



3-Lot Partition

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I. PROJECT DESCRIPTION

PROPERTY

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SURVEYOR: Emerio Design, LLC
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SITE

LOCATION: The subject property currently does not have a situs addressed. The property has street frontage along SW Murdock Rd. and is located immediately south of the SW Murdock Rd./SW Sunset Blvd./McKinley Dr. intersection.

TAX LOTS: 2S133BC0; Tax Lot 600

SITE SIZE: The subject site is approximately 3 acres in size

ZONING: Very Low Density Residential (VLDR)

REQUEST: The applicant is requesting Land Use approval for a 3-Lot partition in the VLDR zone.

II. SITE DESCRIPTION/EXISTING CONDITIONS

The subject property is generally rectangular in shape and consists of approximately 3 acres. The property slopes from east to west and has undulating terrain, scattered mature trees throughout the property, and is currently undeveloped. The property has public right-of-way frontage along SW Murdock Road, as well as easement access over the properties to the west.

The site was part of the “Ken Foster Farm” site, originally about 40 acres and was used for farming. It was subdivided approximately twenty years ago, a portion of which is this 3-acre site. It is known that portions of the larger Ken Foster Farm site had been used for discarding animal hides and carcasses that

were remnants from the local tanner operation in the city. As part of the Department of Environmental Quality (DEQ) investigation of the Tannery site on SW Oregon Street, it was discovered that the soil on the Ken Foster Farm site was contaminated. The property to the northeast, Ironwood Subdivision, was in development when the issue became known which required significant soil removal and oversight from the Department of Environmental Quality (DEQ).

DEQ entered the Ken Foster Farm site into the Environmental Cleanup Site Information Database in 2000 and completed a Preliminary Assessment (PA) in 2004, funded by cooperative grant funds from the Environmental Protection Agency (EPA) Region 10.

The developers are responsible for completing clean-up of all known contamination on the site. The developer(s)/owner is actively working with DEQ at the time of this application submittal to finalize the clean-up of the contamination. All approvals from DEQ shall be received prior to the developers proceeding with any development of the subject site area. The Applicant has included a Concentration Map as part of the submitted application materials that shows the location of the contaminated soils. The soils with the highest concentrations are located along the eastern portions of the property. It's believed that the subject property may not have been part of the Ken Foster Farms and that contaminated soils were dumped on the subject property when parts of the Ken Foster Farms to the east were being cleaned up. Nevertheless, there are contaminated soils on the eastern portion of the subject property that need to be addressed as part of the partition process.

2S133BC0; TAX LOT 600 – VICINITY MAP



**III. RESPONSE TO APPLICABLE CITY OF SHERWOOD COMMUNITY DEVELOPMENT CODE
APPROVAL CRITERIA**

***SHERWOOD MUNICIPAL CODE (Code)
TITLE 16 – ZONING AND COMMUNITY DEVELOPMENT CODE***

Division II LAND USE AND DEVELOPMENT

Chapter 16.12 RESIDENTIAL LAND USE DISTRICTS

16.12.010 – Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

1. Standard Density

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas

that warrant preservation but are otherwise deemed suitable for limited development. Standard density in the VLDR zone is 0.7 to 1 dwelling unit per acre.

RESPONSE: The Applicant is proposing a 3-lot residential partition with lots complying with the standard density in the VLDR zone.

Pursuant to Section Chapter 16.10 – Definitions, density is defined as: **Density:** The intensity of residential land uses per acre, stated as the number of dwelling units per net buildable acre. Net buildable acre means an area measuring 43,560 square feet after excluding present and future rights-of-way and environmentally constrained areas.

The net buildable acre of the subject property is 3.01 acres. Based on the net buildable acreage of the subject property, the Applicant’s proposal satisfies the VLDR zone requirements for one dwelling unit per acres, as well as the minimum lot size of 40,000 square feet.

16.12.020 - Allowed Residential Land Uses

A. Residential Land Uses

The table below identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and defined in [Chapter 16.10](#).

USES	VLDR
RESIDENTIAL	
• Single-Family Attached or Detached Dwellings	P
• Two Family Dwelling Units	N
• Multi-family Dwellings	N
• Townhomes-subject to Chapter 16.44	N

RESPONSE: The Applicant is proposing a 3-lot residential partition in the VLDR zone. The new lots will ultimately be developed with single-family detached dwellings as allowed per the table above.

16.12.030 - Residential Land Use Development Standards

A. Generally

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by [Chapter 16.84](#). (Variance and Adjustments)

RESPONSE: No deviation to the VLDR zone lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension requirements, existing on, or after, the effective date of this Code is being requested as part of this proposal.

B. Development Standards

Except as modified under [Chapter 16.68](#) (Infill Development), [Section 16.144.030](#) (Wetland, Habitat and Natural Areas) [Chapter 16.44](#) (Townhomes), or as otherwise provided, required minimum lot areas, dimensions and setbacks shall be provided in the following table.

C. Development Standards per Residential Zone.

Development Standard by Residential Zone-		VLDR
Minimum Lot areas:(in square ft.)		
• Single-Family Detached		40,000
• Single Family Attached		40,000
• Two or Multi-Family: for the first 2 units		X
• Multi-Family: each additional unit after first 2		X
Minimum Lot width at front property line: (in feet)		25
Minimum Lot width at building line ^[7] : (in feet)		
• Single-Family		None
• Two-Family		X
• Multi-family		X
Lot Depth		None
Maximum Height ^[8] (in feet)		30 or 2 stories
• Amateur Radio Tower		70
• Chimneys, Solar or Wind Devices, Radio and TV aerials ^[9]		50
Setbacks (in feet)		
• Front yard ^[10]		20
• Face of garage		20
• Interior side yard		
	• Single-Family Detached	5
	• Single-Family Attached	20
	• Two Family	X
	• Multi-Family	
	• 18 ft. or less in height	X
	• Between 18—24 ft. in height	X
	• If over 24 ft. in height	X

• Corner lot street side		
	• Single Family or Two Family	20
	• Multi-Family	X
• Rear yard		20
Footnote: If the lot is an irregular shape see definition for Lot Line, Rear, Section 16.10 Definitions		

RESPONSE: The proposed lot sizes for the three (3) lots are as follows: Lot 1: 47,094 SF (minus access easement – 6,835 SF) 40,259 Sf, Lot 2: 40,277 SF (minus access easement – 155 SF) 40,122 SF, and Lot 3: 40,651 SF. All proposed lots exceed the minimum lot size for a new lot in the VLDR zone. Additionally, all proposed lots exceed 25-feet in width. No new homes are being proposed at this time. As such, the setbacks and building height will be reviewed for compliance during the building permit review process for each new home. The Applicant’s proposal satisfies the Development Standards for the VLDR zone.

Chapter 16.50 - ACCESSORY STRUCTURES, ARCHITECTURAL FEATURES AND DECKS

16.50.010 - Standards and Definition

B. Generally

For uses located within a residential zoning district, accessory uses, buildings, and structures shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

RESPONSE: At this time one (1) accessory structure is being proposed for Lot 1 as part of the proposed partition. The proposal is for an 800 square foot Additional Dwelling Unit (ADU) on Lot 1 at the southwest corner of the lot. The requirements for an ADU are addressed below under Chapter 16.52.010 – Accessory Dwelling Units.

The future homes and any other associated accessory structures will be reviewed for compliance with the above standards during the building permit review phase.

Chapter 16.52 - ACCESSORY DWELLING UNITS

16.52.020 - Requirements for all accessory dwelling units

All accessory dwelling units must meet the following standards:

- A. Creation: One accessory dwelling unit per single-family detached dwelling may only be created through the following methods:**

- 1. Converting existing living area, attic, basement or garage;**
 - 2. Adding floor area;**
 - 3. Constructing a detached ADU on a site with an existing house;**
 - 4. Constructing a new house with an internal or detached ADU.**
- B. Owner occupancy: The property owner, which shall include the holders and contract purchasers, must occupy either the principal unit or the ADU as their permanent residence for at least six months out of the year, and at no time receive rent for the owner-occupied unit.**
- C. Number of residents: An ADU shall not be occupied by more than 3 persons.**
- D. Location of entrances: The entrance to a detached ADU shall not be visible from the street that the primary residence is addressed from.**
- E. Parking: Additional parking shall be in conformance with the off-street parking provisions for single-family dwellings. If the ADU has more than one bedroom conformance with the Multi-Family parking standards shall apply.**
- F. Floor area: The maximum gross habitable floor area (GHFA) of the ADU shall not exceed 800 square feet.**
- G. Setbacks and dimensional requirements: The ADU shall comply with the setback and dimensional requirements of the underlying zone. A detached ADU shall only be located in the rear yard or above a detached garage.**
- H. Design and appearance:**

Height: The height of a detached ADU shall be no higher than the primary residence.

A detached and attached ADU shall meet the following standards for design and appearance.

Design and appearance standards: Detached ADUs must meet one option from each row below:

RESPONSE: At this time one (1) detached accessory structure is being proposed for Lot 1 as part of the proposed partition. The proposal is for an 800 square foot Additional Dwelling Unit (ADU) on Lot 1 at the northeast corner of the lot. Upon completion of the new single-family dwelling, the property owner, will occupy the principal unit as their permanent residence for at

least six months out of the year, and at no time receive rent for the owner-occupied unit. No more than three (3) persons will occupy the ADU. The entrance to the proposed detached ADU will not be visible from SW Murdock Rd., which is the street that the primary residence will be addressed from. The ADU is not anticipated to have more than one (1) bedroom, so a minimum of one (1) off-street parking space will be provided for the ADU. The proposed ADU will be a maximum of 800 square feet.

Plans for the ADU have not been designed at this time. As such, the Applicant respectfully requests that a condition of approval be applied to the approval that requires a site plan and building plans be submitted to the Planning Department prior to issuance of a building permit to demonstrate compliance with the location of entrances, off-street parking, setbacks and dimensional requirements, and design and appearance criteria.

Chapter 16.58 - VISION CLEARANCE AND FENCE STANDARDS

16.58.010 - Clear Vision Areas

- A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.**

- B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.**

- C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2½) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.**

The following requirements shall govern clear vision areas:

- 1. In all zones, the minimum distance shall be twenty (20) feet.**

- 2. In all zones, the minimum distance from corner curb to any driveway shall be twenty-five (25) feet.**

- 3. Where no setbacks are required, buildings may be constructed within the clear vision area.**

RESPONSE: A new driveway is being proposed to SW Murdock Rd. to serve Lots 1 and 2. The required clear vision area for the new shared driveway will contain no plantings, sight obscuring fencing, walls, structures, or temporary or permanent obstructions exceeding two and one-half (2 ½) feet in height. The Applicant anticipates that the above criteria will be made an on-going condition of any final approval.

DIVISION V. - COMMUNITY DESIGN

Chapter 16.94 - OFF-STREET PARKING AND LOADING

16.94.010 - General Requirements

A. Off-Street Parking Required

No site shall be used for the parking of vehicles until plans are approved providing for off-street parking and loading space as required by this Code. Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases the need for off-street parking or loading requirements shall be unlawful and a violation of this Code, unless additional off-street parking or loading areas are provided in accordance with [Section 16.94.020](#), or unless a variance from the minimum or maximum parking standards is approved in accordance with [Chapter 16.84](#) Variances.

16.94.020 - Off-Street Parking Standards

A. Generally

Where square feet are specified, the area measured shall be the gross building floor area primary to the functioning of the proposed use. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. The Review Authority may determine alternate off - street parking and loading requirements for a use not specifically listed in this Section based upon the requirements of comparable uses.

**Table 1: Minimum and Maximum Parking Standards
(Metro spaces are based on 1 per 1,000 sq ft of gross leasable area)**

	Minimum Parking Standard
Single, two-family and manufactured home on lot ³	1 per dwelling unit

RESPONSE: The Applicant is proposing a three (3) lot partition for the future development of single-family detached homes. Each new home will be equipped with an attached two (2) car garage, as well as a driveway and maneuvering area. The parking requirements will be furthered reviewed for compliance during the building permit review process for each new dwelling.

DIVISION VI. - PUBLIC INFRASTRUCTURE

Chapter 16.106 - TRANSPORTATION FACILITIES

RESPONSE: The site currently has frontage along SW Murdock Rd. Due to existing overhead powerlines and topography challenges along the site’s frontage, it’s anticipated that the city will request, as a condition of approval, that the developer pay a fee in lieu of making the required improvements to SW Murdock Rd. along the site’s frontage. No right-of-way dedication is required for SW Murdock Rd. as part of the proposed partition because 10-feet of right-of-way was previously dedicated along the sites SW Murdock Rd. frontage as part of Partition Plat 1991-076. No new streets are being proposed as part of the partition. Street lighting will be installed, if necessary, to meet current city standards for SW Murdock Rd. Except for paying a fee in lieu of making the required frontage improvements to SW Murdock Rd., all existing transportation facilities are adequate to support the proposed partition. The Applicant’s proposal satisfies the requirements of Chapter 16.106.

16.106.040 – DESIGN

M. Vehicular Access Management

2. Roadway Access

No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

d. Arterials and Highway 99W - Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Figure 1 of the Community Development Plan, Part II, shall be limited as follows:

(1) Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W or arterials. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.

(2) Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress. Alternatives include shared or crossover access agreement between properties, consolidated access points, or frontage or backage roads. When alternatives do not exist, access shall comply with the following standards:

(a) Access to Highway 99W shall be consistent with ODOT standards and policies per OAR 734, Division 51, as follows: Direct access to an arterial or principal arterial will be permitted provided that Point 'A' of such access is more than six hundred (600) feet from any intersection Point 'A' or other access to that arterial (Point 'C').

(b) The access to Highway 99W will be considered temporary until an alternative access to public right-of-ways is created. When the alternative access is available the temporary access to Highway 99W shall be closed.

(3) All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local, neighborhood route or collector streets, including frontage or backage roads, consistent with the Transportation Plan Map and Chapter 6 of the Community Development Plan.

3. Exceptions to Access Criteria for City-Owned Streets

a. Alternate points of access may be allowed if an access management plan which maintains the classified function and integrity of the applicable facility is submitted to and approved by the City Engineer as the access management plan must be included as part of the land use submittal or an application for

modification as described in [§ 16.106.020 E. \(Transportation Facilities Modifications\)](#).

RESPONSE: In order to comply with the above criteria, the Applicant has applied for a design modification with the City's Engineering Department for the proposed shared driveway along SW Murdock Road. With approval of the design modification, the Applicant's proposal will satisfy this section of the code.

Chapter 16.108 - IMPROVEMENT PLAN REVIEW

Chapter 16.110 SANITARY SEWERS

RESPONSE: Sheet 5 shows a proposed sanitary sewer plan for the proposed three (3) lot partition. A sewer line will be extended to each new lots and it will connect to an existing sewer manhole in SW Murdock Road. Thus, each of the lots will have an individual sewer lateral connecting from the proposed sewer main in the public street. The Applicant's proposal satisfies the requirements of Chapter 16.110.

Chapter 16.112 WATER SUPPLY

RESPONSE: Currently an eight-inch diameter public water main exists within SW Murdock Road adjacent to the west edge of the subject property. Interconnection of the existing water main line and those extended into the development will take place as part of this development. The proposed interconnection is shown on Sheet 5 of the submitted plan set along with individual water meters to each of the new lots. The Applicant's proposal satisfies the requirements of Chapter 16.112.

Chapter 16.114 STORM WATER

RESPONSE: Sheet 3 and 5 of the submitted plan set shows a proposed LIDA planter being located in a 2,907 SF tract at the northwest corner of Lot 1. The proposed LIDA planter will collect the stormwater from both the shared driveway serving lots 1 and 2, as well as from the roofs of the future homes. The proposed water LIDA planter will be built to Clean Water Services standards. Two (2) water quality manholes, also to Clean Water Services standards, are proposed in the shared driveway, and a third stormwater manhole is proposed within SW Murdock Road. All storm laterals for the individual lots will connect to the new storm lines, which will in turn connect with the existing stormwater line in SW Murdock Rd. The Applicant's proposal satisfies the requirements of Chapter 16.114.

Chapter 16.116 FIRE PROTECTION

RESPONSE: There is currently no fire hydrant located along SW Murdock in close proximity to the subject property. There nearest fire hydrant is located on McKinley Dr., which is approximately 110-feet south of the site's southwest property corner. Given there is limited

fire hydrants in the surrounding area, it's anticipated that either a new hydrant will be required or the future homes will be required to be sprinklered. The Applicant and developer will work with TVF&R and city Staff to determine the best solution for the proposed partition during the civil plan review for the SW Murdock Rd. frontage improvements.

Chapter 16.118 PUBLIC AND PRIVATE UTILITIES

RESPONSE: All applicable utility lines will be extended from their existing locations in the existing SW Murdock Rd. right-of-way to each of the new residential lots. An eight-foot wide public utilities easement will be provided as necessary for each proposed lot and is depicted on Sheet 5. No private utilities easements are proposed.

DIVISION VII. - LAND DIVISIONS, SUBDIVISIONS, PARTITIONS, LOT LINE ADJUSTMENTS AND MODIFICATIONS

CHAPTER 16.122 - LAND PARTITIONS

16.122.020 - Approval Criteria: Preliminary Plat

Partitions shall not be approved unless:

- A. The partition complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX, and complies with [Chapter 16.128](#) (Land Division Design Standards).**

RESPONSE: As discussed above, the proposed three (3) lot partition complies with the applicable VLD zoning standards and design standards in Division II. Additionally, the Applicant has demonstrated in this narrative and with the submitted plans, that the partition complies with all provisions of Divisions IV, VI, VIII, and IX and Chapter 16.128.

- B. The partition dedicates to the public all required common improvements and areas including but not limited to streets, parks, floodplains, and sanitary sewer, storm water, and water supply systems.**

RESPONSE: No right-of-way dedication is required for SW Murdock Rd. as part of the proposed partition because 10-feet of right-of-way was previously dedicated along the sites SW Murdock Rd. frontage as part of Partition Plat 1991-076. Additionally, no new streets are being proposed as part of the partition. There are also no parks or floodplains associated with the proposed partition. Lastly, no sanitary sewer, storm water, and/or water supply systems are required to be dedicated for the proposed partition as all public facilities currently exist in SW Murdock Rd.

- C. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land, as determined by the City and are in compliance with City standards. For the purposes of this section:**

- 1. Connection to the City water supply system shall be deemed to be adequate water service.**
- 2. Connection to the City sewer system shall be deemed to be adequate sanitary sewer service if sewer lines are within three-hundred (300) feet of the partition or if the lots created are less than 15,000 square feet in area. Installation of private sewage disposal facilities shall be deemed adequate on lots of 15,000 square feet or more if the private system is permitted by County Health and City sewer lines are not within three-hundred (300) feet.**
- 3. The adequacy of other public facilities such as storm water and streets shall be determined by the City Manager or his/her designee based on applicable City policies, plans and standards for said facilities.**

RESPONSE: Adequate water, sanitary sewer and other public facilities currently exist within the SW Murdock Rd. right-of-way to support the proposed partition. As shown on Sheet 5 of the submitted plans, sewer, water, and stormwater facilities will be extended to each lot to serve the future single-family dwellings. In addition, required right-of-way improvements will be made to SW Murdock Rd. along the site's frontage.

D. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

E. Future Development Ability

RESPONSE: All adjoining lands are currently developed and have little to no redevelopment potential.

In addition to the findings required by [Section 16.122.010](#), the City Manager or his/her designee must find, for any partition creating lots averaging one (1) acre or more, that the lots may be re-partitioned or resubdivided in the future in full compliance with the standards of this Code. The City Manager or his/her designee may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If re-partitioning or resubdividing in full compliance with this Code is determined not to be feasible, the City Manager or his/her designee shall either deny the proposed partition, require its redesign, or make a finding and condition of approval that no further partitioning or subdivision may occur, said condition to be recorded against the property.

RESPONSE: The subject property is located in the Very Low-Density Residential District (VLDR), which requires a minimum lot size of 40,000 square feet, which is 3,560 square feet short of one acre. All proposed lots are greater the 40,000 SF in size. Given the current VLDR zoning, it's not possible for any of the proposed lots to be re-partitioned or re-subdivided in the future. Furthermore, given the existing topography of the site, surrounding development, and existing

transportation facilities, it's not practical to further divide the proposed lots as they can't accommodate the necessary public facilities to add more density in the future.

CHAPTER 16.128 - LAND DIVISION DESIGN STANDARDS

16.128.010 - Blocks

A. Connectivity

1. Block Size

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

2. Block Length

Block length standards shall be in accordance with [Section 16.108.040](#). Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.

3. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401.

RESPONSE: The Applicant is proposing a three (3) lot partition with no new streets. As such, no new block lengths are being proposed or altered as part of the proposed partition.

B. Utilities Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

RESPONSE: Any utility easements required for sewer, drainage, water mains, electric lines, or other utilities will be dedicated or provided for by deed with the recording of the final partition plat. All required utility easements necessary to serve the proposed lots will meet the dimensional standards listed in the above criterion.

C. Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.

RESPONSE: The above criterion does not apply to the Applicant's proposal because the proposal is for a three (3) lot partition and not a subdivision.

16.128.020 - Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

RESPONSE:

16.128.030 - Lots

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision or partition, and shall comply with applicable zoning district requirements, with the following exception:

- 1. Lots in areas not served by public sewer or water supply shall conform to any special County Health Department standards.***

RESPONSE: The proposed lots will be served by public sewer and water, therefore, the above criterion does not apply to the Applicant's proposal.

B. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under [Chapter 16.68](#).

C. Double Frontage

Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five (5) foot wide or greater easement for planting and screening may be required.

- D. Side Lot Lines Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.***

RESPONSE: The Applicant is not proposing a subdivision; therefore, criterion B above does not apply. No double frontage lots are being proposed as part of the proposed partition. Lastly, all

proposed side lot lines, as far as practicable, run at right angles to the street upon which the lots face.

E. Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrants special exceptions:

- 1. Cut slopes shall not exceed one (1) and one-half (1 1/2) feet horizontally to one (1) foot vertically.***
- 2. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.***

RESPONSE: The Applicant has submitted a preliminary grading plan as part of the overall application materials. The preliminary grading plan shows that no cut slopes will exceed one and one-half feet horizontally to one foot vertically. Upon gaining final approval for the proposed partition, a detailed grading plan will be provided for the civil plan review and will future demonstrate compliance with the above criteria. No fill slopes are being proposed.

CHAPTER 16.142 - PARKS, TREES AND OPEN SPACES

16.142.070 - Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

B. Applicability

All applications including a Type II - IV land use review, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other codes, policies, and standards of the City Comprehensive Plan.

RESPONSE: The Applicant is applying for Type II land use review for three (3) lot partition. Because the required application for a partition is a Type II application, Section 16.142 applies to the Applicant's request. The applicable criteria are address in detail below.

C. Inventory

- 1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications including Type II - IV development shall include a tree and woodland inventory and report. The report shall be prepared by a qualified professional and must contain the following information:**
 - a. Tree size (in DBH and canopy area)**
 - b. Tree species**
 - c. The condition of the tree with notes as applicable explaining the assessment**
 - d. The location of the tree on the site**
 - e. The location of the tree relative to the planned improvements**
 - f. Assessment of whether the tree must be removed to accommodate the development**
 - g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.**

RESPONSE: As part of the submitted application materials, the Applicant has included a tree inventory prepared by a certified arborist. The tree inventory for the subject property includes tree size (in DBH and canopy area), tree species, condition of the tree with notes as applicable, and the location of the tree on site. All required measures will be taken to preserve trees during the construction that are not proposed to be removed. The Applicant has submitted the required tree inventory prepared by a certified arborist and therefore satisfies the above criteria.

- 2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and report shall also include, but is not limited to, the specific information outlined in the appropriate land use application materials packet.**

RESPONSE: Any additional information required for the tree and woodland inventory's mapping and report outlined in the appropriate land use application materials packet will be provided as applicable to the applicant's specific request.

3. Definitions for the inventory purposes of this Section

- a. A tree is a living woody plant having a trunk diameter as specified below at Diameter at Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition and from**

regulation under this Section, as are any living woody plants under six (6) inches at DBH. All trees six (6) inches or greater shall be inventoried.

- b. A woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a six (6) inches or greater at DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.*
- c. A large stature tree is over 20 feet tall and wide with a minimum trunk diameter of 30 inches at DBH.*

RESPONSE: The Applicant is aware of the above definitions for the inventory purposes of this section.

D. Retention requirements

- 1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., provided the development satisfies of D.2 or D.3, below.**
- 2. Required Tree Canopy - Residential Developments (Single Family Attached, Single Family Detached and Two - Family)**

Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 40 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation πr^2 to calculate the expected square footage of canopy for each tree. The expected mature canopy is counted for each tree regardless of an overlap of multiple tree canopies.

The canopy requirement can be achieved by retaining existing trees or planting new trees. Required street trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide the estimated tree canopy of the proposed trees to the planning department for review.

RESPONSE: There are currently 131 trees located on the subject property. The property owner has applied for an early grading permit to address the contaminated soils on the site. As part of the proposed early grading activity, the developer is proposing the removal of approximately forty (40) trees to facilitate the necessary grading work. The remaining approximately 91-trees, though, will continue to provide a variety of trees on the property and a reasonable tree canopy for the property that will remain during the early grading work.

Upon gaining land use approval for the 3-Lot residential partition, new trees will be planted as part of the development to assure the minimum total tree canopy of 40 percent is achieved for the property. The Applicant respectfully requests, as a condition of approval, to be able to provide the Planning Dept. with a tree planting/mitigation plan prior to issuance of any building permits.

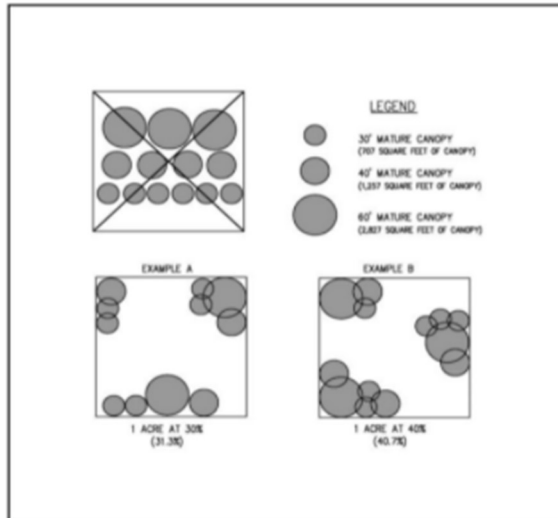
3. Required Tree Canopy - Non-Residential and Multi-family Developments

Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 30 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation πr^2 to calculate the expected square footage of each tree. The expected mature canopy is counted for each tree even if there is an overlap of multiple tree canopies.

The canopy requirement can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the required canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.

RESPONSE: The subject property is zoned for residential development and will ultimately be developed as a 3-Lot residential partition. As such, the above criteria do not apply to the Applicant's request.

	Residential (single family & two family developments)	Old Town & Infill developments	Commercial, Industrial, Institutional Public and Multi-family
Canopy Requirement	40%	N/A	30%
Counted Toward the Canopy Requirement			
Street trees included in canopy requirement	Yes	N/A	No
Landscaping requirements included in canopy requirement	N/A	N/A	Yes
Existing trees onsite	Yes x2	N/A	Yes x2
Planting new trees onsite	Yes	N/A	Yes
Mature Canopy in Square Feet Equation πr^2 or $(3.14159 * \text{radius}^2)$ (This is the calculation to measure the square footage of a circle. The Mature Canopy is given in diameter. In gardening and horticulture reference books, therefore to get the radius you must divide the diameter in half.			
Canopy Calculation Example: Pin Oak Mature canopy = 35' $(3.14159 * 17.5^2) = 962$ square feet			



- 4. The City may determine that, regardless of D.1 through D.3, that certain trees or woodlands may be required to be retained. The basis for such a decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:**
- Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or***
 - A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or***
 - Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or***
 - Necessary in required buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or***
 - Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.***

RESPONSE: As discussed throughout this narrative, the proposed early grading work is to assist with the development of both the subject property, as well as the removal of the contaminated soils. The forty (40) trees proposed for removal as part of the early grading work are only those trees that are located within the boundary of the proposed work. All other trees will remain until land use approval is granted for the future 3-lot residential partition.

- 5. *Tree retention requirements for properties located within the Old Town Overlay or projects subject to the infill standards of [Chapter 16.68](#) are only subject to retention requirements identified in D.4. above.***

RESPONSE: The above criterion does not apply to the Applicant's proposal because the subject property is not located in the Old Town Overlay and is not an infill project.

- 6. *The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection D of this Section, which may be removed or shall be retained as per subsection D of this Section and any limitations or conditions attached thereto.***

RESPONSE: The Applicant is aware of the above notice requirement.

- 7. *All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.***

RESPONSE: The above criterion does not apply to the Applicant's proposal because no land is being dedicated to the city as part of the proposed partition.

E. *Tree Preservation Incentive*

Retention of existing native trees on site which are in good health can be used to achieve the required mature canopy requirement of the development. The expected mature canopy can be calculated twice for existing trees. For example, if one existing tree with an expected mature canopy of 10 feet (78.5 square feet) is retained it will count as twice the existing canopy (157 square feet).

RESPONSE: There are currently 131 trees located on the subject property. As part of the proposed early grading activity the developer has requested from the city, the developer is proposing the removal of forty (40) trees to facilitate the necessary grading work. The remaining 91-trees, though, will continue to provide a variety of trees on the property and a reasonable canopy for the property that will remain after the early grading work.

Upon gaining land use approval for the 3-Lot residential partition, new trees will be planted as part of the development to assure the minimum total tree canopy of 40 percent is achieved for the property. The Applicant respectfully requests, as a condition of approval, to be able to provide the Planning Dept. with a tree planting/mitigation plan prior to issuance of any building permits.

F. *Additional Preservation Incentives*

- 1. General Provisions.** *To assist in the preservation of trees, the City may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the City determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the applicant with justification provided within the tree preservation and protection report as part of the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 16.84.030.A is not required.*

- 2. Flexible Development Standards.** *The following flexible standards are available to applicants in order to preserve trees on a development site. These standards cannot be combined with any other reductions authorized by this code.*
 - a. Lot size averaging.** *To preserve existing trees in the development plan for any Land Division under Division VII, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80 percent of the minimum lot size allowed in the zone;*

 - b. Setbacks.** *The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection (1) below. The following reductions shall be limited to the minimum reduction necessary to protect the tree.*
 - (1) Reductions allowed:**
 - (a.) Front yard** - *up to a 25 percent reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.*

 - (b.) Interior setbacks** - *up to a 40 percent reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone.*

 - (c.) Perimeter side and rear yard setbacks** *shall not be reduced through this provision.*

 - c. Approval criteria:**
 - (1.)** *A demonstration that the reduction requested is the least required to preserve trees; and*

 - (2.)** *The reduction will result in the preservation of tree canopy on the lot with the modified setbacks; and*

 - (3.)** *The reduction will not impede adequate emergency access to the site and structure.*

RESPONSE: Even though no homes are being proposed at this time as part of the proposed partition, due to the large lot sizes, it's not anticipated that flexible development standards are necessary to accommodate the future homes. As such, the above criteria do not apply to the Applicant's request.

- 3. Sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a meandering public sidewalk easement recorded over private property and shall be reviewed on a case by case basis in accordance with the provisions of the Engineering Design Manual, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Street Tree section, [16.142.060](#).**

RESPONSE: There is currently no sidewalk along the site's SW Murdock Rd. frontage. As such, the Applicant anticipates a sidewalk will be required along the site's SW Murdock Rd. frontage as part of the proposed partition. In order to satisfy the above criteria, the developer will be paying the city a fee in lieu of constructing the sidewalk due to existing overhead power lines that are very challenging to underground, as well as due to the significant topography challenges along the site's SW Murdock frontage.

- 4. Adjustments to Commercial and Industrial development Standards. Adjustments to Commercial or Industrial Development standards of up to 20 feet additional building height are permitted provided;**
 - a. At least 50% of a Significant Tree stand's of canopy within a development site (and not also within the sensitive lands or areas that areas dedicated to the City) is preserved;**
 - b. The project arborist or qualified professional certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized;**
 - c. Applicable buffering and screening requirements are met;**
 - d. Any height adjustments comply with state building codes;**
 - e. Significant tree stands are protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such;**
 - (1.) A conservation easement;**
 - (2.) An open space tract;**
 - (3.) A deed restriction; or**
 - (4.) Through dedication and acceptance by the City.**

RESPONSE: The above criteria do not apply to the Applicant’s proposal because the subject property is not zoned Commercial or Industrial, thus no adjustments to the Commercial and/or Industrial standards is being requested.

G. Tree Protection During Development

The applicant shall prepare and submit a final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or protected as per the Notice of Decision. Such plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist or other qualified professional. Any work within the dripline of the tree shall be supervised by the project arborist or other qualified professional onsite during construction.

RESPONSE: The Applicant has submitted a tree removal and erosion control plan that shows how trees and woodlands will be retained, removed or protected. Additionally, the plan specifies how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected will have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically recommended by the Applicant’s certified arborist or other qualified professional. Any work within the dripline of the tree will be supervised by the project arborist or other qualified professional onsite during construction.

H. Penalties

Violations of this Section shall be subject to the penalties defined by [Section 16.02.040](#), provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense.

RESPONSE: The property owner understands that any violations of this section will be subject to the penalties defined by Section 16.02.040 of the city’s development code.

Chapter 16.144 - WETLAND, HABITAT AND NATURAL AREAS

16.144.020 - Standards

A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of subsections A.1.a and A.1.b, below:

- 1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by an area determined by the Clean Water Services Design and Construction Standards R&O 00-7 or its replacement provided [Section 16.140.090](#) does not require more than the requested setback.**

- a. *A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.*
 - b. *Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.*
 - c. *A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.*
2. *If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.*

RESPONSE: There are no documented wetlands, natural drainage ways, vegetation, scenic views, and/or topographical features located on the site that will be impacted by the proposed grading. This observation is supported by the submitted CWS SPL letter, which concluded that Sensitive Areas do not exist on-site or within 200' from your project. As such, the above criteria do not apply to the Applicant's request.

- B. *The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:*
 1. *The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).*
 2. *The facility will comply with applicable requirements of the zone.*
 3. *The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.*
 4. *The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.*
 5. *Development associated with the facility will be set back from the edge of a significant natural area by an area determined by the Clean Water Services Design and Construction*

standards R&O 00-7 or its replacement, provided Section 16.140.090A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in subsection A.1 above.

RESPONSE: Pursuant to the city's Community Development Plan, Part 2 (Natural Resources and Recreation Plan), which is old and challenging to decipher, it appears to show that there are natural features on the site. However, the Applicant has provided the city with a letter dated June 8th, 2022 from Jack Dalton, Principal/Senior Wetland Scientist, for Environmental Science & Associates, LLC., as well as the required CWS SPL letter dated May 17th, 2022. Aside from the existing mature trees on site, both CWS and Jack Dalton have determined that there are no significant natural features on the site that require a plan and text to identify their significance and function value(s).

- C. When the Regionally Significant Fish and Wildlife Habitat map indicates there are resources on the site or within 50 feet of the site, the applicant shall provide plans that show the location of resources on the property. If resources are determined to be located on the property, the plans shall show the value of environmentally sensitive areas using the methodologies described in Sections 1 and 2 below.***

The Metro Regionally Significant Fish and Wildlife Habitat map shall be the basis for determining the location and value of environmentally sensitive habitat areas. In order to specify the exact locations on site, the following methodology shall be used to determine the appropriate boundaries and habitat values:

RESPONSE: The above criteria do not apply to the Applicant's proposal because there are no Regionally Significant Fish and Wildlife Habitat mapped on the subject property or within 50 feet of the site.

The above observations are supported by the June 8th, 2022 letter submitted by Jack Dalton, Principal/Senior Wetland Scientist, for Environmental Science & Associates, LLC., as well as the CWS SPL letter dated May 17th, 2022.

- 1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:***
 - a. Located the Water Feature that is the basis for identifying riparian habitat.***
 - 1. Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.***
 - 2. Locate all flood areas within 100 feet of the property.***

RESPONSE: Per the May 17th, 2022 CWS SPL letter, there is no inventoried riparian habitat, streams, rivers, or open water on the property or within 200-feet of the property. Rock Creek is located east of the property, but it is over 200-feet from the eastern property boundary of the site.

- 3. Locate all wetlands within 150 feet of the property based on the Local Wetland Inventory map and on the Metro 2002 Wetland Inventory map (available from the Metro Data Resource Center, 600 NE Grand Ave., Portland, OR 97232). Identified***

wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the US Army Corps of Engineers.

RESPONSE: Per the May 17th, 2022 CWS SPL letter, there are no documented wetlands located on the subject property. As such, the above criterion does not apply to the Applicant's request.

- b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas or are within 100 feet of flood areas. Vegetative cover status shall be as identified on the Metro Vegetative Cover map. In the event of a discrepancy between the Metro Vegetative Cover map and the existing site conditions, document the actual vegetative cover based on the following definitions along with a 2002 aerial photograph of the property;*
 - 1. Low structure vegetation or open soils — Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).*
 - 2. Woody vegetation — Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown-closure) located within 300 feet of a surface stream.*
 - 3. Forest canopy — Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.*
- c. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the Clean Water Services Vegetated Corridor methodology); and*
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 8-1 below:*
 - 2. Verifying boundaries of inventoried upland habitat. Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the HCA map. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover map may be adjusted to more precisely indicate the drip line of the trees within the canopied area.*

RESPONSE: The above criteria do not apply to the Applicant's request because there are no streams or rivers on the property, or any within 200 feet of the property as noted in the May 17th, 2022 CWS SPL letter.

III. CONCLUSION

The applicant has demonstrated in this written narrative and through the submitted supporting application materials that the proposed three (3) lot partition satisfies the applicable review criteria or can with clear and objective conditions of approval. As such, the Applicant respectfully requests approval of the proposed three (3) lot partition.