



City of Manzanita

P.O. Box 129, Manzanita, OR 97130-0129
Phone (503) 368-5343 Fax (503) 368-4145

STAFF REPORT

TO: Manzanita Planning Commission

FROM: Walt Wendolowski, Contract Planner

SUBJECT: Planning File – Annexation & Highlands Subdivision Phases 4 & 5

DATE: January 13, 2022

I. BACKGROUND

- A. **APPLICANT:** Pine Grove Properties, Inc. (Owner - James P. Pentz).
- B. **PROPERTY LOCATION:** The property is approximately located at the north end of Seaview Drive and Meadows Drive. Necarney City County Road border the site along the south. There is no site address and the County Assessor places the property within Township 3 North; Range 10 West; Section 29D; Tax Lot #100; Township 3 North; Range 10 West; Section 29AD; Tax Lot #200 and Township 3 North; Range 10 West; Section 28; Tax Lot #1401.
- C. **MAPPED AREA:** 64.18 acres.
- D. **EXISTING DEVELOPMENT:** The vacant subject area fronts two public streets and public services are available.
- E. **ZONING:** Special Residential/Recreation Zone (SR-R) – Tax Lot 100; Medium Density Residential (R-2) – Tax Lot 1401; and Commercial (C-1) – Tax Lot 200.
- F. **ADJACENT ZONING AND LAND USE:** Property to the east is located in Tillamook County and designated R-2. To north lies C-1 zoned land located along US Highway 101 and containing a mix of commercial uses. All remaining adjacent property is zoned SR-R and contains a mix of open space and residential development.
- G. **REQUEST:** Application to Annex 4.06 acres into the City limits of Manzanita, and along with existing property within the City, create a 30-lot Single-Family Subdivision on approximately 9.82-acres (Highlands Subdivision Phase 4 and 5).
- H. **DECISION CRITERIA:** The Annexation request is evaluated against the Oregon Revised Statute Chapter 222. The Subdivision request is evaluated against

provisions listed in Section 13, and Section 39 to 47, of Ordinance 95-5; the Special Residential/Recreation Zone (SR-R) listed in Section 3.030 of Ordinance 95-4; the Medium Density Residential Zone (R-2) listed in Section 3.010 of Ordinance 95-4; and the Commercial Zone (C-1) listed in Section 3.040 of Ordinance 95-4.

II. APPLICATION SUMMARY

- A. The applicant wishes to annex approximately 4.06 acres of R-2 designated land. The subject area is located in the northwest corner of the property identified as Tax Lot #1401. Upon annexation, the land would automatically be zoned Medium Density Residential (R-2).
- B. Subsequently, the applicant wishes to combine the annexed land along with Tax Lot 200 and a portion of Tax Lot 100 to create a 30-lot subdivision on 9.82 acres. The development is identified as Highlands 4 and 5 and is a continuation of the recently platted Highlands 3. The layout is organized as follows:
1. The project continues Seaview Drive and Meadows Drive to the north-northeast. Seaview Drive will contain 13 lots, ending in a dead-end turnaround. Seventeen lots will be platted along Meadows Drive. Meadows Drive effectively dead-ends but has the ability to continue serving the remainder of Tax Lot 1401.
 2. At the south end of the subdivision, Meadowview Lane will connect the two street extensions. Public facilities serving the project will be installed within Seaview and Meadows Drives and Meadowview Lane.
 3. Lots will range in size from 7,857 to 22,473 square feet, with 16 of the 30 lots exceeding 9,000 square feet in area.
 4. There are open space areas identified as Tract "K" and Tract "L". Specific uses for these tracts were not identified. Tract "N" includes the remainder of Tax Lot 1401.
 5. The applicant intends to develop the lots with single family homes, and requested for the SR-R portion of the site, the lots be reviewed under the R-3 zone development provisions [Section 3.030(4)(b)]. Minimum lot areas in the R-2 and C-1 zone would apply to their respective portions of the subdivision.
 6. For the record, single family homes are allowed in the SR-R zone [Section 3.030(2)(a)]; the R-2 zone [Section 3.010(1)(a)] and the C-1 zone [Section 3.040(1)(a)].

- C. The City development regulations do not include annexation provisions. By default, the City is subject to provisions in Oregon Revised Statutes Chapter 222, Sections 222.111 to 222.177. Ultimately, the City Council has the option to conduct a public hearing on the request, or, refer the annexation to the voters.
- D. For the record, City staff contacted Tillamook County regarding the annexation portion of the application and how it relates to the subdivision. In a phone conversation, the Department Director was not opposed to the City reviewing the subdivision in its entirety, even though a portion is currently located within the County. The Director recognizes the property is within the City's Urban Growth Boundary and is eventually planned for urban levels of development. The County and City staff agreed that the portion subject to the annexation cannot be platted until such time the annexation is approved.
- E. Pursuant to Section 7 of Ordinance 95-4, subdivisions applications require a public hearing and review by the Planning Commission. This application and public hearing are consistent with those requirements. In addition, Ordinance 95-4, Section 3.030(4)(c) stipulates that portion of the project located in the SR-R zone is subject to the planned development provisions in Section 4.136.
- F. This review will proceed with an analysis of the annexation request - again, this applies only that 4.06-acre portion of Tax Lot 1401. This will be followed by an analysis of the planned development process applicable to the SR-R zoned land on Tax Lot 100. Finally, assuming the acceptability of the annexation, the report will address the subdivision provisions in Ordinance 95-5 as it applies to the entire project.

III. ANNEXATION

- A. Annexation procedures are contained in ORS Chapter 222 (a copy of the material is included as Attachment "A"). The statute does not specifically require (nor prohibit) the Planning Commission's review of a request. Prior to this hearing, staff coordinated the annexation process with the City Legal Counsel, suggesting the Commission should at least make a recommendation to the Council on the annexation. This is entirely consistent with other legislative-type actions - such as zone changes or code amendments - that require a Commission recommendation as part of the legislative process. Note the annexation amends the City's zone map which requires Council adoption of an Ordinance. As noted in ORS 222.120 to ORS 222.177, the City Council has options on how to make a final determination, including providing an opportunity for a public vote on matter.
- B. ORS 222.111 Authority and procedure for annexation; specifying tax rate in annexed territory. This Section allows the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a

stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies. Further, a proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

FINDINGS: This is the key requirement to proceed with an annexation. The property owner submitted a request to annex the property. The subject property (Tax Lot 1401) is located within the City's Urban Growth Boundary and adjacent to and contiguous to the City limits (Tax Lot 100). Existing service districts (fire and sanitary sewer) will continue to serve the site. Based on conversations with Building and Public Works, the City can provide the necessary water and storm sewer services to serve the proposed project. In summary, this portion of Tax Lot 1401 is available for urban uses and meets the statutory requirements for annexation.

- C. The remaining provisions address specific issues (e.g., contracts or special airport provisions) or the City Council's role in reviewing an annexation request. *As part of its recommendation, the Commission may choose to suggest the City Council conduct a public hearing on the request as opposed to sending the request to the voters.*

IV. PLANNED DEVELOPMENT PROVISIONS

- A. Planned development procedures in Section 4.136 are used to evaluate development proposals in the SR-R zone. Again, these provisions only apply to that portion of the project located in the SR-R zone (Tax Lot 100). Applicable provisions are reviewed in the following subsections:

- 1. Section 4.136.1., reviews the purpose of a planned development. Briefly, a "planned development" permits the application of greater freedom of design in land development than may be possible under a strict interpretation of the provisions of this Ordinance.

FINDINGS: Highlands will be developed in a variety of phases which is evident by the creation of several "tracts" – this project is part of Tract "E" as well as Tract "N". While the developer has options for higher density development, mixed with commercial activities in subsequent phases, the purpose of this request is to simply create a single-family subdivision.

- 2. Section 4.136.2., establishes the following standards and requirements:
 - (a) A planned development may include any uses and conditional uses permitted in any underlying zone. Standards governing area, density, yards, off-street parking, or other requirements shall be guided by the standards that most nearly portray the character of the zone in which the greatest percentage of the planned

development is proposed.

- (b) The developer may aggregate the dwellings in this zone in "cluster" or multiple- dwelling structures so long as it does not exceed the density limits of the Comprehensive Plan.
- (c) Assurances such as a bond or work agreement with the City may be required to insure that a development proposal as submitted is completed within the time limit agreed upon by the developer and the commission.

FINDINGS: In compliance with item "(a)" above, the proposal would establish lots for single-family homes. This use is allowed per Section 3.030(2)(a). The applicant chose not to proceed with a cluster development allowed in item "(b)", instead chose to develop the site as a conventional subdivision, subject to the development standards of the R-3 zone. Bonding, per item "(c)" is an option available to the City to ensure development of the site.

- C. Section 4.136.3, addresses the planned Development Procedure. The following procedures shall be observed in applying for and acting on a planned development:

- (a) An applicant shall submit 10 copies of a preliminary development plan to the Planning Commission and notify all property owners within 250 feet of the proposed development by mail.

FINDINGS: The material submitted as part of the subdivision application complies with the provisions in this Section. Notice was also provided to area property owners per provisions in this Section.

- (b) Prior to discussion of the plan at a public hearing, the City Manager shall distribute copies of the proposal to appropriate City agencies or staff for study and comment.

FINDINGS: Per this item, said plans were distributed prior to the meeting.

- (c) The Planning Commission shall consider the preliminary development plan at a meeting, at which time the comments of persons receiving the plan for study shall be reviewed. In considering the plan, the Planning Commission shall seek to determine that:

- (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.

FINDINGS: This application was submitted as a conventional subdivision, subject to development requirements of the R-3 zone.

Therefore, there are no special conditions that require a departure from standard ordinance requirements.

- (2) Resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area, particularly with regard to dune stabilization, geologic hazards and storm drainage.

FINDINGS: Ordinance 95-4 implements the City's Plan and appropriately zoned the site for residential uses along with other compatible activities. The subdivision and proposed single-family development are consistent with this intended use.

- (3) The area around the development can be planned to be in substantial harmony with the proposed plan.

FINDINGS: Single-family residential development is the primary development activity in the vicinity. This project is therefore consistent with these existing uses, and, likely future development of the Highlands project.

- (4) The plan can be completed within a reasonable period of time.

FINDINGS: The final plat must be recorded within one year of the final date of approval. This will ensure the site will be available for development within a reasonable time period.

- (5) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

FINDINGS: Seaview and Meadows Drives are adequate to serve the proposed subdivision lots. Additional improvements, such as additional street width, were not requested by Public Works Department.

- (6) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

FINDINGS: Compliance with this provision will be determined when engineering plans are submitted. For the record, a final plat cannot be recorded unless the submitted engineering plans comply with City public works and engineering standards.

- (d) The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.

FINDINGS: This is a procedural requirement, whereby the decision and any conditions of approval are determined at the Commission hearing and the applicant is formally notified by the City.

- (e) Following this preliminary meeting, the applicant may proceed with his request for approval of the planned development by filing an application for an amendment to this Ordinance.

FINDINGS: It appears the purpose of this provision is to identify the site as a planned development on the City's zoning map (see item "(g)" below). In effect, this requires an approved tentative plat to be submitted, reviewed and eventually recorded.

- (f) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this Ordinance.

FINDINGS: Ultimately this is the Commission's decision. If so approved, staff provided a list of recommended conditions at the end of this report.

- (g) An approved planned development shall be identified on the zoning map with the letters PD in addition to the abbreviated designation of the existing zoning.

FINDINGS: The City assumes this responsibility if the request is approved and the plat recorded.

- (h) Building permits in a planned development shall be issued only on a basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this Ordinance.

FINDINGS: The request does not include specific design standards that would apply to any building permit requirements. Otherwise, development of these lots will require submittal and recording of a final plat; no lots can be sold or building permits issued until the final plat is recorded. Recording of the plat also certifies the layout complies with City Public Works requirements.

V. CRITERIA AND FINDINGS –SUBDIVISION

- A. Sections 7 to 9 of Ordinance 95-5 establish the preliminary review process, tentative plan drawing requirements and information required on the tentative plan submittal.

FINDINGS: This application and Commission review conform to the requirements in Section 7. City staff determined the tentative plat and informational requirements comply with the requirements in Sections 8 and 9.

- B. Section 10 includes requirements for partial development of phasing.

FINDINGS: The application includes two distinct phases. Each phase will be platted separately, or, can be platted as a single phase.

- C. Section 11 requires general explanation of the improvements and public utilities; and, an information statement as to any particular additions or modifications to standards.

FINDINGS: Discussions with the Public Works Department indicate services can be provided to the site. This may additional improvements. For the record, platting cannot occur until engineering plans are approved by the City.

- D. Section 12 allows the City Manager to require supplemental information regarding grade finishes, geological hazards and wetlands.

FINDINGS: Based on the results of a pre-application conference, the City Manager did not require additional supplemental information.

- E. Section 13 outlines the determination requirements of the Planning Commission.

FINDINGS: If approved, the Commission must comply with these provisions.

- F. Section 38 requires the subdivision to conform to the requirements of the Ordinance. Determining compliance is the purpose of the hearing.

- G. Section 39 establishes the street requirements. Each item is reviewed, below:

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.

FINDINGS: Seaview and Meadow Drives will be platted and provide access to all proposed lots. Both are effective dead-end streets, although Meadows Drive can be extended to serve the remainder of Tax Lot 1401.

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.

FINDINGS: The Seaview and Meadow Drives improvements, along with Meadowview Lane, will conform with the City's street width and improvement requirements. This will be verified when engineering plans are submitted.

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.

FINDINGS: Seaview and Meadow Drives continue the existing street pattern. The connecting street – Meadowview Lane – intercepts both streets with "T" intersections. Both intersections are more than 200-feet from existing adjacent intersections (Highland Drive to the south).

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.

FINDINGS: Except for constructing Seaview and Meadow Drives to serve both phases, no other street extensions are planned or required.

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.

FINDINGS: Both “T” intersections comply with the angle requirement in this subsection.

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.

FINDINGS: There are no existing streets adjacent to or within the subject property that require additional right-of-way dedication.

7. Reserved Strips. No reserved strips controlling the access to public ways will be approved unless the strips are necessary for the protection of the public welfare, and in these cases, they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the city under conditions approved by the Commission.

FINDINGS: Seaview Drive cannot be extended and further and the applicant owns the adjacent land to allow extension of Meadows Drive. Therefore, reserve strips are not required.

8. Half Streets. Half streets only may be approved where essential to the reasonable development of the subdivision or partitions when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be platted within the tract. Reserve strips may be required to preserve the objectives of half streets.

FINDINGS: Half streets are not included in the layout nor required.

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.

FINDINGS: The layout does not include a cul-de-sac. However, the both Seaview and Meadows dead-end. For this reason, the developer will be required to construct a suitable turn-around for emergency vehicles and acceptable to the Fire District. The improvement plans must be included on submitted engineering plans.

10. Alleys. When any lots or parcels are proposed for commercial or industrial usage, alleys at least 20 feet in width may be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved. Intersecting alleys shall not be permitted.

FINDINGS: The subdivision does not include alleys.

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.

FINDINGS: Based on the submitted plan, slopes were identified as being less than 15% and each lot contains a suitable building site. Public Works did not identify any limitations or issues with constructing a street in conformance with the requirements in this subsection.

12. Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

FINDINGS: A marginal street access is not required as neither Seaview or Meadows are arterial streets.

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.

FINDINGS: While the responsibility lies with the Commission, it is suggested the proposed street name (Meadowview Lane) be reviewed by local emergency service providers to ensure there are no conflicts. Otherwise, Seaview Drive and Meadows Drive continue existing streets.

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.

FINDINGS: The layout does not include private streets.

- H. Section 40 includes provisions for utility easements.

FINDINGS: Utility easements locations are determined when final engineering plans are submitted and approved. These are also placed on the final plat.

- I. Section 41 contains provisions for building sites. Each is reviewed below:

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.

FINDINGS: The subdivision layout appears logical as each lot will have direct access to a public street and is generally rectangular in shape. Given the relative size, widths and right-angles of the lot lines, suitable building sites are available.

Per provisions in Section 3.030(4)(b), the lots in the SR-R zone will be developed to R-3 zone requirements. Regarding the R-3 zone [Ordinance 95-4 Section 3.020(3)] the minimum lot size is 5,000 square feet; the minimum lot width is 40-feet (60-feet for corner lots); and, the minimum lot depth is 90-feet. These requirements apply to Lots 53-57, and, Lots 60 to 65. Based on the submitted plan, all lots within the SR-R zone (Tax Lot 100) comply with the minimum lot area, depth and width requirements.

Regarding the R-2 zone [Ordinance 95-4 Section 3.010(3)] the minimum lot size is 5,000 square feet; the minimum lot width is 40-feet (60-feet for

corner lots); and, the minimum lot depth is 90-feet. These requirements apply to Lots 68 to 80. Based on the submitted plan, all lots within the R-2 zone (Tax Lot 1401) comply with the minimum lot area, depth and width requirements.

Regarding requirements of the C-1 zone [Ordinance 95-4 Section 3.040(3)] the minimum lot size, width and depth requirements must conform to provisions in the R-2 zone. Again, these are a minimum lot size of 5,000 square feet; the minimum lot width is 40-feet (60-feet for corner lots); and, the minimum lot depth is 90-feet. These provisions apply to Lots 58 and 59. Based on the submitted plan, all lots within the C-1 zone (Tax Lot 200) exceed the minimum requirements.

Finally, Lots 81 and 82 are located partially in SR-R zone and partially in the R-2 zone. As noted above, the area, width and depth requirements for both zones are similar. Based on the submitted plan, both of these lots exceed the minimum standards of each zone and therefore comply.

2. Access. Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.

FINDINGS: All Lots comply with this requirement.

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.

FINDINGS: The plan does not include through lots.

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.

FINDINGS: The lot lines are generally at right-angles to the adjacent street.

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: Based on the submitted material and Public Works commentary, there does not appear to be any features or factors that make the subject parcel unsuitable for a subdivision.

- J. Section 42 establishes requirements for subdivision blocks.

FINDINGS: This Section does not apply as the proposal does not include cross streets creating subdivision blocks.

- K. Section 43 includes provisions for large building sites.

FINDINGS: The subdivision includes land in Tax Lot 1401, leaving a large vacant area available for redevelopment. However, the remainder of Tax Lot 1401 is located within the County, and until annexed, provisions cannot be made or otherwise enforced on this property.

- L. Section 44 addresses requirements for water courses, requiring dedication (if necessary) of right-of-way for storm drainage purposes.

FINDINGS: The developer is required to address storm drainage generated by the project. Compliance with this provision is determined when engineering plans are submitted.

- M. Section 45 allows the Commission to require the reservation of land for eventual public acquisition.

FINDINGS: With the exception of any right-of-way dedication, there is no apparent need to reserve land for future public use.

- N. Section 46 allows the Commission to deny a subdivision application if the land is unsuitable for that purpose.

FINDINGS: Based on the submitted information, and the existing subdivision lots within the general vicinity, the land appears to be entirely suitable for its proposed use.

- O. Section 47 addresses issues related to flood hazards and wetlands.

FINDINGS: There is no indication of wetlands on the subject site, nor is the parcel located within a flood hazard area. However, development of the individual lots remains subject to all provisions in Ordinance 95-4, including addressing any wetland, geological or similar constraints.

- P. Sections 48 to 51 include regulations regarding improvement standards and requirements, monumentation and survey requirements.

FINDINGS: If approved, development of the site must comply with provisions in these Sections. Consistent with these Sections, all public facility improvements must conform to adopted design and construction standards with engineering plans reviewed and approved prior to construction and platting of the subdivision.

VI. COMMISSION DECISION PROCESS

- A. This application contains two distinct requests: annexation and subdivision. Staff recommends the Commission make the following two decisions: (1) a separate decision recommending Council action on the annexation; and, (2) a separate decision regarding the subdivision request. Please note, the recording of a plat containing proposed Lots 68 to 82 cannot occur until such time the underlying property is annexed to the City. This may be placed as a condition of approval for the subdivision.

VII. RECOMMENDATION - ANNEXATION

City staff finds the proposed Annexation is consistent with the relevant provisions in ORS Chapter 222 and recommends the Commission recommend City Council approval of the request.

VIII. PLANNING COMMISSION ACTION - ANNEXATION

- A. The Planning Commission has the following options:
1. Recommend City Council approve the Annexation, adopting findings contained in the staff report;
 2. Recommend City Council approve the Annexation, adopting modified findings; or
 3. Recommend City Council deny the Annexation, establishing findings as to why the application fails to comply with the decision criteria.
- B. Staff will prepare the appropriate document for the Chair's signature.

IX. RECOMMENDATION AND CONDITIONS OF APPROVAL - SUBDIVISION

City staff finds the proposal complies with the applicable criteria and recommends the Planning Commission approve the Subdivision application subject to the following Conditions:

- A. The applicant shall participate in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the

participants include the Manzanita Department of Public Works, the Nehalem Bay Wastewater Agency, Nehalem Bay Fire and Rescue and private utility providers.

- B. The applicant shall submit an engineering plan for the entire development to the Manzanita Department of Public Works for review and approval. The engineering plan shall include information concerning storm water, street improvements (including a turnaround area on the north end of Seaview Drive Meadows Drive), easements, water and other information as necessary to indicate conformance with City standards. Concurrent with this submittal, the applicant shall submit a sewer plan to the Nehalem Bay Wastewater Agency.
- C. Subsequent to receiving approved engineering plans and prior to recording of the final plat, the applicant shall be subject to the following:
 - 1. Install public and private services within the subdivision as well as required off-site improvements. Street improvements shall include the turn-around area on the north end of Seaview Drive and Meadows Drive. All improvements shall comply with the standards and requirements of the City of Manzanita and the Nehalem Bay Wastewater Agency.
 - 2. The applicant shall have the option of installing facility improvements in phases provided the City approves engineering plans for the entirety of Highlands project and approves the engineering phasing plan.
 - 3. If acceptable to the City, the applicant shall have the option of bonding for facility improvements prior to recording a final plat. This does not prohibit the City from otherwise requiring adequate bonding to ensure completion of facility improvements. Bonding agreements shall be in a form acceptable to the City.
- D. Upon completion of public facility improvements, a final plat, complying with provisions in ORS Chapter 92, shall be completed by a registered land surveyor and recorded within one year of the final decision. Platting of proposed Lots 68 to 82 shall not occur until such time the underlying property is annexed to the City of Manzanita.
- E. City review and recording of the final plat shall be subject to applicable provisions in the Manzanita Ordinance 95-5.
- F. Development of each lot shall comply with the underlying requirements of their respective zones.
- G. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

X. PLANNING COMMISSION ACTION

- A. The Planning Commission has the following options:
 - 4. Approve the application, adopting findings and conditions contained in the staff report;
 - 5. Approve the application, adopting modified findings and/or conditions;
 - 6. Deny the application, establishing findings as to why the application fails to comply with the decision criteria.
- B. Staff will prepare the appropriate document for the Chair's signature.

ATTACHMENT "A"

Oregon Revised Statute Chapter 222 (Annexation Sections)

222.111 Authority and procedure for annexation; specifying tax rate in annexed territory. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

(3)(a) Except as provided in paragraph (b) of this subsection, the proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city.

(b) For purposes of paragraph (a) of this subsection, a proposal for annexation initiated by the legislative body of a city may provide for a duration of not more than 20 full fiscal years.

(c) The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal, but in no case may the proposal provide for a rate of taxation for city purposes in the annexed territory that exceeds the highest rate of taxation for city purposes applicable to other property in the city for the current year.

(d) If the annexation takes place pursuant to a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio that the proposal authorizes for that fiscal year.

(e) Notwithstanding paragraph (d) of this subsection, during the term of fiscal years provided for pursuant to paragraph (b) of this subsection, the ratio shall be 100 percent for property that is sold or transferred to new ownership, beginning with the first property tax year that begins after the sale or transfer.

(4)(a) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation.

(b) Notwithstanding paragraph (a) of this subsection, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

(7) Two or more proposals for annexation of territory may be voted upon simultaneously, but in the city, each proposal shall be stated separately on the ballot and voted on separately, and

in the territory proposed for annexation, no proposal for annexing other territory may appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13; 1985 c.702 §7; 2019 c.315 §1]

222.115 Annexation contracts; recording; effect. A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

(1) Must be recorded; and

(2) When recorded, is binding on successors in interest in that property. [1991 c.637 §4; 2012 c.46 §§1,2]

222.118 Provision of city services to airport without requiring annexation. A city and an airport may enter into an agreement pursuant to which the city provides sewer and water services to the airport without requiring the annexation, or consent to eventual annexation, to the city of the territory on which the airport is situated. [2015 c.787 §1]

222.120 Procedure for annexation without election; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

(7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land

bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.127 Annexation without election notwithstanding contrary city law upon petition of all owners of land; declaration of annexation. (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.

(2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if:

(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;

(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;

(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and

(d) The proposal conforms to all other requirements of the city's ordinances.

(3) The territory to be annexed under this section includes any additional territory described in ORS 222.111 (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.

(4) When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed. [2016 c.51 §2]

222.130 Annexation election; notice; ballot title. (1) The statement summarizing the measure and its major effect in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect may not exceed 150 words.

(2) The notice of an annexation election shall be given as provided in ORS 254.095, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(3) Whenever simultaneous elections are held in a city and the territory to be annexed, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. [Amended by 1967 c.283 §1; 1979 c.317 §4; 1983 c.350 §33; 1995 c.79 §80; 1995 c.534 §10; 2007 c.154 §60]

222.140 [Repealed by 1979 c.317 §26]

222.150 Election results; proclamation of annexation. The city legislative body shall determine the results of the election from the official figures returned by the county clerk. If the city legislative body finds that the majority of all votes cast in the territory favors annexation and the city legislative body has dispensed with submitting the question to the electors of the city, the city legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [Amended by 1983 c.83 §23; 1983 c.350 §34; 1985 c.702 §9]

222.160 Procedure when annexation is submitted to city vote; proclamation of annexation. This section applies when the city legislative body has not dispensed with submitting the question of annexation to the electors of the city. If the city legislative body finds that a majority of the votes cast in the territory and a majority of the votes cast in the city favor annexation, then the legislative body, by resolution or ordinance, shall proclaim those annexations which have received a majority of the votes cast in both the city and the territory. The proclamation shall contain a legal description of each territory annexed. [Amended by 1983 c.350 §35; 1985 c.702 §10]

222.170 Annexation by consent before public hearing or order for election; proclamation of annexation. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.311 to 192.478. [1985 c.702 §20; 1987 c.737 §5; 1987 c.818 §8]

222.175 City to provide information on taxes and services when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c.818 §9]

222.177 Transmittal of annexation records to Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]