



**PARTITION REQUEST #851-22-000353-PLNG:  
NEHALEM POINT, INC.**

**ADMINISTRATIVE DECISION AND STAFF REPORT**

**DECISION: Approved with Conditions**

**DECISION DATE:** November 10, 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 202 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., a private road, is irregularly shaped, approximately 26 acres in size, 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 primarily zoned inside the Nehalem Low Density Residential (NH\_RL) zone with some area in the Estuary Natural (EN) zone and the 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 located within Flood Zone AE per FEMA Flood Insurance Rate Map (FIRM) Panel #41057C0209F (Exhibit A). 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 October 17, 2022. One (1) comment was received from The City of Nehalem in reference to the water availability for the subject parcel(s) and future development (Exhibit C). A condition of approval has been made to require relevant water distribution improvements as deemed necessary by The City of Nehalem.

### 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 August 15, 2022, proposes three (3) parcels: 2 Residential Single-Family and 1 residual (Exhibit B). Proposed parcel 1 is approximately 14,230 square feet, proposed parcel 2 is approximately 13,253 square feet and proposed parcel 3 is approximately 26-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 and Estuary Natural Zone (EN). 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, 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, or can be met through the Conditions of Approval.

### **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. Proposed parcel 3 does not meet the minimum 40-acre parcel size requirement of the Recreation Management Zone (RM) respectively both before and after the proposed partition maintaining non-conformity in lot size standard (Exhibit B). There are no minimum lot size standards for the Estuary Natural (EN) zone.

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 November 22, 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.

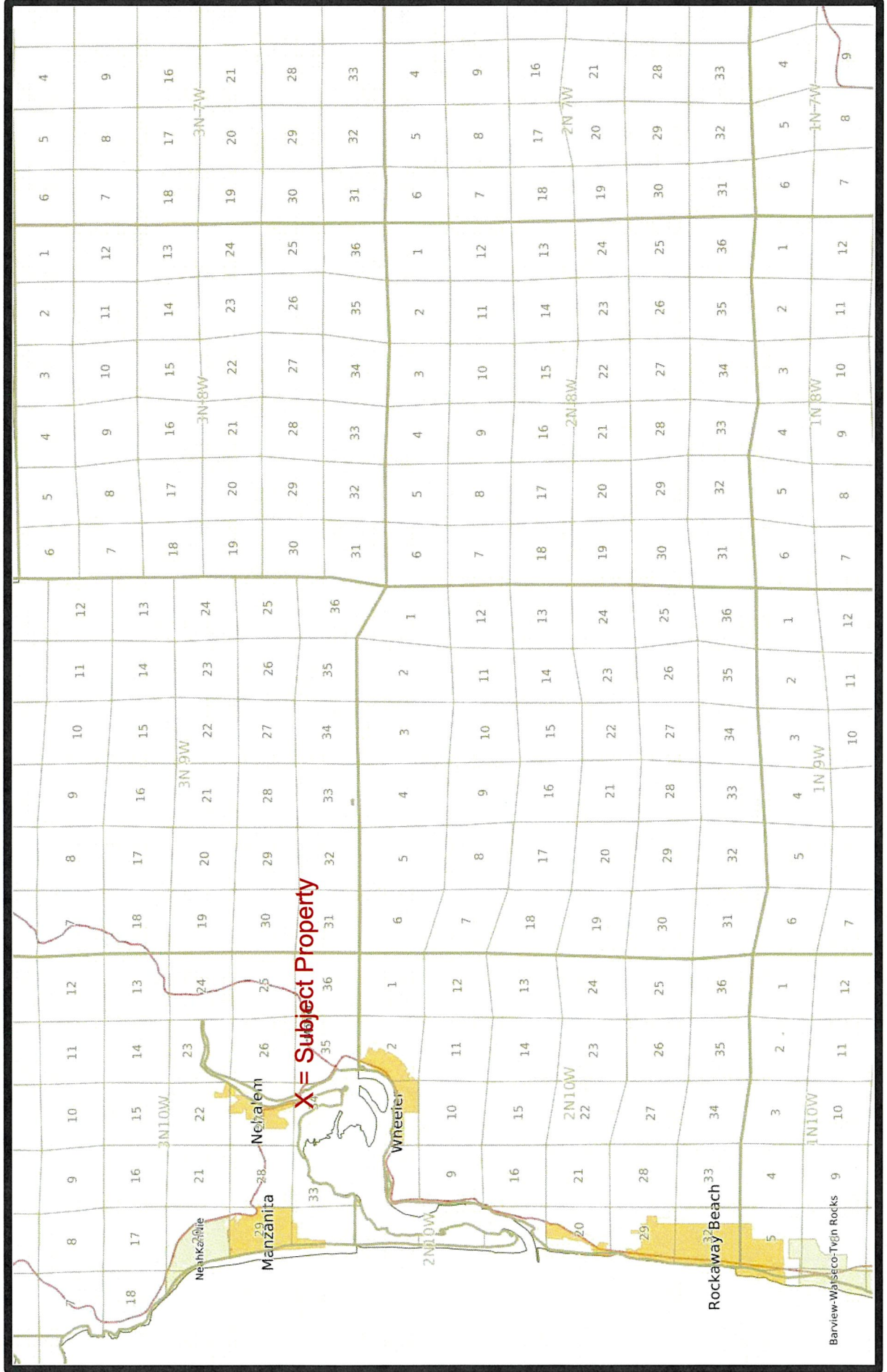
2. The applicant/owner shall meet the requirements of the City of Nehalem for water supply system design & construction as set forth in the City of Nehalem letter dated October 28, 2022. A letter of final approval from the City of Nehalem confirming satisfaction with construction of utility improvements is required for Final Plat approval. Letters of water service availability will be required at the time of development of each individual parcel.
3. 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.
4. All easements necessary to serve the parcels for access and utilities shall be clearly identified on the final plat.
5. The applicant and property owner shall comply with all requirements of the Tillamook County Surveyor's Office.
6. 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.
7. The applicant and property owner shall record the Final Plat within ninety (90) days from the date of final signature of the partition plat.
8. 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.
9. 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 - Vicinity









# National Flood Hazard Layer FIRMette

123°53'43"W 45°42'27"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, AB9*
- 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**

- Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs
- Area of Undetermined Flood Hazard *Zone D*

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**CROSS SECTIONS WITH 1% ANNUAL CHANCE WATER SURFACE ELEVATION**

- 20.2
- 17.5
- 8

**OTHER FEATURES**

- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

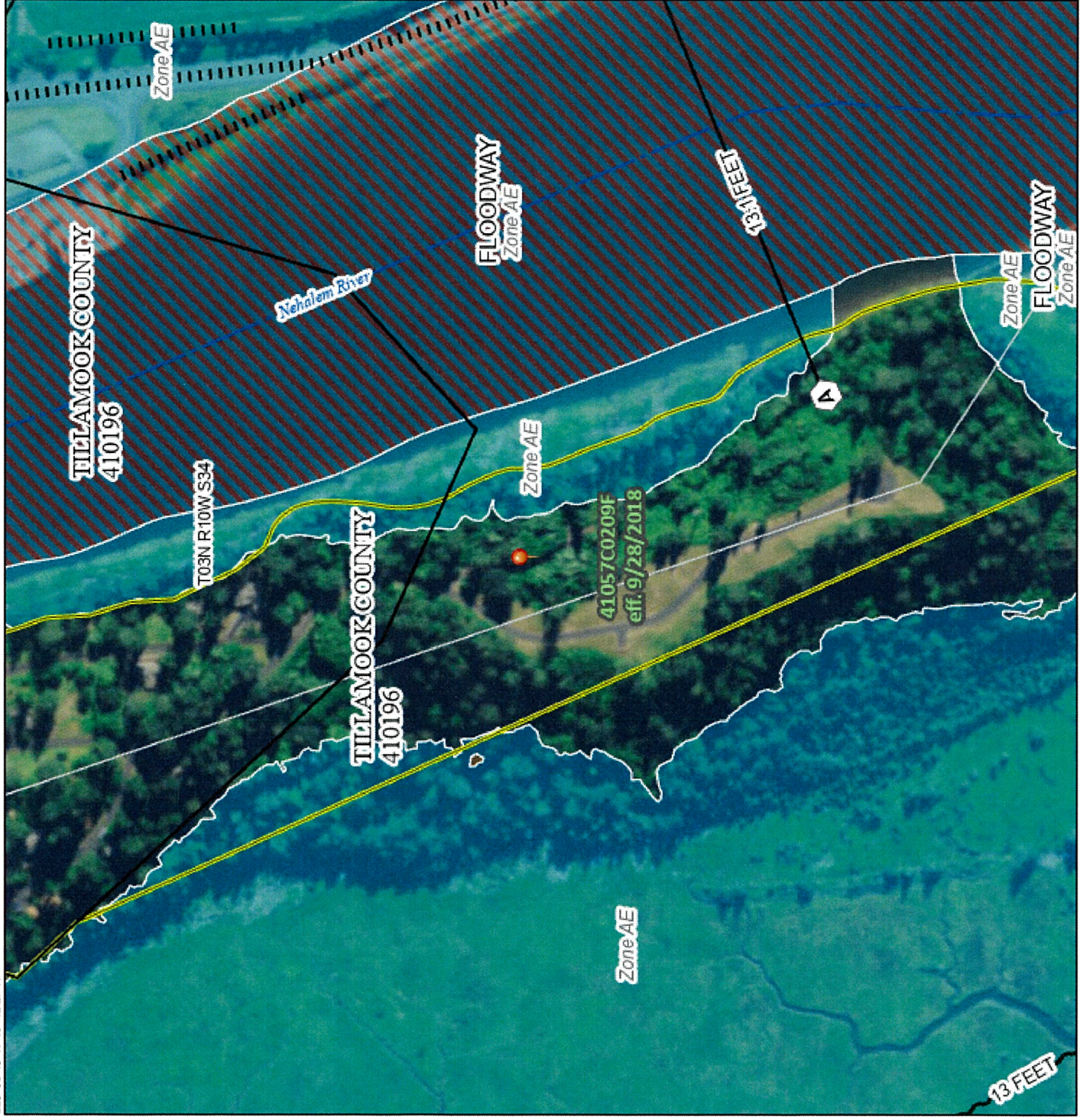
- Digital Data Available
- No Digital Data Available
- Unmapped

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 11/9/2022 at 4:42 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 number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



123°53'56"W 45°42'27"N

0 250 500 1,000 1,500 2,000 Feet

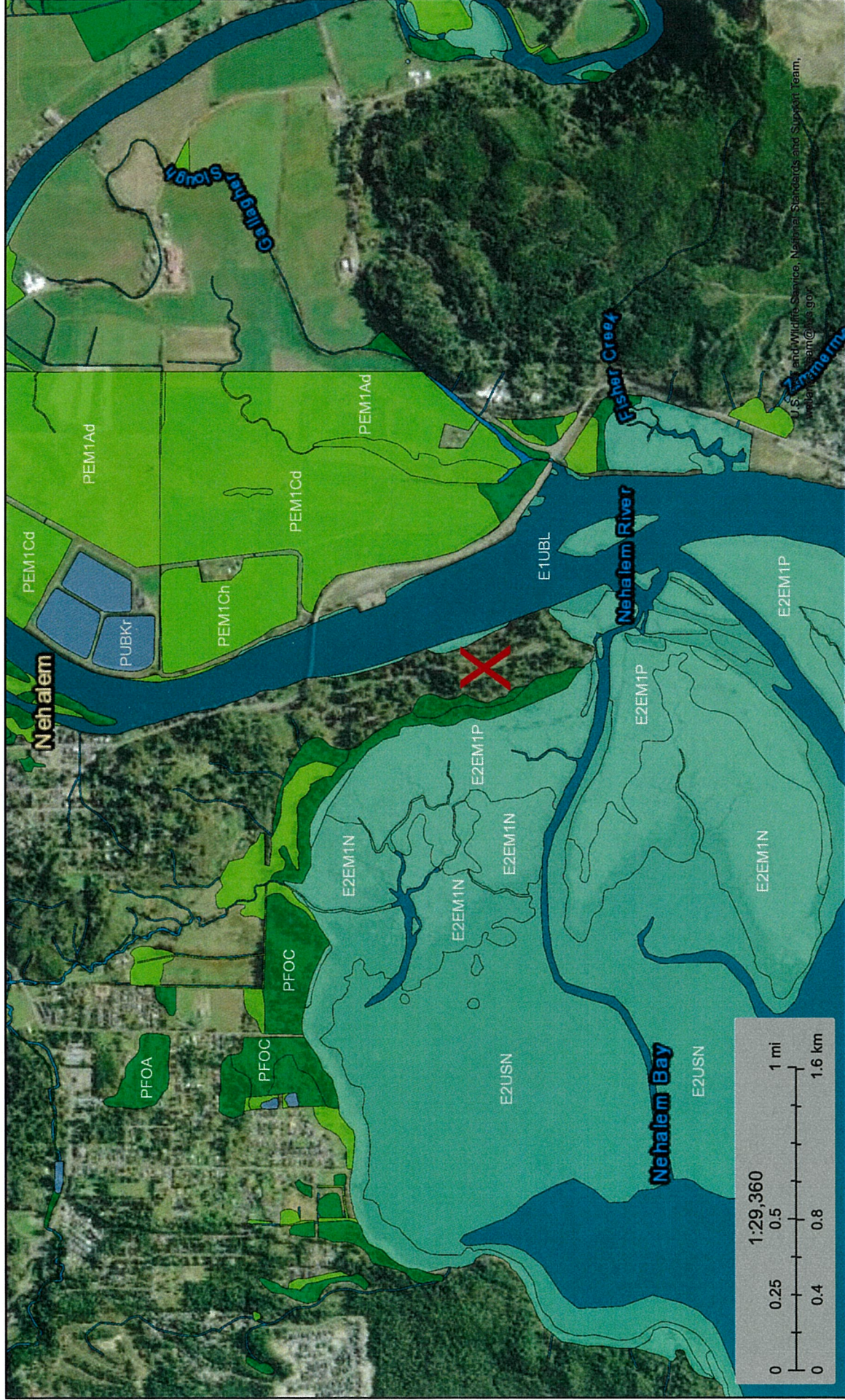
1:6,000



U.S. Fish and Wildlife Service

# National Wetlands Inventory

# NEHALEM POINT, INC



November 9, 2022

### Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Layers Currently Showing

**Earthquake Hazard**

Active Faults

Expected Earthquake Shaking

- Violent
- Severe
- Very Strong
- Strong
- Moderate
- Light

**Landslide Hazard**

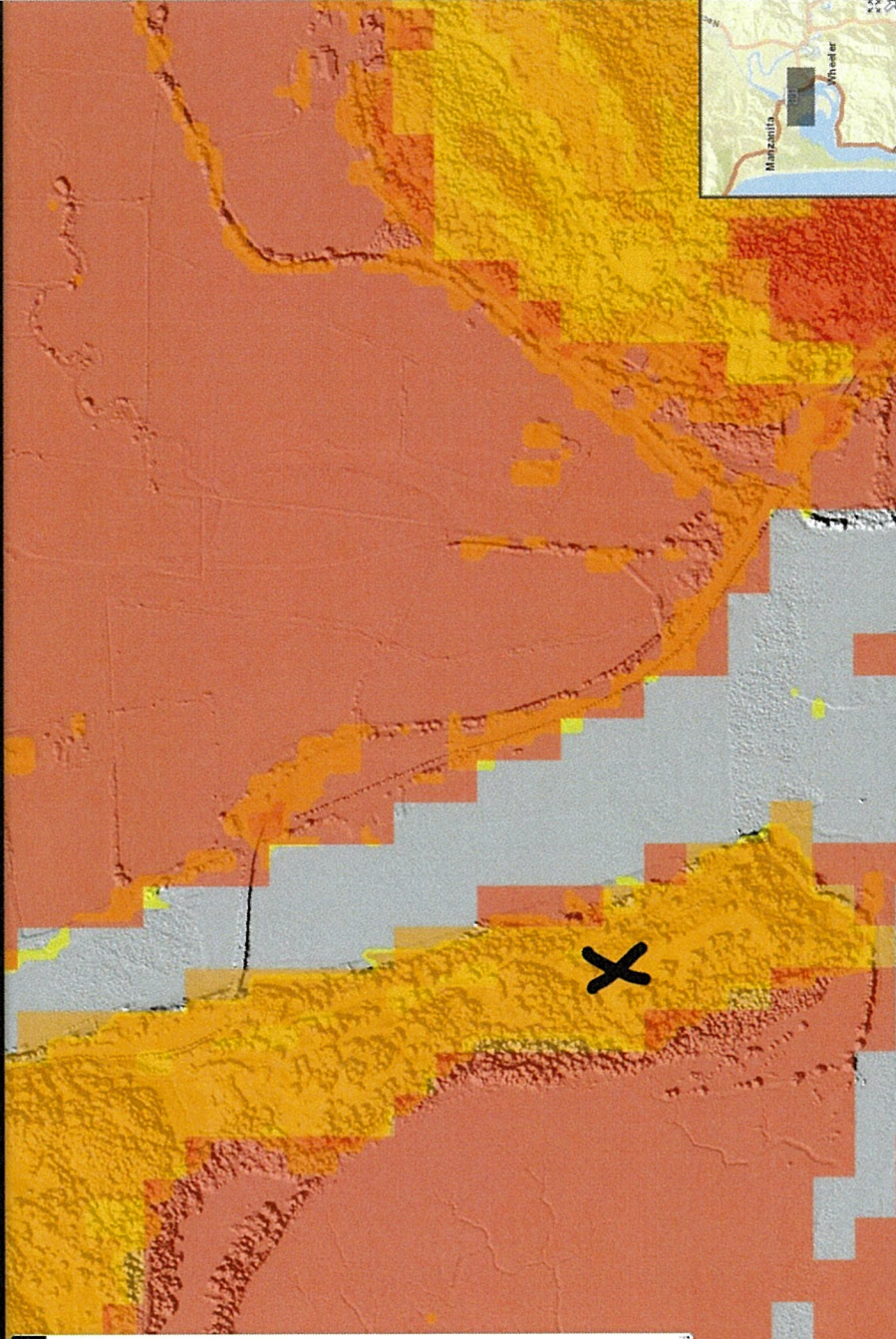
- Low - Landsliding Unlikely
- Moderate - Landsliding Possible
- High - Landsliding Likely
- Very High - Existing Landslide

**Highest Hit Lidar Hillshade**

High: 11244  
Low: -21

**Bare Earth Lidar Hillshade**

High: 11243  
Low: -22



# EXHIBIT B



## LAND DIVISION APPLICATION

<b>OFFICE USE ONLY</b>	
Date Stamp	
<b>RECEIVED</b> SEP 09 2022	
BY: .....	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	
Receipt #: 128378	
Fees: 1100.5	
Permit No: 851-22-000353-PLNG	

**Applicant**  (Check Box if Same as Property Owner)

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Email: \_\_\_\_\_

**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 East of Nehalem Point Drive

Map Number:	3N	10W	34	202
	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))**

**General Information**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> For subdivisions, the proposed name.   | <input checked="" type="checkbox"/> Parcel zoning and overlays  | <input type="checkbox"/> Fifteen (15) legible "to scale" hard copies |
| <input checked="" type="checkbox"/> Date, north arrow, scale of drawing.  | <input checked="" type="checkbox"/> Title Block   | <input type="checkbox"/> One digital copy                            |
| <input checked="" type="checkbox"/> Location of the development sufficient to development sufficient to define its location, boundaries, and a legal description of the site. | <input checked="" type="checkbox"/> Clear identification of the drawing as "Preliminary Plat" and date of preparation |  |
|   | <input checked="" type="checkbox"/> Name and addresses of owner(s), developer, and engineer or surveyor               |  |

**Existing Conditions**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Existing streets with names, right-of-way, pavement widths, access points.   | <input type="checkbox"/> 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 | <input type="checkbox"/> Other information:<br>_____<br>_____<br>_____<br>_____ |
| <input checked="" type="checkbox"/> Width, location and purpose of existing easements  | <input checked="" type="checkbox"/> The location and elevation of the closest benchmark(s) within or adjacent to the site   |   |
| <input type="checkbox"/> The location and present use of all structures, and indication of any that will remain after platting.  | <input checked="" type="checkbox"/> Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats   |   |
| <input checked="" type="checkbox"/> 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 |   |   |
| <input checked="" type="checkbox"/> Location of all existing subsurface sewerage systems, including drainfields and associated easements   | <input checked="" type="checkbox"/> For any plat that is 5 acres or larger, the Base Flood Elevation, per FEMA Flood Insurance Rate Maps  |   |

- Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to private tracts identified
- Location, width and purpose of all proposed easements
- Proposed deed restrictions, if any, in outline form
- Approximate dimensions, area calculation (in square feet), and identification numbers for all proposed lots and tracts

**Proposed Development**

- Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space
- On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the preliminary location of development on lots demonstrating that future development can meet minimum required setbacks and applicable engineering design standards
- Preliminary utility plans for sewer, water and storm drainage when these utilities are to be provided
- The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable
- Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone
- Evidence of contact with the applicable road authority for proposed new street connections
- Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development

**Additional Information Required for Subdivisions**

- Preliminary street layout of undivided portion of lot
- Special studies of areas which appear to be hazardous due to local geologic conditions
- Where the plat includes natural features subject to the conditions or requirements contained in the County's Land Use Ordinance, materials shall be provided to demonstrate that those conditions and/or requirements can be met
- Approximate center line profiles of streets, including extensions for a reasonable distance beyond the limits of the proposed Subdivision, showing the proposed finished grades and the nature and extent of construction
- Profiles of proposed drainage ways
- In areas subject to flooding, materials shall be submitted to demonstrate that the requirements of the Flood Hazard Overlay (FHO) zone of the County's Land Use Ordinance will be met
- If lot areas are to be graded, a plan showing the nature of cuts and fills, and information on the character of the soil
- Proposed method of financing the construction of common improvements such as street, drainage ways, sewer lines and water supply lines

- 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:

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**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.

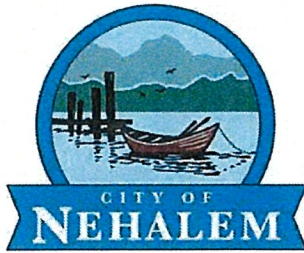
Nehalem Point, Inc  
Property Owner (\*Required)  
Nehalem Point, Inc  
Applicant Signature

8/20/22  
Date  
8/20/22  
Date









Date: 10/11/2022

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 10W SECTION 34 TAX LOT(S) 200 & 202

SITUS ADDRESS: N/A - PARTITION

NAME: DARRYL CARTER, NEHALEM POINT INC. PHONE: 503-368-6363

MAILING ADDRESS: PO BOX 86  
NEHALEM, OR 97131

Single Family  Duplex/Multi-Family  Other

Comments: ALL WATER SYSTEM IMPROVEMENTS PER ALTERNATE PERFORMANCE BOND AGREEMENT DATED 1/31/22 AND EXTENDED 10/5/22 MUST BE IN PLACE AND ACCEPTED BY THE CITY PRIOR TO THE RECORDING OF THE PLAT.

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

# Preliminary Report

Ticor Title - Oregon

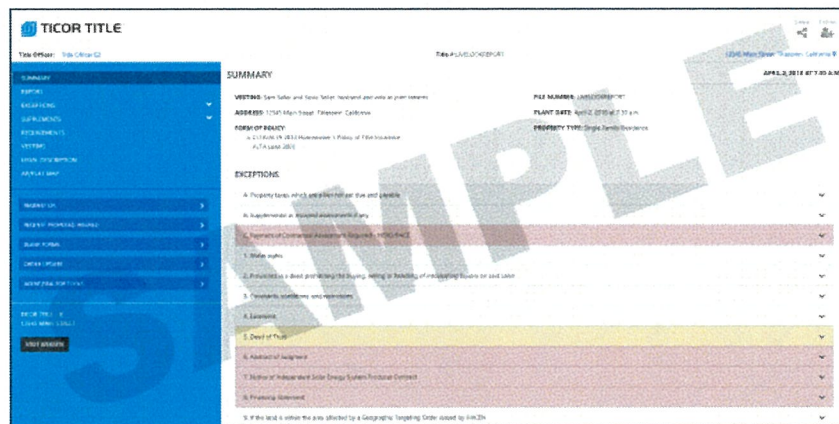
File No.: 360422004813

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**PUBLIC RECORD REPORT  
FOR NEW SUBDIVISION  
OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF THE FOLLOWING CUSTOMER:

Pacific Properties  
Phone No.: (999)999-9999

Date Prepared: September 12, 2022  
Effective Date: September 8, 2022 / 08:00 AM  
Charge: \$400.00  
Order No.: 360422004813  
Reference:

The information contained in this report is furnished to the Customer by Tigor Title Company of Oregon (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report ("the Report"). Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

**REPORT**

- A. The Land referred to in this report is located in the County of Tillamook, State of Oregon, and is described as follows:  
As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:  
As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.
- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:  
As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.
- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:  
As fully set forth on Exhibit "D" attached hereto and by this reference made a part hereof.

Ticor Title Company of Oregon  
Public Record Report for New Subdivision or Land Partition  
Order No. 360422004813

**EXHIBIT "A"**  
**(Land Description)**

For **APN/Parcel ID(s):** **71825, 417121 and 417120**

For Tax Map ID(s): **3N10 34 00200, 3N10 34 00202 and 3N10 34 00201**

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**PARCEL NO. 1:**

Parcel 3 of [PARTITION PLAT NO. 2015-022](#), situated in Section 34, Township 3 North, Range 10 West, Willamette Meridian, County of Tillamook, State of Oregon, recorded December 31, 2015 as Instrument No. 2015-007827, Tillamook County Records; together with that non-exclusive roadway easement as delineated on [Partition Plat No. 2007-028](#), Tillamook County Records.

**PARCEL NO. 2:**

Parcel 3 of [PARTITION PLAT NO. 2022-003](#), situated in Section 34, Township 3 North, Range 10 West, Willamette Meridian, County of Tillamook, State of Oregon, recorded February 22, 2022 as Instrument No. 2022-001236, Tillamook County Records; together with that non-exclusive roadway easement as delineated on [Partition Plat No. 2007-028](#), Tillamook County Records.

**PARCEL NO. 3:**

Parcel 3 of [PARTITION PLAT NO. 2022-004](#), situated in Section 34, Township 3 North, Range 10 West, Willamette Meridian, County of Tillamook, State of Oregon, recorded February 22, 2022 as Instrument No. 2022-001237, Tillamook County Records; together with that non-exclusive roadway easement as delineated on [Partition Plat No. 2007-028](#), Tillamook County Records.

Ticor Title Company of Oregon  
Public Record Report for New Subdivision or Land Partition  
Order No. 360422004813

**EXHIBIT "B"**  
**(Tax Account and Map)**

APN/Parcel ID(s) 71825, 417121 and 417120 as well as Tax/Map ID(s) 3N10 34 00200, 3N10 34 00202 and 3N10 34 00201

Ticor Title Company of Oregon  
Public Record Report for New Subdivision or Land Partition  
Order No. 360422004813

**EXHIBIT "C"**  
**(Vesting)**

Nehalem Point, Inc., an Oregon corporation



**EXHIBIT "D"**  
**(Liens and Encumbrances)**

1. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2022/23.
2. The Land has been classified as Forest Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Account No.: 71825, 417121 and 417120

3. Personal property taxes, if any.
4. Regulations, levies, liens, assessments, rights of way and easements of Nehalem Bay Wastewater Agency.
5. Rights of the public to any portion of the Land lying within the area commonly known as streets, roads, and highways.
6. Any adverse claim based on the assertion that any portion of the subject land has been removed from or brought within the subject land's boundaries by the process of accretion or reliction or any change in the location of Nehalem River and unnamed creeks and streams.

Any adverse claim based on the assertion that any portion of the subject land has been created by artificial means or has accreted to such portions so created, or based on the provisions of ORS 274.905 through 274.940.

Any adverse claim based on the assertion that any portion of the subject land is now or at any time has been below the ordinary high water line of Nehalem River and unnamed creeks and streams.

Rights of fishing, navigation, commerce, flood control, propagation of anadromous fish, and recreation, and other rights of the public, Indian tribes or governmental bodies in and to the waters of Nehalem River and unnamed creeks and streams.

7. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: State of Oregon, for the use and benefit of its Board of Forestry  
Purpose: Telephone line  
Recording Date: July 20, 1937  
Recording No: [Book 74, page 226](#)  
Affects: Reference is hereby made to said document for full particulars

8. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Tillamook Peoples' Utility District  
Purpose: Public utilities  
Recording Date: May 26, 1964  
Recording No: [Book 191, page 555](#)  
Affects: Reference is hereby made to said document for full particulars

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

9. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Owners of adjoining property  
Purpose: Access roadway and utilities  
Recording Date: November 21, 1985  
Recording No.: [Book 301, page 405](#)  
Affects: Reference is hereby made to said document for full particulars

Said Easement was corrected by instrument, including the terms and provisions thereof,

Recording Date: May 19, 1986  
Recording No.: [Book 303, page 872](#)

10. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: June 12, 1998  
Recording No.: [Book 397, page 351](#)

Amendment(s)/Modification(s) of said covenants, conditions and restrictions

Recording Date: May 24, 2007  
[Recording No.: 2007-004330](#)

11. Liens and assessments, if any, by the Nehalem Point Homeowners Association.

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on [Partition Plat No. 2007-028](#);

Purpose: Roadway, utilities, and drainage  
Recording Date: August 17, 2007  
Recording No.: 2007-006988  
Affects: Reference is hereby made to said document for full particulars

13. Roadway Easement Agreement, including the terms and provisions thereof,

Executed by: Nehalem Point Homeowners Association; and Nehalem Point, Inc.  
Recording Date: August 23, 2016  
[Recording No.: 2016-004705](#)  
Affects: Reference is hereby made to said document for full particulars

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

14. Roadway Easement Agreement, including the terms and provisions thereof,
- Executed by: Nehalem Point Homeowners Association; and Nehalem Point, Inc.  
Recording Date: August 30, 2016  
Recording No.: [2016-004861](#)  
Affects: Reference is hereby made to said document for full particulars
15. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document
- Recording Date: May 4, 2018  
Recording No.: [2018-002524](#)
16. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document
- Recording Date: January 24, 2020  
Recording No.: [2020-000448](#)
17. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
- Granted to: Tillamook People's Utility District  
Purpose: Public utilities  
Recording Date: May 11, 2021  
Recording No.: [2021-004161](#)  
Affects: Reference is hereby made to said document for full particulars
18. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document
- Recording Date: December 16, 2021  
Recording No.: [2021-010292](#)

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

19. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: February 9, 2022

Recording No: [2022-000975](#)

20. Please be advised that our search did not disclose any open Deeds of Trust of record.
21. Existing leases and tenancies, if any, and any interests that may appear upon examination of such leases.
22. Terms and provisions of the governing documents under which the Vestee herein holds title.

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2021/22  
Amount: \$3,093.80  
Levy Code: 5623  
Account No.: [71825](#)  
Map No.: 3N10 34 00200  
Affects: Parcel No. 1

Please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2021/22  
Amount: \$3,741.17  
Levy Code: 5623  
Account No.: [417121](#)  
Map No.: 3N10 34 00202  
Affects: Parcel No. 2

Please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

Ticor Title Company of Oregon  
Public Record Report for New Subdivision or Land Partition  
Order No. 360422004813

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year:	2021/22
Amount:	\$3,144.32
Levy Code:	5623
<u>Account No.:</u>	<u>417120</u>
Map No.:	3N10 34 00201
Affects:	Parcel No. 3

Please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

**Boundary Deeds:**

Deed from Hammond Lumber Company to Tillamook County recorded December 5, 1941 in [Book 82, page 27](#), Tillamook County Records.

Warranty Deed from Nehalem Bay Associates to Nehalem Point, Inc. recorded October 23, 1992 in [Book 345, page 951](#), Tillamook County Records.

Bargain and Sale Deed from Nehalem Point, Inc. to Nehalem Point, Inc. recorded March 19, 2018 as Instrument No. 2018-001599, Tillamook County Records.

Warranty Deed from James V. Frank and Marta M. Frank to Marta E. Frank Martinez and Marta M. Frank, Trustees of the Marta E. Frank Martinez Trust recorded September 2, 2022 as [Instrument No. 2004-007615](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Sara Clay Goodman and Edmund Clay Goodman recorded May 5, 2005 as [Instrument No. 2005-003742](#), Tillamook County Records.

Bargain and Sale Deed from Louise Anderson-Dana, Trustees to Bruce W. Anderson-Dana and Louise Anderson-Dana recorded November 15, 2006 as [Instrument No. 2006-010036](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Timothy Liem and Sandra A. Antonovic recorded September 25, 2007 as Instrument No. 2007-008136, Tillamook County Records.

Warranty Deed from O'Shaughnessy Rice to O'Shaughnessy Rice and Geoffrey Pitt Reeves, Co-Trustees, O'Shaughnessy Rice Trust recorded May 12, 2009 as [Instrument No. 2009-003392](#), Tillamook County Records.

Deed Creating Estate by the Entirety from Richard J. Konkol to Sherry Angel Konkol recorded August 3, 2010 as [Instrument No. 2010-004496](#), Tillamook County Records.

Warranty Deed from Robert J. Forster and Charlotte L. Forster, Co-Trustees to Robert J. Forster and Charlotte L. Forster, Co-Trustees recorded July 6, 2015 as [Instrument No. 2015-003884](#), Tillamook County Records.

Warranty Deed from Jeffrey H. Pitts and Elizabeth G. Pitts to Edmund Clay Goodman and Sara Clay Goodman recorded July 31, 2015 as [Instrument No. 2015-004639](#), Tillamook County Records.

Warranty Deed from Monica Viktoria Gianopoulos to Celeste R. Greenan and James O. Greenan recorded February 23, 2016 as [Instrument No. 2016-000959](#), Tillamook County Records.

Warranty Deed from Susan S. Wrenn and Don A. Wrenn, Trustees to Michael Alan Mills and Carol Jean Mills recorded November 17, 2017 as [Instrument No. 2017-006955](#), Tillamook County Records.

Warranty Deed from John Santa and Anne Santa to Philip S. Key and Susana Alba recorded April 27, 2018 as [Instrument No. 2018-002372](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Patricia Graham Collier recorded May 31, 2018 as Instrument

**EXHIBIT "D"**  
**(Liens and Encumbrances)**  
(continued)

No. 2018-003122, Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Andrew Montgomery recorded March 5, 2020 as [Instrument No. 2020-001474](#), Tillamook County Records.

Warranty Deed from Donald Walter Mitchell to Matthew J. Titterington recorded June 16, 2021 as [Instrument No. 2021-005203](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Michael McCulloch and Mary Ellen Hockensmith recorded September 9, 2021 as [Instrument No. 2021-007636](#), Tillamook County Records.

Warranty Deed from Susan S. Wrenn and Don A. Wrenn, Trustees to Richard Joseph Konkol and Sherry A. Angel Konkol recorded September 30, 2021 as [Instrument No. 2021-008227](#), Tillamook County Records.

Warranty Deed from Susan S. Wrenn and Don A. Wrenn, Trustees to Jay Beeks and Cindy D. Beeks recorded October 28, 2021 as [Instrument No. 2021-009026](#), Tillamook County Records.

Warranty Deed from Lonny T. Hamic to Patricia McMahon-Fisher and Douglas H. Fisher recorded November 24, 2021 as [Instrument No. 2021-009769](#), Tillamook County Records.

Bargain and Sale Deed from Eira H. Engstrom to Eira H. Engstrom and Risto David Engstrom recorded December 7, 2021 as [Instrument No. 2021-010028](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Michael Denis Reed and Carol Mayer-Reed recorded January 7, 2022 as [Instrument No. 2022-000190](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Peter Grimm and Bryan Kolburn recorded March 30, 2022 as [Instrument No. 2022-002141](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Sandra Sue Ozols and Andrew Kriss Ozols recorded April 29, 2022 as [Instrument No. 2022-002904](#), Tillamook County Records.

Warranty Deed from Nehalem Point, Inc. to Carr Onstott and Sarah Onstott recorded June 6, 2022 as [Instrument No. 2022-003598](#), Tillamook County Records.

## DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
  - (a) "Customer": The person or persons named or shown as the addressee of this report.
  - (b) "Effective Date": The effective date stated in this report.
  - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
  - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.
2. **Liability of Company.**
  - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
  - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
  - (c) No costs (including without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
  - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
    - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
    - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
    - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
    - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
    - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (iii) water rights or claims or title to water.
    - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
    - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
    - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
    - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.
3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.
4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.



**LIMITATIONS OF LIABILITY**

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, **SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.**

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

Ticor Title Company of Oregon  
Public Record Report for New Subdivision or Land Partition  
Order No. 360422004813

IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

# EXHIBIT C



October 28, 2022

To: Tillamook County Community Development Department  
Sarah Absher, CFM, Director

Re: Partition Requests #851-22-00353 PLNG and #851-22-000358 PLNG:  
Nehalem Point Inc.

Dear Ms. Absher:

The City of Nehalem offers the following comments on the above-referenced applications:

Domestic water service extensions can be approved if they are "adequate to serve the subdivision." Nehalem City Code 51.09(B)(1). An evaluation for "adequacy" requires, among other things, a finding that they will "maintain a pressure of at least 20 pounds per square inch (psi) at all service connections at all times." OAR 333-061-0025.

The City recommends that the County approve the partitions subject to the following conditions, pursuant to the attached alternate performance bond agreement and extension agreement with the Applicant:

- 1) To ensure that pressure does not fall below 20 psi at higher elevations (above 120') in a fire or high flow situation, the Applicant must install a control valve, such as a pressure-sustaining valve, downstream from the last fire hydrant on Nehalem Point Drive. Specifications for the proposed valve, prepared by a professional engineer, shall be submitted to the City for review and approval.
- 2) Recent hydrant flow tests on the water main at the end of Nehalem Point indicated that the water main contains a large number of rocks within the pipeline left from previous construction. Flushing shall be required at each hydrant location within the subdivision. The Applicant shall be responsible for all flushing, which must be done in coordination with the City's Public Works Department.
- 3) Prior to recording the final plat, the Applicant shall install and secure the City's acceptance for the required water distribution improvements.

Thank you for the opportunity to comment on this application.

Sincerely,

Melissa Thompson-Kiefer  
City Manager

Attachments:

Instructions for City of Nehalem Alternate Performance Bond, Nehalem Point, Inc, with Exhibits A-C  
Extension of Deadline for Completion Regarding Alternate Performance Bond, Nehalem Point, Inc.

**INSTRUCTIONS FOR CITY OF NEHALEM**

**ALTERNATE PERFORMANCE BOND**

**NEHALEM POINT, INC**

(Partition Request #851-21-000385-PLNG and #851-21-000386-PLNG)

I, Darryl Carter, am the President of Nehalem Point, Inc., an Oregon corporation. Nehalem Point, Inc. is the owner of the Nehalem Point Subdivision located in the Urban Growth Boundary of the City of Nehalem, Oregon. Nehalem Point Subdivision is ready to record its plat, which will allow it to sell the lots within the subdivision. As part of that process, there are two Partition Requests, #851-21-000385-PLNG and #851-21-000386-PLNG.

Under each of the Partition Plan Requests, the City is requiring that I install a control valve downstream from the last fire hydrant on Nehalem Point Drive. The specifications for the proposed valve must be prepared by a professional engineer and the specifications must be detailed and prepared and stamped by a professional engineer and must be approved by the City prior to installation. In addition, flushing needs to be done at each hydrant location within the subdivision by Nehalem Point, Inc. in coordination with the City's Public Works Department. These items need to be completed on or before June 1, 2022. These conditions are set forth in Exhibit B for Partition Plat #851-21-000385-PLNG and Exhibit C for Partition Plat #851-21-000386-PLNG.

I understand that the City will not provide zoning approval and will not provide water availability letters and will not allow any property to connect with the City's water system for either Plat, without these items being completed to the satisfaction of the City.

I understand that Nehalem Point, Inc. will pay for the above work. Upon completion to the City Manager's satisfaction, the City will instruct Albright Kittell PC, as the attorney for the City, to release the alternate performance bond amount deposited in the Albright Kittell Trust Account, to Nehalem Point, Inc. Further, Nehalem Point, Inc. will pay to the City \$945.00 at the time of signing of this agreement for the City's attorney's fees in preparing these documents.

I have deposited with Albright Kittell PC Trust Account, as the attorney for the City of Nehalem, the sum of \$33,775.50, by way of a cashier's check, as per the engineering estimate for the project cost, attached hereto as Exhibit A, for the purpose of securing the completion of my performance of this project, outlined in Exhibit B and in Exhibit C, pursuant to City standards and satisfaction. I am providing cash to cover the Engineer's estimate of the total cost of the project as set forth in Exhibit A, in lieu of providing a performance bond through an insurance company.

I understand that Albright Kittell PC is acting as the attorney for the City of Nehalem in this matter. I further understand that the funds deposited with Albright Kittell PC Trust Account will not be released to me until Albright Kittell PC receives written confirmation from the City Manager that all work required to be performed by me has been completed to the satisfaction of

the City. Albright Kittell PC will release the funds to me at the address below, within 10 business days of its receipt of written confirmation that the project is complete and is in accordance with City standards.

By entering into this alternate performance bond agreement, I understand and agree that if I have not satisfactorily performed the work in Exhibit B and in Exhibit C, to the satisfaction of the City Manager of the City of Nehalem, on or before June 1, 2022, that I agree that the City may undertake the work described in Exhibit B and in Exhibit C and I consent and agree that the funds deposited at Albright Kittell PC Trust Account will be used to pay for the work. I understand that if there is excess money after payment of all the City's costs, including attorney's fees, the excess funds will be refunded to me. In the event that the funds in the Albright Kittell PC Trust Account do not cover all of the City's costs, including attorney's fees, for completing the work in Exhibit B and in Exhibit C, I understand that I will be billed for any excess charges by the City and that I will have 30 days to pay these charges. If the excess charges are not paid in full to the City within 30 days, then the City may assess me a late payment penalty of 5% of the balance owing for each month it continues unpaid.

In the event that there is any litigation as to the performance bond, or to the collection of any excess charge that may be billed, I hereby agree to pay the attorney's fees of the City of Nehalem incurred for collection and in the event that Albright Kittell PC needs to seek their own legal counsel, I agree to pay those attorney's fees as well, in the event that the City or Albright Kittell PC is the prevailing party, at trial, and on appeal.

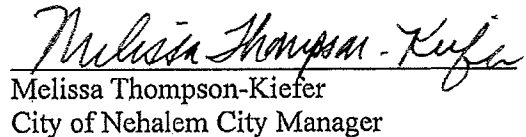
I understand that Albright Kittell PC is only representing the City of Nehalem in this agreement and that I understand that this is a binding contract. I understand that if I have utilized the services of Albright Kittell PC in the past, that the firm is not representing me in regards to this Alternative Performance Bond Agreement. I have been advised to seek independent legal counsel to determine if I should sign this binding agreement.

Dated this 31<sup>st</sup> day of January 2022.



Darryl Carter, President  
Nehalem Point, Inc., an Oregon corporation  
38400 Hwy 101 N.  
Nehalem, OR 97131

I, Melissa Thompson-Kiefer, the City Manager for the City of Nehalem, agree that the City is bound by the terms and conditions set forth in this Agreement.



Melissa Thompson-Kiefer  
City of Nehalem City Manager

# Youngs River Engineering, LLC

91280 Youngs River Road  
Astoria, Oregon 97103

TEL (503) 791-3010

January 8, 2022

Darryl Carter  
Nehalem Point Unit #2

**RE: Pressure Sustaining Valve Installation**

As per Kyle Ayer's, PE, this project requires the installation of a Pressure Sustaining Valve (PSV). This valve is required to maintain a minimum of 20 PSI in an upstream water main – Referencing Sheet 5 of 2007 Nehalem Point Unit #2 Project.

The table below show majority of the parts and labor required for a typical in-ground Pressure Sustaining Valve (PSV) in a concrete vault:

Item	Description	Quantity	Units	Cost	Total
1	Mobilization @ 5% of Project	1	LS	\$1,500.00	\$1,500.00
2	Excavation (in place quantity)	50	CY	\$20.00	\$1,000.00
3	Demolition - Asphalt Pavement	200	SF	\$1.05	\$210.00
4	Saw-cut Asphalt Pavement	60	LF	\$5.00	\$300.00
5	Furnish and install Utility Vault - 5' x 10' w/36" manhole lid	1	LS	\$3,750.00	\$3,750.00
6	Furnish - Cla-Valve Pressure Sustaining Valve - 8" FLG x FLG	1	LS	\$8,500.00	\$8,500.00
7	Startup Services for Cla-Valve	1	LS	\$1,500.00	\$1,500.00
8	Furnish - Sump Water Ejector Assembly	1	LS	\$1,775.00	\$1,775.00
9	Furnish - 8" Gate Valve FLG x FLG - Handwheel	2	EA	\$750.00	\$1,500.00
10	Furnish - 8" Ductile Iron PE x FLG	2	EA	\$125.00	\$250.00
11	Furnish - 8" Ductile Iron CL 52	20	LF	\$50.00	\$1,000.00
12	Furnish - ROMAC Alpha FC Restrained Coupling Adapter (PE x FLG)	1	EA	\$500.00	\$500.00
13	Furnish - ROMAC Alpha Restrained Coupling Adapter (PE x PE)	2	EA	\$500.00	\$1,000.00
14	Furnish - ROMAC 8" 202NSSU Service Saddle w/ 3/4" Corp Stop	1	EA	\$250.00	\$250.00
15	Installation of Valves and Ejector into vault - 2 days Labor and Equipment	1	LS	\$4,800.00	\$4,800.00
16	Furnish and Install Pipe Supports, valves/fittings, piping, bolts and miscellaneous material	1	LS	\$500.00	\$500.00
17	Furnish and install drainage pipe for Sump Ejector - HDPE	1	LS	\$1,000.00	\$1,000.00
18	Base Course Aggregate (complete in place)	5	CY	\$20.00	\$100.00
19	Levelling Course Aggregate (complete in place)	1	CY	\$20.00	\$20.00
20	Level 2 HMAC Asphalt Pavement (complete in place)	5	TONS	\$200.00	\$1,000.00
21	Furnish and Install Erosion Control Measures	1	LS	\$250.00	\$250.00
				Total	\$30,705.00
				10% Contingency	\$3,070.50
				Total	\$33,775.50

This is not the final part list or design for this installation. There are a few questions and design issues – that would require minor changes in material and layout – these would be referred to the City of Nehalem Public Works.

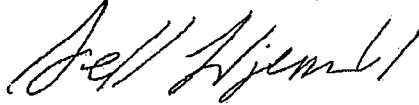
**Design Elements:**

- Concrete Vault
- Access via 36" Manhole Cover
- Vault in the existing road
- Cla-Valve Pressure Sustaining Valve – 8"
  - 8" matches the existing water main size.
  - Note this could be reduced to 6", based on existing flows and pressures.
- Ejector Pump for vault drainage
- Gate Valves for shut off – handwheels for use in the vault
- Dis-mantling ROMAC Coupling

Again, some of these design elements can be changed or eliminated to meet the needs of the City of Nehalem Public Works and State of Oregon requirements.

Any questions, please call (503-791-3010) or email [geoff.liljenwall@gmail.com](mailto:geoff.liljenwall@gmail.com)

Sincerely,



**Youngs River Engineering, LLC**  
Geoffrey G. Liljenwall, PE

**Attachments:** Cla-Valve PSV  
Ejector Pump – Cimco  
Cimco- GC Email (Prices)  
ROMAC  
Sheet 5, Water System, Nehalem Point Unit #2





November 19, 2021

TO: Tillamook County Community Development Department  
Angela Rimoldi, Planning Permit Technician

FROM: Melissa Thompson-Kiefer, City Manager

RE: Partition Request #851-21-000385-PLNG: Nehalem Point, Inc.

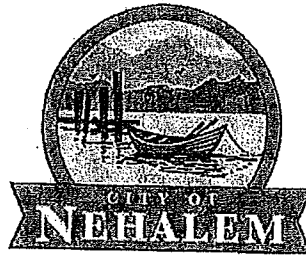
The City of Nehalem Public Works Department and City Engineer have reviewed the proposed partition and provide the following comments:

- 1) While the minimum 20 psi is available at the water main (or future water meter) locations, due to the elevation at the end of Nehalem Point Drive, the City requires that a residential water booster pump and double detector check valve be installed by the owner at each property. The double detector check valve and residential booster pump for each property must be designed by a plumbing contractor/designer and submitted to the City for review and approval.
- 2) To ensure that pressure does not fall below 20 psi at higher elevations (above 120') in a fire or high flow situation, the developer must install a control valve, such as a pressure-sustaining valve, downstream from the last fire hydrant on Nehalem Point Drive. Specifications for the proposed valve, prepared by a professional engineer, shall be submitted to the City for review and approval.
- 3) Recent hydrant flow tests on the water main at the end of Nehalem Point indicated that the water main contains a large number of rocks within the pipeline left from previous construction. Flushing shall be required at each hydrant location within the subdivision. The developer shall be responsible for all flushing, which must be done in coordination with the Public Works Department.

All water system improvements must be in place and accepted by the City prior to the recording of the plat.

Sincerely,

Melissa Thompson-Kiefer  
City Manager



November 19, 2021

TO: Tillamook County Community Development Department  
Angela Rimoldi, Planning Permit Technician

FROM: Melissa Thompson-Kiefer, City Manager

RE: Partition Request #851-21-000386-PLNG: Nehalem Point, Inc.

The City of Nehalem Public Works Department and City Engineer have reviewed the proposed partition and provide the following comments:

- 1) While the minimum 20 psi is available at the water main (or future water meter) locations, due to the elevation at the end of Nehalem Point Drive, the City requires that a residential water booster pump and double detector check valve be installed by the owner at each property. The double detector check valve and residential booster pump for each property must be designed by a plumbing contractor/designer and submitted to the City for review and approval.
- 2) To ensure that pressure does not fall below 20 psi at higher elevations (above 120') in a fire or high flow situation, the developer must install a control valve, such as a pressure-sustaining valve, downstream from the last fire hydrant on Nehalem Point Drive. Specifications for the proposed valve, prepared by a professional engineer, shall be submitted to the City for review and approval.
- 3) Recent hydrant flow tests on the water main at the end of Nehalem Point indicated that the water main contains a large number of rocks within the pipeline left from previous construction. Flushing shall be required at each hydrant location within the subdivision. The developer shall be responsible for all flushing, which must be done in coordination with the Public Works Department.

All water system improvements must be in place and accepted by the City prior to the recording of the plat.

Sincerely,

Melissa Thompson-Kiefer  
City Manager

**EXTENSION OF DEADLINE FOR COMPLETION  
REGARDING ALTERNATE PERFORMANCE BOND**

**NEHALEM POINT, INC**

(Partition Request #851-21-000385-PLNG and #851-21-000386-PLNG)

Darryl Carter, President of Nehalem Point, Inc., an Oregon corporation and the City of Nehalem, an Oregon Municipal corporation, entered into an agreement for Instructions for an Alternate Performance Bond for certain work to be performed at the Nehalem Point Subdivision, which agreement is dated January 31, 2022.

Pursuant to the Agreement, Nehalem Point, Inc. posted a \$33,775.50 cash bond into the Trust Account of Albright Kittell PC for purposes of securing completion of the work set forth in that agreement.

The work was to be completed, to the satisfaction of the City, on or before June 1, 2022 and subsequent extensions, the last of which is to expire on October 15, 2022. It appears that additional time is needed to complete the project and the parties are agreeing to an extension of completion of the project until November 15, 2022.

Except as to the change of the completion date, all other terms and conditions of the Instructions for City of Nehalem Alternate Performance Bond remain unchanged and continue in full force and effect.

Dated this 05<sup>Oct 5, 2022</sup> day of October, 2022.

*Darryl Carter*

Darryl Carter (Oct 5, 2022 18:24 PDT)

Darryl Carter, President  
Nehalem Point, Inc., an Oregon corporation  
38400 Hwy 101 N.  
Nehalem, OR 97131

CITY OF NEHALEM

*Melissa Thompson-Kiefer*

Melissa Thompson-Kiefer  
City of Nehalem City Manager