



PARTITION REQUEST #851-22-000138-PLNG: NEHALEM POINT, INC.

ADMINISTRATIVE DECISION AND STAFF REPORT

DECISION: Approved with Conditions

DECISION DATE: August 11, 2022

REPORT PREPARED BY: Angela Rimoldi, Planning Technician

I. GENERAL INFORMATION:

- Request:** Plat approval to partition the subject property into three (3) parcels.
- Location:** Tax Lot 200 of Section 34, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.
- Zone:** Nehalem Low Density Residential (NH_RL), Recreation Management (RM), Estuary Natural (EN).
- Applicant:** Nehalem Point Inc., P.O. Box 86, Manzanita, OR 97130
- Property Owner:** Nehalem Point Inc., P.O. Box 86, Manzanita, OR 97130

Description of Site and Vicinity: The subject property is accessed via Nehalem Point Dr. and Bay View Dr., both private roads, is irregularly shaped, approximately 86 acres in size, vacant, and is vegetated with grasses, trees, and wetlands. The subject property is located south of the City of Nehalem, between Nehalem Bay and the Nehalem River. The subject property is primarily located within the City of Nehalem Urban Growth Boundary. The subject property is zoned Nehalem Low Density Residential (NH_RL), Estuary Natural (EN) zone, and Recreation Management (RM) zone (Exhibit A).

Applicant/Owner is requesting to partition the subject property into a total of three (3) parcels (Exhibit B).

The subject property is in Flood Zone AE per FEMA Flood Insurance Rate Map (FIRM) Panel #41057C0209F. Mapped wetlands are located on the property according to the National Wetlands Inventory (Exhibit A).

Given the size and topography of the subject property and subsequent parcels, staff finds that the standards of TCLUO Section 4.130: Development requirements for Geologic Hazard Areas and City of Nehalem Zoning Ordinance Section 57.261 are not applicable at this time, however a Condition of Approval has been made to require relevant standards of this section be adhered to at the time of development.

II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The desired use is governed through the following sections of the Tillamook County Land Use Ordinance (TCLUO) and Land Division Ordinance (TCLDO). The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. Land Division Ordinance Section 060: Preliminary Plat Submission Requirements
- B. Land Division Ordinance Section 070: Preliminary Plat Approval Criteria
- C. Land Use Ordinance Section 3.040: Recreation Management Zone (RM)
- D. Land Use Ordinance Section 3.102: Estuary Natural Zone (EN)
- E. Land Use Ordinance Section 4.130: Development Requirements for Geologic Hazard Areas
- F. Land Use Ordinance Section 3.510: Flood Hazard (FH) Overlay
- G. City of Nehalem Zoning Ordinance 157.138 Low-Density Residential - RL Zone Standards
- H. City of Nehalem Zoning Ordinance 157.261 Geologic Investigation
- I. City of Nehalem Subdivision Ordinance Chapter 156

III. ANALYSIS:

Notice of the request was mailed to property owners within 250 feet of the subject property and other agencies on May 6, 2022. One (1) comment was received (Exhibit C).

A. **Land Division Ordinance Section 060: Preliminary Plat Submission Requirements**

This section specifies what general information is required on a preliminary plat, information about existing conditions of the site, information about the proposed development allows the Department to require certain additional information to supplement the proposed plan of the subdivision.

Findings: Information required under this section is included on the preliminary plat or as supplemental information including service availability letters, existing and proposed easements, and locations of natural features (Exhibit B).

Staff finds that the submitted plat meets the requirements of Land Division Ordinance Section 060 and is subject to the following approval criteria in Section 070.

B. **Land Division Ordinance Section 070: Preliminary Plat Approval Criteria**

(1) *Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:*

- (a) *The land division application shall conform to the requirements of this ordinance;*
- (b) *All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance – Article 3 Zone Regulations and the standards in Section 150 of this ordinance;*

Findings: The “Partition Plat for Nehalem Point Inc. Darryl Carter - President” prepared by S&F Land Services dated March 2, 2022, proposes three (3) parcels: 2 Residential Single-Family and 1 residual (Exhibit B). Proposed parcel 1 is approximately 18,803 square feet, proposed parcel 2 is approximately 15,293 square feet and proposed parcel 3 is approximately 85-acres (Exhibit B). Proposed Parcel 1 and 2 are subject to the NH_RL Zone, which is later discussed in this report. Proposed Parcel 3 remains a split zone.

The eastern portion of the subject property is mapped in an ‘AE’ Flood zone as indicated on the FEMA Flood Insurance Rate Map (FIRM) dated September 28, 2018 (Exhibit A). A portion of the subject property within the mapped Special Flood Hazard Area is located within the County zoned Recreation Management (RM) zone. Staff finds development within the area of the FEMA SFHA may be subject to the Tillamook County Flood Hazard (FH) Overlay. Staff finds the location of residentially zoned parcels are primarily located outside the FEMA SFHA.

Staff finds that the requirements of TCLDO Section 70 are addressed in the findings below.

- (c) *Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance;*
- (e) *The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within Unincorporated Community Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;*
- (f) *All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;*
- (g) *Provisions for access to and maintenance of off-right-of-way drainage, if any;*

Findings: The applicant's submittal included as "Exhibit B" of this report demonstrates that the above criteria are satisfied. Staff finds that the subject property has frontage on the existing private roadway identified as Nehalem Point Drive and Bay View Drive, a private road (Exhibit B). No comments were received from the Tillamook County Public Works Department. Utilities are discussed under criterion (i). Staff finds that these criteria have been met.

- (h) *Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and*

Findings: All utilities and roadway necessary to serve the proposed partition have been installed and approved by the appropriate permitting agencies through previous County review. A Condition of Approval can be made to require any additional state and federal permits be obtained prior to development of the proposed parcels.

- (i) *Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to:*
 - (i) *Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.*
 - (ii) *Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.*

Findings: The applicant's submittal includes letter of confirmation from affected utility districts/agencies that all utilities have been installed (Exhibit B). Applicant has provided a water availability letter from the City of Nehalem and sewer availability from the Nehalem Bay Wastewater Agency (Exhibit B). Staff find these criteria are met.

C. City of Nehalem Zoning Ordinance 157.138: Low-Density Residential (RL) Zone Standards

The minimum lot size shall be 10,000 square feet, with a minimum lot width of 75-feet and lot depth of 100-feet.

Findings: The subject property is split zoned; all the proposed parcels are zoned Nehalem Low Density Residential (NH_RL) and meet the minimum parcel size requirements of 10,000 square feet: along with the minimum lot depth requirement of 100-feet and the minimum lot width requirement of 75-feet (Exhibit B).

Proposed parcels 1 and 2 do not fall into the additional zone requirements as the proposed boundaries remain in the NH_RL area; whereas proposed parcel 3 may meet the minimum 40-acre parcel size requirement of the Recreation Management Zone (RM), and there are no minimum lot size standards for the Estuary Natural (EN) zone (Exhibit B).

Staff find these development standards have been met.

D. City of Nehalem Subdivision Ordinance Chapter 156 Minor Partitioning Standards 156.065-156.068 156.065 Minimum Standards

156.065(A) *The minimum standards for design and improvements in a minor land partitioning shall conform to §§ 156.080 through 156.085 of this chapter.*

156.065(B) *The city may impose all or any of the requirements of § 156.086 of this chapter upon a minor land partitioning.*

156.066: Initial Submission. *Submittal requirements and payment of fees.*

156.067: Information on a map. *A tentative sketch map, drawn to scale, shall indicate the following:*

(A) *The location of existing and proposed boundaries and acreage of parcels in the proposed partition with the location, width, name and purpose of all adjacent streets or easements and the location and outline of existing buildings, etc.*

156.068 Review and Approval. *City of Nehalem review and approval process, including appeal process.*

City of Nehalem Subdivision Ordinance Chapter 156, Design Standards 156-080-156.084:

156.080 General Requirements. *Section 156.080 applies to expedited land divisions, subdivisions and major partitions. This application is for a minor partition accessed via Nehalem Point Drive, a private roadway. The requirements of this section do not apply to this request.*

156.082 Utility Easements

Easements for sewers, drainage, water mains, public utility installations including overhead or underground systems, and other like public purposes shall be dedicated, reserved or granted by the land divider in widths not less than five feet on each side of rear lots or parcel lines alongside lots or parcel lines and in planting strips whenever necessary, of lesser width as approved by the city.

156.083 Building Sites

(A) *Size and shape.* *The size, shape, width and orientation of building sites shall be appropriate for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of Ch. 157 of this code of ordinances.*

(B) *Access.* *Each lot and parcel shall abut upon a street other than an alley for a width of at least 20 feet.*

Findings: Staff finds that the applicable required information outlined in the City of Nehalem Subdivision Ordinance Chapter 156 has been included with this partition application (Exhibit B). Conditions of Approval can be made to require all easements be identified on the final plat.

IV. DECISION: APPROVED WITH CONDITIONS:

Staff concludes that the applicant and property owner have satisfied the minimum application requirements and can satisfy all applicable requirements outlined in the Tillamook County Land Use Ordinance, Tillamook County Land Division Ordinance, the City of Nehalem Zoning Ordinance, the City of Nehalem Subdivision Ordinance and ORS Chapter 92. The Preliminary Partition Plat is hereby tentatively **APPROVED with CONDITIONS**, subject to the conditions listed in Section V below.

By accepting this approval, the applicant and property owners agree to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval. The applicant and property owners shall obtain all necessary local, state, and federal permits and comply with all applicable regulations for the proposed Partition and building sites.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. In such cases, forms and fees must be filed in the office of this Department before **4:00 PM on August 23, 2022.**

V. CONDITIONS OF APPROVAL:

This approval is subject to the following conditions:

1. The property owners shall obtain all Federal, State, and Local permits, as applicable.
2. Future development shall adhere to the uses and development standards set forth in the applicable zoning standards, including all other applicable supplemental ordinance requirements of the City of Nehalem Zoning Ordinance and Tillamook County Land Use Ordinance.

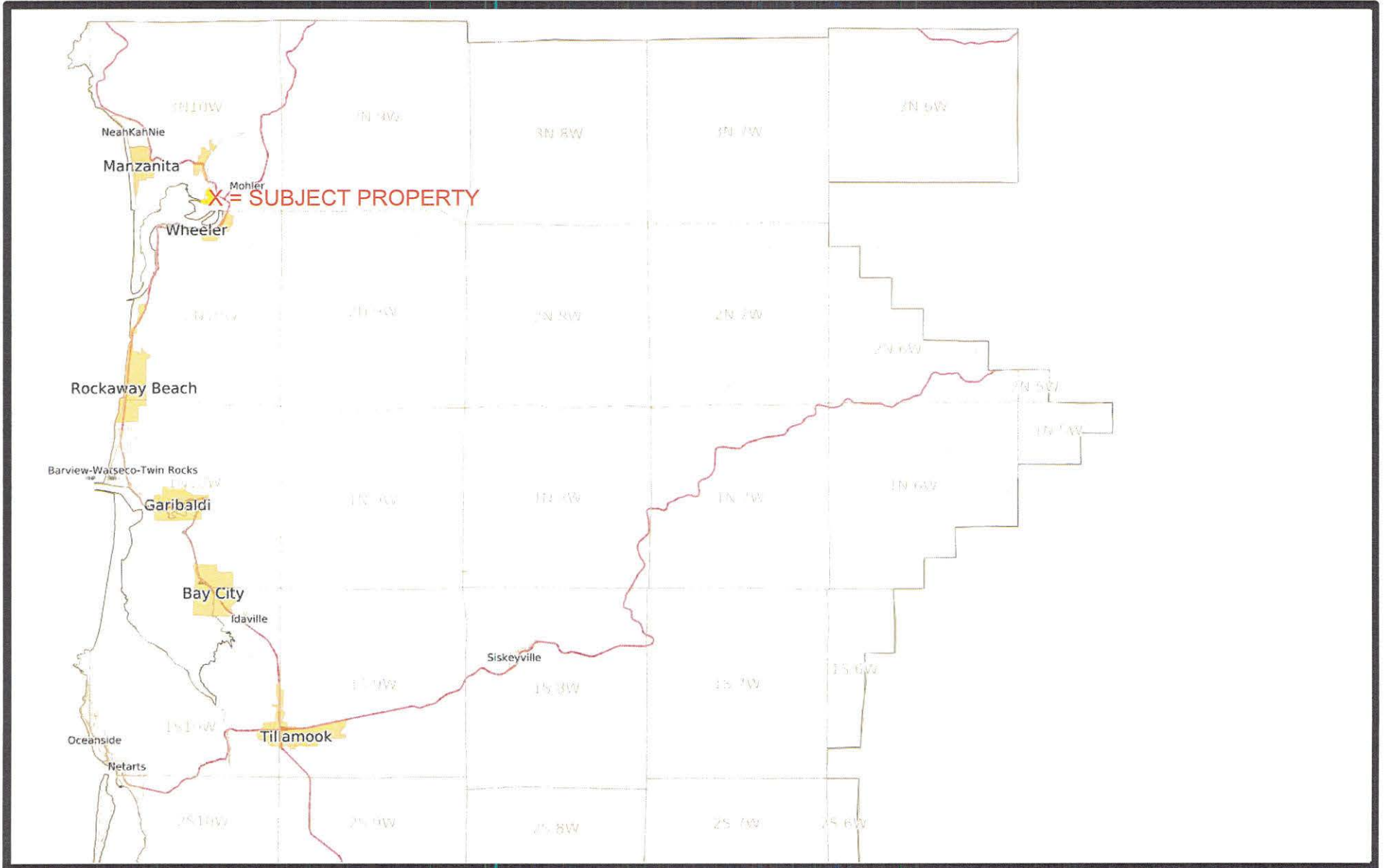
3. All easements necessary to serve the parcels for access and utilities shall be clearly identified on the final plat.
4. The applicant and property owner shall comply with all requirements of the Tillamook County Surveyor's Office.
5. The applicant and property owner shall record the Final Plat within two (2) years from the approval date of the Preliminary Plat or apply for an extension of time from this Department prior to expiration of tentative plat approval.
6. The applicant and property owner shall record the Final Plat within ninety (90) days from the date of final signature of the partition plat.
7. Future Development is subject to standards required by each applicable zone requirements, TCLUO Section 4.130: Development Requirements for Geological Hazard Areas, and City of Nehalem Zoning Ordinance Section 157.
8. Future development in areas of special Flood Hazards are subject to the standards and requirements maintained in TCLUO Section 3.510: Flood Hazard (FH) Overlay.

VI. EXHIBITS

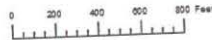
- A. Property Identification Maps and Summary Report
- B. Applicant's Submittal
- C. Comments

EXHIBIT A

Map

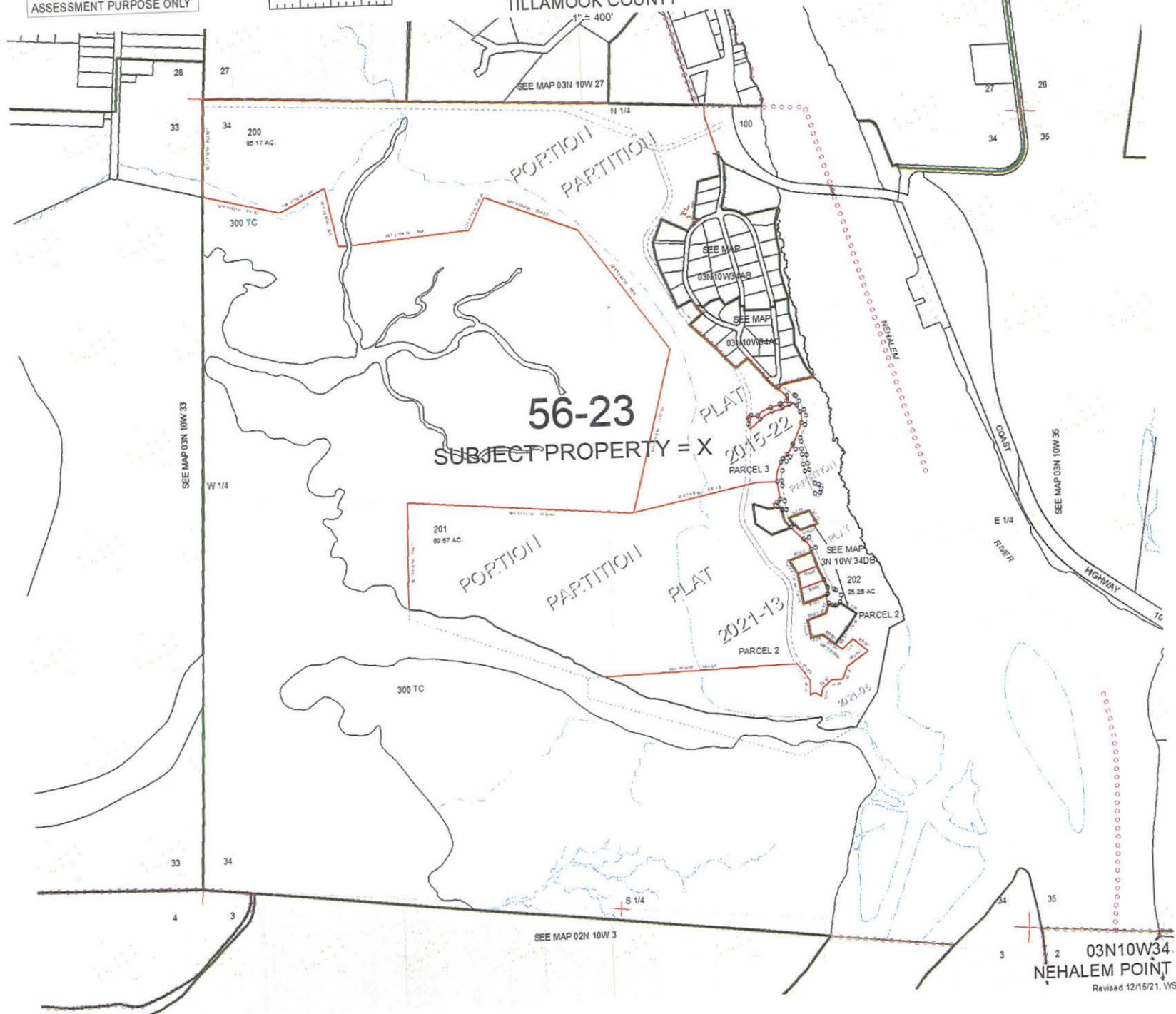


THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



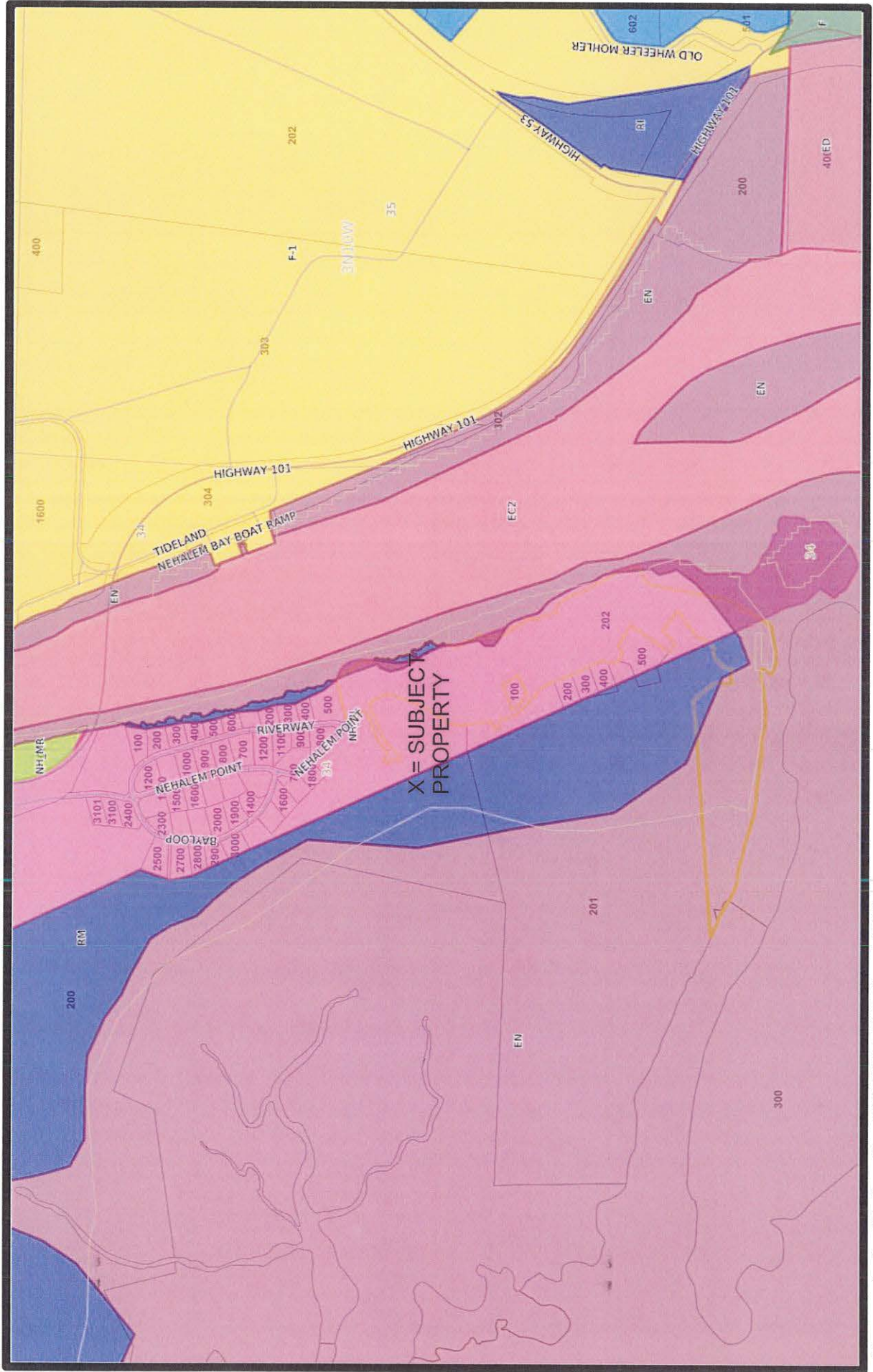
SECTION 34 T.3N. R.10W. W.M.
TILLAMOOK COUNTY

03N10W34
NEHALEM POINT



03N10W34
NEHALEM POINT
Revised 12/15/21. WS

Map

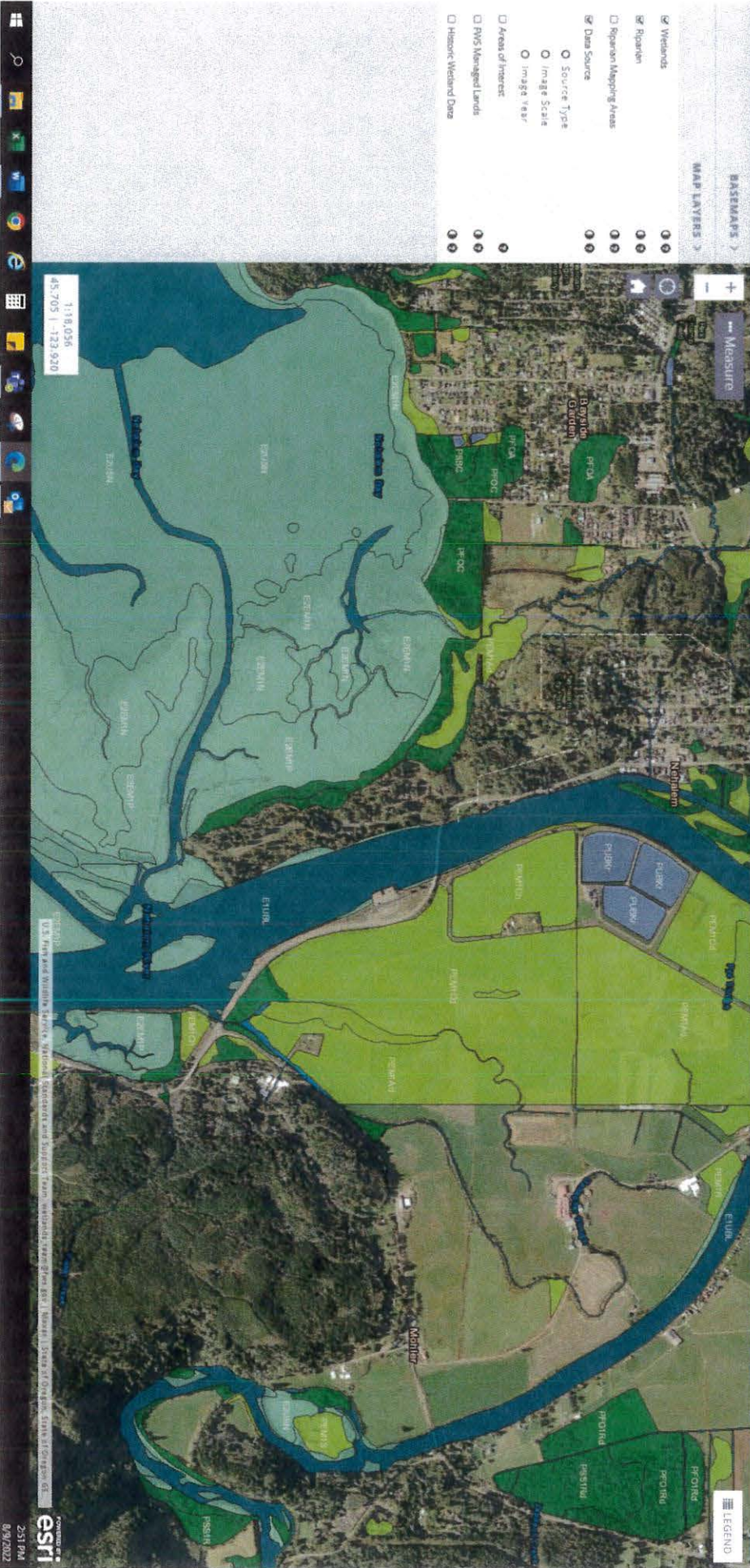


National Wetlands Inventory

surface waters and wetlands

BasinMap >
MAP LAYERS >

- Wetlands
- Riparian
- Riparian Mapping Areas
- Data Source
 - Source Type
 - Image Scale
 - Image Year
- Areas of Interest
- RWS Managed Lands
- Historic Wetland Data



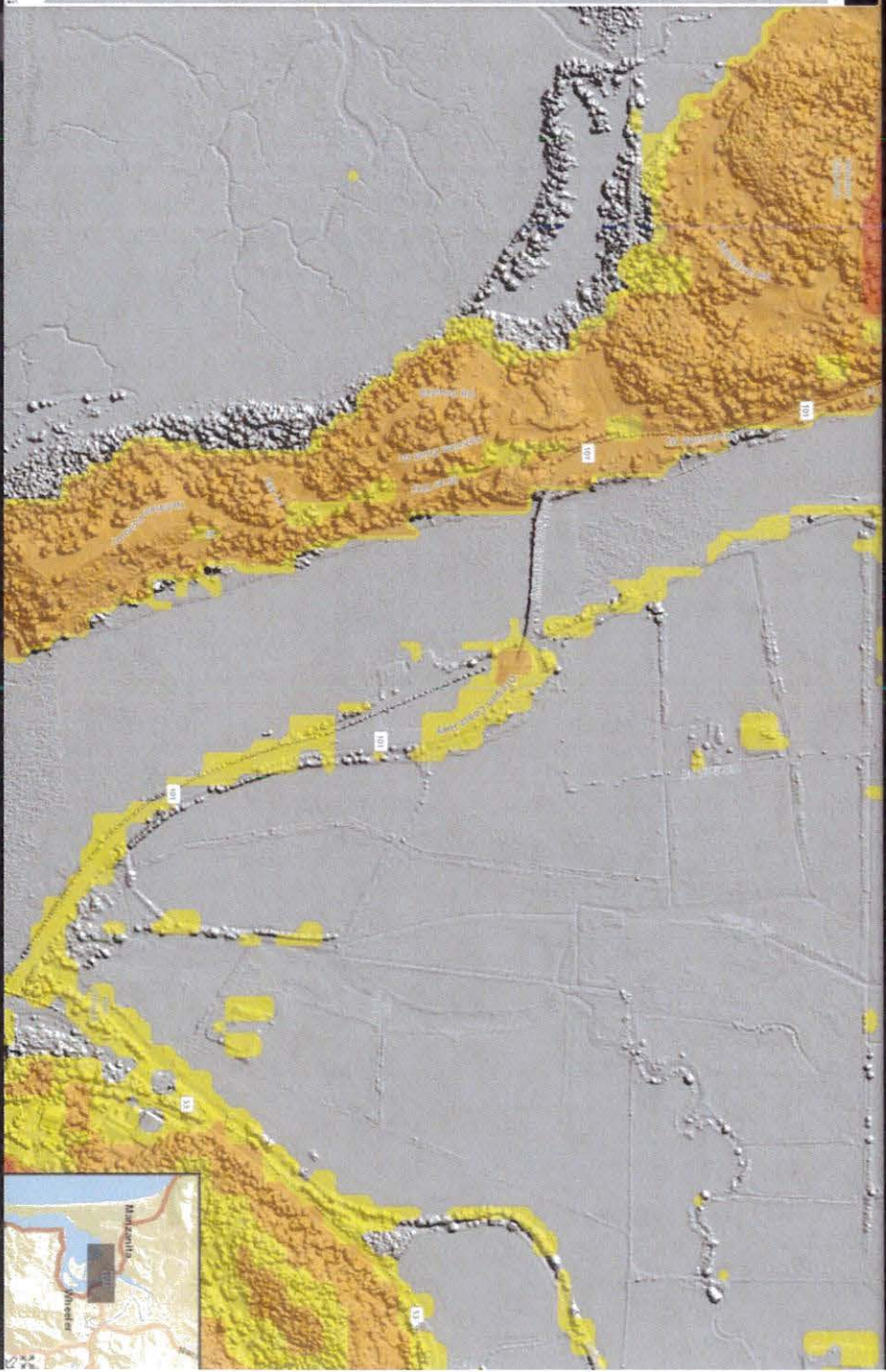
1:18,056
45,705 E - 123,920

U.S. Fish and Wildlife Service National Wetlands Inventory 2002
Data Source: National Wetlands Inventory 2002
Map Date: 08/27/2002



Layers Currently Showing

- Coastal Erosion Hazard**
 - Very High (Active) Hazard Zone
 - High Hazard Zone
 - Moderate Hazard Zone
 - Low Hazard Zone
 - NO DATA
- Landslide Hazard**
 - Low - Landsliding Unlikely
 - Moderate - Landsliding Possible
 - High - Landsliding Likely
 - Very High - Existing Landslide
- Landslide Inventory**
 - Scarp
 - Head Scarp
- Deposits**
 - Talus-Colluvium
 - Fan
 - Landslide
- Highest Hit Lidar Hillshade**
 - High: 11244
 - Low: -21
- Bare Earth Lidar Hillshade**
 - High: 11243
 - Low: -22



National Flood Hazard Layer FIRMette



123°53'50"W 45°42'35"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes, Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone X
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
OTHER FEATURES		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped
		The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/9/2022 at 5:55 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



123°53'12"W 45°42'10"N

EXHIBIT B



LAND DIVISION APPLICATION

Applicant (Check Box if Same as Property Owner)

Name: Nehalem Point Inc Phone: 503-368-6363

Address: P.O. Box 86

City: MANZANITA State: OR Zip: 97130

Email: NehalemPt@pacprop.com NehalemTel.net

Property Owner

Name: Nehalem Point, Inc. Phone: 503-368-6363

Address: P.O. Box 86

City: Nehalem State: OR Zip: 97130

Email: pacprop@nehalem.tel.net

Location:

Site Address: Vacant land west of Nehalem Point Drive

Map Number:	<u>3N</u>	<u>10W</u>	<u>34</u>	<u>200</u>
	Township	Range	Section	Tax Lot(s)

- Land Division Type:** Partition (Two or Three Lots, Type II) Subdivision (Four or More Lots, Type III)
 Preliminary Plat (Pages 1-2) Final Plat (Page 3)

PRELIMINARY PLAT (LDO 060(1)(B))

- For subdivisions, the proposed name.
- Date, north arrow, scale of drawing.
- Location of the development sufficient to development sufficient to define its location, boundaries, and a legal description of the site.

- Existing streets with names, right-of-way, pavement widths, access points.
- Width, location and purpose of existing easements
- The location and present use of all structures, and indication of any that will remain after platting.
- Location and identity of all utilities on and abutting the site. If water mains and sewers are not on site, show distance to the nearest one and how they will be brought to standards
- Location of all existing subsurface sewerage systems, including drainfields and associated easements

General Information

- Parcel zoning and overlays
- Title Block
- Clear identification of the drawing as "Preliminary Plat" and date of preparation
- Name and addresses of owner(s), developer, and engineer or surveyor

Existing Conditions

- Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor
- The location and elevation of the closest benchmark(s) within or adjacent to the site
- Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats
- For any plat that is 5 acres or larger, the Base Flood Elevation, per FEMA Flood Insurance Rate Maps

OFFICE USE ONLY	
Date Stamp	
RECEIVED APR 03 2012	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	
Receipt #: <u>125192</u>	
Fees: <u>409</u>	
Permit No: <u>851-22-0001358-PLNG</u>	

- FINAL PLAT (LDO 090(1))
- Date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter
- Description of the plat perimeter
- The names and signatures of all interest holders in the land being platted, and the surveyor
- Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record
- Exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way
- Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose
- Provisions for access to and maintenance of off-right-of-way drainage
- Block and lot boundary lines, their bearings and lengths
- Block numbers
- Lot numbers
- The area, to the nearest hundredth of an acre, of each lot which is larger than one acre
- Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale

Certificates:

- Title interest & consent Water
- Dedication for public use Public Works
- Engineering/Survey

Additional Information:

Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. Within two (2) years of final review and approval, all final plats for land divisions shall be filed and recorded with the County Clerk, except as required otherwise for the filing of a plat to lawfully establish an unlawfully created unit of land. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

Nehalem Point, INC
Property Owner (*Required)
 _____ Date 3/29/22
 By Darryl Carter / President
Applicant Signature _____ Date _____



Date: 03/25/2022

To: TILLAMOOK COUNTY BUILDING DEPARTMENT

Re: WATER SERVICE AVAILABILITY

Attn: Building Department

I confirm that the property listed below is within the City's water service area, and may be served water through the City's Water System under the Terms and Conditions governed by the latest version of the City's Water Ordinance. Please note: This Water Service Availability letter does not certify, approve or acknowledge any specific development plans, water or other utility installations that may be necessary for the subject property to actually physically connect to the City's water system to receive service. This letter only certifies that the subject property may receive (or may already receive) water from the City's Water System.

TOWNSHIP 3N RANGE 10 SECTION 34 00 TAX LOT(S) 00200

SITUS ADDRESS: TBD - 3 proposed parcels in a portion of Partition Plat No. 2015-22.

NAME: Darryl Carter, Nehalem Point Inc. PHONE: 503-368-6363

MAILING ADDRESS: PO Box 86

Manzanita, OR 97130

Single Family Duplex/Multi-Family Other

Comments: Required water system improvements (pressure-sustaining valve and flushing)
must be completed by 6/1/2022, before final plat approval.

Signed: *Melissa Thompson-Kujala* City Manager
Name Title

EXHIBIT C



Tillamook County Department of Community Development

We are writing in reference to the Partition Request #851-22-000138-PLNG:
Nehalem Point, Inc.

The proposed parcels 1 and 2 will be among existing lots in Phase 2 of Nehalem Point. Our concern is with the proposed parcel 3, which would be subdivided into four new lots that encroach into the natural area of our community. These natural areas and trails throughout our neighborhood are what make Nehalem Point a beautiful and peaceful place to live.

The following statements were taken directly from Nehalempoint.net, the developers website and the same group that has requested these new parcel changes.

"More than 100 acres of meadow, tideland, creeks, dikes, and trails are set aside to be preserved in perpetuity for the conservation of the estuary, its wildlife and natural plants. For those who yearn to live and build in balance with nature."

"This land, beautiful and unblemished by its history, promises a future that preserves the natural beauty, the elk grazing in the meadow, the wild birds, estuary, dikes, the trails, the native plants – all for you."

"A team of Oregonians who value the land and the beauty of the natural setting spent more than a year planning ways to retain these qualities. They called it "listening to the land". This unique development concept keeps the tall trees, the quiet and peace, an uncluttered shoreline along river and bay."

Perhaps the developers and planning board should look at their original concept and keep this beautiful place uncluttered - not try to jam in new lots for future homes. It is important that we are good stewards in the area we live and preserve the natural beauty, wildlife and fauna - not remove these areas for profit.

Linda and Joe Chiappone, full time Nehalem Point residents

Joe and Linda Chiappone - May 13, 2022