

BEFORE THE BOARD OF COMMISSIONERS  
OF TILLAMOOK COUNTY, OREGON

IN THE MATTER OF AN APPEAL OF THE PLANNING	)	FINDINGS OF FACT,
COMMISSION’S DECISION TO DENY A REQUEST FOR	)	CONCLUSIONS AND
PRELIMINARY SUBDIVISION PLAT APPROVAL OF A 58-	)	ORDER
LOT SUBDIVISION IDENTIFIED AS “SECOND ADDITION	)	
TO AVALON HEIGHTS” ON A PROPERTY LOCATED	)	851-21-000309-PLNG
WITHIN THE UNINCORPORATED COMMUNITY OF	)	
OCEANSIDE, TOGETHER WITH GEOLOGIC HAZARD	)	
REPORT REVIEW REQUEST #851-21-000202-PLNG. THE	)	
PROPERTY IS ACCESSED VIA HIGHLAND DRIVE AND	)	
GRAND AVENUE, COUNTY LOCAL ACCESS ROADS,	)	
AND IS DESIGNATED AS TAX LOT 200 OF SECTION	)	
30DC, TOWNSHIP 1 SOUTH, RANGE 10 WEST OF THE	)	
WILLAMETTE MERIDIAN, TILLAMOOK COUNTY,	)	
OREGON.	)	

**APPELLANT:** Bill Hughes, 41091 Old Highway 30, Astoria, Oregon 97103

**APPLICANT:** Bill Hughes, 41091 Old Highway 30, Astoria, Oregon 97103

**PROPERTY OWNER:** Avalon Heights LLC, 41901 Old Hwy 30, Astoria, OR 97103

This matter came before the Tillamook County Board of Commissioners at the request of the Appellant.

The Board of Commissioners, being fully apprised of the representations of the above-named persons and the record in the file in this matter, finds as follows:

1. The files in this proceeding can be found in the office of the Tillamook County Department of Community Development under Appeal #851-20-000309-PLNG.
2. Public hearings on the above-entitled matter were held before the Tillamook County Planning Commission on June 10, 2021, and July 8, 2021, where a decision was made on this date. After consideration of all available evidence including review a Geologic Hazard Report under Section 4.130 of the Tillamook County Land Use Ordinance and the Preliminary Plat criteria listed in Section 070 of the Tillamook County Land Division Ordinance, findings of fact and conclusions contained within the staff report, staff memos, public and agency comments, evidence and information presented, written and oral testimony received at the hearing, and the applicant’s presentations, the Tillamook County Planning Commission voted unanimously, 6 in favor and 0 opposed, to deny Preliminary Subdivision Plat request #851-21-000095-PLNG together with the Geologic Hazard Report #851-21-000202-PLNG.
3. The Tillamook County Board of Commissioners opened a de novo public hearing on August 30, 2021. The hearing was properly noticed according to the requirements of ORS 197 and 215. Public testimony was received at the hearing. The Board continued the hearing to October 22, 2021, where the Board heard additional oral argument from the appellants, the applicant and final comments from the planning director and staff. The Board then deliberated and voted unanimously (3-0) to overturn the Planning Commission’s decision and grant the appeal, with staff directed to prepare written findings for final adoption.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

Section 1. The Planning Commission decision to deny the preliminary subdivision application for the “Second Addition to Avalon Heights” (file no. 851-21-000095-PLNG) together with Geologic Hazard Report (file no. 851-21-000202-PLNG) is hereby overturned, and the appeal filed by Bill Hughes is granted.

Section 2. Subdivision request #851-21-000095-PLNG a request for preliminary subdivision plat approval of a 58-lot subdivision identified as “Second Addition to Avalon Heights” together with Geologic Hazard Report review #851-21-000202-PLNG is approved.

Section 2. The findings and conditions attached as “Exhibit A” are hereby incorporated by reference and adopted in support of this order.

DATED this 24<sup>th</sup> day of November, 2021.

BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

Aye

Nay

Abstain/Absent

\_\_\_\_\_  
Mary Faith Bell, Chair

\_\_\_\_\_  
David Yamamoto, Commissioner

\_\_\_\_\_  
Erin D. Skaar, Commissioner

ATTEST: Tassi O’Neil,  
County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Special Deputy

\_\_\_\_\_  
Joel Stevens, County Counsel

## **EXHIBIT A**

### **Avalon Heights II Preliminary Plat**

#### **Tillamook County Board of Commissioners**

The findings of the Board of Commissioners are based on the findings, analysis, and recommended conditions of approval contained in the June 3, 2021 Department of Community Development Staff Report titled, Preliminary Subdivision Plat Review Request "Second addition to Avalon Heights Subdivision" #851-21-000095-PLNG together with Geologic Hazard Report Review #851-21-000202-PLNG and the analysis and recommended conditions of approval contained in the July 1, 2021 memorandum from Department of Public Works Director Chris Laity, both of which are incorporated by reference herein; supplemental technical studies submitted on behalf of the applicant, and oral testimony presented at the September 30<sup>th</sup> hearing and continued on October 22, 2021 public hearings on the application conducted by the Board.

Final documents submitted by the applicant prior to the hearing included:

- Updated preliminary plat and design drawings dated October 11, 2021 by Firwood Design Group
- Revised Preliminary Stormwater Report Dated October 11, 2021 by Firwood Design Group
- Revised Geotechnical Engineering Report dated October 12, 2021 by Stata-Design.
- An addendum to the Traffic Impact Study initially submitted.

At the continued hearing the Board determined that the applicant had adequately addressed their concerns regarding traffic impacts, geotechnical concerns, and stormwater management and voted unanimously to approve the subdivision with the conditions outlined in the above referenced documents and presented below.

#### **Findings**

1. The proposed development is a subdivision within the Residential Oceanside zone. The preliminary plat confirms the proposed lots meet the minimum lot width and depth requirements for new lots/parcels located within the ROS zone and meet or exceed the minimum lot size requirement allowed by per the slope average of the lot.
2. The Geologic Hazard Report [submitted with the application] includes an analysis of soils and bedrock types, slopes, soil depth, other relevant soils data, water drainage patterns and a discussion of landslide activity in the recent area. The main geologic hazard identified include steep slopes around the eastern portion of the property; the hazard is further discussed in the GHR.

The initial GHR was supplemented with a more detailed revised Geotechnical Analysis which included a series of additional site specific investigations for registered geotechnical engineer to review the final construction plans for all infrastructure as well as future construction of all dwellings together with on-site observations and inspections of that construction to ensure that the formal recommendations are followed. Provided those recommendations are followed, site stability should be maintained.

3. Community Development staff confirmed with the County Surveyor that the proposed name, Second Addition to Avalon Heights does not duplicate the name of any other subdivision in the County. All of the other information required under the Land Division Ordinance is included on the preliminary plat or as supplemental information including the Geologic Hazard Report and supplemental revised Geotechnical Analysis, [utility] service availability letters, existing and proposed streets, existing and proposed easements and locations of natural features.
4. The proposed lots depicted on the preliminary plat meet the applicable standards of the Residential Oceanside zone. All proposed lots abut a private street for at least 25 feet. The preliminary plans depict improvements for stormwater

management of the storm water management of the subdivision with supplemental reports prepared by Environmental Management Systems Inc., and Firwood Design Group LLC. The initial preliminary storm water management plan submitted was subsequently revised and vetted by the Director of Public Works.

5. Highland Drive, a County local access road, abuts the subject property along its northwestern and southwestern boundary. Grand Avenue, a county local access road, abuts the midpoint of the western property boundary. Grand Avenue is in poor condition due to multiple small streams crossing on the surface which has accelerated the road surface deterioration. Highland Drive has not been maintained and is in poor condition, although not to the extent of Grand Avenue. The applicant has agreed to improving these roads. The preliminary plat shows three additional private roads identified as Roaring Tide Loop which would run from the connection off of Highland Drive on the northwestern boundary running south and connecting back to Highland Drive in the southwestern boundary of the property; NW Ocean Song running north-south along the interior of the subdivision; and W Grand Avenue running east-west through the mid-point of the proposed subdivision. Grand Avenue inside the subdivision will be changed per the request of the fire marshal. The preliminary plat also shows a 25-foot wide public easement named Ava Place to serve lots 5 through 10

Road grades proposed are as steep as approximately 14 percent in some areas of the private roads, easements and future driveway systems. The Department of Public Works will review all final plans for the private roadways and driveways prior to construction.

6. The County Engineer is charged with the authority to review proposed streets, utilities and surface water drainage facilities, ensuring conformance with master plans and applicable engineering standards. The applicant submitted an initial Transportation Impact Study and an additional supplemental study, both prepared by Lancaster Mobley. The Oregon Department of Transportation reviewed both TISs, as did the Director of Public Works who agreed with the reports conclusions that the proposed development would not adversely affect the operations of intersections used by traffic from the proposed development.
7. Drainage easements and basins are identified on the preliminary plat as revised. A revised preliminary storm water management report was submitted by Firwood Design Group LLC.
8. Four private roads as discussed above together with a 25-foot wide easement are illustrated on the preliminary plat. Final construction plans will be reviewed by the Director of Public Works prior to the commencement of construction.

#### **CONDITIONS OF APPROVAL**

#### **“SECOND ADDITION TO AVALON HEIGHTS” PRELIMINARY PLAT & GEOLOGIC HAZARD REQUEST**

Tillamook County Land Division Ordinance Section 090 requires the applicant to file a Final Plat within 24 months of approval of the Preliminary Plat, unless an extension is granted as provided by Section 040. A request for an extension must be submitted prior to the expiration of 24 months.

1. The applicant/owner shall conform to all Federal, State and local regulations, and shall obtain all required permits prior to construction and/or development.
2. All taxes owed shall be paid in full prior to recording of the final plat.
3. A letter of final approval is required from the Netarts Water District and the Netarts-Oceanside Sanitary District, confirming all facility improvements have been satisfactorily constructed prior to Final Plat approval. Letters of

water and sewer availability are required for the development of individual lots and shall be submitted to Community Development at the time of zoning permit submittal.

4. Development of each lot shall conform to the development standards outlined in TCLUO Section 3.310 Residential Oceanside (ROS) zone as applicable.
5. The applicant/property owner shall measure the height of all structures from the existing grade prior to development. A topographic survey of the pre-existing conditions prior to subdivision development construction of the site shall be required at time of building permit submittal. Building permit applications shall include elevations of the site, defining existing grade (pre-development), and confirm that the overall height of the structure is in accordance with the development standards outlined in TCLUO Section 3.310: Residential Oceanside (ROS) zone.
6. Site specific Geologic Hazard Reports are required for the development of each lot in accordance with TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas.
7. In accepting this approval, the property owner understands intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use. The property owner hereby acknowledges that practices may involve but are not limited to the application of herbicides or fertilizers (including aerial spraying), road construction, changes in view, noise, dust, odor, traffic, and other impacts related to a farm zone. The property owner acknowledges the residential use of this property may be impacted by such activities and is accepting of that fact. In the event of conflict, the property owner understands preference will be given to farm and forest practices.  
  
A covenant to the deed shall be required for Proposed Lots 22-24 & 47-50, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. A copy of the recorded covenant included as 'Exhibit D' shall be provided at the time of Final Plat approval for all lots adjacent to resource zoned land.
8. The applicant/property owner shall meet the requirements set forth by the Netarts-Oceanside Fire District.
9. Any modifications made to the preliminary plat, prior to final plat approval, shall require approval from the Tillamook County Planning Commission for those adjustments.
10. Final approval of this Land Division Application shall require that all proposed roadways and storm draining systems shall remain in private ownership and the responsibility for the landowners or recorded Home-Owners Association.
11. The applicant complies with Tillamook County Public Works requirements for Final Construction Plans. Tillamook County reserves the right to provide additional requirements for construction after reviewing the construction plans when they become available. Construction activities are not permitted until the Final Construction Plans have been approved by Tillamook County Public Works and the water & sewer districts.
12. It is the sole responsibility of the applicant to ensure that they establish and maintain appropriate land use and environmental permits as may be required from all other Federal, State and Local jurisdictions.
13. With these conditions Tillamook County in no way authorizes the use or development of land in contradiction to any Federal, State or local law.
14. Tillamook County Public Works reserves the right to review any future changes in parcel boundary or roadway location as may be required to complete any development or building permit applications.

15. Off-site improvements:
- a. Highland Drive is classified as a Local Access Road and has not been accepted into the County system. Subsequently, it is not maintained by the Tillamook County Public Works.
  - b. Public Works requires Highland Drive to be paved as part of this project, including drainage improvements as needed. Improvements to Highland Drive may be completed in phases to coincide with the subdivision phasing.
    - i. Phase 1: Highland Drive Improvements consisting of paving and drainage improvements from the intersection with Highway 131 to the intersection with the proposed Roaring Tides Loop will be completed by the developer prior to the County approval of the Final Plat of Phase 1.
      - 1. The developer shall provide construction plans prepared by a licensed engineer. The plans shall be reviewed and approved by the County prior to construction.
      - 2. Prior to construction, the developer shall provide the county a bond or similar instrument for the construction costs agreed to by the county and the developer so ensure that the county has the financial resources to construct the improvements should the developer default on his improvements.
    - i. Phase 2: Highland Drive improvements consisting of paving and storm drainage improvements for the remainder of Highland Drive, between the north and south ends of the Roaring Tides Loop will be complete by the developer prior to County approval of the Final Plat for Phase 2.
      - 1. The developer shall provide construction plans prepared by a licensed engineer. The plans shall be reviewed and approved by the County prior to construction.
      - 2. Prior to construction, the developer shall provide the county a bond or similar instrument for the construction costs agreed to by the county and the developer so ensure that the county has the financial resources to construct the improvements should the developer default on his improvements.
  - c. It is required that the developer remove roadside vegetation to improve sight distance as identified in the Transportation Impact Study:
    - i. From the intersection of Hwy 131 to the proposed intersection off Highland Drive and Roaring Tides Loop.
    - ii. At the intersection of Highland Drive and Grand Avenue.
    - iii. Where Roaring Tides Loop connects to Highland Drive at the north end of the proposed development.
    - iv. It is also required that the developer provide unobstructed vertical clearance of not less than 13-feet 6 inches along Highland Drive and Grand Avenue to comply with Tillamook County Fire Defense Board Single, Multi-Family and Residential Development Road Access Guidelines updated in 2020.
  - d. Grand Avenue
    - i. Improvements to Grand Avenue from Highland Drive to Hwy 131 are required to be completed by the developer. The following are to be completed prior to County approval of Phase 2:
      - 1. The developer shall provide construction plans for the proposed work prepared by a licensed engineer. The plans shall be reviewed and approved by the County prior to construction. The work shall consist of road surface grading, a three-inch overlay and minor storm drainage improvements limited to ditching and culverts. Work may include costs associated with the diverting storm water away from Grand Avenue. A cost estimate will be prepared for an engineer to design the work and an independent

contractor to perform the work. All costs are to be determined based on the conditions documented in StreetPix Viewer with photos dated September 29, 2020.  
<http://tillamook.streetpixweb.com/>

2. The developer shall provide the county a bond or similar instrument for a minimum of 47% of the construction costs described above and agreed to by the county and the developer to ensure that the county has the financial resources to construct the improvements should the developer default on these improvements. The bonding can be reduced based on work done in advance of the Final Plat for Phase 2.
3. All work done on Grand Avenue requires a permit from Public Works in advance of construction.

16. Road “A” will need to be named.

17. Other comments/questions listed in the July 1, 2021, Staff Report from Tillamook County Public Works are addressed and accepted by Tillamook County Public Works.