant will complete.

9. Sections 38 through 47 specify the criteria to evaluate the design of the proposed subdivision as follows:

*SECTION 38 - PRINCIPALS OF ACCEPTABILITY*

*A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.*

*SECTION 39 - STREETS*

1. *General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:*

*a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or*

*b. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.*

2. *Street Widths. Unless otherwise indicated on any master plan, or by proceedings initiated by the City Council, or approved by the City Council upon initiation by other legally constituted governmental bodies, widths shall conform to city or county standards as appropriate, except where it can be shown by the land divider, that the number of lots or parcels served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased widths may be required where streets are to serve commercial property, or where probable traffic conditions warrant such width. Approval or determination of street classification shall be made by the Planning Commission taking into consideration the zoning designations imposed by the zoning ordinance, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety and welfare.*

3. *Alignment. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction, and in no case, shall be less than 100 feet.*

4. *Future Street Extension. Where necessary to give access to, or permit a satisfactory future division of adjoining land, streets shall extend to the boundary of the subdivision or partition, and the resulting dead-end streets may be approved without a turn-around. Reserve strips including street plugs may be required to preserve the objectives of street extensions.*

5. *Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design or the corner radius is increased to allow for safe turning. An arterial or collector street intersecting with*

*another street shall have at least 100 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two (2) streets at any one point will not be approved.*

6. *Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.*

7. *Reserved Strips. ... (Does not apply to the proposed tentative subdivision plan.)*

8. *Half Streets. ... (Does not apply to the proposed tentative subdivision plan.)*

9. *Cul-de-sac. A cul-de-sac shall terminate in a circular turnaround with a minimum radius of 40 feet, or a hammerhead with a length of at least 40 feet. Wherever possible, cul-de-sacs or dead-end hammerhead streets shall be connected with walking or bicycle paths to other streets or developments, or with public or private open space.*

10. *Alleys. ... (Does not apply to the proposed tentative subdivision plan.)*

11. *Grades and Curves. Grades shall not exceed six per cent on arterials, ten per cent on collector streets, or twelve percent on other streets. Grades in excess of these requirements require approval of the Planning Commission. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 per cent.*

12. *Marginal Access Streets... (Does not apply to the proposed tentative subdivision plan.)*

13. *Street Names. All street names shall be approved by the Planning Commission for conformance with the established pattern and to avoid duplication and confusion.*

14. *Private Streets. The Planning Commission shall approve or deny the dedication of private streets. The design and improvement of any private street shall be subject to all requirements prescribed by the City for public streets. The land divider shall provide for the permanent maintenance of any street required for access to property in a private street subdivision or a partition.*

#### SECTION 40 - UTILITY EASEMENTS

*Easements for sewers, drainage, water mains, public utility installations, and other similar public purposes shall be dedicated, reserved or granted by the land divider in widths not less than ten feet on each side of rear lot or parcel lines, alongside lot or parcel lines and in planting strips wherever necessary, provided that easement of lesser width, such as for anchorage, may be allowed when the purposes of easements may be accomplished by easements of lesser width as approved by the city.*

**Findings:** Applicant has met the requirements of Sections 39 and 40. Plans have been submitted and approved by the Public Works Director.

*SECTION 41 - BUILDING SITES*

1. *Size and Shape.* The size, width, shape and orientation of building sites shall be appropriate for the location of the land division considering all environmental features and for the type of development and use contemplated, and conform to the standards of the zone in which they are located. Each lot shall have an identifiable building site.
2. *Access.* Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.
3. *Through Lots and Parcels.* Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation.
4. *Lot and Parcel Side Lines.* The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
5. *Character of the Land.* Land which the Planning Commission finds to be unsuitable for subdivision or partitioning due to geologic hazard, flooding, improper drainage, steep slopes, adverse soil conditions or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or partition and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the city staff, to solve the problems created by the unsuitable land conditions.

**Findings:** This criteria has been met.

*SECTION 42 - BLOCKS*

*SECTION 43 - LARGE BUILDING SITES*

*SECTION 44 - WATER COURSES*

*SECTION 45 - LAND FOR PUBLIC PURPOSES*

*SECTION 46 - UNSUITABLE LAND*

*SECTION 47 - WETLANDS AND AREAS SUBJECT TO INUNDATION*

**Findings:** Sections 42 through 47 of Subdivision Ordinance 95-5 do not apply to the proposed tentative subdivision plan.

CONCLUSIONS AND DETERMINATION

The Final Subdivision Plat of lots 1 - 16 for Pacific Dunes No. 8 submitted by the applicant should be APPROVED, subject to all conditions being met and maintained and subject to the

following additional conditions:

1. Applicant shall provide required signage that includes street names and stop signs.
2. Applicant shall submit covenants, conditions, and restrictions for the subdivision. The document must address the factors listed in this document.
3. Applicant shall include the location of the proposed post lights on all building plans submitted to the building department for review. Such lights shall be on each lot, not on the rights-of-way.
4. Tentative approval of Pacific Dunes # 8, a 29-lot subdivision was made July 15, 2019. Applicant has 4 years from that date in which to complete entire project, Phase 1, 16 lots must be developed in the first two years. Phase 2, final 13 lots must be completed within two years of the completion of phase 1 but no later than July 2023.
5. If additional time is needed to complete all 29 lots, applicant must come back to the Planning Commission for an extension.