

front or rear yard of the home. In order to satisfy the minimum outdoor area standard's minimum dimension standards, it may be necessary that home footprints not extend to both the minimum rear yard setback of 5 feet, and instead provide for a 12-foot deep rear yard. The applicant is willing to accept a condition of approval that will require site plans for building permits for homes to be built on the lots be shown to satisfy the outdoor recreation area standard.

All of the other applicable standards of Chapter 33.110 will be able to be satisfied by homes to be built on the eleven proposed lots.

The proposed development does not utilize the alternative development options, flag lot standards, planned development, transitional site, zero lot line, or permit-ready houses options provided in Chapter 33.110. No institutional development is proposed.

No accessory structures or garages are proposed for development at this time. Accessory structures built in the future will be subject to the standards of Sections 33.110.250 and/or 33.110.253, as applicable.

No fences or signs are proposed at this time.

### **C. COMPLIANCE WITH THE APPLICABLE ENVIRONMENTAL REVIEW APPROVAL CRITERIA**

#### **Section 33.430**

#### **ENVIRONMENTAL REVIEW CRITERIA**

##### **33.430.010**

##### **Purpose**

*Environmental zones protect resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. These regulations also help meet other City goals, along with other regional, state, and federal goals and regulations. The environmental regulations also carry out Comprehensive Plan policies and objectives.*

##### **33.430.015**

##### **Purpose of the Environmental Protection Zone**

*The Environmental Protection zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances.*

##### **33.430.017**

##### **Purpose of the Environmental Conservation Zone**

*The Environmental Conservation zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.*

**Response:** The site does not include any Environmental Protection overlay areas. The site does include approximately 0.47 acre which is zoned Environmental conservation.

No response to any of the three purpose statements above is necessary since they are not listed as approval standards. Nevertheless, it is pointed out that the proposed land division plans for Everett Heights have been designed to be generally consistent with these purposes. The most significant resources and functional values of these resources on the subject site are proposed for long-term protection through the establishment of tract A as an open space tract which will be retained by the project's homeowners association.

The proposed development plan utilizes environmentally sensitive design techniques to allow limited residential development on the upland portion of the site while protecting the wetlands, required buffer areas, and limited upland areas within tract A.

**33.430.020**

**Environmental Reports**

The application of the environmental zones is based on detailed studies that have been carried out within eight separate areas of the City. The City's policy objectives for these study areas are described in the reports. Each study report identifies the resources and describes the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports. The City has adopted the following eight environmental study reports:

\*\*\*Fanno Creek and Tributaries Conservation Plan

**Response:** The site specific environmental review report prepared for the subject application by Anchor QEA, LLC in Appendix G has been based partially upon the review of resources and functional values for the subject site as reported in the Fanno Creek and Tributaries Conservation Plan.

**33.430.070**

**When These Regulations Apply**

Unless exempted by Section 33.430.080, below, the regulations of this chapter apply to the following:

- A. Development;
- B. All land divisions and property line adjustments
- C. Removing, cutting, mowing, clearing, burning, or poisoning native vegetation listed in the Portland Plant List;
- D. Planting or removing plants listed on the Nuisance Plants List;
- E. Changing topography, grading, excavating, and filling;
- F. Resource enhancement; and
- G. Dedication and expansions of rights-of-way.

**Response:** The proposed development is a land division which will include expanded right-of-way dedication and limited excavation to construct required public street improvements and replacement of a storm drainage culvert within a portion of the SW 48<sup>th</sup> Avenue right-of-way which is located within a portion of the site which is zoned Ec, the Environmental conservation district. The proposed development activities require approval through the Environmental Review process. Therefore, the regulations of Chapter 33.430 apply to this project.

**33.430.080**

**Items Exempt From These Regulations**

The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter. Other City regulations such as Title 10, Erosion Control, must still be met:

\*\*\*

**Response:** The exemptions listed in Section 33.430.080 do not apply to the current proposal to redevelop the site – including modifications to portions of the Ec zoned area on the site.

**33.430.090**

**Prohibitions**

The following items are prohibited in all environmental zones. Prohibitions apply to both transition areas and resource areas:

- A. The use, packaging, transportation, or storage of hazardous substances, except as follows:
  - 1. Transportation of hazardous substances through environmental zones by rail or on designated truck routes is allowed; and
  - 2. Use of consumer quantities of hazardous substances within environmental zones is allowed subject to the regulations of this Title. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sales outlets for consumption by individuals for purposes of personal care and household use.
- B. The planting or propagation of any plant listed on the Nuisance Plants List;
- C. Exterior work activities, unless in conjunction with a river-related or river dependent use. See Chapter 33.910, Definitions; and
- D. Dumping of yard debris or trash.

**Response:** The proposed development plans will not include any of the above-listed prohibited items or activities.

### ***Development Standards***

#### ***33.430.110 Purpose***

*These provisions are intended to:*

- A. Encourage sensitive development while minimizing impact on resources;*
- B. Provide clear limitations on disturbance within resource areas;*
- C. Ensure that new development and alterations to existing development are compatible with and preserve the resources and functional values protected by the environmental zones;*
- D. Provide clear planting and erosion control requirements within resource areas;*
- E. Buffer the resource area from the noise, fumes, lights, and motion of vehicular traffic associated with industrial, commercial, and multi-dwelling residential uses;*
- and*
- F. Limit the impacts on resources and functional values resulting from construction of certain types of utilities.*

**Response:** Responses to the purpose statements of this Section are not necessary.

#### ***33.430.120 Procedure***

- A. Generally, Compliance with the development standards of this chapter is required for all development in the environmental zones and is determined as part of the building permit or development permit application process. For proposals that cannot meet all of the standards, Environmental Review is required. \*\*\**

**Response:** Portions of the development plans for Everett heights are not consistent with all of the development standards of this Section. Therefore, Environmental Review is requested. Compliance with the development standards are addressed below as applicable.

#### ***33.430.140 General Development Standards***

*The standards below apply to all development in the environmental zones except as follows:*

- Utilities subject to Section 33.430.150;*
- Land divisions subject to Section 33.430.160;*
- Property line adjustment subject to Section 33.430.165;*
- Resource enhancement projects subject to Section 33.430.170;*
- Rights-of-way improvements subject to Section 33.430.175;*
- Stormwater outfalls subject to Section 33.430.180; and*
- Public recreational trails subject to Section 33.430.190.*

*Standards A through C and G through S apply to new development. Standards D through S except L apply to alterations to existing development. Only standards E, J, K, N, Q, R, and S apply in Transition areas. All of the applicable standards must be met.*

**Response:** See the responses to the applicable standards of Section 33.430.160 for the proposed land division and Section 33.430.175 for the right-of-way improvements included in this development application.

#### ***33.430.160 Standards for Land Divisions and Planned Developments***

*The following standards apply to land divisions and planned developments in the environmental zones. All of the standards must be met.*

A. *All development is outside the resource area of the environmental protection zone;*

**Response:** There is no environmental protection zone on the subject site. Therefore, all of the proposed development activities are located outside of the resource areas of an environmental protection zone.

B. *Where there is a house on the site that is in the environmental protection zone, it may remain if a new lot is created that meets the following:*

1. *The existing house will remain; and*
2. *A new lot is created that is no larger than required to contain the existing house, garage, minimum required setbacks, a 12-foot wide driveway, and an open area of 20 feet by 20 feet.*

**Response:** There is one existing home on the site, but the home is located outside of the environmental zones. Therefore, this section is not applicable.

C. *Resource areas of the environmental protection zone that are outside of lots being created under the provisions of Subsection B., above, are located entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization; and*

**Response:** There are no portions of the site which are within the Environmental protection zone. Therefore, this section is not applicable.

D. *The total amount of disturbance area allowed within the resource area of the environmental conservation zone is either the amount listed in Table 430-4 or 1 acre, whichever is less, minus the amount of area outside the resource area*

*Excerpt from Table 430-3*

*Maximum Disturbance Area for a Land Division Allowed Within the Resource Area:*

*R7 Zone: Maximum Disturbance Area is 17% of site area*

**Response:** The proposed development plans provide for disturbance of xx percent of the Environmental Conservation overlay portion of the site. Disturbance within the resource area of the Ec zone will be limited to where road right-of-way dedication, roadway improvements, and culvert replacement will occur. This standard is met by the plans for the proposed development.

E. *Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization;*

**Response:** The proposed subdivision plat provides for all of the resource area of the Ec zone on the subject property outside of the SW 48<sup>th</sup> Avenue right-of-way to be placed within open space tract A. Tract A will include both resource areas which will be disturbed and undisturbed. Tract A is proposed to be owned and maintained as permanent open space by the development's homeowners association.

F. *Tree removal is allowed as follows:*

1. *Native trees. In residential zones, the combined total diameter of native trees cut may not exceed 225 inches per dwelling unit, counting only native trees that are at least 6 inches in diameter. In all other zones, native tree removal is limited to the boundaries of the approved disturbance area. Native trees must be replaced as shown in Table 430-3;*

2. *Non-native non-nuisance trees. Non-native non-nuisance trees may be removed, but must be replaced as shown in Table 430-3; and*
3. *Nuisance trees. Trees listed on the Nuisance Plants List may be removed, but must be replaced. Each tree 6 or more inches in diameter must be replaced with one native tree.*

**Response:** Proposed development within the Ec zone includes removal of two non-native, non-nuisance trees for construction of SW 48<sup>th</sup> Avenue right of way improvements. Total DBH of trees to be removed within the Ec zone is 39-inches.

G. *The standards of Subsections 33.430.140.B, C, and K through R must be met.*

**Section 33.430.140 provides the following additional criteria:**

- B. *The disturbance area is set back at least 5 feet from the resource area of any environmental protection zone;*

**Response:** There is no Environmental Protection zone on the site. Therefore, the proposal does not conflict with this standard.

- C. *The disturbance area must be set back at least:*
1. *Fifty feet from the edge of any identified wetland, from the top-of-bank of any identified water body within the Columbia Corridor, or any identified water body within a protection zone on lots zoned R10, R20, or RF;*

**Response:** The proposed disturbances on the subject site are not located within 50 feet from the top-of-bank of any water body within the Columbia Corridor (the site is not located within the Columbia Corridor), or from any identified water body within an Ep zone. The proposed disturbance will occur in an area of wetlands, which is one of the reasons Environmental Review of the proposal is requested.

2. *Thirty feet from the top-of-bank of any identified water body within a protection zone on all lots except those zoned R10, R20 or RF; and*

**Response:** The site does not include any protection zone. Therefore, this standard does not apply.

3. *Thirty feet from the centerline of any identified water bodies within a conservation zone except those within the Columbia Corridor.*

**Response:** The proposed disturbance area will include the area of the stream on the site (that is, as the stream passes through the culvert); therefore, Environmental Review is necessary.

- K. *Trees cut are replaced as shown in Table 430-3. Replacement trees must be at least one-inch in diameter; shrubs must be in at least a 2-gallon container or the equivalent in ball and burlap. All trees and shrubs must be selected from the Portland Plant List and planted on the applicant's site. Conifers must be replaced with conifers and shrubs must consist of at least two different species;*

L. *Nuisance plants.*

1. *Remove plants on the Nuisance Plants List in an area on the site that is equal to 50 percent of the size of the proposed permanent disturbance area, or from the entire site, whichever is less.*

2. *Plant removal must occur outside of the permanent and temporary disturbance areas.*
  3. *Nuisance plant removal entails actions such as the removal of: roots, the above ground portion of the plant, and the seeds of the plant such that existing nonnuisance or newly installed plants are able to grow and survive. The nonnuisance plants are maintained free of nuisance plants.*
  4. *The cleared area must be replanted as follows:*
    - a. *Seed the entire area of removal with a native grass seed.*
    - b. *Install seven groundcover plants and two shrubs per 50 square feet. Groundcover plants must be a minimum size of four inch pots and the shrubs a minimum size of one gallon pots.*
    - c. *Removed native and non-native non-nuisance trees are replanted in accordance with Section 33.430.140.M.*
    - d. *Planting native species listed on the Portland Plant List is required*
- M. *All vegetation planted in a resource area is native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited;*

**Response to K, L and M:** See Appendix G for information regarding the Environmental conservation zone planting plan. The plan was designed to satisfy the tree replacement standards of Table 430-2 for re-vegetation of the Ec zoned area to be disturbed by road and storm drainage culvert outfall construction. Eight trees will be planted in the Ec zone as mitigation for the two trees within the Ec zone which are proposed to be removed. All replacement plant materials shown on this plan are native species and listed on the Portland Plant List.

- N. *The minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to any distance between the base zone minimum and zero;*

**Response:** No reductions to the minimum front yard or garage setback standards are requested.

- O. *Maximum front or street setbacks are as follows:*
1. *The front building or street setback of the base zone is the maximum building setback for primary structures.*
  2. *On a lot with more than one street lot line the maximum setback standard applies to the street lot line that is farthest from the resource area.*
  3. *In zones with no minimum front or street setback, the maximum setback is 10 feet.*

**Response:** No portions of the potential building envelopes of any of the proposed lots will be located within an environmental zone area. Therefore, this section is not applicable.

- P. *Fences are allowed only within the disturbance area;*

**Response:** The only fences which would be requested to be allowed within the E-zoned portion of the site is for a fence to be allowed along the rear property line of lot 5 – a transition area which is proposed to be disturbed. Allowance of this fence would be consistent with this standard.

- Q. *Parking and truck area buffers...*

**Response:** No parking lots or truck areas are proposed as part of the subdivision. This standard is not applicable.

- R. *Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) must be placed so they do not shine directly into resource areas; and*

**Response** No lights are proposed at this time other than the streetlights along the proposed public streets – and those areas are outside of the E zoned area of the site. The subdivision applicant is willing to accept a condition of approval related to this standard which would apply to lighting for yards and on the exterior elevations of homes facing the preserved Ec-zoned area of the property.

***This is the end of responses for Subsections 33.430.140.B, C, and K through R***

- H. *Streets, alleys, walkways, and stormwater facilities are not created within 50 feet of an identified wetland or water body. The standard does not apply to recreational trails identified by the Comprehensive Plan;*

**Response:** No portion of the proposed new street, sidewalks, or any stormwater facilities will be located within 50 feet of the delineated wetlands/stram on the site. See Appendix G for mapping of the wetlands and the creek on the site.

- I. *Right-of-way and roadway widths do not exceed the maximums listed in Table 430-5 and*

**Response:** Proposed right-of-way widths are as required and recommended by the Bureau of Transportation in the pre-application conference notes.

- J. *Utility construction must meet the standards of Section 33.430.150. Private utility lines on a lot where the entire area of the lot is approved to be disturbed and where the private utility line provides connecting service directly to the lot from a public system are exempt from this standard.*

**Response:** All utility lines will be on lots where the entire lot area will be disturbed and the private utility line provides connecting service directly to the lot from a public system and are exempt from this standard. Trees removed within utility easements shall be included within the total removed within lots and/or right of way and mitigated accordingly.

***33.430.150 Standards for Utility Lines***

*The following standards apply to private connections to existing utility lines and the upgrade of existing public utility lines in resource areas. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.*

\*\*\*

**Response:** No private connections to the existing utility lines adjacent to the site are proposed within the E zoned portions of the site. No upgrades to existing public utility lines in resource areas are proposed. Therefore, the standards of this section are not applicable.

***33.430.165 Standards for Property Line Adjustments***

**Response:** No relocation of existing property lines is proposed. This section is therefore not applicable.

***33.430.170 Standards for Resource Enhancement Projects***

**Response:** No resource enhancement projects are proposed. This section is therefore not applicable.

**33.430.175**

**Standards for Right-of-Way Improvements**

The following standards apply to unimproved and partially improved rights-of-way. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280. New rights-of-way that are part of a proposed land division or planned development must be reviewed under the Standards for Land Divisions and Planned Developments in Section 33.430.160.

- A. The proposed paved roadway portion of the right-of-way must not be more than 26 feet wide and 2600 square feet in area;
- B. The proposed disturbance area for the right-of-way improvement must;
  - 1. Be at least 50 feet from the edge of any wetland or waterbody;
  - 2. Be at least 5 feet from the resource area of any environmental protection zone; and
  - 3. Be no larger than 3300 square feet in area;
- C. Planted areas, including stormwater swales, must be planted with native plants from the Portland Plant List;
- D. Trees within the right-of-way may be removed within the improvement area and within 10 feet of the edge of the improvement. In no case may the combined total diameter of all trees removed exceed 225 inches, counting only native trees that are at least 6 inches. Trees other than native trees are exempt from this standard and may be removed without being counted as part of the 225 inches; and
- E. The right-of-way improvements meet the development requirements of the City Engineer or the Permanent Rule for Private Rights-of-Way.

**Response:** The existing SW 48<sup>th</sup> Avenue right-of-way is partially improved. Therefore, this section would generally be applicable. While the proposed development plans for the SW 48<sup>th</sup> Avenue improvement would satisfy most of the standards listed above, the proposed widening of the right-of-way and the proposed street widening and sidewalk construction are not more than 50 feet away from the edge of the wetlands and stream on the site. A finding cannot be made that all of the standards are satisfied. Therefore, Environmental Review is triggered.

Please see the Environmental Review Report in Appendix G.

**33.430.180**

**Standards for Stormwater Outfalls**

The following standards apply to the installation of stormwater outfalls. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

\*\*\*

**Response:** No stormwater outfalls are proposed within the Environmental conservation portion of the site. Therefore, this Section is not applicable.

**33.430.190**

**Standards for Public Recreational Facilities**

The following standards apply to public recreational trails and public viewing areas developed in conjunction with the recreational trail. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

**Response:** No trails, public viewing areas, or other public recreational facilities are proposed as part of the subdivision. Therefore, none of the standards of Section 33.430.190 are applicable to the proposed subdivision.

**Sections 33.430.210 through 33.430.250**

**Environmental Review**

**Response:** Please see the Environmental Review Report for the Everett Heights Residential Development report in Appendix G of this application narrative for responses to the applicable review standards for Environmental Review.



The following response to Section 33.430.280 requesting modifications to certain development standards of the R7 zone should also be considered in association with the Environmental Review request.

**33.430.280**

***Modifications Which Will Better Meet Environmental Review Requirements***

*The review body may consider modifications for lot dimension standards or site-related development standards as part of the environmental review process. These modifications are done as part of the environmental review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.*

**Response:** It is requested that the minimum 4,200 square foot lot size standard of the R7 zone be modified for two lots within the Everett Heights subdivision in recognition of the substantial amount of protected natural resources within proposed open space tract A. The affected lots – lots 9 and 10 – will be 3,825 square feet and 4,077 square feet in size.

Tract A will provide for approximately 0.57 acres of permanent open space as part of the proposed subdivision. This open space will be located nearby the lots for which these modifications are requested so that the proposed subdivision will not feel unduly dense. In essence, the proposed subdivision's 11 lots and open space tract A will provide 1.85 acres of net site area (without road rights-of-way), or an average of 7,345 square feet for each of the 11 proposed lots. Therefore, the proposed development plan will provide a lower gross density of development than would be provided by a subdivision of 11 lots of 7,000 square feet.

The general purpose of the lot dimension regulations in the single-family district are as follows (from Code Section 33.610.200):

- A. Purpose. The lot dimension regulations ensure that:*
- Each lot has enough room for a reasonably-sized house and garage;*
  - Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
  - Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
  - Each lot has room for at least a small, private outdoor area;*
  - Lots are compatible with existing lots;*
  - Lots are wide enough to allow development to orient toward the street;*
  - Lots don't narrow to an unbuildable width close to the street*
  - Each lot has adequate access from the street;*
  - Each lot has access for utilities and services; and*
  - Lots are not landlocked.*

In the case of the lots subject to the requested reduced lot size and reduced side yard setback standards, these purposes would be satisfied because:

- Each lot would have at least a 35-foot by 60-foot potential buildable footprint area. This buildable area would allow for at least a single-car garage and 1,400 square feet of first floor area. Most lots*

would have larger potential buildable footprints. All lots would be able to be built upon with 2-story homes, such that 2-story homes of up to 3,000 square feet could easily be accommodated on the lots. The proposed lot sizes and dimensions for all lots would therefore provide enough room for a reasonably sized house and garage;

- Most of the proposed lots are roughly rectangular in size, or at least shaped so that they could accommodate construction of a roughly rectangular home footprint to be built consistent with the applicable development standards of the zone – or as requested to be modified through this application;
- None of the lots subject to the reduced lot area would be large enough to be re-divided. The applicant is willing to accept a condition of approval that none of the proposed lots in the subdivision could be re-divided in the future. Therefore, the maximum density of the area could not be exceeded in the future through lot re-divisions;
- Each of the proposed lots will have a front and/or rear yard open area of at least 36 feet by 10 feet not covered by a garage or driveway. Therefore, each lot will have enough area for a reasonably-sized private outdoor area;
- All of the proposed lots are intended for detached single-family residences; will provide area for open spaces on the lots; and will provide for off-street parking. While proposed lots 9 and 10 of Everett Heights will be smaller than the existing lots to the south and west, each of these proposed reduced-size lots will accommodate typical single-family detached homes and associated landscaping and parking. Therefore, the proposed reduced size lots should be able to be determined to be compatible with those existing lots. Compatible does not mean 'the same as';
- Both of the proposed reduced size lots will have a potential building envelope that will be wide enough to orient homes toward the street. Neither of these lots narrow to an unbuildable width near the street;
- Both of the proposed reduced size lots will have at least 30 feet of frontage on a public right-of-way and thus will not be landlocked.
- Both of the reduced size lots will be provided with adequate area for access and utilities as illustrated by the proposed plans, including the Composite Utility Plan.

*For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.*

The requested reduced lot sizes for lots 9 and 10 should not significantly detract from the livability or appearance of the area because these lots will have enough area to construct a home which will have adequate yard/landscaped area and a reasonably-sized home. Because all of the proposed lots within the subdivision will be built upon with detached single-family homes, adequate yard areas, and Code compliant off-street parking facilities, the proposed development on these lots should not result in significant conflicts with the existing development to the west that would detract from the livability of the area.

## **D. COMPLIANCE with the APPLICABLE STANDARDS of TITLE 11 – TREES**

### **11.10.020 *Determining What Regulations Apply.***

*A. Determine whether the proposed activity will require a development permit.*

- 1. If the proposal will require a development permit, the regulations of Chapter 11.50 apply to the proposal. Chapter 11.50 will also direct readers to other regulations relevant to the proposal.*

\*\*\*

**Response:** The Everett Heights project will require numerous development permits, including land division and environmental review approval. Therefore, the regulations of Chapter 11.50 are generally applicable. That Chapter is addressed below.

**11.15.010 Tree Planting and Preservation Fund.**

- A. *Purpose.* The purpose of the Tree Planting and Preservation Fund is to facilitate tree planting, to ensure mitigation or tree replacement when tree preservation or tree density standards are not met on a particular site, and to advance the City's goals for the urban forest and equitable distribution of tree-related benefits across the City.
- B. *Expenditures.* Money in the Tree Planting and Preservation Fund may be used only as follows:
1. To plant trees on public or private property, including streets, in the same watershed as the site from which the funds were collected. Planting trees includes the cost of materials and labor necessary to install and establish a tree for a 2 year period;
  2. To purchase conservation easements for the perpetual retention of trees and tree canopy. Such conservation easements shall allow the City to replace trees that are removed when they die or become dangerous; and
  3. To acquire land to permanently protect existing trees or groves.
- C. *Contributions.* Contributions to the Tree Planting and Preservation Fund may occur through a number of means, including:
1. Payment made in lieu of tree replacement as part of a tree permit issued as stated in Chapter 11.40;
  2. Payment made in lieu of preservation or planting where site or street characteristics or construction requirements make it infeasible to meet the requirements of Chapter 11.50;

**Response:** As noted below, the proposed land division plans have found that it is not practical to fully meet the tree preservation standards of Chapter 11.50; therefore, it is intended that payments will be made in lieu of tree replacement for some of the trees which would otherwise need to be planted.

**11.50.060 Street Tree Planting Standards.**

- A. *Where these Regulations Apply.*
1. This Section applies to projects within or fronting on any City-owned or -managed streets.
  2. For alterations where the project value is more than \$25,000, the cost of required Street Tree improvements is limited to 10 percent of the value of the proposed development.

**Response:** The proposed subdivision will include over 780 feet of frontage along existing and proposed City-owned streets. Therefore, the street tree requirements are applicable. It does not appear that the street tree value limitation of subsection 2. will come into play.

- B. *Exemptions.* The following are exempt from the Street Tree planting standards of this Section:
1. *Development activities associated with the following:*
    - a. Additions, alterations, repair or new construction where the project value is less than \$25,000;
    - b. Activity that is limited to the street, and does not modify or create sidewalks, tree wells, or tree planting areas; or
    - c. Demolition Permits.

**Response:** The above exemptions are not applicable to this request.

2. *Where physical constraints preclude meeting the Street Tree planting requirement because:*
  - a. Existing above or below grade utilities prevent planting Street Trees; or
  - b. The design of the street will not accommodate Street Tree planting because the planting strip is less than 3 feet wide, there is not a planting strip, or there is insufficient space to add tree wells.

**Response:** The requirements for the provision of Low Impact Development stormwater treatment planters along the frontages of the proposed lots along with the limited width of the planter strips along SW 48<sup>th</sup> Avenue (or the absence of planter strips within the Ec area) significantly limits the ability to plant as many street trees as would normally be required along the streets within the proposed subdivision.

- C. *Street Tree Planting Requirement. Any proposed change in width in a public street right-of-way or any other proposed street improvement, including the development of new public streets, shall include areas for tree and landscape planting where practical. Utility connections and specifications for planting such areas shall be integrated into the site plan. Specific locations and species will be determined by the Responsible Engineer and City Forester. Planting in public streets shall meet the specifications in Chapter 11.60 and the following:*
1. *One Street Tree shall be planted or retained for each full increment of 25 linear feet per side of street frontage. When the required number of trees cannot be planted, a fee in lieu of planting may be required. For City projects, required trees that cannot be planted within the improvement area may be planted elsewhere in the same watershed, instead of paying a fee in lieu of planting.*
  2. *For projects affecting 200 linear feet of frontage or more, the applicant shall consult on the design of such improvements with the City Forester early in the project design phase to identify opportunities to integrate existing trees and maximize new Street Tree planting considering the planter width, the location of existing and proposed utilities, and visibility requirements.*
  3. *When new streets are being created in association with a land division, Street Tree planting may be deferred until the completion of the building permit on each new lot, subject to City Forester approval.*

**Response:** The proposed Planting Plan, Sheet L1.2, proposes the planting of six street trees. This is significantly fewer trees than normally would be required by this standard. It is requested that a fee in lieu of street tree planting be assessed for the requested reduction in the number of street trees to be planted.

## VI. CONCLUSION

This application narrative, the enclosed appendix reports, and the enclosed plans demonstrate that the applicant has met the burden of proof that the proposed 11-lot Everett Heights subdivision complies with the applicable criteria of the City of Portland Zoning Code for Type III Land Division approval and Environmental Review approval. The applicant respectfully requests approval of this application.