



COUNCIL ORDINANCE No. 24-04

AN ORDINANCE OF THE CITY OF MANZANITA, OREGON, ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170; PINE GROVE PROPERTIES, INC., AND ESTABLISHING THE SPECIAL RESIDENTIAL-RECREATIONAL (SR-R) ZONE ON THE ANNEXED PROPERTY.

WHEREAS, the City of Manzanita received a submission by written request for annexation of real property to the City of Manzanita, herein described in Exhibit “A”; and

WHEREAS, the submission for annexation of real property to the City of Manzanita, herein described in Exhibit “A” included a concurrent zone change to establish the Special Residential – Recreational (SR-R) Zone; and

WHEREAS, on March 11, 2024, the Planning Commission for the City of Manzanita conducted a hearing on said application submitted by Pine Grove Properties, Inc., making findings recommending annexation of the subject property and establishment of the Special Residential – Recreational (SR-R) Zone; and

WHEREAS, after conducting the hearing and considering all objections or remonstrance with reference to the proposed annexation and zone change, and further considering the recommendation of the Manzanita Planning Commission, the City Council finds that this annexation and zone change requests are in the best interest of the City and of the contiguous territory.

Now, Therefore, the City of Manzanita does ordain as follows:

Section 1. **Findings.** In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit “B,” which is incorporated herein by this reference as if fully set forth at this point.

Section 2. **Annexation Area.** Based upon the findings contained above and in Exhibit “B”, the contiguous territory described in Exhibit “A” and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Manzanita and zoned in accordance with the Manzanita Ordinance 95-4 and assigned the zoning of Special Residential – Recreational (SR-R).

Section 3. **Record.** The City Recorder shall submit to the Oregon Secretary of State a copy of this Ordinance. The City Recorder shall also send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City of Manzanita within ten (10) days of the effective date of this annexation ordinance to the Tillamook County Assessor, Tillamook County Clerk, and the Oregon State Department of Revenue.

Section 4: **Emergency Declaration.** It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health and safety and an emergency is hereby declared to exist. This Ordinance shall take effect and be in full force and effect from and after its passage.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Kathryn Stock, Mayor

ATTEST:

Leila Aman, City Manager/Recorder

EXHIBIT A

PROPERTY DESCRIPTION



**APRIL 8, 2024
LEGAL DESCRIPTION
FOR
ENCORE INVESTMENTS, LLC
FOR
ZONE CHANGE**

A portion of that tract of land as described in Deed Book 346, Page 194, Tillamook County Deed Records, situated in the Northwest one-quarter of the Southwest one-quarter of Section 28, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon, further described as follows:

Beginning at the Northeast corner of said Deed Book 346, Page 194, said point also being the East one-quarter corner of Section 28, Township 3 North, Range 10 West of the Willamette Meridian;

Thence along the exterior boundary of said Book 314, Page 194 the following courses and distances:

Thence South $01^{\circ}08'58''$ West 677.58 feet;

Thence North $88^{\circ}51'02''$ West 87.76 feet;

Thence North $01^{\circ}08'58''$ East 21.85 feet;

Thence North $88^{\circ}51'02''$ West 40.00 feet;

Thence South $01^{\circ}08'58''$ West 5.00 feet;

Thence Southwesterly along the arc of a 20.00 foot radius curve to the right through a central angle of $90^{\circ}00'00''$ a distance of 31.42 feet (chord bears South $46^{\circ}08'58''$ West 28.28 feet);

Thence North $88^{\circ}51'02''$ West 30.00 feet;

Thence South $01^{\circ}08'58''$ West 40.00 feet;

Thence North $88^{\circ}51'02''$ West 40.86 feet;

Thence South $01^{\circ}08'58''$ West 398.57 feet to the North right-of-way of Necarney City County Road;

Thence Southwesterly along said right-of-way along the arc of a 230.00 foot radius non-tangent curve to the left (radius bears South $15^{\circ}23'27''$ West) through a central angle of $51^{\circ}57'22''$ a distance of 208.57 feet (chord bears South $74^{\circ}21'33''$ West 237.14 feet);

Thence South $43^{\circ}22'19''$ West 41.02 feet along said right-of-way;

Thence North $46^{\circ}37'29''$ West 86.10 feet;

Thence South $63^{\circ}54'55''$ West 122.72 feet;

Thence South $68^{\circ}13'38''$ West 116.31 feet;

Thence South $70^{\circ}39'59''$ West 89.30 feet;

Thence South $80^{\circ}14'38''$ West 63.12 feet;

Thence leaving the exterior boundary of said Book 346, Page 194, North $02^{\circ}23'39''$ East 154.57 feet;

Thence North $60^{\circ}19'24''$ East 517.14 feet;

Thence North $01^{\circ}02'31''$ East 136.21 feet;

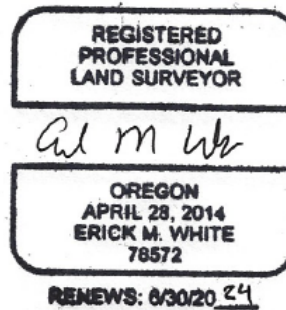
Thence North $57^{\circ}23'07''$ East 99.35 feet;

Thence North $00^{\circ}25'53''$ East 243.46 feet;

Thence Northwesterly along the arc of a 100.00 foot radius curve to the left through a central angle of $90^{\circ}41'21''$ a distance of 158.28 feet (chord bears North $44^{\circ}54'48''$ West 142.27 feet);

Thence North 20°04'05" East 117.92 feet;
Thence North 90°00'00" West 28.10 feet;
Thence Northwesterly along the arc of a 270.00 foot radius curve to the right through a central angle of 21°01'17" a distance of 99.06 feet (chord bears North 79°29'21" West 98.51 feet);
Thence North 68°58'43" West 15.14 feet;
Thence North 21°01'17" East 40.00 feet;
Thence North 68°58'43" West 105.44 feet;
Thence Northwesterly along the arc of a 530.00 foot radius curve to the left through a central angle of 01°08'10" a distance of 10.51 feet (chord bears North 69°32'48" West 10.51 feet);
Thence Northeasterly along the arc of a 25.00 foot radius non-tangent curve to the left (radius bears North 19°53'07" East) through a central angle of 105°38'54" a distance of 46.10 feet (chord bears North 57°03'40" East 39.84 feet);
Thence North 04°14'13" East 111.12 feet to the North boundary of said Book 346, Page 194;
Thence North 89°47'18" East 714.75 feet along said boundary to the **Point of Beginning**.
Containing 12.54 Acres.

The purpose of this legal description is not create a separate tax lot.



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EXHIBIT B

I. BACKGROUND

1. APPLICANT: Pine Grove Properties, Inc. (Owner - James P. Pentz).
2. PROPERTY LOCATION: The property is located at the east end of Meadows Drive. Necarney City County Road borders the site along the south. There is no site address, and the County Assessor places the property within a portion of Township 3 North; Range 10 West; Section 28; Tax Lot #1401.
3. SUBJECT AREA: 12.54 acres.
4. EXISTING DEVELOPMENT: The vacant subject area fronts two public streets and public services are available.
5. ZONING: The Comprehensive Plan designates the land as Medium Density Residential (R-2).
6. ADJACENT ZONING AND LAND USE: Property to the east and south is in Tillamook County and designated RMD. 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.
7. REQUEST: Application to Annex 12.54 acres into the City limits of Manzanita, and a Zone Change from Medium Density Residential Zone (R-2) to Special Residential-Recreation Zone (SR-R).
8. DECISION CRITERIA: Annexation - Oregon Revised Statute Chapter 222; Zone Change - Sections 9.010 to 9.050 of Ordinance 95-5.

II. APPLICATION SUMMARY

- A. The applicant wishes to annex approximately 12.54 acres of R-2 designated land. The subject area is located along the east side of the property and extends south to Necarney City County Road. Upon annexation, the property normally would be zoned R-2, consistent with the Comprehensive Plan designation. However, in addition to the annexation, the applicant wishes to change the zoning from R-2 to SR-R on the entire 12.54 acres. While the applicant intends to develop the site for residential uses, the application does not include a concurrent development proposal.
- B. 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. The City Council has the option to conduct a public hearing on the request or refer the annexation to the voters. In addition, the Zoning

Ordinance does not contain specific criteria for a Zone Change. Only Article 9, Amendments includes provisions applicable to the amendment process.

III. ANNEXATION

- A. ORS Chapter 222 contains annexation procedures (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. City Legal Counsel previously concurred with this approach (Highlands 4 & 5 Subdivision), suggesting the Commission’s role is to provide a recommendation to the Council. 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. 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 extending the boundaries of any city 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, an annexation 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.
- C. ORS 222.170. Annexation by consent before public hearing. This Section allows for annexation by ordinance after a public hearing, if the City receives written consent from “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.”

FINDINGS: The property owner submitted a request to annex the property prior to the public hearings. The applicant represents a majority of the electors and owns more than half of the land in the territory proposed to be annexed and has filed a statement of consent to be annexed on or before the date of the public hearing. The subject property (Tax Lot 1401) is located within the City’s Urban Growth Boundary and adjacent and contiguous to the City limits to the west (Highlands 4 & 5 Subdivision). Existing service districts (fire and sanitary sewer) will continue to serve the site as water and sanitary services were extended to the Highlands Subdivision located to the west. In summary, this portion of Tax Lot 1401 is available for urban uses and meets the statutory requirements for annexation.

IV. ZONE CHANGE

- A. As noted, the Zoning Ordinance does not contain specific review provisions for a zone change. The only available guidelines were provisions on processing amendments (Article 9, Amendments). The following findings address these

provisions:

1. Section 9.010 Authorization to Initiate Amendments. An amendment to the text of this Ordinance or to the zoning map may be initiated by the City Council, the Planning Commission or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Manager.

FINDINGS: The property owner initiated the zone change, filing the necessary application and supporting documents.

2. Section 9.020 Public Hearings on Amendments. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within 40 days after the hearing, recommend to the City Council approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment, and approve, disapprove, or modify the proposed amendment.

FINDINGS: The hearing before the Commission (on March 11, 2024) and Council (on June 5, 2024) comply with the requirements in the Section. On March 11, 2024 the Planning Commission made a recommendation to the City Council to approve the zone change, if the annexation is accepted.

3. Section 9.030 Record of Amendments. The City Manager shall maintain records of amendments to the text and zoning map of the Ordinance.

FINDINGS: This Section establishes an administrative requirement for the City.

4. Section 9.040 Limitations on Reapplication. No application of a property owner for an amendment to the text of this Ordinance or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

FINDINGS: This Section does not apply as this is the applicant's first request for this specific zone change.

5. Section 9.050 Amendments Affecting Manufactured Dwelling Parks. If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined by ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application.

The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change.

FINDINGS: This Section does not apply as the request does not involve property containing a manufactured dwelling park.

B. The Amendment Article addresses the process but does not provide any decision criteria. As the zone change applies to residential zones (Ordinance Section 2.020), the Manzanita Comprehensive Plan provides guidance on “Residential Land Uses.” The Land Use Goal states the following: *“To maintain and create residential living areas which are safe and convenient, which make a positive contribution to the quality of life, and which are harmonious with the coastal environment.”* Five policies support this Goal; the following reviews the policies and supporting findings:

1. Policy #1 - Protect living qualities by requiring landscape screening or buffering between dwellings and commercial uses.

FINDINGS: The Zoning Ordinance allows the City to require screening or buffering as part of residential development projects. Specific examples in the Zoning Ordinance include Section 4.060 for multi-family projects, Section 4.156(3) for site design review, and Section 5.031(g) for conditional uses. These provisions are applicable to specific development projects but not directly applicable to the zone change.

2. Policy #2 - Require that subdivisions include adequate public street access for each house and lot, paved streets, adequate water and sewer systems, storm drainage, underground telephone, TV Cable, and electrical lines. Street plantings and trees are desirable. Improvements should be of good quality.

FINDINGS: Several sections of the Manzanita Subdivision Ordinance 95-5, specifically related to streets and utilities, implement these provisions.

3. Policy #3 - Permit a variety of dwellings and flexibility in densities and site design for large, planned developments. Density standards established in the vicinity will generally serve as the basis for the overall density of such planned developments. Special review and approval by the Planning Commission will be required. Projects will be expected to provide usable open space, community facilities and other special amenities. The clustering of dwelling units in order to leave a greater amount of land for open space is encouraged.

FINDINGS: Provisions in the existing R-2 zone effectively limit residential development to the creation of individual lots for either single family homes or duplexes [Section 3.010(1)]. The SR-R zone not only permits single family homes and duplexes [Section 3.030(2)] but permits multi-family homes and townhouses (same Section). In addition, Section 3.030(4)

allows higher densities and design flexibility in the SR-R zone, including clustering of homes.

4. Policy #4 - Require minimum lot sizes for single-family homes which adequately accommodate contemporary dwellings; separate structures for adequate light, air, fire-fighting access, and prevention of the spread of fire; provide space for two family automobiles per single-family dwelling. Pre-existing lots of sub-standard size may be developed under special conditions.

FINDINGS: As noted, both the R-2 and SR-R zones allow single-family and duplex residences. Since residential development in the SR-R zone must conform to the R-3 zone standards [Section 3.030(4)(b)], both the existing R-2 zone [Section 3.010(3)] and proposed SR-R zone contain similar lot size and dimension requirements [Section 3.020(3)]. Therefore, the zone change to SR-R will not reduce the ability of the City to provide single family homes in a manner consistent with this policy.

5. Policy #5 - Require, in areas without urban services, minimum lot sizes which will assure that no danger to the public health will result from water supply or sewage disposal into the ground.

FINDINGS: This is not directly applicable, as urban services are available to the property regardless of zoning.

- C. A further issue is whether the loss of R-2 zoning will impact the City's overall ability to provide housing. The 2019 Buildable Lands Inventory conducted a survey of available, developable residential land within the City's Urban Growth Boundary. The report concluded with the following summary:

Summary of Residential Buildable Lands Inventory

Approximately 96 acres of land are available in the residential BLI. It may seem surprising that most of the land available falls under high density residential zoning (roughly 94%), but this is partially explained by the fact that R-2 medium density residential (the most populous zone) is technically classified as high density residential as it allows more than 8 units per acre given a minimum lot size of 5,000 square feet per unit. In fact, there are no zones classified as low density residential given our criteria. Medium density residential and commercial / mixed-use make up 5.6% and 0.5% of the residential BLI respectively.

Vacant land represents by far the largest opportunity for development, comprising almost 99% of the land available in the buildable lands inventory. While less partially vacant and redevelopable land is available, the location of specific parcels are important as they may represent geographies where development is highly desired (i.e., areas close to commercial cores) or where infrastructure (water and sewer) is available.

Table 9: Summary of Residential Buildable Lands Inventory, Manzanita UGB, 2019

Housing Category	Vacant (acres)	Partially Vacant (acres)	Redevelopable (acres)	Total Buildable (acres)
Low Density Residential	-	-	-	-
Medium Density Residential	5.40	-	-	5.40
High Density Residential	89.14	1.00	0.02	90.16
Commercial / Mixed-use	0.44	0.06	-	0.49
Total:	94.97	1.06	0.02	96.05

Both the R-2 and SR-R zones allow single-family and duplex residences and developed to similar standards. The only significant difference between the two zones is that the SR-R zone allows multi-family residences. Therefore, the zone change does not eliminate housing opportunities permitted in the R-2 zone but increases overall housing opportunities by allowing multi-family units. On balance, the zone change will not reduce or inhibit the City's ability to provide needed housing.

- D. While this application does not contain a concurrent development proposal, the applicant made it clear during public testimony the sole purpose of the request is to create moderate income/workforce housing for the community. Also, during public testimony the applicant was willing to accept a condition, including deed restriction, to ensure only construction of this type of housing, and the use of the property for short-term rentals is prohibited. The Council concurs with the need for such housing options, noting findings in Policy #3, above. Therefore, the City Council finds it appropriate to place conditions on the zone change that will ensure the site is developed as intended by the applicant, thereby meeting the needs of the community.

V. CITY COUNCIL DECISION – ANNEXATION

Based on the above findings the Manzanita City Council finds the proposed Annexation is consistent with the relevant provisions in ORS Chapter 222.

VI. CITY COUNCIL DECISION – ZONE CHANGE

Based on the above findings the Manzanita City Council finds the proposed Zone Change establishing the Special Residential-Recreation zone is consistent with the relevant provisions in the Manzanita Zoning Ordinance, subject to the following conditions:

- A. Development of the newly annexed property shall be limited to moderate income housing or below as defined in Oregon Revised Statutes 456.270 and subsequent legislative amendments. This limitation shall be placed as a deed restriction and evidence of the restriction shall be provided prior to submittal of any applications or permits to develop the newly annexed property.

- B. Establishment of short-term rentals as defined by the Nehalem Zoning Ordinance shall be prohibited.