



**NEHALEM PLANNING COMMISSION MEETING  
THURSDAY, FEBRUARY 15, 2024 - 6:00 p.m.**

**This meeting will be held in-person at City Hall and through Zoom video conference.**

Please use the following phone number or Zoom weblink to access the meeting remotely:  
Join by phone: Call (253) 215-8782 and enter Meeting ID: 871 3354 8604.  
Join online: <https://us02web.zoom.us/j/87133548604>.

**CALL TO ORDER  
ROLL CALL  
GUESTS**

**APPROVAL OF MINUTES:** November 16, 2023, Planning Commission Meeting

**NEW BUSINESS:**

1. **PUBLIC HEARING:** Variance Application to Reduce a Street-side Setback at Southwest Corner of the Intersection of US Highway 101 and 11th Street.

**OTHER BUSINESS**

None scheduled.

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

**ADJOURNMENT** – Proposed Next Planning Commission Meeting: March 21, 2024

City Hall is accessible to persons with disabilities. If you need accommodations to access this meeting, please contact City Hall at least 48 hours prior to the meeting.

City of Nehalem • 35900 8th Street • P.O. Box 143 • Nehalem, Oregon 97131  
Ph (503) 368-5627 • [nehalem.gov](http://nehalem.gov)

**NEHALEM PLANNING COMMISSION  
PLANNING MINUTES  
REGULAR MEETING  
NOVEMBER 16, 2023**

Vice-Chair Stockton called the Planning Commission Meeting to order at 6:00 p.m. The meeting was held in-person and by Zoom video conference.

**PLANNING COMMISSION  
MEMBERS PRESENT:**

Lance Stockton, Vice-Chair  
Mary Jo Anderson, Commissioner  
Justin Bailie, Commissioner

**EXCUSED:**

Janet Lease, Chair  
Julie Chick, Commissioner

**STAFF PRESENT:**

Lori Longfellow, City Manager  
Yuriy Ukhach, Deputy City Recorder  
Walt Wendolowski, Contract City Planner (on Zoom)

**VISITORS:**

Stephan Tuttle  
Ruth Tuttle  
**On Zoom:**  
Unidentified visitors

**MINUTES**

The Commission reviewed the minutes of the September 26, 2023, Planning Commission Meeting. Commissioner Bailie **MOVED** to approve the minutes from the September 26, 2023, meeting as presented. Commissioner Stockton **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Stockton, Anderson, and Bailie; No: None);**.

**NEW BUSINESS:**

**PUBLIC HEARING: CONDITIONAL USE APPLICATION TO ESTABLISH A DOCK ON THE NEHALEM RIVER**

Vice-Chair Stockton opened the Public Hearing on the Conditional Use Application to Establish a Dock on the Nehalem River at 6:02 p.m.

Contract City Planner Walt Wendolowski reviewed the staff report that was part of the agenda packet of the meeting. He noted that the staff finds the proposal complies with the decision criteria and recommends Planning Commission approval of the Conditional Use Application subject to the conditions of approval that are noted in the staff report.

Stephen Tuttle talked about the reason behind the two moorages and asked if there was any chance for an exception. He also expressed willingness to comply with the current code.

Contract City Planner Wendolowski explained that the applicant is welcome to apply for a variance.

Commissioner Bailie asked if the two moorages would fall under grandfathering provisions. Contract City Planner Wendolowski explained that it would apply if the original dock was legally established, which was not in this case.

City Manager Lori Longfellow stated that if in the future the applicant decided to run the water line to the dock, he would be required to install the RP-valve backflow device, to conduct an annual backflow testing and to provide the test reports to the city.

Vice-Chair Stockton closed the Public Hearing on the Conditional Use Application to Establish a Dock on the Nehalem River at 6:14 p.m.

Commissioner Bailie **MOVED** to approve the Conditional Use Application to Establish a Dock on the Nehalem River subject to the conditions of approval noted in the Contract City Planner staff report and in the comments of the City Manager regarding city's requirements for establishing water line at the dock and backflow testing. Commissioner Anderson **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Stockton, Anderson, and Bailie; No: None).**

### **OTHER BUSINESS**

None.

### **PUBLIC COMMENTS**

None.

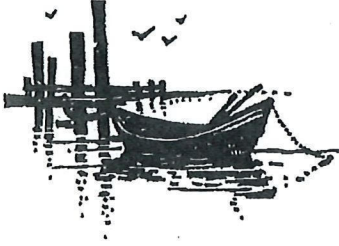
**ADJOURNMENT**

The next Planning Commission meeting will be December 21, 2023. There being no further business, Vice-Chair Stockton adjourned the meeting at 6:16 p.m.

**APPROVED:** \_\_\_\_\_  
Janet Lease, Planning Commission Chair

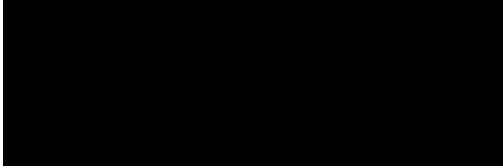
**ATTEST:** \_\_\_\_\_  
Yuriy Ukhach, Deputy City Recorder

DRAFT



# CITY OF NEHALEM

35900 8TH STREET • P.O. BOX 143  
NEHALEM, OREGON 97131  
PH. (503) 368-5627  
FX. (503) 368-4175



## PLANNING APPLICATION

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Admin Review    | <input type="checkbox"/> LUC Review              | <input checked="" type="checkbox"/> Variance   |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Major / Minor Partition | <input type="checkbox"/> Zone Amendment        |
| <input type="checkbox"/> Exception       | <input type="checkbox"/> Ordinance Amend         | <input type="checkbox"/> Zone Change           |
| <input type="checkbox"/> Extension       | <input type="checkbox"/> Sub - Pre Lim           | <input type="checkbox"/> Non Conform Major Rev |
| <input type="checkbox"/> GHZ Report      | <input type="checkbox"/> Sub - Final Plat        | <input type="checkbox"/> Non Conform Minor Rev |

REQUEST (Describe request) Requesting a variance to reduce corner lot setback from 15' to 5' along highway 101.

APPLICANT:  
Name: B+C Construction Phone:

Address: 2103 SE Dolphin Ave City Warronton State: OR Zip 97146

LEGALLY RECORDED OWNER:  
Name: Thomas Durham Phillips Jr. Phone:

Address: PO Box 235 City Manzanita State: OR Zip 97130

1. LEGAL DESCRIPTION OF THE PROPERTY INVOLVED IN THIS APPLICATION  
Township 3N Range 10 Section 27 CA Tax Lot 4000 (portion of)

Subdivision Tohl's Add. to Nehalem City Lot 6 Block 26

2. Zoning RM

3. IS THE PROPERTY DEED RESTRICTED TO PROHIBIT THE USE AS PROPOSED IN THIS APPLICATION?  
 Yes  No

4. I HEREBY APPLY FOR THE ABOVE REQUEST:  
I agree to abide by the requirements of the City of Nehalem Comprehensive Plan, Zoning and Land-Use Ordinances as they apply to this request.

PROPERTY OWNER'S SIGNATURE Date 12/12/2023

5. I AUTHORIZE THIS REQUEST BY THE APPLICANT:  
APPLICANT'S SIGNATURE Date 12/11/2023

\*\*\*\*\*FOR OFFICE USE ONLY\*\*\*\*\*

Date: 11/8/24 Received by: LL Fee Paid: \$325<sup>00</sup> Receipt #: \_\_\_\_\_



November 28, 2023

City of Nehalem  
PO Box 143  
Nehalem, OR 97131

RE: Variance Application for setback for Lot 6, Block 26, Tohl's Addition to Nehalem City (Portion of 3N 10 27 CA Tax Lot 4000).

We are writing to request a variance from the 15' corner lot setback to a 5' setback. The Oregon Coast Highway #101 right of way transitions from 60' to 80' at 11<sup>th</sup> Street. This increased right-of-way width reduces the lot width of said Lot 6, Block 26 and subsequently the width of the building envelope. The attached map shows how allowing this reduction in setback would still maintain a further distance from the travelled lane and fog line than the two homes to the East of the subject property, eliminating any sight distance or safety concerns.

In regards to the Conditions for granting a variance:

- A. The exceptional circumstance that affects the property is the right-of-way width listed above that reduces the size of the property. Maintaining the 15' setback results in a 20' wide building envelope.
- B. The variance is necessary to allow for the construction of a home that is typical and similar in size to neighboring homes.
- C. The variance would not be materially detrimental to the comprehensive plan or property in the same zone or vicinity. The granting of this variance would not stand out or be visually apparent as the building will still be set back further from the highway than adjacent homes.
- D. The variance is the minimum that will alleviate the hardship. We investigated the possibility of adjusting the boundary between the 4 lots that are under the same ownership (tax lot 4000) The 4 lots are currently grandfathered in. However, if adjusted, the lots would all need to meet the minimum 5,000 square foot per lot standard, but there is not sufficient area to meet this.

We appreciate your consideration in this matter. Please reach out to me if you need any additional information or clarification.

Thank you

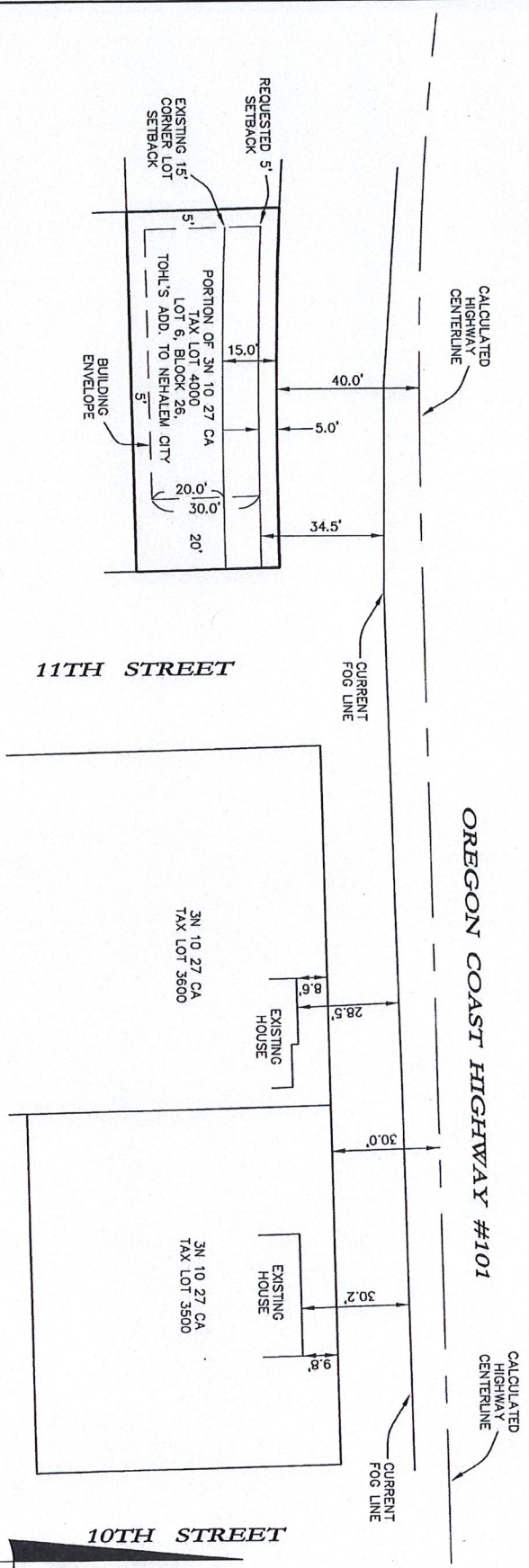


B&C Construction

**NOTES**  
 THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE SUBJECT PROPERTY. THE PURPOSE OF THIS MAP IS TO SHOW THE PROPOSED SETBACK VARIANCE FOR LOT 6, BLOCK 26, TOHL'S ADDITION TO NEHALEM CITY. THE NEAREST RESIDENTIAL BUILDINGS TO THE EAST SHOWN ARE CLOSER TO THE TRAVELED WAY (FOG LINE) OF OREGON COAST HIGHWAY # 101. THE REQUESTED SETBACK WILL LEAVE THE CLOSEST PORTION OF THE STRUCTURE 4'-6" FURTHER FROM THE HIGHWAY THAN SAID STRUCTURES. THE CURRENT SETBACK ONLY ALLOWS FOR A 20' WIDE BUILDING ENVELOPE AND THE REQUESTED VARIANCE WOULD ALLOW FOR A 30' WIDE BUILDING ENVELOPE.

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
*Erick M. White*  
 OREGON  
 APRIL 28, 2014  
 ERICK M. WHITE  
 78572  
 RENEWS 6/30/2024

*PRELIMINARY*



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

"NEH88" #A2021  
 BANDCC31-EX.DWG

VARIANCE SITE PLAN FOR:  
**B & C CONSTRUCTION**

LOT 6  
 BLOCK 26  
 TOHL'S ADD. TO NEHALEM CITY  
 SE 1/4, SW 1/4, SECTION 27, T3N, R10W, W.M.  
 TILLAMOOK COUNTY  
 NOVEMBER 28, 2023

SCALE:  
 1" = 30'



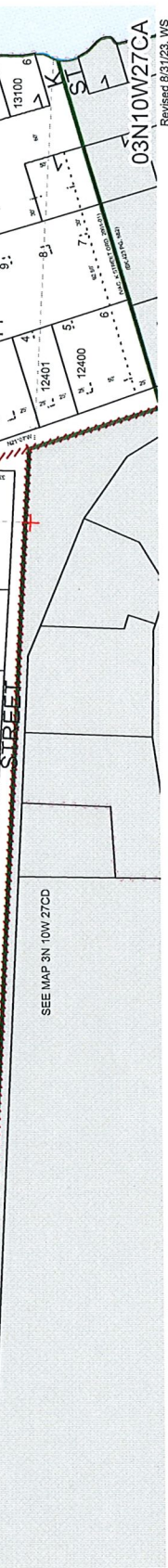
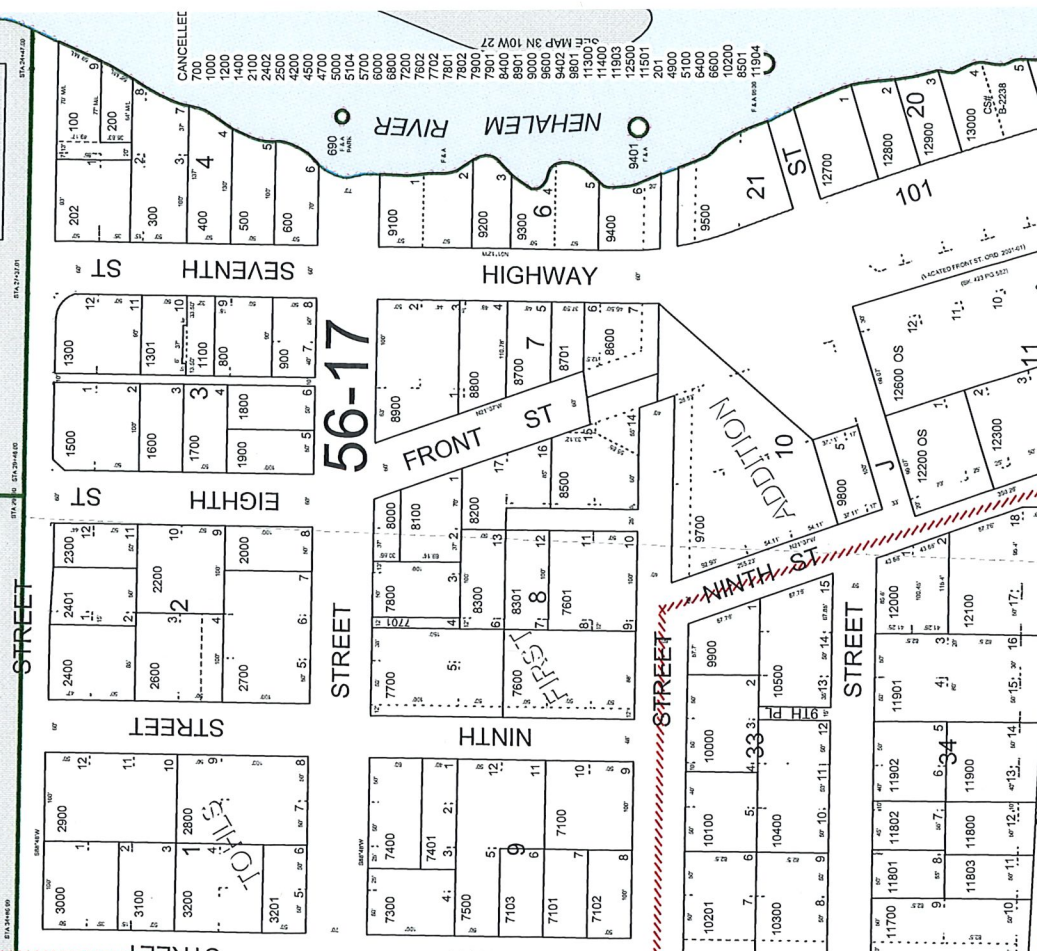
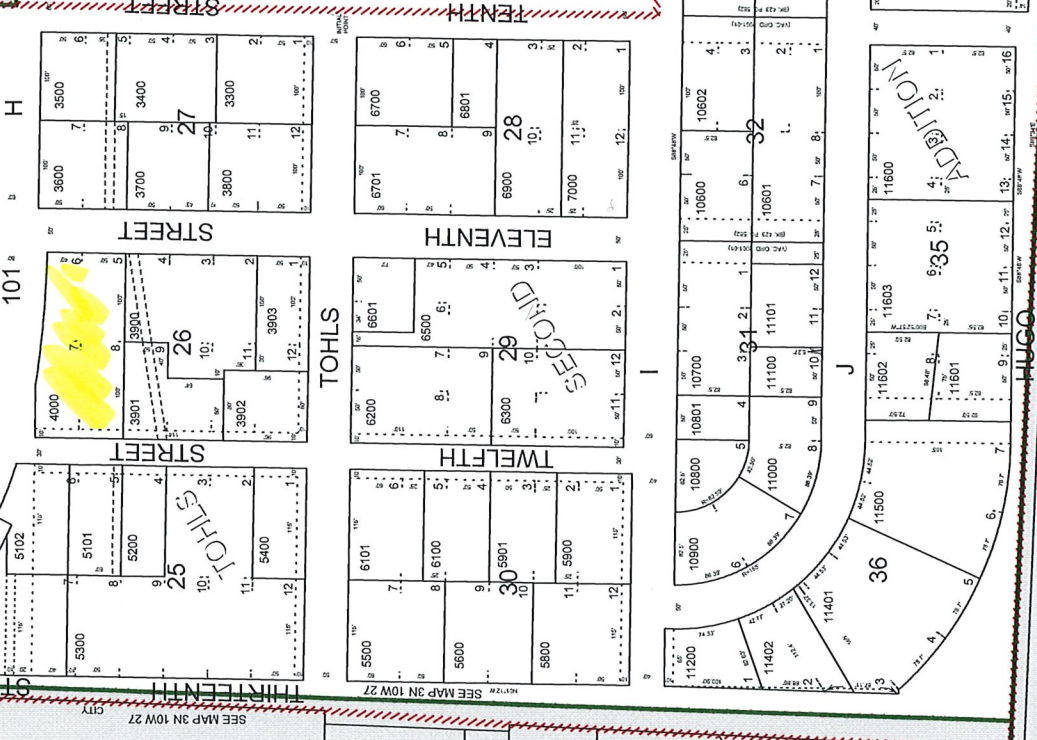
N.E. 1/4 S.W. 14 SEC. 27 T.3N. R.10W. W.M.

TILLAMOOK COUNTY

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SEE MAP 3N 10W 27B

SEE MAP 3N 10W 27AC





## STAFF REPORT

**TO:** Nehalem Planning Commission  
**FROM:** Walt Wendolowski, Contract City Planner  
**SUBJECT:** Planning File No. 24-01-01 Variance  
**DATE:** February 8, 2024

### I. BACKGROUND INFORMATION

- A. **APPLICANT:** B&C Construction.
- B. **PROPERTY LOCATION:** The property is located on the southwest corner of the intersection of US Highway 101 and 11<sup>th</sup> Street. There is no site address, and the property is identified on the County Assessor map as located within Township 3 North; Range 10 West; Section 27CA; Lot 6, Block 26, Tohl's Addition to Nehalem City (portion of Tax Lot #4000).
- C. **PARCEL SIZE:** Approximately 4,000 square feet.
- D. **EXISTING DEVELOPMENT:** The vacant parcel fronts two public streets and is served by public sewer and water.
- E. **ZONING:** Mixed Density Residential (MR).
- F. **ADJACENT ZONING AND LAND USES:** All adjacent land is zoned RM with single family homes the predominant land use.
- G. **REQUEST:** The applicant is requesting approval of a Variance to reduce a street-side setback.
- H. **DECISION CRITERIA:** Approval or denial of the request shall be based on the following provisions of the Nehalem Zoning Ordinance: Section 157.205.05 – Mixed Density Residential Zone (Dimension Standards); and Section 157.506 – Variance.

### II. APPLICATION SUMMARY

- A. The site contains approximately 4,000 square feet of area with a width of 40-feet along at the east end. The property owner wishes to construct a home on the site. Although the lot does not meet the minimum 5,000 square foot lot size, the site is a developable lot of record.

- B. Section 157.205.05(C) establishes the minimum residential setback requirements in the RM zone. For the front and rear yards, the minimum setback is 15-feet; for the side yard the minimum is 5-feet. However, for a side yard adjacent to the street the minimum is 15-feet.
- C. Based on the submitted site plan, compliance with the applicable side yard setbacks would create a building envelope only 20-feet in width. The applicant is requesting a variance to reduce the street side setback along US Highway 1010 from 15-feet to 5-feet. This would increase the width of the building envelope to 30-feet. The applicant did not request variances or adjustments to any other dimensions.
- D. The modification of a quantitative standard by more than 10% requires approval of a variance. For the record, the applicant did not request any additional modifications to the setback or other applicable development standards. As a variance, the application requires a hearing before the Planning Commission.

### III. CRITERIA AND FINDINGS – VARIANCE

- A. Chapter 157.506 contains the variance provisions. Per 157.506.01, to address unique characteristics associated with a property, the City may allow a modification to quantifiable requirements. Variance approval is required for modifications resulting in a greater than a 10% change in a quantifiable standard.
- B. Sections 157.506.02 to 157.506.04 address the process, application, and submittal requirements. For the record, staff determined the process and application are consistent with these provisions.
- C. Section 157.506.05 addresses the applicability of the variance request. Under the following provisions, an applicant may propose a Variance from a standard of this Ordinance, except when one or more of the following apply:
  - 1. Section 157.506.05(A) - The proposed variance would allow a use which is not permitted in the district.  
  
FINDINGS: The request would allow the construction of a single-family home, a use allowed in the RM zone [Section 157.205.02(A)].
  - 2. Section 157.506.05(B) - Another procedure and/or criterion is specified in the Ordinance for modifying or waiving the requirement or standard.  
  
FINDINGS: Modification of the setback either requires an adjustment or variance. There are no other procedures that apply.
  - 3. Section 157.506.05(C) - Modification of the requirement or standard is prohibited within the district.

FINDINGS: The RM zone does not include any provisions that would prohibit the request.

Based on the above findings, the applicant may propose a variance.

D. Section 157.506.06 contains the decision criteria for a variance. The Planning Commission may allow a Variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

1. Section 157.506.06(A) - Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Ordinance, topography, or other circumstances over which the applicant has no control.

FINDINGS: Based on the layout of the lot, it appears US Highway 101 carved out a portion of the lot for its right-of-way. This reduced the lot width and buildable area of the lot. Compliance with the required setbacks would result in a 20-foot-wide building envelope. While feasible for an attached dwelling, this dimension is insufficient for a detached residence. Staff concludes the right-of-way intrusion and resulting narrowed building envelope are unique to the site.

2. Section 157.506.06(B) - Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.

FINDINGS: The RM zone permits the establishment of a single family detached home. The variance provides sufficient buildable area to construct such a dwelling.

3. Section 157.506.06(C) - The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located, or otherwise conflict with the objectives of any City plan or policy.

FINDINGS: The surrounding area is predominantly single-family homes. The proposed new home is consistent with the pattern of development.

4. Section 157.506.06(D) - That the special conditions and circumstances on which the application is based do not result from a self-imposed hardship or a negligent or known violation of this Ordinance by the applicant.

FINDINGS: The applicant was aware of the need for a variance. This request, therefore, is not the result of a self-imposed hardship or a negligent or known violation of this Ordinance.

5. Section 157.506.06(E) - The variance requested is the minimum variance which would alleviate the hardship.

FINDINGS: The required side yard setbacks total 20-feet (5-foot for side yard; 15-feet for street side yard). This would establish a 30-foot-wide building envelope. If the lot had a 50-foot width like other platted lots in Tax Lot 4000, the site would comply with the setback requirements without the need for a variance. The setback reduction is therefore the minimum variance necessary to achieve the same building envelope width.

- E. As a corner lot, there are two access options. Since 11<sup>th</sup> Street is the local street, access will be limited to this street. To improve safety, it is suggested the developer locate the driveway at the south end of the property.

#### IV. CONCLUSION AND RECOMMENDATION

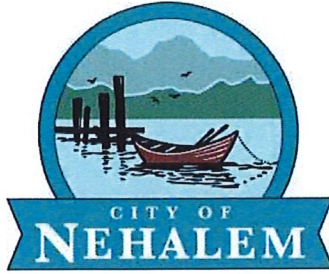
Staff finds the proposal complies with the decision criteria and recommends Planning Commission approval of the Conditional Use subject to the following Conditions of Approval:

- A. The approval shall be limited to a reduction of the street side yard setback along US Highway 101 from 15 feet to 5 feet.
- B. Except for the approved variance, development shall comply with all applicable development requirements of the Nehalem Development Ordinance.
- C. Access to the property shall be limited to 11<sup>th</sup> Street.
- D. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

#### V. PLANNING COMMISSION ACTION

- A. The Planning Commission may either:
  1. Approve the application and adopt findings and conditions contained in the Staff Report.
  2. Approve the application with modified findings and/or conditions.

3. Deny the application, specifying reasons why the applicant has not met the criteria.
  4. Continue the hearing to a date, time, and place certain.
- B. If a decision is made, staff will prepare an Order for the Chair's signature based on the Planning Commission decision.



January 4, 2023

B&C Construction  
2103 SE Dolphin Avenue  
Warrenton, Oregon 97146

RE: Completeness Letter – Variance Application

To whom it may concern:

The City of Nehalem received your application for a Variance to the corner lot setback requirements on property located on 11<sup>th</sup> Street. City staff reviewed the application against the submittal requirements in Development Code Section 157.506.04 and determined the application to be **COMPLETE**.

The city will begin the review process and you will be notified of any meeting dates related to the request.

Please contact me if you have any questions.

Regards,

Lori Longfellow  
City Manager  
(503) 368-5627

12/6/23 - emailed surveyor <sup>(il)</sup>  
City of Nehalem • 35900 8th Street • P.O. Box 143 • Nehalem, Oregon 97131  
Ph (503) 368-5627 • Fx (503) 368-4175 • nehalem.gov