

STAFF REPORT

TO: Nehalem Planning Commission

FROM: Melissa Thompson-Kiefer, City Manager Pro-Tem
Walt Wendolowski, City Planning Consultant

SUBJECT: Nehalem Development Ordinance

DATE: July 11, 2023

I. BACKGROUND

- A. APPLICANT: City of Nehalem.
- B. REQUEST: The City seeks to adopt a new Development Ordinance effectively combining the existing Chapter 156 (Subdivisions) and Chapter 157 (Zoning) into a single document. The new document will also contain the implementation provisions of the Transportation System Plan, concurrently under review. In addition, the proposal will combine the existing Medium Density Residential zones (R1, R2, R3, and RM) and the Residential Trailer (RT) zone into a single new Mixed Density Residential zone. Specific amending language is contained in the attached Exhibit.
- C. DECISION CRITERIA: The decision to approve or deny the new Development Ordinance and associated zone changes shall be based on the criteria contained in the Nehalem Zoning Ordinance Sections 157.387-157.388. The decision criteria regarding implementing provisions of the Transportation System are found in Statewide Planning Goal 12 and OAR 660-012.

II. APPLICATION SUMMARY

- A. The City of Nehalem is in the process of adopting a new Development Ordinance, replacing the existing Municipal Code Chapter 157 (Zoning) and Chapter 156 (Subdivisions) by combining the two elements into a single document. The new Ordinance is divided into five articles:
 - 1. Article I - This introduces the planning document defining the document's purpose and who is responsible for its administration. Applicable definitions terms are also included.
 - 2. Article II - This Article identifies the various zones and permitted development. Article 2 is limited to the non-estuary zones and the Flood Hazard Overlay zone. The existing Utility Overlay zone was eliminated.
 - 3. Article III – This Article is solely focused on the Estuary zones and associated development provisions.

4. Article IV – Development provisions are contained in this Article. This includes development requirements common to all zones (e.g., parking standards), standards for specific uses (e.g., bed and breakfast establishments), and land division requirements.
5. Article V - This Article contains application procedures and requirements.

A summary of the material follows:

Article I

A. Section 157.101

Provisions regarding title, conformance, violations, severability, conflicts, fees and so forth are included in Section 157.101. Both Chapters 156 and 157 contained similar provisions and these are combined in this Article.

B. Section 157.102

Section 157.102 includes all the definitions contained in the Ordinance. Standards on how to apply definitions were also clarified and provide increased flexibility on the use of definitions. For example, definitions that apply to one use may be applied to other uses if the situation warrants.

Article II

- A. This Article begins with a Section on how the zones are classified and how boundary locations are determined (157.201).
- B. Section 157.202 outlines the uses allowed in all zones (e.g., utility easements); the various types of use categories and how uses may be interpreted, specifically noting uses not identified or allowed through interpretation are prohibited. Finally, this Section outlines how each zone is organized:
 1. The purpose statement outlines the reason for the zone’s existence.
 2. Permitted uses are identified.
 3. Special permitted uses are still allowed outright but require conformance to standards found elsewhere in the Chapter (e.g., home occupation or land divisions).
 4. Conditionally permitted uses are listed.
 5. Dimensional standards such as lot area, height and setbacks are identified.
 6. Development standards which list other applicable requirements (e.g., parking or signs) conclude each Section.

- C. Overall, the identified uses are consistent with existing language in Chapter 157. The major changes are in the formatting. Every attempt was made to rationalize the uses and their appropriate category: for example, moving a use from the “permitted” subsection to the “special permitted” subsection (e.g., manufactured home on an individual lot), and adding requirements for uses such as land divisions. Under dimensional standards, a lot-coverage percentage was added. Also, the order of the zones was rearranged to from least intensive to most intensive, ending with the Public Lands zone.
- D. In addition to the changes noted in items “C.” above, individual zones received additional modifications:
1. 157.203 (A1) – General follows current uses. Boat and moorage activities were dropped as they did not fit in the zone’s location. Mining was dropped as a conditional use.
 2. 157.204 (Low Density Residential - RL) – This zone generally follows the current regulations, with the revisions noted in item #9 below.
 3. 157.205 (Mixed Density Residential - RM) – The new RM zone incorporates the following five zones: RM, R1, R2, R3 and RT. Combining them into a single zone is logical as differences between the zones were insignificant. This effectively establishes the City’s higher density residential zone and provides additional housing opportunities for the property owners.
 4. 157.206 (Marine Residential - MR) – Other than formatting, there are no significant changes.
 5. 157.207 (Commercial - C) – Permitted commercial uses were expanded to include financial and medical offices. Otherwise, the zone follows current provisions.
 6. 157.208 (Light Industrial - LM) – Primarily formatting changes and establishing a minimum area requirement.
 7. 157.209 (Public Lands - P) – Changes are limited to formatting, increasing the allowable building height to 35-feet, and establishing a minimum area standard.
 8. 157.210 (Flood Hazard Overlay - FHO) - The major change to the Flood Hazard Overlay zone was formatting and updated to meet current Federal regulations.
 9. Residential (General) – ADUs are now permitted in all residential zones within City limits. The residential zones were further enhanced by permitting middle-housing and cottage cluster developments. Changes related to special housing needs in the Commercial, Industrial and Public zones were also included.

Article III

Article III places all the estuary requirements in one Article. This includes the three estuary zones and associated development standards. Three major revisions:

- A. A table is now included [157.317.02(D)] which outlines all the estuary uses and whether they are permitted, conditionally permitted or regulated activities in each zone.
- B. Log dumps were eliminated, both on land and in the water. These are intensive activities that include loading logs onto ships or creating rafts for transportation.
- C. Houseboats are now permitted subject to specific standards.

Article IV

This is the “technical” portion of the Ordinance. Regarding the individual Sections:

- A. Section 157.401 (General Provisions) – This introduces the Article and outlines its organization. Further, it notes all improvements must comply with Public Works and City Engineer requirements.
- B. Section 157.402 (Street Standards) – Generally follows provisions in Chapter 156. The City can modify these standards depending on existing conditions. Construction standards are referenced, standards were added for sidewalks and bikeways, and Traffic Impact Analysis requirements are specified. There are provisions for private streets and easements. Requirements from the recently completed Nehalem Bay TSP are included.
- C. Section 157.403 (Off-street Parking) – Parking and aisle standards remain, and assisted parking is now a function of building code requirements. 157.403.02 allows an exception to increasing parking with a change of use. A single table identifies both vehicle and bicycle parking requirements. Provisions prohibit increasing the required vehicle parking spaces by more than 50%. In addition, off-street parking requirements were eliminated for Commercial zoned property located adjacent to Highway 101 and within the City’s downtown.
- D. Section 157.404 (Land Divisions) – This includes all provisions related to partitions and subdivisions. The material basically follows current regulations in Chapter 156, but where applicable, references the requirements of other agencies. If there is the potential for additional land division of a parcel (“serial partition”) the request must be processed as a subdivision. Consistent with state law, the Ordinance no longer distinguishes between “major” or “minor” partitions; however, provisions are in place to require street improvements for partitions.
- E. Section 157.405 (Planned Development) – This section was revamped based on prior experience with PDs. Provisions require these developments

to be something special for the community and not a quick way to maximize density. There are limited commercial options and different allowable densities based on the zone. Provisions for modifications are included.

- F. Section 157.406 (Cottage Cluster) – A cottage cluster is like a planned development in format and process. However, a cottage cluster has restrictions on the size, design, and location of the homes. There are no commercial options.
- G. Section 157.407 (Storm Drainage and Grading) and Section 157.408 (Utility Lines and Facilities) – These two Sections lay out applicable requirements. Unless existing conditions require otherwise, all facilities must be placed underground, and their design and construction approved by the applicable agency.
- H. Section 157.409 (Signs) - No changes were made to regulations, although some of the definitions were updated. A new subsection was added for sign variances. The criteria are designed to avoid granting advertising advantages to businesses and prohibit varying regulations to meet corporate sign standards.
- I. Section 157.420 (Mixed Use Development) - The language follows the current requirements and includes the off-street parking exception for City Commercial zoned property adjacent to Highway 101.
- J. Section 157.421 (Special Residential Dwellings) - This Section includes requirements for both accessory residential dwellings (ADU), attached single family homes (townhouses), and special housing units for low-income developments.
- K. Section 157.422 (Manufactured Homes on Individual Lots) - This Section follows current state regulations and current local requirements.
- L. Section 157.423 (Manufactured Dwelling Parks) and Section 157.424 (Recreational Vehicle Parks) - These Sections follow current requirements. Additional parking spaces are now required for RV parks and application submittal requirements were also increased.
- M. Section 157.425 (Residential Accessory Structures) -This is a new Section. The regulations are intended to keep accessory structures away from the street-side yards and provide some limit as to size and finish. The use of metal shipping containers is expressly prohibited.
- N. Section 157.426 (Home Occupation) - The current language seems to cover home occupations as a permitted, and conditional use. Since the zones

were revised to allow the use outright, these standards were reorganized to reflect that change.

- O. Section 157.427 (Temporary Uses) - This covers the temporary use of an RV (not a manufactured home!) during construction. In addition, there are provisions for Christmas tree and firework sales, placement of temporary construction shacks, auctions and yard sales, and a Council waiver for special events involving the community.
- P. Section 157.429 (Bed and Breakfast Facility) – This is a new Section establishing regulations to operate a bed and breakfast. The business is limited to B&B operations, with food preparation limited to breakfast and snacks only, and the facility cannot be used for special events or parties.
- Q. Section 157.430 (Automobile-oriented Facilities) - This Section follows current regulations.
- R. Section 157.440 (Geological Hazards) - This Section follows current regulations.
- S. Section 157.441(Shoreland Development) - This Section follows current regulations.
- T. Section 157.442 (Special Buffers and Setbacks) - This Section combines existing provisions for riparian and EFU zone setbacks. The riparian setback measurement was clarified.
- U. Section 157.443 (Yards and Lots) – This Section includes provisions on projections into required yards and the clear vision requirements. Otherwise, follows current requirements.
- V. Section 157.444 (Fencing and Screening) - This is a new Section which combines all regulations regarding fencing, walls, and screening.
- W. Section 157.445 (General Standards) – This is the traditional “catch-all” Section and includes provisions on height exceptions, setback exceptions, farm uses and non-conforming uses. Section 157.445.07 allows limited expansion of buildings that do not comply with yard setback requirements.

Article V

This Article concludes the Ordinance by establishing the administrative and review requirements. The current Chapter 157 only addresses conditional use and variance requests. Besides incorporating land divisions procedures from Chapter 156, the new Ordinance includes review procedures for adjustments (minor variances), site development, interpretations, nonconforming uses, zone map

amendments, text amendments and annexation. This material is summarized as follows:

- A. Section 157.501 is the introductory Section to the Article. The four application types are identified. Time limits are established as are rules which govern when an approval is considered initiated. The review types:
1. Type I Review - Staff level decision applies to property boundary adjustments and interpretation of regulations. These have little discretion and there is no appeal of the staff decision.
 2. Type II – This is also a staff level decision but requires notifying adjacent property owners before a decision is made. Notice of the staff decision is mailed to the applicant and adjacent owners who submitted comments. Type II applications apply to land divisions, residential site plan developments, and adjustments (changing a quantifiable standard by 10% or less).
 3. Type III – These applications require hearings before the Planning Commission. Included in this group are variances (greater than 10% quantifiable change), conditional uses, non-residential site development reviews, and interpretations.
 4. Type IV – These requests include hearings before both the Planning Commission and City Council. Applications include map and text amendments and annexations.

This Section also includes a chart identifying the various land use applications and how they are processed. Expiration dates are established along with requirements to implement a decision. The goal of this re-organization was to move some of the current decisions to the staff level.

- B. Section 157.502 (Property Boundary Adjustments) – Similar provisions to Chapter 156. This is reviewed by staff with no option for appeal.
- C. Section 157.503 (Partitions) – This follows current provisions in Chapter 156. Staff have some flexibility regarding the application requirements. The idea is to avoid hiring a surveyor before a decision is made.
- D. Section 157.504 (Adjustment) – This is a type of variance that can be reviewed at the staff level and allows up to a 10% change in a quantifiable standard. An adjustment does not apply to sign regulations or lot sizes. The standards are not as strict as the variance requirements.
- E. Section 157.505 (Interpretations) – This is a new Section which allows an applicant to request a formal interpretation of an Ordinance provision. This is reviewed by the Planning Commission.

- F. Section 157.506 (Variances) – This Section applies to any change in a quantifiable standard that exceeds 10%. The request requires a public hearing before the Commission. The standards are stricter than an adjustment.
- G. Section 157.507 (Conditional Use) – This closely follows the current language. The applicability provision (157.505.01) specifically notes a conditional use is considered permitted unless conditions to ensure compatibility cannot be established. Special conditional use requirements apply for marijuana facilities.
- H. Section 157.508 (Site Development Review) – This is a new Section designed to address new developments, or significant expansions, of uses permitted in the underlying zone. For example, a new school in the Public zone would require a site development review. These are processed as Type II applications for residential uses (staff review) and Type III for non-residential projects (Commission review). Expansions of less than 10% can be processed with a building permit.
- I. Section 157.509 (Nonconforming Uses) – Similar to current provisions.
- J. Section 157.510 (Subdivision, Planned Developments and Cottage Clusters) – Unlike simple partitions, these projects involve large areas and have special design considerations (and options). The format follows current processes with additional requirements for planned developments and cottage cluster developments. These are all processed as Type II applications (staff review).
- K. Section 157.511 (Map Amendment) and Section 157.512 (Text Amendments) - The current Ordinance lumps Comprehensive Plan and map amendments under one section but does not address amendments to the Ordinance text. These are now divided into individual Sections - 157.512 for map changes and 157.513 for changes to the Plan or Ordinance text. The major change is in the decision criteria for text changes. Such changes not only need to conform to the City’s Plan but must be consistent with Statewide Planning Goals and applicable administrative rules (e.g., TPR).
- L. Section 157.513 (Annexations) – This is a new Section. Annexations essentially are treated as a land use application with hearings before the Commission and Council. However, the Council would retain the option of accepting or rejecting the Commission recommendation, or the Council may require a public vote on the matter.
- M. Section 157.520 (General Administrative Provisions) – This covers the general requirements of application processing, including the 120-day time limit, the ability to combine requirements under a single application, ability

to aggregate application involving several properties, and all appeal procedures reviewed as *de novo* hearings.

- N. Section 157.521 (Type I Application) – This Section covers the Type I procedures from application to final decision.
 - O. Section 157.522 (Type II Application) – This Section covers the Type II procedures from application to appeals before the Commission and/or Council.
 - P. Section 157.523 (Type III Application) – This Section covers the Type III procedures from application to appeals before the Council.
 - Q. Section 157.524 (Type IV Application) – This Section covers the Type IV procedures from application to initial hearing before the Commission and the final hearing before the Council. Both quasi-judicial and legislative processes are addressed.
 - R. Section 157.525 (Public Hearing Before the Commission) – This Section covers all the responsibilities of the Commission when reviewing new cases or appeals. It generally follows current language in Chapter 157.
 - S. Section 157.526 (Public Hearing Before the Council) - This Section covers all the responsibilities of the Commission when reviewing new cases or appeals. As above it generally follows current language in Chapter 157 with specific responsibilities for the Council.
- B. Code changes recommended by the Nehalem TSP are incorporated in this new document. Adoption of the new Ordinance effectively implements the TSP concurrently established by the Comprehensive Plan amendments.
 - C. As the R1, R2, R3, RT and RM are combined into a single Mixed Density (RM) zone, the Zone Map requires an amendment. However, there is absolutely no increase or decrease in the amount of residential land. On balance, property owners in all five current zones obtain additional development opportunities as it relates to housing.
 - D. The City sent out notice of the Code amendments to the affected agencies and the Department of Land Conservation (DLCD). The City did not receive any comments as of the date of this report.

V. CRITERIA AND FINDINGS – NEW DEVELOPMENT ORDINANCE

- A. Current Zoning Ordinance Section 157.387 contains provisions for legislative zone changes and comprehensive plan amendments but does not include provisions for amending the Zoning Ordinance text. Staff believes provisions regarding plan amendments are applicable to all text changes. The following Sections review these provisions. For the record, the role of the Planning Commission is to provide a recommendation to the City Council regarding the amendments. The City will hold a separate hearing before the City Council.

FINDINGS: The City provided the required public notice, including notice to the Department of Land Conservation and Development (DLCD). As of the date of this report, the DLCD did not submit comments, indicating no opposition to the amendments.

- B. Section 157.388 establishes the standards for approval of zone changes or comprehensive plan amendments. All zone changes or Comprehensive Plan amendments, whether legislative in nature or whether quasi-judicial, may be approved only if all of the following are satisfied:

1. Section 157.388(A) - The proposed change is consistent with the Comprehensive Plan's policies;

FINDINGS: The Comprehensive Plan consists of 18 Goals with each Goal addressing specific land use issues such as housing or natural resources. Each Goal is reviewed below:

- a. Goal 1: Citizen Involvement – To provide all city and Urban Growth Area residents with an opportunity to be involved in all phases of the planning process.

FINDINGS: Consistent with this Goal, the Planning Commission conducted several monthly work sessions to review the material. These included the initial review as well as subsequent modifications. These work sessions, this Commission hearing, and eventual hearing before the City Council, are consistent with this Goal.

- b. Goal 2: Land Use Planning – To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions; to encourage development outside of natural hazard areas including climate-related hazards; and to encourage the use of construction materials and standards that limit greenhouse gas emissions during building use.

FINDINGS: The proposed new Ordinance provides the necessary land use regulations and processes to address the above noted issues.

- c. Goal 3: Agricultural Lands – Although this State Goal does not apply to the City, the City supports preservation and maintenance of the agricultural lands.

FINDINGS: This Goal is met as the new Ordinance maintains setbacks requirements for urban land located adjacent to EFU zoned land. Further, farming may continue in the A1 zone.

- d. Goal 4: Forest Lands – Although this State Goal does not apply to the City, the City supports preservation and maintenance of forest lands.

FINDINGS: This City will maintain the A1 zone which permits forest-related activities.

- e. Goal 5: Natural Features, Natural Resources, Scenic and Historic Areas, and Open Spaces – To foster high-quality development consistent with the natural environment.

FINDINGS: The new Ordinance maintains existing regulations protecting wetlands, wildlife habitat or other resources identified as requiring preservation or protection. In addition, shoreland and creek setback requirements remain.

- f. Goal 6: Air, Water, and Land Resources - To maintain, and where necessary, improve the City's air and water resources.

FINDINGS: Nothing in the new Ordinance establishes or promotes land uses that adversely affect air, water, or resource quality issues. To the contrary, positive environmental impacts are anticipated as the new Ordinance implements the TSP which encourages, and provides for, alternative modes of transportation, thereby lessening dependence on automobiles.

- g. Goal 7: Areas Subject to Natural Hazards - To reduce risk to people and property from natural hazards

FINDINGS: This Goal is addressed as the new Ordinance maintains the Flood Hazard Overlay zone, including all required updates.

- h. Goal 8: Recreational Needs - To provide for park facilities and open space.

FINDINGS: Existing provisions for park facilities and recreational activities are not altered.

- i. Goal 9: Economic Development - Improve the Economic Base of the Community

FINDINGS: The new Ordinance streamlines the review processes by allowing City staff to review certain types of applications that currently are heard by the Planning Commission. This economically benefits all applicants.

- j. Goal 10: Housing – To provide for housing which will meet the needs of a variety of age and income groups.

FINDINGS: The new Ordinance adopts recent housing legislation to allow middle housing, accessory dwelling units, cottage cluster developments, and streamlines the review process by allowing City staff to review land division applications.

- k. Goal 11: Public Facilities and Services – Continue to plan and develop orderly and efficient system of public facilities and services.

FINDINGS: The Ordinance does not affect the City’s ability to provide public services or requirements for public service connections. In fact, the Ordinance establishes clear provisions regarding how the services are extended and who is responsible.

- l. Goal 12: Transportation - To provide and encourage a safe, convenient, and economic transportation system.

FINDINGS: The new Ordinance effectively implements the findings, conclusions, and recommendations of the Nehalem TSP. These include, but are not limited to, allowing right-of-way improvements in all zones; strengthening TIA requirements; access restrictions on US Highway 101; requirements for bicycle parking; promoting traffic circulation and bikeways; and allowing narrower street widths.

- m. Goal 13: Energy - To conserve energy.

FINDINGS: Nothing within the new Ordinance impacts the City’s ability to establish uses or regulations to conserve energy.

- n. Goal 14: Urbanization/Urban Growth Boundary and Urban Growth Area - Coordinate land-use, development, and annexation strategies with Tillamook County.

FINDINGS: This Goal does not directly apply, as the proposed TSP implementing measures do not affect, reduce, or otherwise alter the ability to coordinate development with Tillamook County.

- o. Goal 16: Estuarine Resources - To conserve, protect the unique environmental, economic, and social values of local estuarine resources, where appropriate, recognizing their value for the protection and maintenance of water quality, fish and wildlife habitat, and water dependent uses.

FINDINGS: Other than Plan policies encouraging pedestrian access to the estuary system for recreational purposes, nothing within the Ordinance adversely impacts these resources.

- p. Goal 17: Coastal Shorelands - The City of Nehalem recognizes the interdependence of shoreland and estuarine uses.

FINDINGS: As above, other than improving pedestrian access to the interconnected estuary system for recreational purposes, nothing within the Ordinance adversely impacts coastal areas.

- q. Goal 18: Beaches and Dunes - The City supports efforts to implement policies consistent with Statewide Planning Goal 18.

FINDINGS: This Goal does not apply, as the proposed Ordinance does not affect or otherwise impact beaches or dunes.

- r. Goal 19: Ocean Resources - The City supports efforts to implement policies consistent with Oregon Statewide Planning Goal 19, “to conserve the long-term values, benefits, and natural resources of the near shore ocean and the continental shelf.”

FINDINGS: This Goal does not apply, as the proposed Ordinance does not affect or otherwise impact ocean resources.

- 2. Section 157.388(B) - The proposed change shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection goals;

FINDINGS: Nothing in the proposed Ordinance requires or encourages conversion of resource lands to non-resource uses. All development requirements are limited to the City limits and adopted Urban Growth Boundary. Further, the A1 zone still allows farming and forestry activity, and the Ordinance maintains setback requirements to EFU zoned land, shoreland areas and streams.

3. Section 157.388(C) - The site involved is better suited to the purposes allowed by the proposed change than it is to the purposes of the existing zone; and

FINDINGS: The new Ordinance expands allowed residential uses in the residential zones. This is consistent with changes in State law and is solely concentrated on those lands zoned – or required - for that purpose.

4. Section 157.388(D) - Development anticipated to result from the proposed change shall not impair the actual or the legally designated uses of neighboring properties.

FINDINGS: The new Ordinance will not alter the existing land use patterns nor impair the development of permitted uses.

IV. CRITERIA AND FINDINGS – TSP IMPLEMENTATION MEASURES

- A. The new Ordinance includes implementing measures for the proposed TSP. As such, it appears appropriate to address these measures against Goal 12.
- B. Goal 12 of the Statewide Planning Goals establishes the basis for Transportation planning in the state. The Goal’s objective: *To provide and encourage a safe, convenient and economic transportation system.*

FINDING: The TSP provides a comprehensive, long-term guide for City transportation improvement investments for a 20-year period. The multi-modal, network-wide approach prioritizes projects which benefit driving, bicycling, and walking. The new Ordinance encourages street connectivity, establishes additional standards to promote pedestrian and bicycle circulation, and requirements for traffic impact studies. On balance, these requirements help promote a safe, convenient, and economic transportation system.

- C. The Oregon Transportation Plan (OTP) is the state’s long-range multimodal transportation plan. The OTP is the overarching policy document among a series of plans that together form the state’s transportation system plan. A local TSP must be consistent with applicable OTP goals and policies. The most pertinent OTP goals and policies are as follows:

POLICY 1.2 – Equity, Efficiency and Travel Choices

It is the policy of the State of Oregon to promote a transportation system with multiple travel choices that are easy to use, reliable, cost-effective and accessible to all potential users, including the transportation disadvantaged.

FINDING: The Ordinance encourages a multi-modal, network-wide approach as roadway standards are designed to accommodate all users of the road, including

motorists, pedestrians, and bicyclists. New provisions for bicycle parking and safe walkways help encourage these uses.

POLICY 2.1 - Capacity and Operational Efficiency

It is the policy of the State of Oregon to manage the transportation system to improve its capacity and operational efficiency for the long term benefit of people and goods movement.

POLICY 2.2 – Management of Assets

It is the policy of the State of Oregon to manage transportation assets to extend their life and reduce maintenance costs.

FINDING: Standards which preserve the function and capacity of roadways within Nehalem are included in the Development Ordinance. These include access spacing and mobility standards.

POLICY 3.1 – An Integrated and Efficient Freight System

It is the policy of the State of Oregon to promote an integrated, efficient and reliable freight system involving air, barges, pipelines, rail, ships and trucks to provide Oregon a competitive advantage by moving goods faster and more reliably to regional, national and international markets.

POLICY 3.2 – Moving People to Support Economic Vitality

It is the policy of the State of Oregon to develop an integrated system of transportation facilities, services, and information so that intrastate, interstate and international travelers can travel easily for business and recreation.

FINDING: US 101 is the main route through the City connecting to the adjacent cities of Manzanita and Wheeler as well as providing the primary tourist route along the coast. This economic benefit is maintained as the Ordinance now specifically limits access to the Highway.

POLICY 4.1 - Environmentally Responsible Transportation System

It is the policy of the State of Oregon to provide a transportation system that is environmentally responsible and encourages conservation and protection of natural resources.

FINDING: The new street designs incorporated in the Ordinance encourage pedestrian and bicycle mobility, thereby reducing the impact of automobiles. Notably, roadway specification allows for narrower streets.

POLICY 5.1 – Safety

It is the policy of the State of Oregon to continually improve the safety and security of all modes and transportation facilities for system users including operators, passengers, pedestrians, recipients of goods and services, and property owners.

FINDING: Traffic impact analysis requirements enhance the ability to provide safe transportation facilities for all users. This is further supported by access restrictions to US Highway 101.

POLICY 7.1 – A Coordinated Transportation System

It is the policy of the State of Oregon to work collaboratively with other jurisdictions and agencies with the objective of removing barriers so the transportation system can function as one system.

FINDING: Nothing in the new Ordinance prohibits or restricts continued cooperation between the City and the County along with adjacent communities. Further, any development proposals within the UGB require coordination between the City and the County and are subject to City adopted transportation requirements.

POLICY 7.3 – Public Involvement and Consultation

It is the policy of the State of Oregon to involve Oregonians to the fullest practical extent in transportation planning and implementation in order to deliver a transportation system that meets the diverse needs of the state.

POLICY 7.4 - Environmental Justice

It is the policy of the State of Oregon to provide all Oregonians, regardless of race, culture or income, equal access to transportation decision-making so all Oregonians may fairly share in benefits and burdens and enjoy the same degree of protection from disproportionate adverse impacts.

FINDING: The Ordinance work session and adoption process were entirely open to the public, including providing the material on the City's website.

- D. The following Statutes, Rules, Comprehensive Plan Provisions and Implementing Ordinances have been considered by the City of Nehalem in the formation of the language contained within this request:

OAR 660 Division 12 – Transportation Planning Rule (TPR):

The purpose of the TPR is to “implement Statewide Planning Goal 12 (Transportation) and promote the development of safe, convenient, and economic transportation systems that are designed to reduce reliance on the automobile so that the air pollution, traffic, and other livability problems face by urban areas in other parts of the country might be avoided.” A major purpose of the TPR is to promote more careful coordination of land use and transportation planning, to ensure that planned land uses are supported by and consistent with planned transportation facilities and improvements.

660-012-0005 through 660-012-0055

These sections of the TPR contain policies for preparing and implementing a transportation system plan.

FINDING: The 2023 TSP includes sections on existing conditions, future conditions, roadway classifications and corresponding standards, recommended improvements by mode, and a general funding plan as required by Section -0020 of the TPR. The TSP is a collection of current inventory, forecasts, past and current project ideas, decisions, and standards, which was developed collaboratively among various public agencies, the community, a public advisory committee, and the project management team which consisted of City staff, ODOT, and consultants.

Elements of the TSP are implemented in the requirements of the proposed new Nehalem Development Ordinance. The new Ordinance will regulate land uses and development within City limits and Urban Growth Boundary, implementing the long-range vision of the Comprehensive Plan, of which the TSP is part. Proposed language in the new Development Ordinance is intended to protect the design and function of the transportation network.

V. CRITERIA AND FINDINGS – MAP AMENDMENTS

- A. The current Zoning Ordinance contains four zones identified as “Medium Density Residential” and a fifth zone that allows residential uses beyond a single family home (Residential Trailer). On balance, these zones represent the higher density zones in the Code, either permitting or conditionally permitting uses beyond a single family home. Owing to recent housing legislation and the desire to use the existing land efficiently, the City finds it appropriate to combine the five noted zones into a single new RM zone – Mixed Density Residential. The following table shows current uses allowed in the five zones and what would occur under a consolidated new MR zone:

Activity/Zone	R-1	R-2	R-3	RT	RM	New RM
SFD/MH	P	P	P	P	P	P
Duplex	CU	P	P	P	P	P
Tri-Plex			P		CU	P
Four-Plex			P		CU	P
Multi-Family			P		CU	P
Partition	P	P	P	P	P	P
Subdivision	P	P	P	P	P	P
PUD	P	P	P	P	P	P
Cottage Cluster						P

P - Signifies the activity is permitted.
 CU – Requires a conditional use permit.

R-1 - Medium Density Residential (R-1)
R-2 - Medium Density Residential (R-2)
R-3 - Medium Density Residential (R-2)
RT – Residential Trailer
RM - Medium Density Residential Zone
New RM – Mixed Density Residential

- B. The new RM creates a single high density zone for the City, effectively allowing any residential use to multi-family. These uses are permitted outright with a staff-level site design review for only multi-family projects. Even the land divisions are only subject to a staff level review. On balance, this improves the City’s ability to provide additional housing without expanding the UGB. It is important to note property currently zoned R-1, R-2, R-3, RT, and RM will be renamed Mixed Density Residential (RM). There will be no increase or decrease in the amount of acreage. Further, since the zone map and Plan map are the same, changes to Plan designations are unnecessary.
- C. Section 157.387 provides introductory provisions for legislative zone changes or comprehensive plan amendment. Zone changes or Comprehensive Plan amendments that are legislative in nature, (i.e., without a specific applicant or project in mind but of more general application) shall require such public hearings as are required in Ord. 90-3 and O.R.S. 227.160 through 227.185, with notice given as therein required. For the record, the role of the Planning Commission is to provide a recommendation to the City Council regarding the amendments. The City will hold a separate hearing before the City Council.

FINDINGS: The City provided the required public notice, including notice to the Department of Land Conservation and Development (DLCDD). As of the date of this report, the DLCDD did not submit comments.

- D. Section 157.388 establishes the standards for approval of zone changes or comprehensive plan amendments. All zone changes or Comprehensive Plan amendments, whether legislative in nature or whether quasi-judicial, may be approved only if all of the following are satisfied:
1. Section 157.388(A) - The proposed change is consistent with the Comprehensive Plan’s policies;

FINDINGS: The Comprehensive Plan consists of 16 Goals with each Goal addressing specific land use issues such as housing or natural resources. Each Goal is reviewed below:

- a. Goal 1: Citizen Involvement – To provide all city and Urban Growth Area residents with an opportunity to be involved in all phases of the planning process.

FINDINGS: Consistent with this Goal, the community was involved in reviewing the material through work sessions and eventual public hearings before the Commission and Council.

- b. Goal 2: Land Use Planning – To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions; to encourage development outside of natural hazard areas including climate-related hazards; and to encourage the use of construction materials and standards that limit greenhouse gas emissions during building use.

FINDINGS: Except for allowing additional residential uses – encouraged by state law - nothing effectively changes regarding the overall land use pattern within the City.

- c. Goal 3: Agricultural Lands – Although this State Goal does not apply to the City, the City supports preservation and maintenance of the agricultural lands.

FINDINGS: This Goal does not apply, as the zone changes do not impact identified farmland.

- d. Goal 4: Forest Lands – Although this State Goal does not apply to the City, the City supports preservation and maintenance of forest lands.

FINDINGS: This Goal does not apply, as the zone changes do not impact identified forest land.

- e. Goal 5: Natural Features, Natural Resources, Scenic and Historic Areas, and Open Spaces – To foster high-quality development consistent with the natural environment.

FINDINGS: This Goal does not apply, as the revised zoning does not ultimately lead to new regulations involving wetlands, wildlife habitat or other resources identified as requiring preservation or protection.

- f. Goal 6: Air, Water, and Land Resources - To maintain, and where necessary, improve the City’s air and water resources.

FINDINGS: On balance, allowing the concentration of housing avoids sprawl and reduces dependence on the automobile. This is anticipated to have a positive effect on air, water, and land resources.

- g. Goal 7: Areas Subject to Natural Hazards - To reduce risk to people and property from natural hazards.

FINDINGS: Nothing within map amendments impacts the City's ability to address natural hazards nor changes existing hazard regulations.

- h. Goal 8: Recreational Needs - To provide for park facilities and open space.

FINDINGS: The zone map revisions do not impact the City's ability to address recreational needs.

- i. Goal 9: Economic Development - Improve the Economic Base of the Community

FINDINGS: The zoning revisions allow additional levels of residential development. The potential population increase has a beneficial offshoot by providing construction employment, and additional customers – and possibly employees - for local businesses.

- j. Goal 10: Housing – To provide for housing which will meet the needs of a variety of age and income groups.

FINDINGS: The revision not only provides additional housing opportunities for a significant portion of the City. This helps address meeting Goal 10 of the Plan.

- k. Goal 11: Public Facilities and Services – Continue to plan and develop orderly and efficient system of public facilities and services.

FINDINGS: The changes allow for in-fill development which allows for more efficient use of the existing facility system.

- l. Goal 12: Transportation - To provide and encourage a safe, convenient, and economic transportation system.

FINDINGS: The potential housing increase better utilizes the existing road system.

- m. Goal 13: Energy - To conserve energy.

FINDINGS: Nothing within the zone revisions impacts the City's ability to establish uses or regulations to conserve energy.

- n. Goal 14: Urbanization/Urban Growth Boundary and Urban Growth

Area - Coordinate land-use, development, and annexation strategies with Tillamook County.

FINDINGS: This zoning revision is entirely consistent with maintaining a compact urban form by better use of existing residentially zoned land.

- o. Goal 16: Estuarine Resources - To conserve, protect the unique environmental, economic, and social values of local estuarine resources, where appropriate, recognizing their value for the protection and maintenance of water quality, fish and wildlife habitat, and water dependent uses.

FINDINGS: The zone revisions do not create new uses or activities that would adversely impact these resources.

- p. Goal 17: Coastal Shorelands - The City of Nehalem recognizes the interdependence of shoreland and estuarine uses.

FINDINGS: The zone revisions do not create new uses or activities that would adversely impact these resources.

- q. Goal 18: Beaches and Dunes - The City supports efforts to implement policies consistent with Statewide Planning Goal 18.

FINDINGS: The zone revisions do not create new uses or activities that would adversely impact these resources.

- r. Goal 19: Ocean Resources - The City supports efforts to implement policies consistent with Oregon Statewide Planning Goal 19, “to conserve the long-term values, benefits, and natural resources of the near shore ocean and the continental shelf.”

FINDINGS: The zone revisions do not create new uses or activities that would adversely impact these resources.

- 2. Section 157.388(B) - The proposed change shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection goals;

FINDINGS: The zone revisions apply only to residentially zoned land and do not involve resource-related property.

- 3. Section 157.388(C) - The site involved is better suited to the purposes allowed by the proposed change than it is to the purposes of the existing zone; and

FINDINGS: The focus is on existing residential zoned land and does not reduce the availability of land for commercial, industrial, or public purposes.

4. Section 157.388(D) - Development anticipated to result from the proposed change shall not impair the actual or the legally designated uses of neighboring properties.

FINDINGS: The revisions create in-fill opportunities in existing residentially zoned land and do not place non-residential uses or activities within these zones.

V. CONCLUSION AND RECOMMENDATION

Staff recommends the Planning Commission recommend the City Council adopt the new Nehalem Development Ordinance found in the attached Exhibit A.

VI. PLANNING COMMISSION ACTION

- A. The Planning Commission may either:
 1. Recommend City Council adoption of the proposed Nehalem Development Ordinance, adopting the findings contained in the staff report;
 2. Recommend City Council approval of proposed Nehalem Development Ordinance, adopting modified language and/or findings; or
 3. Recommend City Council denial of the proposed Nehalem Development Ordinance, specifying reasons why the proposal fails to comply with the decision criteria.
- B. Staff will prepare an Order of Recommendation for the Chair's signature based on the Commission's decision.