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**PARTITION REQUEST #851-22-000374-PLNG  
MCCANN & ONION PEAK DESIGN**

**ADMINISTRATIVE DECISION AND STAFF REPORT**

**DECISION: Approved with Conditions**

**DECISION DATE:** December 6, 2022

**REPORT PREPARED BY:** Angela Rimoldi, Planning Technician

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**I. GENERAL INFORMATION:**

- Request:** A Partition request of a residential property to create two (2) residential parcels.
- Location:** Tax Lot 2900 of Section 28, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.
- Zone:** Nehalem Medium Density Residential (NH-R1) Zone.
- Applicant:** Onion Peak Design, 11460 Evergreen Way, Nehalem, OR. 97131
- Property Owner:** William & Barbara McCann, P.O. Box 524, Nehalem, OR. 97131

**Description of Site and Vicinity:** The subject property is accessed via an existing private easement off Highway 101 North, a state highway, is irregularly shaped, approximately 1.14 acres in size, improved with a single-family dwelling, and is vegetated with grasses, trees, and bushes. The subject property is located north of the Community of Bayside Gardens and south of the City of Manzanita, directly off Highway 101 to the east. The subject property is located within the City of Nehalem's Urban Growth Boundary. The subject property is zoned Nehalem Medium Density Residential (NH-R1) (Exhibit A).

The subject property is located within an area of Geologic Hazard, contains no mapped wetlands or natural features as indicated on the NWI map and is located within an Area of Minimal Flood Hazard, Zone X, per FEMA Flood Insurance Rate Map (FIRM) Panel #41057C0208F. (Exhibit A).

Given the size and topography of the subject property and subsequent parcels, staff finds that the standards of The 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 for any future development.

**II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:**

The desired use is governed through the following sections of The City of Nehalem Geologic Investigation Section 157.261. The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. City of Nehalem Zoning Ordinance 157.068: Medium Density Residential (NH-R1) Zone Standards
- B. 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 November 4, 2022. No comments were received.

- A. City of Nehalem Zoning Ordinance 157.068: Medium Density Residential (NH-R1) Zone Standards**
  - a. The minimum lot size shall be 7,500 square feet. Where public sewers are not available the County Sanitation may establish a minimum lot size greater than 7,500 square feet.
  - b. The minimum lot width shall be 75 feet.
  - c. The minimum lot depth shall be 85 feet.
  - d. The minimum front yard shall be 20 feet.
  - e. The minimum side yard shall be 5 feet; except on the street side of a corner lot, it shall be 15 feet.
  - f. The minimum rear yard shall be 20 feet; except on a corner lot, it may be 5 feet.

.....

**Findings:** Proposed parcels 1 and 2 meet the minimum parcel size requirements of 7,500 square feet, along with the minimum lot depth requirement of 85-feet and the minimum lot width requirement of 75-feet set by the NH-R1 zone standard (Exhibit B). Proposed parcel 1 will acquire the single-family dwelling, decreasing the side yard setback, while maintaining the 5-foot requirement set by the NH-R1 zone standard; proposed parcel 2 is vacant from development (Exhibit B).

Staff concludes these criteria have been met or can be met through compliance of the Conditions of Approval.

**B. 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.*

**Findings:** Preliminary Plat and submitted information confirm the criteria above are met or can be met through compliance of the Conditions of Approval (Exhibit B).

**City of Nehalem Subdivision Ordinance Chapter 156, Design Standards 156.080, 156.082--156.083  
156.080 General Requirements**

*(A) Before the City Council or staff approval under expedited land division, approval of a final plat of a subdivision, or the final map of a major partition, the subdivider shall install required public facilities and/or repair damaged public facilities damaged in the development of the property or execute and file with the City Manager/Recorder an agreement between himself or herself and the city specifying the period within which required improvements and repairs shall be completed; and, providing that, if the work is not completed within that period specified, the city may complete the work and recover the full cost and expense together with court costs and attorney fees necessary to collect said amounts from the land developer.*

*(B) The agreement shall also provide the reimbursement to the city for the cost of inspection by the city of the improvements to be installed.*

*(C) The agreement may also provide for the construction and improvements to be completed in units and for an extension of time under the conditions therein specified. (Ord. 80-3, passed 04/12/2004)*

**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.*

*(C) Through lots and parcels. Through lots and parcels shall be avoided, except where they are essential to provide separation of residential development from major arterials or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation.*

*(D) Lot and parcel lines. The lines of lots and parcels, as far as practicable, shall run at right angles to the street upon which they face; except that, on curved streets they shall radial to the curve.*

.....

**Findings:** Staff finds that the proposed partition maintains frontage from an existing private easement off Highway 101 N., a state highway (Exhibit B).

The subject property holds existing service allowances served by the City of Nehalem and the Nehalem Bay Wastewater District Agency. Service letters are provided in the Applicant’s submittal (Exhibit B). The subject property is served by the Nehalem Fire and Rescue Department and Tillamook People’s Utility District.

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.

Staff concludes these criteria have been met or can be met through compliance of the Conditions of Approval.

**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 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 **4:00pm on December 19, 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. The existing zoning designations for all parcels shall remain the same and the standards for each zone continue to apply.
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, The City of Nehalem Geologic Investigation Section 157.261 and The City of Nehalem 157.068: Medium Density Residential (NH-R1) Zone Standards.

**VI. EXHIBITS**

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

# EXHIBIT A



**Layers Currently Showing**

- Earthquake Hazard**
  - Active Faults
  - Expected Earthquake Shaking
    - Violent
    - Severe
    - Very Strong
    - Strong
    - Moderate
    - Light
- Landslide Inventory**
  - Scarp
  - Head Scarp
  - Deposits
    - Talus-Colluvium
    - Fan
    - Landslide
- Highest Hit Lidar Hillshade**
  - High: 11244
  - Low: -21



U.S. Fish and Wildlife Service

# National Wetlands Inventory

## PARTITION #851-22-000374-PLNG



December 2, 2022

### Wetlands

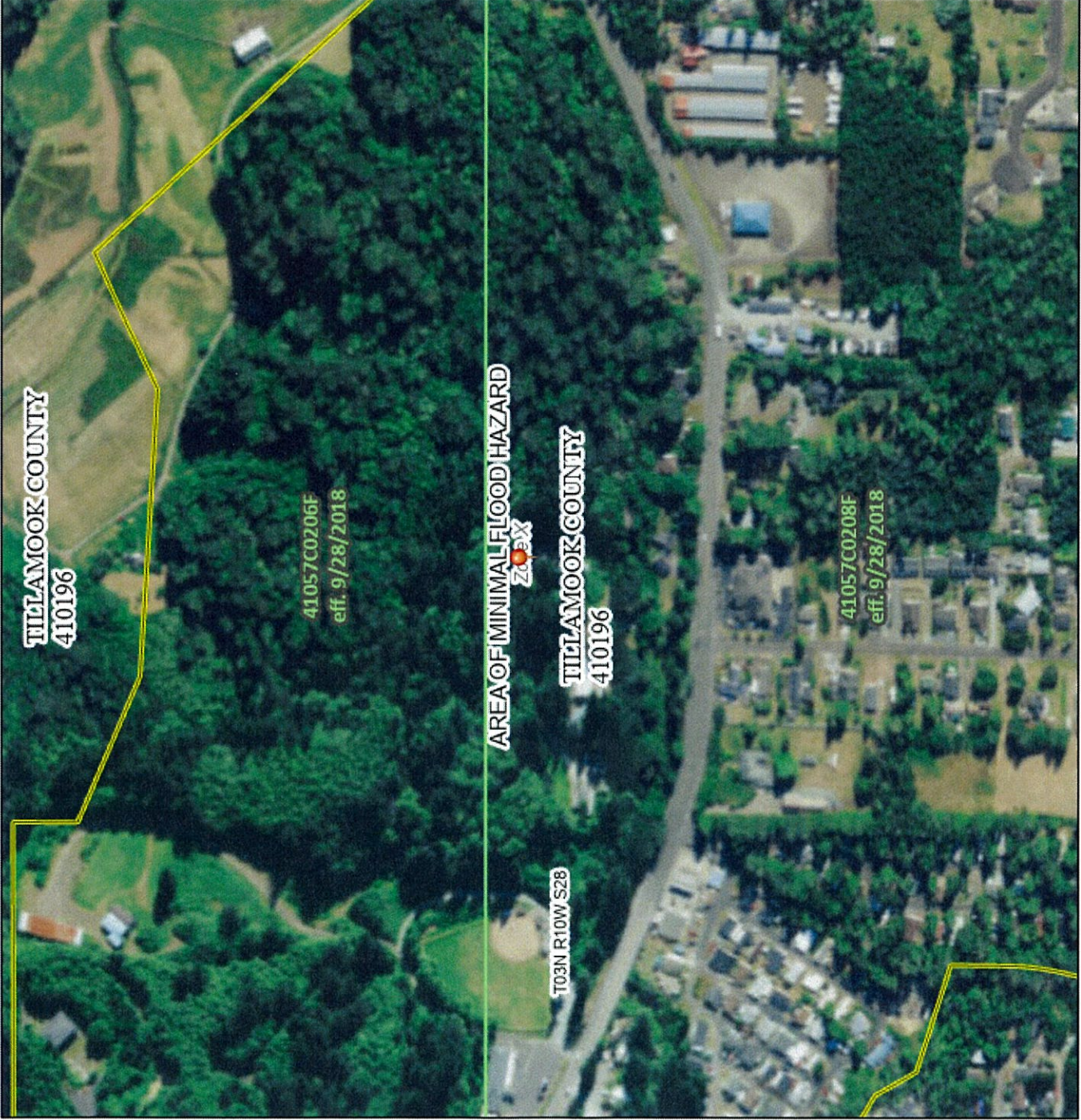
- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

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.

# National Flood Hazard Layer FIRMette



123°55'7"W 45°43'19"N



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

123°54'29"W 45°42'54"N

Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

## 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, Areas 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
- Area of Undetermined Flood Hazard Zone D

**GENERAL STRUCTURES**

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

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- 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.

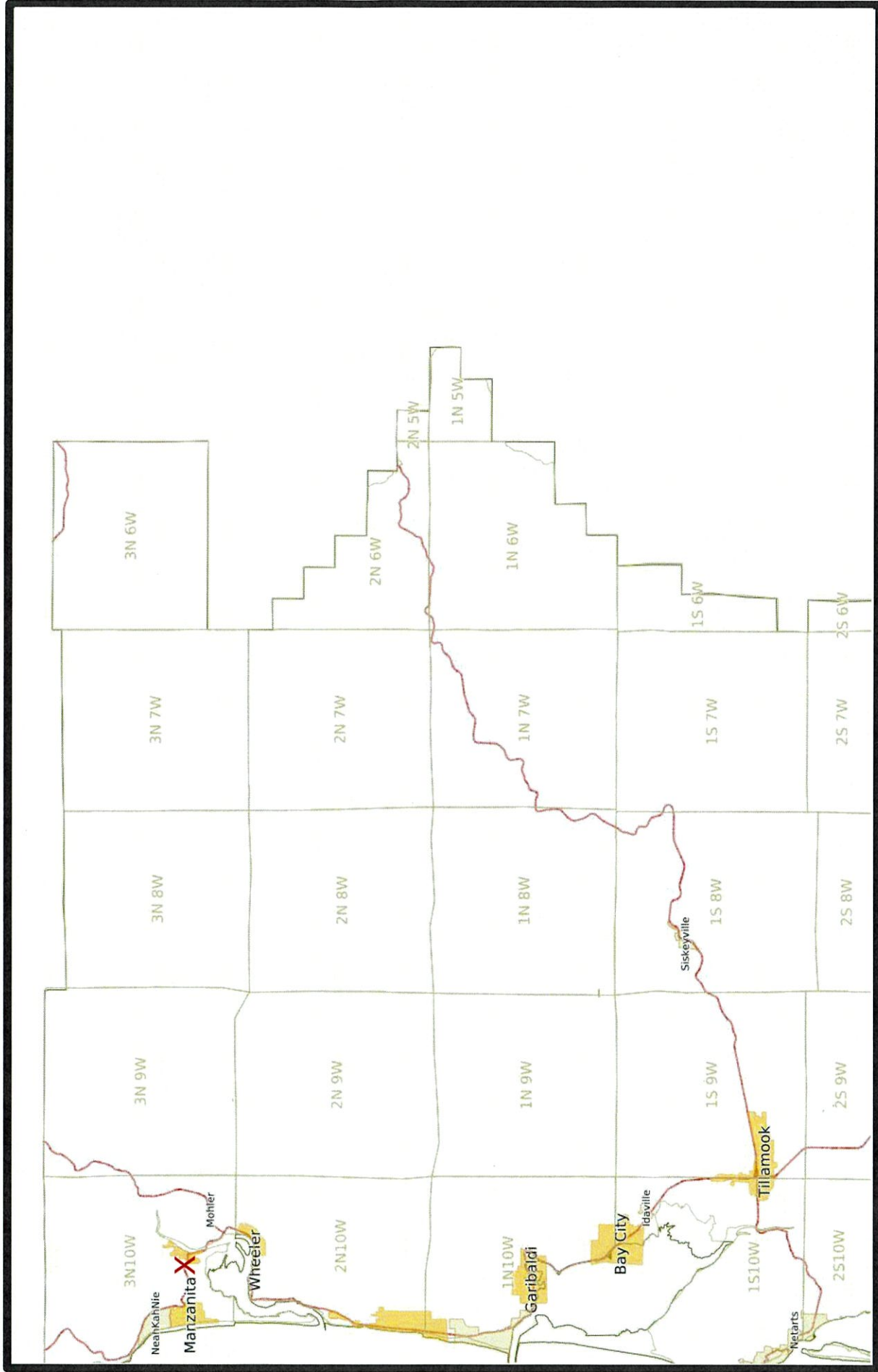
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/2/2022 at 2:46 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by 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.



# Map - vicinity

X = Subject Property



X = Subject Property

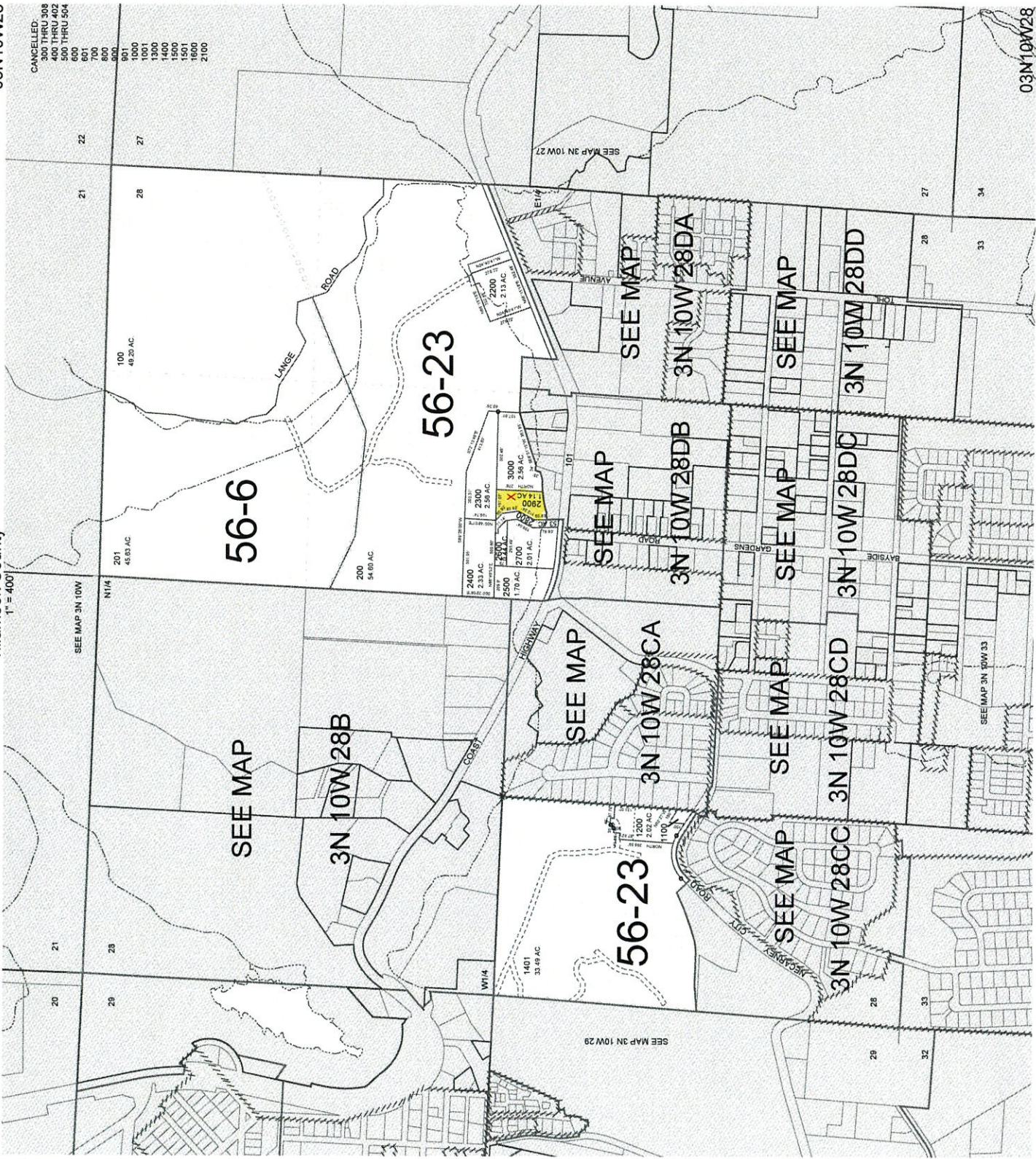
FOR ASSESSMENT AND TAXATION ONLY, NOT SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES.

SECTION 28 T.3N. R. 10W. W.M.  
Tillamook County

1" = 400'

03N10W28

CANCELLED:  
300 THRU 308  
400 THRU 402  
500 THRU 504  
600  
901  
800  
800  
901  
1000  
1001  
1300  
1400  
1500  
1501  
1600  
2100

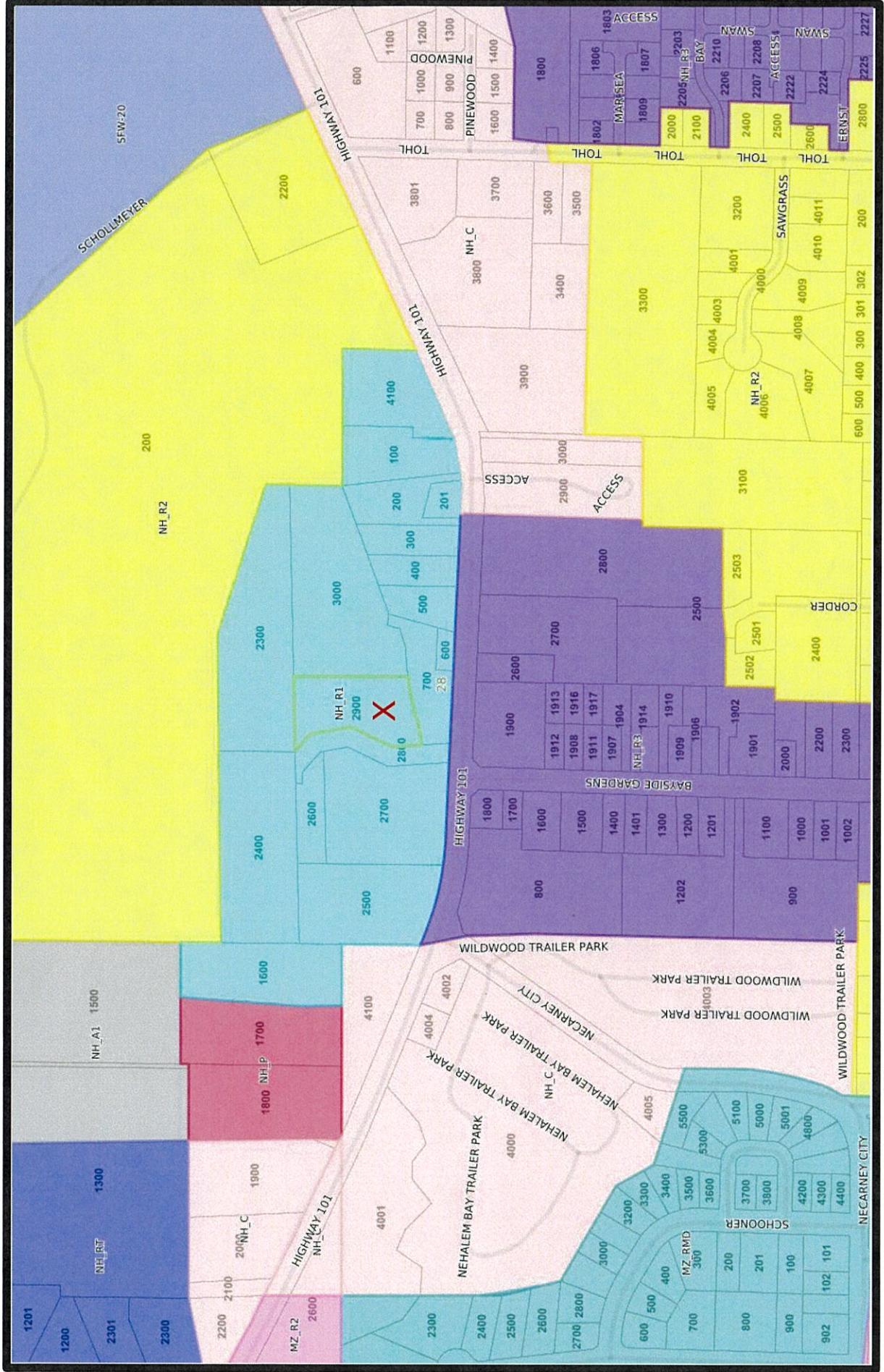


03N10W28

REVISED 7/17/15, WS

# Map- Zoning

X = Subject Property



# TILLAMOOK County Assessor's Summary Report

## Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

December 2, 2022 11:42:43 am

Account # 65538  
 Map # 3N10280002900  
 Code - Tax # 5623-65538

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name MCCANN, WILLIAM D & BARBARA J

Deed Reference # See Record

Agent

Sales Date/Price See Record

In Care Of

Appraiser WHITNEY HOPKES

Mailing Address PO BOX 524  
 MANZANITA, OR 97130-0524

Prop Class 401 MA SA NH Unit  
 RMV Class 401 02 AC 212 26877-1

Situs Address(s)	Situs City
ID# 1 36380 HWY 101 N	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5623 Land	76,650			Land	0
5623 Impr.	551,970			Impr.	0
<b>Code Area Total</b>	<b>628,620</b>	<b>395,900</b>	<b>395,900</b>		<b>0</b>
<b>Grand Total</b>	<b>628,620</b>	<b>395,900</b>	<b>395,900</b>		<b>0</b>

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5623					LANDSCAPE - AVERAGE	100			1,500
5623	1	<input checked="" type="checkbox"/>		NH-R1	Market	103	A	1.14	66,650
5623					OSD - AVERAGE	100			8,500
<b>Grand Total</b>								<b>1.14</b>	<b>76,650</b>

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown		Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%				
5623	1	1998	146	Two story or more, with basement	119		4,244		551,970
<b>Grand Total</b>								<b>4,244</b>	<b>551,970</b>

Exemptions / Special Assessments / Potential Liability									
Code Area 5623									
<b>SPECIAL ASSESSMENTS:</b>									
■ SOLID WASTE	Amount	12.00	Acres	0	Year	2021			
<b>FIRE PATROL:</b>									
■ FIRE PATROL SURCHARGE	Amount	47.50			Year	2021			
■ FIRE PATROL NORTHWEST	Amount	18.75	Acres	1.14	Year	2021			

Comments: 3/8/05 new deck 100% complete. N/C to interior. KM 6/19/06 Home 99% complete as of 1/1/06, tabled inventory RMV change only. LM 4/13/15 Reappraised land and tabled values. WH

# EXHIBIT B



## LAND DIVISION APPLICATION

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

Name: Onion Peak Design Phone: 503-440-4403  
 Address: 11460 Evergreen Way  
 City: Nehalem State: OR Zip: 97131  
 Email: erick.opd@gmail.com

### Property Owner

Name: William D & Barbara J McCann Phone: 5038016877  
 Address: PO Box 524  
 City: Nehalem State: OR Zip: 97131  
 Email: scubasky52@gmail.com

### Location:

Site Address: 36380 Hwy 101 N., Nehalem, OR 97131

Map Number:	3N	10W	28	2900
	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
<input type="checkbox"/> Approved <input type="checkbox"/> Denied
Received by:
Receipt #: 128690
Fees: 1100.-
Permit No: 851-22-000374PLNG

### Proposed Development

- 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 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.

<i>Barbara J. McCann</i> 9/27/22 <small>Property Owner (*Required)</small>	<i>William P. McCann</i> 9/27/22 <small>Date</small>
<i>Ed M. [Signature]</i> <small>Applicant Signature</small>	9/29/22 <small>Date</small>



**NOTES**

THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE SUBJECT PROPERTY. THE PURPOSE OF THIS MAP IS TO SHOW THE PROPOSED PARTITION AS PER TILLAMOOK COUNTY PLANNING DEPARTMENT PROCEDURES. PUBLIC WATER AND SEWER ARE AVAILABLE THROUGH PUBLIC SYSTEMS LOCATED WITHIN PRIVATE 50' WIDE NON-EXCLUSIVE EASEMENT.

**OWNER**

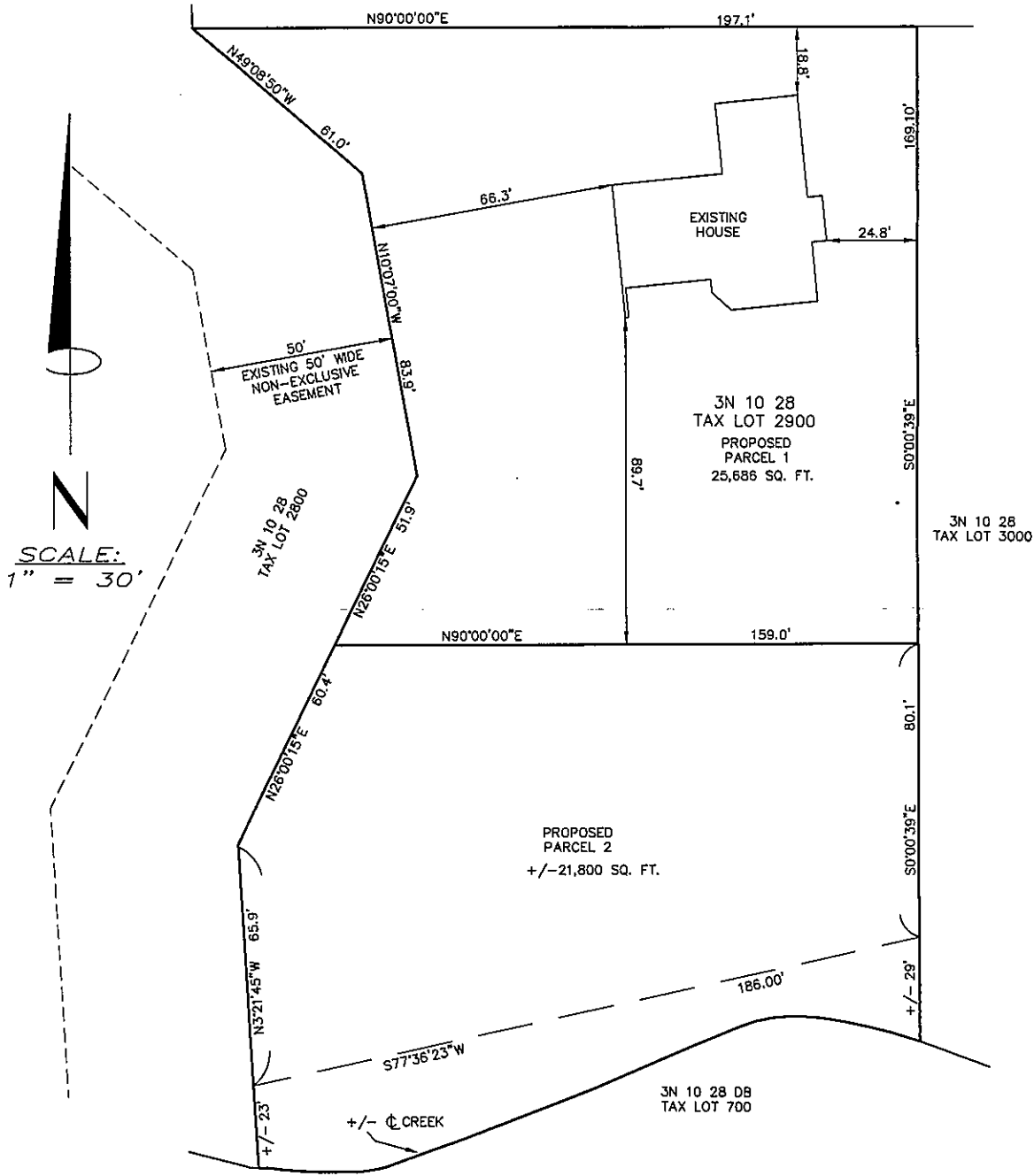
WILLIAM D & BARBARA J MCCANN  
PO BOX 524  
NEHALEM, OR 97131

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Erick M. White*

OREGON  
APRIL 28, 2014  
ERICK M. WHITE  
78572

RENEWS 6/30/2024

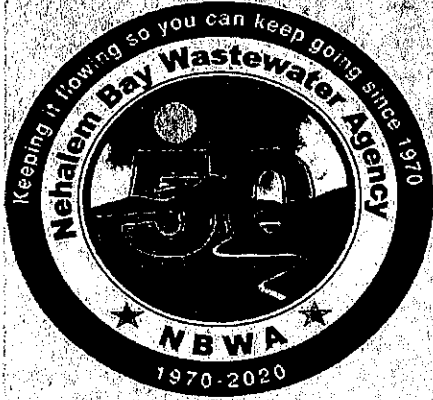


SCALE:  
1" = 30'

**ONION PEAK  
DESIGN**  
11460 EVERGREEN WAY  
NEHALEM, OR 97131  
(503) 440-4403

MCCANN2209-EX.DWG

PROPOSED PARTITION FOR:  
**WILLIAM D MCCANN**  
3N 10W 28  
TAX LOT  
2900  
NE 1/4 & SE 1/4, SECTION 28, T3N, R10W, W.M.  
TILLAMOOK COUNTY  
SEPTEMBER 27, 2022



Nehalem Bay Wastewater Agency  
SEWER AVAILABILITY

Date: August 23, 2022  
To: Tillamook County Building Department (Fax#503-842-1819)  
From: Nehalem Bay Wastewater Agency  
RE: Sewer Availability

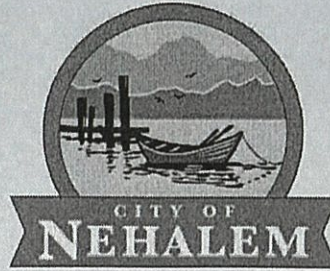
As an Agent of Nehalem Bay Wastewater Agency, I confirm that sewer is available to the following lot within our service area boundary:

3N 10 28 TL 2900

Owner of Record: William McCann  
Project Information: Adding Additional Dwelling Unit  
\*Sewer stubbed to home site

This letter shall not create a liability on the part of Nehalem Bay Wastewater Agency, or by an agent, or employee thereof, for the services described above.

Keri Scott, Executive Assistant  
Nehalem Bay Wastewater Agency



Date: 08/3/2022

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 28 TAX LOT(S) 02900

SITUS ADDRESS: 36380 Highway 101 N

NAME: McCann, William D & Barbara J PHONE: 503-801-6877

MAILING ADDRESS: PO Box 524

Manzanita, OR 97130

Single Family  Duplex/Multi-Family  Other

Comments: \_\_\_\_\_

Signed: *Melissa Thompson Kufza* City Manager  
Name Title

SPECIAL WARRANTY DEED

KATHLEEN A. HARWOOD, Grantor conveys and specially warrants to WILLIAM D. MCCANN and BARBARA J. MCCANN, husband and wife, Grantees, the following described real property free of encumbrances created or suffered by Grantors except as specifically set forth herein:

See Exhibit "A" attached hereto and by this reference made a part hereof.

Tax Identification No.: Code 56-23 3N1028D-602 Key #65538

This deed is given in fulfillment of that certain Real Estate Contract between the parties hereto, dated November 5, 1991, and recorded November 5, 1991, in Book 338, Page 373, and the covenants of warranty herein contained shall not apply to any title, interest or encumbrance subsequent to said date whether arising by, through or under the Buyers in said contract or otherwise and shall not apply to any taxes, assessments or other charges levied, assessed or becoming due subsequent to the date of said contract.

The true and actual consideration for this transfer is \$25,000.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

DATED this 5th day of Oct, 1993.

Kathleen A. Harwood  
GRANTOR

STATE OF OREGON, County of Tillamook ss. OCT 5, 1993.

Personally appeared the above named KATHLEEN A. HARWOOD, Grantor, and acknowledged the foregoing instrument to be her voluntary act.

BEFORE ME:



Dee Anne Stockton

Notary Public for Oregon

My Commission Expires: 5/11/96

AFTER RECORDING RETURN TO:

WILLIAM D. and BARBARA MCCANN  
P.O. Box 524  
Manzanita, Oregon 97130

FUTURE TAX STATEMENTS  
SHOULD BE SENT TO:

WILLIAM D. and BARBARA MCCANN  
P.O. Box 524  
Manzanita, Oregon 97130

HARWOOD TO MCCANN

Legal Description

Beginning to a point on the Easterly boundary of a 50 foot wide roadway, said point also being South 163.96 feet and East 519.71 feet from a 2 inch iron pipe set by Wm. E. Anderson, County Surveyor, to be the center of Section 28, Township 3 North, Range 10 West of the Willamette Meridian; thence North 3° 22' West along said Easterly boundary 65.83 feet; thence North 26° 00' East along said Easterly boundary 112.24 feet; thence North 10° 07' West along said Easterly boundary 83.82 feet; thence North 49° 09' West along said Easterly boundary 60.93 feet; thence East 197.07 feet; thence South 276 feet, more or less, to the center of a creek; thence Westerly along the centerline of said creek 180 feet, more or less, to a point on the Easterly boundary of said roadway which lies South 3° 22' East of the point of beginning; thence North 3° 22' West 23 feet, more or less, to the point of beginning; all lying in Section 28, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

TOGETHER WITH a perpetual non-exclusive roadway easement 50 feet in width abutting the Westerly line of the above described premises and generally described as follows (the intention being to afford access to Highway No. 101):

A strip of land 50 feet in width, being 25 feet on each side of the following described centerline, to-wit: Commencing at a 2 inch iron pipe set by W. E. Anderson, County Surveyor, as the center of Section 28, Township 3 North, Range 10 West of the Willamette Meridian in Tillamook County, Oregon, and running thence South 27.8 feet and East 123.0 feet and North 48° 30' East 115.6 feet to a point on the East line of the so called Alger East tract, the true point of beginning of the centerline of the right-of-way easement; and running thence North 48° 30' East 84.4 feet; thence North 63° 36' East 100 feet; thence South 75° 47' East 100 feet; thence South 49° 09' East 80 feet; thence South 10° 07' East 60 feet; thence South 26° 00' West 110 feet; thence South 03° 22' East 184.18 feet to the line of Highway No. 101.

**SUBJECT TO:**

1. The premises herein described are within and subject to the statutory powers, including the power of assessment of Nehalem Bay Wastewater Agency, formerly known as North Tillamook County Sanitary Authority.

2. Easement as reserved in Warranty Deed, including the terms and provisions thereof.

From: Eugene E. Stockton and Etta V. Stockton, his wife, and Herbert W. Alger

To: Leroy G. Harwood and Kathleen M. Harwood, his wife

Recorded: November 25, 1980, in Book 273, page 84, Records of Tillamook County, Oregon.

EXHIBIT "A"

3. Conditions and restrictions, as contained in Deed,  
Grantor: Eugene E. Stockton and Etta V. Stockton, his wife, and  
Herbert W. Alger  
Grantee: Leroy G. Harwood and Kathleen A. Harwood  
Recorded: November 25, 1980, in Book 273, page 84, Records of  
Tillamook County, Oregon.

4. Rights of the public and governmental bodies in and to any  
portion of the premises herein described lying below high water  
mark of the Neahkahnie Creek, including any ownership rights which  
may be claimed by the State of Oregon below the high water mark.

5. Any adverse claim based upon the assertion that:

Said land or any part thereof is now or at any time has been  
below the ordinary high water mark of the Neahkahnie Creek.

Some portion of said land has been created by artificial means  
or has accreted to such portion so created.

Some portion of said land has been brought within the  
boundaries thereof by an avulsive movement of the Neahkahnie Creek  
or has been formed by an accretion to any such portion.

327176

I hereby certify that the within instrument was  
received for record and recorded in the  
County of Tillamook, State of Oregon.



Witness my hand and seal of office  
JOSEPHINE VELTIN, County Clerk

*Josephine Veltin*

Clerk  
1980