



## STAFF REPORT TO THE CITY COUNCIL

### COMPREHENSIVE PLAN MAP/ZONING MAP AMENDMENTS, COMPREHENSIVE PLAN TEXT AMENDMENTS AND TRANSPORTION SYSTEM PLAN (TSP) UPDATE ASSOCIATED WITH THE EAST HAPPY VALLEY COMPREHENSIVE PLAN (EHVCP)

FILE NO. CPA-01-09

APRIL 7, 2009

#### I. GENERAL INFORMATION

- Applicant:** City of Happy Valley
- Property Owners:** 536 different subject properties make up an approximately 2,100-acre geographic region.
- Development Dist.:** A combination of modified existing and new development districts are proposed within the subject area.
- Proposal:** Create the EHVCP by adopting the EHVCP Map and implementing concurrent Comprehensive Plan Text Amendments; apply the Comprehensive Plan Designations/Zoning Districts legislatively to all annexed properties within the subject area; adopt related and ancillary Comprehensive Plan Text Amendments; approve a Transportation System Plan (TSP) Update for the existing city limits and proposed EHVCP area; and, adopt the proposed Steep Slopes and Natural Resource Overlay Zone Map.
- Discussion:** The EHVCP area was included in the 2002 Metro expansion of the Urban Growth Boundary (UGB) and has previously been preliminarily analyzed and planned for via the precepts of two "concept plans". Primarily, this area was originally studied as part of the Damascus-Boring Concept Plan (see Exhibit C within the Planning Commission Staff Report), with a small portion of the northwest sector of the greater EHVCP area originally studied as part of the Pleasant Valley Concept Plan (see Exhibit F within the Planning Commission Staff

Report). Finally, approximately 80 acres of land just north of Hagen Road was originally planned for in the City's Rock Creek Comprehensive Plan, but has been updated within the proposed EHVCP.

The greater subject area extends from the Highway 212 Corridor to the south; roughly the Rock Creek corridor/Scouters Mountain area/145<sup>th</sup> Avenue corridor to the west; the Clackamas County/Multnomah County boundary to the north; and, the shared city limits boundary of Happy Valley and Damascus to the east. Lands located within the subject area are for the most part zoned Clackamas County RRFF-5 (five acre minimum parcel size), FF-10 (10-acre minimum parcel size) or Exclusive Farm Use (EFU). Thus, any property within the EHVCP area that is within the city limits via previous annexation will be significantly "upzoned" from a County farm or rural-residential zone to a City urban zone. Or, if a property that is not currently located within the city limits should opt to annex, Development Code changes have been implemented that will "convert" the existing Clackamas County zone to the comprehensive plan designation/zone adopted within the EHVCP (unless the EHVCP itself should be subsequently amended).

The EHVCP is part and parcel of five major products considered in two separate land use files. File No. CPA-01-09 includes four of the products: an integrated land use and transportation plan which includes Comprehensive Plan Map Amendments/Zone Changes implementing the new development districts (also typically referred to as zoning districts or just "zones") that will be legislatively applied to all annexed properties within the plan area; accompanying Comprehensive Plan Text Amendments (see Exhibit J within the Planning Commission Staff Report); the Transportation System Plan (TSP) Update (see Exhibit K within the Planning Commission Staff Report); and, adoption of the Happy Valley Steep Slopes and Natural Resource Overlay Zone Map (see Exhibit I within the Planning Commission Staff Report).

**Conclusion and  
Recommendation:**

The Planning Commission held Public Hearings on January 27, 2009; February 10, 2009; and, February 24, 2009; with the January 27, 2009 hearing encompassing CPA-01-09. In regard to CPA-01-09, the Planning Commission unanimously recommended that the City Council approve the proposed EHVCP; Comprehensive Plan Text Amendments; TSP Update; and, Steep Slopes and Natural Resource Overlay Zone Map based on the Findings of Fact within the Staff Report to the Planning Commission. Staff recommends that the City Council uphold the Planning Commission recommendation and approve File No. CPA-01-09.

**Attachments:**

- A. Staff Report to the Planning Commission dated January 27, 2009, including all Exhibits.
- B. Materials entered into the record on January 27, 2009, including:
  - 1. Letter from Donald & Sharon Grubb dated January 8, 2009;
  - 2. Letter from Garvey Shubert Barer Attorney William K. Kabeiseman dated January 21, 2009;
  - 3. Letter from Anne Middleton dated January 21, 2009;
  - 4. Letter from Perkins Coie Attorney Michael C. Robinson on behalf of the Cascade Pacific Council of the Boy Scouts of America dated January 26, 2009;
  - 5. Letter from Perkins Coie Attorney Michael C. Robinson on behalf of Providence Health System-Oregon dated January 27, 2009; and,
  - 6. Letter from Metro Principal Regional Planner Ray Valone dated January 27, 2009.
- C. Materials entered into the record on February 14, 2009:
  - 1. Letter from Davis Wright Tremaine Attorney Gene Grant on behalf of Mike Bassili dated February 10, 2009;
  - 2. Letter from Metro Principal Regional Planner Ray Valone dated February 13, 2009; and,
  - 3. Letter from Nancy Bany dated February 14, 2009.

- D. Materials entered into the record for April 7, 2009:
1. EHVCP Property Owner Request Matrix dated April 7, 2009; and,
  2. Letter from Black Helterline Attorney Caroline E.K. MacLaren dated March 30, 2009.

**ATTACHMENT "A" IS THE THREE-RING  
BINDER CONTAINING THE PLANNING  
COMMISSION STAFF REPORT AND ALL  
EXHIBITS**

January 8, 2009

City of Happy Valley  
Planning Commission

RE: City's Comprehensive Plan Map/Zoning Map, etc

We are unable to attend either public hearing so we are submitting our concern in writing as requested in your notification.

Our property address is 17337 SE Troge Road, Tax Lot 13E31D 01300. We are located on the corner of 2 roads, SE 172<sup>nd</sup> and Troge Rd.

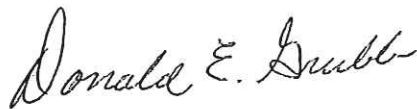
We see by your information that the designation for our property of 4.77 acres is R10.

We also see that all other properties from our property north to SE Hagen Rd are designated R-5 for the front half and R10 for the back half.

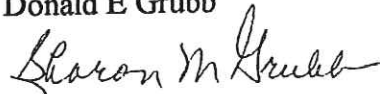
Our property has access from 2 roads, since we are located on a corner, which makes us more accessible than other like tax lots. We see no reason for our property to be designated any differently than similiar pieces along 172<sup>nd</sup>.

Please reconsider your decision and designate the front of our property R-5, the same as our neighbors along 172<sup>nd</sup> to the North.

We would appreciate a response acknowledging receipt of this letter. Our email address is smgrubb1@cox.net



Donald E Grubb



Sharon M. Grubb



PORTLAND OFFICE  
eleventh floor  
121 sw morrison street  
portland, oregon 97204-3141  
TEL 503 228 3939 FAX 503 226 0259

OTHER OFFICES  
beijing, china  
new york, new york  
seattle, washington  
washington, d.c.  
GSBLAW.COM

GARVEY SCHUBERT BARET

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

JAN 21 2009

CITY OF HAPPY VALLEY

Please reply to WILLIAM K. KABEISEMAN  
billkab@gsblaw.com TEL EXT 3231

January 21, 2009

Happy Valley Planning Commission  
16000 S.E. Misty Drive  
Happy Valley, OR 92086

Re: Zoning Designation of Fisher Property

Dear Chair Klever and Planning Commissioners:

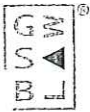
This firm represents the Fisher family, Thomas, Loren and Loretta Fisher, the owners of the property at the southeast corner of the intersection of SE 172<sup>nd</sup> Avenue and the future Rock Creek Blvd. The Fishers have watched the Planning Commission work through a myriad of issues and concerns in developing the East Happy Valley Comprehensive Plan update. Generally, the City's work has been carefully thought out and well done and the Fishers applaud the efforts of the Commission. However, there is a one important issue that the Fishers would like the Commission to address. Although it may appear to be a small issue in comparison to the entire plan, it has significant effects on the eventual development of the Fishers' property and the adjacent area.

According to the Draft Plan Map dated November 25, 2008, the Fisher property will be two distinct zones. The bulk of the Fisher property is tentatively designated Community Commercial (CCC) The Fishers believe that CCC designation is appropriate. The remaining Fisher property is tentatively designated to be Industrial.

The Plan also shows that the Fisher property will be bisected by the new unnamed north south collector street and, as a result of this split zoning designation, the western portion of their property will have serious limitations on its use. Because of the difficulty in developing that remnant parcel, it too should be zoned CCC. Based on the previous Plans, this was the original proposed zone for all of the property.

My clients have been long-term residents in this area. They bought their property in 1975 and have run Fisher Blade & Hoe for the past 25 years. The Fishers are not developers and are not likely to be the ones to develop commercial uses on their property. Although they are not developers, they have seen enough development to know what is feasible and what is

ATTACHMENT B-2



not and, if the zoning remains as shown on the Draft Comprehensive Plan Map, the property will have significant development issues in the future with the split zoning and the remainder parcels with the planned street connector.

In addition to being bisected by the new north south collector street, the Fisher property faces other significant constraints. The Fisher property is actually two parcels; one owned by Loren and Loretta Fisher and one owned by Loren and Loretta Fisher and their son Thomas Fisher. A natural gas pipeline has been installed on the south side of the property and that pipeline is protected by a 75 foot wide easement. That easement effectively prohibits any development, including parking or roads, on the south 75 feet of the property. In addition, the northern portion of the Fisher property is being condemned as part of the development of the elementary school and the eastern edge of the property is being taken as part of the improvements to SE 172<sup>nd</sup> Avenue. Finally, as noted above, the new north south collector will bisect the Fisher property and they will lose the ability to develop the property underlying the new right of way.

Each of those constraints place a hurdle to the eventual development of the Fisher property and, in combination, they significantly reduce the future usability of the Fisher property. The end result of those various constraints on the property make it appropriate to designate the entire property for community commercial use. This would entail extending the zoning a short way to the west to encompass the entire Fisher property.

Alternatively, the City may consider designating the entire southern strip of Rock Creek Boulevard to mixed commercial Center (MCC). The development of the elementary and middle school to the north effectively precludes any industrial use through the gap along Rock Creek Blvd and, given the future medical development to the west, there will likely be a significant need for commercial development in this area. The MCC designation would help to address the constraints identified above and could relieve some of my clients' concerns with the current designation.

As noted above, the Fishers recognize the significant amount of work and effort that has gone into developing the East Happy Valley Comprehensive Plan Update. And, although they may not fully support all aspects of the plan, they recognize that change is coming to the area and ask that you consider re-designating the western portion of their property as discussed above. It is a small change in the grand scheme of the update, but it is important for the future development of the area.

The Fisher's have been under tremendous pressure due to the two separate public improvement projects that are changing their family property and the uncertainties surrounding these two improvement projects. This zone change request, to ensure that all of the Fisher property is under one CCC zone designation now, would help with their future.





G A R V E Y S C H U B E R T B A R E R

Happy Valley Planning Commission

January 21, 2009

Page 3

The Fishers thank you for your consideration and welcome any questions you might have.

Sincerely,

GARVEY SCHUBERT BARER

By

William K. Kabeiseman

WKK:sb:ds

cc: Mr. and Mrs. Thomas Fisher

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01/21/09 11:00 AM



RECEIVED BY

JAN 27 2009

CITY OF HAPPY VALLEY

January 21, 2009

To Happy Valley City Council Members or To whom else it may concern;

My name is Anne Middleton, and I live at 17400 SE Sunnyside Rd in the Horseshoe Estates; just east of S 172nd. We moved out here 7 years ago so that our kids could grow up in a better area than the city neighborhood where we once lived. We lived next to a four plex and several apartment complexes at our old home in Portland. We wanted to get away from the traffic, noise and crime that came from the complexes that we were surrounded by.

You are wanting to zone it so that apartments will be right next door to us, across the street, and behind our home. Over the past year we have had to live with construction at all hours of the day and night and increased traffic due to the construction of more homes and apartments being built West of our home. We could almost live with the construction as we knew it would end someday, but if there are apartments built next door to us, than that is something our family would have to live with forever. The value of our home has declined with the traffic and the widening of the roads, we have lost our neighbors behind us to another street that is going to be built behind our home. We are already going to be sandwiched between two roads and now possibly by apartments on the other side of our home (they would also be across the street and behind us). This would also block any view we have left from the hills which is something we really enjoy. We would definitely lose a lot more of the equity in our home with the apartments next door.

Where is the entrance to this facility going to be? Are we going to look at it in our backyard or next to our driveway? I don't know where else it would be because of the intersection. We would lose the only view we have left of the hills, we would have to live with headlights coming through our windows at all hours of the day and night, there would be absolutely no privacy for us anymore with apartments towering over our home, and the traffic would be much much worse. We can barely get out of our driveway as it is now with the increase of traffic since the road was widened and the intersection was built. I wish we could just sell our home and move somewhere else, but we don't have this luxury since our income has decreased because my husband and I have disabilities, and we just wouldn't qualify for a new loan. Even if we could move in the future, it would be too hard to sell our home with apartments next door.

We are already probably going to have to live with a Fred Meyer's within sight which is going to increase traffic in front of our house tremendously. And inevitably when there's a large number of people living next door to you, some of those people are going to walk right into our back yard. I have never had to worry about crime for as long as we lived here and that is one of the reasons we moved out here. We had a lot of crime where we used to live and most of it came from the apartments we lived by. If apartments are built next door and all around us, we just won't feel as safe anymore.

I just feel that we have had to endure a lot already through construction, our neighbors homes being torn down, road widening, increasing traffic and knowing that we may have a Fred Meyer Mall that we can see from our back yard. We have put up with this all, but I am pleading with you not to add apartments all around our home. According to the map we were sent it shows apartments on 3 corners of 172nd & Sunnyside Rd. I can't imagine how many traffic problems it would create at that intersection, especially if there is a Fred Meyer's on the remaining 4th corner!

ATTACHMENT B-3

We are unable to buy another home because of recent medical problems, so we are stuck here without the ability to move. I am tired of the construction, the noise, the dirt, and the possibility of apartments and stores everywhere. I moved here so that we could raise our kids in a nice quiet country area without a crime. We used to feed a horse in the field next door to us where you want to zone it apartments. It was zoned farm & agricultural, and we never imagined the possibility of apartments being built there. I am begging you not to approve the zoning for multi-family housing next door to us!

Thank you for your time in this matter,  
Anne Middleton

A handwritten signature in cursive script, appearing to read "Anne Middleton", with a long horizontal flourish extending to the right.



1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2000  
FAX: 503.727.2222  
www.perkinscoie.com

Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

RECEIVED BY  
JAN 26 2009  
CITY OF HAPPY VALLEY

January 26, 2009

**VIA EMAIL**

Mr. Rob Klever, Chair  
Happy Valley Planning Commission  
16000 S.E. Misty Drive  
Happy Valley, OR 97086

**Re: East Happy Valley Plan; Amendments to Happy Valley Development Code**

Dear Chair Klever and Members of the Happy Valley Planning Commission:

This office represents the Cascade Pacific Council of the Boy Scouts of America. I am writing regarding several aspects of the proposed amendments that you will consider at your public hearing on January 27, 2009.

**1. The proposed density for Scouters Mountain is appropriate.**

I have reviewed the proposed East Happy Valley Plan and related Development Code amendments which affect future development on Scouters Mountain. Based on the review and understanding of the density that would be allowed on Scouters Mountain under the proposed amendments, the Cascade Pacific Council supports these amendments and extends its thanks to the City staff and Commissioners for their taking a moderate approach to the density allowed on Scouters Mountain. The amendments recommended by the staff fairly and reasonably balance the public and the private interests involved and allow for reasonable development of Scouters Mountain in the future.

Our review of the density and steep slope requirements in the proposed amendments indicates that approximately 350 dwelling units would be allowed on Scouters Mountain

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Perkins Coie LP and Affiliates

**ATTACHMENT B-4**

Mr. Rob Klever, Chair  
January 26, 2009  
Page 2

(plus approximately 130 dwelling units of transferable development rights under the proposed amendments). Because this is a reasonable number of dwelling units under the circumstances, the Cascade Pacific Council can support the amendments. However, they specifically reserve the right to reconsider their support in the event that there are further revisions that would reduce the number of allowed dwelling units below 350, or if application of these new amendments would result in fewer than 350 dwelling units. The transferable development rights over and above these 350 dwelling units are also material to their support of these amendments, and they reserve the right to reconsider their support in the event that further revisions would reduce or adversely affect their ability to sell these rights to third parties.

## 2. Permitted Uses.

Cascade Pacific Council's property will have three (3) base zones – the R-20, R-15 and R-10 zones – as well as the Steep Slopes Overlay district. I spoke with Planning Director Michael Walter on Thursday as to whether the existing uses on Scouters Mountain would be considered permitted uses. As you know, while pre-existing lawful uses (known in Oregon land use law as "non-conforming uses") will be allowed to continue, under Happy Valley Development Code ("HVDC") Section 16.17.020.C and D., expansions or alterations of non-conforming uses would be difficult and cumbersome. Therefore, it is important that as this property receives city zoning, the scope of uses conducted by the Boy Scouts are expected to continue for the foreseeable future and must be categorized as permitted uses outright under the relevant provisions of the HVDC.

Mr. Walter and I discussed the permitted uses in each of the three (3) residential zoning districts described above (HVDC Sections Table 16.22.020-1 (R-20 and R-15 zones) ("Private Open Spaces, Parks and Playgrounds") and Table 16.22.030-1 (R-10 zone) ("Private Open Spaces, Parks and Playgrounds") and agree that these uses include all of the permitted uses now ongoing on Scouters Mountain.<sup>1</sup> Therefore, I am writing to confirm that the Scouters Mountain activities in the three (3) base zones are permitted uses. To the extent there is any doubt, the Cascade Pacific Council respectfully requests that the Planning Commission recommend to the City Council that the following language be placed in an appropriate location in the proposed HVDC:

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<sup>1</sup> HVDC 16.11.060(A), "Pre-existing Approvals," would not necessarily apply to Scouters Mountain because it is unlikely that these uses were initiated at a time when County land use approvals were required.

**"Current uses as of the effective date of the amendments to this title shall be permitted uses and shall not be categorized as non-conforming uses."**

**3. HVDC Section 16.32.080.C.3.**

HVDC Section 16.32.080.C.3. provides that the approval authority "shall" rely on the conclusions of required reports as modified by peer review. I spoke with Mr. Walter about whether this section was intended to mean that in a quasi-judicial hearing before a decision maker, rebuttal evidence to one of the specified studies, as modified by peer review, would not be allowed. It is important to applicants that a peer review modified study not be the "last word" on an evidentiary matter. Accordingly, for purposes of legislative history, I respectfully ask the Planning Commission to determine that this section does not preclude rebuttal evidence to a peer review modified study.

**4. Conclusion.**

I have asked Mr. Walter to place this letter in the official Planning Department file for this matter, to place it before you at your public hearing and to provide me with written notice of the City Council's final decision on all aspects of the East Happy Valley Comprehensive Plan implementation, including text amendments to the Happy Valley Development Code.

Very truly yours,



Michael C. Robinson

MCR/cfr

cc: Mr. Ron Garland (via email)  
Mr. Richard Szymanski (via email)  
Mr. Eugene Grant (via email)  
Mr. Bob Sable (via email)  
Mr. Tim Schauer (via email)  
Mr. Michael Walter (via email)



1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2000  
FAX: 503.727.2222  
www.perkinscoie.com

Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

RECEIVED BY  
JAN 27 2009  
CITY OF HAPPY VALLEY

January 27, 2009

VIA EMAIL

Mr. Rob Klever, Chair  
Happy Valley Planning Commission  
16000 SE Misty Drive  
Happy Valley, OR 97086

**Re: East Happy Valley Comprehensive Plan Implementation;  
City of Happy Valley File No. CPA-01-09**

Dear Chair Klever and Members of the Planning Commission:

This office represents Providence Health System-Oregon ("Providence"). As you know, Providence is a member of the Happy Valley community. It is in the process of constructing a new medical office building at SE Sunnyside and SE 162nd Avenue. Providence also owns about 70 acres at the intersection of Oregon Highway 212 and SE 162nd Avenue. The latter property is in the East Happy Valley Plan Area. As you recall, the Planning Commission recommended and the City Council approved a Comprehensive Plan Map and Zoning Map amendment last spring that designated the Providence property and other properties as "Rock Creek Mixed Employment" and implemented that designation with the new Rock Creek Mixed Employment zoning district text.

I am writing to comment on the proposed amendment to the Transportation System Plan ("TSP") and certain amendments to the proposed Happy Valley Development Code ("HVDC") which will be considered by the Planning Commission on February 10, 2009.

- 1. Proposed Amendment to Happy Valley Transportation System Plan Update, December 2008 version at page 8-7.**

Mr. Walter and Ms. Flisakowski of DKS Associates have proposed additional language on this page under the heading "Traffic Signal Spacing" as follows: "A variation of the traffic signal spacing standard may be granted in areas with limited property frontage and/or environmental

38638-0003/LEGAL15207750.1

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Perkins Coie LLP and Affiliates

ATTACHMENT B-5



Mr. Rob Klever, Chair  
January 27, 2009  
Page 2

constraints. Any variation of the traffic signal spacing standard will require the approval of the City's engineer." I have attached a copy of the proposed language.

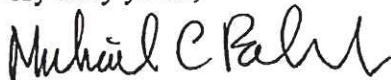
Providence agrees with this language because it provides additional discretion for the City Engineer to consider limited property frontage and/or environmental constraints to allow deviations so that properties may be adequately served. Limited property frontage does not mean only a small amount of property frontage but also means, in the context of the Providence property, property frontage that is less than necessary to meet the standard traffic signal spacing standards where the City engineer determines that a traffic signal is otherwise appropriate.

**2. Proposed Amendment to HVDC Section 16.50.030, "Transportation Standards."**

Mr. Walter has recommended that the Planning Commission adopt new language authorizing the City engineer to allow variations to the access spacing standards for property with limited property frontage and/or environmental constraints. Providence supports the proposed language. I have attached a copy of the proposed language.

I have asked Mr. Walter to place this letter in the official Planning Department file for all applications associated with the East Happy Valley Comprehensive Plan and its implementation and to provide me with written notice of the decisions on all such applications.

Very truly yours,



Michael C. Robinson

MCR:sv

Enclosures

cc: Ms. Dana White (w/encls.) (via email)  
Ms. Glenda Fossum-Smith (w/encls.) (via email)  
Ms. Bev Bookin (w/encls.) (via email)  
Ms. Julia Kuhn (w/encls.) (via email)  
Mr. Michael Walter (w/encls.) (via email)

# **DKS Associates**

TRANSPORTATION SOLUTIONS

Access management is not easy to implement and often requires long institutional memory of the impacts of short access spacing – increased collisions, reduced capacity, poor sight distance and greater pedestrian exposure to vehicle conflicts. The most common opposition response to access control is that “there are driveways all over the place at closer spacing than mine – just look out there”.

These statements are commonly made without historical reference. Many of the pre-existing driveways that do not meet access spacing requirements were put in when traffic volumes were substantially lower and no access spacing criteria were mandated. With higher and higher traffic volume in the future, the need for access control on all arterial and collector roadways is critical – the outcome of not managing access properly is additional wider roadways which have much greater impact than access control.

## **Traffic Signal Spacing**

Traffic signal spacing standards have been established as part of this Happy Valley TSP update. Traffic signals that are spaced too closely on a corridor can result in poor operating conditions and safety issues due to the lack of adequate storage for vehicle queues. Optimum traffic signal spacing allows for the coordination of traffic signals along a corridor resulting in reduced overall vehicle delay.

A minimum traffic signal spacing of 1,000-feet is required for major arterial, minor arterial and collector facilities. A variation to the traffic signal spacing standard may be granted in areas with limited property frontage and/or environmental constraints. Any variation to the traffic signal spacing standard will require the approval of the City engineer.

## **Local Street Connectivity**

Much of the local street network in Happy Valley is built but is not well connected. Multiple access opportunities for entering or exiting neighborhoods are limited. There are a number of locations where neighborhood traffic is funneled onto one single street. This type of street network results in out-of-direction travel for motorists and an imbalance of traffic volumes that impacts residential frontage. The outcome can result in the need for wider roads, traffic signals and turn lanes (which can negatively impact traffic flow). By providing connectivity between neighborhoods, out-of-direction travel and vehicle miles traveled (VMT) can be reduced, accessibility between various travel modes can be enhanced and traffic levels can be balanced out between various streets. Additionally, public safety response time is reduced.

Some of these local connections can contribute with other street improvements to mitigate capacity deficiencies by better dispersing traffic. Several roadway connections will be needed within neighborhood areas to reduce out of direction travel for vehicles, pedestrians and bicyclists. This is most important in the areas where a significant amount of new development is possible.

Figure 8-2 shows the proposed Street Connectivity Plan for Happy Valley. In most cases, the connector alignments are not specific and are aimed at reducing potential neighborhood traffic impacts by better balancing traffic flows on neighborhood routes. The arrows shown in the figures represent potential connections and the general direction for the placement of the connection. In each case, the specific alignments and design will be better determined upon development review.

The criteria used for providing local connections are based on the Metro RTP requirements for new residential or mixed-use developments.

**Robinson, Michael C. (Perkins Coie)**

**From:** Michael Walter [MichaelW@ci.happy-valley.or.us]  
**Sent:** Wednesday, January 14, 2009 8:56 AM  
**To:** Robinson, Michael C. (Perkins Coie)  
**Subject:** FW: Hospital and TSP Standards  
**Attachments:** Draft TSP page 8-6.pdf

The language below is proposed to be added to our "new & improved" Development Code as part of the BHVCP/Development Code Update project going to hearing starting January 27, 2009. Development Code language + TSP language should, I think, accommodate your client's concerns, as well as address other similar scenarios within the City...

*Michael D. Walter, AICP*

PLANNING DIRECTOR  
 503-783-3839  
 MICHAELW@CI.HAPPY-VALLEY.OR.US  
 Preserve. Serve. Enrich.

*"16.50.030 Transportation Standards*

*A. Purpose. It is the purpose and intent of this chapter to establish design standards and performance requirements for all streets and roads and other transportation facilities constructed or reconstructed within the city, as well as to establish a process for variation from the streets standards*

*[...]*

*C. Street and Road Access Control*

- 1. Parkway. Minimum sight distance of two hundred seventy-five (275) feet:*
  - a. Residential Uses. Curb cuts two hundred (200) feet (minimum) to curb return; no access if lesser alternative exists; left hand turns allowed only at intersections;*
  - b. Commercial Uses. Curb cuts fifty (50) feet (minimum) to return; maximum one curb cut per one hundred fifty (150) feet or fraction thereof (shared driveways encouraged); left hand turns only at intersections, if possible, or one left hand turn per two hundred (200) feet; option of continuous left turn lane.*
- 2. Neighborhood Collector Streets:*
  - a. Residential Uses. Curb cuts forty-five (45) feet to curb return (minimum); no access if a lesser alternative exists; no restrictions regarding left hand turns;*
  - b. Commercial Uses. Curb cuts fifty (50) feet to curb return (minimum); no restrictions regarding left hand turns.*
- 3. Cul-de-sac and Residential Streets: All uses. Permit required for access, subject to general considerations of safety, function, etc.*
- 4. When a major partition, subdivision or a planned unit development abuts or contains an existing or proposed arterial street as defined within the City's Transportation System Plan comprehensive plan, the planning commission review authority shall require reverse frontage lots, thereby precluding access to the parkway streets.*
- 5. Access Spacing Standards. Access spacing standards are defined within the City's Transportation System Plan (TSP). New development and roadway projects located on City street facilities shall meet the access spacing standards within the TSP. Access points include public streets, private streets, and private commercial or residential driveways. A variation to the access spacing standards may be granted by the city engineer in consultation with the City's traffic engineer, in areas*

*with limited property frontage and/or environmental constraints. Any variation to these spacing standards will require an access management plan to be approved by the city engineer. Any approved variation shall be detailed within the conditions of approval of an applicable land use application, and said variations are distinctly different from, and unrelated to, variances per the provisions of Chapter 16.71 of this Title."*

---

**From:** Reah Flisakowski [mailto:rlf@dkspdx.com]  
**Sent:** Tuesday, January 13, 2009 1:26 PM  
**To:** Michael Walter  
**Subject:** RE: Hospital and TSP Standards

Here is the revised text for the access spacing standards. Please let me know if this works.

Reah

---

**From:** Michael Walter [mailto:MichaelW@ci.happy-valley.or.us]  
**Sent:** Tuesday, January 13, 2009 1:14 PM  
**To:** Reah Flisakowski  
**Subject:** FW: Hospital and TSP Standards

Per our conversation...

*Michael D. Walter, AICP*  
PLANNING DIRECTOR  
503-783-3839  
MICHAELW@CI.HAPPY-VALLEY.OR.US  
*Preserve. Serve. Enrich.*

**WE'VE MOVED!** Effective November 24, 2008, the City of Happy Valley has relocated to our new City Hall at 16000 SE Misty Drive, Happy Valley, Oregon 97086. Our new general phone number is 503-783-3800.

---

**From:** Robinson, Michael C. (Perkins Coie) [mailto:MRobinson@perkinscoie.com]  
**Sent:** Thursday, January 08, 2009 9:11 AM  
**To:** Michael Walter; Jason Tuck; Cathy Daw  
**Subject:** Hospital and TSP Standards

Michael, I had a chance this morning to review the deviation standards in HVDC 16.52..030(3) (I am also a little unclear about the reach of this section since it refers to "standard prototypes"; this might not include standards). I looked at these standards in the context of a need for the hospital to deviate from access spacing or signal spacing standards. Reah's offer to add a statement to the TSP similar to the statement on Page 8-13 of the 6/07 draft for signal standards is helpful and very much appreciated.

If we had to rely on the deviation standards for access spacing, we would have a problem because the three criteria or situations don't clearly cover access spacing deviations. Sub c comes closest by referring to overall needs of the development but the list of situations wouldn't necessarily include access spacing-the rules for statutory interpretation that Oregon courts and LUBA use would likely lead to a conclusion that access spacing is different in kind from the 3 listed physical things. So, I am wondering if you would consider doing one of two or both of the things listed below:

1. Add a similar sentence to the draft TSP for access spacing because we might not meet the minimum spacing for under Table 2 for limited access on a Collector.
2. Put a statement of legislative intent in the staff report for the TSP adoption that reflects the City Council's view that the



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JAN 27 2009

CITY OF HAPPY VALLEY

January 27, 2009

Chair Rob Klever and Planning Commissioners  
City of Happy Valley  
16000 SE Misty Drive  
Happy Valley, OR 97086

**RE: File No. CPA-01-09, Comprehensive Plan Text Amendments and TSP Update Associated with East Happy Valley Comprehensive Plan**

Dear Chair Klever and Commissioners:

Thank you for the opportunity to review and comment on the proposed comprehensive plan amendment package to implement the East Happy Valley area brought into the UGB in 2002. Please enter this letter into the hearing record.

After review of the staff report, dated January 27, 2009, and associated materials including the draft Transportation System Plan as well as the additional submittals for Title 13 compliance, Metro staff concludes that the proposal, if adopted as written, would mostly comply with Metro Ordinance No. 02-969B and Title 11 of the Urban Growth Management Functional Plan. The Metro ordinance brought the East Happy Valley area into the UGB in December 2002. Title 11 of the Functional Plan requires the City to consider and adopt certain provisions to guide urbanization of new urban areas.

While the proposed East Happy Valley Comprehensive Plan map and associated code are in substantial compliance with most of Metro's ordinance conditions and Title 11 components, we do not have enough information to find that the submittals comply with section 1120.H of Title 11, which relates to compliance with Title 13 (Nature in Neighborhoods). The text in the City's proposed code Chapter 16.34 meets the Title 13 code requirements, but we are still reviewing the maps and waiting for one more piece of information from City staff before making a final determination. After receiving the final submittal, we should be able to complete our analysis within a week.

The Transportation System Plan complies with the Regional Transportation Plan and we support the City's adoption thereof. We do recommend one edit to Figure 8-4, Arterial Facility Cross-Section, on page 8-14. Please add language to the note at the bottom of this figure that clarifies that boulevard treatments, such as narrower travel lanes and on-street parking are allowable on major arterial streets

when these streets pass through centers. One suggestion is to add the following text (in italics) to the existing note as follows:

*"Note: Along commercial zoning frontage and major transit stops, the sidewalk and planter strip width may be combined to provide sidewalks and street tree wells. Other design elements in these areas may include narrower travel lanes, on-street parking, and other boulevard treatments."*

Upon our final determination regarding compliance with the Metro ordinance conditions and Title 11, I will notify the City in writing and request that it be placed in the record.

Sincerely,



Ray Valone  
Principal Regional Planner

cc: Cathy Daw, City Manager  
Michael Walter, Planning Director  
Robin McArthur, Metro Planning Director  
Richard Benner, Metro Office of General Counsel

LAWYERS



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

EUGENE L GRANT  
DIRECT (503) 778-5427  
genegrant@dwt.com

SUITE 2300  
1300 SW FIFTH AVENUE  
PORTLAND, OR 97201-5630

TEL (503) 241-2300  
FAX (503) 778-5299  
www.dwt.com

February 10, 2009

**VIA EMAIL**

Mr. Rob Klever, Chair  
Happy Valley Planning Commission  
16000 S.E. Misty Drive  
Happy Valley, OR 97086

**Re: East Happy Valley Plan; Amendments to Happy Valley Development Code**

Dear Chair Klever and Members of the Happy Valley Planning Commission:

This office represents Mike Bassili, one of the property owners north of the Providence parcel in the Plan area. We support the staff recommended Plan and including the TSP amendments made at Providence's request. We believe the new Development Code and TSP will be beneficial to development of these properties.

I have asked Mr. Walter to place this letter in the official Planning Department file for this matter, to place it before you at your public hearing and to provide me with written notice of the City Council's final decision on all aspects of the East Happy Valley Comprehensive Plan implementation, including text amendments to the Happy Valley Development Code.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in cursive script that reads "Eugene L. Grant".

Eugene L Grant

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FEB 10 2009  
CITY OF HAPPY VALLEY

ATTACHMENT C-1

Rob Klever  
February 10, 2009  
Page 2



cc. Mike Bassili  
Mike Robinson  
Michael Walter





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FEB 17 2009

CITY OF HAPPY VALLEY

February 13, 2009

Chair Rob Klever and Planning Commissioners  
City of Happy Valley  
16000 SE Misty Drive  
Happy Valley, OR 97086

**RE: File No. CPA-01-09, Comprehensive Plan Text Amendments and TSP Update Associated with East Happy Valley Comprehensive Plan**

Dear Chair Klever and Commissioners:

This is a follow-up to my letter of January 27, 2009, regarding your on-going hearing for the action referenced above. Please enter this letter into the hearing record as well.

After reviewing additional information, provided to Metro by City staff, including the steep slopes and natural resources overlay map and relevant code language, we conclude that section 3.07.1120.H of Metro's Title 11 has been met. Based on this last component of Metro's Title 11 being satisfied, we conclude that the City's proposed comprehensive plan amendment and TSP update for East Happy Valley, if adopted as written, would be in substantial compliance with all Metro requirements for new urban areas.

We appreciate the huge effort the City has put forth to help implement the 2002 UGB expansion in this sub-region of the metropolitan area. We also look forward to continuing our coordination with the City in achieving a new urban community.

Sincerely,

A handwritten signature in black ink that reads "Ray Valone".

Ray Valone  
Principal Regional Planner

cc: Cathy Daw, City Manager  
Michael Walter, Planning Director  
Jennifer Donnelly, DLCD, Metro Regional Representative  
David Bragdon, Metro Council President  
Rod Park, Metro Councilor District 1  
Robin McArthur, Metro Planning Director  
Dick Benner, Office of Metro Attorney

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FEB 17 2009

CITY OF HAPPY VALLEY

February 14, 2009

Dear Planning Commission,

My name is Nancy Bany. I reside at 11388 S.E. 172nd. Avenue in Happy Valley. I attended the last public hearing on Tuesday February 10th. I spoke to ask questions in regards to the map and future land use of my property. After futher conversations it was suggested that I write a written testimony.

My map and tax lot number is 13E31A01600. I am requesting that my property receive MUR-M2 zoning in the entire parcel extending east and not be split. This would expand multi-family dwellings. There is not a lot of multi-family housing in my area. This would help to form a neighborhood and is within walking distance of the new Scouters Mt. School. Currently there are large areas of single family residents which continues to save the environment.

Thank you,  
Nancy Bany

EAST HAPPY VALLEY COMPREHENSIVE PLAN - PLAN MAP REVIEW MATRIX - 4/07/09

EAST HAPPY VALLEY COMPREHENSIVE PLAN - PROPERTY REQUEST MATRIX

Item No.	Date	Name	Site	Draft Map Recommendation	Request	Staff/Consultant Analysis	Staff Recommendation	PC Direction
1	06/20/2007	Tom Dechenne, Associate VP WAI	14400 SE 162nd Ave	IC	Residential or MUE	Retain per Metro requirements for industrial land	Retain IC designation	Recommendation
2	06/23/2007	Mazurik, Martin & Ann	14291 SE 172nd Ave	R-7	CCC	Not a planned MU node; not compatible with R-7	Retain R-7 designation	Recommendation
3	06/27/2007	Andrew Tull, WRG Design	1S2E2500300	R-20	R-15	Transition areas should remain R-20 and SSDO will influence development capacity	Retain R-20 designation	Recommendation
4	08/30/2007	Mata, Ramon & Carolyn	13551 SE 177th Ave 23E06DB00100	R-10	SFA	Not compatible with either the existing rural or future R-10 character	Retain R-10 designation	Recommendation
5	10/06/2007	Sean Jackson Emmanuel Community Church	13361 SE 172nd Ave 23E06B01101	IPU/R-7	IPU/COMMERCIAL	Lack of full transportation access points limits commercial viability, recommend change to MUR	MUR	Recommendation
6	10/27/2007	Curt Todd	17444 SE Vogel Rd 23E06A00404	SFA	MCC	Only half of site is flat enough for MCC; 15 acre limit is already met	Retain SFA	Recommendation
7	05/15/2008	Montgomery Hurley AKS Engineering	Tax lots 1501, 1700, 1800, 1801, 1901 on 13E31D	R-5, R-7, SFA, MUR	MUR only, include sub-area designations of MUR-S and MUR-M2	Density is nearly the same; MUR-S is single family detached	Redesignate as requested, but apply to entire block as defined by proposed street system	Recommendation
8	06/24/2008	Harold MacLaughlan	14820 SE 172nd Ave lot 602 on 2S3E07A	CCC, EC	CCC	Site access is constrained; redesignation doesn't help access; EC allows commercial uses; more commercial not needed to serve adjacent uses	Retain CCC & EC designation	Recommendation
9	06/24/2008	Don Grubb	17337 SE Troge Road Tax Lot 1300 on 1S3E31D	R-10	CCC	Environmentally constrained; not a planned node	Retain R-10 designation	Recommendation
10	06/25/2008	Phil Paulsen	11822 SE 172nd Ave lot 1200 on 1S3E 31D	R-5 (front half), R-10 (back half)	CCC (front half), R10 (back half)	Environmentally constrained; not a planned node	Retain R-5 & R-10 designation	Recommendation
11	07/16/2008	Matt Grady Gramor Development	Portions of 23E06B: Lot 100; 23E06BA: Lots 1100, 1190, 1200 and 1290	SFA	MUR	MUR consistent with locational policy for adjacency to arterial; higher density and range of housing consistent with Plan theme of mixed use nodes and near future transit; CAC	Redesignate as requested; forward commentary as City expectation for design	Recommendation
12	09/19/2008	Matt Grady Gramor Development	23E06A00403	CCC	MCC	Lack of full transportation access points limits more intensive commercial viability - need for additional traffic analysis prior to consideration of change, consider change to MUR	Change to MUR designation	Recommendation

EAST HAPPY VALLEY COMPREHENSIVE PLAN - PLAN MAP REVIEW MATRIX - 4/07/09

EAST HAPPY VALLEY COMPREHENSIVE PLAN - PROPERTY REQUEST MATRIX

Item No.	Date	Name	Site	Draft Map Recommendation	Request	Staff/Consultant Analysis	Staff Recommendation	PC Direction
13	08/08/2008	Siri & Son Farms	23E07A01300	IC	CCC	Retain IC designation per Metro requirements for RSIA land	Retain IC designation	Recommendation
14	08/20/2008 & 1/16/09	DeJager Enterprises, LLC & Matt Grady, Gramor Development	23E06A00405 (portion)	SFA	MUR	Not consistent with locationl policy for adjacency to arterial; does not maintain transition area between commercial/MUR residential and abutting single-family development to the east	Retain SFA designation (staff retains same recommendation post second letter)	Change to MUR per request
15	01/23/2009	Fisher Family	23E07B: Lots 409 and 420	CCC/IC	ALL CCC or MCC	Retain IC designation per Metro requirements for RSIA land	Retain IC designation	Recommendation
16	01/08/2009	Donald & Sharon Grubb	13E31D: Lot 1300	R-10	R-5	Matches proposed land use pattern to the immediate north	Change to R-5 designation	Recommendation
17	12/06/2008	Bill & Gracie Brown	13E30D: Lot 2600	EC	MUR	Subject site and property to the north (13E30D: Lot 2700) be more cohesively designated to blend with SFA to the west	Change to SFA designation	Recommendation
18	02/14/2009	Nancy Bany	13E31A: Lot 1600	MUR, R-5	ALL MUR	Not consistent with locationl policy for adjacency to arterial; does not maintain transition area between MUR residential and abutting single-family development to the east	Retain MUR, R-5 designations	None

B L A C K

H E L T E R L I N E LLP

A T T O R N E Y S   A N D   C O U N S E L O R S   A T   L A W

CAROLINE E. K. MACLAREN  
E-mail: ckm@bhlaw.com  
Admitted in Oregon

Our File No. 8498-3

March 30, 2009

VIA FACSIMILE AND REGULAR MAIL

Mayor Wheeler and Councilors  
City of Happy Valley  
16000 SE Misty Drive  
Happy Valley, Oregon 97086

Reference: Proposed Comprehensive Plan Text Amendments for East  
Happy Valley (File No. 01019);  
Proposed Land Development Ordinance Amendments

Dear Mayor Wheeler and Members of the City Council:

We represent JS-4 Investments, LLC ("JS-4"), which owns land proposed to be designated as Mixed Commercial Center ("MCC") under the East Happy Valley Comprehensive Plan Update. JS-4 owns the property known as Tax Lot 1100, Township 2, Range 3E, Section 6BA.<sup>1</sup> This area comprises a portion of the 20-acre area at the intersection of SE Sunnyside Road and SE 172<sup>nd</sup>.

JS-4 requests that the City amend the proposed language in Comprehensive Plan Policy 55C.1 and Development Code Section 16.23.030A.2 to allow the two properties within this 20-acre area to complete separate master plans. Otherwise, as described more completely below, each property owner can effectively prevent the other from developing.

**Discussion**

The 20-acre area designated as MCC consists of: (a) Tax Lot 100, Township 2, Range 3E, Section 6B ("Tax Lot 100"); (b) Tax Lot 1100, Township 2, Range 3E, Section 6BA ("Tax Lot 1100"); (c) Tax Lot 1190, Township 2, Range 3E, Section 6BA ("Tax Lot 1190"); (d) Tax Lot 1200, Township 2, Range 3E, Section 6BA ("Tax Lot 1200"); and (e) Tax Lot 1290,

<sup>1</sup> Approximately half (10 acres) of Tax Lot 1100 is proposed as MCC. The other half is proposed to be designated EC (Employment Center). The approximate area designated as MCC is shown by the dashed red lines on the attached map.



805 SOUTHWEST BROADWAY • SUITE 1900 • PORTLAND OREGON 97205-3359  
TELEPHONE 503.224.5560 FACSIMILE 503.224.6148 WWW.BHLAW.COM

Mayor Wheeler and Councilors  
March 30, 2009 - Page 2

Township 2, Range 3E, Section 6BA ("Tax Lot 1290"). Tax Lots 100, 1200 and 1290 are owned by Sunnyside 172<sup>nd</sup>, LLC, an entity either owned or controlled by Gramor Development. Tax Lots 1100 and 1190 are owned by JS-4. A marked copy of the tax map is attached hereto as Exhibit A for your reference.

Until recently, Gramor Development had a contract to purchase Tax Lots 1100 and 1190. However, in September 2008, Gramore elected not to complete the purchase, which leaves two different owners in the contiguous MCC area.

JS-4 is concerned about the language contained in Comprehensive Plan Policy 55C.1, which provides in relevant part:

"All MCC developments involving five acres or more of land shall be subject to master plan review and design review. In the East Happy Valley Comprehensive Plan Area, a master plan approval is required for the entire contiguous area of any MCC district prior to new development."

(Emphasis added).

Similarly, Section 16.23.030A.2 of the Development Code contains the same provision:

"All MCC developments involving five acres or more of land shall be subject to master plan review and design review. In the East Happy Valley Comprehensive Plan Area, a master plan approval is required for the entire contiguous area of any MCC district prior to new development."

(Emphasis added).

The problem is the requirement that a master plan be developed for the entire 20-acre area, before any portion of the area can be developed. This essentially allows one property owner to hold another's development hostage, whether through unwillingness or lack of financial or other ability to participate in the master planning process. While this may have made sense while the property was under contract to be owned by one entity, that circumstance is no longer true.

b

**Recommendation**

JS-4 believes the City's concerns are adequately addressed by simply deleting the second sentence (requiring master planning for the entire 20-acre area), with the result that any development larger than 5 acres would require master planning. Alternatively, if the City wanted to make sure that each property was master planned, it could adopt the following language:

Comprehensive Plan Policy 55C.1 (proposed language in double-underline):

"All MCC developments involving five acres or more of land shall be subject to master plan review and design review. In the East Happy Valley Comprehensive Plan Area, a master plan approval is required for the entire lot or parcel proposed for development, together with any contiguous lots or parcels owned by the same owner within the same MCC district ~~the entire contiguous area of any MCC district prior to new development.~~"

Section 16.23.030A.2 (proposed language in double-underline):

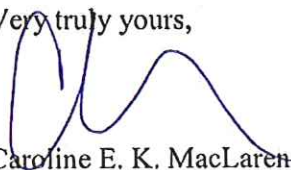
"All MCC developments involving five acres or more of land shall be subject to master plan review and design review. In the East Happy Valley Comprehensive Plan Area, a master plan approval is required for the entire lot or parcel proposed for development, together with any contiguous lots or parcels owned by the same owner within the same MCC district ~~the entire contiguous area of any MCC district prior to new development.~~"

JS-4 appreciates the City Council's consideration of this request, and will be in attendance at the hearing on April 7, 2009 to answer any questions that the Council may have. Please include a copy of this testimony in the record for these proceedings and include us on

Mayor Wheeler and Councilors  
March 30, 2009 - Page 4

your mailing list for future hearings and public notices.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Caroline E. K. MacLaren', written over the typed name.

Caroline E. K. MacLaren

CKM:tl  
Enclosure

cc: Michael Walter (via e-mail)  
Joe Spaziani (via e-mail)  
Jan Barkley (via e-mail)  
Steven R. Schell, Esq.





This map was prepared for  
assessment purpose only.

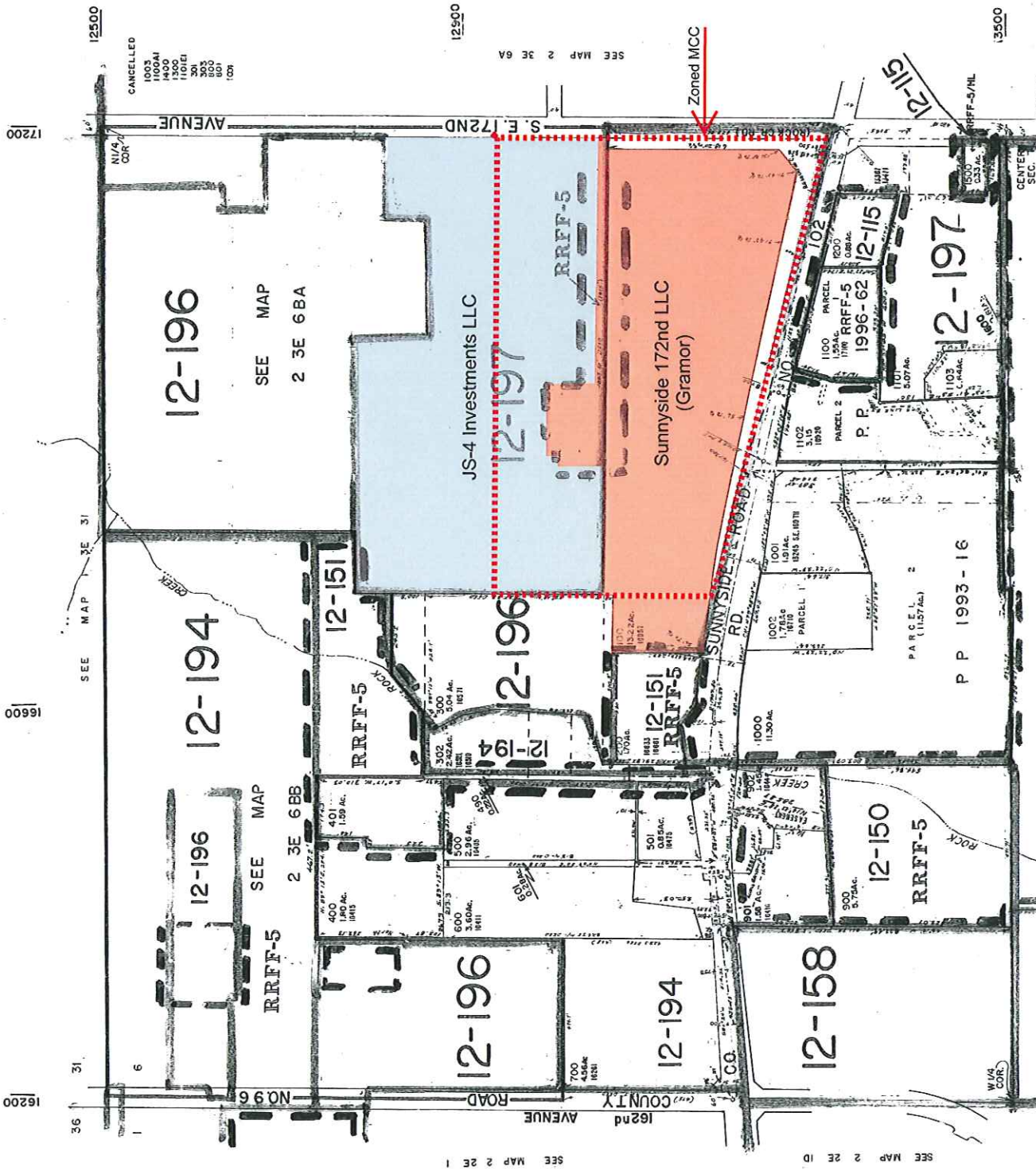


Exhibit A