

Appendix A



MILWAUKIE PLANNING
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: MLP-2025-001; NR-2025-001

Review type*: I II III IV V

VR-2025-001

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|---|--|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances:
<input type="checkbox"/> Comprehensive Plan Text Amendment
<input type="checkbox"/> Comprehensive Plan Map Amendment
<input type="checkbox"/> Zoning Text Amendment
<input type="checkbox"/> Zoning Map Amendment
<input type="checkbox"/> Code Interpretation
<input type="checkbox"/> Community Service Use
<input type="checkbox"/> Conditional Use
<input type="checkbox"/> Development Review
<input type="checkbox"/> Director Determination
<input type="checkbox"/> Downtown Design Review
<input type="checkbox"/> Extension to Expiring Approval
<input type="checkbox"/> Historic Resource:
<input type="checkbox"/> Alteration
<input type="checkbox"/> Demolition
<input type="checkbox"/> Status Designation
<input type="checkbox"/> Status Deletion | <input checked="" type="checkbox"/> Land Division:
<input type="checkbox"/> Final Plat
<input type="checkbox"/> Lot Consolidation
<input checked="" type="checkbox"/> Partition
<input type="checkbox"/> Property Line Adjustment
<input type="checkbox"/> Replat
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Miscellaneous:
<input type="checkbox"/> Barbed Wire Fencing
<input type="checkbox"/> Mixed Use Overlay Review
<input type="checkbox"/> Modification to Existing Approval
<input checked="" type="checkbox"/> Natural Resource Review**
<input type="checkbox"/> Nonconforming Use Alteration
<input type="checkbox"/> Parking:
<input type="checkbox"/> Quantity Determination
<input type="checkbox"/> Quantity Modification
<input type="checkbox"/> Shared Parking
<input type="checkbox"/> Structured Parking
<input type="checkbox"/> Planned Development | <input type="checkbox"/> Residential Dwelling:
<input type="checkbox"/> Accessory Dwelling Unit
<input type="checkbox"/> Duplex
<input type="checkbox"/> Manufactured Dwelling Park
<input type="checkbox"/> Temporary Dwelling Unit
<input type="checkbox"/> Sign Review
<input type="checkbox"/> Transportation Facilities Review
<input checked="" type="checkbox"/> Variance:
<input type="checkbox"/> Use Exception
<input type="checkbox"/> Variance
<input type="checkbox"/> Willamette Greenway Review
<input type="checkbox"/> Other: _____
<input type="checkbox"/> Use separate application forms for:
Annexation and/or Boundary Change
• Compensation for Reduction in Property Value (Measure 37)
Daily Display Sign
• Appeal
• Appeal |
|---|--|--|

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Oregon Liquor and Cannabis Commission (OLCC)

Mailing address: 9079 SE MCLOUGHLIN BLVD, MILWAUKIE, OR State/Zip: OR, 97222

Phone(s): 503-655-8717 Email:

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above): Clackamas County (Attn: Jeffrey Munns)

Mailing address: 2051 Kaen Road Oregon City, OR 97045 State/Zip: OR, 97045

Phone(s): 503-655-8362 Email: JMunns@clackamas.us

SITE INFORMATION:

Address: 9201 SE MCLOUGHLIN BLVD Map & Tax Lot(s): 11E26AA00100

Comprehensive Plan Designation: Industrial Zoning: NME Size of property: 13.5 Acres

PROPOSAL (describe briefly):

A partition to divide the property along centerline of Johnson Creek. Also, a Natural Resource Review (accounting for Johnson Creek), and a Variance Request to Title 19.402.13(J).

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by:  Date: 11/21/24

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

****Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form.

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	MLP-2025-001	\$ 2,000			
Concurrent application files	VR-2025-001	\$ 1,500	25%		
	NR-2025-001	\$ 1,500	25%		
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): N/A					
Notes:					



Oregon Liquor and Cannabis Commission (OLCC) Request for two-lot Partition at 9201 SE MCLOUGHLIN BLVD, along Centerline of Johnson Creek. Associated with Partition, a Natural Resource Review and Variance.

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Appendix B.....	Preliminary Plat Checklist, signed
Appendix C.....	Submittal Requirements Sheet, signed
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Appendix E.....	Natural Resource Review, Narrative
Appendix F.....	Variance Narrative
Appendix G.....	Impact Evaluation and Alternatives Analysis

List of Exhibits:

- Exhibit 1; Preliminary Partition Plan
- Exhibit 2; Natural Resource Zone Plan
- Exhibit 3; Restricted Development Area
- Exhibit 4; Existing Vegetation Conditions Map
- Exhibit 5; Tax Map showing no tracts
- Exhibit 6; Title Report
- Exhibit 7; Location plan

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Appendix B



MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
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Preliminary Plat Checklist and Procedures

All applications for partitions and subdivisions require submission of preliminary development plans and supporting information in accordance with the Milwaukie Land Division Ordinance. In special cases, certain items listed below may not be required and can be waived by staff. All items below must be submitted except when authorized by staff signature at the end of the form. Errors, omissions, or poor quality may result in the application being rejected or declared incomplete pursuant to the Milwaukie Zoning Ordinance and/or Land Division Ordinance. The Zoning and Land Division Ordinances can be found here: www.qcode.us/codes/milwaukie/.

One hard copy and an electronic version of all submittal materials are required.

Application Checklist

1. Detailed description of how the proposal complies with Land Division Ordinance Section 17.12 Application Procedure and Approval Criteria. *See attached Narrative*
2. Detailed description of how the proposal complies with Land Division Ordinance Section 17.16 Application Requirements and Procedures. *See attached Narrative*
3. Detailed description of how the proposal and application complies with Land Division Ordinance Section 17.20 Preliminary Plat including the following minimum requirements:
 - a. Preliminary plats shall be prepared by an Oregon registered land surveyor. *Okay, Compass Surveying*
 - b. The following general information shall be submitted with the preliminary plat:
 - 1) Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with Oregon Revised Statutes Chapter 92. *named OLCC Partition*
 - 2) Appropriate identification clearly stating the map is a preliminary plat. *Done*
 - 3) Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided. *Done*
 - 4) Names and addresses of the owner, subdivider, and engineer or surveyor. *Done*
 - 5) Information specified in Section 17.20.060.A.10 related to middle housing land divisions (if applicable). *N/A*
 - 6) Other information as may be specified on application forms and checklists prescribed by the Planning Director.
 - c. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets; and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 ft of the subject property. *Done*
4. Existing conditions plan including the following):

Since no development is proposed, the existing condition elements may also be placed on the preliminary plan

- a. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, city boundary lines, and monuments. Done, See Partition Plan
 - b. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 ft for slopes up to 10% and 5 ft for slopes over 10%. Done, See Partition Plan
 - c. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts. Done, See Partition Plan
 - d. Zoning and existing uses within the tract and 200 ft on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed. Done, See Partition Plan
 - e. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps. SFHA delineated on Preliminary Partition. All other water resources noted in the Natural Resource Review
 - f. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper. Done, See Partition Plan
 - g. Floodway and floodplain boundary. Done, See Partition Plan
 - h. Areas containing slopes of 25% or greater Done, See Partition Plan
5. The preliminary plat plan shall include the following information:
- a. Date, north point, scale, address, assessor reference number, and legal description. Done, See Partition Plan
 - b. Name and address of the record owner or owners and of the person who prepared the site plan. Done, See Partition Plan
 - c. Approximate acreage and square feet under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition. Done, See Partition Plan
 - d. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities. Done, See Partition Plan
 - e. Location of existing structures, identifying those to remain in place and those to be removed. Done, See Partition Plan
 - f. Dimensioned lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements. Done, See Partition Plan
 - g. Existing development and natural features for the site and adjacent properties, including those properties within one 100 ft of the proposal, showing buildings, mature trees, topography, and other structures. Done, See Partition Plan
 - h. Elevation and location of flood hazard boundaries. Done, See Partition Plan
 - i. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; Done, See Partition Plan

indication as to whether roads will continue beyond the plat; and existing and proposed grade profiles.

- j. Lot and block numbers. Done, See Partition Plan
- k. For middle housing land divisions: N/A
 - i. separate utility connections for each dwelling unit;
 - ii. proposed easements necessary for each dwelling unit on the plan for:
 - 1) Locating, accessing, replacing and servicing all utilities;
 - 2) Pedestrian access from each dwelling unit to a private or public road;
 - 3) Any common use areas or shared building elements;
 - 4) Any dedicated driveways or parking; and
 - 5) Any dedicated common area.

6. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development. No development or new access points proposed. Access will remain the same as existing, and no change to the intensity of use. Preliminary plans, vicinity maps, and tax maps show the existing road configuration.

7. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title and Title 19. See Narrative: staff will address the NME standards, the Natural resource standards, and any other relevant standard in Title 19.

8. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title and Title 19. See the concurrent submittal for the natural resource review.

9. A drainage summary report and plan that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.

We discussed this with City Planning Staff, and concluded that a drainage/storm water summary report is not needed given no development proposed

10. Proposed deed restrictions, if any, in outline form.

See references on plat. A title report may as be supplied if required.

11. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval. No Development Proposed/N/A

** 12. Location plan drawn to an appropriate scale (on paper no larger than 8½ by 11 inches) showing nearest cross streets, drives opposite the site, and location of buildings and parking areas on adjoining lots. See Exhibit 7

Application Procedures

- 1. A preapplication conference with City staff is highly recommended. A pre-app was not needed since no develop will be proposed on the CC site.
- 2. Appointments may be made for review of preliminary plat requirements through the Planning Department in advance of formal submission. We will take advantage of this, and contact planning staff before submittal
- 3. The Planning Department coordinates with appropriate City departments, the Fire District, and other involved agencies as needed. Acknowledged; we have discussed frontage and utilities with staff, and there will be no warranted improvements since no actual development is proposed.
- 4. Applications will be screened for completeness at the time of submission. Incomplete applications will not be accepted. Acknowledged

Please contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov with any questions or help with this form.

DENNIS DOHERTY
Applicant Name


Applicant Signature

11/21/24
Date

Waived Items

Milwaukie Planner Signature

Date



MILWAUKIE PLANNING
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Submittal Requirements

**For all Land Use Applications
(except Annexations and Development Review)**

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.

Applications without the required application forms and fees will not be accepted.

2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.

Where written authorization is required, applications without written authorization will not be accepted.

3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.

Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary onsite "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.

4. **Detailed statement** that demonstrates how the proposal meets the following:

A. All applicable development standards (listed below):

1. **Base zone standards** in Chapter 19.300.
2. **Overlay zone standards** in Chapter 19.400.
3. **Supplementary development regulations** in Chapter 19.500.
4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.

B. All applicable application-specific approval criteria (check with staff).

These standards can be found in the MMC, here: www.qcode.us/codes/milwaukie/

5. **Site plan(s), preliminary plat, or final plat** as appropriate.

See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.

6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

- Five hard copies of all application materials are required at the time of submittal. Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness. Provide an electronic version, if available.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association.
- By submitting the application, the applicant agrees that City of Milwaukie employees, and appointed or elected City Officials, have authority to enter the project site for the purpose of inspecting project site conditions and gathering information related specifically to the project site.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Dennis Doherty, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: 

Date: 11/21/24

Official Use Only

Date Received (date stamp below):

Received by: _____



Appendix D

Two-Lot Partition of the Oregon Liquor Cannabis Commission (OLCC) Property Project Summary, Vicinity Maps, and Narrative for Title 17 and 19

Project: OLCC request for Preliminary Partition Approval.

Location: T 1 South, R 1 East, Section 26, Qtr. A, Qtr. A, Tax Lot 00100. Deed reference: Book 473 Page 699, Clackamas County Deed records. (Exhibit 6)

Address: 9201 SE MCLOUGHLIN BLVD, Milwaukie, 97222

Map and Tax Lot #: 12E26AA00100

Owner: Oregon State Liquor Control Commission (OLCC): 9079 SE MCLOUGHLIN BLVD, MILWAUKIE, OR 97222 (mailing address)

Applicant: OLCC: 9201 SE MCLOUGHLIN BLVD, MILWAUKIE, OR 97222 (situs)

Surveyor: Compass Land Surveyors; 4107 SE International Way, Suite 705
Milwaukie, Oregon 97222, Attn: Don Devlaeminck, PLS

Associated Exhibits:

Exhibit 1; Preliminary Partition Plan

Exhibit 6; Title Report

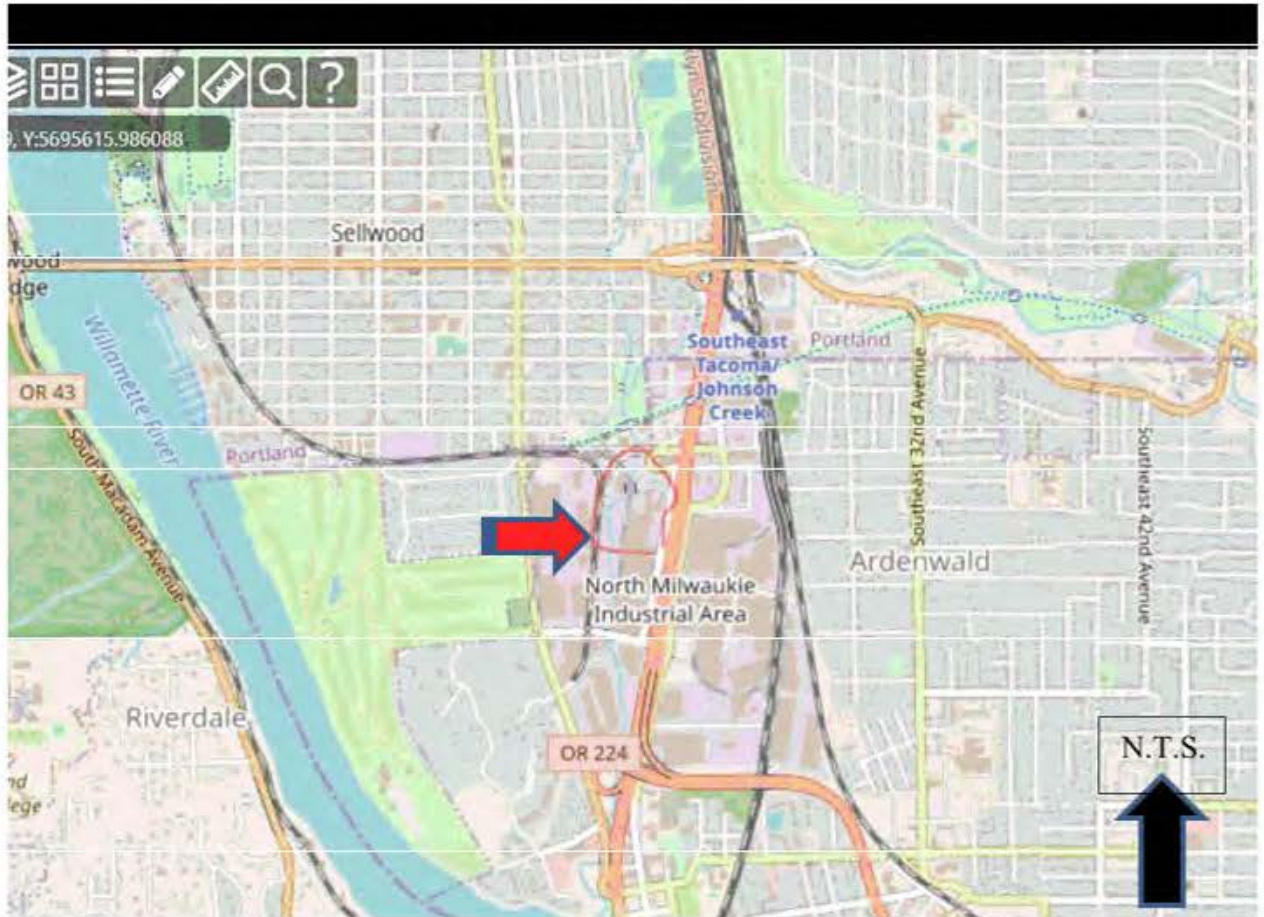
Exhibit 7; Location Plan

Project Overview

OLCC requests to divide the subject property along the centerline of Johnson Creek, retaining the eastern section for the OLCC and creating a new parcel for Clackamas County's existing Community Correction facilities (Corrections). Currently, OLCC has its facilities east of Johnson Creek. Corrections operates their programs in two main building west of Johnson Creek. If this request is granted, Clackamas County would own the actual land where the buildings and improvements are located, instead of leasing the land from current or future owners. The subject property is roughly 14.5 acres. The "Corrections" property, west of the creek, shown as Proposed Parcel 1 on the preliminary plan, will have an area of roughly 3.6 acres. The remaining OLCC property, shown as Proposed Parcel 2 on the preliminary plan (east of creek), will have an area of roughly 10.9 acres. With this request, there are no proposed changes to

operations of the Community Corrections facilities or OLCC facilities. No changes to access, circulation, parking, or structures are proposed. There will be no removal of any vegetation. The west sector of this property has been developed with the Corrections buildings for several years, and there is no plan to change the overall use. The Corrections operation will continue to provide a vital service for County and City citizens. With the ownership of land being vested with the County, future issues arising from leasing and/or encumbrances can be minimized, and the Corrections facilities shall have a more secure future and continue serving the community.

VICINITY MAP



VICINITY MAP #2:



Title 17 Narrative:

Title 17

17.16.010 APPLICATION REQUIRED

Applicant has submitted the necessary applications as described above.

17.16.020 DETERMINATION OF COMPLETENESS

Staff acknowledges that a completeness determination will be made and if deemed incomplete, will have 15 days to make complete.

17.16.030 WAIVER OF SUBMISSION REQUIREMENTS

A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and
3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

Staff has confirmed with City Planning staff that a Pre-Application conference was not required given that no development is proposed. Additionally, a storm water report is not necessary since there is no change to development or impervious surfaces.

- B. Application submission requirements that may not be waived include:
1. Signed and completed application form, submission requirements form, and plan checklist;
 2. Property owner's authorization for application to be made;
 3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
 4. Required plans, maps, and drawings.

All items listed in this subsection shall be submitted with the application packet.

17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION

Required fee shall be submitted. Required checklist submitted and signed. Application signed by appropriate parties, and all other information specified here shall be submitted. Ch. 17.20 shall be reviewed below.

CHAPTER 17.18 Approval Criteria and Procedures:

Normally, a Partition application would be reviewed as a Type II land use review process. But, since this request shall be accompanied by a Type III Natural resource Review, and Variance request, the Partition application shall be reviewed concurrently with the natural resource review as Type III (17.12.020D1 and 19.911.3 C). There are no plans to further partition any areas of the property. Thus, a subdivision review is not required (17.12.020D2). This request complies with purposes of Title 17 (17.12.010)

Subsections: 17.18.020 APPROVAL CRITERIA FOR PRELIMINARY PLAT:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards,

Staff will provide a supplemental narrative addressing all relative criteria for Title 19 related to the NME zone, and Natural resource zone. No tree removal is planned with this development.

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

No Variances associated with Title 17 are proposed. The unique natural layout of the site including Johnson Creek will require the proposed parcel to have natural, non-rectilinear perimeter. A Variance is requested for the natural resource zone requirements for a tract.

3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

N/A, this is a partition

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

There will be no change to access or street location. The project will conform to the existing plat patterns and the historic street patterns that make up this industrial area.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

That is being supplied with this narrative and other appendixes.

Subsection 17.12.040B- Staff acknowledges and accepts that conditions of approval may be granted by the review authority. However, access strips are not expected since the entire property is bounded by Johnson Creek and McBrod Ave, and there are no adjoining areas where access needs to be continued.

17.18.030 APPROVAL CRITERIA FOR FINAL PLAT

Applicant acknowledges that there is Type I final plat review procedure. Applicant will comply with all valid conditions of approval set forth by the review authority, make notations on final plat as directed, and will be prepared a valid Oregon registered surveyor.

17.20.010 SUBMISSION OF PLANS

As described below, adequate plans have been submitted.

17.20.020 SCALE

An adequate and professional scale has been presented on the preliminary plan. Scale is 1"=60'.

17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT

Applicant has confirmed at all requisite information is shown on the preliminary plat.

17.20.040 BUILDING LINES PROHIBITED

Platted building lines are not proposed and there are no encroachments between Parcel 1 and Parcel 2

17.20.050 EXISTING CONDITIONS

Staff confirmed with City staff, and found that the existing conditions map and preliminary plat map may be combined into one preliminary plat sheet as no development is proposed. All items of the existing conditions are established on the preliminary plat map prepared by Compass Land Surveying.

17.20.060 PROPOSED CONDITIONS

All required information has been included in the preliminary partition plan prepared by Compass Land Surveying.

CHAPTER 17.22 FINAL PLAT

Applicant acknowledges that several filing requirements will be required to record the final plat. Applicant does not expect any improvements or exactions with this application as all development is existing and there is no require for future development, but still acknowledges subsection 050 and 060.

17.28.010 CONFORMITY OF SUBDIVISION

Applicant shall comply with all City plans, though no specific design requirements or special improvements have been identified.

17.28.020 PUBLIC FACILITY IMPROVEMENTS

While one new parcel is planned, there are no identified public facility upgrades or required public infrastructure as all development is existing and there is no change in the site development. Note, this section is still applicable and shall comply where indicated by the Planning Commission.

17.28.030 EASEMENTS

All utilities have been shown on the preliminary plat, and we will work with public works to ensure that all applicable easements are delineated on the final plat. It is noted that this Subsection appears to only apply to subdivisions.

17.28.040 GENERAL LOT DESIGN

A. Size and Shape: lot size, width, shape, and orientation must be appropriate for the location and the type of use contemplated. Minimum lot standards must conform to Title (1) Lot shape standards may be adjusted subject to Section 19.911 Variances.

The proposed parcel configuration conforms to the natural drainage patters of the lot. Staff will address minimum lot standards in the Title 19 narrative (Appendix E).

B. Rectilinear Lots Required: Lot shape must be rectilinear, except where not practicable due to location along a street radius, or existing lot shape.

Given the existing lot shape, street locations, and the historic development patterns on site, rectilinear lots are possible. Additionally, there is no possibility

of creating a rectangular lot given Johnson Creek courses through the entire property. The exception noted above is warranted in this case.

C. Limits on Compound Lot Line Segments: Cumulative lateral changes in direction of a side or rear lot line exceeding 20% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction must be measured from a straight line drawn between opposing lot corners.

The side yard setbacks of Parcels 1 and Parcels 2 (north and south lot lines) are either a true east west direction, or form part a long curve that contains Ochoco Street at the north of the lot. As discussed above, the rear lines of both lots will be Johnson Creek, which forms a natural meandering boundary. In consultation with City staff, and given that the natural boundary cannot be avoided, a Variance in this case is not required. This standard is met.

D. Limits on Double and Reversed Frontage Lots

Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

With the creation of two parcels, the OLCC property will no longer have Double or Reverse frontage. Parcel 1 will be considered a corner lot on McBrod Ave and Parcel 2 a corner lot on HWY 99E and Ochoco.

E. Measurement of Required Frontage

Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

Both proposed lots will be corner lots, with ample frontage on McBrod, Ochoco/Hwy99E Ramp, and Hwy 99E frontage road that has the requisite infrastructure in place. Neither lot will be a flag lot or back lot.

17.28.050 through 17.28.70 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS, DESIGN STANDARDS, SUBDIVISIONS

This partition will not create any flag lots or back lots, and there is no need to dedicate future access/rights of way since the lots have ample frontage on public roads. Design standards need not be addressed, and this request is for a Partition, not a subdivision. These standards are not applicable.

17.28.080 PUBLIC OPEN SPACES

No new development is proposed with this partition, and no public spaces such as parks, have been identified on the Comprehensive Plan. Public Open Spaces are not required with this request.

17.28.090 LAND DIVISION WITH LEFTOVER PARCEL OR LOT

This is not a residential land division. This criteria is not applicable

17.32.010 IMPROVEMENT PROCEDURES

No new public improvements are expected with this development. The site is already completely developed, with full frontage improvements. Also, neither the County nor OLCC has plans to redevelop any portion of the property. Lastly, staff consulted with City Planning and Engineering staff, who concluded no additional improvements are warranted on this fully constructed property. Applicant can provide a map showing all existing public and/or private utilities and utility easements on the subject property.

17.32.020 UTILITY UNDERGROUNDING

Applicant understands that undergrounding the site's utilities is a requirement for any new or relocated connections. However, no new development is proposed, so no utility undergrounding is required.

17.32.030 GUARANTEE

There are no anticipated improvements warranted with this proposal. No new development is proposed. Applicant nonetheless acknowledges that a Guarantee is required for any new improvements

17.44.010 VARIANCE

As discussed above, a variance is being requested, but not to the above standards. The Variance request has to do with "tract" provisions set forth in the Natural Resource Overlay district, Title 19.402.

Title 19 Narrative:

CHAPTER 19.300 BASE ZONES

19.312 NORTH MILWAUKIE INNOVATION AREA

19.312.1 (B) Purpose "North Milwaukie Employment" Zone (NME)

Both the OLCC site and Corrections site are long established employment providers in the City. The OLCC site is a major distribution center and

administrative hub for the State's liquor products. The use is clearly a high level transportation and processing facility. The County Correction site supports the County's work release program, which is appropriate for the NME zone due to its unique characteristics. Again, both facilities provide well-paying jobs for the surrounding community. The proposed partition will not change any of these characteristics, and the entire site will continue to comply with the goals and policies of the NMIA plan.

19.312.2 "Uses"

The existing OLCC site is an outright permitted use, specifically wholesale trading, warehousing, and distribution. The County Corrections site is a Community Service Use. As noted above, both sites and their associated structures have been established in Milwaukie for decades. Both uses comply with this subsection. Since no new development is proposed, there is no additional need to analyze the table of uses for compliance.

19.312.5 "Development Standards"

The below table lists various design standards. Many of the standards related to building design, landscaping, frontage occupancy, ground floor space, etc., are not applicable given the both the OLCC Site and Community Corrections site were lawfully developed decades ago, under different criteria. Staff will address each section nonetheless.

Table 19.312.5			
North Milwaukie Innovation Area — Summary of Development Standards			
Standard	NME	MUTSA	Response
A. Lot Standards			
1. Minimum lot size (sq ft)	None	None	No minimum. Standard is met.
2. Minimum street frontage (ft)	None	None	No minimum. Standard is met.
B. Development Standards			
1. Floor area ratio (min/max)	0.5:1/3:1	0.5:1/3:1	N/A, buildings are existing.
2. Building height (ft) Minimum Maximum (Height bonus available)	25 45-90	25 45-90	N/A, buildings are existing.
3. Setbacks (ft) Minimum front yard setback	None	None	N/A, existing building. Still, front setbacks are ~9' for corrections building south, ~12' for

Maximum front yard setback	10-30'	10-30'	corrections building north, ~13' OLCC structure. Front setbacks met.
Side and rear setbacks	None ²	None ²	No side or rear setbacks required, these standards are met.
4. Maximum lot coverage	85%	85%	Parcel 1~16%-- Parcel 2~33%, This standard is met
5. Minimum Landscaping	15%	15%	N/A, Landscaping established through existing buildings.
6. Flexible ground-floor space	Yes, where applicable	Yes, where applicable	N/A, buildings are existing.
7. Off-street parking required	Yes	Yes	N/A, Off street parking sufficient for both sites.
8. Frontage occupancy	50%	50%	N/A, existing building
C. Other Standards			
Residential density requirements (dwelling units per acre)			N/A
a. Stand-alone residential			
(1) Minimum	N/A	None	
(2) Maximum	N/A	None	
b. Mixed-use buildings	N/A	None	
2. Signs	Yes	Yes	N/A signs are pre-existing and no new signs are proposed.
3. Design Standards	Yes	Yes	N/A, no new development proposed.

19.312.6 "Detailed Development Standards"

We reviewed these standards and found that they only relate to new development. Since no development is actually proposed with this Partition request, this criteria is not applicable.

19.312.7 "Development Standards for All Uses in the MUTSA and on NME Key Streets"

Similar to the above criteria, these standards do not apply because the buildings are pre-existing, and no new development is proposed.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.402 NATURAL RESOURCES NR

As discussed in the project narrative and findings above, This Partition request will also require a Type III Natural Resources Review. The findings, as well as all additional submittal items, shall be addressed in Appendix E and Appendix G.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

This section of Title 19 pertains to development standards for new structures and uses. Since no development is proposed, and the existing buildings have been lawfully established, there is no need to address this section in detail.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

Off-Street Parking and Loading areas are not changing, and there is no new development proposed. The existing buildings, parking, and loading areas have been lawfully established, and there is no need to address this section in detail.

CHAPTER 19.700 "PUBLIC FACILITY IMPROVEMENTS"

While Partitions are subject to these provisions, this section is primarily related to exactions imposed by the City, for needed public facilities such as roadway improvements. In the case of this proposal, however, there will be no change to the existing uses on the subject property, and no proposed development whatsoever. Since there is no change to the development, the Engineering Department has not indicated that a Traffic impact Assessment (TIA) is required.

Title 19.708 sets forth "Transportation Facility Requirements," and contains detailed street design standards that are generally required when a new development is proposed. In the case of this Partition request, no development is proposed, and there are no changes to the use, parking, circulation, or any other aspect of development. Moreover, the applicant met with City Planning and Engineering staff who concluded that frontage improvements and other transportation improvements are not required with this Partition request. The site is already developed with adequate frontage improvements, and there are no additional facilities warranted with this proposal. These standards are met.

CHAPTER 19.800 NONCONFORMING USES AND DEVELOPMENT

Since no development is proposed, analysis of nonconforming development need not be addressed. The site was already lawfully developed. We recognize that nonconforming uses in this chapter do not extend to pre-existing development associated with the Natural Resource Zone.

CHAPTER 19.900 LAND USE APPLICATIONS

Table 19.901 requires a Type III land use review for Natural Resource Assessments and Partitions (partitions being a type II land use review concurrently with the Natural

Resource Review as noted above). Also, as discussed above, a Variance request subject to Title 19.911, is being sought for requirements listed in the NR overlay zoning district.

CHAPTER 19.1000 REVIEW PROCEDURES

As discussed above, this application requires review through a Type III Review. City Planning staff has confirmed that Pre-Application conference was not required since no actual development was proposed. Applicant acknowledges the City Planning Commission will be the final Review Authority, unless appealed to the City Council.

CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

Annexations and "Boundary Changes" are not proposed. This criteria does not apply.

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

Solar Access Protections only apply to R-MD zones. This standard is not applicable.



Appendix E:

Natural Resource Review associated with Partition for Oregon Liquor and Cannabis Commission (OLCC) Property

Project: OLCC request for Preliminary Partition Approval.

Location: T 1 South, R 1 East, Section 26, Qtr. A, Qtr. A, Tax Lot 00100. Deed reference: Book 473 Page 699, Clackamas County Deed records.

Address: 9201 SE MCLOUGHLIN BLVD, Milwaukie, 97222

Map and Tax Lot #: 12E26AA00100

Owner: Oregon State Liquor Control Commission (OLCC): 9079 SE MCLOUGHLIN BLVD, MILWAUKIE, OR 97222

Applicant: Same as owner

Associated Exhibits and Appendix:

Exhibit 2; Natural Resource Zone Plan

Exhibit 3; Restricted Development Area

Appendix G; Impact Evaluation and Alternatives Analysis.

Project Overview

Applicant requests to divide the subject OLCC property along the centerline of Johnson Creek. Johnson Creek runs in a north-to-south direction, bifurcating the entire OLCC parcel into two distinct sections, a westerly section (the Corrections facilities) and an easterly section (The OLCC facilities). There are two environmental "Overlay Zones" associated with this property; The Water Quality Resources (WQR) overlay Zone and the Habitat Conservation Area (HCA) overlay zone. Zoning requirements for both the WQR and HCA are set forth in Chapter 19.402. Although no development is proposed with this request, Table 19.402.3.K requires "Partition" applications be reviewed under a Type III review process. Because there is no new development proposed, the applicant's Natural Resource Review will account primarily for existing disturbances on site, and delineate protection areas for the WQR and HCA, while subtracting areas that are already developed (See exhibits 2 and 3). For general reference, below is an image of the WQR, derived from the City's Zoning and Land Use GIS application (See Image

1-vegetated corridor). Below Image 1 is the adopted HCA map (See Image 2-HCA Map). Image 3 shows both overlays combined (See Image 3-WQR and HCA Map). Also prepared is a natural resource plan (Exhibit 2) detailing existing disturbances, and delineating the natural resource overlays. Finally, the City's GIS application for zoning and development confirmed that the following overlays are not present on the subject property: Willamette Greenway (19.401), Historic Preservation (19.403), Flex Space (19.404) and Airport (19.405).

Image 1-Vegetated Corridor (WQR):



Image 2-HCA Map

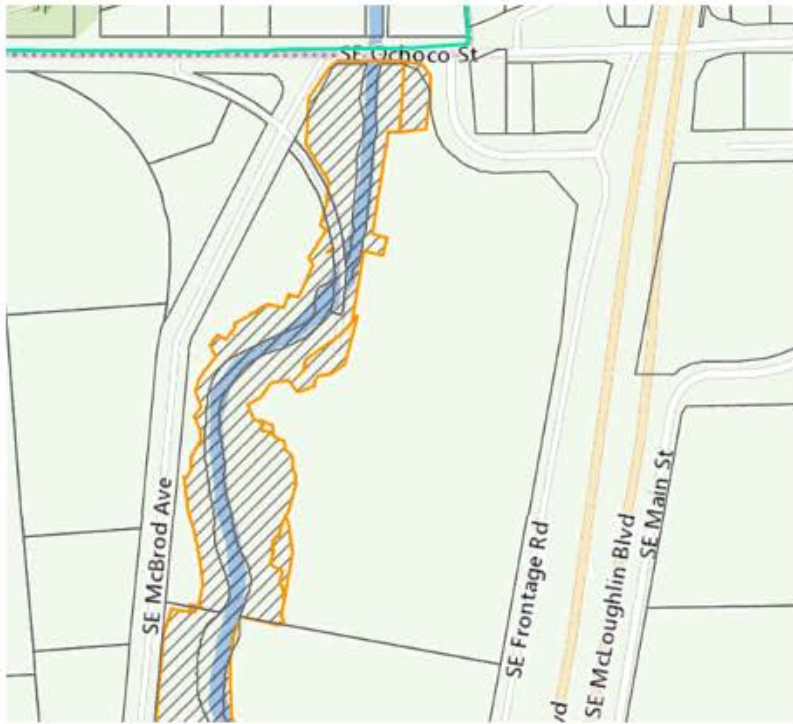
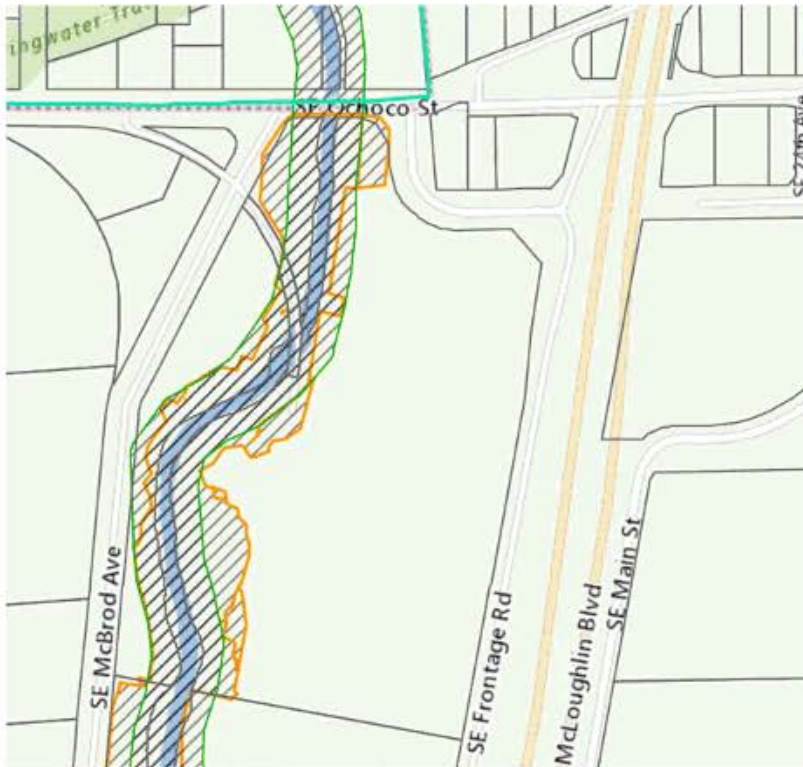


Image 3: WQR and HCA Map:



Title 19

Chapter 19.402 “Natural Resources”

19.402.1 Intent:

This application request satisfies the intent of this section. It identifies the WQR and HCA, shall delineate future protection areas on the final plat, and will preserve existing native vegetation, by not proposing any new development therein. In particular, it should be noted under Subsection 19.402.1(E) ; "it is not the intent of Section 19.402 to 1) impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed; or 2) Impose any unreasonable hardship against the continued maintenance of existing legal site conditions."

Since there is no development proposed, and since the site has been lawfully developed for decades, there should be no changes to the site's overall operations, and no unreasonable conditions to restore major sections of the Johnson Creek corridor to predevelopment conditions.

19.402.2: Coordination with Other Regulations:

Since no development is proposed, there is likely no need for erosion control, floodplain management, or tree code protections with this development. Nonetheless, applicant will coordinate with all applicable Titles of Milwaukie's Code. It is noted that Nonconforming Use regulations in Chapter 19.800 do not apply to overlays set forth in Chapter 19.402. All existing structures and uses are proposed and there are no changes with this request, the entire site shall continue to comply with all local, regional, state, or federal regulations.

19.402.3 Applicability:

The site contains both HCA and WQRA and is the subject of a Partition request. As noted above, Table 19.402.3.K, requires that Partition applications be reviewed under a Type III land use review process.

19.402.4 Exempt Activities

No development is proposed with this request, and there is no specific reason to review Exempt Activities at this time. In consultation with City Planning staff, it was noted that although the site predates the HCA and WQR, it does not constitute an Exempt Activity.

19.402.5 Prohibited Activities

The applicant has not been engaged in, nor plans to implement any of the prohibited activities listed in this section.

19.402.8 Activities Requiring Type III Review:

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

See Appendix G.

B. The activities listed below shall be subject to the review criteria for partitions and subdivisions provided in Subsections 19.402.13.H and I, respectively:

1. The partitioning of land containing a WQR or HCA that cannot meet the standards provided in Subsection 19.402.13.G

As noted above, this application request is for a Partition, therefore, compliance with Subsections 19.402.13 H and I must be met. Staff consulted with City Planning staff in hopes to apply for a Type II Land Use Review under 19.402.13(G), "Low-Impact Partitions". City Planning staff noted that option is not available, presumably because some of the WQR on site is already developed with pre-existing buildings or impervious cover, and cannot be fully (100 percent)preserved on site. Partition regulations will be discussed below.

19.402.9 Construction Management Plans

Construction Management Plans are reviewed through Erosion Control permits. As discussed above, Erosion Control plan is not expected since no development is proposed.

19.402.10 Natural Resource Management Plans

The applicant has not identified the necessity for a standalone Natural Resource Management plan since no disturbance is proposed. This section is not applicable.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

Response: No development is proposed whatsoever with this request. There will be no stockpiling, grading, planting, or construction of any kind. No utilities are proposed either.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

Response: No new disturbance to WQRs or HCAs are proposed. Mitigation is not warranted.

19.402.12 General Discretionary Review

Response: An Impact Evaluation and Alternatives Analysis has been prepared. Please reference Appendix G.

19.402.13 Land Division and Property Line Adjustments

A. Boundary Verification

Applicant concurs with HCA Boundary, and establish the Vegetated corridor width as 50-foot wide buffer from the edges of both banks of Johnson Creek. This will be discussed in detail below.

B. Construction Management Plans (CMP)

No new development is proposed, and no new street improvements are expected with this request. Pursuant to subsection 402.13(B)(2), a CMP is not required.

C. Impacts from Site Improvements

Applications for land division that will require physical site improvements (e.g., grading and/or the construction of streets, sidewalks, culverts, bridges, or utilities) within a WQR or HCA shall comply with the relevant standards for disturbance limitation and mitigation provided in Subsections 19.402.11 and/or 19.402.12, as applicable.

No new development is proposed or anticipated with this request. Therefore, there is no reason to comply with the disturbance criteria and mitigation standards set forth in 19.402.11 or 12.

D. Mitigation for Future Structures or Improvements

Applications proposing a division of land on which future construction may impact a WQR or HCA shall comply with one of the following two standards:

2. Not complete the mitigation requirements, thus requiring that any subsequent development be subject to review under Section 19.402.

As discussed in detail throughout this request, no new development is proposed or anticipated on the OLCC site. As for the community corrections site, much of the lot is completely developed with existing impervious cover. Except for the grassy area north of the railroad spur, much of the site is covered in buildings or asphalt, and there are no plans, near term or mid-term, to expand development on this site. Applicant acknowledges that any subsequent development be reviewed under Section 19.402

G. Low-Impact Partitions

Applications for partitions are subject to Type II review if they demonstrate compliance with the following standards:

Response: Because some of the previously developed areas encroach into the 50-foot WQR, a Low-Impact Partition is not possible. Thus, compliance with subsection H is required, and an Impacts and Alternatives Analysis has been provided herein.

H. All Other Partitions

Applications for partitions that cannot comply with Subsection 19.402.13.G are subject to Type III review and shall comply with one of the following two standards:

2. For properties that contain WQRs but cannot comply with Subsection 19.402.13.G.2, that contain both WQRs and HCAs but cannot comply with

Subsection 19.402.13.G.3, or where the HCA covers more than 85% of the total lot area, the application shall comply with the following standards:

- a. To the extent practicable, the parcel configuration shall mitigate the potential future impacts to WQRs from access and development.

Response: As discussed in detail herein, the parcel configuration is designed to take full advantage of the natural flow patterns of Johnson Creek. We are committed to preserving any areas that are not otherwise covered by impervious surfaces within a Restricted Development Area (RDA) or Restrictive Easement, to prevent any future development of the onsite WQRs and HCAs

- b. An Impact Evaluation and Alternatives Analysis shall be prepared in accordance with the relevant portions of Subsection 19.402.12.A.

Response: An Impact Evaluation and Alternatives Analysis is being prepared as Appendix G

- c. For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis shall address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new parcels.

Response: The HCA covers far less than 85% of the total lot area. This criteria is not applicable.

J. Resource Area as a Separate Tract

Where required by Section 19.402, the new subdivision or partition plat shall delineate and show all WQRs and HCAs as being located in a separate unbuildable tract(s) according to the following process:

1. Prior to preliminary plat approval, the designated natural resource (whether WQR, HCA, or both) shall be shown as a separate tract(s), which shall not be part of any lot or parcel used for construction of any structures.

Response: Two preliminary Natural resource maps have been prepared by Compass Land Surveyors; A Natural Resource Zone plan (Exhibit 2) and a Restricted Development Area Plan (Exhibit 3). The natural resource plan shows combined HCA and WQRs, while the Restricted Development Plan shows the combined areas, as they will be restricted from future development in perpetuity. Please note, we have requested a variance to Subsection J, in order to place the Natural Resource areas in an RDA. In either case, these areas will be protected in perpetuity and be protective covenants as noted below.

2. Prior to final plat approval, ownership of the separate natural resource tract(s) shall be identified to distinguish it from lots or parcels intended for sale. Ownership in common or by a homeowners association is strongly discouraged. The tract(s) may be identified as any one of the following:

a. Private natural area held by the owner with a restrictive covenant and/or conservation easement.

Response: This is the preferred mechanism chosen. However, the natural resource areas will be delineated as an RDA or Restrictive Easement, instead of a tract. As discussed in detail within the Variance request, a tract will cause undue financial hardships as well as other hardships not typical of the area. The RDA/Restrictive Easement will provide the same natural resource protections, with added benefits, as discussed in the variance request.

b. For residential subdivisions, private natural area subject to an easement conveying storm and surface water management rights to the City of Milwaukie, Clackamas County Water Environment Services, and/or any other relevant jurisdiction, and preventing the owner of the tract from activities and uses inconsistent with the purposes of Section 19.402.

Response: Not applicable, this is not a residential subdivision.

c. Public natural area where the tract has been dedicated to the City of Milwaukie or a private nonprofit with the mission of land conservation.

Response: Neither the City or a Private Nonprofit have contacted us, nor it is known if this options is desired or even available. This criteria is not applicable at present.

3. The boundaries of all such separate tracts shall be demarcated with stakes, flags, or some similar means so that the boundaries between tracts and adjacent properties are defined in perpetuity. Fences that prevent the unfettered passage of wildlife shall not be installed along the boundary of any tract.

Response: This requirement is acknowledged, and property owners will comply with any associated conditions of approval.



Appendix F:

Variance Request to Section 19.402.13(J)

Allowing a restrictive development area (RDA) or restrictive easement to contain the Natural Resource Areas (HCA/WQR)

Project: OLCC request for Preliminary Partition Approval.

Location: T 1 South, R 1 East, Section 26, Qtr. A, Qtr. A, Tax Lot 00100. Deed reference: Book 473 Page 699, Clackamas County Deed records.

Address: 9201 SE MCLOUGHLIN BLVD, Milwaukie, 97222

Map and Tax Lot #: 12E26AA00100

Owner: Oregon State Liquor Control Commission (OLCC): 9079 SE MCLOUGHLIN BLVD, MILWAUKIE, OR 97222

Applicant: Same as Owner

Associated Exhibits:

Exhibit 5; Tax Maps Showing No Tracts

Project Overview

Applicant requests to divide the subject OLCC property along the centerline of Johnson Creek. Johnson Creek runs in a north-to-south direction, bifurcating the entire OLCC parcel into two distinct sections, a westerly section (the Corrections facilities) and an easterly section (The OLCC facilities). There are two environmental "Overlay Zones" associated with this property; The Water Quality Resources (WQR) overlay Zone and the Habitat Conservation Area (HCA) being reviewed under a separate Natural Resource Review. The applicant will comply with all standards therein. One standard, however, will cause an unnecessary hardship to the project. The Zoning Ordinance states that "tract(s) shall be identified to distinguish it [the HCA and WQR] from lots or parcels intended for sale." (Title 19.402.13.J.2). While Tracts may be a useful instrument for some residential land divisions, or land divisions that will create new building sites, they propose a hardship to the OLCC property given that the entire site is already developed. The applicant is still proposing to preserve every bit of HCA and WQR, but requests the final plat show a Restrictive Development Area (RDA) or Restrictive Easement with associated restrictive covenant(s) being recorded simultaneously. The RDA or restrictive easement will accomplish the same level of protection that would be provided within a tract. It will be held in perpetuity, and will

have the benefit of a responsible government agency as the underlying owner. We respectfully request the Planning Commission allow a single variance to this criteria, based on the below analysis.

Title 19

Chapter 19.911 “Variances”

19.911.1 Purpose:

Variances provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variances are intended to provide some flexibility while ensuring that the intent of each development standard is met. Variances may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variances shall not be granted that would be detrimental to public health, safety, or welfare

Response:

We are requesting relief from Title 19.402.13.J.2, specifically the requirement to create a “tract”. In this circumstance, a tract poses undue hardships on both the OLCC and Community Corrections because it will create an odd legal entity to hold shared ownership for both parcels. These can cause legal issues in the future, and there is no known precedence to establish how two separate government entities will be responsible for various aspects of the entity/tract. Instead, an RDA or restricted easement will be provided the exact same protection to the HCA/WQR area, while putting the underlying onus on the associated land owner. In other words, OLCC will be responsible for protecting lands east of the creek, and Clackamas County for land west of the creek.

19.911.2 Applicability

A. Eligible Variances

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

B. Ineligible Variances

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word “prohibited.”
2. To change a required review type.

3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

Response:

This request does not fall under a “ineligible variance” and is therefore eligible pursuant to Subsection A.

C. Exceptions

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either “by right” or as part of a specific land use application review process.

Response: *To our knowledge, and in consultation with City Staff, there are no Exceptions that will allow us to use RDAs or restricted easements rather than tracts.*

19.911.3 Review Process

A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.
2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.
3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

Response: We are making one variance request, that appears to require a Type III process, and we are already submitting a Type III application, so this can run concurrently with the Partition and Natural Resource Review.

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

Response: This is not a request to a numerical standard. It appears a Type III variance is required.

C. Type III Variances

Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section 19.1006.

Response: Although we do not believe this request is complex in nature, it is understood that it requires a type III review because this request is not specified in 19.911.3.B.

19.911.4 Approval Criteria

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

Response: We understand that either criteria may be used to satisfy this section. It is our assertion that we meet both options. Thus, we will provide appropriate responses for both sections, with the understanding that only one may be used to justify the request.

1. Discretionary Relief Criteria

a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

Impacts: The only impact of allowing an RDA or restrictive easement as opposed to a tract is that the final plat map will show a dashed line, and the underlying Natural Resource Area will be managed by Clackamas County to

the west, and OLCC to the east. The only benefit a tract offers is that private land owners who have no experience or interest in preserving open spaces (such as residential or commercial owners) can pay into the management of a tract, generally through a Homeowners association.

Benefits: In this case, tracts will have the opposite benefit. First, tracts would setup undue economic hardships (described below). Moreover, "tracts" will require the creation of a nebulous ownership entity that will require unprecedented legal research to ensure that both parcels are following the rules in Title 19.402.13. RDAs or Restrictive Easements can accomplish the same exact protections that are set forth in Title 19.402, but will ensure that each owner is expressly responsible for the maintenance of their respective natural resource areas. Another adverse impact of creating tracts, the tract/owner/entity may dissolve or otherwise not be answerable to the stated conditions therein, and difficult to contact. Some Homeowners Associations run into this type of ownership issue, several years after the plat records. There is no response from the entity, and the City may need to talk with the tract owner, may need an easement, or may see an opportunity to enhance the Natural Resource area. The benefit of having an RDA or restrictive easement means that the underlying owners, the County or OLCC, (or their successors/heirs) will always be available to work with the City or other agencies, when it comes to enhancing these areas or allowing permission on to the protected area.

b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

(1) The proposed variance avoids or minimizes impacts to surrounding properties.

Response: There would be no change in impact to surrounding properties. The extent of the Natural Resource Area will be the same whether it is within an RDA/Restrictive Easement or Tract.

(2) The proposed variance has desirable public benefits.

Response: In our opinion, the proposed variance has more benefit and utility than a tract. An RDA or Restrictive Easement makes it easier to work with underlying owners. Furthermore, if any future opportunities arise to enhance the Natural Resource area, secure easements (e.g. stormwater, sewer, etc.), or simply contact the underlying owner, contact with land owners shall be relatively easy compared to a tract.

(3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

Response: The RDA/restrictive easement is a creative way to ensure that the same amount of natural resource protection is maintained and protected.

(4) The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32.

Response: *No development or tree removal is proposed with this development, and placing the Natural Resource Area in an RDA/Restrictive Easement will not change that fact. Furthermore, by avoiding a nebulous ownership entity that would arise with the creation of a tract, future restoration and tree planting would require far less bureaucracy and potential road blocks, as the underlying owner would be available. Furthermore, both owners are responsible government agencies, and have the necessary resources to ensure proper maintenance of the natural resource overlay.*

c. Impacts from the proposed variance will be mitigated to the extent practicable.

Response: *there will be no impacts to mitigate. There would be no difference in the amount of land preserved, regardless of whether it is in a tract or RDA/Restrictive Easement.*

2. Economic Hardship Criteria

a. Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district.

Response: *The site is unusual in that it is already developed with two separate government facilities. A tract would create excessive economic hardships on the property because there is no precedence or "template" for this type of entity/ owner. We reviewed downstream industrial and commercial properties along Johnson Creek, from the subject property south to the Willamette River. There are no tracts on any of these tax maps (Please reference Exhibit 5). Furthermore, we looked upstream, to the industrial/commercial/residential area east of Johnson Creek Blvd and SE Brookside Drive along Johnson Creek. Once again, none of these properties have a tract, (See Exhibit 5). There are no other properties with similar uses to ours (institutional, commercial, industrial, etc.) that have*

had to comply with the stringent requirements of creating a tract. The cost to create, operate, and maintain some nebulous entity would be substantial, and would create several hours of legal consultation, and may create ownership/absentee issues in the future. Furthermore, no other properties with similar characteristics have been compelled to create such a burdensome ownership entity. Given the hardships warranted in creating a tract, we surmise that a RDA/Restrictive Easement is a reasonable alternative, that will have the same, and in all likelihood, better, protections for Johnson Creek.

- b. The proposed variance is the minimum variance necessary to allow for reasonable economic use of the property.

Response: Allowing an RDA or restrictive easement is the only variance we request. There is no other option that will have less impact or "minimal" impacts than what is being requested.

- c. Impacts from the proposed variance will be mitigated to the extent practicable.

Response: The impacts of the Natural Resource area will be the same whether protected by tract or RDA/restrictive easement. There is nothing to mitigate.



Appendix G:

Impact Evaluation and Alternatives Analysis (Title 19.402.12)

Associated Exhibits:

Exhibit 4: Existing Vegetation Conditions Map

19.402.12 General Discretionary Review

This subsection establishes a discretionary process by which the City shall analyze the impacts of development on WQRs and HCAs, including measures to prevent negative impacts and requirements for mitigation and enhancement. The Planning Director may consult with a professional with appropriate expertise to evaluate an application, or they may rely on appropriate staff expertise to properly evaluate the report's conclusions.

Response: *We acknowledge the Planning Director's duties.*

A. Impact Evaluation and Alternatives Analysis

An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria for general discretionary review and to evaluate development alternatives for a particular property. A report presenting this evaluation and analysis shall be prepared and signed by a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist. At the Planning Director's discretion, the requirement to provide such a report may be waived for small projects that trigger discretionary review but can be evaluated without professional assistance.

Response: *Since no actual developments is proposed in the WQRs or HCAs, the Planning director has permitted this analysis to be prepared by the applicant's project team. This criteria is met.*

The alternatives shall be evaluated on the basis of their impact on WQRs and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The evaluation and analysis shall include the following:

1. Identification of the ecological functions of riparian habitat found on the property, as described in Subsection 19.402.1.C.2.

Response: *The riparian area contains a mix of low structure vegetation, Woody vegetation, and developed areas not providing vegetation cover. The east side of Johnson Creek provides a better mix of conifers and deciduous trees, though this cover does not extend much past 50 feet from the east edge of the Creek, and is somewhat thick, in comparison to the whole site, near the SE sector of the creek. The north end of the east parcel, surrounding the railroad spur, provides very little ecological function, with low structure vegetation being the only type of cover. The west parcel is primarily comprised of low structure vegetation, and developed impervious cover. There are scattered trees, but not enough to provide any continuous woody vegetation or forest canopy. Some areas north of the railroad spur, and adjoining SE Ochoco street, appear to provide some low structure vegetation and a mix of deciduous trees. Johnson Creek was channelized considerably in the 1930s and 1940s, and there are large boulders on either side of the creek intended for bank stabilization or channelization. The channel benefits from some level of shade provided by trees, in some places, lining either side of the creek. This shade will not be altered in any way.*

2. An inventory of vegetation, sufficient to categorize the existing condition of the WQR per Table 19.402.11.C, including the percentage of ground and canopy coverage materials within the WQR.

Response: *The WQR, a 50-foot vegetative buffer offset from the edge of Johnson Creek, is roughly 151,500 square feet in area (3.48 Acres). Within the buffer, tree canopy comprises roughly 63,900 sq. feet of the total buffer area, or 42%. Ground cover (G.C.) and shrubs cover roughly 56,600 of the total buffer, or 37%. Combined, all tree canopy, GC, and shrubs total roughly 78,660 sq. feet, or 51% of the total buffer.*

Existing Condition of the WQR is poor, pursuant to title 19.402.11.C. Please reference the Existing Vegetation Conditions Map with Exhibit 4.

3. An assessment of the water quality impacts related to the development, including sediments, temperature and nutrients, sediment control, and temperature control, or any other condition with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.

Response: *Fortunately, no development is proposed, and the Natural Resource area will be preserved as is, in perpetuity. The existing development has remained unchanged for several decades, and there has been no substantial changes to the site overall. Much of the Johnson Creek watershed is already "impaired", and has been the subject of many regional restoration efforts. There will be no net impact to the creek with this partition, as no new development is proposed.*

4. An alternatives analysis, providing an explanation of the rationale behind choosing the alternative selected, listing measures that will be taken to avoid and/or minimize adverse impacts to designated natural resources, and demonstrating that:

a. No practicable alternatives to the requested development exist that will not disturb the WQR or HCA.

Response: *No other alternatives exist because the existing impacts to the HCA and WQR predate their implementation, as described in detail with the Natural Resource Review. The proposed Partition will be divided along the creek centerline, preserving the original OLCC facilities to the east, and County facilities to the west. There will be no new construction proposed, and the existing vegetation will be preserved in an RDA and protected by restrictive covenant.*

b. Development in the WQR and/or HCA has been limited to the area necessary to allow for the proposed use.

Response: *No new disturbances are proposed. The only disturbances to consider are those existing disturbances associated with the aforementioned facilities. As noted in the Title 19.402.1, it is not the intent of the Natural Resource zone to "impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed." Therefore, the Partition, which does not include any new development in the WQR and HCA, meets this section.*

c. If disturbed, the WQR can be restored to an equal or better condition in accordance with Table 19.402.11.C; and the HCA can be restored consistent with the mitigation requirements of Subsection 19.402.11.D.2.

Response: *The WQR is not being disturbed, and restoration is not warranted.*

d. Road crossings will be minimized as much as possible.

Response: *No development, including road crossings, is proposed.*

5. Evidence that the applicant has done the following, for applications proposing routine repair and maintenance, alteration, and/or total replacement of existing structures located within the WQR:

a. Demonstrated that no practicable alternative design or method of development exists that would have a lesser impact on the WQR than the one proposed. If no such practicable alternative design or method of development exists, the project shall be conditioned to limit its disturbance and impact on the WQR to the minimum extent necessary to achieve the proposed repair/maintenance, alteration, and/or replacement.

b. Provided mitigation to ensure that impacts to the functions and values of the WQR will be mitigated or restored to the extent practicable.

Response: *No repair and maintenance, alteration, and/or total replacement of existing structures is proposed. No changes will be made to the site with this request.*

6. A mitigation plan for the designated natural resource that contains the following information:

a. A description of adverse impacts that will be caused as a result of development.

Response: *As noted previously, no adverse impacts will occur since no development is proposed, whatsoever.*

b. An explanation of measures that will be taken to avoid, minimize, and/or mitigate adverse impacts to the designated natural resource; in accordance with, but not limited to, Table 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs.

Response: *As noted previously, no adverse impacts will occur since no development is proposed, whatsoever.*

c. Sufficient description to demonstrate how the following standards will be achieved:

(1) Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.

Response: *No vegetation has been removed, and does not need to be replaced*

(2) Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.

Response: *No new lighting schemes are proposed.*

(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous; particularly along natural drainage courses, except where mitigation is approved; so as to provide a transition between the proposed development and the designated natural resource and to provide opportunity for food, water, and cover for animals located within the WQR.

Response: *Although the existing WQR is in poor condition, as stated above, the existing vegetation, particularly on the east side of creek, will remain connected, as no vegetation removal is proposed.*

d. A map showing where the specific mitigation activities will occur. Off-site mitigation related to WQRs shall not be used to meet the mitigation requirements of Section 19.402.

Response: *As noted previously, since no impacts to the HCA or WQR is proposed, mitigation measures are not required.*

e. An implementation schedule; including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting; as well as a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.

Response: *As noted previously, since no impacts to the HCA or WQR is proposed, mitigation measures are not required.*

B. Approval Criteria

1. Unless specified elsewhere in Section 19.402, applications subject to the discretionary review process shall demonstrate how the proposed activity complies with the following criteria:

a. Avoid

The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable. The proposed activity shall have less detrimental impact to the designated natural resource than other practicable alternatives, including significantly different practicable alternatives that propose less development within the resource area.

Response: *Since there is no actual disturbance to the HCA or WQR, there is no alternative plan or layout that will have less intrusion. This project is simply to divide the two distinct areas of land.*

b. Minimize

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity within the resource area shall minimize detrimental impacts to the extent practicable.

- (1) The proposed activity shall minimize detrimental impacts to ecological functions and loss of habitat, consistent with uses allowed by right under the base zone, to the extent practicable.

Response: *no detrimental ecological impacts will occur since no development is proposed.*

- (2) To the extent practicable within the designated natural resource, the proposed activity shall be designed, located, and constructed to:

- (a) Minimize grading, removal of native vegetation, and disturbance and removal of native soils; by using the approaches described in Subsection 19.402.11.A, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation).

- (b) Minimize adverse hydrological impacts on water resources.

- (c) Minimize impacts on wildlife corridors and fish passage.

- (d) Allow for use of other techniques to further minimize the impacts of development in the resource area; such as using native plants throughout the site (not just in the resource area), locating other required landscaping adjacent to the resource area, reducing light spill-off into the resource area from development, preserving and maintaining existing trees and tree canopy coverage, and/or planting trees where appropriate to maximize future tree canopy coverage.

Response: *No grading, removal of native vegetation, or disturbance of native soils shall occur. There are no buildings proposed, so an analysis on building footprints is not warranted. The local hydrology and wildlife corridor will not be degraded whatsoever, as no development is proposed. The existing conditions of Johnson Creek, in this part of Clackamas County, have been established for decades, and there is no immediate plan impact the buffers.*

c. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity shall mitigate for adverse impacts to the resource area. All proposed mitigation plans shall meet the following standards:

- (1) The mitigation plan shall demonstrate that it compensates for detrimental impacts to the ecological functions of resource areas, after taking into consideration the applicant's efforts to minimize such detrimental impacts.

(2) Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation for disturbance of WQRs shall not be approved. Off-site mitigation for disturbance of HCAs shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and if the applicant has documented that they can carry out and ensure the success of the off-site mitigation as outlined in Subsection 19.402.11.B.5.

In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(3) All revegetation plantings shall use native plants listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List.

(4) All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.

(5) A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting. Compliance with the plan shall be a condition of development approval.

Response: *Mitigation is not warranted since there are no new impacts on the HCA or WQR.*

2. Municipal Water Utility Facilities Standards

In addition to all other applicable criteria of Subsection 19.402.12.B, and if not already exempted by Subsection 19.402.4; municipal potable water, stormwater, and wastewater utility facilities (which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices) may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced, or upsized in accordance with the following criteria:

- a. Such projects shall not be required to avoid the resource area per Subsection 19.402.12.B.1.a, provided that, where practicable, the project does not encroach closer to a protected water feature than existing operations and development; or, for new projects where there are no existing operations or development, provided that the project does not encroach closer to a protected water feature than practicable.

b. Best management practices will be employed that accomplish all of the following:

- (1) Account for watershed assessment information in project design.
- (2) Minimize the trench area and tree removal within the resource area.
- (3) Utilize and maintain erosion controls until other site stabilization measures are established, post-construction.
- (4) Replant immediately after backfilling, or as soon as effective.
- (5) Preserve wetland soils and retain soil profiles.
- (6) Minimize compactions and the duration of the work within the resource area.
- (7) Complete in-water construction during appropriate seasons, or as approved within requisite federal or State permits.
- (8) Monitor water quality during the construction phases, if applicable.
- (9) Implement a full inspection and monitoring program during and after project completion, if applicable.

Response: *Municipal Water facilities are not existing or proposed. This criteria is not applicable.*

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 shall submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and shall be subject to the approval criteria provided in Subsection 19.402.12.B.

Response: *No disturbance is proposed. This criteria is not applicable.*

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

Response: *No disturbance is proposed. This criteria is not applicable.*

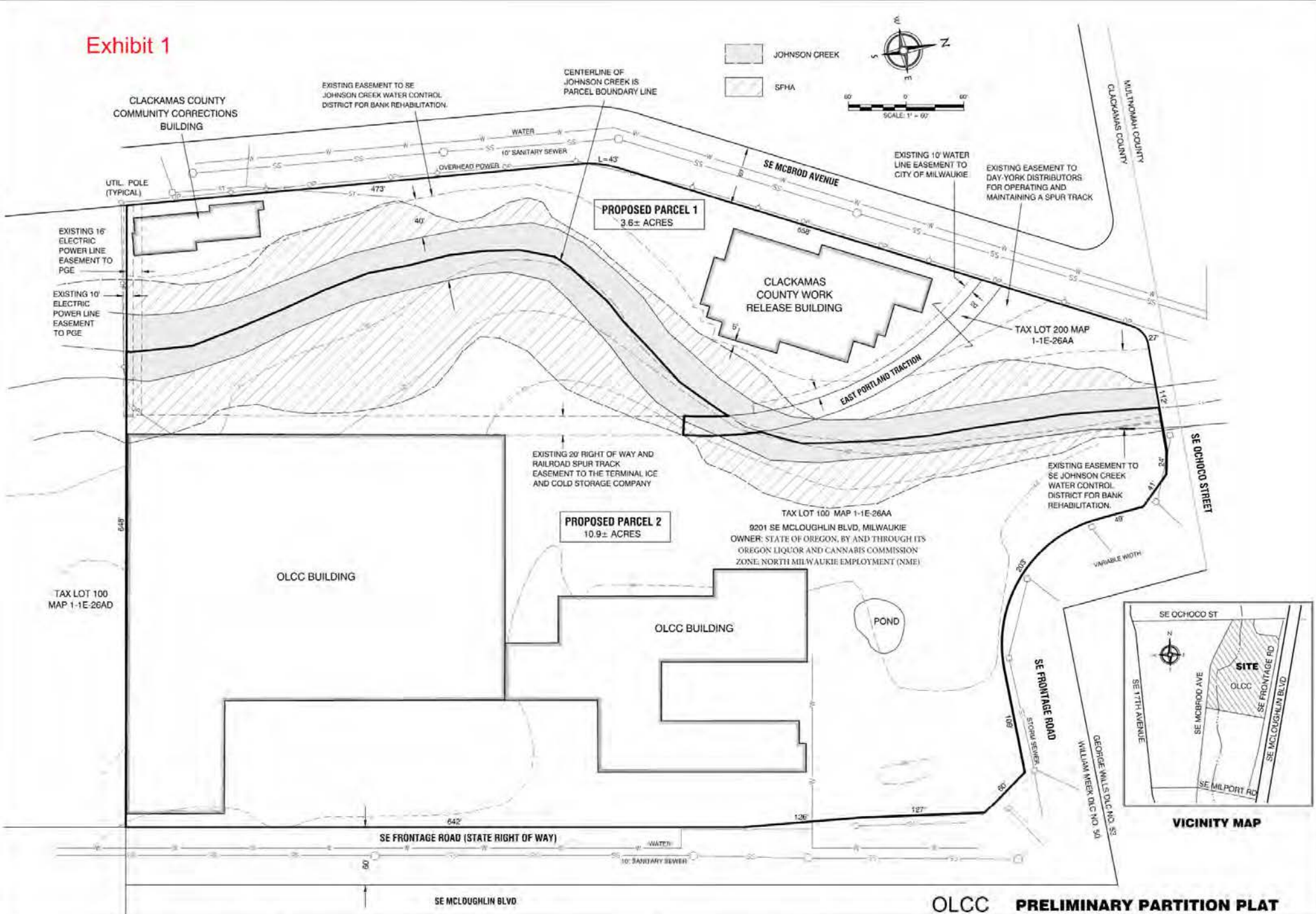
2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

- a. The applicant shall submit the following information:
 - (1) A calculation of the number and size of trees and shrubs the applicant would be required to plant under Subsection 19.402.11.D.2.
 - (2) The number and size of trees and shrubs that the applicant proposes to plant.
 - (3) An explanation of how the proposed number and size of trees and shrubs will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2. Such explanation shall be prepared and signed by a knowledgeable and qualified natural resource professional or a certified landscape architect. It shall include discussion of site preparation including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, and planting season; and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control.
 - (4) A mitigation, site-monitoring, and site-reporting plan.
 - (5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.
- b. Approval of the request shall be based on consideration of the following:
 - (1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.
 - (2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.
 - (3) Whether the applicable requirements in Chapter 16.32 will also be met.

Response: *As discussed above, a Mitigation Plan is not required as no new development is proposed.*

Exhibit 1



OLCC PRELIMINARY PARTITION PLAT




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	PLAN	8533 Prelim.dwg		

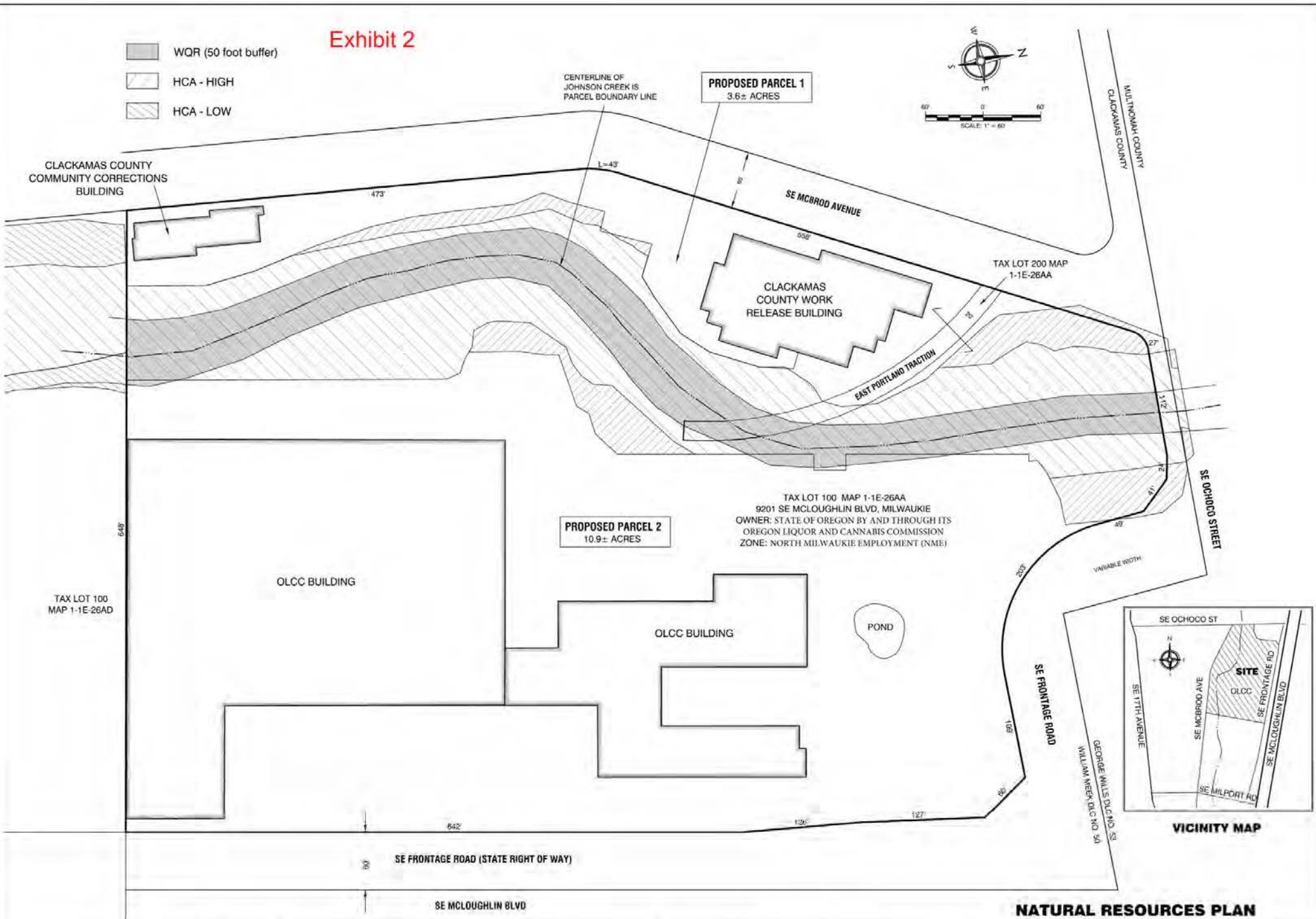
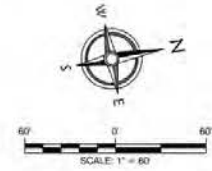
MPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

CLACKAMAS COUNTY
 2051 KAEN ROAD
 OREGON CITY, OREGON 97045

TAX LOT 100, MAP 1-1E-26AA
IN THE NE 1/4 SECTION 26, T.1S., R.1E., W.M.
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

Exhibit 2

-  WQR (50 foot buffer)
-  HCA - HIGH
-  HCA - LOW



NATURAL RESOURCES PLAN

DRAWN	MMM	CHECKED	DD
SCALE	1" = 60'	DATE	12/2021
REVISIONS	PLAN 8533 P01.dwg		

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 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

CLACKAMAS COUNTY
 2051 KAEN ROAD
 OREGON CITY, OREGON 97045

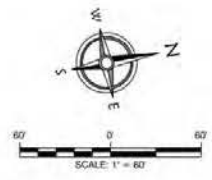
TAX LOT 100, MAP 1-1E-26AA
IN THE NE 1/4 SECTION 26, T.1S., R.1E., W.M.
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

Exhibit 3

 RESTRICTED DEVELOPMENT AREA

CENTERLINE OF JOHNSON CREEK IS PARCEL BOUNDARY LINE

PROPOSED PARCEL 1
3.6± ACRES



CLACKAMAS COUNTY COMMUNITY CORRECTIONS BUILDING

SE MCBROD AVENUE

TAX LOT 200 MAP 1-1E-26AA

CLACKAMAS COUNTY WORK RELEASE BUILDING

EAST PORTLAND TRACTION

PROPOSED PARCEL 2
10.9± ACRES

TAX LOT 100 MAP 1-1E-26AA
9201 SE MCKLOUGHLIN BLVD, MILWAUKIE
OWNER: STATE OF OREGON, BY AND THROUGH ITS OREGON LIQUOR AND CANNABIS COMMISSION
ZONE: NORTH MILWAUKIE EMPLOYMENT (NME)

OLCC BUILDING

OLCC BUILDING



SE OCHOCHO STREET

SE FRONTAGE ROAD

TAX LOT 100 MAP 1-1E-26AD



VICINITY MAP

SE FRONTAGE ROAD (STATE RIGHT OF WAY)

SE MCKLOUGHLIN BLVD

RESTRICTED DEVELOPMENT AREA






DRAWN	MMM	CHECKED	DD
SCALE	1" = 60'	DATE	10/2022
REVISIONS	PLAN	B533 Restricted Development Area.dwg	

MPASS Land Surveyors
4107 SE International Way, Suite 705
Milwaukie, Oregon 97222 503-653-9093

CLACKAMAS COUNTY
2051 KAEN ROAD
OREGON CITY, OREGON 97045

TAX LOT 100, MAP 1-1E-26AA
IN THE NE 1/4 SECTION 26, T.1S., R.1E., W.M.
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

Exhibit 4 Tree Canopy, Ground Cover (GC), and shrubs (Existing)

-  Tree Canopy 42%
-  G.C. and shrubs 37%
-  OLCC_Property
-  WQR (50 foot buffer)
-  Tax Lots

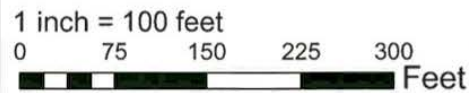
The WQR, a 50-foot vegetative buffer offset from the edge of Johnson Creek, is roughly 151,500 square feet in area (3.48 Acres). Within the buffer, tree canopy comprise roughly 63,900 sq. feet of the total buffer area, or 42%. Ground cover (G.C.) and shrubs cover roughly 56,600 of the total buffer, or 37%. Combined, all tree canopy, GC, and shrubs total roughly 78,660 sq. feet, or 51% of the total buffer. ★

Existing Condition of the WQR is poor, pursuant to title 19.402.11.C

***Note:**

Both coverages were merged and result in an overall coverage of 51%.

Graphically, they are shown as two distinct features: Tree Canopy and Ground Cover



The information provided was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information from Land Surveys may have been used in the creation of this product, in no way does this product represent or constitute a Land Survey. Users are strongly cautioned to verify all information before making any decisions.

Date: 11/3/2022
Drawn By: BENB



S:\Planning\CAD-GIS\GIS\Milwaukie Partition



No Tracts

1 1E 26AA
MILWAUKIE

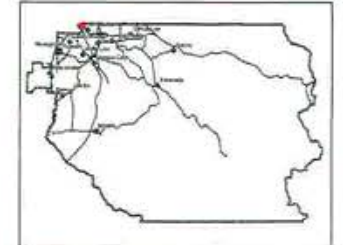
N.E. 1/4 N.E. 1/4 SEC. 26 T. 1S. R. 1E. W. M.
CLACKAMAS COUNTY
1" = 100'

D. L.C.
WILLIAM MEEK NO. 50

Cancelled

- 402E1
- 40E
- 50E
- 50E2
- 50E3
- 300
- 403R1
- 400W
- 300R1

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centreline
- Tax Code Lines
- Map Inset
- Water Lines
- Land Use Zoning
- Plat
- Water
- Corner
- Section Corner
- 1/4th Line
- Grid Lot Line
- D.L.C. Line
- Meander Line
- PLSS Section Line
- Historic Corner 47
- Historic Corner 20



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

Print Date: 8/25/2022

MILWAUKIE
1 1E 26AA

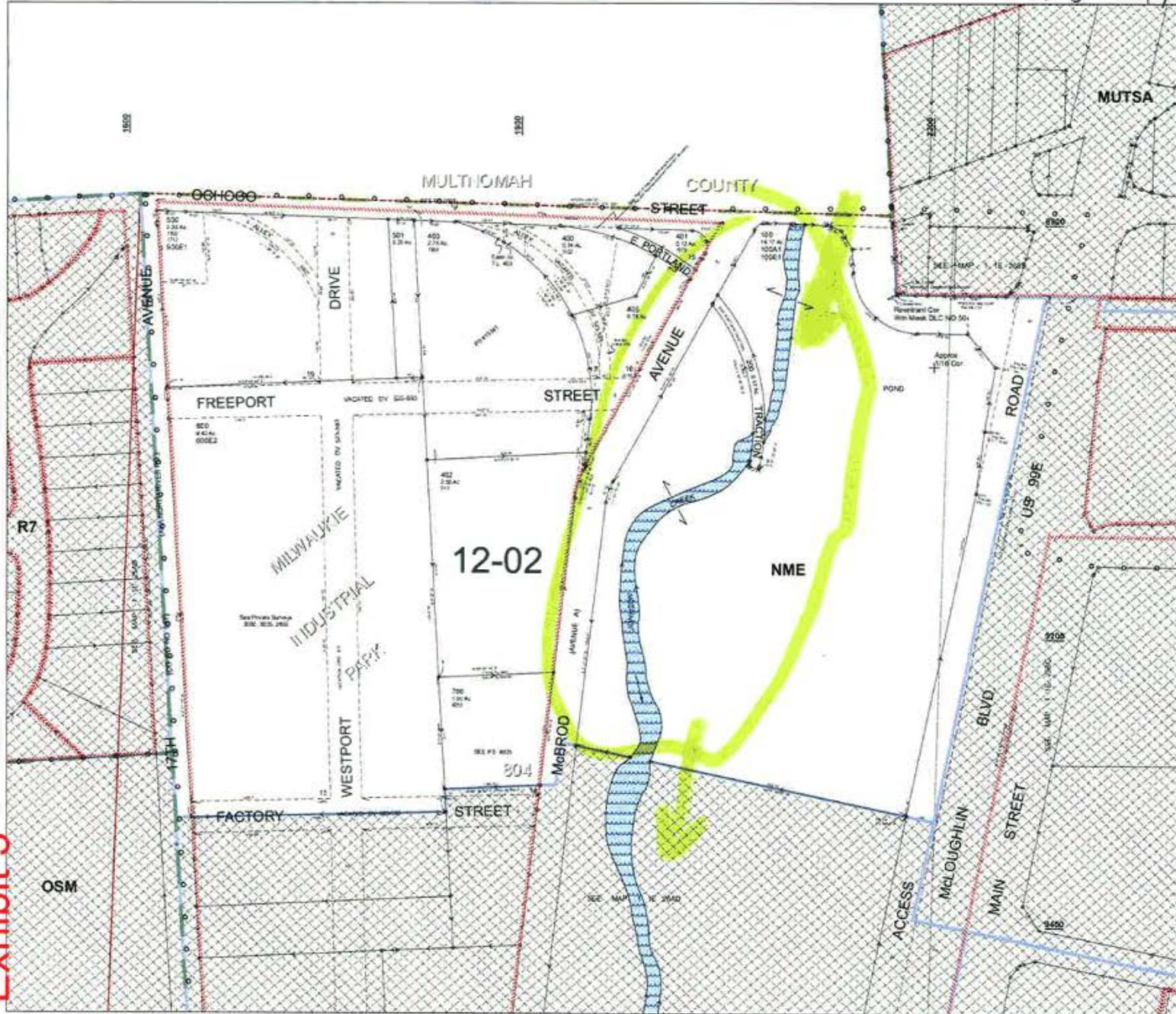
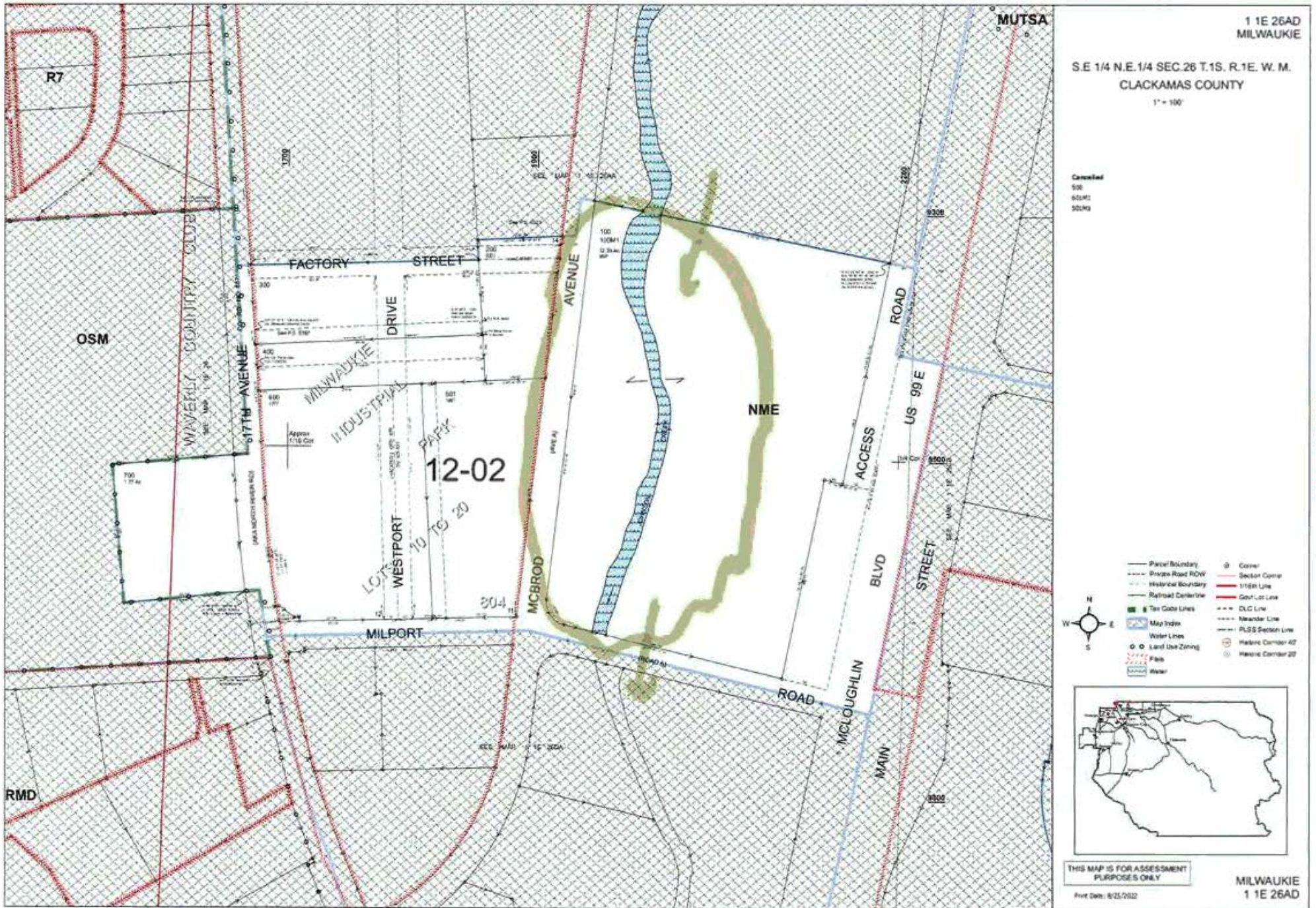


Exhibit 5

No tracts



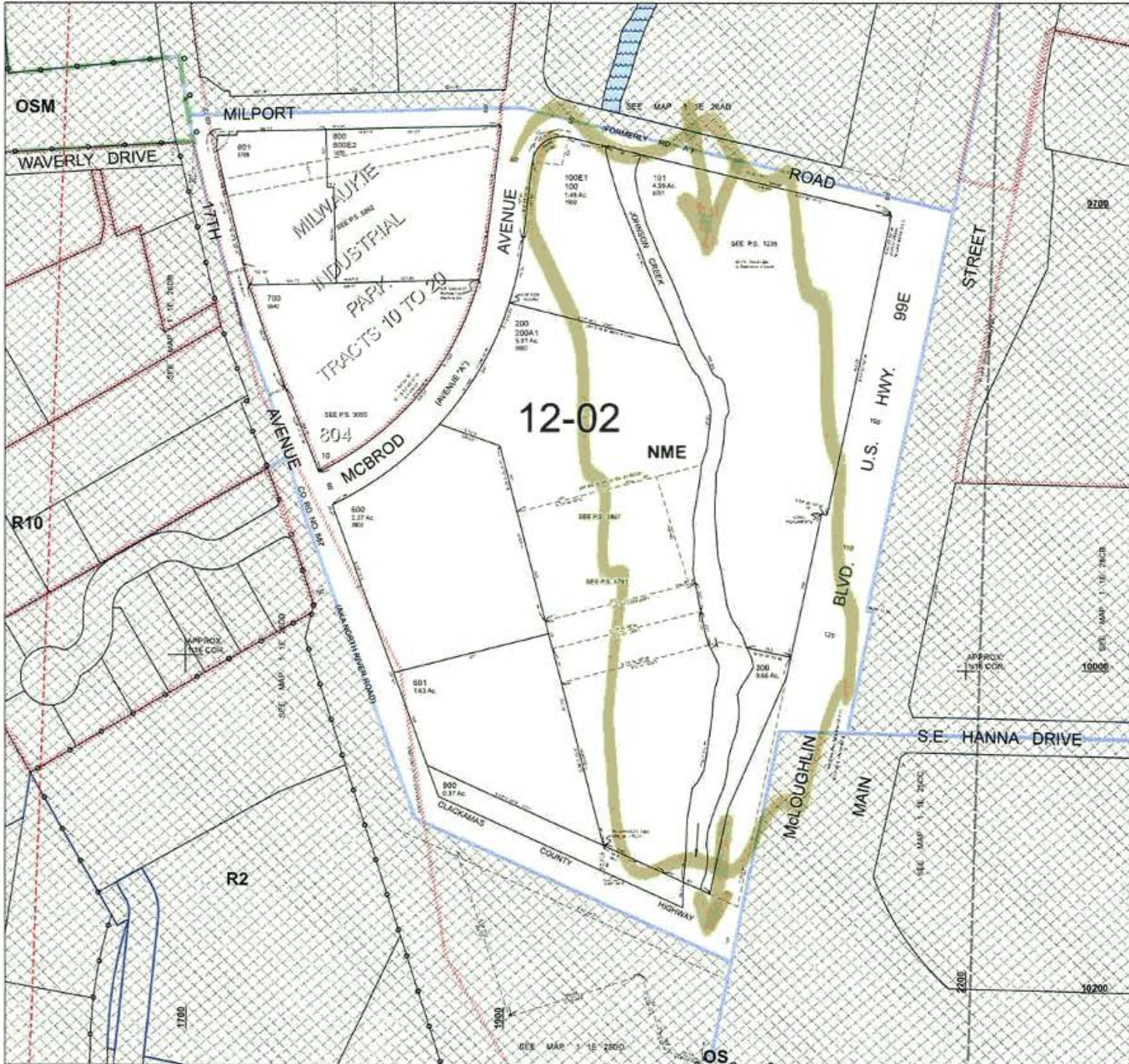
No Tracts

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MILWAUKIE

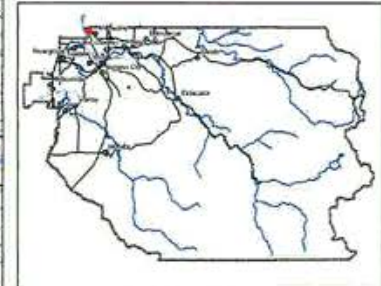
N.E. 1/4 S.E. 1/4 SEC. 26 T. 1S. R. 1E. W.M.
CLACKAMAS COUNTY
1" = 100'

D. L. C.
WILLIAM MEEK NO. 50

Cancelled Taxlots
1992
1942
1211
12
2901
2902
2904
400
500
8851



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodes/Lines
- Map Index
- Water/Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- D.L.C. Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



1 1 E 26DA
MILWAUKIE

No fracts

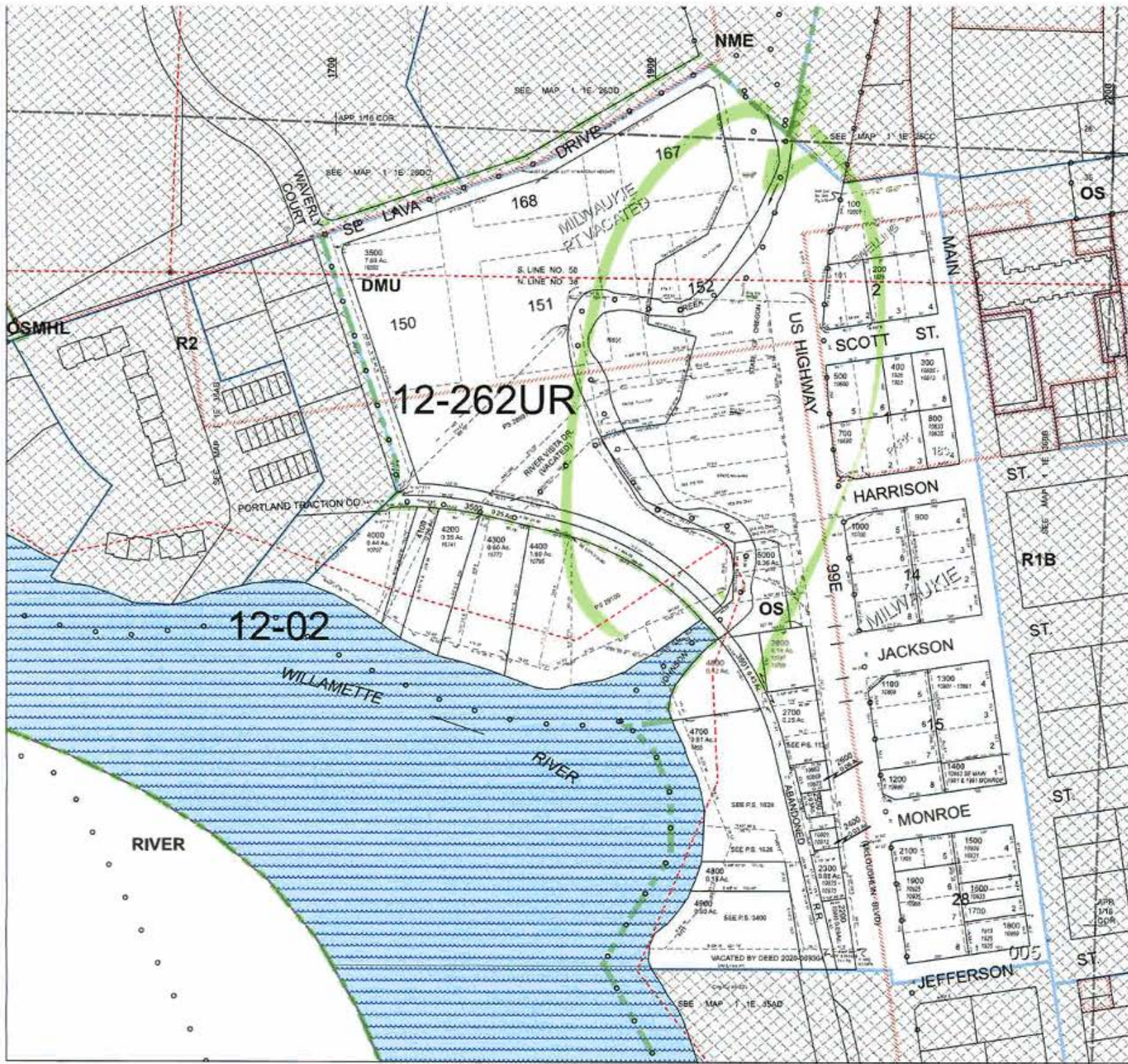
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CLACKAMAS COUNTY
1" = 100'

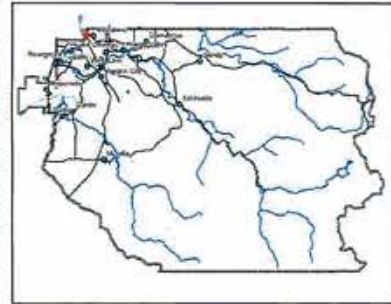
D. L. C.
LOT WHITCOMB NO. 38
WILLIAM MEEK NO. 50

Cancelled Taxlots

- 1055A1
- 1055A2
- 1055A3
- 1055A4
- 1055A5
- 1055A6
- 1055A7
- 1055A8
- 1055A9
- 1055A10
- 1055A11
- 1055A12
- 1055A13
- 1055A14
- 1055A15
- 1055A16
- 1055A17
- 1055A18
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- 1055A96
- 1055A97
- 1055A98
- 1055A99
- 1055A100



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCode Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 47
- Historic Corridor 27



Page 55 of 64

THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



1 1 E 35AA
MILWAUKIE

12-262UR

12-02

12-262UR

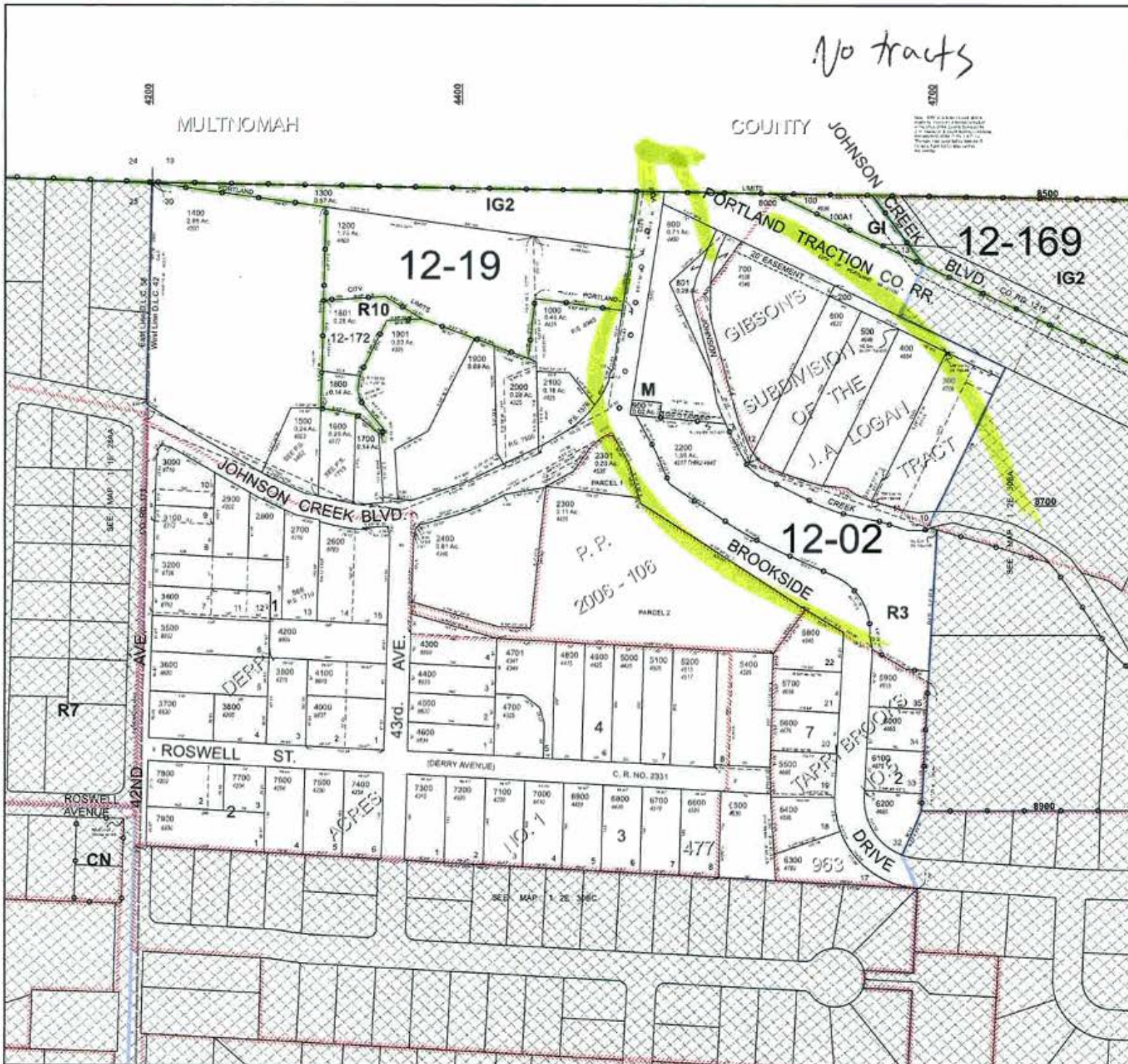
N.W. 1/4 N.W. 1/4 SEC. 30 T. 1S. R. 2E. W.M.
CLACKAMAS COUNTY
1" = 100'

D. L. C.
GEORGE WILLS NO. 40

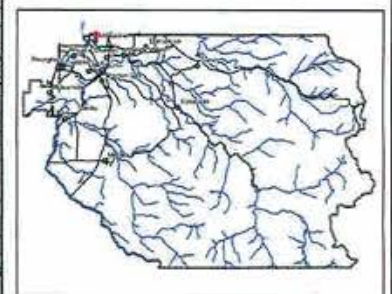
Cancelled Taxlots

- 190
- 190A1
- 200
- 201
- 220
- 230
- 530

No tracts



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/8th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

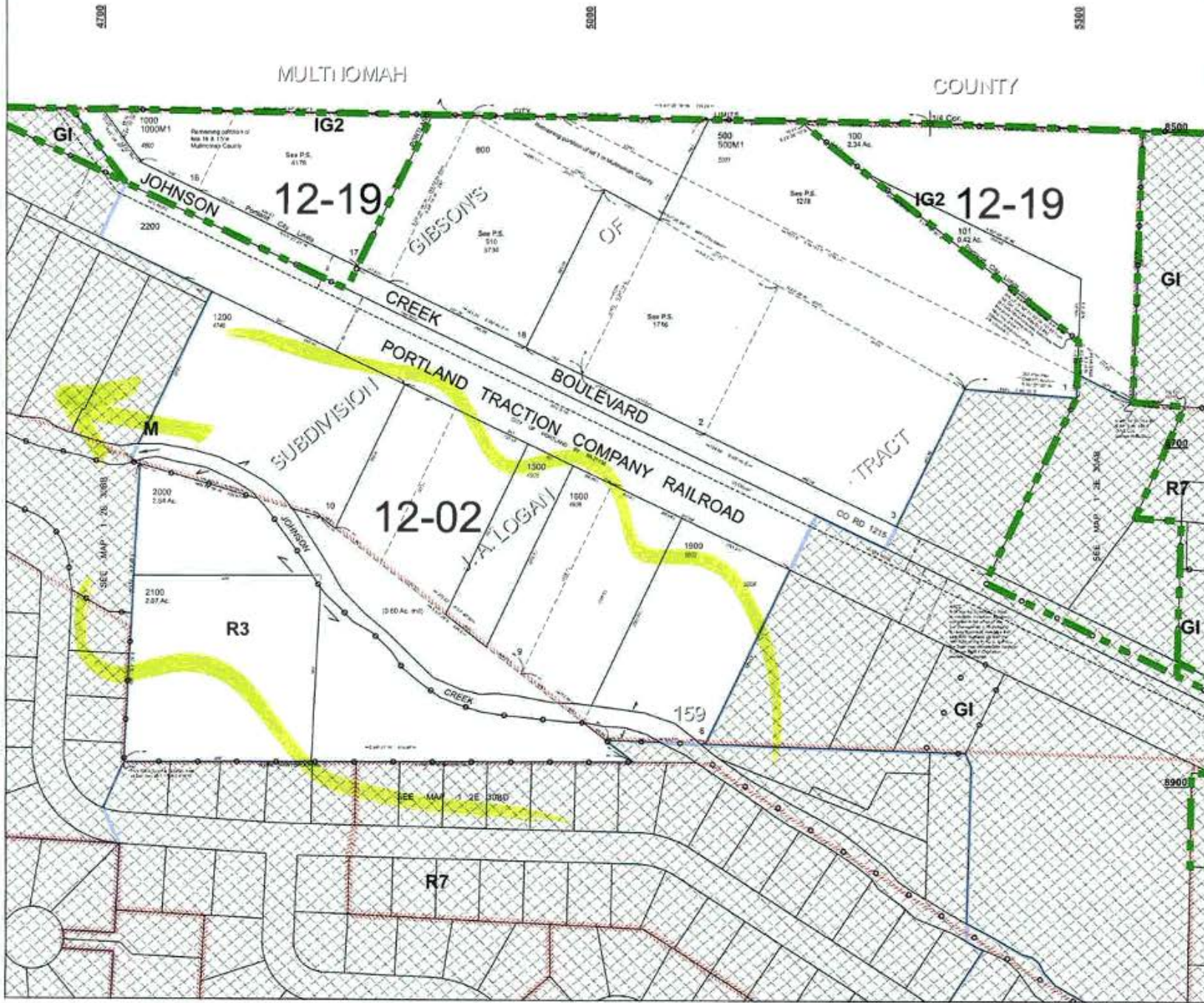
No tracts

N.E. 1/4 N.W. 1/4 SEC. 30 T. 1S. R. 2E. W.M.
CLACKAMAS COUNTY
1" = 100'

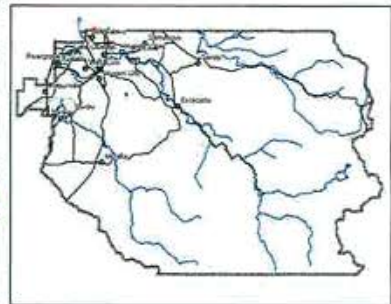
D. L. C.
GEORGE WILLS NO. 42

Cancelled Taxlots

2021
202
400
500A1
500
700
900
1100
1200A1
1200
1400
1700
1800



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- - - Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- ⊙ Corner
- Section Corner
- 1/15th Line
- Govt. Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



Page 57 of 64

THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



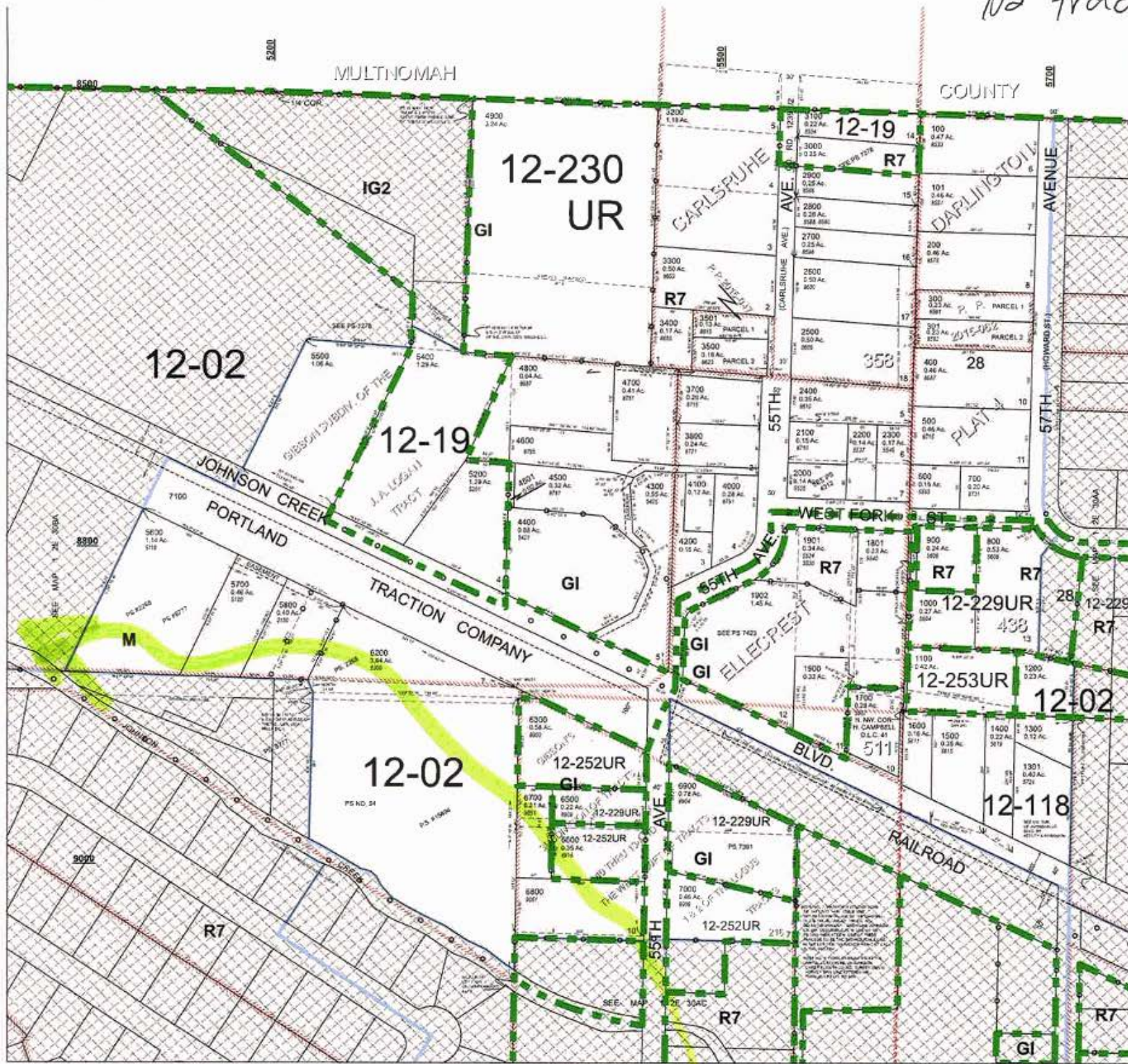
No tracts

N.W.1/4 N.E.1/4 SEC.30 T.1S. R.2E. W.M.
CLACKAMAS COUNTY
1" = 100'

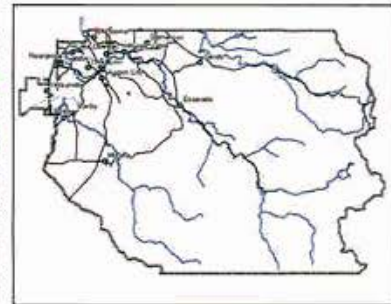
D.L.C.
GEO. WILLS NO. 42
HECTOR CAMPBELL NO. 41

Cancelled Taxlots

6100
6200
3600
3900
5300
5100
5300
5400
5900
6300



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCadastral Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plat
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- D.L.C. Line
- Meander Line
- PLSS Section Line
- Historic Corridor 42
- Historic Corridor 27



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



PROPERTY INFORMATION REPORT

Date: October 19, 2021

File No.: 21-296427

Property: 9201 SE McLoughlin Boulevard, Milwaukie, OR 97222

Compass Land Surveying
4107 SE International Way - Suite 705
Milwaukie, OR 97222
Attn: Don

Your Reference: JOB #8533

REPORT FEE: \$500.00

The information contained in this report is furnished by WFG National Title Insurance Company (the "Company") as an information service based on the records and the indices maintained by the Company for the county identified below. This report does not constitute title insurance and is not to be construed or used as a commitment for title insurance. The Company assumes and shall have no liability whatsoever for any errors or inaccuracies in this report. In the event any such liability is ever asserted or enforced, such liability shall in no event exceed the paid herein. No examination has been made of the Company's records, other than as specifically set forth in this report.

The effective date of this report is October 12, 2021

REPORT FINDINGS

A. The land referred to in this report is located in the county of Clackamas State of Oregon, and is described as follows:

See Attached Exhibit "A"

B. As of the Effective Date and according to the last deed of record, we find the title to the land to be vested as follows:

Oregon State Liquor Control Commission

C. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

1. Taxes, including the current fiscal year, not assessed due to ownership by a governmental entity. If the exempt status is terminated, an additional tax may be levied.

Property ID No. : 00016155

Levy Code : 012-002

Map Tax Lot No. : 11E26AA00100

2. Taxes, including the current fiscal year, not assessed due to ownership by a governmental entity. If the exempt status is terminated, an additional tax may be levied.

Property ID No. : 01517228

Levy Code : 012-002

Map Tax Lot No. : 11E26AA00100E1

NOTE: The Clackamas County Assessor shows a partial exemption.

3. City liens, if any, of the City of Milwaukie.

4. Any adverse claim based upon the assertion that:
 - a) Said land or portion thereof is now or at any time has been below the high water mark of Johnson Creek.
 - b) Said land has been removed from or brought within the boundaries of the premises by the process of erosion or an avulsive movement of Johnson Creek or has been formed by a process of accretion or reliction or has been created by artificial fill.
 - c) Rights of the public and governmental bodies in and to any portion of the premises herein described lying below the high water mark of Johnson Creek, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

5. Rights of the public in and to any portion of the herein described premises lying within the boundaries of streets, roads or highways.

6. Easement, including the terms and provisions thereof:

For	:	Johnson Creek channel improvement
Granted to	:	Johnson Creek Water Control District
Recorded	:	July 29, 1961
Recording No(s)	:	(book) 590 (page) 89
Affects	:	See document for exact location

7. Easement, including the terms and provisions thereof:

For	:	Spur Track
Granted to	:	Day-York Distributors, Inc.
Recorded	:	April 29, 1971
Recording No(s)	:	71-9025
Affects	:	See document for exact location

8. Easement, including the terms and provisions thereof:

For	:	Electric Power Line
Granted to	:	Portland General Electric Company
Recorded	:	July 18, 1978
Recording No(s)	:	78-30853
Affects	:	Southwesterly portion of the herein describe property

9. Easement, including the terms and provisions thereof:

For	:	Electric Power Line
Granted to	:	Portland General Electric Company
Recorded	:	April 2, 1980
Recording No(s)	:	80-12135
Affects	:	South 16 feet of the West 218 feet

10. Easement, including the terms and provisions thereof:

For	:	Water Line
Granted to	:	City of Milwaukie
Recorded	:	September 15, 1992
Recording No(s)	:	92-57533
Affects	:	See document for exact location

11. Any unrecorded leases or rights of tenants in possession.

12. No search has been made for Financing Statements filed in the office of the Secretary of State. Exception may be taken to such matters as may be shown thereby. No liability is assumed if a Financing Statement is filed in the office of the County Recorder covering timber, crops, fixtures or contracts on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

END OF EXCEPTIONS

NOTE: Please be advised that we have searched the records and do not find any open Deeds of Trust. If you should have knowledge of an outstanding obligation, please contact the Title Department for further review.

NOTE: Personal property taxes, if any.

NOTE: Assessor records show the following personal property tax accounts associated with the subject property:

Account No. [P0009833](#) in the name of Canon Financial Serv, Inc.

Account No. [P0009834](#) in the name of Canon Financial Serv, Inc.

NOTE: In no event shall WFG National Title Insurance Company have any liability for the tax assessor's imposition of any additional assessments for omitted taxes unless such taxes have been added to the tax roll and constitute liens on the property as of the date of closing. Otherwise, such omitted taxes shall be the sole responsibility of the vestee(s), herein.

NOTE: We find NO judgments or Federal Tax Liens against the name(s) of Oregon State Liquor Control Commission.

NOTE: The following is incorporated herein for information purposes only and is not part of the exception from coverage (Schedule B-II of the prelim and Schedule B of the policy): The following instrument(s), affecting said property, is (are) the last instrument(s) conveying subject property filed for record within 24 months of the effective date of this preliminary title report:

None of Record

Note: Links for additional supporting documents:

[Vesting Deed](#)

[Adjoiners](#)

[Survey - SN958](#)

[Aerial](#)

END OF REPORT

Joel M. Winchester
WFG National Title Insurance Company
12909 SW 68th Parkway, Suite 350
Portland, OR 97223
Phone: (503) 941-2827
Fax:
Email: jwinchester@wfgnationaltitle.com

EXHIBIT A LEGAL DESCRIPTION

BEGINNING at the intersection of the Westerly boundary of the East Portland-Oregon City Highway, also known as Highway U.S. 99E, with the Northerly boundary of the William Meek Donation Land Claim No. 50 in Section 26 Township 1 South, Range 1 East, of the Willamette Meridian, which point of beginning set in a concrete monument bears North 89° 07' East 294 feet distant from the re-entrant corner of said D.L.C No. 50; Thence, South 10° 23' 50" West 1519.01 feet to a point, said point being designated by a steel pipe on the Westerly boundary line of the East Portland- Oregon City Highway, known as Highway U.S.99E; Thence North 79° 36' 10" West 100 feet to a point, said point being designated by a steel pipe; Thence, South 10° 23' 50" West 435.77 feet to a point, said point being designated, by a steel pipe on the Northerly boundary line of an existing project road, known as "Road A"; Thence North 77° 46' 10" West 481.54 feet following the North boundary line of said Road A to a point, said point being the beginning of a 50 foot radius curve to the right, through a central angle of 82° 59' 02", an arc distance of 72.41 feet to a point of tangent in the Easterly boundary of an existing project road known as "Avenue A"; Thence, following the Easterly boundary line of said Avenue A, North 5° 12' 32" East 1338.87 feet to a point, said point being the beginning of a 100 foot radius curve to the right, through a central angle of 22° 15' 24", an arc distance of 42.73 feet to a point of tangent; Thence, North 27° 28' 16" East 557.64 feet along the Easterly boundary line of said Avenue A to a point, said point being the beginning of a 25 foot radius curve to the right, through a central angle of 62° 56' 24" a distance of arc of 27.46 feet to a point of tangent, said point being on a line parallel to and 10 feet South of the City of Portland boundary line between Clackamas County and Multnomah County, and the Southerly boundary of S.E. Ochoco Street; Thence, South 89° 35' 20" East, 242.40 feet, following the Southerly boundary of said S.E. Ochoco Street to a point, said point being set in a concrete monument on the Southerly boundary of said street; Thence, South 4° 53' 30" East 139.39 feet to a point, said point being set in a concrete monument on the Northerly boundary of the Donation Land Claim No. 50 heretofore mentioned; Thence, from said point following the Northerly boundary line of said D.L.C., North 89° 07' East 294 to the point of beginning of the tract herein described.

Excepting therefrom those parcels of land described in the following recorded documents:

Deed to the Portland Traction Company recorded July 22, 1954, in [Book 484, Page 156](#), Clackamas County Deed Records;

Deed to the State of Oregon, by and through its Department of Transportation, Highway Division recorded December 7, 1990, recording No. [90-60498](#);

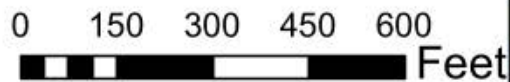
Special Warranty Deed to ART Mortgage Borrower Propco 2006-1C L.P., recorded December 18, 2006, recording no. [2006-115824](#).

Exhibit 7

Location Plan and Map

-  OLCC Property
-  Tax Lots

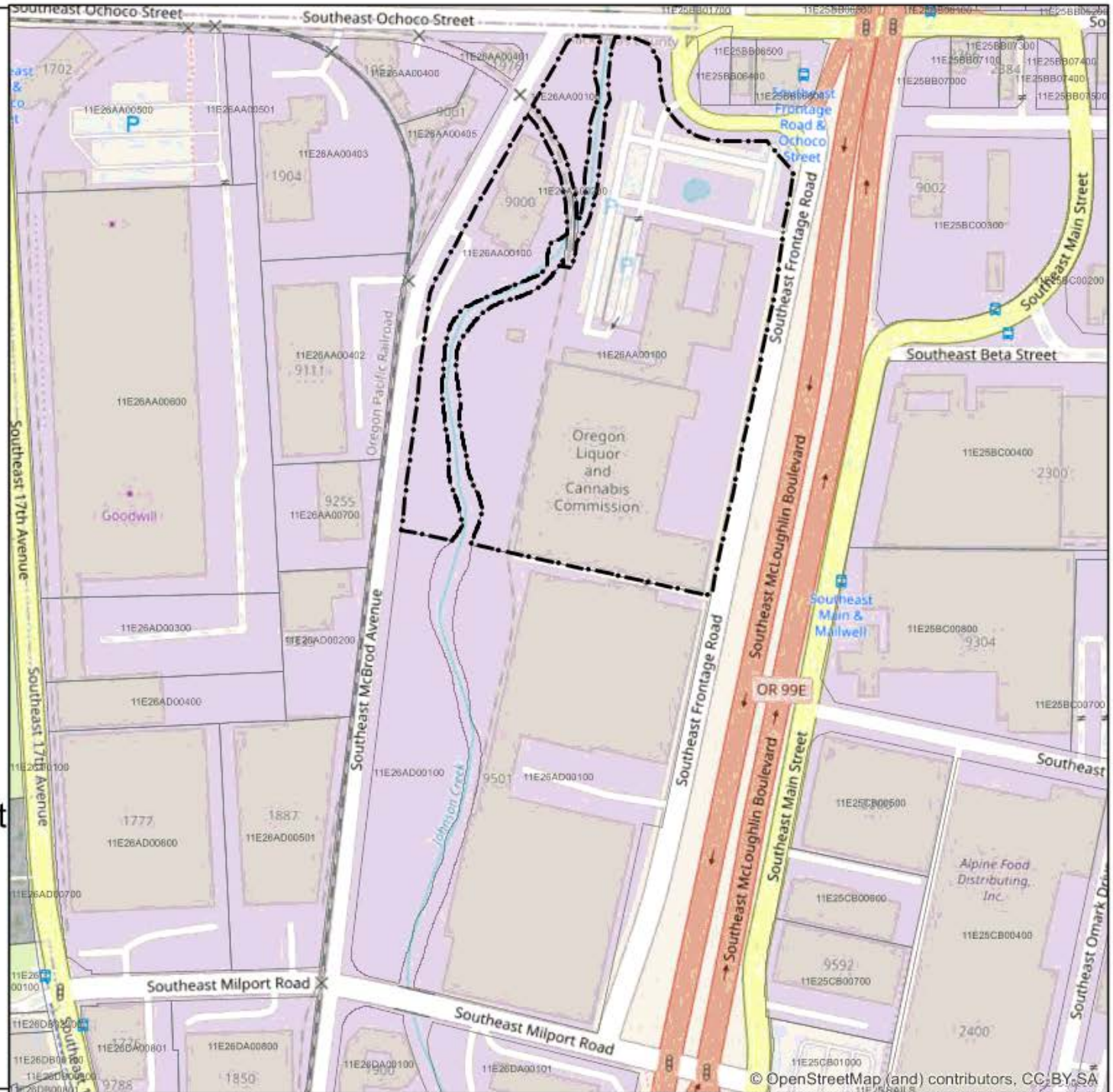
1 inch = 300 feet



The information provided was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional

Date: 11/3/2022
 Drawn By: BENB

S:\Planning\CAD-GIS\GIS\Milwaukie Partition



© OpenStreetMap (and) contributors, CC-BY-SA

Grantor: Clackamas County
2051 Kaen Rd
Oregon City, OR 97045

Grantee: Clackamas County
2051 Kaen Rd |
Oregon City, OR 97045

After Recording Return to:
Clackamas County
Attn: Jeffrey Munns
2051 Kaen Rd.
Oregon City, OR 97045

RESTRICTED DEVELOPMENT EASEMENT
(Individual Grantor)

For value received, Clackamas County, (Grantor), hereby grants, bargains, sells and conveys to Clackamas County, a political subdivision of the State of Oregon, its heirs, successors and assigns, (Grantee), a perpetual, nonexclusive restricted development area easement to protect the integrity, viability, conveyance and water quality functions of the sensitive area and associated buffer, in, under, upon, and across Grantor's real property located in the City of Milwaukie (The City), Clackamas County, and State of Oregon.

Grantor's real property is more particularly described as follows: A parcel of land located in the NE 1/4 of Section 26, T1S, R1E, WM, more particularly described as:
Parcel1 of Partition Plat 2023-___

The Restricted Development Easement is more particularly described as that portion of the mapped Restricted Development Area, as delineated on PP 2023-___, west of the centerline of Johnson Creek, as follows:
Insert Legal Description at time of plat recording.

The true consideration for this conveyance is Zero and No/100 Dollars (\$0.00).

Within the restricted development easement no roadways, driveways, buildings, structures or fences shall be constructed. Any removal of native plants, land disturbance, or other development activity is prohibited, unless authorized by the City of Milwaukie. Any proposed activity consistent with the purpose of this easement is subject to review and approval by the Grantee.

Grantor agrees to undertake no activity or otherwise harm or impair the restricted development easement area to prevent or impede the proper functioning of the easement.

Normal maintenance of the restricted development easement is permitted, and includes: irrigation, debris management, clearing and/or pruning of dead and diseased trees, and other activities described in 19.402.4 of the Milwaukie Municipal Code where allowed outright, or with consent of the City.

Grantee's rights include the right to access and inspect conservation easement areas, storm drainage and all related facilities through, under along the described property. Grantee shall give adequate notice to the landowner before accessing the property. Grantee has the right of reasonable ingress and egress to the easement area over the Grantor's property for the exercise of any of the rights of the easement. The Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.

Grantor represents, covenants, and warrants to Grantee that Grantor is lawfully seized in fee simple title to the Property; that Grantor has the legal right and authority to grant this Easement and that no other party has an ownership interest in the Property or any portion thereof (including the associated timber, water, and mineral rights) that will limit or interfere with Grantee's rights hereunder whatsoever; and that the execution and performance of this Easement by Grantor is duly authorized.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2023.

Grantor Name

Grantor Name

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of _____ 2023,
by Grantor Name(s).

Notary Public for State of _____

My Commission Expires: _____

Grantor: Oregon State Liquor Control Commission
9079 SE McLoughlin
Milwaukie, OR 97222

Grantee: Oregon State Liquor Control Commission
9079 SE McLoughlin
Milwaukie, OR 97222

After Recording Return to:
Oregon State Liquor Control Commission
9079 SE McLoughlin
Milwaukie, OR 97222

RESTRICTED DEVELOPMENT EASEMENT
(Individual Grantor)

For value received, Oregon State Liquor Control Commission, (Grantor), hereby grants, bargains, sells and conveys to Oregon Liquor Control Commission (OLCC) , its heirs, successors and assigns, (Grantee), a perpetual, nonexclusive restricted development area easement to protect the integrity, viability, conveyance and water quality functions of the sensitive area and associated buffer, in, under, upon, and across Grantor's real property located in the City of Milwaukie (The City), Clackamas County, and State of Oregon.

Grantor's real property is more particularly described as follows: A parcel of land located in the NE 1/4 of Section 26, T1S, R1E, WM, more particularly described as:
Parcel 2 of Partition Plat 2023-___

The Restricted Development Easement is more particularly described as that portion of the mapped Restricted Development Area, as delineated on PP 2023-___, east of the centerline of Johnson Creek, as follows:
Insert Legal Description at time of plat recording.

The true consideration for this conveyance is Zero and No/100 Dollars (\$0.00).

Within the restricted development easement no roadways, driveways, buildings, structures or fences shall be constructed. Any removal of native plants, land disturbance, or other development activity is prohibited, unless authorized by the City of Milwaukie. Any proposed activity consistent with the purpose of this easement is subject to review and approval by the Grantee.

Grantor agrees to undertake no activity or otherwise harm or impair the restricted development easement area to prevent or impede the proper functioning of the easement.

Normal maintenance of the restricted development easement is permitted, and includes: irrigation, debris management, clearing and/or pruning of dead and diseased trees, and other activities described in 19.402.4 of the Milwaukie Municipal Code where allowed outright, or with consent of the City.

Grantee's rights include the right to access and inspect conservation easement areas, storm drainage and all related facilities through, under along the described property. Grantee shall give adequate notice to the landowner before accessing the property. Grantee has the right of reasonable ingress and egress to the easement area over the Grantor's property for the exercise of any of the rights of the easement. The Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.

Grantor represents, covenants, and warrants to Grantee that Grantor is lawfully seized in fee simple title to the Property; that Grantor has the legal right and authority to grant this Easement and that no other party has an ownership interest in the Property or any portion thereof (including the associated timber, water, and mineral rights) that will limit or interfere with Grantee's rights hereunder whatsoever; and that the execution and performance of this Easement by Grantor is duly authorized.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2023.

Grantor Name

Grantor Name

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of _____ 2023,
by Grantor Name(s).

Notary Public for State of _____

My Commission Expires: _____