



**Clackamas County Planning and Zoning Division
Department of Transportation and Development**

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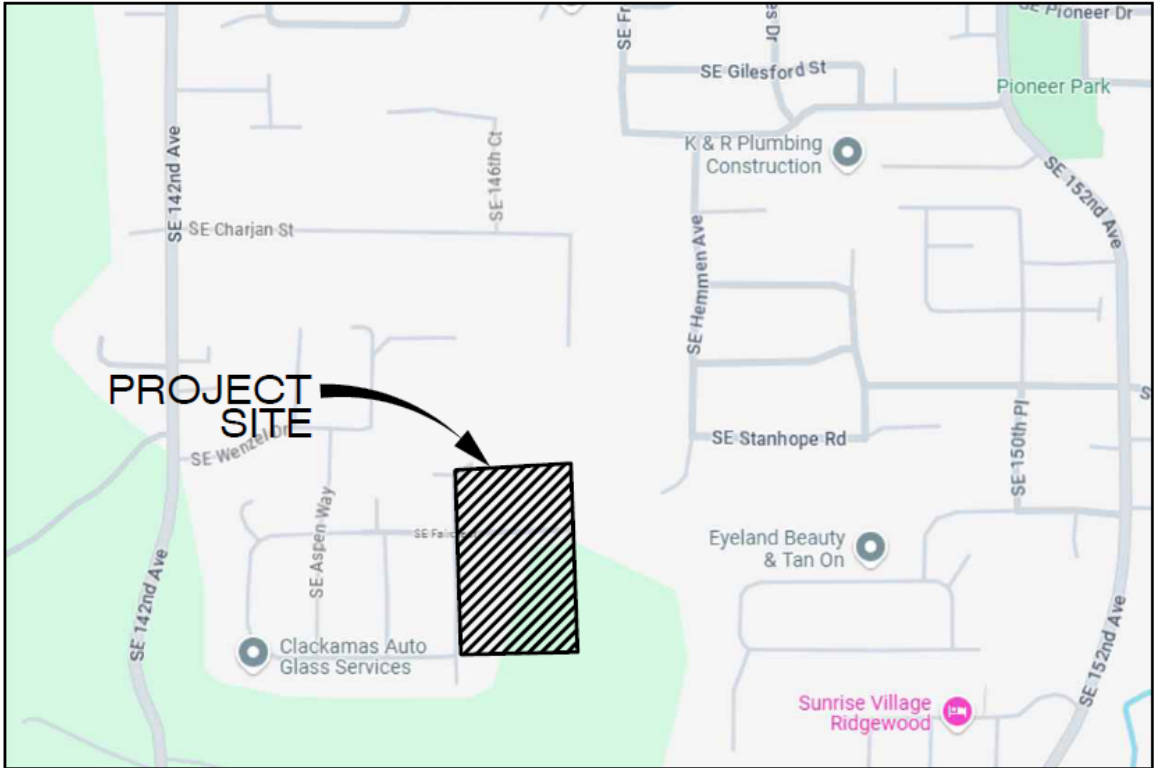
STAFF REPORT TO HEARINGS OFFICER FOR:

**PROPOSED 44-LOT PLANNED UNIT DEVELOPMENT (PUD) SUBDIVISION IN THE
HABITAT CONSERVATION AREA DISTRICT (HCAD)**

**HABITAT CONSERVATION AREA (HCA) REVIEW
FILE NO. Z0014-25-HDA**

***CONSOLIDATED AND PROCESSED CONCURRENTLY
WITH ZONE CHANGE AND SUBDIVISION FILE No. Z0012-25-ZC and Z0013-25-SL***

Location Map

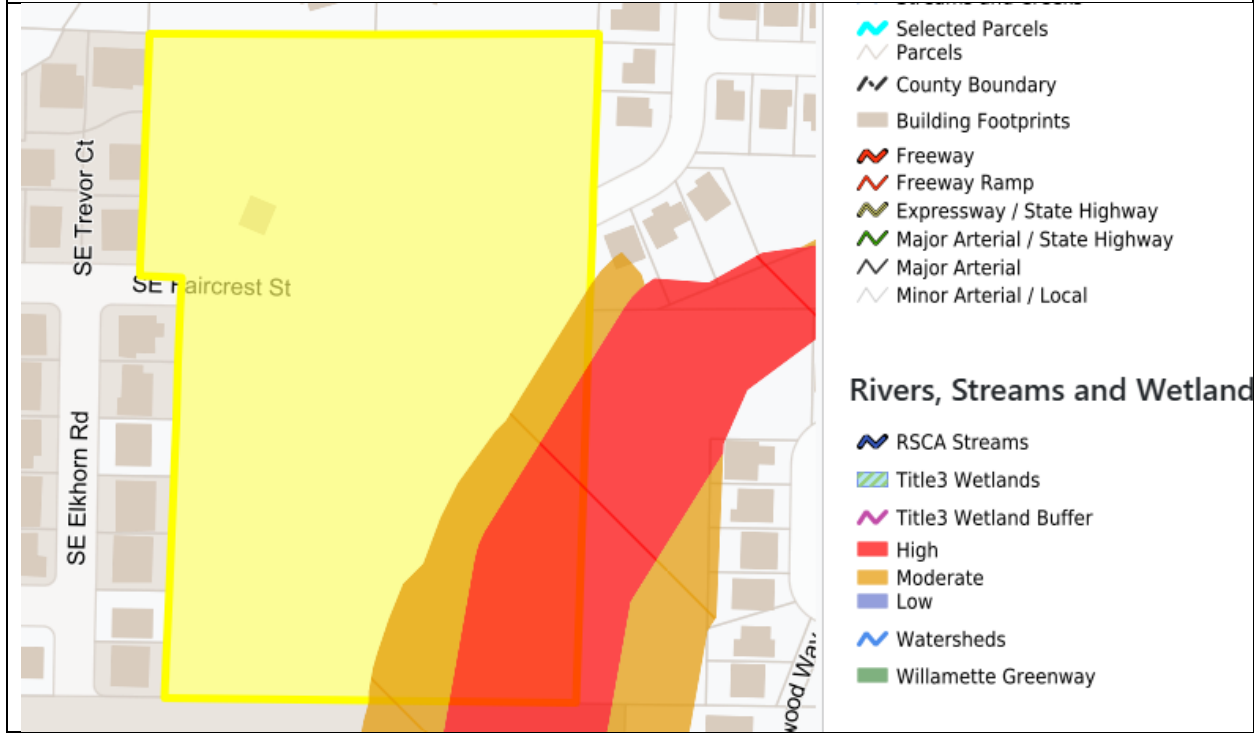


VICINITY MAP

N.T.S.



Adopted Title 13 (HCA) Map Data



SUMMARY

This document represents the Staff Report to the County Hearings Officer by the Planning & Zoning Division Staff that contains Findings and Proposed Conditions for Land Use Applications, File Nos. Z0014-25-SL, consolidated and processed concurrently with Zone Change and PUD Subdivision File No. Z0012-25 and Z0013-25

DATE OF REPORT: March 26, 2025

CASE FILE NOS: Z0014-25-HDA

STAFF CONTACT: Ben Blessing

MAP & TAXLOT(S): T2S, R2E, Section 12BB, Tax Lot 05200, W.M

SITE ADDRESS(ES): 14607 SE Faircrest Street, Clackamas, 97015

APPLICANT: Stonecreek Development, LLC.

OWNER OF PROPERTY: same as applicant

ZONING: FU-10

CITIZENS PLANNING ORGANIZATION FOR AREA:

Rock Creek (Inactive)

PROPOSAL: Habitat Conservation Area (HCA) required in conjunction with a subdivision. A small amount of permanent HCA disturbance is proposed to account for an 87 square foot outfall proposed near the protected creek. Temporary disturbances are also required to accommodate the storm drainage pipe down to outfall. The trench will be completely restored and revegetated once storm pipe is buried

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, you must promptly forward it to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: The complete application file is available for review online by accessing the following link: <https://aca-prod.accela.com/CLACKAMAS> . If you are unable to access the file online, contact the staff person listed on the front page of this decision for assistance. Copies of all documents may be purchased at the rate of \$1.00 for the first page and 10-cents per page thereafter.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 202, 706 and 1307.

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRehard@clackamas.us. 503-742-4696: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод?

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PROJECT OVERVIEW

A 44-lot Planned Unit Development (PUD) Subdivision and associated zone change. Please read Z0012-25 and Z0013-25 staff report for full background and project scope. Since temporary and permanent disturbances are proposed in the HCA, an HCA Development Permit must be reviewed concurrently with the subdivision request. Staff relied on the applicant's initial plan set (Exhibit 2), updated natural resource assessment (Ex. 2A) updated plan set (Exhibit 2C) updated narrative (Exhibit 2D). All comments received from neighbors are summarized and/or addressed in Z0012-25 and Z0013-25. One neighbor comment (Exhibit 3) has questions regarding construction management plans (CMP). CMPs are ministerial in nature and the applicant has provided an Erosion Control plan. Conditions of approval describing the exact requirement for CMPs are set forth in the conditions of approval section. Thus, this concern is addressed herein. The applicant's CMP must comply with the required CMP conditions, if they do not already.

ZDO SECTION 706 — HABITAT CONSERVATION AREA DISTRICT (HCAD)

I. HCAD RECOMMENDATION

The Planning & Zoning Division recommends **denial** of Z0014-25 as it is being reviewed concurrent with Z0012-25 and Z0013-25. However, if an adequate transportation impact study (TIS) is submitted before hearing, staff recommend this request be approved, subject to the recommended Conditions of Approval outlined below:

A. RECOMMENDED HCAD CONDITIONS OF APPROVAL (IF DENAIL IS REVERESED)

1. General Conditions:

- A) Approval of these land use permits is based on the submitted written narrative and plans submitted through January 14, 2025, and March 18, 2025. No work shall occur under these permits beyond that specified in this decision. It shall be the responsibility of the property owner(s) to comply with this document and the limitation of approval described herein.
- B) Advisory: The applicant shall obtain all necessary permits from the Oregon Department of State Lands (DSL), if necessary.
- C) Advisory: Clackamas Water Environment Services (WES) Water Quality resource Area (WQRA) maybe required for encroachment into the WES Title 3 WQRA.
 - i. If required, a WES WQRA Development Permit shall be submitted separately to, and processed by, the Planning & Zoning Division.
- D) The proposed development is also subject to the Findings and Conditions of File No. Z0012-25 and Z0013-25

1. Construction Management Plan Conditions:

- A) Pursuant to Subsection 706.08, the proposed Construction Management Plan (CMP) shall meet the following standards:
 - i. The CMP shall be implemented as outlined on the Construction Management Plan, Grading and Erosion Control Plan, of the submitted HCA Development / Construction Management Permit Plans, prepared by AKS Engineering
 - ii. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of WES.
 - iii. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed in such a manner as to protect the area of the HCA and other sensitive areas that are not authorized for disturbance.

- iv. Trees in the HCA shall not be used as anchors for stabilizing construction equipment.
- v. Native soils disturbed during development shall be conserved on the subject property.
- vi. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.
- vii. Compliance with the Construction Management Plan shall be maintained until the development, including home construction on the individual lots, is complete.

2. **Map Verification Conditions:**

- A) Applicant concurs with HCA map.

3. **Development Permit (Subsection 706.10[A]) Conditions:**

- A) Development that is approved within the HCA through this decision shall not result in the removal of the developed areas from the HCA and shall not change the applicable HCA categories.
- B) Approval Period: The approval of this HCA Development Permit shall be valid for four (4) years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
 - i. In this case, “implemented” means that the final plat of the subdivision (File No. Z0013-25-SL) shall be recorded with the County Clerk.
 - ii. If this approved HCA Development Permit is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved pursuant to Section 1310.
 - iii. The following disturbance area limitation shall apply to stormwater utility piping proposed in HCA:
 - a. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to Section 709, provided that this disturbance area, with the exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation
- C) Standards for Partitions & Subdivisions:
 - a. Pursuant to Subsection 706.10(A)(4), all of the HCA shall be placed within a tract and shall be protected from development by a restrictive covenant, conservation easement, or public dedication.

- a) The tract may be subject to an easement conveying storm and surface water management rights to WES, the applicable surface water management authority.
- b) The tract shall be designated on the final plat as either:
 - 1. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
 - 2. A public natural area where the tract has been dedicated to a public entity.
- b. Mitigation for the remaining area of the HCA that is located outside of the tract shall be required as outlined below.

D) Mitigation Standards: Mitigation for the development within the HCA shall be met as follows

- i. Mitigation outside the wetland is subject to the following standards:
 - a) **Required Plants and Plant Densities:** All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Subsection 706.10(A)(6)(a)(i) or (ii), whichever results in more tree plantings, except that where the disturbance area is one acre or more, the applicant shall comply with Subsection 706.10(A)(6)(a)(ii).
 - 1. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 706-6. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs; or
 - 2. The mitigation requirement shall be calculated based on the size of the disturbance area within the HCA. Native trees and shrubs shall be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees shall be planted, and 0.66 times 25 equals 16.5, so 17 shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native

sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

- b) **Plant Size:** Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- c) **Plant Spacing:** Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- d) **Plant Diversity:** Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.
- e) **Invasive Vegetation.** Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.
- f) **Mulching:** Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.
- g) **Tree and Shrub Survival:** Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.
- h) **Monitoring and Reporting:** Monitoring of the mitigation site shall be the ongoing responsibility of the property owner. For a period of five years following the date that the mitigation planting is completed, the property owner shall submit an annual report to the Planning Director documenting the survival of the trees and shrubs on the mitigation site. In lieu of complying with the monitoring and reporting requirement, the property owner may post with the County a performance bond, or other surety acceptable to the County, in an amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance. An applicant who elects to post a surety shall be subject to Subsections 1104.03 through 1104.05.

- c. All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication; or

II. HCAD FINDINGS

This application is subject to Section 706 of the Clackamas County Zoning and Development Ordinance (ZDO). Section 706 of the ZDO, the Habitat Conservation Area District (HCAD), sets forth the process, standards and requirements for reviewing development in the HCAD. The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following findings:

706.02 AREA OF APPLICATION

- A. Section 706 applies in the Habitat Conservation Area District (HCAD). The HCAD applies to all parcels containing a Habitat Conservation Area (HCA). The HCAD also applies to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. HCAs are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the HCA Map) and are categorized as High, Moderate, or Low HCA. Notwithstanding the HCA Map, however, Section 706 does not apply to areas that are outside both the Metropolitan Service District Boundary (MSDB) and the Portland Metropolitan Urban Growth Boundary (UGB).

The subject parcel contains HCA and is located in the MSDB and Portland Metropolitan UGB. Therefore, Section 706 applies.

- B. An applicant may dispute the location of an HCA by submitting an application for HCA Map Verification pursuant to Subsection 706.06(B) or by applying for a Comprehensive Plan amendment to modify the HCA Map. HCA Map Verification does not amend the Comprehensive Plan.

The applicant is not disputing the location of the HCA

706.03 DEFINITIONS

The criteria, requirements, standards and text of ZDO Section 706 are subject to the definitions outlined in Subsection 706.03.

706.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 706, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 706.06(A).

Notwithstanding the requirement for HCA Map Verification under Subsection 706.06(B), the HCA Map shall be deemed reliable for the purpose of administering Subsection 706.04 unless an approved HCA Map Verification exists for the subject property, in which case the approved HCA Map Verification shall be used to administer Subsection 706.04.

Exempt uses not proposed.

706.05 PROHIBITED USES

No Prohibited Uses are permitted or proposed.

706.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Habitat Conservation Area District (HCAD) unless such development is exempt pursuant to Subsection 706.04.

- A. A Construction Management Plan (CMP), consistent with Subsection 706.08, shall be required for development in the HCAD, regardless of whether development will occur within an HCA. However, if an area is in the HCAD solely because it is less than 100 feet outside the boundary of an HCA located on a different parcel, Subsection 706.06(A) shall not apply unless HCA Map Verification required pursuant to Subsection 706.06(B) determines that an HCA exists on the same parcel as the area for which development is proposed. An application for a CMP shall be reviewed pursuant to one of the following processes:

Development is proposed in both the HCA and HCAD. Therefore, an HCA CMP is required.

2. The application shall be filed concurrently with an application for review under Subsection 706.06(B) or 706.06(C), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 706.06(B)(4) or 706.06(C)(3), respectively;

The CMP has been submitted and is conditioned above.

- B. Unless the applicant concurs with the accuracy of the HCA Map, HCA Map Verification, pursuant to Subsection 706.09, shall be required or allowed as follows:

Applicant concurs with HCA map.

- C. An HCA Development Permit, consistent with Subsection 706.10, shall be required for:
 1. Development in an HCA or for a parcel that:
 - a. Contains an HCA; and

- b. Is the subject of a land use application for a partition or subdivision.

Development is proposed in an HCA on a parcel that is the subject of a land use application for a subdivision. Therefore, an HCA Development Permit is required.

2. If a parcel is subject to Subsections 706.06(C)(1)(a) and (b), an application for an HCA Development Permit shall be filed concurrently with the application for a partition or subdivision.

The HCA Development Permit application is being filed concurrently with the application for a subdivision.

3. An application for an HCA Development Permit shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.

The application for an HCA Development Permit is being filed with a Subdivision application (File No. Z0013-25-SL) that requires review as a Type III application and, therefore, is being consolidated and reviewed with the other applications as a Type III application pursuant to Section 1307.

706.07 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), applications filed pursuant to Section 706 shall comply with the following submittal requirements.

- A. An application for a Construction Management Plan shall include:

The applicant has provided the necessary submittal materials for the proposed Construction Management Plan.

- B. An application for HCA Map Verification shall include:

Applicant concurs with HCA Map, no verification required.

- D. An application for an HCA Development Permit under Subsection 706.10(B) shall include:

The applicant has provided the necessary submittal materials for the proposed HCA Development Permit, filed pursuant to Subsection 706.10(A)(4).

706.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

The applicable standards of this Subsection are outlined above under the Recommended Conditions of Approval.

706.09 HCA MAP VERIFICATION

HCA Map Verification shall be subject to the following criteria.

Applicant concurs with HCA map. No Map Verification is required.

706.10 HABITAT CONSERVATION AREA DEVELOPMENT PERMITS

A Habitat Conservation Area (HCA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with either Subsection 706.10(A) or (B). However, if the proposed development is in a Water Quality Resource Area (WQRA) regulated pursuant to Section 709, it shall comply with either Subsection 706.10(B) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.

A. Development in an HCA shall be permitted subject to the following criteria:

2. The following disturbance area limitations shall apply to certain utility facilities. Utility facilities other than those addressed in Subsections 706.10(A)(2)(a) through (c) shall be subject to Subsection 706.10(A)(1).

a. The disturbance area for private connections of utility lines, pipes, or cables to other utility facilities shall be no greater than 10 feet wide.

The subject piping is greater than 10 feet. This standard is not applicable.

b. The disturbance area for the upgrade of existing utility lines, pipes, or cables shall be no greater than 15 feet wide.

There are no existing utility lines, this is a new development. This criterion is not applicable.

c. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to

Section 709, provided that this disturbance area, with the exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation.

The applicant is proposing a storm drainpipe within a trench no wider than 25-feet wide. As noted above, the Water Quality Resource Area (WQRA) is regulated by WES, not Section 709. Nonetheless, the applicant still meets the requirements for maximum linear feet in WQRA. This criterion is met.

4. A subdivision of property that contains an HCA shall require that a minimum of 90 percent of the subject property's High HCA and a minimum of 80 percent of its Moderate HCA shall be platted as a tract rather than as part of any lot. Any HCA that remains outside such a tract may be developed, subject to compliance with the mitigation standards of Subsection 706.10(A) or (B). Unless any HCA that remains outside an HCA tract is protected from development by a restrictive covenant or a conservation easement, it shall be assumed that such areas eventually will be developed, and mitigation shall be required. Mitigation shall be completed, or a performance bond in an amount sufficient to cover the cost of mitigation shall be posted with the County, prior to approval of the final plat.

Only 87 square feet of permanent HCA disturbance is proposed. This very small amount easily meets this standard. With mitigation, this criterion can be met.

6. If development in an HCA is approved pursuant to Subsection 706.10(A), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.

Temporary and permanent disturbances are subject to compliance with the mitigation standards note above. The applicant's restoration plan appears to meet these standards. Nevertheless, conditions of approval for mitigation are detailed above. This criterion can be met.

7. The mitigation area required by Subsection 706.10(A)(6) shall be located as follows:
 - a. All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication.

For temporary and permanent disturbances in the HCA, restoration shall be within HCA or contiguous to HCA. This criterion can be met.