BEFORE THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

In the Matter of Adopting Zone Change ZC 14-01 and Amending the City of Nehalem Comprehensive Plan and City of Nehalem Zoning Map to rezone a property from Residential Trailer (RT-NM) to Commercial (C-NM) on a property described as Parcel 1 of Partition Plat 1990-24 and designated as Tax Lot 2200 of Section 28B, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County Oregon.

Findings of Fact and Decision
ZC-14-01

This matter came before the Tillamook County Board of Commissioners at the request of Margaret Page, 1180 Highway 101 N., Tillamook, Oregon, 97141 and Dale Jones, P.O. Box 8346, Coburg, Oregon, 97141. The Board of Commissioners, being fully apprised of the representations of the above-named persons and the records and files in this matter, finds as follows:

1. The files in this proceeding can be found in the office of the Tillamook County Department of Community Development under Zone Change ZC-14-01.

2. The Notice of Proposed Action was submitted to the Department of Land Conservation and Development on April 21, 2014.

3. The Tillamook County Planning Commission held a public hearing on this request on June 12, 2014. The hearing was noticed in a proper manner according to the requirements of ORS 197 and 215. After reviewing the staff report, testimony, and the record and file for ZC 14-01, the Planning Commission found the application met the criteria subject to conditions and unanimously passed a recommendation to the Tillamook County Board of Commissioners to adopt Zone Change Amendment Request ZC-14-01.

4. The Board opened a de novo public hearing on the Zone Change ZC-14-01 on June 25, 2014. The hearing was properly noticed according to the requirements of ORS 197 and 215. The applicant testified on why the parcel was better suited to the proposed zoning. No other public testimony was given. After reviewing the Planning Commission’s recommendation, the staff report containing findings and conclusions, testimony, and the record and file, the Board found that the amendment and zone change criteria outlined under the City of Nehalem Zoning Ordinance, Article XVI: Matters Subject to the Review and Approval by the Planning Commission and Article XIX: Administrative Provisions, had been met. The Board further found that the proposed zone change was consistent with the policies of the City of Nehalem Comprehensive Plan. The Board adopted the proposed Zoning Map Amendment and approved Zone Change ZC-14-01. The Board also adopted the Findings attached hereto and concluded that the applicable criteria have been met herein.
NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

5. The City of Nehalem Zoning Map and comprehensive plan are hereby amended to change the zoning designation on the subject property from Nehalem Residential Trailer (RT-NM) to Nehalem Commercial (C-NM).

6. The subject property, as set forth in the staff report (Exhibit A), filed with the Tillamook County Department of Community Development as ZC-14-01 and as shown on the attached map (Exhibit B), both of which are attached hereto and made part of this Order, is hereby rezoned to Nehalem Commercial (C-NM).


BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Bill Baertlein, Chairperson

Tim Josi, Vice-Chairperson

Mark Labhart, Commissioner

ATTEST: Tassi O’Neil,
County Clerk

APPROVED AS TO FORM:

William K. Sargent, County Counsel
ZONE CHANGE AND MAP AMENDMENT REQUEST FOR A PROPERTY WITHIN THE CITY OF NEHLAEM URBAN GROWTH BOUNDARY:
ZC-14-01

Staff Report Date: June 5, 2014
Planning Commission Hearing Date: June 12, 2014
Board of County Commissioners Hearing Date: June 25, 2014

REPORT PREPARED BY: Sarah Absher, Senior Planner

I. GENERAL INFORMATION:

Request: To rezone a property from Residential Trailer (RT-NM) to Commercial (C-NM) and amend the City of Nehalem Zoning Map to reflect the proposed zone change request.

Location: 36505 Highway 101 North, described as Parcel 1 of Partition Plat 1990-24 and designated as Tax Lot 2200 of Section 28B, Township 3 North, Range 10 West of the Willamette Meridian, Tillamook County Oregon.

Current Zone: Residential Trailer (RT-NM)

Proposed Zone: Commercial (C-NM)

Applicant: Margaret Page, 1180 Highway 101 N., Tillamook, OR 97141

Property Owner: Dale Jones, P.O. Box 8346, Coburg, OR 97141
II. PROPERTY INFORMATION:
The subject property is located within the northwestern region of the City of Nehalem's Urban Growth Boundary on the north side of Highway 101. The subject property is currently zoned Residential Trailer (RT-NM) and is an irregularly shaped parcel, 0.55 acres (23,958 square feet) in size. The subject property is improved with a single family dwelling and driveway. Topography of the subject property slopes in a southerly downward direction, towards Highway 101. The existing dwelling appears to be located on a cut/benched area. The unimproved portions of the subject property are vegetated with native trees and shrubs. Exposed areas around the dwelling and driveway are covered with grass. Photographs of the subject property and vicinity have been included as “Exhibit C”.

III. APPLICABLE CITY OF NEHALEM LAND USE ORDINANCE PROVISIONS:
A. Article XVI: Matters Subject to the Review and Approval by the Planning Commission
B. Article XIX: Administrative Provisions

IV. ANALYSIS:
A. Section 16.010: General

1. All applications for zone changes, Comprehensive Plan Amendments, conditional use permits, variances and planned developments; along with all enforcement actions relevant to this Ordinance shall be under the jurisdiction of the Planning Commission.

Findings: Policy 3.7 of the Goal 14: Urbanization element of the Tillamook County Comprehensive Plan states that the County will manage unincorporated lands within those boundaries in conformance with comprehensive plans and implementing ordinances adopted in cooperation with the cities and in accordance with Goal 14. The proposed zone change review is a coordinated process between the city and county, consistent with County policy and state law.

The City of Nehalem Planning Commission heard this matter at a public hearing on April 23, 2014 where the motion passed unanimously that the zone change request be approved by the Nehalem City Council. A copy of the City of Nehalem staff report and April 23, 2014 Planning Commission minutes have been included as “Exhibit D”.

Conclusion: Staff concludes this requirement is met.

B. Section 16.040: General

1. 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:

(a) The proposed change is consistent with the Comprehensive Plan's policies: The City of Nehalem Comprehensive Plan is organized into plan policy sections corresponding to the state land use goals. Each section includes Comprehensive Plan text, some also including additional plan
documents. The applicant’s submittal addresses the plan policy sections in relation to the proposed zone change (Exhibit B).

Findings:

a. Section 2.010: Citizen Involvement. Goal: To provide all city residents an opportunity to be involved in the City’s planning decisions. Policies include representation of the Planning Commission, publication of meeting notices, copy cost for land use documents, requirements for response requirements to citizen concerns, and requirements pertaining to financial support for citizen participation. This zone change proposal review is a coordinated review between the City of Nehalem and Tillamook County, both government entities holding public hearings in accordance with the policies and requirements for quasi-judicial hearings outlined in the City of Nehalem Land Use Ordinance. Notices of public hearings to be held by the City of Nehalem and Tillamook County have been mailed to all property owners within 250-feet of the subject property as well as affected districts and agencies. No commentary was received by Tillamook County pertaining to this request.

b. Section 2.020: Comprehensive Plan Procedure. Policies include notification requirements for changes to the Comprehensive Plan. Notification has been sent to the districts and agencies outlined in Section 2.020 by the City of Nehalem and Tillamook County. Notice of this proposal was also published in the May 14, 2014 edition of the Headlight Herald.

c. Section 2.030: Natural Features. Goal: To foster high-quality development consistent with the natural environment. Policies in this section provide the framework for development standards that protect natural features in areas of special flood hazard, geologic hazard areas, riparian areas and the protection of scenic view areas. Attention is given to development density, subdivision, and planned unit developments.

The applicant states the property has already been developed and no new development is being considered. The applicant adds that the property is not in a Flood Hazard Overlay and there is no riparian zone. Any grading of slope has already been done and approved by both the City and County. Therefore, the policies of this Goal element of the Comprehensive Plan do not apply (Exhibit B).

The subject property is identified on FEMA Flood Insurance Rate Map Panel #4101960015B, dated September 28, 1990 and is located within a ‘C’ Flood Zone (Exhibit E). There are no creeks or streams on the subject property. According to the US Fish & Wildlife (USF&W) National Wetlands Inventory digital maps there are no mapped wetlands on this property (Exhibit F). The subject property is located within an area of landslide topography as identified on the Oregon Department of Geology and Mineral Industries Bulletin (DOGAMI) (Exhibit G). Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.030.
d. **Section 2.040: Recreation and Open Space. Goal: To provide for park facilities and open space.** Policies in this section encourage subdivision and planned unit development to include open space, recreation facilities, and public pedestrian access. Development along year round streams, the Nehalem River, and Nehalem Bay shall be conducted in a manner that preserves natural stream bank vegetation or that appropriate replanting occurs. These policies also encourage improved public access to the river and bay provided private property rights, public safety, and the shoreline are not adversely affected.

The applicant states that the subject property is a single small parcel and has already been development, adding that the policies of this goal element do not apply as the policies address subdivision or planned-unit development, outlining provisions for parks and recreation (Exhibit B).

The subject property is 0.55 acres and is improved with a single family dwelling. The subject property is not part of a planned unit development or subdivision, nor is it adjacent to any creeks or streams. Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.040.

e. **Section 2.050: Air and Water Quality. Goal: To maintain, and where necessary, improve the City’s air and water resources.** Policies require the City of Nehalem to take actions that are consistent with appropriate state and federal environmental quality standards, that measures for erosion control and sedimentation control will be regulated through the City of Nehalem Subdivision Ordinance, notification requirements for the use of herbicides in the City’s watershed, and implementation of the Master Water Plan.

The applicant states the subject property is small, already developed, and does not front on water; therefore the policies of this Goal do not apply (Exhibit B).

The subject property is improved with a single family dwelling and served by City water. Future development and land divisions would remain subject to the standards of the City of Nehalem Zoning Ordinance and City of Nehalem Subdivision Ordinance. Staff finds that changing the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) would not conflict with the goals and policies outlined in Section 2.050 pertaining to the maintenance and improvements of air and water resources.

f. **Section 2.060: Housing. Goal: To provide for housing which will meet the needs of a variety of age and income groups.** Policies state the City will provide for manufactured homes and high-density housing through the City of Nehalem Land Use Ordinance, that the City supports the efforts of the Tillamook County Housing Authority and the Northwest Oregon Housing Association to provide low and moderate income housing for area residents, and that the City supports both public and private efforts to conserve and rehabilitate existing housing.
The applicant states the current inventory of residentially zoned land is consistent with current and projected housing needs; an adequate supply of vacant land zoned residential already exists. The applicant adds that the developed parcel is small and topography does not lend itself to the kind of density development that would provide low-income housing units. The applicant also states that the apartment on the second floor of the dwelling will be retained for use an apartment/owner's quarters, supporting development of housing units in conjunction with commercial development (Exhibit B).

Zoning within the City of Nehalem and Nehalem Urban Growth Boundary includes seven residential zoning districts, allowing for varying levels of residential density and diverse housing options. Tillamook County participated in a north county buildable lands inventory analysis in 2007 with the incorporated cities of Wheeler, Nehalem, and Manzanita. The Tillamook County Comprehensive Plan was amended as a result of this process (OA-07-01), resulting in the modification of the existing goals and policies and adding new strategies to the Goal 10: Housing element of the Tillamook County Comprehensive Plan; and to acknowledge the findings and actions of the cities of Manzanita, Nehalem and Wheeler on the North County Buildable Lands Inventory, Housing Needs, and Economic Opportunities Analyses, and Public Service and Facilities Assessment. These amendment proposals were approved by the Tillamook County Board of Commissioners August 13, 2008.

The analysis conducted for the north county buildable lands inventory was completed in 2007 by Cogan Owens Cogan (Exhibit H) and included a housing needs analysis for the City of Nehalem and those properties located within the Urban Growth Boundary. This analysis was referenced as part of the Comprehensive Plan Amendment policies. Information from the report state:

- Approximately 196 acres of land exist within the Nehalem UGB zoned for residential use, approximately 47 acres is zoned Residential Trailer (RT-NM).
- Mobile homes will continue to be located primarily in the RT-NM zone, with small amounts in other residential zones.
- There is an overall surplus of residential land of over 175 acres, including a relatively modest amount of commercially zoned land that could be used for housing.
- Table 11 of the City of Nehalem analysis is a comparison between land supply and need by zoning designation for 2027. Approximately 1.6 acres is needed for RT-NM zoned land, leaving a surplus of 46 acres.

Based upon the adopted findings of this report, Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict with the goals and policies of Section 2.060.

**g. Section 2.070: Economics. Goal:** To improve the economic base of the community. Policies support the efforts of Tillamook County to improve the economy of the area, encourages home occupations and cottage industries through the City of Nehalem Zoning Ordinance, and that zoning for commercial uses be large enough to accommodate future
growth requirements but not so large as to substantially affect adjacent residential neighborhoods (Exhibit B).

The applicant states the proposal supports the encouragement of successful home-based businesses and adds approximately 0.25 level buildable acres to the City's inventory of commercially-zone space, thus possibly accommodating some expansion of the existing improvement, providing such expansion meets all other ordinances and codes. The applicant adds that approval of this request would assist with the establishment of a new business (Exhibit B).

The subject property is located within an area of mixed use development. A church is located on the south side of Highway 101. Commercial businesses are located to the north and south. There is significant amount of residential development within the vicinity. Policy 3 of Section 2.070 states, “Zoning for commercial uses should provide areas large enough to accommodate future growth requirements, but not so large as to substantially affect adjacent residential neighborhoods.” The subject property is 0.55 acres in size. Staff finds that the size of the property may be a limiting factor as to which commercial uses may occur on site and those uses should not substantially affect adjacent residential neighborhoods given the size of the property and its location in relation to existing residential neighborhoods. Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.070.

h. Section 2.080: Energy. Goal: To conserve energy. The policies state the City will promote energy conservation efforts in building construction, will encourage proper solar orientation in housing design, and support efforts of organizations to weatherize and insulate homes of low-income persons, particularly the elderly.

The applicant states the improvement has been recently built to current energy-use codes (Exhibit B).

The property is improved with a single family dwelling (Exhibits A & B). Future construction and development within any zone is subject to the City of Nehalem Zoning Ordinance and building code requirements. Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.080.

i. Section 2.090: Transportation. Goal: To provide and encourage a safe, convenient and economic transportation system. Transportation methods supported by the City and road improvement standards are described in the Transportation policies. Areas designated for future transportation improvements are also identified in these policies.

The applicant states no new roads would be created and the property is already served by an ODOT approved culvert driveway with adequate two-way visibility up and down Highway 101. The applicant also states Bill Johnson, ODOT, has inspected the point of ingress and egress, indicating that the requested zone change should have little impact on
traffic. The applicant adds that adequate off-street parking exists, no unsafe pedestrian traffic would be created on Highway 101, and the bike lane would not be impacted (Exhibit B).

The subject property is improved with an existing road approach from Highway 101. No new roads are proposed and existing transportation improvements would not be impacted by this zone change request. Commentary from ODOT confirms a Traffic Impact Study is not required due to the size of the property (Exhibit I). Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.090.

**j. Section 2.010: Urban Growth Boundary.** Policies state that properties within the City of Nehalem Urban Growth Boundary are within the jurisdiction of Tillamook County. Policies address the extension of water service, participation requirements for changes within the City of Nehalem Urban Growth Boundary, criteria for the conversion of undeveloped land to urban purposes, and annexations. General findings in support of the City of Nehalem Urban Growth Boundary and specific findings for Urban Growth Sub-areas are outlined in Section 2.010. Specific findings for the Bayside Gardens area are outlined under Section 2.010(3)(i) and (4)(ii).

The applicant states that the Bayside Gardens area has been subject to extensive parcelization and urbanization, surrounded on three sides by parcels zoned Commercial and in Commercial or Public Service Use. The applicant adds that neighboring properties to the north are mostly developed with single family dwellings, but notes that the adjacent property to the north is zoned RT but has been long established as a retail firewood outlet (Exhibit B).

This proposal was noticed in accordance with the policies outlined in Section 2.100. The subject property is entirely located within the City of Nehalem Urban Growth Boundary (UGB) and no annexations are proposed. The subject property is improved with a single family dwelling and is served by water/sewer.

Findings for the Bayside Gardens area outlined in Section 2.100(3) state that this area has been subject to extensive parcelization and that the area is committed to urban development due to the nature of existing development and parcel sizes. Existing commercial businesses exist in this immediate area and residential properties are developed with single family dwellings. A church is located across the street. Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.010.

**k. Section 2.011: Public Facilities. Goal: To plan and develop an orderly and efficient system of public facilities and services.** Policies address the maintenance of existing facilities, provisions for improvements of existing facilities to accommodate development, cooperation with Tillamook County in the establishment of a solid waste program, and provisions for the continuation of providing water services to properties and developments outside of the City of Nehalem Urban Growth Boundary.
The subject property is improved with a single family dwelling and is served by water/sewer. Staff finds that the proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of Section 2.011.

1. Section 2.120: Estuarine Resources. This section pertains to management of the Nehalem River Estuary.

2. Section 2.130: Recommendations. The section provides recommendations for management and monitoring of the Nehalem River Estuary.

3. Section 2.140: Coastal Shore lands. This section states that the City of Nehalem recognizes the interdependence of shore land and estuarine uses.

4. Section 2.150: Policies. Policies in this section pertain to the reservation of dredge material disposal areas for the Nehalem Bay, erosion control (rip rap), and the maintenance, restoration, and enhancement of riparian vegetation consistent with water-dependent uses.

Staff finds that because the policies of Sections 2.120, 2.130, 2.140, and 2.150 pertain to estuarine resources and activities, this proposal to change the zoning of the property from Residential Trailer (RT-NM) to Commercial (C-NM) is not in conflict to the goals and policies of these sections.

(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 applicant states that the subject property is not currently zoned, utilized or viable for resource purposes and the proposed zone change is not a conversion from resource to non-resource use (Exhibit B).

Staff finds that the attached zoning maps confirm the subject property is not located within a resource zone (Exhibit A) and an approved exception is not required.

(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:

Findings: The applicant states that the subject property is surrounded by commercial on three sides and single family residential development on the fourth. The applicant explains why the subject property is not suitable to be utilized as a trailer park, referencing the size of the property, the location of improvements, and topographical constraints (Exhibit B).

Allowable uses and development standards for properties within the City of Nehalem and the Urban Growth Boundary zoned Commercial are outlined in Article IX of the City of Nehalem
Zoning Ordinance. Mixed-use developments are permitted outright, allowing for residential uses within the commercial zone.

Staff finds that the size of the subject property can limit potential uses in the existing zone (Residential Trailer) or the proposed zone (Commercial). Staff finds that due to the combination of residential and commercial uses already established in this area, impacts resulting from a change in zoning of the property from residential to commercial are minimal.

(d) Development anticipated to result from the proposed change shall not impair the actual or the legally-designated uses of the neighboring properties:

Findings: The applicant states that development allowed by commercial zoning should not impair the actual or legally designated uses of the neighboring properties, as adjacent properties are primarily utilized for commercial purposes. The applicant states that the current zoning of Residential Trailer would probably have a more negative impact on adjacent properties if developed as a Trailer Park, due to traffic, possible vagrancy and crime (Exhibit B).

As previously stated, allowable uses and development standards for properties within the City of Nehalem and the Urban Growth Boundary zoned Commercial are outlined in Article IX of the City of Nehalem Zoning Ordinance. Mixed-use developments are permitted outright, allowing for residential use within the commercial zone. Staff finds that due to the combination of residential and commercial uses already established in this area, impacts resulting from a change in zoning of the property from residential to commercial are minimal.

V. CONCLUSION AND RECOMMENDATION: RECOMMENDATION OF APPROVAL TO THE TILLAMOOK COUNTY BOARD OF COUNTY COMMISSIONERS.

Staff concludes that the zone change criteria outlined in Article XVI: Matters Subject to the Review and Approval by the Planning Commission have been met for this request based on the findings of fact and other relevant information contained within this report. Staff recommends that the Planning Commission recommend approval of zone change request ZC-14-01 to rezone this subject property to Nehalem Commercial (C-Nm) and amend the City of Nehalem Comprehensive Map to reflect the approved zone change to the Tillamook County Board of Commissioners.

V. EXHIBITS:

A. Location Map, Assessor Map, Zoning Map, and Property Assessment Information
B. Applicant's Submittal
C. Site Photographs
D. City of Nehalem Documents
E. FEMA Flood Insurance Rate Map Panel #4101960015B, dated September 28, 1990
F. National Wetland Inventory Map
G. DOGAMI Bulletin
H. Cogan Owens Cogan Report
I. ODOT Commentary
J. City of Nehalem Comprehensive Plan
K. Article VIII: Residential Trailer- RT Zone
L. Article IX: Commercial- C Zone
M. Article XVI: Matters Subject to the Review and Approval by the Planning Commission
N. Article XIX: Administrative Provisions
City of Nehalem, Oregon
City Zoning

Map Legend

A1  Low-Density Residential, Agriculture, Forestry and Recreation
RL  Low-Density Residential
R1  Medium Density Residential
R2  Medium Density Residential
R3  Medium Density Residential
MR  Medium Density Residential
RT  Residential Trailer
C  C - Commercial
LM  LM - Light Manufacturing
EC1  EC1 - Estuary Conservation
EC2  EC2 - Estuary Conservation
P  Public Lands
Nehalem City Limits
Nehalem Urban Growth Boundary

EXHIBIT B