



City of Manzanita

To: Mayor and City Council

Date Written: February 14, 2024

From: Leila Aman, City Manager

Reviewed By: Souvanny Miller, City Attorney

Subject: **DUNE GRADING MORATORIUM FINDINGS PER ORS 197.520 (4)**

PROCEDURAL BACKGROUND

On November 9, 2022, the City adopted moratorium on view grading as defined in the Manzanita Zoning Ordinance 95-4, Section 3.085.6.

On Feb 10, 2023, at least 14 days prior to the public hearing to extend the moratorium for a period six month the City provided the Department of Land Conservation and Development (DLCD) written notice that the City Council would be considering an extension of the Moratorium on March 8th, 2023. Meg Reed from DLCD provided the city with a response indicating that the notice was sufficient on February 14th, 2023. The City Council approved the extension of the Moratorium for a period of six months expiring on September 9, 2023.

On **August 8, 2023**, at least 14 days prior to the public hearing to be held to consider the extension of the moratorium, the City provided written notice to the Department of Land Conservation and Development. This notice was provided via email to Brett Estes, North Coast Regional Representative, Department of Land Conservation and Development, and Meg Reed, Ocean Shores Specialist, Department of Land Conservation and Development. Staff was provided with an email response from Mr. Estes on August 8, 2023, indicating receipt of the notice. On September 6, 2023, the city held a public hearing.

On February 12, 2024, at least 14 days prior to the public hearing to be held to consider the extension of the moratorium, the City provided written notice to the Department of Land Conservation and Development. This notice was provided via email to Brett Estes, North Coast Regional Representative, Department of Land Conservation and Development, and Meg Reed, Ocean Shores Specialist, Department of Land Conservation and Development. Staff was provided with an email response from Ms. Reed on February 12, 2024, indicating receipt of the notice. On March 6, 2023, the city held a public hearing.

PROPOSED SCOPE OF THE EXTENSION

This Moratorium shall be extended for six months from its current expiration date of March 9, 2024, and continue in effect until expiring on September 9, 2024, unless revoked by the City Council or extended in accordance with ORS 197.520(4).

While the Moratorium is in effect, the City shall not consider or approve any permit for view grading as defined in the Manzanita Zoning Ordinance 95-4, Section 3.085.6.

DEFINITIONS

“Affected geographical area” includes all properties within the beaches and dunes overlay zone. This land is “urban or urbanizable land” within the meaning of ORS 197.520.

PROPOSED FINDINGS IN SUPPORT OF THE EXTENSION OF MORATORIUM

Pursuant to ORS 197.520(4), the City of Manzanita finds as follows:

- I. The problem giving rise to the need for the Moratorium still exists, specifically:
 1. The City’s current Foredune Management Plan (“Plan”), reflected in Manzanita Development Code 3.080, is 25 years old, and a number of things have changed since the Plan was adopted. The plan does not reflect the current status of the foredune system or best practices with respect to management. For instance, the amount of sand in the dune system has grown substantially over time. This has made it virtually impossible to grade to the dune profile dimensions specified in the Plan. Additionally, more regulatory agencies have indicated to the city that they need to be more closely involved in grading activities. For example, disposal of excess sand in the intertidal zone may need to be reviewed and modified, and a separate Corps of Engineers permit may need to be obtained. The Plan also does not take into account today’s tidal flooding and erosion conditions.
 2. Because the Plan is out of date and does not reflect current conditions or best management practices, allowing view grading under the existing Plan may result in irrevocable public harm as follows:
 - a. Sand being distributed from private property onto the public ocean shore recreation area, or sand being disturbed in the ocean shore recreation area for the benefit of one or a small number of private landowners, despite:
 - i. Minimal to no public need or justification for view grading and,
 - ii. Overwhelming public opposition to recent applications for view-grading projects.
 - b. Negative impacts to the public enjoyment of the dunes during view grading activities.
 - c. Destabilization of the vegetated dunes from unsupported view grading of the dunes which could lead to impacts to both private and public development and infrastructure.
 - d. Unknown impacts on coastal shoreland resources such as razor clam and western snowy plover habitat from sand redistribution.
 - e. Unknown impacts on ocean resources by sand displacement into the intertidal zone from sand redistribution.
 - f. Establishment of additional European beach grass (which is allowed under the existing Plan) in the foredune area, rather than native beach grasses.
 - g. Un-studied impacts on public resources and nearby private properties relating

to current and future anticipated seasonal tidal events, flooding and erosion.

3. Based on the foregoing there is a compelling need for the moratorium.
- II. The city is making reasonable progress to alleviate the problem giving rise to the need for the Moratorium by:
1. The city issued a Request for Proposals in December 2023 and as of February 23, 2024 the city received proposals from 3 qualified firms to begin the update of the city's Comprehensive Plan including Goal 18 that addresses view grading. The Fiscal Year 2023-2024 budget includes sufficient approved resources to update the Comprehensive Plan. Goal 18 will be included as an early priority for community engagement and policy development.
- III. The Moratorium shall be extended by a period of six months to allow the City to continue making progress toward updating the Plan.